

CYBER RISK INSURANCE ENDORSEMENT

NAMED INSURED:

This Endorsement, effective 12:01 A.M. TBD

forms a part of Policy No.

Issued by:

Endorsement No.:

(The attaching clause needs to be completed only when this Endorsement is issued subsequent to the preparation of the **policy**.)

This **policy** is amended as follows:

This Endorsement adds cyber risk insurance coverage to the **policy**. The following changes to the terms, conditions, and exclusions apply only to cyber risk insurance coverage and do not affect other coverages under the **policy**. All other terms, conditions and exclusions of the **policy** remain unchanged and apply in full force and effect.

1. The Declarations of this **policy** (Form LCP101) is amended by adding the following:

To Item 3: Cyber Retroactive Date applicable to **claims** for **cyber injury** or **data breach expenses**:

To Item 4: Cyber Limit of Liability applicable to **claims** for **cyber injury** or **data breach expenses**

\$25,000	Each Claim
\$25,000	Aggregate

To Item 5: Cyber Deductible applicable to **claims** for **cyber injury** or **data breach expenses**

\$2,500	Each Claim
N/A	Aggregate

2. Solely with respect to the coverage provided in this Endorsement, **SECTION 1. DEFINITIONS** of this **policy** is amended as follows:

- a) The definition of **claim** is deleted and replaced by the following:

Claim means:

- (i) a demand or suit for **damages** received by the **Insured**, including any arbitration proceedings to which the **Insured** is required to submit or to which the **Insured** has submitted with the **Company's** consent;
- (ii) a criminal, disciplinary, administrative or regulatory proceeding commenced by the filing of a complaint or similar pleading, or in the case of a criminal proceeding the return of an indictment, information or similar document or discovery; and
- (iii) discovery by the **Insured** of a **data breach**.

- b) The definition of **claim expense(s)** is deleted and replaced by the following:

Claim expense(s) means all expenses incurred by or with the written consent of the **Company** in the investigation, adjustment, defense, or appeal of a **claim**, including but not limited to fees charged by a lawyer, mediator, or arbitrator; costs taxed against an **Insured** for a **claim** covered by this **policy**; interest on that part of any covered judgment that does not exceed the applicable limit of liability; and commercially reasonable premiums on appeal bonds, the principal amount of which shall not exceed the applicable limit of liability (but the **Company** shall have no obligation to apply for, guarantee, or furnish such bonds). **Claim**

expenses do not include salaries and benefits of employees or officials of the **Company**, or supervisory counsel retained by the **Company**.

- c) The definition of **damages** is deleted and replaced by the following:

Damages means any monetary judgments, awards, fines, penalties, or settlements, including:

- (i) fines, sanctions, penalties, punitive damages, exemplary damages, or any award resulting from the multiplication of compensatory damages where insurable by law, provided that for the purposes of this provision, the law of the applicable jurisdiction most favorable to insurability of such damages shall be applied;
- (ii) sums of money the **Insured** is legally obligated to pay as an award or fund to redress affected consumers or clients due to an adverse judgment or settlement involving a regulatory or disciplinary proceeding where insurable by law, provided that for the purposes of this provision, the law of the applicable jurisdiction most favorable to insurability of such damages shall be applied; and
- (iii) fines or penalties that are owed under the terms of a merchant services agreement, but only where such fines or penalties result from **cyber injury** causing noncompliance with Payment Card Industry (PCI) Data Security Standards or similar standards.

Damages does not mean and shall not include:

- (i) the return or restitution of legal fees, costs, and expenses charged by the **Insured**;
- (ii) any client funds allegedly misappropriated, whether by an **Insured** or any other person, and whether intentionally or not, or interest thereon; or
- (iii) the **Insured's** future royalties or profits, restitution, disgorgement of profits by the **Insured**, or the costs of complying with orders granting injunctive relief.

- d) The following defined terms are added to this Endorsement:

Computer system(s) means any electronic, wireless, mobile, web, or similar systems (including all hardware and software) used to process data or information in an analog, digital, electronic, or wireless format, including but not limited to computer programs, electronic data processing media, electronic data, electronic data communications equipment, operating systems, computer network and networking equipment, firmware, servers, websites, intranet, extranet, and all input, output, processing, storage, and on-line or off-line media libraries, music, graphic, entertainment, and other content (to the extent that they hold electronic data) and electronic backup equipment.

Confidential information means proprietary or private information transmitted, disseminated, or stored in any manner or medium, including but not limited to:

- (i) information subject to attorney-client privilege or attorney work-product doctrine, client information, evidence, background research, legal strategies, expert materials, legal filings, contracts, agreements, and settlement documents;
- (ii) business data, commercial financial data, FEIN numbers, tax data, employment data, account numbers, account histories, passwords, security codes, competitive data, marketing data, strategies and planning data, research and development data, product data, vendor data, contractor data, and customer data;
- (iii) trade secrets, patent applications, proprietary data, designs, forecasts, formulas, methods, practices, processes, records, reports, and other non-public information; and
- (iv) data subject to a non-disclosure agreement or contractual provision that stipulates the confidentiality of data.

