



Policy Declarations

Policy Number: 37050-2024
Replaces Policy #: 37050-2023
Policy Period: 12/15/2024 – 12/15/2025
12: 01 A.M. Central Time

316 W. Washington Avenue, Suite 600, Madison, WI 53703

Insured Name: Kronenwetter, Village of
Insured Address: 1582 Kronenwetter Dr
Kronenwetter, WI 54455

Agency: Spectrum Insurance Group
Agent Name: Furrer, Jesse
Agent Address: 4233 Southtowne Drive
Eau Claire, WI 54701
Agent Email: jesse.furrer@spectruminsgroup.com
Agent Phone: (715) 858-9865

In return for the payment of premium and subject to all terms of this policy and any endorsements thereto, we agree to provide insurance coverage as shown below. Payment of premium acknowledges the policyholder's acceptance of this policy. This policy is assessable.

FORM	COVERAGE	DEDUCTIBLE	LIMIT
LWMMI-001 01/24	Coverage A – Bodily Injury and Property Damage Liability	\$0	3,000,000
	Coverage B – Personal and Advertising Injury and Law Enforcement Liability	\$0	3,000,000
	Coverage C – Premises Medical Payments		10,000
	Coverage D – Public Officials Errors & Omissions	\$0	3,000,000
	Coverage E – Employee Benefits Liability		3,000,000
	Coverage F – Automobile Liability	\$0	3,000,000
	Automobile Medical Payments Coverage		10,000
	Auto Physical Damage	See Attached	
	Coverage G – Uninsured & Underinsured Motorist Coverage		
	Wisconsin Uninsured Motorists Coverage – Per Person / Per Occurrence		25,000/50,000
	Wisconsin Underinsured Motorists Coverage – Per Person / Per Occurrence		50,000/100,000
	Coverage H – Crime	\$1,000	250,000
	Damage to Premises Rented to You		500,000
	Notice to Policyholders – Wisconsin		
	Notice of Terrorism Insurance Coverage		
LWMMI-004 04/21	Worker Compensation / Employers Liability Part B Increased Limits		2,000,000
LWMMI-005 04/21	Prior Acts Coverage (Employee Benefits Liability)		
LWMMI-006 04/21	Prior Errors & Omissions Coverage (Public Officials E&O)		
LWMMI-009 04/21	Loss Payable Endorsement – Loss Payee		
LWMMI-OP1 04/21	Sewer Backup Extended Coverage – Per Occurrence / Annual Aggregate		100,000/300,000
LWMMI-OP5 04/21	Additional Insured – Designated Person or Organization		
LWMMI-CYBER 10/20	Cyber Liability Endorsement	\$10,000	1,000,000

Total Annual Premium: \$71,017
Installment Billing: Annual

Signed, Secretary

League Insurance – Auto Schedule

Instructions: Please include all vehicles including antiques and trailers.

Municipality: Kronenwetter, Village of

Effective Date: 12/15/2024

Expiration Date: 12/15/2025

Auto Liability Deductible: \$0

Year	Make	Model	Vehicle Type	VIN #	Dept. (optional)	Zip Code (Garaged at Night)	Parked Inside (i) or Outside (o)	Is Garage Location in a Flood Zone?	Original Cost New	Is APD Coverage Requested?	APD Deductible	APD Coverage Type (Replacement Cost or Actual Cash Value)
1995	Ford	LoPro	Dump Truck	1FDWF80C1SVA06411		54455	Inside	No	\$35,000	Yes	\$500	Actual Cash Value
2006	Sterling	Lt9500	Dump Truck	2FZHACV76AU47078		54455	Inside	No	\$119,000	Yes	\$500	Actual Cash Value
2006	Chev	3500	Pickup	1GBJC34GX6E220590		54455	Inside	No	\$35,000	Yes	\$500	Actual Cash Value
2006	Mac Lander	Trailer	Trailer	4UVPF202061008030	Parks	54455	Inside	No	\$6,000	Yes	\$500	Actual Cash Value
2007	Sterling	Lt9513	Dump Truck	2FZHAZCV57AV53496		54455	Inside	No	\$124,000	Yes	\$500	Actual Cash Value
2010	Kenworth	TRUCK	Fire Other	2NKHNN8XXAM261696		54455	Inside	No	\$220,000	Yes	\$500	Actual Cash Value
2014	Mack	Tandem	Dump Truck	1M2AX33C0EMO10286	Public Works	54455	Inside	No	\$75,000	Yes	\$500	Actual Cash Value
2015	Peterbuilt	Tanker	Dump Truck	2NP3LJ0X5FM263631		54455	Inside	No	\$100,000	Yes	\$500	Replacement Cost
2015	Dodge	Ram	Pickup	3C6UR5CJ1FG693343	Public Works	54455	Inside	No	\$30,000	Yes	\$500	Actual Cash Value
2015	Dodge	Ram	Pickup	3C6LR5AT3FG693344	Parks	54455	Inside	No	\$30,000	Yes	\$500	Actual Cash Value
2017	Freightliner	114SD	Dump Truck	FVHG3CY7HHJA2801	Public Works	54455	Inside	No	\$170,000	Yes	\$500	Replacement Cost
2018	Dodge	Ram	Pickup	3C7WRTBJ1JG215099	Public Works	54455	Inside	No	\$55,000	Yes	\$500	Actual Cash Value
2019	Ford	Pickup Brush Truck	Pickup	1FD0W5HY4KEG07364	Fire	54455	Inside	No	\$169,997	Yes	\$500	Replacement Cost
2019	Pierce	Enforcer	Fire Other	4P1BAAFF5KA019929	Fire	54455	Inside	No	\$452,898	Yes	\$500	Replacement Cost
2019	Ford	Explorer	Police	1FM5K8AR4KGA12766	Police	54455	Inside	No	\$24,995	Yes	\$500	Replacement Cost
2020	Dodge	Charger	Police	2C3CDXXKT9LH229797	Police	54455	Inside	No	\$24,442	Yes	\$500	Replacement Cost
2020	Dodge	Durango	Police	1C4RDJFG2LC287107	Police	54455	Inside	No	\$50,000	Yes	\$500	Replacement Cost
2021	Dodge	Charger	Police	2C3CDXKGM0MH622186	Police		Inside	No	\$29,424	Yes	\$500	Replacement Cost
2021	Ford	F150	Pickup	1FTMF1E53MKF00271	Public Works		Inside	No	\$28,168	Yes	\$500	Replacement Cost
2022	Dodge	Ram 1500	Fire Other	1C6SRFFT1NN386982	Fire	54455	Inside	No	\$63,000	Yes	\$500	Replacement Cost
2022	Ford	F250 Super Duty	Pickup	1FT7W2B67NEC35287	Pubic Works	54455	Inside	No	\$37,535	Yes	\$500	Replacement Cost
2023	Pierce	Ladder Truck	Fire Other	4P1BCAFF7NA024905		54455	Inside	No	\$1,300,000	Yes	\$500	Replacement Cost
2023	Dodge	Charger	Police	2C3CDXXG5PH539700	54455		Inside	No	\$42,000	Yes	\$500	Replacement Cost
2023	Ford	F150	Pickup	1FTNF1E53PKE72206	54455		Inside	No	\$44,382	Yes	\$500	Replacement Cost
2024	Behnke	Tiltbed trailer	Trailer	4L5ST2721RF069397	54455		Inside	No	\$7,000	Yes	\$500	Replacement Cost
2024	Dodge	Durango Pursuit	Police	1C4RDJFG2RC135109	Police	54455	Inside	No	\$40,469	Yes	\$500	Replacement Cost

2024	Dodge	Durango Pursuit	Police	1C4RDJFG9RC135110	Police	54455	Inside	No	\$40,469	Yes	\$500	Replacement Cost
2024	Ford	Super Duty F250 SRW	Pickup	1FT7W2BN4RED66335	Public Works	54455	Inside	No	\$58,690	Yes	\$500	Replacement Cost
2024	Ford	F150	Pickup	1FTFX1L5XRKE06923	Sewer Water	54455	Inside	No	\$45,258	Yes	\$500	Replacement Cost

***Total Vehicles with Auto Liability Count:** 27 **APD Coverage Totals:** \$3,457,727

Total Vehicles with APD Count: 29

- (1) Original Cost New (OCN) is the retail cost the original purchaser paid for the vehicle. This includes the value before any credit for a trade-in.
- (2) Coverage Type is determined by underwriting and is based on the vehicle age and value.

* Trailers do not impact auto liability premiums.

League of Wisconsin Municipalities Mutual Insurance

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League of Wisconsin Municipalities Mutual Insurance

SPECIAL COVERAGE FORM LEAGUE OF WISCONSIN MUNICIPALITIES INSURANCE PLAN THIS POLICY IS ASSESSABLE

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

Throughout this policy, the words “you,” and “your,” and “Named Insured,” refer to the entity identified as the “Named Insured” in the Declarations. The words “insured” or “insureds” refer to any person or organization qualifying as an “insured” under SECTION III - WHO IS AN INSURED. The words “we,” “us,” “our,” and “Company,” refer to the Company stated in the Declarations as providing this insurance.

Other words and phrases that appear in quotation marks have special meanings. Refer to SECTION VI - DEFINITIONS and other provisions of this policy for such meanings.

SECTION I – COVERAGES

INSURING AGREEMENT

We will pay those sums that the insured becomes legally obligated to pay as “loss” under:

COVERAGE A — BODILY INJURY AND PROPERTY DAMAGE LIABILITY;

COVERAGE B — PERSONAL AND ADVERTISING INJURY LIABILITY AND LAW ENFORCEMENT LIABILITY;

COVERAGE C — PREMISES MEDICAL PAYMENTS;

COVERAGE D — PUBLIC OFFICIALS ERRORS AND OMISSIONS;

COVERAGE E — EMPLOYEE BENEFITS LIABILITY;

COVERAGE F — AUTO COVERAGE;

COVERAGE G – UNINSURED AND UNDERINSURED MOTORIST COVERAGE; and

COVERAGE H – CRIME;

to which this insurance applies.

Nothing in this policy shall be construed to be a waiver of any immunity or limitations afforded by statute or otherwise to municipalities, their “employees”, and elected or appointed officials. We retain the right to evaluate liability on the basis of immunities and limitations available to you.

DEFENSE AND DEFENSE COSTS

We will have the right and duty to defend an insured against any “claim” or “suit” seeking “loss” even if any of the allegations of the “suit” are groundless, false or fraudulent. However, we will have no duty to defend an insured against any “claim” or “suit” seeking “loss” under Coverages A, B, C, D, E, F, or G to which this insurance does not apply. We may, at our discretion, investigate any “occurrence,” offense, “wrongful act,” “act, error, or omission,” or accident and settle any “claim” or “suit” that may result.

We will not settle any “claim” or “suit” for “wrongful acts” without the Named Insured’s consent. If, however, the Named Insured refuses to consent to a settlement for “wrongful acts” recommended by us and elects to contest the “claim” or “suit” or continue legal proceedings in connection with such “claim” or “suit,” our liability for “loss” and “loss adjustment expense” for the “claim” or “suit” shall not exceed the amount for which the “claim” or “suit” could have been settled, including “loss adjustment expense” incurred, with the Named Insured’s consent up to the date of such refusal, or the applicable limit of liability, whichever is less. But:

1. The amount we will pay for “loss” is limited as described in SECTION IV - LIMITS OF INSURANCE AND DEDUCTIBLE; and
2. Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A, B, C, D, E, F, or G.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS — COVERAGES A, B, D, E, and F.

COVERAGE A — BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Applicability

This insurance applies to “bodily injury” and “property damage” only if:

- a. The “bodily injury” or “property damage” is caused by an “occurrence” that takes place in the “coverage territory”; and
- b. The “bodily injury” or “property damage” occurs during the “policy period.”

“Loss” because of “bodily injury” includes “loss” claimed by any person or organization for care, loss of services, or death resulting at any time from the “bodily injury.”

2. Exclusions

In addition to Section II – General Exclusions, this insurance does not apply to:

a. Expected or Intended Injury

“Bodily injury” or “property damage” expected or intended from the standpoint of an insured. This exclusion does not apply to:

- (1) "Bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or
- (2) The Named Insured's obligations under Wisconsin Statute Section 895.46(1), except where the Named Insured expected or intended the "bodily injury" or "property damage."

b. Damage to Property

- (1) "Property damage" to:
 - (a) Property you own, rent or occupy;
 - (b) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
 - (c) Property loaned to you;
 - (d) Personal property in the care, custody or control of an insured;
 - (e) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
 - (f) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (a), (c), and (d) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage to Premises Rented To You as described in Section IV - Limits Of Insurance and Deductible.

Paragraph (b) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (c), (d), (e), and (f) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (f) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

- (2) To the extent coverage is provided below, paragraphs (c) and (d) of this exclusion do not apply to "property damage" to personal property loaned to you or in your care, custody or control. The most we will pay is:
 1. \$2,500 each "occurrence" for "property damage" to personal property (other than "mobile equipment") of an "employee" or authorized volunteer loaned to you or in your care, custody or control.

2. \$100,000 each “occurrence”/\$250,000 aggregate for “property damage” to:

(a) personal property other than that belonging to an “employee” or volunteer; or

(b) “mobile equipment” loaned to you or in your care, custody or control.

The each “occurrence” limit of insurance provided in paragraphs b.(2) 1. and 2. above is part of, and not in addition to, the Each Occurrence Limit of Insurance shown in the Declarations. The aggregate limit provided in paragraph b.(2) 2. above is the most we will pay for the sum of all “loss” under that paragraph.

Our obligation under paragraphs b.(2) 1. and 2. above to pay for “loss” to property in your care, custody, or control is subject to the deductible shown on the Declarations page and the Application of Deductible First provisions in Section IV – Limits of Insurance and Deductible.

We will not pay anyone more than once, directly or indirectly, for the same element of loss.

c. Damage to Your Product

“Property damage” to “your product” arising out of it or any part of it.

d. Damage to Your Work

“Property damage” to “your work” arising out of it or any part of it and included in the “products-completed operations hazard.”

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

e. Damage to Impaired Property or Property Not Physically Injured

“Property damage” to “impaired property” or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in “your product” or “your work”; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to “your product” or “your work” after it has been put to its intended use.

f. Recall of Products, Work or Impaired Property

“Loss” claimed for any damages, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) “Your product”;

(2) “Your work”; or

(3) “Impaired property”;

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

g. Failure to Supply

“Bodily injury” and “property damage” arising out of the failure of any insured to adequately supply gas, oil, water, electricity or steam by any utility, whether owned or not by the Named Insured.

This exclusion does not apply if the failure results from the negligent sudden and accidental injury to tangible property owned or used by any insured to procure, produce, process or transmit the gas, oil, water, electricity or steam.

Exclusions b. through g. do not apply to damage by fire to premises rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage to Premises Rented To You as described in Section IV - Limits Of Insurance and Deductible.

COVERAGE B — PERSONAL AND ADVERTISING INJURY LIABILITY AND LAW ENFORCEMENT LIABILITY

1. Applicability

This insurance applies to:

- a. “Personal and advertising injury” caused by an offense arising out of your business; and
 - b. “Wrongful acts” arising out of the performance of the insured’s “law enforcement activities”;
- but only if the offense or “wrongful act” was committed in the “coverage territory” and during the “policy period.”

2. Exclusions

In addition to Section II – General Exclusions, this insurance does not apply to:

a. “Personal and advertising injury”

- (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict “personal and advertising injury”;
- (2) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;

- (3) Arising out of oral or written publication of material whose first publication took place before the beginning of the “policy period”;
- (4) Arising out of a criminal act willfully committed by or at the direction of any insured;
- (5) Arising out of a breach of contract, except an implied contract to use another’s advertising idea in your “advertisement”;
- (6) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your “advertisement”; or
- (7) Arising out of the wrong description of the price of goods, products or services stated in your “advertisement.”

b. “Wrongful acts”

- (1) Arising from the deliberate violation of any federal, state, or local statute, ordinance, rule or regulation committed by or with the knowledge and consent of the insured;
- (2) Arising from fraud or dishonesty of an insured;
- (3) Resulting in any “claim” or “suit” for relief or redress in any form other than compensatory “loss” (including punitive damages where permitted by law), nor shall we have any obligation to indemnify the insured for any costs, fees, including attorney fees, or expenses that the insured shall become obligated to pay as a result of any adverse judgment for injunctive or declaratory relief; however, we will afford defense to the insured for any such “claim,” “suit,” demands or actions, if not otherwise excluded, where payment for compensatory damages (including punitive damages where permitted by law) are requested; or
- (4) Arising from any criminal act committed by an insured.

However, exclusions b.(1), b.(2) and b.(4) do not apply if you have an obligation to pay costs or “loss” to, or on behalf of, an “employee” under Wisconsin Statute Section 895.46 (1).

COVERAGE C — PREMISES MEDICAL PAYMENTS

1. Applicability

As set forth in Section V-Conditions, 14. b. Other Insurance provision, we will pay, on an excess basis only, medical expenses as described below for “bodily injury” that takes place:

- a. On premises you own or rent;
- b. On ways next to premises you own or rent; or
- c. Because of your operations;

provided that:

- (1) The accident takes place in the “coverage territory” and during the “policy period”;
- (2) The expenses are incurred and reported to us within one year of the date of the injury; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- a. First aid administered at the time of an accident;
- b. Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- c. Necessary ambulance, hospital, professional nursing, and funeral services.

2. Exclusions

In addition to Section II – General Exclusions, we will not pay expenses for “bodily injury”:

- a. To any insured except authorized volunteers.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an “employee” of any insured, if benefits for the “bodily injury” are payable or must be provided under a workers’ compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the “products-completed operations hazard.”

COVERAGE D — PUBLIC OFFICIALS ERRORS AND OMISSIONS

1. Applicability

This insurance applies to “wrongful act(s)” or “employment claims” that arise out of the discharge of duties for the Named Insured, individually or collectively, but only if the “wrongful act(s)” occur within the “coverage territory” and take place during the “policy period,” including defense of Breach of Contract claims except as limited in D.3. below.

2. Exclusions

In addition to Section II – General Exclusions, this insurance does not apply to any “claim” or “suit” against the insured:

- a. Seeking relief or redress in any form other than compensatory “loss” (including punitive damages where permitted by law); nor shall we have any obligation to indemnify the insured for any costs, fees, including attorney fees, or expenses that the insured shall become obligated to pay as a result of any adverse judgment for injunctive or declaratory relief; except as provided in paragraph d.3. of the Extensions of Coverage;
- b. Based upon the principles of eminent domain, adverse possession, dedication by adverse use, inverse condemnation, or condemnation proceedings;
- c. For back wages, overtime or similar claims, even if designated as liquidated damages under any federal, state or local statutes, rules, ordinances or regulations, “claim” or “suit” arising from collective bargaining agreements. However, this exclusion does not apply to “employment claims”;
- d. Directly or indirectly arising from:
 - (1) The issuance of bonds; or
 - (2) The formulation and or calculation of tax rates, taxes, assessments, or fees; the collection or return of taxes, assessments, fees, and/or the disbursement of tax refunds, except as provided in paragraph 3.b. of the Extensions of Coverage;
- e. Arising from construction, architectural or engineering contracts, except as provided in paragraph 3.a. of the Extensions of Coverage;
- f. Based upon or attributable to the insured gaining any profit, advantage or remuneration to which the insured is not entitled; including the payment for goods and services for which the insured has contracted; however, defense of such claims is included subject to limits of D.3.
- g. As a result of strikes, riots or civil commotion;
- h. Based upon or arising out of any activity for which the insured is acting in a fiduciary capacity including:
 - (1) The administration of any employment benefit plan, including any “suit” based upon or arising from the Employee Retirement Income Security Act of 1974 (ERISA) and subsequent amendments or any similar federal, state or local law or regulation; or
 - (2) The administration of any self-insurance fund;
- i. As a result of criminal or civil fines or penalties, except as provided in paragraph 3.c. of the Extensions of Coverage; however, the policy does provide for payment of fines imposed under 42 U.S.C. § 1320d-5 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) unless

the fine is imposed for willful neglect as described in 42 U.S.C. § 1320d-5(a)(1)(C) or imposed under 42 U.S. C. § 1320d-6.

- j. Brought about or contributed to by fraud or dishonesty of an insured;
- k. Arising from the deliberate violation of any federal, state, or local statute, ordinance, rule or regulation committed by or with the knowledge and consent of the insured;
- l. For any loss whether direct, indirect or consequential, arising from or caused by emotional distress, mental anguish, humiliation, disease or death of any person or for loss to or destruction of any tangible property including loss of use. However, this exclusion does not apply to “employment claims.”
- m. Any obligation of the insured under a Worker’s Compensation, disability benefits or unemployment compensation law or any similar law;
- n. For false arrest, detention or imprisonment, libel, slander, or other defamatory or disparaging material, discrimination, wrongful eviction from, wrongful entry into or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor, assault, battery, malicious prosecution or false or improper service of process. However, this exclusion does not apply to “employment claims.”

3. Extensions of Coverage

We will pay up to a maximum of \$50,000 for any one “wrongful act”/\$250,000 aggregate for:

- a. Defense of any “claim” or “suit” arising out of the breach of a construction, an architectural or an engineering contract;
- b. Defense of any “claim” or “suit” arising out of the formulation and or calculation of tax rates, taxes, assessments, or fees; the collection or return of taxes, assessments, fees, and/or the disbursement of tax refunds;
- c. The investigation, defense or settlement (includes fines or penalties assessed in an EEOC or state equivalent enforcement action) of Equal Employment Opportunity Commission (EEOC) actions against the insured prior to any “suit” being filed; or
- d. The defense of any non-monetary “claim” or “suit” not otherwise excluded.

The wrongful act limit of insurance provided under this Extensions of Coverage is part of, and not in addition to, the Each Occurrence Limit of Insurance shown in the Declarations. The aggregate limit of insurance provided under this Extensions of Coverage is the most we will pay for the sum of all “loss adjustment expense” because of a., b., c., or d. above.

COVERAGE E – EMPLOYEE BENEFITS LIABILITY

1. Applicability

This insurance applies to liability arising out of an “act, error or omission” of an insured, or of any other person for whose acts the Named Insured is legally liable. The “act, error or omission” must be committed in the “administration” of the Named Insured’s “employee benefit program.” The “act, error or omission” must take place in the “coverage territory” and occur during the “policy period.”

2. Exclusions

In addition to Section II – General Exclusions, this insurance does not apply to:

- a. Liability arising out of failure or performance of contract by any insurer, or any other party, including the Named Insured, obligated to afford benefits;
- b. Liability arising out of an insufficiency of funds to meet any obligations under any plan included in the “employee benefit program”;
- c. Any “claim” or “suit” based upon:
 - (1) Failure of any investment to perform as represented by an insured;
 - (2) Advice given to any person to participate or not to participate in any plan included in the “employee benefit program”; or
 - (3) The investment or non-investment of funds;
- d. Liability arising out of your failure to comply with the mandatory provisions of any law concerning workers’ compensation, unemployment insurance, social security or disability benefits;
- e. Liability or “loss” for which benefits have accrued under the terms of your “employee benefit program” to the extent that such benefits are available from funds accrued by the Named Insured for such benefits or from collectible insurance, notwithstanding an insured’s “act, error or omission” in administering the plan which precluded the claimant from receiving such benefits;
- f. Liability or “loss” arising out of any dishonest, fraudulent, criminal or malicious “act, error or omission” committed by any insured;
- g. Liability or “loss” arising out of “bodily injury,” “property damage,” “personal and advertising injury,” a “wrongful act,” or an “employment claim”;
- h. “Loss” for which the insured is liable because of liability imposed on a fiduciary by the Employee Retirement Security Act of 1974, as now or hereafter amended.

COVERAGE F – AUTO COVERAGES

A. Auto Liability Coverage

1. Applicability

- a. This insurance applies to and we will pay all sums an insured legally must pay as “loss” because of “bodily injury” or “property damage” caused by an accident and resulting from the ownership, maintenance or use of a “covered auto.”
- b. This insurance also applies to and we will pay all sums an insured legally must pay as a “covered pollution cost or expense” caused by an accident and resulting from the ownership, maintenance or use of “covered autos.” However, we will only pay for the “covered pollution cost or expense” if there is either “bodily injury” or “property damage” caused by the same accident.
- c. Out-Of-State Coverage Extensions.

