

# NETWORK SECURITY INSURANCE POLICY

(Claims Made and Reported Basis)

This is a Claims Made and Reported Policy. 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” refer to the **Insured** shown in the Declarations. The words “we,” “us,” and “our” refer to the Underwriters providing this insurance. The word “**Insured**” means any person or organization qualifying as such under the definition of **Insured**. Other words and phrases that appear in **bold** have special meaning as described in the definitions found in this **Policy**.

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

## I. INSURING AGREEMENTS

### A. Network Security Insurance

We will pay, if coverage purchased, all **Loss and Defense Costs** that an **Insured** becomes legally obligated to pay as a result of a **Claim** first made against such **Insured** during the **Policy Period** or the Extended Reporting Period, if applicable, and reported to Underwriters in accordance with the Notice Provisions, but in no event later than seventy-five (75) days after expiration of the **Policy Period**, arising out of a **Network Security Wrongful Act** committed by such **Insured**.

### B. Government Investigation Defense Costs Insurance

We will pay, if coverage purchased, all **Defense Costs** incurred by an **Insured** in connection with a **Government Investigation** first commenced against such **Insured** during the **Policy Period** or the Extended Reporting Period, if applicable, and reported to Underwriters in accordance with the Notice Provisions, but in no event later than seventy-five (75) days after expiration of the **Policy Period**, arising out of a **Network Security Wrongful Act** committed by such **Insured**.

### C. Regulatory Fines and Penalties Insurance

We will pay, if coverage purchased, those amounts which the **Insured** becomes legally obligated to pay as a result of a penalty or sanction imposed against the **Insured** in connection with a **Government Investigation** first commenced against such **Insured** during the **Policy Period** or the Extended Reporting Period, if applicable, and reported to Underwriters in accordance with the Notice Provisions, but in no event later than seventy-five (75) days after expiration of the **Policy Period**, arising out of a **Network Security Wrongful Act** committed by such **Insured**.

### D. Customer Notification Costs Insurance

We will pay, if coverage purchased, all **Customer Notification Costs** that are incurred by an **Insured**, with Underwriters’ written consent, to comply with governmental privacy

legislation mandating customer notification of any **Network Security Wrongful Act** committed by an **Insured**. We will not make any payment under this paragraph unless you first learn of the **Network Security Wrongful Act** within the **Policy Period** and report such **Network Security Wrongful Act** to us as soon as practicable and within the **Policy Period**.

#### **E. Data Recovery Costs Insurance**

We will pay, if coverage purchased, all **Data Recovery Costs** that are incurred by an **Insured**, with Underwriters' written consent, arising out of a **Data Interference Act** that both occurs and is discovered by an **Insured** during the **Policy Period** or the Extended Reporting Period, if applicable, and is reported to Underwriters in accordance with the Notice Provisions, but in no event later than seventy-five (75) days after expiration of the **Policy Period**.

### **II. DEFENSE AND SETTLEMENT OF CLAIMS**

We have the right and duty to defend any **Claim** covered by the **Policy** and such obligation is limited to amounts constituting **Loss** and **Defense Costs**. Our duty to defend any **Claim** will end once the Limit of Liability, as stated in the Declarations, is exhausted by the payment of **Loss** and/or **Defense Costs**. We may, with your consent, settle any **Claim** for any monetary amount that we consider reasonable. If you do not give your consent to such settlement, our liability for all **Loss** on account of such **Claim** will not exceed:

- a. the amount for which such **Claim** could have been settled plus **Defense Costs** up to the date the Insured refused to settle such **Claim**; plus
- b. fifty percent (50%) of any **Loss** and/or **Defense Costs** in excess of the amount referenced in clause a. above, incurred in connection with such **Claim**. The remaining **Loss** and/or **Defense Costs** will be paid by the **Insured** and shall be uninsured.