Cyber injury means any act, error, or omission resulting in any of the following:

- (i) a **data breach**;

- (ii) failure to notify or warn any person or organization of an actual or possible **data breach**;
- (iii) wrongful collection of **personally identifiable non-public information** or **confidential information**;
- (iv) failure to comply with, or a breach of, the **Insured's** written privacy policy;
- (v) violation of any regulation or law relating to (1) the collection, storage, security, use, or disposal of private information; (2) identity theft protection, remediation, or prevention; or (3) notification of actual or possible privacy breaches;
- (vi) breach of any rights of confidentiality, including a breach of any provisions of a non-disclosure agreement or breach of a contractual warranty relating to the confidentiality of data, as a result of an incident described in paragraphs (i) through (v) above;
- (vii) breach of a merchant credit card services agreement due to the **Insured's** noncompliance with published PCI Data Security Standards and caused by a **data breach**;
- (viii) the unauthorized use, alteration, corruption, destruction, deletion, damage, loss, or spoilage of data;
- (ix) the unplanned or unscheduled inability of others, who are authorized by the **Insured** to do so, to access the **Insured's computer system**;
- (x) failure of the **Insured's computer system** security to prevent transmission of a computer virus to others; or a hacker attack, denial of service attack or other computer attack against others;
- (xi) false attribution of authorship, passing off, plagiarism, piracy, or misappropriation of property rights, ideas or information involving the **Insured's** publishing or advertising; and
- (xii) infringement of copyright, mask works, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name, or trade name involving the **Insured's** publishing or advertising.

Data breach(es) means theft, mysterious disappearance, unauthorized access, unauthorized use, loss, or accidental or unauthorized disclosure of **personally identifiable non-public information** or **confidential information** transmitted, disseminated, or stored in any manner, format, or medium that is in the care, custody, or control of the **Insured** or a third party that is holding, hosting, storing, maintaining, processing, disposing of, or transmitting such information on behalf of the **Insured**. A **data breach** that is continuing in nature shall be deemed to have occurred only on the date on which that **data breach** or series of related **data breaches** began and not on any subsequent date. Related **data breaches** shall be deemed to have occurred on the date that the earliest of such **data breaches** began.

Data breach expenses means any of the following reasonable and necessary expenses the **Insured** is either legally obligated to pay, or not legally obligated to pay, but elects to incur to mitigate damage to the **Insured's** reputation or mitigate or avoid a **claim** following a **data breach**:

- (i) cost to conduct forensics to identify the source and scope of the **data breach**;
- (ii) cost to hire legal counsel to advise on the applicability and actions necessary to comply with the **Insured's** ethical, professional, and regulatory requirements as well as identity theft, privacy, and privacy breach notification laws following a **data breach**;
- (iii) cost to hire a public relations consultant to advise on, design, implement, and execute a public relations response to a **data breach**;
- (iv) cost to notify individuals or organizations of an actual or suspected **data breach**;
- (v) cost to establish a credit monitoring service, identity theft assistance, identity theft remediation, fraud resolution, and help line for a period of up to 12 months from the date of enrollment in such services for individuals who are impacted by a **data breach**;
- (vi) cost to procure identity theft insurance for individuals who are impacted by a **data breach**; and
- (vii) cost to establish a crisis communication call center.

Insured's computer system means a **computer system** that is:

- (i) operated by and owned, rented, or leased by the **Named Insured**; or
- (ii) operated by third parties and used for holding, hosting, storing, maintaining, managing, transmitting, or processing on the **Named Insured's** behalf.

Personally identifiable non-public information means:

- (i) information transmitted, disseminated, or stored in any manner or medium that allows an individual to be uniquely identified, including but not limited to an individual's name, social security number, medical or healthcare data, other protected health information, driver's license number, state identification number, credit card number, debit card number, other financial account numbers, address, telephone number, IP address, email address, account number, account histories, passwords, and security codes; and
 - (ii) other nonpublic personal information as defined in applicable local, state, federal, or international law relating to:
 - a) the collection, control, security, use, or disposal of private information;
 - b) identity theft protection; and
 - c) notification of actual or possible privacy breaches.
- e) Terms appearing in **boldface print** that are not defined in this Endorsement have the meaning given in Section 1 of the **policy**.

3. **WHAT BENEFITS THIS ENDORSEMENT PROVIDES**

- a) The **Company** will pay on behalf of the **Insured**, subject to the Cyber Limit of Liability shown in Item 4 above and in excess of the Cyber Deductible shown in Item 5 above, all sums that the **Insured** shall become legally obligated to pay as **damages** and **claims expense** because of any **claim** or **claims** involving **cyber injury**, first made against the **Insured** and first reported to the **Company** during the **policy period**, involving any act, error or omission by the **Insured** or by any person or entity for whose acts, errors, or omissions the **Insured** is legally responsible, provided that the act, error, or omission first occurred on or after the Cyber Retroactive Date shown in Item 3 above, and that no **Insured** knew or should have known of facts that reasonably could have been expected to result in a **claim** prior to the effective date of this Endorsement.
- b) The **Company** will pay up to the Cyber Limit of Liability shown in Item 4 above, and in excess of the Cyber Deductible shown in Item 5 above, reasonable and necessary **data breach expenses** incurred by the **Insured** as a result of any **claim** or **claims** first discovered by the **Insured** and first reported to the **Company** during the **policy period**.
- c) An act, error, or omission that is continuing in nature shall be deemed to have occurred only on the date on which that act, error, or omission or series of related acts, errors, or omissions began and not on any subsequent date. Related acts, errors, or omissions shall be deemed to have occurred on the date that the earliest of such acts, errors, or omissions began.