While a “covered auto” is away from the state where it is licensed, we will:

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the “covered auto” is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the “covered auto” is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

2. Exclusions

In addition to Section II – General Exclusions, this insurance does not apply to:

a. Care, Custody or Control

Except as provided under Coverage F., C. Auto Physical Damage Coverage, 5. Coverage Extensions paragraph g., “property damage” to or “covered pollution cost or expense” involving property owned or transported by an insured or in any insured’s care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

b. Expected or Intended Injury

“Bodily injury” or “property damage” expected or intended from the standpoint of the insured. This exclusion does not apply to:

- (1) “Bodily injury” or “property damage” resulting from the use of reasonable force to protect persons or property; or

- (2) The Named Insured's obligations under Wisconsin Statute Section 895.46(1) except where the Named Insured expected or intended the "bodily injury" or "property damage."

c. Fellow Employee

"Bodily injury" to any fellow "employee" of the insured arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business. However, this exclusion does not apply if the "bodily injury" results from the use of a covered "auto" you do not own or lease.

d. Handling of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- (1) Before it is moved from the place where it is accepted by the insured for movement into or onto the "covered auto"; or
- (2) After it is moved from the "covered auto" to the place where it is finally delivered by the insured.

B. Auto Medical Payments Coverage

1. Applicability

As set forth in Section V-Conditions, 14. b. Other Insurance provision, we will pay, on an excess basis only, reasonable expenses incurred for necessary medical and funeral services to or for a "covered person" who sustains "bodily injury" caused by an accident. Medical services include chiropractic services. We will pay only those expenses incurred, for services rendered within three years from the date of the accident.

2. Exclusions

In addition to Section II – General Exclusions, this insurance does not apply to:

- a. "Bodily injury" sustained by a "covered person" while "occupying" a vehicle located for use as a premise.
- b. "Bodily injury" sustained by a "covered person" while "occupying" or struck by any vehicle (other than a "covered auto") owned by you or furnished or available for your regular use.
- c. "Bodily injury" to your "employee" arising out of and in the course of employment by you.
- d. "Bodily injury" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.
- e. "Bodily injury" to anyone using a vehicle without a reasonable belief that the person is entitled to do so.

- f. "Bodily injury" sustained by a "covered person" while "occupying" any "covered auto" while used in any professional racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply to any "bodily injury" sustained by a "covered person" while the "auto" is being prepared for such a contest or activity.

3. Limit of Auto Medical Payments Coverage

Regardless of the number of "autos," "covered person(s)," insureds, premiums paid, claims made or vehicles involved in an accident, the most we will pay for "bodily injury" for each "covered person" injured in any one accident is the Limit Of Insurance for Auto Medical Payments Coverage shown in the Declarations.

No one will be entitled to receive duplicate payment for the same elements of loss under this coverage and any Liability Coverage, Uninsured Motorists Coverage or Underinsured Motorists Coverage.

C. Auto Physical Damage Coverage

1. Applicability

- a. We will pay for "loss" to a "covered auto" or its equipment under:

- (1) Comprehensive Coverage

- From any cause except:

- (a) The "covered auto's" collision with another object; or
 - (b) The "covered auto's" overturn.

- (2) Collision Coverage

- Caused by:

- (a) The "covered auto's" collision with another object; or
 - (b) The "covered auto's" overturn.

- b. Towing

We will pay for towing up to \$500 each time a "covered auto" is disabled due to a covered loss. We will also pay for labor costs incurred; however, the labor must be performed at the place of disablement.

- c. Glass Breakage — Hitting a Bird or Animal — Falling Objects or Missiles.

If you carry Comprehensive Coverage for the damaged "covered auto," we will pay for the following under Comprehensive Coverage:

- (1) Glass breakage;
 - (2) "Loss" caused by hitting a bird or animal; and
 - (3) "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a “covered auto’s” collision or overturn considered a “loss” under Collision Coverage.

2. Exclusions

In addition to Section II – General Exclusions, this insurance does not apply to:

- a. “loss” to any “covered auto” while participating in any professional or organized racing or demolition contest or stunt activity, or while practicing for such contest or activity.
- b. “loss” caused by or resulting from any of the following unless caused by other “loss” that is covered by this insurance:

- (1) Wear and tear, freezing (except “loss” caused by freezing to permanently attached special equipment common to an emergency vehicle, unless the “loss” is caused by your failure to properly maintain such equipment), mechanical or electrical breakdown. In no event will “loss” to an automobile engine caused by freezing be covered by this policy.

- (2) Blowouts, punctures or other road damage to tires.

However, this exclusion does not apply to “loss” caused by the accidental discharge of an air bag.

- c. “loss” to property of any description not permanently attached to the “covered auto.”

3. Limits of Auto Physical Damage Coverage

The most we will pay for “loss” is:

- a. The cost of replacing the damaged or stolen property but only for a “covered auto” that, based on model year at the time of loss is deemed a “total loss” and is;
 - (1) five years old or newer and has a replacement cost of \$100,000 or less; or
 - (2) ten years old or newer and has a replacement cost in excess of \$100,000.
- b. If a. above does not apply then we will pay the least of:
 - (1) The cost of repairing the damaged property with parts of like kind and quality;
 - (2) The actual cash value of the damaged or stolen property as of the time of the “loss”; or
 - (3) The limit stated on the schedule of “covered autos.”

4. Deductibles for Auto Physical Damage Coverage

For each “covered auto,” our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations.

a. Deductible Waiver

If a “loss” covered under this Auto Physical Damage Coverage also involves a “loss” under another coverage part issued by us only one deductible, the largest, will be applied. Regardless of the number of “covered autos” suffering a physical damage “loss” while engaged in a single “accident,” only one deductible, the largest, shall apply to the entire event.

b. Waiver of Collision Deductible

This Auto Physical Damage Coverage will not apply the deductible to “loss” caused by collision by another vehicle if all of these conditions are met:

- (1) The “loss” to a “covered auto” is greater than the deductible amount; and
- (2) The owner and driver of the other vehicle are identified; and
- (3) The owner and driver of the other vehicle has a liability policy covering the “loss”; and
- (4) The driver of the “covered auto” is not legally responsible, in any way, for causing or contributing to the “loss.”

5. Coverage Extensions for Auto Physical Damage Coverage

a. Personal Auto – Physical Damage Deductible Recovery

We will reimburse your “employees,” volunteers, elected or appointed officials, and members of any board, council, committee, commission, agency or other organization of yours for the physical damage deductible applicable to their personal auto policy, up to \$500 per “auto” for damage to any “auto” owned or leased by the “employee,” volunteer, elected or appointed official, or member of any board, council, committee, commission, agency or other organization of yours which occurs while that “auto” is used in connection with your business. We will not pay anyone more than once, directly or indirectly, for the same elements of “loss.”

b. Hired Auto

If Comprehensive or Collision coverages are provided under this Auto Physical Damage Coverage for any “covered auto” you own, then the Auto Physical Damage Coverages provided are extended to “autos” you hire.

The most we will pay for "loss" to any hired "auto" is the lesser of \$50,000 or Actual Cash Value or Cost of Repair, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Subject to the above limit and deductible provisions, we will provide coverage equal to the broadest coverage applicable to any "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an accident for which you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$500 per accident.

c. Commandeered Autos

If Comprehensive and Collision Coverage is provided, then Comprehensive and Collision coverage is extended to "autos" you commandeer as a result of your business activities or operations.

The most we will pay for "loss" to any commandeered "auto" is the lesser of \$500,000 or Actual Cash Value or Cost of Repair, minus a deductible of \$500. No deductible applies to "loss" caused by fire or lightning. Subject to the above limit and deductible provisions, we will provide coverage equal to the broadest coverage applicable to any "auto" you own.

We will also cover loss of use of the commandeered "auto" if it results from an accident for which you are legally liable and the owner incurs an actual financial loss, subject to a maximum of \$500 per accident.

d. Lease Gap Coverage

If a long-term leased "auto" is a "covered auto" and the lessor is named as an Additional Insured - Lessor, in the event of a total "loss" we will pay your additional legal obligation to the lessor for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the lease.

"Outstanding balance" means the amount you owe on the lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; and lease termination fees.

e. Temporary Transportation Expense

We will pay for transportation expense incurred by you because of the covered damage to a "covered auto." We will pay only for those "covered autos" for which you carry Comprehensive or Collision Coverage. No deductible shall apply.

f. Mutual Aid Reimbursement

We will reimburse you for the expense of mutual aid assistance incurred by you when you request assistance from another municipality because of a covered "loss" to an "auto" of the responding municipality.

The amount we will reimburse you will be limited to the lesser of the following amounts for each mutual aid assistance made for you by another municipality:

- (1) Necessary and actual expenses incurred; or
- (2) Five Thousand Dollars (\$5,000).

No deductible will apply to this reimbursement. Coverage shall be excess of the responding municipality's Physical Damage coverage.

g. Care, Custody or Control

We will pay for "loss" to:

- (1) "Autos" of others left in your care, custody or control while being impounded, attended, serviced, repaired, parked or stored by you; and
- (2) Property transported by you, other than property owned by you or any insured.

Subject to a maximum of \$250,000 for all "loss" in any one event, the most we will pay is \$50,000 any one "auto" under (1) above and \$100,000 any one "loss" under (2) above.

The insurance provided under (1) above does not apply to any "covered auto" including any "auto" owned by you or any insured.

Our obligation to pay for "loss" applies only to the amount of "loss" in excess of \$1,000 deductible each accident. We may pay all or any part of the deductible amount to affect settlement of any "claim" or "suit" and you shall promptly reimburse us for that part of the deductible we paid upon written demand by us.

We will not pay anyone more than once, directly or indirectly, for the same element of loss.

h. Employee's or Volunteer's Personal Effects in Autos

- (1) We will pay for "loss" to personal effects located within an "auto" owned by you, an "employee" or a volunteer if at the time of "loss," the "employee" or volunteer is acting within the scope of their duties for you.
- (2) We will not pay for "loss" caused by theft of personal effects from an unattended "auto" unless:
 - (a) The "auto" is equipped with a fully enclosed body or compartment; and
 - (b) The "loss" is a direct result of forcible entry (of which there is visible evidence) into a fully enclosed body, the doors and windows of which were securely locked, or from a compartment which was locked.

The most we will pay for "loss" to personal effects is \$2,500 in any one "accident." We will not pay anyone more than once, directly or indirectly, for the same element of "loss."

6. Conditions for Auto Physical Damage Coverage

a. Appraisal for Physical Damage Loss

If you and we disagree on the amount of "loss," either may demand an appraisal of the "loss." In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss." If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- (1) Pay its chosen appraiser, and
- (2) Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

b. Loss Payment and Physical Damage Coverages

At our option we may:

- (1) Pay for, repair or replace damaged or stolen property;
- (2) Return the stolen property, at our expense. We will pay for any "loss" that results to a "covered auto" from the theft; or
- (3) Take all or any part of the damaged or stolen property at an agreed or appraised value.

c. Concealment, Misrepresentation or Fraud

This coverage is void in any case of fraud by you at any time as it relates to this coverage. It is also void if you or any other insured, at any time, intentionally conceal or misrepresent a material fact concerning:

- (1) This coverage;
- (2) The "covered auto";
- (3) Your interest in the "covered auto"; or
- (4) A claim under this coverage.

No oral or written statement, representation or warranty made by the Named Insured or on its behalf in the negotiation for or procurement of this coverage shall be deemed material or defeat or void this coverage, unless such statement, representation or warranty was false and made with intent to deceive, or unless the matter misrepresented or made a warranty

increased the risk or contributed to the "loss." No breach of a warranty in this coverage shall defeat or void this coverage, unless the breach of such warranty increased the risk at the time of "loss," or contributed to the "loss," or existed at the time of the "loss."

Our authorized representative's knowledge will be considered our knowledge. If our authorized representative knows before an accident or "loss" something which violates a policy condition, such knowledge will not void the policy or defeat a recovery for a claim.

COVERAGE G — UNINSURED AND UNDERINSURED MOTORIST COVERAGE

1. Applicability

- a. We will pay all sums a "covered person" is legally entitled to recover as compensatory damages from the owner or driver of an "uninsured motor vehicle" or "underinsured motor vehicle." The damages must result from "bodily injury" sustained by a "covered person" caused by an accident. The owner's or driver's liability for these damages must result from the ownership, maintenance or use of an "uninsured motor vehicle" or "underinsured motor vehicle."
- b. We will pay under Uninsured Motorist Coverage only after all liability bonds or policies have been exhausted by payment of judgments or settlements.
- c. We will pay under Underinsured Motorist Coverage only if:
 - (1) The limits of any applicable liability bonds or policies have been exhausted by payment of judgments or settlements; and
 - (2) If there is a tentative settlement made between a "covered person" and the insurer of the "underinsured motor vehicle," we have been given prompt written notice of such tentative settlement and we have either:
 - (a) Advanced payment to the "covered person" in an amount equal to the tentative settlement within 30 days after receipt of notification; or
 - (b) Waived subrogation against the underinsured motorist.
- d. Any judgment for "loss" arising out of a "suit" brought without our written consent is not binding on us.

2. Exclusions

In addition to Section II – General Exclusions, this insurance does not apply to:

- a. Any "claim" settled without our consent.
- b. The direct or indirect benefit of any insurer or self-insurer under any workers compensation, disability benefits or similar law.

- c. "Bodily injury" sustained by:
 - (1) Any insured while "occupying" or when struck by any vehicle owned by that insured that is not a "covered auto" for Uninsured Motorists Coverage or Underinsured Motorist Coverage under this Coverage G;
 - (2) Any insured while "occupying" or when struck by any vehicle owned by the Named Insured that is insured for Uninsured Motorists Coverage or Underinsured Motorist Coverage on a primary basis under any other insurance coverage form or policy.
- d. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
- e. Punitive or exemplary damages.

COVERAGE H — CRIME

PART 1 – CRIME COVERAGE

In consideration for payment of Premiums to the "Company", and subject to the terms and limits of this Coverage Part, the "Company" agrees to provide coverage as stated in this "Crime Coverage".

1. INSURING AGREEMENT

Coverage is provided under the following Insuring Agreements for which a Limit of Insurance is shown in the Schedule of "Declarations" and applies to "Loss" that you sustain resulting directly from an "Occurrence" taking place at any time which is "Discovered" by you during the "Policy Period" shown in the Schedule of "Declarations" or during the period of time provided in the Extended Period to "Discover" "Loss" Condition **Part II – General Conditions**

2. COVERAGES

a. Employee Dishonesty and Faithful Performance of Duty Blanket Coverage

- (1) We will pay on your behalf "Employee" Dishonesty Coverage and Faithful Performance of Duty which is extended to include "Loss" resulting from the failure of any "Employee" to perform duties prescribed by state law, charter, ordinance or resolution of your governing body, including an ability to faithfully perform those duties because of a criminal act committed by a person other than an "Employee". Coverage shall be afforded to your officials and "Employees" who are required by law to give bonds for the faithful performance of their duties.
- (2) **Loss of Money, Securities, and Other Property** which the "Insured" shall sustain, to an amount not exceeding in the aggregate the amount stated in the Limit of Liability Section shown on the "Declarations" applicable to the Schedule of Coverage "Declarations" page, resulting directly from one or more fraudulent or dishonest acts committed by an "Employee", acting alone or in collusion with others.

Dishonest or fraudulent acts as used in this policy shall mean only dishonest or fraudulent acts committed by such "Employee" with the manifest intent to cause the "Insured" to sustain such "Loss"; and to obtain financial benefit for the "Employee", or for any other person or organization intended by the "Employee" to receive such benefit, other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions, or other "Employee" benefits earned in the normal course of employment.

b. Loss Inside the Premises Coverage – Money and Securities

- (1) "Loss" of "Money" and "Securities" by the actual destruction, disappearance, or wrongful abstraction thereof within the "Premises" or within any "Banking Premises", or similar recognized places of safe deposit.
- (2) "Loss" of (1) "Other Property" by "Safe Burglary" or "Robbery" within the "Premises" or attempt thereat, and (2) a locked cash drawer, cash box, or cash register by felonious entry into such container within the "Premises" or attempt thereat or by felonious abstraction of such container from within the "Premises" or attempt thereat.
- (3) Damage to the "Premises" by such "Safe Burglary", "Robbery" or felonious abstraction, or by or following entry by burglary into the "Premises" or attempt thereat, provided with respect to damage to the "Premises" the "Insured" is the owner thereof or is liable for such damage.

c. Loss Outside the Premises Coverage – Money and Securities

- (1) "Loss" of "Money" and "Securities" by the actual destruction, disappearance, or wrongful abstraction thereof outside the "Premises" while being conveyed by a "Custodian", "Messenger", or any armored motor vehicle "Company", or while within the living quarters in the home of any "Custodian" or "Messenger".
- (2) "Loss" of "Other Property" by "Robbery" or attempt thereat outside the "Premises" while being conveyed by a "Custodian", "Messenger", or any armored motor vehicle "Company", or by "Theft" while within the living quarters in the home of any "Custodian" or "Messenger".

d. Money Orders and Counterfeit Paper Currency Coverage due to the acceptance in good faith, in exchange for merchandise, "Money" or service, of any post office or express "Money" order, issued or purporting to have been issued by any post office or express "Company", if such "Money" order is not paid upon presentation, or due to the acceptance in good faith in the regular course of business of counterfeit United States or Canadian paper currency.

e. Depositors Forgery or Alteration Coverage

- (1) "Loss" which the "Insured" or any bank which is included in the "Insureds" proof of "Loss" and in which the "Insured" carries a checking, savings, or electronic account, as their respective interests may appear, shall sustain through "Forgery" or alteration of, on or in any check, draft, promissory note, bill or exchange, or similar written promise, order or direction to pay a certain sum of "Money", made or drawn by or drawn upon the "Insured" or made or drawn by one acting as agent of the "Insured", or purporting to have been made or drawn as herein before set forth, including:

- (a) any check, draft, or electronic payment made or drawn in the name of the “Insured”, payable to a fictitious payee and endorsed in the name of such fictitious payee;
- (b) any check, draft, or electronic payment procured in a face-to-face transaction with the “Insured”, or with one acting as agent of the “Insured”, by anyone impersonating another and made or drawn payable to the one so impersonated and endorsed by anyone other than the one so impersonated; and
- (c) any payroll check, payroll draft, or payroll order made or drawn in hard copy or electronic by the “Insured”, payable to bearer as well as to a named payee and endorsed by anyone other than the named payee without authority from such payee.

Whether or not any endorsement mentioned in a., b., or c. above be a “Forgery” within the law of the place controlling the construction thereof.

- (2) Mechanically, electronically, or digitally reproduced signatures are treated the same as handwritten signatures.
- (3) The “Insured” shall be entitled to priority of payment over “Loss” sustained by any bank aforesaid. “Loss” under this policy, whether sustained by the “Insured” or such bank, shall be paid directly to the “Insured” in its own name, except in cases where such bank shall have already fully reimbursed the “Insured” for such “Loss”. The liability of the “Company” to such bank for such “Loss” shall be a part of and not in addition to the amount of coverage applicable to the “Insureds” office to which such “Loss” would have been allocated had such “Loss” been sustained by the “Insured”.
- (4) If the “Insured” or such bank shall refuse to pay any of the foregoing instruments made or drawn as herein before set forth, alleging that such instruments are forged or altered, and such refusal shall result in suit being brought against the “Insured” or such bank to enforce such payment and the “Company” shall give its written consent to the defense of such suit, then any reasonable attorneys’ fees, court costs, or similar legal expenses incurred and paid by the “Insured” or such bank in such defense shall be construed to be a “Loss” under this Coverage Agreement and the liability of the “Company” for such “Loss” shall be in addition to any other liability under this policy.

f. Computer Fraud

For “Loss” of or damage to “Money”, “Securities”, and “Other Property” resulting directly from the use of any computer or other authorized electronic device to fraudulently cause a transfer of that property from inside the “Premises” or “Banking Premises”:

- (1) To a person (other than a “Messenger”) outside those “Premises”; or
- (2) To a place outside those “Premises”.

Conditions Applicable to Insuring Agreement 2. (f)

(1) Mechanical, Electronic, or Digital Signatures

We will treat signatures that are produced or reproduced mechanically, electronically, digitally, or by other means the same as handwritten signatures.

(2) Proof Of Loss

You must include with your proof of "Loss" any instrument involved in that "Loss", or, if that is not possible, an affidavit setting forth the amount and cause of "Loss".

g. Funds Transfer Fraud

The "Company" will pay for "Loss" of "Funds" resulting directly from a "Fraudulent Instruction" directing a financial institution to transfer, pay or deliver "Funds" from your "Transfer Account".

3. DEDUCTIBLE

The "Company" will not pay for "Loss" in any one "Occurrence" unless the amount of "Loss" exceeds the deductible amount shown in the Schedule of Coverage "Declarations". We will then pay the amount of "Loss" in excess of the deductible amount, up to the Limit of Insurance. In the event more than one deductible amount could apply to the same "Loss", only the highest deductible amount may be applied.

PART II – GENERAL CONDITIONS

In addition to General Policy Conditions in Section V the following Coverage Conditions apply to Coverage H.

1. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS

a. Duties in the Event of Loss

After you "Discover" a "Loss" or a situation that may result in "Loss" of or damage to "Money", "Securities", or "Other Property" you must:

- (1) Notify us as soon as practical if you have reason to believe that any "Loss" (except for "Loss" covered under Insuring Agreement **2.(a), 2.(b), 2.(c), 2.(e) or 2.(f)**) involves a violation of law, you must also notify the local law enforcement authorities.
- (2) Submit to examination under oath at our request and give us a signed statement of your answers.
- (3) Produce for our examination all pertinent records.
- (4) Give us a detailed, sworn proof of "Loss" within 120 days.
- (5) Cooperate with us in the investigation and settlement of any claim.

- (6) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the "Insured" because of "Loss" or damage to which this insurance may also apply.

b. Extended Period to Discover Loss

We will pay for "Loss" that you sustained prior to the effective date of cancellation of this insurance, which is "Discovered" by you no later than 60 days from the date of that cancellation.

However, this extended period to "Discover" "Loss" terminates immediately upon the effective date of any other insurance obtained by you, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for "Loss" sustained prior to its effective date.

c. Joint Insured

- (1) If more than one "Insured" is named in the "Declarations", the first Named "Insured" will act for itself and for every other "Insured" for all purposes of this insurance. If the first Named "Insured" ceases to be covered, then the next Named "Insured" will become the first Named "Insured".
- (2) If any "Insured", or official of that "Insured", has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every "Insured".
- (3) An "Employee" of any "Insured" is considered to be an "Employee" of every "Insured".
- (4) If this insurance or any of its coverages is cancelled as to any "Insured", "Loss" sustained by that "Insured" is covered only if it is "Discovered" by you no later than 60 days from the date of that cancellation.

However, this extended period to "Discover" "Loss" terminates immediately upon the effective date of any other insurance obtained by that "Insured", whether from us or another insurer, replacing in whole or in part the coverage afforded, under this insurance, whether or not such other insurance provides coverage for "Loss" sustained prior to its effective date.

- (5) We will not pay more for "Loss" sustained by more than one "Insured" than the amount we would pay if all such "Loss" had been sustained by one "Insured".
- (6) Payment by us to the first Named "Insured" for "Loss" sustained by any "Insured", other than an "Employee" benefit plan, shall fully release us on account of such "Loss".

d. Legal Action Against Us

You may not bring any legal action against us involving "Loss":

- (1) Unless you have complied with all the terms of this insurance;
- (2) Until 120 days after you have filed proof of "Loss" with us; and

(3) Unless brought within 2 years from the date you “Discovered” the “Loss”.

If law prohibits any limitation in this Condition, such limitation is amended so as to equal the minimum period of limitation provided by such law.

e. Loss Covered Under More Than One Coverage of this Insurance

If two or more coverages apply to the same “Loss”, we will pay you for the lesser of:

- (1) The actual amount of “Loss”; or
- (2) The highest amount shown in the Schedule for any one “Loss” or “Occurrence”.

This insurance will be excess over the LWMMI-001 10 03 Cyber Liability Endorsement for any valid or collectible “Loss”.

f. Non-Accumulation Limit of Insurance

The most we will pay for “Loss” in any one “Occurrence” is the applicable Limit of Insurance shown in the Crime Coverage Schedule of Coverage “Declarations”. Regardless of the number of years this insurance remains enforce or the number of premiums paid, no Limit of Insurance cumulates from year to year or **Policy Period to Policy Period**.

g. Other Insurance

If other valid and collectible insurance including LWMMI-001 10 03 Cyber Liability Endorsement is available to you for “Loss” covered under this insurance, our obligations are limited as follows:

(1) Primary Insurance or Individual Bond

When this insurance is written as primary insurance, and:

- (a) You have other insurance covering the same “Loss” other than that described in Paragraph (g) above, we will only pay for the amount of “Loss” that exceeds:
 - i. The Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not; or
 - ii. The Deductible Amount shown in the “Declarations”;

whichever is greater. Our payment for “Loss” is subject to the terms and conditions of this insurance.

- (b) This insurance will be excess over the LWMMI-001 10 03 Cyber Liability Endorsement for any valid or collectible “Loss”.

h. Ownership Of Property; Interests Covered

The property covered under this insurance is limited to property:

- (1) That you own or lease; or
- (2) That you hold for others; or
- (3) For which you are legally liable, except for property inside the "Premises" of a client of yours.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization. Any claim for "Loss" that is covered under this insurance must be presented by you.

i. Recoveries

- (1) Any recoveries, less the cost of obtaining them, made after settlement of "Loss" covered by this insurance will be distributed as follows:
 - (a) To you, until you are reimbursed for any "Loss" that you sustain that exceeds the Limit of Insurance and the applicable Deductible;
 - (b) Then to us, until we are reimbursed for the settlement made;
 - (c) Then to you, until you are reimbursed for that part of the "Loss" equal to the applicable Deductible.
- (2) Recoveries do not include any recovery:
 - (a) From insurance, suretyship, reinsurance, security, or indemnity taken for our benefit; or
 - (b) Of original "Securities" after duplicates of them have been issued.

j. Valuation – Settlement

- (1) Subject to the applicable Limit of Insurance provision, we will pay you for:
 - (a) "Loss" of "Money", but only up to and including its face value.
 - (b) "Loss" of "Securities", but only up to and including their value at the close of business on the day the "Loss" was "Discovered". We may, at our option:
 - i. Pay the market value of such "Securities" or replace them in kind, in which event you must assign to us all your rights, title, and interest in and to those "Securities"; or

- ii. Pay the cost of any Lost "Securities" Bond required in connection with issuing duplicates of the "Securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
 - a) Market value of the "Securities" at the close of business on the day the "Loss" was "Discovered"; or
 - b) The Limit of Insurance applicable to the "Securities".
- (c) "Loss" of or damage to "Other Property", or "Loss" from damage to the "Premises" or its exterior for the replacement cost of the property without deduction for depreciation. However, we will not pay more than the least of the following:
 - i. The cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose;
 - ii. The amount you actually spend that is necessary to repair or replace the lost or damaged property; or
 - iii. The Limit of Insurance applicable to the lost or damaged property.

With regard to Paragraphs **(w) (1) c. i.** through **(w) (1) c. iii.** above, we will not pay on a replacement cost basis for any "Loss" or damage:

- a) Until the lost or damaged property is actually repaired or replaced; and
- b) Unless the repairs or replacement are made as soon as reasonably possible after the "Loss" or damage.

If the lost or damaged property is not repaired or replaced, we will pay on an actual cash value basis.

- (2) Any property that we pay for or replace becomes our property.
- (3) The Company agrees to pay for all reasonable costs, fees, or other expenses that you incur and pay to an outside or independent accounting firm, auditing, or other service used to determine the amount of "Loss" covered under this coverage. We will pay for costs, fees, or expenses after the settlement of the covered "Loss" and the amount we will pay is part of, not in addition to, the maximum limit shown within this endorsement.

PART III - EXCLUSIONS

In addition to General Policy Exclusions in Section II the following Coverage Exclusions apply to Coverage H.

1. The “Company” will not pay for:

a. Accounting or Mathematical Errors

“Loss” resulting from accounting, mathematical, or record-keeping errors or omissions.

b. Acts of Employees or Officials Prior to the Policy Period

“Loss” caused by an “Employee” or Official if the “Employee” or Official had also committed “Theft” or any other dishonest act prior to the effective date of this insurance, and you or any of your officials, not in collusion with the “Employee”, learned of that “Theft” or dishonest act prior to the **Policy Period** shown in the “Declarations”.

c. Acts of Officials, Employees, or Representatives

“Loss” resulting from “Theft”, or any other dishonest act committed by any of your officials, “Employees”, or authorized representatives:

- (1) Whether acting alone or in collusion with other persons; or
- (2) While performing services for you or otherwise;

Except when covered under Insuring Agreement **2. (a)**.

d. Confidential Information

“Loss” resulting from:

- (1) The unauthorized disclosure of your confidential information including, but not limited to, patents, trade secrets, processing methods, or customer lists; or
- (2) The unauthorized use or disclosure of confidential information of another person or entity which is held by you including, but not limited to, financial information, personal information, credit card information, or similar non-public information.

e. Dishonest or Criminal Acts

“Loss” resulting from any dishonest or criminal act committed by any of your “Employees”, directors, Companies, or authorized representatives, while performing services for you or otherwise, and whether acting alone or in collusion with other persons as it relates to Coverages **2.(b), (c), (d), (e), (f) and (g)**;

f. Exchanges or Purchases

“Loss” resulting from the giving or surrendering of property in any exchange or purchase.

g. Fire

“Loss” or damage resulting from fire, however caused, except:

- (1) “Loss” of or damage to “Money” and “Securities”; and
- (2) “Loss” from damage to a safe or vault.

h. Governmental Action

“Loss” resulting from seizure or destruction of property by order of governmental authority.

i. Indirect Loss

“Loss” that is an indirect result of an “Occurrence” covered by this insurance including, but not limited to, “Loss” resulting from:

- (1) Your inability to realize income that you would have realized had there been no “Loss” of or damage to “Money”, “Securities”, or “Other Property”.
- (2) Payment of damages of any type for which you are legally liable. But we will pay compensatory damages arising directly from a “Loss” covered under this insurance.
- (3) Payment of costs, fees, or other expenses you incur in establishing either the existence or the amount of “Loss” under this insurance.

j. Inventory Shortages

“Loss”, or that part of any “Loss”, the proof of which as to its existence or amount is dependent upon:

- (1) An inventory computation; or
- (2) A profit and “Loss” computation.

k. Legal Action

We will not pay under this coverage part for any costs, fees, or other expenses related to any legal action.

l. Loss Evaluation Costs

Payment of costs, fees, or other expenses you incur in establishing either the existence or the amount of “Loss” under this insurance.

m. Loss of Money in Any Device

"Loss" of "Money" contained in any "Money" operated device unless the amount of "Money" deposited in it is recorded by a continuous recording instrument in the device.

n. Motor Vehicles or Equipment and Accessories

"Loss" of or damage to motor vehicles, trailers or semi-trailers, or equipment and accessories attached to them under this coverage part.

o. Surrendering or Transfer of Property

"Loss" resulting from the giving, surrendering, or transfer of property in any exchange or purchase. "Loss" of property after it has been transferred or surrendered to a person or place outside the "Premises" or "Banking Premises" on the basis of unauthorized instructions; or as a result of a threat to do bodily harm to any person or damage to any property. This Exclusion does not apply to "Loss" of "Money" and "Securities" while outside the "Premises" or "Banking Premises" in the care and custody of a "Messenger" if you had no knowledge of any threat at the time the conveyance began or had knowledge of the threat at the time the conveyance began, but the "Loss" was not related to the threat.

p. Trading

"Loss" resulting from trading, whether in your name or in a genuine or fictitious account.

q. Vandalism

"Loss" from damage to the "Premises" or its exterior or to containers of covered property by vandalism or malicious mischief.

r. Voluntary Parting of Title or Possession of Property

"Loss" resulting from your, or anyone acting on your expressed or implied authority, being induced by any dishonest act to voluntarily part with title or possession of any property.

PART IV - DEFINITIONS

In addition to General Policy Definitions in Section VI the following General Policy Definitions apply to Coverage H.

- 1. BANKING PREMISES** means the interior of that portion of any building occupied by a banking institution or similar safe depository.
- 2. COUNTERFEIT PAPER CURRENCY** means an imitation of "Money" that is intended to deceive and to be taken as genuine.
- 3. CUSTODIAN** means you, or any "Employee" while having care and custody of property inside the "Premises", excluding any person while acting as a "watchperson" or janitor.

4. **DISCOVER** or **DISCOVERED** means the time when you first become aware of facts which would cause a reasonable person to assume that a “Loss” of a type covered by this insurance has been or will be incurred, regardless of when the act or acts causing or contributing to such “Loss” occurred, even though the exact amount or details of “Loss” may not then be known.

“Discover” or “Discovered” also means the time when you first receive notice of an actual or potential claim in which it is alleged that you are liable to a third party under circumstances, which, if true, would constitute a “Loss” under this insurance.

5. **EMPLOYEE:**

- a. “Employee” means any person covered under Section 3 Who Is An Insured
- b. “Employee” does not mean any agent, independent contractor, or unauthorized representative of the named Insured.

6. **FORGERY** means the signing of the name of another person or organization with intent to deceive; it does not mean a signature, which consists in whole, or in part of one's own name signed with or without authority, in any capacity, for any purpose.

7. **FRAUDULENT INSTRUCTION** means:

- a. An electronic, telegraphic, cable, teletype, telefacsimile, or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;
- b. A written instruction (other than those described in Insuring Agreement 2.(e) issued by you, which was forged or altered by someone other than you without your knowledge or consent, or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent; or
- c. An electronic, telegraphic, cable, teletype, telefacsimile, telephone, or written instruction initially received by you which purports to have been transmitted by an “Employee”, but which was in fact fraudulently transmitted by someone else without your or the “Employees” knowledge or consent.

8. **FUNDS** means “Money” and “Securities”.

9. **LOSS** under **Coverage H** only means direct and accidental monetary “Loss” or damage and will include judgments or settlements but “Loss” does not include fines imposed by law, punitive or exemplary damages or matters which may be deemed uninsurable under the law pursuant to which the policy will apply.

10. **MESSENGER** means you or any “Employee” while having care and custody of property outside the “Premises”.

11. MONEY means: currency, coins, bank notes, bullion, travelers' checks, registered checks, and "Money" orders held for sale, or "Money" accepted in good faith in the regular course of business of counterfeit United States or Canadian paper currency.

12. OCCURRENCE under **Coverage H** only means:

a. Under Insuring Agreement Coverages **2.(a) and 2.(b)**:

(1) An individual act;

(2) The combined total of all separate acts whether or not related; or

(3) A series of acts whether or not related;

committed by an "Employee" acting alone or in collusion with other persons, during the **Policy Period** shown in the "Declarations", before such **Policy Period** or both.

b. Under Insuring Agreement Coverages **2.(c) and All Other Insuring Agreements**:

(1) An individual act;

(2) The combined total of all separate acts whether or not related; or

(3) A series of acts whether or not related;

committed by a person acting alone or in collusion with other persons involving one or more instruments, during the **Policy Period** shown in the "Declarations", before such **Policy Period** or both.

13. OTHER PROPERTY means any tangible property other than "Money" and "Securities" that has intrinsic value. "Other Property" does not include computer programs, electronic data, or any property specifically excluded under this insurance.

14. PREMISES means the interior of that portion of any building you occupy in conducting your business.

15. ROBBERY means the unlawful taking of property from the care and custody of a person by one who has:

a. Caused or threatened to cause that person bodily harm; or

b. Committed an obviously unlawful act witnessed by that person.

16. SAFE BURGLARY means the unlawful taking of:

a. Property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior; or

b. A safe or vault from inside the "Premises".

17. SECURITIES means negotiable and nonnegotiable instruments or contracts representing either “Money” or property and includes:

- a. Tokens, tickets, revenue, and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b. Evidence of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include “Money”. “Money” is not considered to be “Securities”.

18. THEFT means the unlawful taking of property to the deprivation of the “Insured”.

19. TRANSFER ACCOUNT means an account maintained by you at a financial institution from which you can initiate the transfer, payment, or delivery of “Funds”:

- a. By means of electronic, telegraphic, cable, teletype, telefacsimile, or telephone instructions communicated directly through an electronic “Funds” transfer system; or
- b. By means of written instructions (other than those described in Insuring Agreement **A.3.**) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic “Funds” transfer system.

SUPPLEMENTARY PAYMENTS — COVERAGES A, B, D, E, AND F

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

1. All expenses we incur.
2. Up to \$10,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the “bodily injury” liability coverage applies. We do not have to furnish these bonds.
3. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
4. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the “claim” or “suit,” including actual loss of earnings up to \$500 a day because of time off from work.
5. All costs taxed against the insured in the “suit.”
6. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

7. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
8. Up to a maximum of \$5,000 with respect to any “claim” or “suit” for water contamination notification expenses directly incurred by you in notifying your customers or when required by law or a regulatory authority, of actual or possible water contamination.

We do not require that you give us advance notice or obtain our approval prior to incurring these expenses. However, we will require you to submit itemized bills covering all necessary printing, mailing and other expenses relating to the giving of any required notice to your customers.

9. Up to a maximum of \$100,000 reimbursement for legal defense expenses incurred by an insured in defending an alleged criminal act committed by an insured while acting within the scope of his/her duties. Reimbursement to the insured will only be made if the criminal charges are dropped, or the insured is acquitted, and the Named Insured authorizes reimbursement from us. Reimbursable legal defense expenses are limited to:
 - a. Fees or expenses paid by the insured to an attorney or law firm at the prevailing rate paid by us;
 - b. Fees or expenses paid by the insured to the court having jurisdiction;
 - c. Fees or expenses paid by the insured to witnesses that testify on the insured’s behalf except for any witness who is an insured; or
 - d. The cost of any required court bonds paid by the insured, but we do not have to provide such bonds.

These payments will not reduce the limits of insurance.

SECTION II—GENERAL EXCLUSIONS

All Coverages included in this policy are subject to the following General Exclusions.

This insurance does not apply to:

1. Aircraft or Watercraft

Liability or “loss” arising out of the ownership, maintenance, use, or entrustment to others of any aircraft or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and “loading or unloading.”

This exclusion does not apply to:

- a. A watercraft while ashore on premises you own or rent;

- b. Watercraft unless being used to carry persons or property for a charge;
- c. Liability assumed under any “insured contract” for the ownership, maintenance or use of aircraft or watercraft;
- d. Aircraft hired by you with a crew seating eight or less;
- e. Aircrafts not designed to carry passengers; commonly referred to as drones.

2. Airports

Liability or “loss” arising out of the ownership, maintenance, operation, or use of any airfield equipped with Federal Aviation Administration controlled towers, including all runways, hangars, buildings or other properties in connection with aviation activities or any other use of airport facilities or properties.

3. Asbestos

- a. Liability or “loss” at any time arising out of:
 - (1) The manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust;
 - (2) Any obligation of an insured to indemnify any party because of “loss” arising any time as a result of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust; or
 - (3) Any obligation to defend any “suit” or “claim” against an insured seeking “loss,” if such “suit” or “claim” results from or is contributed to, by any or any combination of the following: manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust;
- b. However, this exclusion shall not apply to “bodily injury,” “property damage,” “personal and advertising injury,” “wrongful acts,” or “acts, errors or omissions” arising out of:
 - (1) “Emergency operations” or “training operations” conducted away from premises owned by, or rented to, the insured; or
 - (2) Waterborne asbestos.

4. Auto

Liability for any “loss” arising out of the ownership, maintenance, use, or entrustment to others of any “auto” owned or operated by or rented or loaned to any insured, other than “claim(s)” or “suit(s)” covered under **Coverage F**. Use includes operation and “loading or unloading.”

5. Communicable Disease

- a. Any liability, loss, damage, injury, cost, or expense of any kind whatsoever caused by, arising out of, directly related to, or resulting from, in whole or in any part:
 - (1) Any communicable disease, the spread of which is caused by a pathogen, virus, bacteria, parasite, mold, fungus, or other microorganism that induces symptoms of physical distress, mental anguish, illness, or disease; or
 - (2) Any action or inaction of any insured, or any entity acting or failing to act on behalf of any insured, or order of a governmental representative, authority, or agency undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, or remediate the actual, suspected, or anticipated presence, existence or transmission of a communicable disease caused by any pathogen, virus, bacteria, parasite, mold, fungus, or other microorganism;

that actually or allegedly induces or is capable of inducing symptoms, physical distress, mental anguish, illness or disease.

- b. The addition of this exclusion does not imply that any other provisions contained within this or prior policies do not also exclude coverage for liability, loss, damage, injury, cost, or expense caused by, or arising out of, related to, or resulting from any pathogen, virus, bacteria, parasite, mold, fungus, or other microorganism.
- c. Subject to a sublimit of \$50,000 for any one "occurrence" or "wrongful act" and \$100,000 for all "occurrences" or "wrongful acts" during this "policy period," we will pay for any "loss" and "loss adjustment expense" arising from, caused by, contributed to or resulting from any pathogen, virus, bacteria, parasite, mold, fungus, or other microorganism that is not otherwise excluded by this Policy.

Our total liability for "loss" and "loss adjustment expense" with respect to this paragraph c., will not exceed \$50,000 for any one "occurrence" or "wrongful act," and will never be more than \$100,000 for all "occurrences" or "wrongful acts" during the "policy period." The sub limits provided herein are part of the Named Insured's Limit of Liability shown in the Declarations and not in addition to the Limit of Liability.

6. Contractual Liability

Liability for payment of contractual obligation for goods and services which the insured is obligated to pay by reason of contract or agreement. This exclusion does not apply to liability for "loss":

- a. That the insured would have in the absence of the contract or agreement;
- b. Assumed in a contract or agreement that is an "insured contract," provided the liability or damage occurs subsequent to the execution of the contract or agreement; or
- c. Assumed in any joint powers or mutual aid agreements for tort damages.

7. Cyber Liability and Electronic Data

Liability for “loss,” “loss adjustment expenses,” damages, costs, fines, monitoring, or remediation arising out of:

- a. Any cyber event, meaning any access to or disclosure of any person’s or organization’s confidential or personal information, including but not limited to:
 - (1) names, unpublished address, unpublished phone number, driver’s license or other state-issued identification number, social security number, financial account numbers, including saving or checking account, credit or debit card number and the related security code, password or pin for such account or card number;
 - (2) intellectual property, patents, trade secrets, processing methods, customer lists, financial information, health information; or
 - (3) any other type of nonpublic information; or
- b. The destruction of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate “electronic data” that does not result from physical injury to tangible property.

“Electronic data” means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment. “Electronic data” is not tangible property.

This exclusion applies even if “loss,” “loss adjustment expenses,” damages, or other amounts are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses, or any other “loss,” cost, or expense incurred by the “Named Insured” or others arising out of that which is described in a. or b. above.

8. Employee Indemnification and Employer’s Liability

Liability to:

- a. An “employee” of the Named insured arising out of and in the course of employment by the Named insured; however, “employee,” for purposes of this exclusion does not include a “leased employee” or a “temporary worker”; or
- b. Any volunteer for whom you are legally required to provide insurance under any workers compensation or disability benefits law or similar laws, arising out of and in the course of their duties for any insured; or
- c. The spouse, child, parent, brother or sister of that “employee” or volunteer as a consequence of paragraphs (1) and (2) above.

This exclusion applies:

- (1) Whether the Named Insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share “loss” with or repay someone else who must pay “loss” because of the injury.

This exclusion does not apply to liability assumed by the Named Insured under an “insured contract.”

9. Employment–Related Practices

a. Liability to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person’s employment;
 - (c) Employment-related practices, policies, acts or omissions, including but not limited to coercion, demotion, failure to promote, evaluation, reassignment, discipline, harassment, humiliation, or discrimination directed at that person; or
 - (d) Any negligent or intentional misrepresentation made in connection with (a), (b), or (c) above; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of “bodily injury” to that person at whom any of the employment-related practices described in paragraphs (1)(a), (1)(b), (1)(c) above is directed.

b. This exclusion applies:

- (1) Whether the Named Insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share “loss” with or repay someone else who must pay “loss” because of the injury.

c. This exclusion does not apply to “employment claims” under Coverage D.

10. Lead

a. Liability for “loss” resulting from:

- (1) Exposure to lead, paint containing lead, or any other material or substance containing lead; or
- (2) Ingestion, inhalation or absorption of lead, paint containing lead, or any other material or substance containing lead.

- b. Any “loss,” cost or expense arising out of the investigation or defense of any “loss,” injury or damage or any cost, fine or penalty or for any expense of “claim” or “suit” related to any of the above.

11. Nuclear Exclusion

This Insurance does not apply any Liability or expense arising out of any nuclear incident, accident, loss, occurrence, claim made or loss discovered; or as the result of the ownership, management, manufacture, design, services, operation, storage, use, existence, handling, processing, sale, distribution, responsibility for, disposal of, or Entrustment to Others of nuclear materials, nuclear products or the byproducts thereof.

12. Pollution

- a. Liability for “loss” arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of “pollutants”:
 - (1) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured.
 - (2) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste.
 - (3) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible.
 - (4) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured’s behalf are performing operations if the “pollutants” are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor.
 - (5) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured’s behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, “pollutants.”
 - (6) That are, or that are contained in any property that is:
 - (a) Being transported or towed by, handled, or handled for movement into, onto or from, the “covered auto”;
 - (b) Otherwise in the course of transit by or on behalf of the insured; or
 - (c) Being stored, disposed of, treated or processed in or upon the “covered auto.”

This paragraph (6) applies only to liability assumed under a contract or agreement.

- (7) Before the “pollutants” or any property in which the “pollutants” are contained are moved from the place where they are accepted by the insured for movement into or onto the “covered auto”; or
- (8) After the “pollutants” or any property in which the “pollutants” are contained are moved from the “covered auto” to the place where they are finally delivered, disposed of or abandoned by the insured.

b. Any “loss,” cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, “pollutants”; or
- (2) “claim” or “suit” by or on behalf of a governmental authority for “loss” because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, “pollutants.”

However, this paragraph does not apply to liability for “loss” because of “property damage” that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such “claim” or “suit” by or on behalf of a governmental authority.

c. As to Coverage A only, this exclusion does not apply to:

- (1) “Bodily injury” if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;
- (2) “Bodily injury” or “property damage” for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured;
- (3) “Bodily injury” or “property damage” arising out of heat, smoke or fumes from a “hostile fire” or a fire set by your firefighters for training purposes;
- (4) “Bodily injury” or “property damage” arising from overspray of paint during the application of paint by you or on your behalf by a contractor or subcontractor;
- (5) “Bodily injury” or “property damage” arising from spilling or splashing of wet concrete or asphalt during pouring or laying of concrete or asphalt by you or on your behalf by a contractor or subcontractor;
- (6) “Bodily injury” or “property damage” arising from spilling, splashing or overspray of liquid paving tar during application of liquid paving tar by you or on your behalf by a contractor or subcontractor;

- (7) "Bodily injury" or "property damage" arising from airborne drifting of sandblasting materials during sandblasting operations performed by you or on your behalf by a contractor or subcontractor; or
- (8) "Bodily injury" or "property damage" arising out of chemicals used in the operation of your public swimming pools;
- (9) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
- (10) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor;
- (11) "Property damage" to a building or its contents or "bodily injury" caused by the backflow of materials resulting from the inability of your sanitary or storm sewer system to accommodate the amount of material being introduced into the system;
- (12) "Bodily injury," "property damage" or "clean-up costs" at or from any premises, site or location which you currently own, lease or occupy, or at or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations. However, there is only coverage if the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of the "pollutants":
 - (a) Happens entirely above ground, meaning on or above the surface of ground or land, any waterway or body of water, or the basement floor of any building;
 - (b) Begins and ends within 72 hours;
 - (c) Is "sudden" and accidental, and is documented by you. As used herein "sudden" means happening quickly.

The most we will pay for "bodily injury," "property damage" or "clean-up costs" as provided by this exception (12) under this policy is:

- (i) \$250,000 Each Occurrence. Subject to the Aggregate Limit shown below, this is the most we will pay for the sum of all "loss" because of all "bodily injury," "property damage" or "clean-up costs" arising out of any one "occurrence." This Each Occurrence sublimit of insurance is part of, and not in addition to, the Each

Occurrence Limit of Insurance shown in the Declarations. If and when this Each Occurrence sublimit of insurance is exhausted, the terms, conditions and exclusions of the policy will be applied as if paragraph (12) above was not contained in this policy.

- (ii) \$1,000,000 Aggregate. This is the most we will pay for the sum of all "loss" because of all "bodily injury," "property damage" or "clean-up costs."

Our right and duty to defend any "suit" by virtue of the coverage afforded by this paragraph (12) ends when:

- (a) We have exhausted the applicable limit of insurance in the payment of judgments or settlements; or
 - (b) We have tendered to you or a court the applicable limit of insurance.
- d. As to Coverage F only, this exclusion does not apply to:
- (1) Fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the "covered auto" or its parts, if the "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants";
 - (2) Accidents that occur away from premises owned by or rented to an insured with respect to "pollutants" not in or upon a "covered auto" if:
 - (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a "covered auto"; and
 - (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

13. Professional Health Care Services

Liability or "loss" arising out of:

- a. The rendering or failure to render:
 - (1) Medical, surgical, dental, x-ray or nursing service, treatment, advice or instruction, or the related furnishing of food or beverages; or
 - (2) Any health or therapeutic service, treatment, advice or instruction.
- b. The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances; or
- c. The handling or treatment of dead bodies, including autopsies, organ donation or other procedures. However this exclusion shall not apply to a municipal cemetery or an ambulance service owned by the insured.

This exclusion does not apply to “wrongful acts,” “bodily injury,” “property damage,” or “personal and advertising injury” arising out of the emergency health care services of your “employees” or volunteers who administer first aid, or who are first responders, paramedics, emergency medical technicians, or licensed or registered visiting nurses qualifying as an insured under this policy.

14. Racing, Stunts, or Demolition Contest

“Bodily injury” or “property damage” arising out of the use of and “auto” or “mobile equipment” while participating in any professional or organized racing or demolition contest or stunt activity, or while practicing for such contest or activity.

15. War

Any “claim,” “suit” or “loss” based upon, arising out of or attributable to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

16. Workers Compensation and Similar Laws

Any obligation of the Named Insured under a worker’s compensation, disability benefits or unemployment compensation law or any similar law.

SECTION III—WHO IS AN INSURED

1. With respect to Coverage A, B, D, E, and H only the term insured as used herein means the entity designated in the Declarations as the Named Insured and the following:

- a. A governmental agency or subdivision, department, municipal body, board or commission, or not-for-profit corporation which is owned and controlled by you.
- b. Your mayor, village president, city or village manager, chief of police, department managers/administrators; and all persons who were, now are, or shall be lawfully elected, appointed, or employed officials of the Named Insured; members of any board, commission or agency operated by and under the jurisdiction of the Named Insured all while acting within the scope of their duties.
- c. Officers of the Named Insured as defined under Wisconsin Statute Section 895.46(1) performing non-delegable duties.
- d. The police department or any other law enforcement agency and any code enforcement department of the Named Insured, but only as respects your “law enforcement activities”.
- e. Any person while providing services under a mutual aid agreement, joint powers agreement or similar arrangements including entities created under Wisconsin Statute Section 66.30, but only with respect to the conduct of your business and only to the extent of your participation or your interest.

- f. Your “employees,” volunteers and “temporary workers” other than those named in paragraph 1.b. above, but only for acts within the scope of their employment by you or in the course of their duties for you and at your direction.

However, no “employee”, volunteer or “temporary worker” is an insured for:

(1) “Bodily injury” or “personal and advertising injury”:

- (a) To you or to a co-“employee”, other volunteer or co- “temporary worker” while that co- “employee”, other volunteer or co- “temporary worker” is either in the course of his or her employment or while acting at the direction of, and within the scope of their duties for you;
- (b) To the spouse, child, parent, brother or sister of that co-“employee”, other volunteer or co-“temporary worker” as a consequence of paragraph (a) above;
- (c) For which there is an obligation to share “loss” with or repay someone else who must pay “loss” because of the injury described in paragraphs (a) or (b) above ; or
- (d) Arising out of his or her providing or failing to provide professional health care services. But this exclusion does not apply to an “employee” or volunteer of yours who is providing first aid or who is a first responder, paramedic, emergency medical technician, or licensed or registered visiting nurse while acting within the scope of their employment by you or in the course of their duties for you.

(2) “Property damage” to property owned, occupied, or used by, rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your “employees”, any of your volunteers or any of your “temporary workers”. However, this paragraph does not apply to “property damage” to the personal effects of a patient or other transported person while you are providing ambulance services.

- g. Your “employees” and authorized volunteer emergency medical technicians (EMTs), paramedics, first responders and nurses are insureds with respect to their liability for rendering or failing to render emergency care in a medical emergency outside of their normal duties for you as your “employees” or volunteers if at the time of such medical emergency:

- (1) They are not acting within the scope of their duties as an “employee” for an employer other than you or as a volunteer for a person or organization other than you; and
- (2) They are not entitled to any remuneration for the rendering of emergency medical services.

2. With respect to Coverage F only, the following are insureds for any “covered auto”:

- a. Any “employee” of yours, any volunteer of yours, any elected or appointed official of yours, any officer of yours as defined under Wisconsin Statute Section 895.46(1) performing non-delegable duties, or any member of any board, council, committee, commission, agency of yours, while using in your business an “auto” you do not own, hire or borrow.

- b. Anyone else while using with your permission a “covered auto” you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a “covered auto”. This exception does not apply if the “covered auto” is a trailer connected to a “covered auto” you own.
 - (2) Anyone other than your “employees” or volunteers, or a lessee or borrower or any of their “employees”, while moving property to or from a “covered auto”.
 - c. Anyone liable for the conduct of an insured described above but only to the extent of that liability.
 - d. If your business is other than selling, servicing, repairing or parking “autos,” an insured includes an officer, agent or “employee” of such business while using a “covered auto.” However, that person is an insured only if he or she has no other valid and collectible insurance with at least the applicable minimum limit specified by Wisconsin Statute Section 344.15. In this event, coverage will be provided only up to the applicable minimum limit specified by Wisconsin Statute Section 344.15.
 - e. The owner of an “auto” commandeered by you, but only with respect to liability arising out of your operations.
 - f. The owner or anyone else from whom you rent, lease or borrow a temporary substitute “auto” for a covered “auto” you own, but only while that temporary substitute “auto” is being used by you.
- 3. With respect to “mobile equipment” or watercraft** commandeered by you, the owner of the equipment is an insured but only with respect to liability arising out of your operation of the equipment. However, no person or organization is an insured with respect to:
- a. “Bodily injury” to a co-“employee” of the person driving the equipment, or
 - b. “Property damage” to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
- 4. Any municipality,** special district or other entity you newly acquire or form will qualify as a Named Insured if there is no other similar insurance available to that municipality, special district or other entity. However:
- a. Coverage under this provision is afforded only until the 120th day after you acquire or form the municipality, special district or other entity or, the end of the “policy period”, whichever is earlier;
 - b. Coverage A does not apply to “bodily injury” or “property damage” that occurred before you acquired or formed the municipality, special district or other entity;
 - c. Coverage B does not apply to:
 - (1) “Personal and advertising injury” arising out of an offense committed before you acquired or formed the municipality, special district or other entity; or

(2) “Wrongful acts” committed before you acquired or formed the municipality, special district or other entity;

- d. Coverage D does not apply to “wrongful acts” committed before you acquired or formed the municipality, special district or other entity; and
- e. Coverage E does not apply to “acts, errors or omissions” committed before you acquired or formed the municipality, special district or other entity.

5. With respect to Coverages G only, the following are “covered persons:”

- a. An “employee” of the Named Insured “occupying” a “covered auto” or a temporary substitute for a “covered auto”. The “covered auto” must be out of service because of its breakdown, repair, servicing, “loss” or destruction.
- b. Anyone else “occupying” a “covered auto” or a temporary substitute for a “covered auto”. The covered “auto” must be out of service because of its breakdown, repair, servicing, “loss” or destruction.

6. With respect to a person or organization with whom the Named Insured has entered into a contract or agreement that requires such person or organization to be added as an additional insured on the Named Insured’s liability policy, if the terms of this subsection are met, such person or organization is an automatic Additional Insured as follows.

- a. This policy will extend liability coverage to an Additional Insured only if the “bodily injury”, “property damage”, or “personal and advertising injury” allegedly or actually sustained by a third party is caused in whole or in part by the negligent acts or omissions of the Named Insured, its employees, or appointed or elected officials. This policy does not extend liability coverage, and we have no duty to provide a defense for a “claim” or a “suit” against any Additional Insured if the “bodily injury”, “property damage”, or “personal and advertising injury” allegedly or actually sustained by a third party is alleged to have been caused solely by the negligent acts or omissions of an Additional Insured, its employees, officers or directors, or agents other than the Named Insured.

(1) We will defend an Additional Insured if all the following conditions are met:

- (a) The allegations in the “suit” and the information we know about the “occurrence” are such that no conflict appears to exist between the interests of the Named Insured and the interests of the Additional Insured;
- (b) The Additional Insured and the Named Insured agree that we have the right to choose defense counsel and can assign the same counsel to defend the Named Insured and Additional Insured; and
- (c) The Additional Insured fulfills the requirements set forth in **SECTION V-CONDITIONS, 10. Duties in the Event of Claim or Suit.**

(2) If a person or organization qualifies as an Additional Insured under these provisions, the person or organization is subject to all the terms, conditions, provisions, exclusions, and limits of this policy. In no event shall this policy be interpreted to extend more coverage or different coverage to an Additional Insured than would be extended to the Named Insured, its employees, elected or appointed officials.

(3) If a court with jurisdiction determines that the Named Insured, its employees, or appointed or elected officials have caused an Additional Insured to be rendered legally liable for "bodily injury", "property damage", or "personal and advertising injury" to a third party, we will agree to reimburse the Additional Insured, or its insurer, for:

- (a) The proportion of reasonable defense fees necessarily incurred by or on behalf of an Additional Insured; and
- (b) The proportion of a judgment against an Additional Insured, if any;

equal to the proportion of the overall verdict or damages awarded to the third party that was attributable to the negligent acts or omissions of the Named Insured, its employees, elected or appointed officials.

b. No liability coverage or reimbursement is extended to a person or organization with whom the Named Insured has entered into a contract or agreement that requires such person or organization to be added as an additional insured on the Named Insured's liability policy:

- (1) for any "claim" or "suit" that does not arise out of the performance of the contract or agreement with the Named Insured;
- (2) for any "claim" or "suit" arising out of an incident or "occurrence" that took place prior to the date the contract or agreement was signed by the Named Insured;
- (3) for any "claim" or "suit" arising out of an incident or "occurrence" that took place after the expiration of the contract or agreement or took place at a time when such contract or agreement was otherwise not in effect for any reason.

SECTION IV—LIMITS OF INSURANCE AND DEDUCTIBLE

1. Limits

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. "Claim(s)" made or "suit(s)" brought;
- c. Persons or organizations making "claim(s)" or bringing "suit(s)"; or

- d. "Covered autos" or vehicles involved in an accident.

2. Each Occurrence

The Each Occurrence Limit is the most we will pay for the sum of:

- a. "Loss" under Coverage A, B, D, E, and F; and
- b. Medical expenses under Coverage C;

because of all:

- (1) "Bodily injury" or "property damage" arising out of any one "occurrence";
- (2) "Bodily injury," "property damage," or "covered pollution cost or expense" arising out of any one "accident";
- (3) "Personal and advertising injury" caused by an offense;
- (4) "Wrongful acts"; and
- (5) "Acts, errors or omissions."

3. Uninsured and Underinsured Motorist Coverage Limit of Insurance

- a. Regardless of the number of "covered autos," "covered persons," insureds, premiums paid, claims made or vehicles involved in the accident, the most we will pay for all "loss" resulting from any one accident is the LIMIT OF INSURANCE for UNINSURED MOTORIST COVERAGE or UNDERINSURED MOTORISTS COVERAGE as respectively shown in the Declarations.
- b. No one will be entitled to receive duplicate payments for the same elements of "loss" under Coverage G and any Liability Coverage Form.
- c. We will not make a duplicate payment under Coverage G for any element of "loss" for which payment has been made by or for anyone who is legally responsible.
- d. We will not pay for any element of "loss" under Coverage G if a person is entitled to receive payment for the same element of "loss" under any workers' compensation, disability benefits, or similar law.
- e. The limit of insurance for Uninsured or Underinsured Motorist Coverage G shall be reduced by all sums:
 - (1) Paid because of the "bodily injury" by or on behalf of persons or organizations who may be legally responsible, and
 - (2) Paid or payable because of the "bodily injury" under any Workers' compensation law, Disability benefits law, or similar law.

4. Damage to Premises Rented to You

Subject to **2. Each Occurrence** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for “loss” because of “property damage” to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.

5. Medical Expense Limit

Subject to **2. Each Occurrence** above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of “bodily injury” sustained by any one person.

6. Application of Deductible First

Subject to the limits of liability stated above, we will only be liable to pay for “loss” and “loss adjustment expenses” in excess of the deductible shown in the Declarations. In the event we expend funds for “loss” or “loss adjustment expenses” on behalf of an insured, the Named Insured agrees to reimburse us for such expenditures up to the amount of the deductible shown in the Declarations. Upon written demand by us, the amount of such deductible will be payable to us within thirty (30) days.

If there is any recovery by us from a liable third-person or organization, we will disburse the recovered amounts as follows:

- a. The cost of recovery will be deducted from the recovery and repaid first to us.
- b. After deducting the cost of recovery, if any amount remains, it will be repaid first to us, up to the amount of “loss” and “loss adjustment expenses” paid by us, and second to the Insured for reimbursement of any deductible.

7. Application of Highest Deductible

In the event a “claim” or “suit” would require the application of more than one deductible, only the highest deductible will apply.

8. Single Occurrence

“Claim(s)” or “suit(s)” based on or arising out of the same act or interrelated acts of one or more insured(s) shall be considered a single “occurrence” or “wrongful act” and only one deductible shall be applicable.

An “occurrence” or “wrongful act” that takes place during the “policy period” but is part of the same or interrelated “occurrence” or “wrongful act” which occurred prior to the “policy period,” will be deemed to have taken place at the time of the first “occurrence” or “wrongful act” which gives rise to the “claim” for “loss” against the insured and is therefore outside of the “policy period.”

SECTION V-CONDITIONS

This policy is subject to the following Conditions.

1. Cancellation

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 10 days before the effective date of cancellation.

If this policy has been in effect for less than 60 days and is not a renewal policy, we may cancel for any reason.

If this policy has been in effect for 60 days or more or is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- (1) The policy was obtained by material misrepresentation;
 - (2) There has been a substantial change in the risk we originally assumed, except to the extent that we should have foreseen the change or considered the risk in writing the policy;
 - (3) There have been substantial breaches of contractual duties, conditions or warranties; or
 - (4) Nonpayment of premium.
- c. If this policy has been in effect for 60 days or more or is a renewal of a policy we issued, the notice of cancellation will state the reason for cancellation.
 - d. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
 - e. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
 - f. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
 - g. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. Anniversary Cancellation

If this policy is written for a term of more than one year or has no fixed expiration date, we may cancel this policy for any reason by mailing or delivering to the first Named Insured written notice of cancellation at least 60 days before the anniversary date of the policy. Such cancellation will be effective on the policy's anniversary date.

We may cancel this policy because of the termination of an insurance marketing intermediary's contract with us only if the notice of cancellation contains an offer to continue the policy with us if we receive a written request from the first Named Insured prior to the date of cancellation.

3. Nonrenewal

- a. If we elect not to renew this policy we will mail or deliver written notice of nonrenewal to the first Named Insured's last mailing address known to us. We may elect not to renew for any reason; the notice will state the reason for nonrenewal. We will mail or deliver the notice at least 60 days before the expiration date of this policy. We need not mail or deliver the notice if:

- (1) You have insured elsewhere;
- (2) You have accepted replacement coverage;
- (3) You have requested or agreed to nonrenewal of this policy; or
- (4) This policy is expressly designated as nonrenewable.

- b. We may refuse to renew this policy because of the termination of an insurance marketing intermediary's contract with us only if the notice of nonrenewal contains an offer to renew the policy with us if we receive a written request from the first Named Insured prior to the renewal date.

- c. If you fail to pay the renewal or continuation premium by the premium due date, this policy will terminate on the policy expiration or anniversary date, if we have:

- (1) Given you written notice of the renewal or continuation premium not more than 75 days nor less than 10 days prior to the due date of the premium; and
- (2) Stated clearly in the notice the effect of nonpayment of premium by the due date.

4. Anniversary Alteration

If this policy is written for a term of more than one year or has no fixed expiration date, we may alter the terms or premiums of this policy by mailing or delivering written notice of less favorable terms or premiums to the first Named Insured's last mailing address known to us. We will mail, by first class mail, or deliver this notice at least 60 days prior to the anniversary date.

If we notify the first Named Insured within 60 days prior to the anniversary date, the new terms or premiums will not take effect until 60 days after the notice was mailed or delivered. The notice will include a statement of the first Named Insured's right to cancel. The first Named Insured may elect to cancel the policy at any time during the 60-day period, in accordance with paragraph 1.a. of the Cancellation Condition. If the first Named Insured elects to cancel the policy during the 60 day period, return premiums or additional premium charges will be calculated proportionately on the basis of the old premiums.

5. Renewal with Altered Terms

If we elect to renew this policy but on less favorable terms or at higher premiums, we will mail or deliver written notice of the new terms or premiums to the first Named Insured's last mailing address known to us. We will mail, by first class mail, or deliver this notice at least 60 days prior to the renewal date.

If we notify the first Named Insured within 60 days prior to the renewal date, the new terms or premiums will not take effect until 60 days after the notice was mailed or delivered. The notice will include a statement of the first Named Insured's right to cancel. The first Named Insured may elect to cancel the renewal policy at any time during the 60-day period, in accordance with paragraph 1.a. of the Cancellation Condition. If the first Named Insured elects to cancel the renewal policy during the 60-day period, return premiums or additional premium charges will be calculated proportionately on the basis of the old premiums.

We need not mail or deliver this notice if the only change adverse to you is a premium increase that:

- a. Is less than 25 percent and is generally applicable to the class of business to which this policy applies; or
- b. Results from a change based on your action that alters the nature or extent of the risk insured against, including but not limited to a change in the classification of the units of exposure, or increased policy coverage.

6. Cancellation and Nonrenewal — Non-Discrimination

We will not cancel or refuse to renew this policy because of age, sex, residence, race, color, creed, religion, national origin, ancestry, marital status or occupation of anyone who is an insured.

7. Bankruptcy or Insolvency

The bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Form.

8. Changes

This Coverage Form contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this Coverage Form with our consent. This Coverage Form's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

If one of our agents knows of a fact that breaches a condition of this Coverage Form, we will be considered to have knowledge of this same fact if:

- a. The agent knows of this fact at the time the Coverage Form is issued or an application is made; or
- b. The agent later learns of this fact in the course of his dealings as an agent with you.

Any fact that breaches a condition of this Coverage Form and is known to the agent prior to loss shall not void the Coverage Form or prevent a recovery in the event of loss.

9. Conformity to Statute or Rule

Any provision of this Coverage Form (including endorsements which modify the Coverage Form) that is in conflict with a Wisconsin statute or rule is hereby amended to conform to that statute or rule.

The term rule means a valid rule promulgated by the Commissioner of Insurance in accordance with the rule-making authority conferred under Wisconsin Statute Section 227.11(2) and published in the Wisconsin Administrative Code.

10. Duties in the Event of Claim or Suit

- a. You, your insurance manager or person designated to handle insurance matters must see to it that we are notified as soon as practicable of an accident, "loss," "occurrence," "wrongful act," "act, error or omission," or an offense that may result in a "claim" or "suit." To the extent possible, notice should include:
 - (1) How, when and where the accident, "loss," "occurrence," "wrongful act," "act, error or omission," or offense took place;
 - (2) The names and addresses of any injured persons and witnesses;
 - (3) The nature and location of any injury or damage arising out of the accident, "loss," "occurrence," "wrongful act," "act, error or omission," or offense; and
 - (4) Promptly notify the police if a hit-and-run driver is involved in an accident with any insured or "covered person."
- b. If a "claim" is made or "suit" is brought against any insured, you, your insurance manager or person designated to handle insurance matters must:
 - (1) Immediately record the specifics of the "claim" or "suit" and the date received;
 - (2) Notify us as soon as practicable; and
 - (3) See to it that we receive written notice of the "claim" or "suit" as soon as practicable.
- c. You, your insurance manager or person designated to handle insurance matters and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the “claim” or “suit”;
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the “claim” or defense against the “suit”; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
 - e. Notice of a “claim” or “suit” to our agents or claim administrators is considered to be notice to us.

11. Examination of Your Books and Records

We may examine and audit your books and records as they relate to this policy at any time during the “policy period” and up to three years afterward.

12. Inspections and Surveys

- a. We have the right to:
 - (1) Make inspections and surveys at any time;
 - (2) Give you reports on the conditions we find; and
 - (3) Recommend changes.
- b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - (1) Are safe or healthful; or
 - (2) Comply with laws, regulations, codes or standards.
- c. Paragraphs a. and b. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
- d. Paragraph b. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

13. Liberalization

If we revise this Coverage Form to provide greater coverage without additional premium charge, we will automatically provide the additional coverage to all policyholders as of the date the revision is effective in your state.

14. Other Insurance

With respect to Coverages A, B, D, E, F, and H if other valid and collectible insurance is available to the insured for “loss” we cover under this Coverage Form, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary:

- (1) For any “auto” you own; and
- (2) Except when b. below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. Method of Sharing below.

b. Excess Insurance

This insurance is excess of, and shall not contribute with:

- (1) Any valid and collectible insurance or self-insurance; or
- (2) Any other primary insurance available to you covering liability for “loss” arising out of the premises or operations for which you have been added as an additional insured by attachment of an endorsement.

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

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

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Form.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

With respect to Coverage C, this insurance is excess over any and all other valid and collectible insurance whether such other coverage is designated as primary, secondary, excess, or any other description.

With respect to Coverage G, if there is other applicable insurance available under one or more policies or provisions of coverage:

- (1) The maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any coverage form or policy providing coverage on either a primary or excess basis.
- (2) Any insurance we provide with respect to a vehicle the Named Insured does not own shall be excess over any other collectible underinsured motorists insurance providing coverage on a primary basis.
- (3) If the coverage under this coverage form is provided:
 - (a) On a primary basis, we will pay only our share of the "loss" that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.
 - (b) On an excess basis, we will pay only our share of the "loss" that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.

15. Premiums

The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums we pay.

16. Representations

No misrepresentation or breach of affirmative warranty made by you or on your behalf in the negotiation of this Coverage Form affects our obligation under this Coverage Form unless:

- a. We rely on it and it is either material or made with intent to deceive; or
- b. The facts misrepresented or falsely warranted contribute to the loss.

No failure of a condition before the loss and no breach of a promissory warranty affects our obligation under this Coverage Form unless such failure or breach:

- c. Exists at the time of the loss; and
- d. Either increases the risk at the time of the loss or contributes to the loss.

The provisions of this condition do not apply to nonpayment of premium.

17. Separation of Insureds

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

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom “claim” is made or “suit” is brought.

The offenses, “wrongful acts” or “act, error or omissions” of an insured are not imputed to any other insured for the purpose of determining applicability of the policy exclusions.

18. Transfer of Your Rights and Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent.

19. Transfer of Rights of Recovery Against Others to Us

- a. In the event of any payment under Coverages A, B, C, D, E, F, or H, we will be entitled to the insured’s rights of recovery against any person or organization and the insured will do whatever is necessary to secure such rights.

If there is any recovery by us from a liable third-person or organization, we will disburse the recovered amounts as follows:

- (1) The cost of recovery will be deducted from the recovery and repaid first to LWMMI.
- (2) After deducting the cost of recovery, if any amount remains, it will be repaid first to LWMMI, up to the amount of “loss” and “loss adjustment expenses” paid by LWMMI, and second to the Insured for reimbursement of any deductible.

b. In the event of any payment under Coverage G:

- (1) We shall be entitled to the right to recover damages from another only after the insured has been fully compensated for damages.
- (2) If we make any payment and the insured recovers from another party, the insured shall hold the proceeds in trust for us and pay us back the amount we have paid, only after the insured has been fully compensated for damages.
- (3) Our rights do not apply under this provision with respect to Underinsured Motorists Coverage, if we:
 - (a) Have been given prompt written notice of a tentative settlement between an insured and the insurer of an "underinsured motor vehicle"; and
 - (b) Fail to advance payment to the insured in an amount equal to the tentative settlement within 30 days after receipt of notification.
- (4) If we advance payment to the insured in an amount equal to the tentative settlement within 30 days after receipt of notification:
 - (a) That payment will be separate from any amount the insured is entitled to recover under the provisions of Underinsured Motorists Coverage; and
 - (b) We also have a right to recover the advanced payment.

20. Two or More Coverage Forms, Coverage Parts or Policies Issued By Us

If this Coverage Form and any other Coverage Form, Coverage Part or policy issued to the Named Insured by us or any company affiliated with us apply to the same "claim" or "suit" for "loss," the maximum Limit of Insurance for Liability Coverage under all of the Coverage Forms, Coverage Parts or policies shall not exceed the highest applicable Limit of Insurance available under any one Coverage Form, Coverage Part or policy. This condition does not apply to any Coverage Form, Coverage Part or policy issued by us or an affiliated company specifically to apply as excess insurance over this policy.

21. Arbitration Condition Under Coverage G

If we and an insured disagree whether the insured is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or an "underinsured motor vehicle" do not agree as to the amount of damages that are recoverable by that insured, then the matter may be arbitrated. However, disputes concerning coverage under Coverage G may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators will select a third. If the two arbitrators cannot agree within 30 days, either party may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the insured lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

22. Legal Action Against Us

No legal action may be brought against us until there has been full compliance with all the terms of this policy.

SECTION VI—DEFINITIONS

1. “Act, error or omission” means the failure to execute a required action, or a mistaken action committed in the “administration” of the insured’s “employee benefit program.”
2. “Administration” means:
 - a. Providing information to all or any “employee,” including their dependents and beneficiaries, with respect to eligibility for or scope of the “employee benefit program”;
 - b. Handling records in connection with the “employee benefit program”; or
 - c. Effecting, continuing, modifying or terminating participation of any “employee” in any benefit included in the “employee benefit program.”

However, “administration” does not include handling payroll deductions.

As used in this definition, “employee” includes those actively employed, disabled, or retired.

3. “Advertisement” means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters.
4. “Auto” means the following vehicles, and does not include “mobile equipment”:
 - a. a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment;
 - b. equipment designed primarily for:
 - (1) Snow removal on public roads and parking lots using any “covered auto”;
 - (2) Road maintenance but not construction or resurfacing; or
 - (3) Street cleaning.

5. "Bodily injury" means bodily injury, sickness, disease, mental injury, mental anguish, humiliation, shock or fright sustained by a person, including death, emotional injury or disability resulting from any of these at any time; but "bodily injury" does not include injury arising out of the offenses designated in the definition of "personal and advertising injury."
6. "Cafeteria plans" means plans authorized by applicable law to allow an "employee" to elect to pay for certain benefits with pre-tax dollars.
7. "Claim" means the following, but does not include any criminal action:
 - a. a written notice, written demand or "suit" expressing an intention to hold an insured responsible for "loss" arising out of an "occurrence," offense or "wrongful act."
 - b. a notice of a charge or violation from any government agency.
 - c. an arbitration notice.
 - d. a civil proceeding commenced by the service of a summons, complaint or similar pleading received by an insured alleging a "wrongful act."
 - e. all "claims" arising out of continuous or repeated exposure to substantially the same general conditions, a series of legally or factually related "occurrences," offenses or "wrongful acts" or continuous or repeated publication or dissemination of substantially the same information regardless of the number of insureds, persons or organizations that allege injury, or "loss" shall be considered one "claim."
8. "Clean-up costs" means expenses for the removal or neutralization of "pollutants."
9. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or
 - c. All parts of the world if:
 - (1) The injury or damage arises out of the activities of your "employee" whose home is in the territory described in a. above, but is away for a short time on your business; and
 - (2) The insured's responsibility to pay "loss" is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.
10. "Covered auto" means any owned "auto," hired or borrowed "auto," or newly acquired "auto" that is owned by the Named Insured and is operated by an insured in the course and scope of employment, during the "Policy Period."

11. "Covered person" means:

- a. An insured while “occupying” or, while a pedestrian, when struck by any “auto.”
- b. Anyone else “occupying” a “covered auto” or a temporary substitute for a “covered auto.” The “covered auto” must be out of service because of its breakdown, repair, servicing, damage, or destruction.

12. “Covered pollution cost or expense”:

- a. means any cost or expense arising out of:
 - (1) Any request, demand or order; or
 - (2) Any “claim” or “suit” by or on behalf of a governmental authority demanding that the insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of “pollutants.”
- b. does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release, or escape of “pollutants”:
 - (1) Before the “pollutants” or any property in which the “pollutants” are contained are moved from the place where they are accepted by the insured for movement into or onto the covered “auto”; or
 - (2) After the “pollutants” or any property in which the “pollutants” are contained are moved from the covered “auto” to the place where they are finally delivered, disposed of or abandoned by the insured.

Paragraphs (1) and (2) above do not apply to accidents that occur away from premises owned by or rented to an insured with respect to “pollutants” not in or upon a “covered auto” if:

- (a) The “pollutants” or any property in which the “pollutants” are contained are upset, overturned or damaged as a result of the maintenance or use of a “covered auto”; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the “pollutants” is caused directly by such upset, overturn or damage.

13. “Emergency operations” means actions:

- a. Which are urgent responses necessary for protection of property, human life, health or safety;
- b. Which result from the performing or attempting to perform fire-fighting services, hazardous materials unit services, first aid, ambulance or rescue squad services, or related services, including the stabilizing or securing of an emergency scene; and
- c. Which are sanctioned by the Named Insured.

14. “Employee” includes a “leased worker.”

15. "Employee benefit program" means a program providing some or all of the following benefits to and "employee," whether provided through a "cafeteria plan" or otherwise:
- a. Group life insurance, group accident or health insurance; dental, vision, and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
 - b. Profit sharing plans, employee savings plans, employee stock ownership plans; pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
 - c. Unemployment insurance, social security benefits, workers' compensation and disability benefits;
 - d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
 - e. Any other similar benefits added by endorsement to this policy.

As used in this definition, "employee" includes those actively employed, disabled, or retired.

16. "Employment claims" means any "claim" by any current or former "employee" or an applicant for employment with the Named Insured arising out of "employee" hiring, advancement, remuneration, treatment, condition, or termination of employment.
17. "Hostile fire" means one which becomes uncontrollable or breaks out from where it is intended to be.
18. "Impaired property" means tangible property, other than "your product" or "your work," that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate, or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by:
- a. The repair, replacement, adjustment, or removal of "your product" or "your work"; or
 - b. Your fulfilling the terms of the contract or agreement.

19. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

- b. A sidetrack agreement;
- c. An easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury," "property damage," or "personal and advertising injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

This paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for any injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
- g. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any "employee" of yours, of any "auto."

However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees."

An "insured contract" does not include that part of any contract or agreement:

- (1) That pertains to the loan, lease or rental of an "auto" to you or any of your "employees," if the "auto" is loaned, leased or rented with a driver; or

- (2) That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
20. "Law enforcement activities" means those activities conducted by the Named Insured's Police Department or other law enforcement agencies, including ordinance enforcement.
21. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker."
22. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto."
23. "Loss" means direct and accidental loss or damage.
24. "Loss adjustment expense" means expenditures including, but not limited to, costs of investigations, experts, adjustment services, legal services, court costs and other similar expenses of the Company. "Loss adjustment expense" shall not include salaries of employees of the Company.
25. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts, ATVs/UTVs, gators, bobcats, and other motorized vehicles designed for use principally off public roads;
 - b. Vehicles maintained for use solely on or next to premises you own or rent.
 - c. Vehicles that travel on crawler treads;
 - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
 - e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers.
- f. Vehicles not described in a., b., c., or d. above maintained primarily for purposes other than the transportation of persons or cargo.
26. "Occupying" means in, upon, getting in, on, out or off.
27. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
28. "Personal and advertising injury" means injury, including consequential "bodily injury," arising out of one or more of the following offenses:
- a. Assault and battery;
 - b. Discrimination;
 - c. False arrest, detention or imprisonment, or malicious prosecution;
 - d. False or improper service of process;
 - e. The publication or utterance of a libel or slander or of other defamatory or disparaging material, or a publication or utterance in violation of an individual's right to privacy;
 - f. Violation of civil rights, including, but not limited to, violations of the Federal Civil Rights Act and similar laws;
 - g. Wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - h. Invasion of a person's right of privacy;
 - i. The use of another's advertising idea in your "advertisement";
 - j. Infringing upon another's copyright, trade dress or slogan in your "advertisement"; or
 - k. Violation of property rights.
29. "Policy period" means the period of one year following the effective date and hour of this policy, or, if the time between the effective date and the termination of the policy is less than one year, such lesser period.

30. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

31. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

c. With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed on, from or in connection with any premises you own or rent, Paragraph a. above is replaced by the following:

(1) Includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

32. "Property damage" means:

a. for the purposes of Coverage A only:

(1) Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- (2) Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.
- b. for the purposes of Coverage F only, damage to or loss of use of tangible property.
33. "Suit" means a civil proceeding in which "loss" because of "bodily injury," "property damage," "personal and advertising injury," "wrongful act(s)," a "covered pollution cost or expense," or "act, error, or omission" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such "loss" or "covered pollution costs or expenses" are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such "loss" or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
34. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
35. "Training operations" means activities used to prepare, train or instruct members of a fire department, hazardous materials unit, or first aid, ambulance or rescue squad in accepted and recognized emergency procedures, including municipal, state, and federal standards.
36. "Total loss" means the cost of repair exceeds 70 percent of the actual cash value of the "covered auto."
37. "Underinsured motor vehicle":
- a. means a land motor vehicle or trailer for which the sum of all liability bonds or policies at the time of an accident provides at least the applicable minimum limit for bodily injury liability specified by Wisconsin Statute Section 344.15. The applicable minimum limit is \$50,000 for each person/\$100,000 for each "accident" if the limit of liability is indicated as a split limit, but that sum is less than the LIMIT OF INSURANCE of this coverage.
- b. does not include any vehicle:
- (1) Owned or operated by a self-insurer under any applicable motor vehicle law;
- (2) Owned by a governmental unit or agency;
- (3) Designed for use mainly off public roads while not on public roads; or
- (4) That is an "uninsured motor vehicle."
38. "Uninsured motor vehicle":
- a. means a land motor vehicle or trailer:

- (1) For which no liability bond or policy at the time of an accident provides at least the applicable minimum limit for bodily injury liability specified by Wisconsin Statute Section 344.15. The applicable minimum limit is:
 - (a) \$50,000 for each “accident,” if the limit of liability is a single limit that applies for each “accident”; or
 - (b) \$25,000 for each person/\$50,000 for each “accident” if the limit of liability is indicated as a split limit.
- (2) For which an insuring or bonding company denies coverage or is or becomes insolvent; or
- (3) That is a hit-and-run vehicle and neither the driver nor owner can be identified. The vehicle must hit an insured, a covered “auto” or a vehicle an insured is “occupying” or must hit another vehicle that hits an “insured,” a covered “auto” or a vehicle an “insured” is “occupying.”

b. does not include any vehicle:

- (1) Owned or operated by a self-insurer under any applicable motor vehicle law, other than Wisconsin motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law;
- (2) Owned or operated by a self-insurer under Wisconsin motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide at least \$300,000 for each “accident,” which is the minimum combined single limit of liability specified by Wis. Stat. Section 344.15;
- (3) Owned by a governmental unit or agency;
- (4) Designed for use mainly off public roads while not on public roads; or
- (5) That is an “underinsured motor vehicle.”

39. “Wrongful act(s)” means:

- a. for the purposes of Coverage B only, any actual or alleged act, error or omission, neglect or breach of duty by the insured while conducting “law enforcement activities.”
- b. for the purposes of Coverage D only, any actual or alleged:
 - (1) Error, misstatement, misleading statement, omission, neglect or breach of duty of the insured; or
 - (2) Violation of any civil rights protected by federal law; or
 - (3) Violation of any state civil rights law;
 - (4) “employment claim”;

that arises out of the discharge of duties for the Named Insured, individually or collectively.

Continuous or repeated exposure to substantially the same generally harmful conditions shall be considered a single “wrongful act.”

40. “Your product”:

a. means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

(c) A person or organization whose business or assets you have acquired; and

(2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “your product”; and

(2) The providing of or failure to provide warnings or instructions.

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

41. “Your work”:

a. means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “your work”; and

(2) The providing of or failure to provide warnings or instructions.

SECTION VII–NOTICES

1. Notice to Policyholders – Wisconsin

- a. If you are having problems with your insurance company or agent, do not hesitate to contact the insurance company or agent to resolve your problem.

League of Wisconsin Municipalities Mutual Insurance
316 W. Washington Avenue, Suite 600
Madison, WI 53703
1-608-833-9595

- b. You can also contact the Office of the Commissioner of Insurance, a state agency which enforces Wisconsin's insurance laws, and file a complaint. You can contact the Office of the Commissioner of Insurance by writing to:

Office of the Commissioner of Insurance
Complaints Department
P.O. Box 7873
Madison, WI 53707-7873

or you can call 1-800-236-8517 outside of Madison or 608-256-0103 in Madison, and request a complaint form.

2. Notice of Terrorism Insurance Coverage

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002. The Act establishes a temporary program to spread the risk of catastrophic losses from certain acts of terrorism between insurers and the federal government. The stated purpose of the Act is (to protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk."

The Act required insurers to pay losses from certain acts of terrorism up to an amount equal to a percentage of its direct earned premium. This amount is called the "insurer deductible." If an individual insurer's losses exceed this amount, the federal "Terrorism Insurance Program" will reimburse the insurer for 90 percent of losses paid in excess of the insurer deductible. An insurer that has met its insurer deductible is not liable for any portion of losses in excess of \$100 billion per year. Similarly, the federal government is not liable for any losses covered by the Act that exceed this amount.

Your policy does not contain a terrorism exclusion. The portion of your annual premium that is attributable to coverage for acts of terrorism is: \$0.00.

This acknowledges that you have been notified under the Terrorism Risk Insurance Act of 2002, that any losses caused by certified acts of terrorism under your policy coverage will be partially reimbursed by the federal government and you have been notified of the amount of your premium, if any, attributable to such coverage.

3. Notice of Annual Meetings

You are a member of the LWMMI, and are entitled to vote either in person or by proxy at any and all meetings of the Company. The annual meetings are held in Madison in May each year. You will receive at least 60 days notice of the meeting location and date.

4. Notice of Mutual Policy Conditions

You are a member of the LWMMI while this policy is in force. LWMMI is an assessable mutual insurance company. This means LWMMI can, at any time, even after cancellation or non-renewal by you or us, assess you for amounts needed, as determined by our Board of Directors, to fund policy periods during which we covered you. Assessments will be prorated in accordance with procedures and methods determined by our Board of Directors.

5. Notice of Dividends

As a member you will receive any dividends declared on the policy by the Board of Directors.

IN WITNESS WHEREOF, the Insurer has caused this policy to be signed by its President and Secretary and countersigned on the Declarations Page by a duly authorized representative of the Insurer.

Two handwritten signatures are present. The signature on the left is 'CR-Mush' in a cursive, stylized font. The signature on the right is more complex and cursive, appearing to be 'L. J. [unclear]'.

League of Wisconsin Municipalities Mutual Insurance

INCREASED LIMITS FOR WORKERS COMPENSATION – PART TWO – EMPLOYERS LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIAL COVERAGE FORM – LEAGUE OF WISCONSIN MUNICIPALITIES MUTUAL INSURANCE PLAN

This endorsement modifies insurance provided under the following:

This endorsement provides ***Excess Insurance*** as defined under “other Insurance” in the **Special Coverage Form** over the underlying limits for **Workers Compensation WC 00 00 00 A – PART TWO – EMPLOYERS LIABILITY INSURANCE** or **EX 00 02 03 12 – PART TWO – EMPLOYERS LIABILITY INSURANCE** as shown below. The limits for **PART TWO – EMPLOYERS LIABILITY INSURANCE** are amended as follows:

Policy #:	0900078357
Policy Effective Date:	12/15/2024
Part Two Employer Liability Limits:	\$2,000,000

This endorsement does not alter coverage in any insurance policy. It does not change the intent that Workers Compensation is sole remedy. This endorsement is effective on the inception date of the policy unless another date is indicated above.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED

League of Wisconsin Municipalities Mutual Insurance

PRIOR ACTS COVERAGE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

SPECIAL COVERAGE FORM – LEAGUE OF WISCONSIN MUNICIPALITIES MUTUAL INSURANCE PLAN (COVERAGE E – EMPLOYEE BENEFITS LIABILITY)

SCHEDULE:

Last Claims-Made Insurer:	N/A
Last Claims-Made Policy Number:	ME020130
Last Claims-Made Policy Period:	12/15/02-12/15/03
Retroactive Date:	Unlimited

1. We will pay those sums that the insured becomes legally obligated to pay as damages because of claims for "acts, errors or omissions" that occur under the Claims-Made Policy as shown in the Schedule above.

This insurance only applies if the "act, error or omission" occurred after the Retroactive Date and before the end of the Claims-Made Policy Period shown in the Schedule above.

This endorsement only applies to claims brought against the insured during the "policy period" shown in the Declarations of the policy to which the endorsement is attached.

The coverage provided by this endorsement does not reinstate or increase the Limits of Insurance of this policy.

2. The following exclusions are added to **Paragraph 2. Exclusions of COVERAGE E – EMPLOYEE BENEFITS LIABILITY:**

This insurance does not apply to an "act, error or omission":

- a. For which there is any other collectible insurance or for which there would be collectible insurance but for the exhaustion of the applicable limit of liability.
- b. Which was, or should have been, known to the insured during the Claims-Made Policy Period shown in the Schedule above, including any extensions thereof.
- c. Which was, or should have been, known to the insured to be likely to result from an error or omission during the Claims-Made Policy Period shown in the Schedule above.

3. The following condition is added:

The premium for this endorsement is fully earned as of the effective date of this endorsement.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

Signed, Secretary



League of Wisconsin Municipalities Mutual Insurance

PRIOR ERRORS AND OMISSIONS COVERAGE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

SPECIAL COVERAGE FORM – LEAGUE OF WISCONSIN MUNICIPALITIES MUTUAL INSURANCE PLAN (COVERAGE D – PUBLIC OFFICIALS ERRORS AND OMISSIONS)

SCHEDULE:

Last Claims-Made Insurer: N/A
Last Claims-Made Policy Number: ME020130
Last Claims-Made Policy Period: 12/15/02-12/15/03
Retroactive Date: Unlimited

1. We will pay those sums that the insured becomes legally obligated to pay as damages because of claims for "wrongful act(s)" or "employment claims" that occur under the Claims-Made Policy as shown in the Schedule above.

This insurance only applies if the "wrongful act" occurred after the Retroactive Date and before the end of the Claims-Made Policy Period shown in the Schedule above.

This endorsement only applies to claims brought against the insured during the "policy period" shown in the Declarations of the policy to which the endorsement is attached.

The coverage provided by this endorsement does not reinstate or increase the Limits of Insurance of this policy.

2. The following exclusions are added to **Paragraph 2. Exclusions of COVERAGE D – PUBLIC OFFICIALS ERRORS AND OMISSIONS**:

This insurance does not apply to a "wrongful act":

- a. For which there is any other collectible insurance or for which there would be collectible insurance but for the exhaustion of the applicable limit of liability.
- b. Which was, or should have been, known to the insured during the Claims-Made Policy Period shown in the Schedule above, including any extensions thereof.
- c. Which was, or should have been, known to the insured to be likely to result from an error or omission during the Claims-Made Policy Period shown in the Schedule above.

3. The following condition is added:

The premium for this endorsement is fully earned as of the effective date of this endorsement.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

Signed, Secretary



League of Wisconsin Municipalities Mutual Insurance

LOSS PAYEE – LESSORS OF EQUIPMENT & VEHICLES

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Name and address of Loss Payee:

CoVantage Credit Union 1200 Badger Ave., Stevens Point, Wisconsin 54482

Reason for Endorsement: Loss payee for 2023 Pierce Ladder truck #4905

LIMITATION OF COVERAGE

Nothing contained within this endorsement or insurance policy is intended to be a waiver or estoppels of the contracting municipality or this insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes §893.80, §895.52, and §345.05. To the extent that indemnification is available and enforceable, the municipality or its insurer shall not be liable to the additional insured listed in this endorsement in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.

Loss, if any, shall be adjusted with the Named Insured and shall be payable to the Named Insured and the Loss Payee as their interests may appear.

League of Wisconsin Municipalities Mutual Insurance

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SEWER AND WATER BACK-UP EXTENDED COVERAGE

This endorsement modifies insurance provided under the following:

SPECIAL COVERAGE FORM – LEAGUE OF WISCONSIN MUNICIPALITIES MUTUAL INSURANCE PLAN

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE is amended as follows:

1. We will pay for damages and reasonable clean-up and removal expenses under this endorsement because of “property damage” to property of others served by “your sewer system” or “your water system.” The “property damage” and clean-up and removal expense must result from a covered “sewer back up incident” or a covered “water system incident.”
2. The insurance afforded by this endorsement does not apply to:
 - a. “Property damage” which is otherwise payable under COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE;
 - b. Overflow of inland or tidal waters;
 - c. “Property damage” resulting from blockage occurring anywhere other than “your sewer system”;
 - d. “Property damage” to or clean up and removal expenses in connection with damage to foundations of buildings or structures caused by a “sewer back up incident;” or
 - e. “Property damage” to any property which you own or occupy or which is in your care, custody or control.
3. The following Limits of Insurance apply to the coverage provided by this endorsement:
 - a. The Each Occurrence Limit shown in the Policy Declarations is the most we will pay for all damages because of “property damage” and clean-up and reasonable expenses arising out of a single “sewer back-up incident” or “water system incident.”
 - b. The Aggregate Limit shown in the Policy Declarations is the most we will pay for the sum of all damages covered by this endorsement during the “policy period”.

The Each Occurrence Limit shown in the Policy Declarations is part of, and not in addition to, the Each Occurrence Limit of Insurance shown in the Declarations.

4. The insurance provided under this endorsement is excess over and will not contribute with any other valid and collectible property or liability insurance that covers a “sewer back-up incident” or “water system incident.”
5. The following definitions are added:

“Sewer back up incident” means a backflow of materials from “your sewer system” which occurs as a direct result of a blockage or back-up other than through your negligence.

“Water system incident” means the accidental flow of water from “your water system” as a result of something other than through your negligence.

“Your sewer system” means sewer lines which you own or which you have responsibility to maintain.

“Your water system” means water lines which you own or which you have responsibility to maintain.

☐ If this box is checked, coverage applies only to “water system incident.” No coverage applies to “sewer back up incident.”

League of Wisconsin Municipalities Mutual Insurance

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

SPECIAL COVERAGE FORM – LEAGUE OF WISCONSIN MUNICIPALITIES MUTUAL INSURANCE PLAN

Name of Additional Insured Person(s) or Organization(s):

Caterpillar Financial Services Corp.

3322 W End Ave. Ste. 610

Nashville Tennessee 37203

Reason for Endorsement: Leased Item: Cat, Model D5GXL, #WGB01193

A. **Section III – Who is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section IV – Limits of Insurance**:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown on the Declarations;

whichever is less.

The endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

League of Wisconsin Municipalities Mutual Insurance

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

SPECIAL COVERAGE FORM – LEAGUE OF WISCONSIN MUNICIPALITIES MUTUAL INSURANCE PLAN

Name of Additional Insured Person(s) or Organization(s):

Wausau Events Inc., Marathon County Parks, and City of Wausau

316 Scott Street

Wausau Wisconsin 54403

Reason for Endorsement: with regards to float entry to participate in Wausau Parade

A. **Section III – Who is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extend permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section IV – Limits of Insurance**:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown on the Declarations;

whichever is less.

The endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

This Endorsement modifies insurance provided under the following:

WISCONSIN MUNICIPAL POLICY FORM (LWMMI-001 01/21)

CYBER LIABILITY ENDORSEMENT

THIS ENDORSEMENT PROVIDES CLAIMS-MADE AND REPORTED COVERAGE. THE LIMIT OF LIABILITY AVAILABLE TO PAY FOR SETTLEMENTS, JUDGMENTS OR OTHER LOSS WILL BE REDUCED AND MAY BE COMPLETELY EXHAUSTED BY DEFENSE COSTS.

In consideration of the premium charged and notwithstanding anything contained in the Policy to the contrary, it is understood and agreed that the Policy to which this Endorsement attaches is amended to include Cyber Liability Insurance, subject to the terms, conditions, exclusions and Limits of Liability set forth below. The Third Party Liability Insuring Agreements of this Endorsement provide claims-made and reported coverage. The First Party Insuring Agreements of this Endorsement provide first party coverage on an event-discovered and reported basis.

The Cyber Liability Limits of Liability are specified in the Cyber Liability Supplemental Declarations shown below. Such Limits of Liability are in addition to, and will not reduce, any limits provided elsewhere in the Policy. **Defense costs** paid under this Endorsement will reduce, and may completely exhaust, the Cyber Liability Limits of Liability.

Various provisions in this Endorsement restrict coverage. Read the entire Endorsement carefully to determine **your** rights and duties and what is and is not covered. The terms, conditions, exclusions and Limits of Liability set forth in this Endorsement shall apply only to Cyber Liability Insurance and shall supersede any similar provisions contained elsewhere in the Policy.

Words and phrases that appear in bold face type have special meaning as described in Section **IV** of this Endorsement. To the extent any words or phrases used in this Endorsement are also defined elsewhere in the Policy, such definitions do not give meaning to the words or phrases used in this Endorsement.

Cyber Liability Supplemental Declarations

Item 1. **Limit of Liability per Insuring Agreement:**

Multimedia Liability:	\$ 1,000,000 per claim and in the aggregate
Security and Privacy Liability:	\$ 1,000,000 per claim and in the aggregate
Privacy Regulatory Defense and Penalties:	\$ 1,000,000 per claim and in the aggregate
PCI DSS Liability:	\$ 1,000,000 per claim and in the aggregate
TCPA Defense:	\$ 100,000 per claim and in the aggregate
Breach Event Costs:	\$ 1,000,000 per claim and in the aggregate
BrandGuard®:	\$ 1,000,000 per claim and in the aggregate
System Failure:	\$ 1,000,000 per claim and in the aggregate
Cyber Extortion:	\$ 1,000,000 per claim and in the aggregate
Cyber Crime:	\$ 250,000 per claim and in the aggregate
Reward Expenses:	\$ 100,000 per claim and in the aggregate
Court Attendance Costs:	\$ 100,000 per claim and in the aggregate

Item 2. **Maximum Aggregate Limit of Liability:** \$ 1,000,000

Item 3. **Endorsement Period:** 12/15/2024 to 12/15/2025

Item 4. **Retroactive Date:** 12/15/2020

CYBER LIABILITY TERMS AND CONDITIONS

I. CYBER LIABILITY INSURING AGREEMENTS

The Company agrees with the **Named Insured** as follows:

(A) **THIRD PARTY LIABILITY INSURING AGREEMENTS**

(1) **Multimedia Liability**

The Company will pay on behalf of an **Insured** the sums within the applicable Limit of Liability that such **Insured** becomes legally obligated to pay as **damages**, including liability **assumed under contract**, and related **defense costs** resulting from a **claim** for an actual or alleged **multimedia wrongful act**, but only if: i) the **claim** is first made against the **Insured** during the **endorsement period**, ii) the **claim** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) the **multimedia wrongful act** is committed on or after the **retroactive date**.

(2) **Security and Privacy Liability**

The Company will pay on behalf of an **Insured** the sums within the applicable Limit of Liability that such **Insured** becomes legally obligated to pay as **damages**, including liability **assumed under contract**, and related **defense costs** resulting from a **claim** for an actual or alleged **security and privacy wrongful act**, but only if: i) the **claim** is first made against the **Insured** during the **endorsement period**, ii) the **claim** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) the **security and privacy wrongful act** is committed on or after the **retroactive date**.

(3) **Privacy Regulatory Defense and Penalties**

The Company will pay on behalf of an **Insured** the sums within the applicable Limit of Liability that such **Insured** becomes legally obligated to pay as a **regulatory compensatory award** or **regulatory fines and penalties** and related **defense costs** resulting from a **privacy regulatory proceeding** instituted against the **Insured** because of a **security breach** or **privacy breach**, but only if: i) the **privacy regulatory proceeding** is instituted against the **Insured** during the **endorsement period**, ii) the **privacy regulatory proceeding** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) the **security breach** or **privacy breach** occurs on or after the **retroactive date**.

(4) **PCI DSS Liability**

The Company will pay on behalf of an **Insured** the sums within the applicable Limit of Liability that such **Insured** becomes legally obligated to pay as **PCI DSS fines and assessments** and related **defense costs** because of a **PCI DSS demand** resulting from a **security breach** or **privacy breach**, but only if: i) the **PCI DSS demand** is first made against the **Insured** during the **endorsement period**, ii) the **claim** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) the **security breach** or **privacy breach** occurs on or after the **retroactive date**.

(5) **TCPA Defense**

Subject to the applicable Limit of Liability, the Company will pay **defense costs** incurred by an **Insured** to defend against a **TCPA claim** for an actual or alleged **TCPA**

violation, but only if: i) the **TCPA claim** is first made against the **Insured** during the **endorsement period**, ii) the **TCPA claim** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) the **TCPA violation** is committed on or after the **retroactive date**. The Company will have no obligation to pay any amounts other than **defense costs** under this Insuring Agreement.

(B) FIRST PARTY INSURING AGREEMENTS

(1) Breach Event Costs

Subject to the applicable Limit of Liability, the Company will pay **privacy breach response costs**, **notification expenses** and **breach support and credit monitoring expenses** that **you** incur because of an **adverse media report**, **security breach** or **privacy breach**, but only if: i) the **adverse media report**, **security breach** or **privacy breach** is first discovered by an **executive** during the **endorsement period**, and ii) the **adverse media report**, **security breach** or **privacy breach** is reported to the Company in writing pursuant to Section **V.** of this Endorsement.

(2) BrandGuard®

Subject to the **waiting period** and applicable Limit of Liability, the Company will pay provable and ascertainable **brand loss** that **you** sustain during the **period of indemnity** as a direct result of an **adverse media report** or **notification** of a **security breach** or **privacy breach**, but only if: i) the **security breach** or **privacy breach** is first discovered by an **executive** during the **endorsement period**, ii) the **security breach** or **privacy breach** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) **you** provide clear evidence that the **brand loss** is directly attributable to the **adverse media report** or **notification**.

(3) System Failure

(a) Data Recovery

Subject to the applicable Limit of Liability, the Company will pay **digital assets loss** and **special expenses** that **you** incur because of damage, alteration, corruption, distortion, theft, misuse or destruction of **digital assets** resulting from a **system failure**, but only if: i) the **system failure** is first discovered by an **executive** during the **endorsement period**, ii) the **system failure** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) **you** provide clear evidence that the **digital assets loss** and **special expenses** directly resulted from the **system failure**. The Company will pay **digital assets loss** and **special expenses** for up to 12 months following an **executive's** discovery of the **system failure**.

(b) Non-Physical Business Interruption

Subject to the **waiting period** and applicable Limit of Liability, the Company will pay **income loss**, **interruption expenses** and **special expenses** that **you** incur during the **period of restoration** because of a **system failure**, but only if: i) the **system failure** is first discovered by an **executive** during the **endorsement period**, ii) the **system failure** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) **you** provide clear evidence that the **income loss**, **interruption expenses** and **special expenses** directly resulted from the **system failure**.

(4) Cyber Extortion

- (a) Subject to the applicable Limit of Liability, the Company will pay **cyber extortion expenses** and **cyber extortion monies** that **you** incur as a direct result of a **cyber extortion threat**, but only if: i) the **cyber extortion threat** is first discovered by an **executive** during the **endorsement period**, and ii) the **cyber extortion threat** is reported to the Company in writing pursuant to Section **V.** of this Endorsement.
- (b) The Company will not be obligated to pay **cyber extortion expenses** or **cyber extortion monies** for which the Company has not given prior written consent. **You** must make every reasonable effort to notify local law enforcement authorities and the Federal Bureau of Investigation or similar equivalent foreign agency before surrendering any **cyber extortion monies** in response to a **cyber extortion threat**.

(5) Cyber Crime

(a) *Financial Fraud*

Subject to the applicable Limit of Liability, the Company will pay **financial fraud loss** that **you** sustain because of **financial fraud**, but only if: i) the **financial fraud** is first discovered by an **executive** during the **endorsement period**, ii) the **financial fraud** is reported to the Company in writing pursuant to Section **V.** of this Endorsement, and iii) **you** provide written confirmation to the Company that **your** bank or credit card company has refused to reverse or prevent a payment transaction, or to indemnify or reimburse **you** for the **financial fraud loss**.

(b) *Telecommunications Fraud*

Subject to the applicable Limit of Liability, the Company will pay **telecommunications fraud loss** that **you** sustain because of **telecommunications fraud**, but only if: i) the **telecommunications fraud** is first discovered by an **executive** during the **endorsement period**, and ii) the **telecommunications fraud** is reported to the Company in writing pursuant to Section **V.** of this Endorsement.

(c) *Phishing Fraud*

Subject to the applicable Limit of Liability, the Company will pay **phishing fraud loss** that **you** sustain because of a **phishing attack**, but only if: i) the **phishing attack** is first discovered by an **executive** during the **endorsement period**, and ii) the **phishing attack** is reported to the Company in writing pursuant to Section **V.** of this Endorsement.

(6) Reward Expenses

Subject to the applicable Limit of Liability, the Company will pay **reward expenses** that **you** incur with the Company's prior written consent, but only if an **executive** submits a written request for indemnification of **reward expenses** to the Company pursuant to Section **V.** of this Endorsement.

(7) Court Attendance Costs

- (a) Subject to the applicable Limit of Liability, the Company will reimburse an **Insured** for **court attendance costs** incurred by the **Insured** to attend mediation sessions, arbitration proceedings, hearings, depositions and trials, if required by the

Company in connection with the defense of a **Claim** under any Third Party Liability Insuring Agreement of this Endorsement, but only if a written request for indemnification of **court attendance costs** is made by or on behalf the **Insured** pursuant to Section **V.** of this Endorsement.

- (b) Notwithstanding the above, the Company's daily maximum Limit of Liability for **court attendance costs** is \$500.00, regardless of the number of **claims**, **Insureds**, or legal proceedings attended by an **Insured**.

II. CYBER LIABILITY DEFENSE AND SETTLEMENT PROVISIONS

- (A) We have the right and duty to defend an **Insured** against any **claim** covered under any Third Party Liability Insuring Agreement of this Endorsement, even if the allegations are groundless, false or fraudulent, including the right to appoint an attorney to defend any such **claim**.
- (B) The Limit of Liability available to pay **damages** will be reduced, and may be completely exhausted, by payment of **defense costs** or any other amounts to which this insurance applies.
- (C) No **Insured** shall pay any **damages, defense costs, regulatory compensatory award, regulatory fines and penalties or PCI DSS fines and assessments**, or settle or offer to settle any **claim**, assume any contractual obligation, admit liability, voluntarily make any payment, or confess or otherwise consent to any judgment without the Company's prior written consent, which consent will not be unreasonably withheld. The Company will not be liable for any **damages, defense costs, regulatory compensatory award, regulatory fines and penalties, PCI DSS fines and assessments**, settlement, judgment, assumed obligation, admitted liability or payment to which the Company has not consented.
- (D) The Company has the right to make any investigation it deems necessary, including, without limitation, any investigation with respect to coverage.
- (E) The Company will not settle any **claim** or pay any **damages, regulatory compensatory award, regulatory fines and penalties or PCI DSS fines and assessments** without an **Insured's** consent.
- (F) If an **Insured** refuses to consent to any settlement or compromise recommended by the Company or its representatives that is acceptable to the claimant, and such **Insured** elects to contest the **claim** or continue any legal proceedings in connection with the **claim**, the Company's liability for such **claim** shall not exceed:
- (1) the amount for which the **claim** could have been settled, plus **defense costs** incurred up to the date the **Insured** withheld consent to such settlement or compromise, plus
 - (2) 70% of any **defense costs** and **damages, regulatory compensatory award, regulatory fines and penalties or PCI DSS fines and assessments**, whichever applies, incurred after the date the **Insured** withheld consent to such settlement or compromise, subject always to all other terms and conditions of this Endorsement, including, but not limited to, the applicable Limit of Liability; and
 - (3) the remaining 30% of the **defense costs** and **damages, regulatory compensatory award, regulatory fines and penalties or PCI DSS fines and assessments** referenced in paragraph (2) above shall be the sole responsibility of such **Insured**.
- (G) The Company's duty to defend any **claim**, or pay any **damages, defense costs** or other amounts, will cease upon exhaustion of the applicable Limit of Liability. Once the Limit of Liability is exhausted, the Company will have the right to withdraw from the defense or payment of any **claim** by tendering control to **you** pursuant to Section **X.** of this Endorsement.

III. LIMIT OF LIABILITY

- (A) The Limits of Liability set forth in Item 1 of the Cyber Liability Supplemental Declarations are the most the Company will pay under each Insuring Agreement of this Endorsement for each **claim**, and in the aggregate for all **claims**, first made during the **endorsement period** and the **cyber liability extended reporting period** (if applicable), including **defense costs** (where applicable), regardless of the number of **claims**, claimants or **Insureds**. If the Limit of Liability for any Insuring Agreement is exhausted, the Company's obligations under that Insuring Agreement shall cease.
- (B) The Maximum Aggregate Limit of Liability set forth in Item 2 of the Cyber Liability Supplemental Declarations is the most the Company will pay under this Endorsement for all **claims** first made during the **endorsement period** and the **cyber liability extended reporting period** (if applicable), including **defense costs** (where applicable), regardless of the number of **claims**, claimants, **Insureds** or Insuring Agreements. All amounts the Company pays under this Endorsement will reduce, and may completely exhaust, the Maximum Aggregate Limit of Liability.
- (C) All **claims** which arise out of the same, related or continuing incidents, acts, facts or circumstances will be considered a single **claim**, regardless of the number of **claims** made, **Insureds** affected or claimants involved. All **claims** which arise out of the same, related or continuing incidents, acts, facts or circumstances will be deemed first made on the date the earliest of such **claims** is first made and will be deemed first reported to the Company on the date the earliest of such **claim** is reported to the Company.
- (D) If multiple Insuring Agreements of this Endorsement apply to any **claim**, the Company's maximum Limit of Liability under this Endorsement for such **claim** shall be the Maximum Aggregate Limit of Liability set forth in Item 2 of the Cyber Liability Supplemental Declarations. However, the Company will never pay more under any one Insuring Agreement than the applicable Limit of Liability shown in Item 1 of the Cyber Liability Supplemental Declarations. The Company shall allocate amounts paid, if any, against the appropriate Limit of Liability.
- (E) The existence of a **cyber liability extended reporting period** will not increase or reinstate the Limits of Liability set forth in the Cyber Liability Supplemental Declarations.

IV. CYBER LIABILITY DEFINITIONS

Certain words or phrases used in this Endorsement, whether in singular or plural form, are shown in bold and are defined as follows. If a term is defined below and in the Policy, the definition below applies only to the coverage provided by this Endorsement.

- (1) **Acquiring bank** means a bank or financial institution that accepts credit or debit card payments, including stored value cards and pre-paid cards, for goods or services on behalf of a merchant, including processing and crediting those payments to a merchant's account.
- (2) **Act of cyber terrorism** means the premeditated use of disruptive activities, or an explicit threat to use disruptive activities, against a computer, **computer system**, or network by a person or group to further social, political, religious or ideological objectives.
- (3) **Adverse media report** means a report or communication of an actual or potential **security breach** or **privacy breach** which has been publicized through any media channel, including, but not limited to, television, **print media**, radio or electronic networks, the internet, or electronic mail, and threatens material damage to **your reputation** or **your** brand.
- (4) **Assumed under contract** means liability for **damages** resulting from a **multimedia wrongful act**, **security breach** or **privacy breach**, where such liability has been assumed

by an **Insured** in the form of a written hold harmless or indemnity agreement, but only if such agreement was executed before the **multimedia wrongful act, security breach or privacy breach** occurred.

- (5) **Bodily injury** means physical injury, sickness, disease or death sustained by any person and, where resulting from such physical injury only, mental anguish, mental injury, shock, humiliation or emotional distress.
- (6) **BPO service provider** means any **third party** that provides business process outsourcing services for **your** benefit under a written contract with **you**, including, but not limited to, call center services, fulfillment services, and logistical support.
- (7) **Brand loss** means **your** net profit, as could have reasonably been projected immediately prior to **notification**, or in the event of an **adverse media report**, immediately prior to the publication of an **adverse media report**, but which has been lost during the **period of indemnity** as a direct result of such **adverse media report** or **notification**. **Brand loss** will be determined in accordance with the provisions of Section **IX**. of this Endorsement.
- (8) **Breach support and credit monitoring expenses** means those reasonable and necessary expenses that **you** incur on **your** own behalf, or on behalf of a party for whom **you** are **vicariously liable**, to provide support activity to parties affected by a **privacy breach**. **Breach support and credit monitoring expenses** includes the cost to set up a call center and to provide a maximum of 24 months of credit monitoring services, identity theft assistance services, or credit or identity repair and restoration services. **Breach support and credit monitoring expenses** must be incurred with the Company's prior written consent.
- (9) **Card association** means Visa International, MasterCard, Discover, JCB, American Express and any similar credit or debit card association that is a participating organization of the Payment Card Industry Security Standards Council.
- (10) **Claim** means:
 - (a) with respect to Insuring Agreements **I.(A)(1)** and **I.(A)(2)** only:
 - i. a written demand made against an **Insured** for **damages** or non-monetary relief;
 - ii. a written request received by an **Insured** to toll or waive a statute of limitations relating to a potential **claim** against an **Insured**; or
 - iii. the service of a civil lawsuit or the institution of arbitration or other alternative dispute resolution proceedings against an **Insured** seeking **damages**, a temporary restraining order, or a preliminary or permanent injunction.
 - (b) with respect to Insuring Agreement **I.(A)(3)** only, a **privacy regulatory proceeding**.
 - (c) with respect to Insuring Agreement **I.(A)(4)**, a **PCI DSS demand**.
 - (d) with respect to Insuring Agreement **I.(A)(5)** only, a **TCPA claim**.
 - (e) with respect to Insuring Agreement **I.(B)(1)** only, written notice from an **executive** to the Company of an **adverse media report, security breach or privacy breach**.
 - (f) with respect to Insuring Agreement **I.(B)(2)** only, written notice from an **executive** to the Company of a **security breach or privacy breach**.
 - (g) with respect to Insuring Agreement **I.(B)(3)** only, written notice from an **executive** to the Company of a **system failure**.
 - (h) with respect to Insuring Agreement **I.(B)(4)** only, written notice from an **executive** to the Company of a **cyber extortion threat**.

- (i) with respect to Insuring Agreement **I.(B)(5)(a)** only, written notice from an **executive** to the Company of **financial fraud**.
- (j) with respect to Insuring Agreement **I.(B)(5)(b)** only, written notice from an **executive** to the Company of **telecommunications fraud**.
- (k) with respect to Insuring Agreement **I.(B)(5)(c)** only, written notice from an **executive** to the Company of a **phishing attack**.
- (l) with respect to Insuring Agreement **I.(B)(6)** only, written request by an **executive** to the Company for indemnification of **reward expenses**.
- (m) with respect to Insuring Agreement **I.(B)(7)** only, written request by an **executive** to the Company for indemnification of **court attendance costs**.

A **claim** under Insuring Agreement **I.(A)(1)** or Insuring Agreement **I.(A)(2)** of this Endorsement shall not include a **privacy regulatory proceeding**, **PCI DSS demand** or **TCPA claim**.

A **claim** under any Third Party Liability Insuring Agreement of this Endorsement will be deemed to be first made when it is received by an **Insured**.

A **claim** under any First Party Insuring Agreement of this Endorsement will be deemed to be first made when the Company first receives written notice of such **claim**.

- (11) **Cloud provider** means any **third party** that provides computing resources to **you** that are delivered as a service over a network or the internet (commonly known as “cloud computing”), including Software as a Service, Platform as a Service and Infrastructure as a Service.
- (12) **Computer system** means an interconnected electronic, wireless, web, or similar system, including all computer hardware and software, used to process and store **data** or information in an analogue, digital, electronic or wireless format, including, but not limited to, computer programs, **data**, operating systems, firmware, servers, media libraries, associated input and output devices, mobile devices, devices that are connected to and controlled by the internet (also known as “smart devices”), networking equipment, websites, extranets, off-line storage facilities (to the extent that they hold **data**), and electronic backup equipment.
- (13) **Court attendance costs** means the actual loss of earnings and reasonable costs and expenses incurred by an **insured** after a total of 3 days of required attendance at mediation sessions, arbitration proceedings, hearings, depositions and trials relating to the defense of a **claim** under any Third Party Liability Insuring Agreement of this Endorsement.
- (14) **Cyber extortion expenses** means all reasonable and necessary costs and expenses, other than **cyber extortion monies**, that **you** incur with the Company’s prior written consent as a direct result of a **cyber extortion threat**, including the cost to retain or hire a **third party** specializing in IT security to determine the validity and severity of a **cyber extortion threat**.
- (15) **Cyber extortion monies** means any **money**, digital currency of any kind, including bitcoin, or **other property** paid by **you**, with the Company’s prior written consent, to any person or group reasonably believed to be responsible for a **cyber extortion threat** in order to prevent or terminate such **cyber extortion threat**.
- (16) **Cyber extortion threat** means a credible threat or series of related credible threats, including a demand for **cyber extortion monies**, which is directed at **you** to:
 - (a) steal, alter, release, divulge, disseminate, destroy, publicly disclose or misuse **private information** taken from an **Insured** as a result of unauthorized access to, or unauthorized use of, an **insured computer system**;
 - (b) infect an **insured computer system** with malicious code or ransomware;

- (c) corrupt, damage or destroy an **insured computer system**;
- (d) restrict or hinder access to an **insured computer system**, including the threat of a **denial of service attack**;
- (e) perpetrate or carry out a **phishing attack**;
- (f) steal, alter, release, reveal, divulge, disseminate, destroy, publicly disclose or misuse **your** confidential or proprietary information, or the **personally identifiable information** of an **Insured**; or
- (g) damage **your reputation** or **your** brand by posting false or misleading comments about **you** or **your** organization on social media websites or platforms.

A series of continuing **cyber extortion threats**, related or repeated **cyber extortion threats**, or multiple **cyber extortion threats** resulting from the same attack, event or incident will be considered a single **cyber extortion threat** and will be deemed to have occurred at the time the first **cyber extortion threat** in the series first occurred.

- (17) **Cyber liability extended reporting period** means the period after the end of the **endorsement period** for reporting **claims**, as provided in Section VI. of this Endorsement and specifically excludes the **endorsement period**.
- (18) **Damages** means a monetary judgment, award or settlement, including awarded attorneys' fees and costs, and liquidated, punitive, exemplary or multiplied **damages** to the extent insurable under the law pursuant to which this Endorsement is construed.

Damages does not include:

- (a) any **Insured's** future profits or royalties, restitution, or disgorgement of any **Insured's** profits;
 - (b) the costs to comply with orders granting injunctive or non-monetary relief, including specific performance, or any agreement to provide such relief;
 - (c) loss of any **Insured's** fees or profits, the return or offset of any **Insured's** fees or charges, or any **Insured's** commissions or royalties provided or contracted to be provided;
 - (d) taxes, fines or penalties, or sanctions;
 - (e) contractual liquidated **damages**, to the extent such **damages** exceed the amount for which the **Insured** would have been liable in the absence of the liquidated **damages** agreement;
 - (f) any amount which an **Insured** is not financially or legally obligated to pay;
 - (g) disgorgement of any remuneration or financial advantage to which an **Insured** was not legally entitled;
 - (h) settlements negotiated without the Company's consent;
 - (i) monetary judgments, awards, settlements or any other amounts which are uninsurable under the law pursuant to which this Endorsement is construed, or any legal fees and costs awarded pursuant to such judgments, awards or settlements; or
 - (j) **PCI DSS fines and assessments**.
- (19) **Data** means any machine-readable information, including, but not limited to, ready-for-use programs, applications, account information, customer information, health and medical information, or other electronic information, irrespective of the way it is used and rendered.

(20) Defense costs means:

- (a) reasonable and necessary fees incurred with the Company's consent and charged by an attorney(s) designated by the Company to defend a **claim**; and
- (b) all other reasonable and necessary fees, costs, and expenses resulting from the defense and appeal of a **claim**, if incurred by the Company or by an **Insured** with the Company's prior written consent.

Defense costs does not include any wages or salaries of an **Insured**, or fees, overhead or other charges incurred by, or paid to, any **Insured** for any time spent in cooperating in the investigation or defense of a **claim** or a potential **claim**.

(21) Denial of service attack means an event caused by unauthorized or unexpected interference or a malicious attack, which is intended by the perpetrator to overwhelm the capacity of a **computer system** by sending an excessive volume of **data** to such **computer system** to prevent access to such **computer system**.

(22) Digital assets means **data** and computer programs that exist in an **insured computer system**. **Digital assets** do not include computer hardware.

(23) Digital assets loss means reasonable and necessary expenses and costs that **you** incur to replace, recreate or restore **digital assets** to the same state and with the same contents immediately before the **digital assets** were damaged, destroyed, altered, misused or stolen, including expenses for materials and machine time. **Digital assets loss** also includes amounts representing **employee** work time to replace, recreate or restore **digital assets**, which will be determined on a predefined billable hour or per-hour basis as based upon **your** schedule of **employee** billable hours.

(24) Employee means any individual whose labor or service is engaged by and directed by **you**, including volunteers, interns, and part-time, seasonal, temporary or leased workers. **Employee** does not include any **executive** or independent contractor.

(25) Endorsement period means the period specified as such in Item 3 of the Cyber Liability Supplemental Declarations. Coverage may be canceled or otherwise terminated before the **endorsement period** expiration date.

(26) Executive means any of **your** directors or officers, including **your** chief executive officer, chief financial officer, chief operations officer, chief technology officer, chief information officer, chief privacy officer, general counsel or other in-house lawyer, and risk manager, or any person in a functionally equivalent position.

(27) Financial fraud means any of the following:

- (a) an intentional, unauthorized and fraudulent written, electronic or telephonic instruction transmitted to a financial institution, directing such institution to debit, transfer, withdraw or disburse **money** or **securities** from **your account**, which instruction purports to have been transmitted by **you** or an **executive** or **employee**, but was in fact fraudulently transmitted by a **third party** without **your** knowledge or consent; or
- (b) the theft of **money** or **securities** from **your account** or **your** corporate credit cards as a result of a **hacking attack**.

(28) Financial fraud loss means the loss of **money** or **securities** that **you** sustain as a direct result of **financial fraud**. **Financial fraud loss** does not include any amounts reimbursed to **you** by any financial institution.

(29) First party insured event means:

- (a) with respect to Insuring Agreement I.(B)(1) only, an **adverse media report, security breach or privacy breach**;
- (b) with respect to Insuring Agreement I.(B)(2) only, a **security breach or privacy breach**;
- (c) with respect to Insuring Agreement I.(B)(3) only, a **system failure**;
- (d) with respect to Insuring Agreement I.(B)(4) only, a **cyber extortion threat**;
- (e) with respect to Insuring Agreement I.(B)(5)(a) only, **financial fraud**;
- (f) with respect to Insuring Agreement I.(B)(5)(b) only, **telecommunications fraud**;
- (g) with respect to Insuring Agreement I.(B)(5)(c) only, a **phishing attack**;
- (h) with respect to Insuring Agreement I.(B)(6) only, a **security breach, privacy breach, system failure, cyber extortion threat, financial fraud, telecommunications fraud or phishing attack**; and
- (i) with respect to Insuring Agreement I.(B)(7) only, **court attendance costs** incurred by an **Insured**.

First party insured event does not include any **claim** made against an **Insured**.

(30) Hacking attack means any of the following directed at or enacted upon an **insured computer system**:

- (a) unauthorized access to, or unauthorized use of, an **insured computer system**, including any such unauthorized access or unauthorized use resulting from the theft of a password from an **insured computer system** or from an **Insured**;
- (b) a **denial of service attack** against an **insured computer system**;
- (c) infection of an **insured computer system** by malicious code, or the transmission of malicious code from an **insured computer system**; or
- (d) an **act of cyber terrorism**.

(31) Income loss means the net profit loss **you** sustain during the **period of restoration** as a direct result of a **system failure**. **Income loss** will be determined in accordance with the provisions of Section **IX**. of this Endorsement.

(32) Informant means any person who provides information regarding an illegal act committed by another person which causes a **first party insured event**, solely in return for **money** that **you** pay or promise to pay. **Informant** does not include:

- (a) any person who commits an illegal act which causes a **first party insured event**, whether acting alone or in collusion with others;
- (b) any **Insured**;
- (c) any **Insured's** auditors, whether internal or external;
- (d) any person or firm hired or retained to investigate a first party insured event; or
- (e) any person responsible for the supervision or management of a party described in paragraphs (a) through (d) above.

(33) Insured means:

- (a) the **Named Insured**;

- (b) any **Subsidiary** of the **Named Insured**, but only with respect to **wrongful acts** or **first party insured events** that occur while a **Subsidiary** is under the **Named Insured's managerial control**;
 - (c) any past, present, or future **executive**, trustee, court-appointed receiver or **employee** of the **Named Insured** or **Subsidiary**, but only while acting solely within the scope of his or her duties as such;
 - (d) if the **Named Insured** or **Subsidiary** is a partnership, limited liability partnership, or limited liability company, then any general or managing partner, principal, stockholder, or owner thereof, but only while acting solely within the scope of his or her duties as such;
 - (e) any agent or independent contractor of the **Named Insured** or **Subsidiary**, but only while acting on behalf of, at the direction of, and under the supervision of the **Named Insured** or **Subsidiary**; and
 - (f) any person or legal entity the **Named Insured** is required by written contract to provide such coverage as is afforded by this Endorsement, but only for the acts of a party described in paragraphs (a) through (e) above, and only if the written contract is executed prior to the date any **wrongful act** or **first party insured event** occurs.
- (34) **Insured computer system** means:
- (a) a **computer system** that is owned and operated by **you**, or that is leased to **you** and operated by **you**;
 - (b) any **insured telecommunications system**; and
 - (c) with respect to Insuring Agreements **I.(A)(2)**, **I.(A)(3)**, **I.(A)(4)**, **I.(B)(1)** and **I.(B)(4)** only, **insured computer system** also includes a **computer system** operated by a **BPO service provider** or an **outsourced IT service provider**, which is used to provide services to **you**, or for processing, maintaining, hosting or storing **data** for **you**, pursuant to a written contract with **you** to provide such services.
- (35) **Insured telecommunications system** means any telephone or fax network or system that is owned, rented, leased, licensed or borrowed by **you** and under **your** direct operational control.
- (36) **Interruption expenses** means those reasonable and necessary expenses, excluding **special expenses**, incurred by **you** to avoid or minimize the suspension of **your** business because of a total or partial interruption, degradation in service, or failure of an **insured computer system** caused by a **system failure**, which **you** would not have incurred in the absence of the **system failure**. **Interruption expenses** include, but are not limited to, the use of rented/leased external equipment, substitution of other work or production procedures, the use of **third party** services, or additional staff expenditures or labor costs. The amount of **interruption expenses** recoverable shall not exceed the amount by which the covered **income loss** is reduced by such incurred expenses.
- (37) **Managerial control** means:
- (a) owning interests representing more than 50% of the voting, appointment or designation power for the selection of:
 - i. a majority of the board of directors or trustees, if the entity is a corporation;
 - ii. the management committee members, if the entity is a joint venture; or
 - iii. the members of the management board, if the entity is a limited liability company.

- (b) having the right, pursuant to a written contract, or the by-laws, charter, operating agreement or similar organizational documents, to elect, appoint or designate:
 - i. a majority of the board of directors or trustees, if the entity is a corporation;
 - ii. the management committee members, if the entity is a joint venture; or
 - iii. the members of the management board, if the entity is a limited liability company.
 - (c) possessing at least 50% ownership interest of a joint venture entity and solely controlling the management and operations of such joint venture entity, pursuant to a written joint venture agreement;
 - (d) being the exclusive sponsor, if the entity is a charitable trust or foundation; or
 - (e) being the only general partner of an entity.
- (38) **Media material** means communicative material of any kind or nature for which **you** are responsible, including, but not limited to, words, pictures, sounds, images, graphics, code and **data**, regardless of the method or medium of communication of such material or the purpose for which the communication is intended. **Media material** does not include any tangible goods or products that are manufactured, produced, processed, prepared, assembled, packaged, labeled, sold, handled or distributed by **you** or others trading under **your** name.
- (39) **Merchant services agreement** means an agreement between **you** and an **acquiring bank, card association**, brand, network, credit or debit card processor, independent sales organization, gateway, or membership service, which enables **you** to accept payment by credit card, debit card or prepaid card.
- (40) **Money** means a medium of exchange in current use and authorized or adopted by a domestic or foreign government, including, but not limited to, currency, coins, bank notes, bullion, travelers' checks, registered checks and money orders held for sale to the public.
- (41) **Multimedia wrongful act** means any of the following, whether actual or alleged, but only if directly resulting from the dissemination of **media material** by an **Insured**:
- (a) any form of defamation or other tort related to the disparagement or harm to the reputation or character of any person or organization, including libel, slander, product disparagement or trade libel, and infliction of emotional distress, mental anguish, outrage or outrageous conduct, if directly resulting from any of the foregoing;
 - (b) invasion, infringement or interference with an individual's right of privacy or publicity, including the torts of false light, intrusion upon seclusion, commercial misappropriation of name, person, or likeness, and public disclosure of private facts;
 - (c) plagiarism, piracy or misappropriation of ideas under an implied contract;
 - (d) Infringement of copyright, trademark, trade name, trade dress, title, slogan, service mark or service name;
 - (e) domain name infringement or improper deep-linking or framing;
 - (f) negligence in **media material**, including a **claim** alleging harm to any person or entity that acted or failed to act in reliance upon such **media material**;
 - (g) false arrest, detention or imprisonment;
 - (h) trespass, wrongful entry or eviction, eavesdropping, or other invasion of the right of private occupancy; or

- (i) unfair competition, but only when arising out of a peril described in (a) through (h) above.
- (42) **Named Insured** means the person or organization listed as such on the Policy Declarations Page for the Policy to which this Endorsement attaches.
- (43) **Notification** means written notice to affected individuals in the event of a **security breach** or **privacy breach**, whether such written notice is made by **you** voluntarily or to comply with **privacy regulations**.
- (44) **Notification expenses** means reasonable and necessary expenses that **you** incur on **your** own behalf, or on behalf of a party for whom **you** are **vicariously liable**, to provide **notification** of a **security breach** or **privacy breach**, including printing costs, mailing and postage expenses, and the costs to engage a **third party** to mail **notification** letters and prepare substitute or website notices. **Notification expenses** must be incurred with the Company's prior written consent.
- (45) **Other property** means any tangible property, other than **money** or **securities**, which has intrinsic value.
- (46) **Outsourced IT service provider** means a **third party** that provides information technology services to **you**, under a written contract with **you** to provide such services, including, but not limited to, hosting, security management, co-location, and **data** storage. **Outsourced IT service provider** includes any **cloud provider**.
- (47) **PCI Data Security Standard** (known as "PCI DSS") means the Payment Card Industry Security Standards Council Data Security Standard in effect now, or as hereafter amended, which all merchants and processors must follow when storing, processing and transmitting cardholder **data**.
- (48) **PCI DSS demand** means a written demand for **PCI DSS fines and assessments** received by an **Insured** directly or indirectly from or through an **acquiring bank**, **card association** or payment card processor due to an **Insured's** non-compliance with the **PCI Data Security Standard**, or a request for information received by an **Insured** from an **acquiring bank**, **card association** or payment card processor regarding a suspected **security breach** or **privacy breach**.
- (49) **PCI DSS fines and assessments** means monetary fines, penalties or assessments, including fraud recoveries, card reissuance costs, operational expenses or compliance case costs, which an **Insured** is legally obligated to pay under the terms of a **merchant services agreement**, but only where such monetary fines, penalties or assessments result from a **security breach** or **privacy breach**.
- (50) **Period of indemnity** means the period beginning on the earlier of the date of **notification** or the first **adverse media report** (whichever applies), and ending on the earlier of:
 - (a) the date when gross revenues are restored to the level they had been prior to **notification** or the first **adverse media report** (whichever applies); or
 - (b) 180 consecutive days after the date of **notification** or the first **adverse media report** (whichever applies).
- (51) **Period of restoration** means the period beginning on the date when the **system failure** began, and ending on the earlier of:
 - (a) the date when the **insured computer system** is restored or could have been repaired or restored with reasonable speed to the same condition, functionality and level of service that existed prior to the **system failure**, plus a maximum of 30 additional

consecutive days after the restoration of the **insured computer system** to allow for restoration of **your** business; or

(b) 120 consecutive days after the date the **system failure** began.

(52) **Personally identifiable information** means information that can be used to determine, distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, including, but not limited to, financial account numbers, security codes, personal identification numbers (PINs), credit and debit card numbers, medical or healthcare information, social security numbers, driver's license numbers, addresses, passwords, and any other non-public information as defined in **privacy regulations**.

(53) **Phishing attack** means the use by a **third party** of fraudulent telephone calls, emails, texts, instant messages or other electronic communications or malicious websites to impersonate **you** or **your** brand, products or services to solicit **private information**.

With respect to Insuring Agreement I.(B)(5)(c) only, **phishing attack** also includes the use by a **third party** of fraudulent telephone calls, emails, texts, instant messages or other electronic communications or malicious websites to impersonate **you**, **your** client, **your** vendor, or an **executive** or **employee** to solicit **money**, **securities** or **other property**.

(54) **Phishing fraud loss** means:

- (a) direct financial loss **you** sustain due to a **phishing attack** which fraudulently induces an **executive** or **employee** to transfer, pay or deliver **money**, **securities** or **other property** to an unintended **third party**;
- (b) expenses that **you** incur, with the Company's prior written consent, to create and issue a specific press release or to establish a specific website to advise **your** customers and prospective customers of a **phishing attack**; and
- (c) the cost of reimbursing **your** existing customers or clients for their direct financial losses resulting from a **phishing attack**, provided such reimbursement is made by **you** with the Company's prior written consent.

(55) **Print media** means newspapers, newsletters, magazines, books and literary works in any form, brochures or other types of publications, and advertising materials including packaging, photographs, and digital images.

(56) **Privacy breach** means any of the following:

- (a) the unauthorized collection, disclosure, use, access, destruction or modification of **private information**;
- (b) the inability to access, or failure to provide, **private information**;
- (c) theft or loss of **private information**, including the theft or loss of **private information** stored on an unsecured **data** storage device or mobile or handheld device, including any smartphone, tablet, and laptop which is owned by **you** and operated by an **Insured**, or owned and operated by an **employee** or **executive** who has agreed in writing to **your** corporate mobile device acceptable use and security policy (also known as a "Bring Your Own Device" policy);
- (d) the surrender of **private information** as a result of false communications or social engineering techniques, including but not limited to phishing, spear-phishing, and pharming;

- (e) the failure to implement, maintain, or comply with privacy policies and procedures stating **your** obligations regarding **private information**, including but not limited to **your privacy policy**;
- (f) the failure to develop or administer an identity theft prevention program;
- (g) the failure to implement specific security practices with respect to **private information** required by any **privacy regulations**;
- (h) an infringement or violation of any rights to privacy;
- (i) breach of a person's right of publicity, false light, intrusion upon a person's seclusion;
- (j) the failure to comply with **privacy regulations** pertaining to the **Insured's** responsibilities with respect to **private information**, but only relating to an act listed in paragraphs (a) through (h) above; or
- (k) the failure to comply with any federal, state, foreign or other law (including common law), statute or regulation prohibiting unfair or deceptive trade practices or consumer fraud pertaining to the **Insured's** responsibilities with respect to **private information**, but only relating to an act listed in paragraphs (a) through (h) above.

A series of continuing **privacy breaches**, related or repeated **privacy breaches**, or multiple **privacy breaches** resulting from the same event or incident will be considered a single **privacy breach** and will be deemed to have occurred at the time the first **privacy breach** in the series first occurred.

(57) Privacy breach response costs means:

- (a) reasonable and necessary **public relations expenses** that **you** incur with the Company's prior written consent prior to or following the publication of an **adverse media report** to avert or mitigate any material damage to **your reputation** or brands, which results or reasonably could result from the **adverse media report**; and
- (b) reasonable and necessary legal fees that **you** incur on **your** own behalf or on behalf of a party for whom **you** are **vicariously liable** to:
 - i. determine the scope, cause, and extent of an actual or suspected **privacy breach** or **security breach**;
 - ii. determine the applicability of, and **your** obligations to comply with, **privacy regulations** due to an actual or suspected **privacy breach**; and
 - iii. draft a **notification** letter to be sent to parties affected by a **privacy breach**.
- (c) reasonable and necessary fees and costs that **you** incur on **your** own behalf, or on behalf of a party for whom **you** are **vicariously liable**, to retain a qualified IT forensics firm or computer security expert to investigate and identify the source and scope of a **security breach** or **privacy breach**; and
- (d) overtime salaries of non-exempt **employees** assigned to handle inquiries from parties affected by a **privacy breach**.

(58) Privacy regulations means foreign, federal, state or local statutes, rules, regulations and other laws, as they currently exist and as amended, associated with the confidentiality, access, control, and use of **private information**, including, but not limited to:

- (a) the Health Insurance Portability and Accountability Act of 1996 (Public Law 104- 191), known as HIPAA, and related or similar state medical privacy laws;

- (b) the Gramm-Leach-Bliley Act of 1999 (G-L-B), also known as the Financial Services Modernization Act of 1999, including sections concerning security protection and standards for customer records maintained by financial services companies, and the rules and regulations promulgated thereunder;
 - (c) state and federal statutes and regulations regarding the security and privacy of consumer information;
 - (d) governmental privacy protection regulations or laws associated with the control and use of personal information, including but not limited to requirements to post or publish **your privacy policy**, adopt specific privacy controls, or inform customers of actual or suspected **privacy breaches**;
 - (e) the privacy provisions of consumer protection laws, including the Federal Fair Credit Reporting Act (FCRA) and similar state laws;
 - (f) the Children's Online Privacy Protection Act or similar laws, as they exist now or in the future;
 - (g) the EU General Data Protection Act or other similar privacy and security statutes, rules, regulations or other laws worldwide, as they exist now or in the future; and
 - (h) the Health Information Technology for Economic and Clinical Health Act (HITECH ACT), enacted under Title XIII of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111-5), and its implementing regulations, including related or similar state medical privacy laws.
- (59) **Privacy regulatory proceeding** means a civil administrative proceeding, regulatory action, request for information, or investigation instituted against an **Insured** by a foreign, federal, state or local governmental body because of a **security breach** or **privacy breach**.
- (60) **Private information** means:
- (a) proprietary or confidential information owned by a **third party** that is in the care, custody or control of an **Insured** or is used by an **Insured** with the consent of such **third party**;
 - (b) **personally identifiable information**; and
 - (c) any information that is linked or linkable to a specific individual and that is subject to any **privacy regulations**.
- (61) **Programming error** means an error which occurs during the development or encoding of a computer program, software or application and which would, when in operation, result in a malfunction or incorrect operation of a **computer system**.
- (62) **Property damage** means physical injury to, or impairment, destruction or corruption of, any tangible property, including the loss of use thereof. **Data** is not considered tangible property.
- (63) **Public relations expenses** means expenses that **you** incur to retain or hire a **third party** public relations consultant or public relations firm to protect or restore **your reputation**, which is damaged or reasonably could be damaged by an **adverse media report**.
- (64) **Regulatory compensatory award** means a sum of **money** which an **Insured** is legally obligated to pay as a regulatory agency's award or fund for parties affected by a **privacy breach**, due to an adverse judgment or settlement arising out of a **privacy regulatory proceeding**. **Regulatory compensatory award** includes consumer redress funds but does not include any criminal fines or penalties of any nature whatsoever.
- (65) **Regulatory fines and penalties** means civil fines or penalties imposed by a foreign, federal,

state or local governmental regulatory body against an **insured** in a **privacy regulatory proceeding**. **Regulatory fines and penalties** do not include: a) any amounts deemed uninsurable under the law pursuant to which this insurance is construed, b) any criminal fines or penalties of any nature whatsoever; or c) **PCI DSS fines and assessments**.

- (66) **Retroactive date** means the date specified as such in Item 4. of the Cyber Liability Supplemental Declarations, on or after which **wrongful acts** must have taken place to be considered for coverage under this Endorsement.
- (67) **Reward expenses** means the reasonable amount that **you** pay with the Company's prior written consent to an **informant** for information not otherwise available which leads to the arrest and conviction of any person who commits an illegal act that causes a **first party insured event**.
- (68) **Securities** means negotiable or non-negotiable instruments or contracts representing **money** or **other property** but does not include **money**.
- (69) **Security and privacy wrongful act** means any of the following, whether actual or alleged, but only if committed by an **Insured**:
- (a) the failure to prevent or hinder a **security breach**, which in turn results in:
 - i. the alteration, copying, corruption, destruction, deletion, or damage to **data** stored on an **insured computer system**;
 - ii. theft, loss or unauthorized disclosure of electronic or non-electronic **private information** that is in **your** care, custody or control;
 - iii. theft, loss or unauthorized disclosure of electronic or non-electronic **private information** that is in the care, custody or control of a **BPO service provider** or an **outsourced IT service provider** that is holding, processing or transferring such **private information** on **your** behalf; provided, however, that the theft, loss or unauthorized disclosure occurs while **your** written contract with such **BPO service provider** or **outsourced IT service provider** is still in effect;
 - iv. unauthorized access to, or unauthorized use of, a **computer system** other than an **insured computer system**;
 - v. the inability of an authorized **third party** to gain access to **your** services;
 - (b) the failure to timely disclose a **security breach** affecting **private information**;
 - (c) the failure to dispose of **private information** within the required period, in violation of **privacy regulations**;
 - (d) the failure to prevent the transmission of a malicious code or computer virus from an **insured computer system** to the **computer system** of a **third party**;
 - (e) a **privacy breach**;
 - (f) the failure to prevent a **privacy breach**;
 - (g) the failure to prevent or hinder participation by an **insured computer system** in a **denial of service attack** directed against internet sites or the **computer system** of a **third party**;
 - (h) the failure to prevent the theft or loss of **personally identifiable information** of **employees**; or

- (i) infliction of emotional distress or mental anguish, but only if directly resulting from a peril described in (a) through (h) above.
- (70) **Security breach** means any of the following, whether a specifically targeted attack or a generally distributed attack:
- (a) a **hacking attack**;
 - (b) the physical theft or loss of an unsecured **data** storage device containing **private information**; or
 - (c) the theft or loss of an unsecured mobile or handheld device containing **private information**, including any smartphone, tablet, and laptop owned by **you** and operated by an **insured**, or owned and operated by an **employee** or **executive** who has agreed in writing to **your** corporate mobile device acceptable use and security policy (also known as a “Bring Your Own Device” policy).
- A series of continuing **security breaches**, related or repeated **security breaches**, or multiple **security breaches** resulting from a continuing failure of computer security will be considered a single **security breach** and will be deemed to have occurred at the time the first **security breach** in the series first occurred.
- (71) **Special expenses** means reasonable and necessary costs and expenses that **you** incur to:
- (a) prevent, preserve, minimize, or mitigate any further damage to **digital assets**, including the reasonable and necessary fees and expenses of specialists, outside consultants or forensic experts;
 - (b) preserve critical evidence of any criminal or malicious wrongdoing;
 - (c) purchase replacement licenses for computer programs because the copy protection system or access control software was damaged or destroyed by a **system failure**; or
 - (d) notify affected individuals of a total or partial interruption, degradation in service, or failure of an **insured computer system** resulting from a **system failure**.
- (72) **Subsidiary** means any entity in which the **Named Insured**, either directly or indirectly, through one or more of its **Subsidiaries**:
- (a) had **managerial control** as of the effective date of the Policy; or
 - (b) acquires **managerial control** after the effective date of the Policy, subject to the limitations of Section **VIII.** of this Endorsement.
- (73) **System failure** means an unplanned outage, interruption, failure, suspension, or degradation of service of an **insured computer system**, including, but not limited to, any such outage, interruption, failure, suspension, or degradation of service caused directly by a **hacking attack**.
- (74) **Takeover** means:
- (a) any person, entity or affiliated group of persons or entities obtains more than 50% of the **Named Insured’s** equity or assets;
 - (b) any person, entity or affiliated group of persons or entities obtains the right to elect or appoint more than 50% of the **Named Insured’s** directors, officers, trustees or member managers, as applicable;
 - (c) the acquisition of the **Named Insured** by another entity, whereby the entity obtains **managerial control** of the **Named Insured**;

- (d) the **Named Insured** is dissolved, sold or acquired by, merged into, or consolidated with, another entity, such that the **Named Insured** is not the surviving entity; or
 - (e) the **Named Insured** ceases to do business for any reason.
- (75) **TCPA claim** means:
- (a) a written demand made against an **Insured** for **money** or non-monetary relief alleging a **TCPA violation**;
 - (b) the service of a civil lawsuit or the institution of arbitration or other alternative dispute resolution proceedings against an **Insured** alleging a **TCPA violation** and seeking **money**, a temporary restraining order, or a preliminary or permanent injunction; or
 - (c) a written request received by an **Insured** to toll or waive a statute of limitations relating to a potential **TCPA claim** against an **Insured**.
- (76) **TCPA violation** means any of the following, whether actual or alleged, but only if committed by an **Insured**:
- (a) any unsolicited telephone calls, emails, faxes, or other communications to **your** actual or prospective customers or other third parties;
 - (b) a violation of the Telephone Consumer Protection Act (47 U.S.C. §227), as amended, or any regulations promulgated thereunder;
 - (c) a violation of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. §§ 6101-6108), as amended, or any regulations promulgated thereunder;
 - (d) a violation of the CAN-SPAM Act (15 U.S.C. §§ 7701-7713), as amended, or any regulations promulgated thereunder; or
 - (e) a violation of any similar federal, state, local or foreign law, whether statutory, regulatory or common law, including any anti-spam law or other law that addresses, prohibits or limits the use of telephonic or electronic communications for solicitation purposes.
- (77) **Telecommunications fraud** means the intentional, unauthorized and fraudulent gaining of access to outgoing telephone service through infiltration and manipulation of an **insured telecommunications system**.
- (78) **Telecommunications fraud loss** means the charges that **you** incur for unauthorized calls directly resulting from **telecommunications fraud**.
- (79) **Third party** means any entity, company, organization or person who does not qualify as an **Insured**.
- (80) **Unauthorized trading** means trading, which at the time of the trade, exceeds permitted financial limits or is outside of permitted product lines.
- (81) **Vicariously liable** means **your** legal responsibility for the liability of others, including legal responsibility **you** assume in a contract. The existence of vicarious liability will not create or confer any rights or duties under this Endorsement to any **third party**, other than as provided in this definition.
- (82) **Waiting period** means:
- (a) with respect to Insuring Agreement **I.(B)(2)** only, the 2-week period which must elapse after **notification**, or in the event of an **adverse media report**, after publication of the first **adverse media report**, before **brand loss** may be payable. The **waiting period** applies to each **period of indemnity**.

- (b) with respect to Insuring Agreement **I.(B)(3)(b)** only, the 8-hour period which must elapse before **income loss, interruption expenses** and **special expenses** may be payable. The **waiting period** applies to each **period of restoration**.
- (83) **Wrongful act** means:
 - (a) with respect to Insuring Agreement **I.(A)(1)** only, a **multimedia wrongful act**;
 - (b) With respect to Insuring Agreement **I.(A)(2)** only, a **security and privacy wrongful act**;
 - (c) With respect to Insuring Agreements **I.(A)(3)** and **I.(A)(4)** only, a **security breach** or **privacy breach**; and
 - (d) With respect to Insuring Agreement **I.(A)(5)** only, a **TCPA violation**.
- (84) **You** and **Your** means the **Named Insured** and any **Subsidiary**.
- (85) **Your account** means a business account maintained by **you** at a financial institution from which **you**, or any **insured** authorized by **you**, may request the transfer, payment or delivery of **money** or **securities**.
- (86) **Your privacy policy** means **your** published policies provided to **employees** or **third parties** in written or electronic form that govern the collection, dissemination, confidentiality, integrity, accuracy or availability of information relating to **private information**.
- (87) **Your reputation** means the estimation of trust that customers or clients have in doing business with **you** or in purchasing **your** products or services.

V. CYBER LIABILITY NOTICE PROVISIONS

- (A) As a condition precedent to coverage for any **claim** under any Insuring Agreement of this Endorsement except Insuring Agreement **I.(B)(2)**, an **executive** must provide written notice to the Company of such **claim** as soon as practicable during the **endorsement period**, but no later than 60 days after expiration of the **endorsement period** (or during the **cyber liability extended reporting period**, if applicable).
- (B) As a condition precedent to coverage for any **claim** under Insuring Agreement **I.(B)(2)**, an **executive** must provide written notice to the Company of such **claim** during the **period of indemnity**.
- (C) If, during the **endorsement period**, an **executive** becomes aware of any incidents, acts, facts or circumstances that could reasonably be a basis for a **claim**, and if the **executive** gives written notice to the Company during the **endorsement period** that describes:
 - (1) specific details of the incidents, acts, facts or circumstances that could reasonably be the basis for a **claim**;
 - (2) possible **damages**, penalties, or other amounts potentially covered under this Endorsement that may result or has resulted from the facts or circumstances;
 - (3) details regarding how the **executive** first became aware of the incidents, acts, facts or circumstances; and
 - (4) the **computer system** security and event logs, if applicable,then any **claim** arising out of such reported incidents, acts, facts or circumstances will be deemed a **claim** first made on the date that Company first received written notice complying with the above requirements.

VI. CYBER LIABILITY EXTENDED REPORTING PROVISIONS

- (A) If the Policy is cancelled or non-renewed by the Company for any reason other than fraud, material misrepresentation, material omission or non-payment of premium, or if the **Named Insured** cancels or chooses not to renew the Policy, the **Named Insured** will have the option to purchase a **cyber liability extended reporting period**. The additional premium for the **cyber liability extended reporting period** will be a percentage of the full Cyber Liability annual premium in effect on the date the Policy was issued or last renewed, as set forth below:

Term	Percent of Cyber Annual Premium
One year (12 months)	100%
Two years (24 months)	150%
Three years (36 months)	200%

- (B) If purchased by the **Named Insured**, the **cyber liability extended reporting period** will only apply to:
- (1) with respect to the Third Party Liability Insuring Agreements of this Endorsement, any **claim** first made against an **Insured** during the **cyber liability extended reporting period**, provided always that the actual or alleged **wrongful acts** giving rise to such **claim** occur on or after the **retroactive date** and prior to the end of the **endorsement period**; and
 - (2) with respect to the First Party Insuring Agreements of this Endorsement, any **claim** reported to the Company during the **cyber liability extended reporting period**, provided always that the **first party insured event** giving rise to such **claim** first occurs during the **endorsement period**, but before the effective date of cancellation or non-renewal of the Policy, and the **first party insured event** is first discovered by an **executive** during the **cyber liability extended reporting period**.
- (C) Any such **cyber liability extended reporting period**:
- (1) shall be evidenced by issuance of an Endorsement to this Policy;
 - (2) is subject to all terms, conditions, limitations and exclusions of this Endorsement;
 - (3) shall require payment within thirty (30) days from the **Named Insured's** written request to bind such **cyber liability extended reporting period**; and
 - (4) shall be effective on the effective date of cancellation of the Policy, if applicable, or the expiration date of the Policy.
- (D) The Limits of Liability for the **cyber liability extended reporting period** shall be part of, and not in addition to, the Limits of Liability set forth in the Cyber Liability Supplemental Declarations. The purchase of the **cyber liability extended reporting period** shall not increase or reinstate the Limits of Liability.
- (E) The right to purchase the **cyber liability extended reporting period** shall terminate unless the **Named Insured** provides written notice of the **Named Insured's** election to purchase the **cyber liability extended reporting period** to the Company within thirty (30) days of the effective date of cancellation, if applicable, or the expiration date of the Policy.

- (F) At the commencement of a **cyber liability extended reporting period**, the entire premium will be deemed fully earned, and in the event the **Named Insured** terminates a **cyber liability extended reporting period extended** for any reason prior to its natural expiration, the Company will not be liable to return any premium paid for the **cyber liability extended reporting period**.

VII. CYBER LIABILITY EXCLUSIONS

The Company will not be liable under this Endorsement for:

- (A) any **claim** based upon, arising from, or in any way involving any actual or alleged **wrongful act** or **first party insured event** of which any **Insured** had knowledge prior to the earlier of:
- (1) the **endorsement period**; or
 - (2) the original inception date of Cyber Liability Insurance issued by the Company of which this Endorsement is a direct and continuous renewal;
- (B) any **claim** made by or on behalf of an **Insured** against another **Insured**; however, this exclusion does not apply to a **claim** under Insuring Agreement I.(A)(2) which is brought by any past, present or future **employee** against **you**;
- (C) any **claim** based upon, arising from, or in any way involving any of the following committed by an **Insured**, whether acting alone or in collusion with other persons:
- (1) a willful, intentional, deliberate, malicious, fraudulent, or dishonest act or omission;
 - (2) a criminal act;
 - (3) an intentional violation of law; or
 - (4) the gaining of any profit or advantage to which an **Insured** is not legally entitled.

However, the Company may pay **defense costs** incurred in connection with the defense of any conduct described in this Exclusion until such time as there is a final, non-appealable adjudication in a judicial, administrative or alternative dispute proceeding, or by an **Insured's** own admission in a proceeding or otherwise. The Company will have the right to recover **defense costs** incurred in defending any such **claim** from any **Insured** found to have committed the conduct described in this Exclusion.

Notwithstanding the foregoing, this Exclusion does not apply to any **Insured** who did not commit, participate in or have prior knowledge of any conduct to which this Exclusion would otherwise apply.

- (D) any **claim** based upon, arising from, or in any way involving the insolvency or bankruptcy of any person or entity, or the failure, inability or unwillingness of any person or entity to make payments, perform obligations or conduct business because of insolvency, liquidation, or bankruptcy; however, **your** insolvency or bankruptcy will not relieve the Company of its obligations under this Endorsement where **your** insolvency or bankruptcy does not give rise to a **claim** or loss;
- (E) any **claim** for **bodily injury** or **property damage**;
- (F) any **claim** based upon, arising from, or in any way involving any regional, countrywide, or global outage, failure, disruption, or reduction in supply of any utility service or infrastructure, including electricity, gas, water, telephone, cable, internet, satellite or telecommunications, or any failure, outage, disruption, degradation or termination of any critical part of such service or infrastructure;

- (G) any **claim** based upon, arising from, or in any way involving the actual or alleged inaccurate, inadequate, or incomplete description of the price of goods, products or services;
- (H) any **claim** based upon, arising from, or in any way involving the violation of any economic or trade sanctions by the United States government including, but not limited to, sanctions administered and enforced by the United States Treasury Department's Office of Foreign Assets Control (OFAC); however, this exclusion does not apply to a **security breach** originating from any country where the United States of America has imposed economic or trade sanctions;
- (I) any **claim** based upon, arising from, or in any way involving any breach of any express, implied, actual or constructive contract, warranty, guarantee or promise; however, this exclusion does not apply to:
 - (1) any liability or obligation an **Insured** would have had in the absence of such contract, warranty, guarantee or promise and which would have been insured by this Endorsement;
 - (2) an actual or alleged breach of **your privacy policy**;
 - (3) an actual or alleged breach of an express, implied, actual or constructive contract, warranty, guarantee or promise to protect **private information**;
 - (4) any **claim** under Insuring Agreement **I.(A)(2)** for an unintentional breach by an **Insured** of the provisions of a confidentiality or non-disclosure agreement relating to the confidentiality of **private information**; or
 - (5) any **claim** under Insuring Agreement **I.(A)(4)** for an unintentional breach of the provisions of a **merchant services agreement** relating to compliance with the **PCI DSS Standard**.
- (J) any **claim** based upon, arising from, or in any way involving any liability assumed by any **Insured** under a contract or agreement; however, this exclusion does not apply to:
 - (1) with respect to Insuring Agreement **I.(A)(1)** and Insuring Agreement **I.(A)(2)** only, liability **assumed under contract**;
 - (2) any liability an **Insured** would have had in the absence of such contract or agreement and which would have been insured by this Endorsement; or
 - (3) with respect to Insuring Agreement **I.(A)(4)** only, liability for **PCI DSS fines and assessments** assumed under a **merchant services agreement**;
- (K) any **claim** based upon, arising from, or in any way involving:
 - (1) any actual, alleged or threatened presence of pollutants or contamination of any kind, including, but not limited to, smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste ("waste" includes materials to be recycled, reconditioned, or reclaimed), whether resulting from an **Insured's** activities or the activities of others, or such presence or contamination happened suddenly or gradually, accidentally or intentionally, or expectedly or unexpectedly; or
 - (2) Any directive or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize pollutants or contamination of any kind, or in any way respond to, or assess the effects of, pollutants or contamination;
- (L) any **claim** based upon, arising from, or in any way involving **income loss** caused by, or resulting from, **unauthorized trading**;
- (M) any **claim** based upon, arising from, or in any way involving:

- (1) the actual or alleged loss of value of any **securities**;
 - (2) the actual or alleged purchase or sale of **securities**;
 - (3) the offer of, or solicitation of an offer, to purchase or sell **securities**; or
 - (4) the violation of any securities law including, but not limited to, the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Sarbanes-Oxley Act of 2002, or any regulation promulgated under the foregoing statutes, or any similar federal, state, local, or foreign law, including "Blue Sky" laws, whether such law is statutory, regulatory, or common law;
- (N) any **claim** based upon, arising from, or in any way involving the actual or alleged government enforcement of any foreign, federal, state or local regulation including, but not limited to, regulations promulgated by the United States Federal Trade Commission, Federal Communications Commission, or the Securities and Exchange Commission; however, this exclusion does not apply to a **privacy regulatory proceeding**;
- (O) any **claim** based upon, arising from, or in any way involving:
- (1) any employer-**employee** relations, policies, practices, acts, or omissions;
 - (2) any actual or alleged refusal to employ any person; or
 - (3) any misconduct by **you** with respect to **employees**.
- However, this exclusion does not apply to a **claim** under Insuring Agreement **I.(A)(2)**, Insuring Agreement **I.(A)(3)** or Insuring Agreement **I.(B)(1)** which is based upon or arising from a breach of the **personally identifiable information** of any **employee**.
- (P) any **claim** based upon, arising from, or in any way involving any actual or alleged harassment or discrimination of any kind including, but not limited to, age, color, race, gender, creed, national origin, marital status, sexual preferences, disability, or pregnancy;
- (Q) any **claim** based upon, arising from, or in any way involving:
- (1) the violation of any pension, healthcare, welfare, profit sharing, mutual, or investment plans, funds, or trusts; or
 - (2) any violation of any provision of the Employee Retirement Income Security Act of 1974 and its amendments, or the Pension Protection Act of 2006 and its amendments, or any regulation, ruling, or order issued pursuant to the foregoing statutes.
- However, Exclusion (Q)(2) does not apply to a **claim** under Insuring Agreement **I.(A)(2)**, Insuring Agreement **I.(A)(3)** or Insuring Agreement **I.(B)(1)** which is based upon or arising from a breach of the **personally identifiable information** of any **employee**.
- (R) any **claim** for loss, damage, cost, or expense of whatsoever nature directly or indirectly caused by, resulting from, or in connection with war, invasion, acts of foreign enemies, hostilities or warlike operations (whether declared or not), civil war or mutiny, civil commotion assuming the proportions of, or amounting to, a riot, popular uprising, military uprising, insurrection, rebellion, revolution, or usurped power, or for loss, damage, cost, or expense of whatsoever nature directly or indirectly caused by, resulting from, or in connection with any action taken by a government authority to hinder, control, prevent, suppress, or defend against any of the aforementioned actions; or the confiscation, nationalization, requisition, or destruction of, or damage to, property by, or under the order of, any government authority; however, this exclusion does not apply to an **act of cyber terrorism**;
- (S) any **claim** based upon, arising from, or in any way involving:

- (1) any **Insured's** failure to comply with or follow the **PCI Data Security Standard** or any payment card company rules; or
- (2) any **Insured's** failure to implement or maintain, or comply with, any security measures or standards related to any payment card **data** including, but not limited to, any fine or penalty imposed by a payment card company on a merchant bank or payment processor that an **Insured** has paid or agreed to reimburse or indemnify.

However, this exclusion does not apply to a **PCI DSS demand**.

(T) any **claim** based upon, arising from, or in any way involving:

- (1) any actual or alleged unfair competition, price fixing, deceptive trade practices or restraint of trade; or
- (2) the violation of any antitrust statute, legislation or regulation.

However, Exclusion (T)(1) does not apply to:

- (1) allegations of unfair competition that form a part of **claim** under Insuring Agreement I.(A)(1), Insuring Agreement I.(A)(2) or Insuring Agreement I.(A)(3); or
- (2) allegations of deceptive trade practices that form a part of a **claim** under Insuring Agreement I.(A)(2) or Insuring Agreement I.(A)(3).

(U) any **claim** based upon, arising from, or in any way involving any actual or alleged infringement of any patent;

(V) any **claim** based upon, arising from, or in any way involving the misappropriation, theft, copying, display or publication of any trade secret; however, this exclusion does not apply to a **claim** under Insuring Agreement I.(A)(2) alleging failure to prevent the misappropriation of a trade secret which results from a **security and privacy wrongful act**;

(W) any **claim** based upon, arising from, or in any way involving the confiscation, commandeering, requisition, destruction of, or damage to, computer hardware by order of a government de jure or de facto, or by any public authority for whatever reason; however, this exclusion does not apply to a **system failure**;

(X) any **claim** based upon, arising from, or in any way involving any actual or alleged violation of the Telephone Consumer Protection Act (47 U.S.C. §227), the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. §§ 6101-6108), or the CAN-SPAM Act (15 U.S.C. §§ 7701-7713), each as amended, or any regulations promulgated under the foregoing statutes, or any similar federal, state, local or foreign laws, whether such laws are statutory, regulatory or common law, including any anti-spam law or other law concerning the use of telephonic or electronic communications for solicitation purposes, or any allegations of invasion or violation of any rights to privacy derived therefrom; however, this exclusion does not apply to a **TCPA claim**;

(Y) any matter paid, or deemed payable, by the Company under any other insuring agreement or coverage section of the Policy to which this Endorsement attaches;

(Z) with respect to all First Party Insuring Agreements of this Endorsement:

- (1) any liability to any **third party** for whatever reason, including, contractual penalties, **damages**, or legal costs and expenses of any type;
- (2) sanctions, fines or penalties imposed by law; or
- (3) any **claim** based upon, arising from, or in any way involving fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, force majeure, or any other physical event, however caused.

(AA) with respect to Insuring Agreement I.(B)(2) (BrandGuard®) of this Endorsement only:

- (1) any loss, cost, liability or expense that **you** incur to re-establish **your reputation**, including **public relations expenses**;
- (2) any loss, cost, liability or expense incurred in any **claim** that is insured by any other insurance, except excess insurance; or
- (3) any loss, cost, liability or expense incurred because of an **adverse media report** that also affects or refers in similar terms to a general security issue, an industry, or **your** specific competitors without any specific allegations regarding a **security breach** or a **privacy breach** committed by an **Insured**, or by others acting on **your** behalf, for whom **you** are legally responsible, including **BPO service providers** or **outsourced IT service providers**;

(BB) With respect to Insuring Agreement I.(B)(3) (System Failure) of this Endorsement only:

- (1) the cost of restoring, updating or replacing **digital assets** to a level beyond that which existed prior to the **system failure**;
- (2) physical damage to, or the costs to repair or replace, any computer hardware or **data** center;
- (3) the economic or market value of **digital assets**;
- (4) the costs or expenses incurred to identify, patch, or remediate software **programming errors** or **computer system** vulnerabilities;
- (5) the cost to upgrade, improve, repair, redesign, reconfigure, or maintain an **insured computer system** to a level of functionality beyond that which existed prior to the **system failure**;
- (6) the cost of restoring, replacing or repairing any electronic media; or
- (7) loss of goodwill or harm to **your reputation**;

(CC) With respect to Insuring Agreement I.(B)(5) (Cyber Crime) of this Endorsement only:

- (1) any **claim** based upon, arising from, or in any way involving any actual or alleged unauthorized acquisition, access, use or disclosure of **private information** that is held or transmitted in any form; however, this Exclusion not does not apply to **financial fraud** which directly results from the use of **private information**;
- (2) any **claim** based upon, arising from, or in any way involving the seizure, confiscation, nationalization, requisition, or destruction of an **insured telecommunications system** by, or under the order of, any government or public authority;
- (3) amounts that have been wholly or partially reversed by a credit card company or financial institution;
- (4) loss of **other property** arising out of, resulting from, or in any way involving the fraudulent or purportedly fraudulent use of a credit or debit card;
- (5) any **claim** based based upon, arising from, or in any way involving any fraudulent instruction, if the sender, or any person or organization acting in collusion with the sender, ever had authorized access to **your** password, PIN or other security code; however, this exclusion does not apply to **phishing fraud loss** incurred by **you** because of a fraudulent instruction transmitted by an **employee** or an **executive**, if the fraudulent instruction was transmitted by such **employee** or **executive** as a direct result of a **phishing attack**;

- (6) any **claim** based upon, arising from, or in any way involving the giving or surrendering of **money, securities or other property** in any exchange for or purchase of goods, products or services:
 - (a) that are not yet delivered, whether or not fraudulent;
 - (b) that fail to conform to advertised quality or performance; or
 - (c) that fail to conform to the quality or performance expected from the standpoint of the **Insured**;
- (7) any **claim** based upon, arising from, or in any way involving potential income, including interest and dividends, not realized by **you** or **your** customers or clients;
- (8) for the theft of **money, securities or other property** belonging to a **third party**; however, this exclusion does not apply to **phishing fraud loss** incurred by **you** to reimburse **your** customers or clients for their direct financial losses resulting from a **phishing attack**.

VIII. CHANGES IN EXPOSURE

- (A) In the event of a **takeover** during the **endorsement period**, coverage under this Endorsement will continue until its natural expiration date for any **claim** made during the **endorsement period**, but only if the **wrongful acts or first party insured events** giving rise to such **claim** occur on or after the applicable **retroactive date** and prior to the effective date of the **takeover**.
- (B) If, after the effective date of the **endorsement period**, the **Named Insured** acquires or creates a **Subsidiary**, and the Company has agreed, by endorsement to the Policy, to provide coverage for such **Subsidiary**, then such **Subsidiary** will be included within the definition of **Insured** for the duration of the **endorsement period**, but only with respect to **claims for wrongful acts or first party insured events** that occur after the creation or acquisition of such **Subsidiary**.
- (C) If, after the effective date of the **endorsement period**, the **Named Insured** sells a **Subsidiary**, that **Subsidiary** will be an **Insured** for the duration of the **endorsement period**, but only with respect to **claims for wrongful acts or first party insured events** that occur on or after the applicable **retroactive date** and prior to the effective date of the sale.

IX. LOSS DETERMINATION

- (A) **Brand Loss.** The **brand loss** payable under Insuring Agreement I.(B)(2) will be calculated by considering:
 - (1) the prior experience of **your** business preceding the date of the **adverse media report or notification**, whichever applies, and **your** likely net profit, had no **adverse media report** been published or **notification** occurred;
 - (2) income derived from substitute methods, facilities, or personnel **you** use to maintain **your** revenue stream;
 - (3) **Your** documentation of the trends in **your** business and variations in, or other circumstances affecting, **your** business before or after the **adverse media report or notification**, which would have affected **your** business had no **adverse media report** been published or **notification** occurred; and
 - (4) **Your** fixed operating expenses (including ordinary payroll), but only to the extent that such fixed operating expenses must continue during the **period of indemnity**.

For purposes of calculating **brand loss**, “net profit” will include the amount paid or payable to **you** for goods, products, or services sold, delivered, or rendered in the normal course of **your** business.

(B) **Digital Assets Loss.** The **digital assets loss** payable under Insuring Agreement I.(B)(3)(a) will be determined as follows:

- (1) if the impacted **digital asset** was purchased from a **third party**, we will pay only the lesser of the original purchase price of the **digital asset** or the reasonable and necessary **digital assets loss**; or
- (2) if it is determined that the **digital assets** cannot be replaced, restored or recreated, we will only reimburse the actual and necessary **digital assets loss** incurred up to such determination.

(C) **Income Loss.** The **income loss** payable under Insuring Agreement I.(B)(3)(b) will be calculated as follows:

- (1) **Your** net profit, as could have been reasonably projected, but which has been lost as a direct result of a **system failure**; plus
- (2) **Your** fixed operating expenses (including ordinary payroll) incurred, but only to the extent that such operating expenses must continue during the **period of restoration**.

Income loss will be calculated by considering:

- (1) the prior experience of **your** business preceding the date of the **system failure**, and **your** likely net profit, had no **system failure** occurred;
- (2) income derived from substitute methods, facilities, or personnel **you** use to maintain **your** revenue stream; and
- (3) **Your** documentation of the trends in **your** business and variations in, or other circumstances affecting, **your** business before or after the **system failure**, which would have affected **your** business had no **system failure** occurred.

For purposes of calculating **income loss**, “net profit” will include the amount paid or payable to **you** for goods, products, or services sold, delivered, or rendered in the normal course of **your** business.

X. TRANSFER OF DUTIES WHEN THE LIMIT OF LIABILITY IS EXHAUSTED

(A) If the Company concludes that, based on **claims** which have been reported, the applicable Limit of Liability set forth in the Cyber Liability Supplemental Declarations is likely to be exhausted, the Company will notify **you** to that effect.

(B) When the applicable Limit of Liability has been exhausted:

- (1) The Company will notify **you** in writing as soon as practicable that: (a) such Limit of Liability has been exhausted; and (b) the Company’s obligation to defend any **claim** or pay any amounts has ended.
- (2) The Company will initiate and cooperate in the transfer of control to the appropriate **Insured** all **claims** which are subject to the Limit of Liability and were reported to the Company before the Limit of Liability was exhausted. **You**, and any other **Insured**, must cooperate in the transfer of control of said **claims**. **You**, and any other **Insured** involved in a **claim**, must arrange for the defense and payment of such **claim** within the period agreed to by the appropriate **Insured** and the Company. Absent any such agreement, arrangements for defense and payment of the **claim** must be made as soon as practicable. The Company will take such steps as deemed appropriate to

avoid default in, or continue the defense or handling of, such **claim** until transfer of control is completed, provided the **Insured** is cooperating in completing such transfer.

- (3) The **Insured** shall reimburse the Company for the costs it incurs in transferring control of a **claim**. The Company will take no action whatsoever with respect to any **claim** that would have been subject to the applicable Limit of Liability had it not been exhausted, if the **claim** is reported to the Company after the Limit of Liability is exhausted.
- (4) The **Insured** will also be responsible for providing **notification** and customer support, including credit monitoring services and identity theft education or assistance, to affected individuals. The **Insured** may continue to utilize vendors recommended by the Company to provide such services.
- (5) The exhaustion of the Limit of Liability and the resulting end of the Company's obligation to defend any **claim** or pay any amount will not be affected by the Company's failure to comply with any of the provisions of this clause.

XI. OTHER INSURANCE

The coverage provided by this Endorsement will be excess insurance over any other valid and collectible insurance available, including any self-insured retention or deductible portion thereof, whether such insurance is stated to be primary, pro rata, contributory, excess, contingent or otherwise, unless such insurance specifically applies as excess insurance over the insurance provided under this Endorsement.

XII. ARBITRATION

Notwithstanding any other provision of this Endorsement or the Policy, any irreconcilable dispute between the Company and an **Insured** concerning this Endorsement or coverage for any **claim** is to be resolved by arbitration in accordance with the then current rules of the American Arbitration Association, except that the arbitration panel shall consist of one arbitrator selected by the **Insured**, one arbitrator selected by the Company, and a third independent arbitrator selected by the first two arbitrators. Judgment upon the award may be entered in any court having jurisdiction. The arbitrator has the power to decide any dispute between the Company and the **Insured** concerning the application or interpretation of this Endorsement. However, the arbitrator shall have no power to change or add to the provisions of this Endorsement. The **Insured** and the Company will share equally in the cost of arbitration.