The **Insureds** will not incur any **Defense Costs**, settle, or offer to settle any claim, assume any contractual obligation, admit liability, voluntarily make any payment or confess or otherwise consent to any damages or judgments with respect to any Claim without our prior written consent, which will not be unreasonably withheld. We will not be liable for any **Defense Costs**, settlement, assumed obligation, admitted liability, voluntary payment, or confessed damages or judgments to which we have not consented.

The **Insureds** will provide full cooperation and all information and particulars that we may request to conduct an investigation, defend a **Claim**, or to reach a settlement of a **Claim**. The **Insureds** agree that in the event of a **Claim**, they will do nothing that may prejudice our position or rights of recovery.

### **III. DATA RECOVERY COSTS ADJUSTMENT**

In the event that **Data** belonging to an **Insured** has been compromised, damaged, lost, erased, eradicated, altered, corrupted or tainted by reason of a **Data Interference Act**, the **Insured** shall, as soon as practicable following notification to Underwriters in accordance with the Notice provisions, provide to Underwriters a sworn written statement detailing 1) the harm or damage known to have resulted from the **Data Interference Act**; 2) the circumstances under which the

Insureds first discovered the **Data Interference Act**; 3) the proposed plan for remediation and/or recovery of said **Data**, including the name and identity of the professional or consultant proposed for carrying out the remediation and/or recovery; 4) the proposed or estimated costs of the remediation and/or recovery; and 5) the proposed date and time for both commencing and completing such remediation and/or recovery.

No **Data Recovery Costs** shall be incurred without Underwriters' prior written consent, and Underwriters shall not be responsible to pay or reimburse the **Insureds** for any **Data Recovery Costs** that were not so approved. Notwithstanding the foregoing, an **Insured** may incur **Data Recovery Costs** without Underwriters' prior written approval if the circumstances are such that there is no practical or reasonable opportunity to obtain Underwriters' prior written consent and the exigencies then and there existing require immediate action to mitigate the potential for damages or harm to an **Insured** or to third parties.

#### IV. DEFINITIONS

- A. **Application** means all applications, including attachments and submitted materials, for this **Policy** or for any policy of which this **Policy** is a renewal or replacement. All such applications, attachments, and materials are deemed attached to and incorporated into this **Policy**.
- B. **Claim** means:
1. any written demand for monetary damages or non-pecuniary relief;
  2. any civil proceeding or arbitration commenced by the service of a complaint or similar pleading or notification;
  3. any written request to toll or waive a statute of limitations relating to a potential **Claim** against any **Insured** for a **Network Security Wrongful Act**, including any appeal therefrom; or
  4. a **Government Investigation** commenced against an **Insured** by letter notification, complaint, order of investigation or subpoena.
- A **Claim** will be deemed to be first made when any of the foregoing is first received by an **Insured**.
- C. **Customer Notification Costs** means all reasonable and necessary legal expenses, public relations expenses, postage expenses, and related advertising expenses incurred by an **Insured** in notifying third persons, if required by law, of any **Network Security Wrongful Act** committed by such **Insured**.
- D. **Data** means any and all information stored, recorded, appearing or present in or on the **Insured's** computer systems, electronic communication systems, devices and telephony, including, but not limited to, information stored, recorded, appearing or present in or on the **Insured's** electronic and computer databases, the Internet, intranet, extranet and related websites, facsimile and electronic mail
- E. **Data Interference Act** means any act by a party other than an **Insured** that occurs during the Policy Period and is carried out without an **Insured's** consent or knowledge, whether

intentional, malicious, reckless or negligent, which act causes harm or damage to the **Data** maintained by an **Insured**, including but not limited to interference with, or intrusion or incursion into, any of the **Insured's** computer systems, electronic communication systems, devices and telephony, including, but not limited to, the **Insured's** electronic and computer databases, the Internet, intranet, extranet and related websites, facsimile and electronic mail.

- F. Data Recovery Costs** means all reasonable and necessary sums required to recover and/or replace **Data** that is compromised, damaged, lost, erased, eradicated, altered, corrupted or tainted by reason of a **Data Interference Act**, including but not limited to the costs associated with the repair or replacement of any software that is compromised, damaged, lost, erased, eradicated, altered, corrupted or tainted by reason of a **Data Interference Act**. **Data Recovery Costs** shall not include 1) costs of repairing or replacing any hardware, equipment or wiring; 2) wages, salaries or other compensation or income of any Insureds; 3) costs of recovering or replacing data for any third party, or any data that was not within the care, custody or control of the **Insured**.
- G. Government Investigation(s)** means an investigation conducted by any federal, state or local government agency or authority, the subject matter of which is a **Network Security Wrongful Act committed** by any **Insured**.
- H. Defense Costs** means reasonable and necessary fees, costs and expenses incurred in the investigation, defense and appeal of any **Claim**; but **Defense Costs** shall not include any wages, salaries, fees, or expenses of any **Insured**.
- I. Insured** means any of the following persons or entities:

Corporation. If the **Insured** shown in the Declarations is a corporation or organization other than a partnership or joint venture, such corporation or organization is the **Insured**. The past, present, or future directors, officers and employees of the corporation or organization also are **Insureds**, but only with respect to their activities within the scope of their duties in the operation of the corporation or organization's business.

Partnerships or Joint Ventures. If the **Insured** shown in the Declarations is a partnership or joint venture, such partnership or joint venture is the **Insured**. The partnership or joint venture's past, present, or future partners, directors, officers and employees also are **Insureds**, but only with respect to their activities within the scope of their duties in the operation of the partnership or joint venture's business.

Limited Liability Organization. If the **Insured** shown in the Declarations is a limited liability company or limited liability partnership, such limited liability company or limited liability partnership is the **Insured**. The limited liability company or limited liability partnership's past, present, or future partners, directors, officers, managers and employees also are **Insureds**, but only with respect to their activities within the scope of their duties in the operation of the limited liability company or limited liability partnership's business.

Sole Proprietor. If the **Insured** shown in the Declarations is a sole proprietor, such sole proprietor is the **Insured**. The sole proprietor's past, present or future owners, officers or employees also are **Insureds**, but only with respect to their activities within the scope of their duties in the operation of the sole proprietorship.

**J. Interrelated Claims** means all **Claims** arising from one or more **Network Security Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions, or causes. **Claims** may be **Interrelated Claims** whether or not they involve the same cause, claimants, **Insured**, or legal theory. **Interrelated Data Recovery Costs** means all **Data Recovery Costs** arising from one or more **Data Interference Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions, or causes.

**K. Loss** means the amount that an **Insured** is legally obligated to pay solely on account of a covered **Claim** for a **Network Security Wrongful Act**, including but not limited to, damages and judgments, settlements negotiated with our consent, and punitive and exemplary damages where insurable, as well as any legal fees and costs awarded pursuant to such judgments.

For the purpose of determining the insurability of punitive damages or exemplary damages under this **Policy**, the laws of the jurisdiction most favorable to the insurability of such damages shall control, provided that such jurisdiction is: (1) the location of the court which awarded or imposed such punitive damages; (2) where the **Insured** is incorporated or otherwise organized or has a place of business; or (3) where Underwriters are incorporated or otherwise organized or have their place of business.

**Loss** does not include: (1) taxes; (2) any amount for which the **Insured** is absolved from payment; (3) amounts owed under any contract; (4) any return, withdrawal, restitution or reduction of professional fees, profits or other charges; (5) the multiple portion of any multiplied damages; or (6) any matters that are uninsurable under applicable law.

**L. Network Security Wrongful Act** means an actual or alleged act, error or omission by an **Insured**, including an unauthorized act by an employee, in the collection, use, storage or dissemination of personal information through the use and means of electronic communication systems, devices and telephones, including the Internet, intranet, extranet and related websites, electronic and computer databases, facsimile and electronic mail, including but not limited to:

1. any breach or violation of U.S. federal, state and local statutes and regulations associated with the control and use of personally identifiable financial or medical information including but not limited to:
  - a. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) (“HIPAA”), including Title II which requires protection of confidentiality and security of electronic protected health information, and the rules and regulations promulgated thereunder as they currently exist and as amended, including related state medical privacy laws as they currently exist and as amended;
  - b. 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 as they currently exist and as amended;

- c. State Attorneys General and Federal Trade Commission enforcement actions regarding the security and privacy of consumer information;
  - d. Governmental privacy protection regulations or laws, such as California Database Protection Act of 2003 (Cal. SB 1386) and California A.B. 1950, as they currently exist now or in the future, which require commercial internet sites or on-line services that collect personal information or medical information (as defined by such laws or acts) to post privacy policies and adopt specific privacy controls or to notify those impacted by identity or data thief, abuse or misuse; and
  - e. Federal and state consumer credit reporting laws, such as the Federal Fair Credit Reporting Act (FCRA) and the California Consumer Credit Reporting Agencies Act (CCCRAA).
2. a breach of privacy leading to identity theft, or misappropriation or misdirection of messages or media of third parties by the **Insured**, including metatags, web site domains and names, and related cyber content;
  3. a breach of security which results in the unauthorized access or unauthorized use of the **Insured's** computer system, the consequences of which include, but are not limited to:
    - a. the failure to prevent unauthorized access to, use of or tampering with a third party's computer systems;
    - b. the inability of an authorized third party to gain access to the **Insured's** services;
    - c. the failure to prevent denial or disruption of internet service to an authorized third party;
    - d. the failure to prevent identity theft or credit/debit card fraud; or
    - e. the inadvertent transmission of harmful or corrupt software code, including but not limited to computer viruses, Trojan horses, worms, logic bombs, spy ware or spider ware; or
  4. unfair competition, deceptive trade practices, false advertising or misrepresentation, wrongful publication, defamation, slander or libel, product or service disparagement, trade libel, infliction of emotional distress, mental anguish or other tort related to disparagement or harm to the reputation or character of any person or organization; wrongful entry or eviction, trespass, eavesdropping, false arrest, malicious prosecution, outrage or outrageous conduct; breach of confidence, invasion, infringement, interference or violation of any rights to privacy, including but not limited to, breach of your privacy statement, breach of a person's right of publicity, false light, intrusion upon a person's seclusion, public disclosure of a person's privacy information, or misappropriation of a person's name or likeness for commercial gain arising out of the **Insured's** dissemination of electronic content, including data, e-mails, graphics, images, net or web casting, sounds, text, or website; plagiarism, piracy

or misappropriation of ideas in connection with the internet; infringement of copyright, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name or trade name; liability arising out of the **Insured's** negligence in respect of any internet content.

- M. **Policy** means, collectively, the Declarations, the **Application**, this **Policy** form, and any endorsements.
- N. **Policy Period** means the period of time specified in Item B. of the Declarations, subject to any prior cancellation described in paragraph VIII. of this **Policy**.

## V. LIMITS OF LIABILITY AND RETENTIONS

- A. The amount set forth in Item C.1.a. of the Declarations shall be our maximum Limit of Liability for all **Loss** and **Defense Costs**, combined, on account of each **Claim** for a **Network Security Wrongful Act** first made during the **Policy Period**.
- B. The amount set forth in Item C.1.b. of the Declarations shall be our maximum Limit of Liability for all **Defense Costs** incurred on account of each **Claim** arising from a **Government Investigations** first commenced during the **Policy Period**.
- C. The amount set forth in Item C.2. of the Declarations shall be our maximum aggregate Limit of Liability for all **Loss** and **Defense Costs**, combined, on account of all **Claims** for a **Network Security Wrongful Act** and for all **Defense Costs** incurred on account of all **Government Investigations** first commenced during the **Policy Period**.
- D. The amount set forth in Item C.3. of the Declarations shall be our maximum Limit of Liability for all **Data Recovery Costs** associated with each **Data Interference Act**, and all **Data Interference Acts**, combined, that both occur and are discovered by an **Insured** during the **Policy Period**.
- E. The amount set forth in Item C.4. of the Declarations shall be our maximum aggregate Limit of Liability for all **Loss** and **Defense Costs** and **Data Recovery Costs**, combined, on account of all **Claims** for a **Network Security Wrongful Act** first made during the **Policy Period**, all **Government Investigations** first commenced during the **Policy Period** and all **Data Interference Acts** that both occur and are discovered by an **Insured** during the **Policy Period**.
- F. If our maximum aggregate Limit of Liability, as described in the preceding Paragraph V. E., is exhausted by payment of **Loss**, **Defense Costs** and **Data Recovery Costs**, our obligations under this **Policy** shall be deemed completely fulfilled and extinguished.
- G. Our liability with respect to both **Loss** and **Defense Costs** arising from any single **Claim**, and our liability with respect to **Data Recovery Costs** arising from any single **Data Interference Act** shall apply only to that part of such **Loss**, **Defense Costs** and/or **Data Recovery Costs** in excess of the applicable Retentions set forth in Item D. of the Declarations, which shall be your uninsured responsibility.
- H. **Defense Costs** shall be part of, and not in addition to, each of the Limit of Liability set forth in the Declarations, and **Defense Costs** shall reduce such Limit of Liability.

- I. The Limit of Liability for the Extended Reporting Period, if exercised, shall be part of and not in addition to the Limit of Liability for the **Policy Period**. The purchase of the Extended Reporting Period shall not increase or reinstate the Limit of Liability set forth in Item C.4 of the Declarations, which shall be our maximum aggregate liability for all **Loss, Defense Costs and Data Recovery Costs**, combined, on account of all **Claims** first made and all Data Recovery Costs incurred during such **Policy Period** and Extended Reporting Period.

## VI. NOTICE PROVISIONS

### A. Notice of **Claim** or **Data Interference Act**

The **Insured** shall, as a condition precedent to their rights under this **Policy**, give our Authorized Representatives, as identified in the Declarations, written notice of any **Claim** made against an **Insured** as soon as practicable during the **Policy Period**, but in no event later than seventy-five (75) days after the **Policy** expiration. The **Insured** shall provide such Authorized Representatives with copies of all documentation comprising the **Claim** as well as all authorizations, cooperation, or assistance as we may require. In the case of a **Data Interference Act**, the **Insured** shall provide our Authorized Representatives with written notice as soon as practicable during the **Policy Period**, after discovery of such **Data Interference Act**, but in no event later than seventy-five (75) days after the **Policy** expiration; provided further that as a condition precedent to coverage, such **Insured** shall also comply with the provisions of Section III. of this **Policy**, captioned as Data Recovery Costs Adjustment.

We are not obligated to pay any **Defense Costs** or **Data Recovery Costs** (except as provided in Section III.) incurred prior to notification of a **Claim** or **Data Interference Act**.

### B. Notice of Potential Claim or potential **Data Interference Act**

The **Insured** may, at their option, provide us with notice of circumstances about which they first become aware during the **Policy Period**, which could give rise to a **Claim** for a **Network Security Wrongful Act** or **Data Recovery Costs**. The notice must provide a description of the circumstances including the nature of the alleged **Network Security Wrongful Act or Data Interference Act**, the nature of the alleged or potential damages, the identity of the potential claimants and **Insureds** involved, the manner in which the **Insured** first became aware of the circumstances, and the reason the **Insured** believes a **Claim** may be made or **Data Recovery Costs** may be incurred. If such notice is given within the **Policy Period**, then any **Claim** subsequently arising from such circumstances will be deemed first made on the date such notice was given, and any **Data Recovery Costs** subsequently incurred will be deemed first incurred on the date such notice was given.

## VII. EXCLUSIONS

We are not obligated to defend any **Claim** or pay any **Loss** or **Defense Costs**, nor to pay or reimburse any **Data Recovery Costs**:

- A. Based upon, arising out of, or attributable to any **Network Security Wrongful Act or Data Interference Act**, or fact, circumstance, or situation:



1. That was the subject of written notice given under any prior policy of which this **Policy** is a renewal or replacement;
2. That was the subject of any prior or pending written demand for monetary damages, administrative or arbitration proceeding or civil or criminal litigation against any **Insured**, or the same or substantially the same fact, circumstance, or situation underlying or alleged in the prior matter; or
3. That was identified in any summary or statement of claims or potential claims submitted in connection with the **Application**;

**B.** For, based upon, arising from, or in any way related to:

1. The actual, alleged or threatened discharge, dispersal, release or escape of pollutants; or
2. Any direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, nuclear material or nuclear waste;

Pollutants include, but are not limited to, any solid, liquid, gaseous or thermal irritant or contaminant, including mold, smoke, vapor, soot, fumes, acids, alkalis, chemicals, odors, noise, lead, oil or oil products, radiation, asbestos or asbestos-containing products and waste, and any electric, magnetic or electromagnetic field of any frequency. Waste includes, but is not limited to, material to be recycled, reconditioned or reclaimed;

**C.** Based upon, arising out of, or attributable to, liability of others assumed by an **Insured** under any contract or agreement, except to the extent the **Insured** would have been liable in the absence of the contract or agreement;

**D.** Based upon, arising out of, or attributable to any breach of contract, warranty or guarantee, except that with respect to allegations of breach of contract, this exclusion shall not apply to the extent the **Insured** would have been liable in the absence of such contract;

**E.** Arising out of, based upon, attributable to, or alleging any conduct, act, error or omission of any **Insured** serving in any capacity other than as your principal, partner, officer, director or employee;

**F.** Based on, arising out of, or in any way involving an **Insured** gaining in fact any profit, remuneration or financial advantage to which such party was not legally entitled;

**G.** For, based upon, or arising from any deliberately dishonest, malicious or fraudulent act or omission or any willful violation of law by an **Insured** if judgment or other final adjudication adverse to the **Insured** establishes such an act, omission or willful violation; however, this Exclusion shall not apply to any **Insured** that did not commit, participate in, or have knowledge of any such act, omission or violation of law described in this exclusion;

- H. That is covered under any General Liability, Comprehensive General Liability, or other Professional Liability Insurance Policy;
- I. For, based upon, arising out of, or in any way related to the False Claims Act, or any similar federal or state law, rule or regulation concerning billing errors or fraudulent billing practices or abuse;
- J. For any claim based upon infringement of any patent or trade secret;
- K. For, based upon, arising from, or in any way related to price fixing, restraint of trade or a violation of any securities, anti-trust or consumer protection laws;
- L. Based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any employment or employment related matters;
- M. For bodily injury, sickness, disease, death, false arrest or imprisonment, abuse of process, malicious prosecution, trespass, nuisance or wrongful entry or eviction, or for property damage or injury to or destruction of any tangible property including loss of use;
- N. Based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving harassment or discrimination, including but not limited to harassment or discrimination because of or relating to race, creed, color, age, sex, sexual orientation or preference, national origin, religion, handicap, disability, political affiliation or marital status;
- O. Based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged electrical failure, including electrical power interruption, surge, brownout or blackout;
- P. Based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged malfunction or defect of any hardware, equipment or component, except that this exclusion shall not apply where the malfunction or defect is solely the result of an **Insured's** negligence;
- Q. Brought by or on behalf of an **Insured** or any entity or person that is owned, in whole or in part, by an **Insured**, or directly or indirectly controlled, operated or managed by an **Insured** or any entity or person that is a parent, affiliate, subsidiary, joint venturer of any entity or person in which or with which an **Insured** is a partner. This Exclusion, VII. Q., shall not apply to an otherwise covered **Claim** by an employee alleging a breach or violation of U.S. federal, state and local statutes and regulations as set forth in Definition IV. K. 1;
- R. For any claim based upon, arising from, or in any way related to a violation of any of United States of America's economic or trade sanctions, including but not limited to, sanctions administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC");
- S. Based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the **Insured's** failure to render professional services;

- T. Based upon, directly or indirectly resulting from, in consequence of, or in any way involving loss of business income arising from the interruption, suspension or degradation of an **Insured**'s own computer network.

## VIII. GENERAL TERMS AND CONDITIONS

### A. Extension of Coverage to Spouses

The coverage afforded under this **Policy** will, subject to the terms and conditions, limitations, and exclusions, be extended to apply to **Loss** resulting from a **Claim** against a person who, at the time the **Claim** is made, is a lawful spouse of an **Insured**, but only if: (a) the **Claim** against such spouse results from a **Wrongful Act** actually or allegedly committed by the **Insured**, to whom the spouse is married; and (b) such **Insured** and his or her spouse are represented by the same counsel in connection with such **Claim**.

### B. Interrelated Claims and Interrelated Data Recovery Costs

All **Claims** arising out of the same, similar or related **Network Security Wrongful Acts** and all **Interrelated Claims** shall be deemed one **Claim**, and such **Claim** shall be deemed to be first made on the date the earliest of such **Claims** is first made, regardless of whether such date is before or during the **Policy Period**.

All **Data Recovery Costs** attributable to the same, similar or related **Data Interference Acts** and all **Interrelated Data Interference Acts** shall be deemed to have occurred and been discovered when the earliest of such **Data Interference Acts** was discovered, regardless of whether such date is before or during the **Policy Period**.

### C. Other Insurance

Except for **Claims** for which coverage is available under General Liability, Comprehensive General Liability or other Professional Liability Insurance Policy, and unless expressly written to be excess over other insurance, this **Policy** is intended to apply as primary insurance for **Network Security Wrongful Acts** and/or **Data Interference Acts** covered by this **Policy**. Nothing in this provision, however, shall prevent Underwriters or the **Insured** from seeking contribution or coverage from any other insurer or indemnitor.

### D. Changes in Exposure

1. If during the **Policy Period** the **Insured** is acquired, or control assumed by another entity, coverage under this **Policy** will continue but only with respect to any **Claim** arising from **Network Security Wrongful Acts**, **Data Interference Acts** or **Government Investigations** that occur prior to the effective date of the acquisition or change of control. The **Insured** must give us notice as soon as practicable, but in any event within thirty (30) days of such change. The **Policy** may not be cancelled after the effective date of the acquisition or change of control and the premium will be deemed fully earned on such date.
2. If the **Insured** acquires, merges into or with, or creates another entity or operation, and at the time of the transaction, the assets of the new entity exceed twenty-five percent (25%) of the total assets of the **Insured** as reflected in the most recent

**Application**, then for a period of ninety (90) days after the effective date of the transaction, the newly formed entity will be included within the definition of **Insured**, but only with respect to **Network Security Wrongful Acts** or **Data Interference Acts** committed or allegedly committed, or **Government Investigations** commenced, after the effective date of the transaction. Upon the expiration of the ninety (90)-day period, there shall be no coverage under this **Policy** for **Network Security Wrongful Acts** or **Data Interference Acts** committed or allegedly committed by the newly formed entity or for **Government Investigations**, unless the **Insured** has provided us with written notice of the transaction, containing full details thereof. We will be entitled to impose such amended terms and conditions and adjust the premium as we may require.

**E. Representations and Severability**

In issuing this **Policy**, we relied upon the statements and representations in the **Application**. The **Insured** represents that all such statements and representations are true and deemed material to the acceptance of the risk or the hazard assumed by us under this **Policy**.

The **Insured** agrees that in the event any such statements or representations are untrue, this **Policy** will not afford any coverage with respect to an **Insured** who knew the facts that were not truthfully disclosed in the **Application**, whether or not such **Insured** knew that the **Application** contained an untruthful disclosure.

**F. Allocation**

If both **Loss** covered under this **Policy** and loss not covered under this **Policy** are jointly incurred either because a **Claim** includes both covered and non-covered matters or because a **Claim** is made against both covered and uncovered parties, then you and we shall fairly and reasonably allocate such amount between covered **Loss** and non-covered loss based on the relative legal exposures of the parties with respect to covered and non-covered matters.

**G. Authorization Clause**

By acceptance of this **Policy**, you agree to act on behalf of the **Insureds** with respect to the giving and receiving of notice of **Claim** or cancellation, the payment of premiums, and the receiving of any return premiums that may become due under this **Policy**, the agreement to and acceptance of endorsements and the giving or receiving of any notice provided for in this **Policy** (except the giving of notice to apply for the Extended Reporting Period), and the **Insureds** agree that you will act on their behalf.

**H. Subrogation**

In the event of any payment under this **Policy**, we will be subrogated to the extent of such payment to all of any **Insured's** rights of recovery. All **Insureds** will execute all required papers and do everything necessary to secure and preserve such rights.

**I. Alteration and Assignment**

This **Policy** cannot be changed, modified, or assigned without our written, signed endorsement.

**J. Territory**

Coverage under this **Policy** will extend to **Claims** arising from **Network Security Wrongful Acts**, (if coverage purchased) or any **Data Recovery Costs** arising from **Data Interference Acts** (if coverage purchased) committed anywhere in the world.

**K. Action Against Underwriters**

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

**L. Arbitration**

Underwriters and the **Insured** agree that any dispute, controversy, or claim arising out of or relating to this **Policy** or its breach, termination or invalidity, will be submitted to final and binding arbitration. The arbitrator shall be selected by you, and us, and each party will bear its own legal fees and expenses.

**M. Estates and Legal Representatives**

Neither death, bankruptcy, dissolution of partnership nor insolvency of an **Insured** will relieve us of any obligations under the **Policy**.

**N. Extended Reporting Period**

In the event of non-renewal or cancellation of this **Policy**, you shall have the right, upon payment of an additional premium of 100% of the premium charged for the non-renewed or cancelled **Policy**, to an extension of the coverage available under this **Policy** for a period of twelve (12) months following the effective date of such non-renewal or cancellation, or 150% for a twenty-four (24) month extension, or 200% for a thirty-six (36) month extension, but only with respect to **Claims** or **Data Recovery Costs** otherwise covered by this **Policy** and only for **Network Security Wrongful Acts** or **Data Interference Acts** occurring prior to the effective date of such non-renewal or cancellation.

A written request for the Extended Reporting Period must be received by us within fifteen (15) days from the effective date of the non-renewal or cancellation. The premium due for the Extended Reporting Period must be received by us within thirty (30) days of such effective date. The entire premium for the Extended Reporting Period shall be deemed fully earned and non-refundable upon payment.

**O. Cancellation**

You may cancel this **Policy** by mailing written notice to us stating when thereafter such cancellation shall be effective. We may cancel this **Policy** only for non-payment of premium, by mailing written notice to you at the address shown in the Declarations, stating when, not less than ten (10) days thereafter, such cancellation shall be effective. The mailing of such notice shall be sufficient proof of notice. Delivery of such written notice shall be equivalent to mailing. The effective date and hour of cancellation as stated in the notice shall become the end of the **Policy Period**.

If you cancel, earned premium shall be computed in accordance with the standard short rate table, but in no event will earned premium be less than twenty-five percent (25%) of the total premium indicated in the Declarations. If we cancel, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

**NAS Insurance Services, Inc.**

**By:**  
**On behalf of the Underwriters**  
**providing this insurance.**

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