4. Solely with respect to the coverage provided in this Endorsement, **SECTION 4. EXCLUSIONS** of this **policy** is amended as follows:

- a) Exclusions h), l), m) and o) are deleted from **Section 4.1 WHAT THIS POLICY DOES NOT INSURE**.
- b) **Section 4.1. WHAT THIS POLICY DOES NOT INSURE** is amended to include:
 - u) any **claim** for bodily injury, physical injury, sickness, disease, mental or emotional distress, or death of any person, or physical injury to or destruction of any tangible property or loss of use resulting therefrom; provided that this exclusion shall not apply to emotional distress or mental anguish involving any actual or alleged **cyber injury**;
 - v) any **claim** made by any **Insured** against another **Insured**; provided that this exclusion shall not apply to any **claim** brought by an **Insured** against another **Insured** due to an actual or alleged **data breach**;
 - w) any **claim** involving the liability of another person or entity that any **Insured** assumes through a written or oral agreement, provided that this exclusion shall not apply to: (1) any liability that would be

imposed on the **Insured** by law in the absence of the written or oral agreement; or (2) a breach of the **Insured's** privacy policy;

- x) any **claim** involving antitrust, restraint of trade, unfair competition, false, deceptive, or unfair business practices, violation of consumer protection laws, or deliberately false or deceptive advertising; provided that this exclusion shall not apply to any **claim** due to an actual or alleged **data breach**;
- y) any **claim** involving war, invasion, acts of foreign enemies, hostilities, or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, or civil commotion assuming the proportions of or amounting to an uprising, military action, or usurped power;
- z) any **claim** involving ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel, the radioactive, toxic, explosive, or other hazardous or contaminating properties of any nuclear installation, reactor, or other nuclear assembly or nuclear component thereof, or any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- aa) any **claim** involving infringement or misappropriation of any patent or trade secret; provided that this exclusion shall not apply to any **claim** alleging infringement or misappropriation of a trade secret due to an actual or alleged **data breach**;
- bb) any **claim** involving an action brought by or on behalf of ASCAP, SESAC, BMI, or other licensing organizations in such entity's regulatory, quasi-regulatory, or official capacity, function, or duty; provided that this exclusion shall not apply to any **claim** due to an actual or alleged **data breach**; and
- cc) any **claim** involving satellite failures; electrical or mechanical failures and/or interruption, including but not limited to electrical disturbance, spike, brownout, or blackout; and outages to gas, water, telephone, cable, telecommunication, or other infrastructure, unless such infrastructure is under the **Insured's** operational control.

5. Solely with respect to the coverage provided in this Endorsement, the following provisions of **SECTION 5. LIMIT OF LIABILITY** of this **policy** do not apply: **SECTIONS 5.5. MEDIATION, 5.6. ATTORNEY DISCIPLINE DEFENSE, 5.7. INSURED'S REIMBURSEMENT ALLOWANCE, 5.8. EMPLOYMENT PRACTICES DEFENSE, and 5.9. SUBPOENA ASSISTANCE.**

6. Solely with respect to the coverage provided in this Endorsement, **SECTION 6. EXTENDED REPORTING PERIOD OPTION** of this **policy** does not apply.

7. Solely with respect to the coverage provided in this Endorsement, **SECTION 7. CLAIMS** of this **policy** is amended as follows:

- a) **SECTION 7.2. ASSISTANCE AND COOPERATION OF THE INSURED** of this **policy** is deleted and replaced by:

All **Insureds** must cooperate with the **Company** for purposes of investigation, mitigation, and defense. An **Insured's** duty to cooperate includes but is not limited to:

- (i) preparing for and attending meetings, hearings, depositions, and trials and providing documents, testimony, and other evidence;
- (ii) making employees available to prevent and mitigate **claims** or **data breaches** or circumstances that might lead to **claims** or **data breaches**; and
- (iii) taking all reasonable precautions to prevent and mitigate **claims** and **data breaches** at all times.

An **Insured** shall not make any payment, admit any liability, waive any rights, settle any **claims**, assume any obligations, or incur any **data breach expense** or expense relating to **claims** reported under this **policy**

without the prior written consent of the **Company**. Notwithstanding the foregoing, compliance with a data breach notice law shall not be considered as an admission of liability for the purposes of this clause.

SPECIMEN

All other terms and conditions of this **policy** remain unchanged.

Issue Date: