



Policy certificate

Insurance effected through the Coverholder:

CFC Underwriting Limited
85 Gracechurch Street
London EC3V 0AA
United Kingdom

PLEASE NOTE – This notice contains important information. PLEASE READ CAREFULLY.

This Certificate is issued by the Coverholder in accordance with the authorization granted to the Coverholder under the Binding Authority Agreement with the Unique Market Reference stated within this Policy. This Policy comprises a Certificate, the Declarations page, Wording and all other provisions and conditions attached and any endorsements issued.

The liability of an insurer under this contract is several and not joint with other insurers party to this contract. An insurer is liable only for the proportion of liability it has underwritten. An insurer is not jointly liable for the proportion of liability underwritten by any other insurer. Nor is an insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown in this Policy.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

In Witness whereof this Certificate has been signed by:

A handwritten signature in black ink, appearing to read 'ARH', followed by a wavy line.

Authorized Official

Please examine this document carefully. If it does not meet your needs, please contact your broker immediately. In all communications the policy number appearing overleaf should be quoted.



HOW TO COMPLAIN - TEXAS

Have a complaint or need help?

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company or HMO. If you don't, you may lose your right to appeal.

Underwritten by certain underwriters at Lloyd's and other insurers

To get information or file a complaint with your insurance company or HMO:

Call: CFC Underwriting Ltd at +44 (0) 207 220 8500
Email: enquiries@cfcunderwriting.com
Mail: Chief Executive Officer
CFC Underwriting Limited
85 Gracechurch Street
London EC3V 0AA
United Kingdom

The Texas Department of Insurance

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439
File a complaint: www.tdi.texas.gov
Email: ConsumerProtection@tdi.texas.gov
Mail: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091



DECLARATIONS

POLICY NUMBER:	DOK0032971011
UNIQUE MARKET REFERENCES:	B087521C9N5051
THE INSURED:	BioCorridor Property Owners Assoc
ADDRESS:	4250 South Traditions Drive Bryan, TX 77807 US
THE UNDERWRITERS:	Underwritten by certain underwriters at Lloyd's and other insurers
THE INCEPTION DATE:	00:01 Local Standard Time on 13 Aug 2021
THE EXPIRY DATE:	00:01 Local Standard Time on 13 Aug 2022
TOTAL PAYABLE:	USD6,550.00
Broken down as follows:	
Premium:	USD6,000.00
Policy Administration Fee:	USD550.00
CHOICE OF LAW:	Texas
SERVICE OF SUIT:	Mendes & Mount LLP 750 7th Avenue New York, NY 10019
LEGAL ACTION:	Worldwide
TERRITORIAL SCOPE:	Worldwide
US CLASSIFICATION:	Surplus Lines
PRIOR & PENDING LITIGATION DATES:	
Directors & Officers Liability:	13 Aug 2021
OPTIONAL EXTENDED REPORTING PERIOD:	12 months for 100% of applicable annualized premium
CLAIMS MANAGER:	CFC Underwriting Limited Please report all new claims to: newclaims@cfcunderwriting.com
WORDING:	Management Liability (US) v2.2
ENDORSEMENTS:	Complaints Notice (Texas) U.S. Terrorism Risk Insurance Act of 2002 As Amended Not Purchased Clause Texas Surplus Lines Clause Community association exclusions clause

Premium: \$6,000.00
Policy Fee: \$550.00
Surplus Lines Tax: \$317.68
Stamping Office Fee: \$4.91
Total: \$6,872.59

DECLARATIONS

INSURING CLAUSE 1: DIRECTORS AND OFFICERS LIABILITY

SECTIONS A - E AND G - I COMBINED

Aggregate limit of liability: USD1,000,000 in the aggregate

SECTION A: INDIVIDUAL COVER

Aggregate limit of liability: USD1,000,000 in the aggregate, including **costs and expenses**

Deductible: USD0 each and every claim, including **costs and expenses**

SECTION B: COMPANY REIMBURSEMENT COVER

Aggregate limit of liability: USD1,000,000 in the aggregate, including **costs and expenses**

Deductible: USD25,000 each and every claim, including **costs and expenses**

SECTION C: ENTITY COVER

Aggregate limit of liability: USD1,000,000 in the aggregate, including **costs and expenses**

Deductible: USD25,000 each and every claim, including **costs and expenses**

SECTION D: REGULATORY INVESTIGATION COSTS

Aggregate limit of liability: USD1,000,000 in the aggregate, including **costs and expenses**

Deductible: USD0 each and every claim, including **costs and expenses**

SECTION E: OUTSIDE DIRECTORSHIP LIABILITY

Aggregate limit of liability: USD1,000,000 in the aggregate, including **costs and expenses**

Deductible: USD0 each and every claim, including **costs and expenses**

SECTION F: ADDITIONAL LIMIT FOR INSURED PERSONS

Aggregate limit of liability: USD100,000 in the aggregate, including **costs and expenses**

Deductible: USD0 each and every claim, including **costs and expenses**

SECTION G: SHAREHOLDER DERIVATIVE INVESTIGATIONS

Aggregate limit of liability: USD100,000 in the aggregate, including **costs and expenses**

Deductible: USD25,000 each and every claim, including **costs and expenses**



SECTION H: EXTRADITION, ASSETS AND APPEAL COSTS

Aggregate limit of liability:	USD1,000,000	in the aggregate, including costs and expenses
Deductible:	USD0	each and every claim, including costs and expenses

SECTION I: FAMILY COSTS

Limit of liability:	USD25,000	each and every claim
Deductible:	USD0	each and every claim

INSURING CLAUSE 2: EMPLOYMENT PRACTICES LIABILITY

NO COVER GIVEN

INSURING CLAUSE 3: FIDUCIARY LIABILITY

NO COVER GIVEN

INSURING CLAUSE 4: CYBER AND PRIVACY

NO COVER GIVEN

INSURING CLAUSE 5: CRIME

NO COVER GIVEN

INSURING CLAUSE 6: KIDNAP AND RANSOM

NO COVER GIVEN

INSURING CLAUSE 7: REPUTATION AND BRAND PROTECTION

Aggregate limit of liability:	USD100,000	in the aggregate
Deductible:	USD0	each and every claim

INSURING CLAUSE 8: COURT ATTENDANCE COSTS

Aggregate limit of liability:	USD100,000	in the aggregate
Deductible:	USD0	each and every claim



OUR REGULATORY STATUS

CFC Underwriting Limited is authorised and regulated by the United Kingdom Financial Conduct Authority (FCA). CFC Underwriting Limited's Firm Reference Number at the FCA is 312848. These details may be checked by visiting the Financial Conduct Authority website at <https://register.fca.org.uk/>. Alternatively, the Financial Conduct Authority may be contacted on +44 (0)20 7066 1000.

We are covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we cannot meet our obligations to you in respect of insurance policies that we have underwritten on behalf of insurers. This depends on the type of business and the circumstances of the claim. In respect of general insurance business the FSCS will cover 90% of the claim, without any upper limit and for compulsory classes of insurance, the FSCS will cover 100% of the claim, without any upper limit. Further information about compensation scheme arrangements is available from the FSCS.

DATA PROTECTION NOTICE

We collect and use relevant information about you to provide you with your insurance cover or the insurance cover that benefits you and to meet our legal obligations. Where you provide us or your agent or broker with details about other people, you must provide this notice to them.

The information we collect and use includes details such as your name, address and contact details and any other information that we collect about you in connection with the insurance cover from which you benefit. This information may include more sensitive details such as information about your health and any criminal convictions you may have.

In certain circumstances, we may need your consent to process certain categories of information about you (including sensitive details such as information about your health and any criminal convictions you may have). Where we need your consent, we will ask you for it separately. You do not have to give your consent and you may withdraw your consent at any time. However, if you do not give your consent, or you withdraw your consent, this may affect our ability to provide the insurance cover from which you benefit and may prevent us from providing cover for you or handling your claims.

The way insurance works means that your information may be shared with, and used by, a number of third parties in the insurance sector for example, insurers, agents or brokers, reinsurers, loss adjusters, sub-contractors, regulators, law enforcement agencies, fraud and crime prevention and detection agencies and compulsory insurance databases. We will only disclose your personal information in connection with the insurance cover that we provide and to the extent required or permitted by law.

We will process individual insured's details, as well as any other personal information you provide to us in respect of your insurance cover, in accordance with our privacy notice and applicable data protection laws.

To enable us to use individual insured's details in accordance with applicable data protection laws, we need you to provide those individuals with certain information about how we will use their details in connection with your insurance cover.

You agree to provide to each individual insured this notice, on or before the date that the individual becomes an individual insured under your insurance cover or, if earlier, the date that you first provide information about the individual to us.



We are committed to using only the personal information we need to provide you with your insurance cover. To help us achieve this, you should only provide to us information about individual insureds that we ask for from time to time.

You have rights in relation to the information we hold about you, including the right to access your information. If you wish to exercise your rights, discuss how we use your information or request a copy of our full privacy notice, please contact us directly at enquiries@cfcunderwriting.com.

For more information about how we use your personal information please see our full privacy notice, which is available online on our website at:

<http://www.cfcunderwriting.com/privacy>



U.S. TERRORISM RISK INSURANCE ACT OF 2002 AS AMENDED NOT PURCHASED CLAUSE

ATTACHING TO POLICY NUMBER: DOK0032971011
THE INSURED: BioCorridor Property Owners Assoc
WITH EFFECT FROM: 13 Aug 2021

This **CLAUSE** is issued in accordance with the terms and conditions of the "U.S. Terrorism Risk Insurance Act of 2002" as amended, as summarized in the disclosure notice.

It is hereby noted that **we** have made available coverage for "insured losses" directly resulting from an "act of terrorism" as defined in the "U.S. Terrorism Risk Insurance Act of 2002", as amended ("TRIA") and **you** have declined or not confirmed to purchase this coverage.

This Insurance therefore affords no coverage for losses directly resulting from any "act of terrorism" as defined in TRIA except to the extent, if any, otherwise provided by this Policy.

All other terms, **CONDITIONS** and **EXCLUSIONS** of this Insurance including applicable limits and deductibles remain unchanged and apply in full force and effect to the coverage provided by this Insurance.

LMA5390 (Amended)
09 January 2020

**SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE
POLICY**



TEXAS SURPLUS LINES CLAUSE

ATTACHING TO POLICY NUMBER: DOK0032971011
THE INSURED: BioCorridor Property Owners Assoc
WITH EFFECT FROM: 13 Aug 2021

This insurance contract is with an insurer not licensed to transact insurance in this state and is issued and delivered as surplus line coverage under the Texas insurance statutes. The Texas Department of Insurance does not audit the finances or review the solvency of the surplus lines insurer providing this coverage, and the insurer is not a member of the property and casualty insurance guaranty association created under Chapter 462, Insurance Code. Chapter 225, Insurance Code, requires payment of a 4.85 percent tax on gross premium.

SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY



COMMUNITY ASSOCIATION EXCLUSIONS CLAUSE

ATTACHING TO POLICY NUMBER: DOK0032971011
THE INSURED: BioCorridor Property Owners Assoc
WITH EFFECT FROM: 13 Aug 2021

It is understood and agreed that the following amendments are made to this Policy:

1. The following **EXCLUSIONS** are added to the "**EXCLUSIONS RELATING TO ALL INSURING CLAUSES**":

Berth, dock, jetty, marina, slip or wharf disputes

arising directly or indirectly out of any dispute relating to any berth, dock, jetty, marina, slip or wharf.

Building and development projects

arising directly or indirectly out of any:

- a. **wrongful act** committed or alleged to have been committed by an **insured person** or the **company** whilst acting in the capacity as a builder or a developer;
- b. **wrongful act** committed or alleged to have been committed by a builder or developer working on **your** behalf; or
- c. dispute between **your** builder or developer and an **insured person** or the **company**, including disputes or unpaid invoices relating to the supervision or management of the building or development project.

Construction defects

arising directly or indirectly out of any actual or alleged defect in any building, including as a result of the building being built:

- a. using defective architectural plans or designs; or
- b. on unsuitable land which results in the building being damaged due to earth movement, subsidence or other similar defect.

Failure to maintain insurance

arising directly from the failure of the **insured persons** to effect and maintain insurance for the **company**.

Libel or slander

arising out of any actual or alleged libel or slander.

Lien disputes, foreclosures and special assessments



arising directly or indirectly out of any actual or threatened lien, super lien, foreclosure or special assessment.

2. The following **EXCLUSION** is added to "**EXCLUSIONS RELATING TO DIRECTORS AND OFFICERS LIABILITY**":

Third party discrimination

arising directly or indirectly out of any actual or alleged discrimination against any **third party**.

SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY



Management liability

Policy document

United States

PREAMBLE

IMPORTANT: COVERAGE TRIGGERS. It is important for **you** to review this Policy in its entirety carefully, including **CONDITION 1**, as the trigger for coverage, including when **you** must notify **us** of a claim, under each Section and Insuring Clause may differ.

Where **cyber events** or **technology errors** are not specifically excluded from a Section or Insuring Clause of this Policy, then a claim arising out of a **cyber event** or **technology error** which is otherwise covered under that Section or Insuring Clause will be payable, subject to all other terms, conditions and exclusions of this Policy.

This Policy is a contract of insurance between **you** and **us**. **Your** Policy contains all the details of the cover that **we** provide. This Policy consists of and must be read together with the Declarations page and any Endorsements. This Policy is not complete unless it is signed and a Declarations page is attached.

The sections of this Policy are identified by the blue lines across the page with white upper case print, these are for information purposes only and do not form part of the cover given by this Policy. Terms in bold upper case print are references to specific Insuring Clauses, Sections or Conditions. Other terms in bold lower case print are defined terms and have a special meaning as set forth in the Definitions section and elsewhere. Words stated in the singular will include the plural and vice versa.

In consideration of the **premium** and in reliance upon the information that **you** have provided to **us** prior to the commencement of this insurance, **we** agree to provide the cover as set out below:

INSURING CLAUSES

INSURING CLAUSE 1: DIRECTORS AND OFFICERS LIABILITY

SECTION A: INDIVIDUAL COVER

We agree to pay on behalf of an **insured person** all **loss** they become legally obliged to pay as a result of any **claim** first made against them during the **period of the policy** or any applicable optional extended reporting period arising out of any **wrongful act** committed or alleged to have been committed by an **insured person** acting in their capacity as an **insured person** or any matter claimed against them solely by reason of them acting in this capacity.

We will also pay **costs and expenses** on behalf of the **insured person**.

However, cover under this Section is only provided to the extent that the **company** does not indemnify the **insured person** for the **loss** and **costs and expenses**.

SECTION B: COMPANY REIMBURSEMENT COVER

We agree to pay on behalf of the **company** all **loss** it becomes legally obliged to pay as a result of any **claim** first made against an **insured person** during the **period of the policy** or any applicable optional extended reporting period arising out of any **wrongful act** committed or alleged to have been committed by an **insured person** acting in their capacity as an **insured person** or any matter claimed against them solely by reason of them acting in this capacity.

We will also pay **costs and expenses** on behalf of the **company**.

However, cover under this Section is only provided to the extent that the **company** indemnifies the **insured person** for the **loss** and **costs and expenses**.

SECTION C: ENTITY COVER

We agree to pay on behalf of the **company** all **loss** it becomes legally obliged to pay as a result of any **claim** first made against it during the **period of the policy** or any applicable optional extended reporting period arising out of any **wrongful act** committed or alleged to have been committed by or on behalf of the **company** in the normal course of the **company's** business activities.

We will also pay **costs and expenses** on behalf of the **company**.

SECTION D: REGULATORY INVESTIGATION COSTS

We agree to pay on behalf of an **insured person** all **costs and expenses** they incur as a result of any **regulatory investigation**, other than any **regulatory investigation** into the actual or alleged hiring or harboring of illegal aliens, first initiated against them in writing during the **period of the policy** or any applicable optional extended reporting period.

However, **we** will not pay any **costs and expenses** incurred in respect of any **regulatory investigation** affecting the wider environment or the industry in which **you** conduct **your** normal business activities, as opposed to any **regulatory investigation** solely affecting the **company**.

SECTION E: OUTSIDE DIRECTORSHIP LIABILITY

We agree to pay on behalf of an **insured person** acting in any **outside directorship position** all **loss** they become legally obliged to pay as a result of any **claim** first made against them during the **period of the policy** or any applicable optional extended reporting period arising out of any **wrongful act** committed or alleged to have been committed by the **insured person** acting in any **outside directorship position** or any matter claimed against them solely by reason of them acting in this capacity, provided this Policy:

- a. will not cover the **outside entity** or any of its directors, officers, trustees, council or committee members;
- b. will be in excess of any other insurance policy protecting the **insured person** while acting in the **outside directorship position**; and

- c. will be in excess of any indemnification which the **outside entity** has agreed or is legally obliged to provide the **insured person** with while acting in the **outside directorship position**.

We will also pay **costs and expenses** on behalf of the **insured person**.

SECTION F: ADDITIONAL LIMIT FOR INSURED PERSONS

We agree, upon exhaustion of the **limit of liability** of **INSURING CLAUSE 1 (SECTION A only)**, to pay on behalf of an **insured person** all **loss** they become legally obliged to pay as a result of any **claim** first made against them during the **period of the policy** or any applicable optional extended reporting period arising out of any **wrongful act** committed or alleged to have been committed by the **insured person** acting in their capacity as an **insured person** or any matter claimed against them solely by reason of them acting in this capacity, provided that:

- a. the **company** is unable to indemnify the **insured person** for the **loss**; and
- b. all other valid and collectible insurance available to the **insured persons** has been completely exhausted.

We will also pay **costs and expenses** on behalf of the **insured person**.

SECTION G: SHAREHOLDER DERIVATIVE INVESTIGATIONS

We agree to pay on behalf of an **insured person** all **costs and expenses** incurred as a result of a **shareholder derivative investigation** first initiated against them in writing during the **period of the policy** or any applicable optional extended reporting period.

SECTION H: EXTRADITION, ASSETS AND APPEAL COSTS

We agree to pay on behalf of an **insured person**, where permitted by law, any **costs and expenses** incurred by an **insured person** as a direct result of any legal proceeding commenced during the **period of the policy** or any applicable optional extended reporting period relating directly to:

- a. the extradition of the **insured person**;
- b. the deportation of the **insured person** following revocation of the otherwise proper, current and valid immigration status for a reason other than the **insured person's** criminal conviction;
- c. the confiscation, assumption of ownership and control or freezing of any asset of the **insured person**;
- d. a charge over an asset of the **insured person**;
- e. a prohibition imposed on the **insured person** from holding the office of or performing the function of an **insured person**; or
- f. a restriction of the **insured person's** liberty to a specified domestic residence or confinement in custodial premises.

We will also pay **costs and expenses** to appeal the decision of a. to f. above, including any judicial review application.

SECTION I: FAMILY COSTS

We agree to reimburse any reasonable travel costs and other expenses incurred by an **insured person** for their family members to attend court or any arbitration, mediation or other alternative dispute resolution proceeding where an **insured person** is appearing as a witness in connection with a **claim** covered under **INSURING CLAUSE 1**.

INSURING CLAUSE 2: EMPLOYMENT PRACTICES LIABILITY

SECTION A: EMPLOYEE COVER

We agree to pay on **your** behalf all **loss you** become legally obliged to pay as a result of any **claim** first made against **you** during the **period of the policy** or any applicable optional extended reporting period by an **employee** or a prospective **employee** arising out of any **wrongful act** committed or alleged to have been committed by **you**.

We will also pay **costs and expenses** on **your** behalf.

SECTION B: THIRD PARTY COVER

We agree to pay on **your** behalf all **loss you** become legally obliged to pay as a result of any **claim** first made against **you** during the **period of the policy** or any applicable optional extended reporting period by any person, other than an **insured person, employee** or prospective **employee**, arising out of any discrimination or harassment, including sexual harassment, committed or alleged to have been committed by **you**.

We will also pay **costs and expenses** on **your** behalf.

SECTION C: WAGE AND HOUR COVER

We agree to pay on **your** behalf any **costs and expenses** incurred as a result of any **claim** first made against **you** during the **period of the policy** or any applicable optional extended reporting period by an **employee** arising out of any breach of any **wage and hour duty** committed or alleged to have been committed by **you**.

However, **we** will not pay any **costs and expenses** incurred in respect of any **claim** made against **you** arising out of any actual or alleged breach of the Equal Pay Act of 1963 or any subsequent amendments to this Act, committed or alleged to have been committed by **you**.

SECTION D: IMMIGRATION INVESTIGATION COSTS

We agree to pay on **your** behalf any **costs and expenses** incurred as a result of any **regulatory investigation** into the actual or alleged hiring or harboring of illegal aliens first initiated against **you** in writing during the **period of the policy** or any applicable optional extended reporting period.

However, **we** will not pay any **costs and expenses** incurred in respect of any **regulatory investigation** affecting the wider business environment or the industry in which **you** conduct **your** normal business activities, as opposed to any **regulatory investigation** solely affecting the **company**.

SECTION E: WARN ACT LIABILITY

We agree to pay on **your** behalf all **loss you** become legally obliged to pay as a result of any **claim** first made against **you** during the **period of the policy** or any applicable optional extended reporting period by any **employee**, arising out of **your** failure to provide them with the applicable advance notice of mass layoffs or plant closings as detailed in the Worker Adjustment and Retraining Notification Act of 1988 (WARN) or any subsequent amendments to this Act.

We will also pay **costs and expenses** on **your** behalf.

INSURING CLAUSE 3: FIDUCIARY LIABILITY

SECTION A: BENEFIT PLAN LIABILITY

We agree to pay on **your** behalf all **loss you** become legally obliged to pay as a result of any **claim** first made against **you** during the **period of the policy** or any applicable optional extended reporting period arising out of any **wrongful act** committed or alleged to have been committed by **you**.

We will also pay **costs and expenses** on **your** behalf.

SECTION B: HIPAA CIVIL FINE OR PENALTY

We agree to pay on **your** behalf any **HIPAA civil fine or penalty** imposed as a direct result of any **regulatory investigation** first initiated against **you** during the **period of the policy** or any applicable optional extended reporting period arising out of any violation of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), or any subsequent amendments to this Act or any similar local, state, provincial, federal or foreign law.

INSURING CLAUSE 4: CYBER AND PRIVACY

SECTION A: INCIDENT RESPONSE COSTS

We agree to pay on **your** behalf any reasonable sums necessarily incurred by **you**, or on **your** behalf, as a direct result of a **cyber event** first discovered by **you** during the **period of the policy** to:

- a. gain access to **our 24/7 cyber incident response hotline**;
- b. engage with **our cyber incident response team** who will coordinate the initial response;
- c. obtain initial advice and consultancy from **our cyber incident response team**, including threat intelligence in relation to the **cyber event**; and
- d. obtain initial remote support and assistance from **our cyber incident response team** to respond to the **cyber event**.

SECTION B: NETWORK SECURITY AND PRIVACY LIABILITY

We agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including the establishment of any consumer redress fund and associated expenses) as a result of any **claim** arising out of a **cyber event** first discovered by **you** during the **period of the policy** that results in:

- a. the transmission of malware to a **third party's computer systems**;
- b. **your computer systems** being used to carry out a denial of service attack;
- c. **your** failure to prevent unauthorized access to information stored or applications hosted on **your computer systems** or a **third party's computer systems**; and
- d. identity theft, experienced by **your employees** or any **third party**.

We also agree to pay on **your** behalf any fines, penalties and card brand assessments including fraud recoveries, operational reimbursements, non-cooperation costs and case management fees which **you** become legally obliged to pay as a direct result of a **payment card breach** first discovered by **you** during the **period of the policy**.

We will also pay **costs and expenses** on **your** behalf.

SECTION C: LEGAL, FORENSIC AND BREACH MANAGEMENT COSTS

We agree to pay on **your** behalf any reasonable sums necessarily incurred by **you**, or on **your** behalf, as a direct result of a **cyber event** which is first discovered by **you** during the **period of the policy** to:

- a. obtain legal advice and draft **privacy breach** notices;
- b. notify any appropriate regulatory body, respond to and defend any **regulatory investigation** and pay any fines and penalties imposed on **you** as a direct result of the **regulatory investigation**;
- c. engage with an external IT security consultant to identify the source and scope of the **cyber event**, contain and remove any malware discovered on **your computer systems** and conduct a forensic investigation of **your computer systems** where reasonable and necessary or as required by law or a regulatory body (including a requirement for a PCI Forensic Investigator);
- d. engage with a crisis communications consultant to obtain specific advice in direct relation to the **cyber event**;
- e. print and post appropriate notices for any individual affected by the actual or suspected **cyber event** or to send e-mail notices or issue substitute notices; and
- f. provide credit monitoring services, identity monitoring services, identity restoration services or identity theft insurance as appropriate to affected individuals including setting up a call center to manage inbound and outbound calls in direct relation to the **cyber event**.

SECTION D: EXTORTION

We agree to reimburse **you** for any ransom paid by **you**, or on **your** behalf, in response to an extortion demand first discovered by **you** during the **period of the policy** as a direct result of any threat to:

- a. introduce malware, or the actual introduction of malware, including ransomware, into **your computer systems**;
- b. prevent access to **your computer systems** or data or any **third party** systems hosting **your** applications or data;
- c. reveal **your** confidential information or confidential information entrusted to **you**; or
- d. damage **your** brand or reputation by posting false or misleading comments about **you** on social media sites.

SECTION E: SYSTEM DAMAGE AND RECTIFICATION COSTS

We agree to reimburse **you** for the additional cost of employing:

- a. contract staff or overtime costs for **employees** to rebuild **your** data, including the cost of data re-entry or data re-creation;
- b. specialist consultants, including IT forensic consultants, to recover **your** data or applications; and
- c. specialist consultants or overtime costs for **employees** working within **your** IT department to reconstitute **your computer systems** to the position they were in immediately prior to the **cyber event**;

reasonably and necessarily incurred as a direct result of a **cyber event** first discovered by **you** during the **period of the policy**.

SECTION F: SYSTEM BUSINESS INTERRUPTION AND REPUTATIONAL HARM

We agree to reimburse **you** for **your actual loss sustained** and **additional expenditure** reasonably and necessarily incurred during the **indemnity period**:

- a. to source **your** products or services from alternative sources in order to meet contractual obligations to supply **your** customers;
- b. to employ contract staff or overtime costs for **employees** in order to continue providing **your** business activities;
- c. to employ specialist consultants, including IT forensic consultants to diagnose the source of the **system outage**; and
- d. for **employees** working overtime within **your** IT department to diagnose and fix the source of the **system outage**;

as a direct result of a **cyber event** first discovered by **you** during the **period of the policy**, provided that the **system outage** lasts longer than the **waiting period**.

We also agree to reimburse **you** for **your actual loss sustained** during the **reputational harm period** as a direct result of the loss of current or future customers caused by damage to **your** reputation as a result of a **cyber event** first discovered by **you** during the **period of the policy**.

SECTION G: LOSS ASSESSMENT COSTS

We agree to pay on **your** behalf any reasonable sums necessarily incurred to determine the amount of **your** financial loss following an interruption to **your** business activities covered under **INSURING CLAUSE 4 (SECTION F only)**. We will only pay these costs where they are incurred with an independent expert agreed by the **claims managers**.

INSURING CLAUSE 5: CRIME

SECTION A: COMPANY CRIME

We agree to reimburse the **company** for any direct financial loss first discovered by **you** during the **period of the policy** arising directly out of any:

- a. employee theft;
- b. premises theft;
- c. in transit theft;
- d. third party forgery;
- e. funds transfer fraud;
- f. computer fraud;
- g. credit card fraud;
- h. currency fraud;
- i. telephone crime; or
- j. client crime.

SECTION B: SOCIAL ENGINEERING FRAUD

We agree to reimburse the **company** for any direct financial loss first discovered by **you** during the **period of the policy** arising directly out of any **social engineering attack** committed by an individual who:

- a. claims to represent an entity or individual to whom the **company** provides goods or services under a written contractual agreement;
- b. claims to represent an entity, other than a financial institution, asset manager, broker, dealer or armored motor vehicle company, who provides goods or services to the **company** under a written contractual agreement; or
- c. claims to be an **employee** or **senior executive officer** who has been authorized by the **company** to instruct any other **employee** to transfer the **money** or property.

SECTION C: BENEFIT PLAN CRIME

We agree to reimburse a **benefit plan** for any direct financial loss first discovered by **you** during the **period of the policy** as a direct result of **theft** committed by:

- a. an **employee** acting alone or in collusion with others; or
- b. a **third party**.

SECTION D: CRIME EXPENSES COVER

We agree to reimburse the **company** for the following costs and expenses incurred as a direct result of any covered loss under **INSURING CLAUSE 5 (SECTIONS A or C only)** for which **you** have purchased cover:

- a. **costs and expenses** as a result of a **claim** made against the **company** during the **period of the policy**;
- b. costs of establishing the amount of the direct financial loss; or
- c. costs of repairing or replacing a vault or safe which has been damaged with a vault or safe of a similar quality.

INSURING CLAUSE 6: KIDNAP AND RANSOM

SECTION A: RANSOM REIMBURSEMENT

We agree to reimburse the **company** for any ransom paid as a direct result of a **kidnap event** or **extortion event**.

SECTION B: RANSOM IN TRANSIT

We agree to reimburse the **company** for any ransom that is intended to be paid as a direct result of a **kidnap event** or **extortion event** but which has been lost, damaged, destroyed, disappeared or been confiscated whilst the ransom is in the custody of a person authorized by **you** to convey the ransom to those responsible for the **kidnap event** or **extortion event**.

SECTION C: RESPONSE CONSULTANT COSTS

We agree to pay any reasonable sums necessarily incurred by the **company** to engage the **kidnap event response team** for the sole purpose of managing any **kidnap event**, **disappearance investigation**, **extortion event** or **emergency political repatriation**.

SECTION D: ADDITIONAL EXPENSES

We agree to reimburse the **company** for any reasonable sums necessarily incurred as a direct result of a **kidnap event** or **extortion event** for:

- a. the cost of hiring an independent security consultant to assess the credibility of any threat or an independent negotiator;
- b. an independent public relations consultant;
- c. **your** travel and accommodation costs, including repatriation of a **kidnap victim**;
- d. medical care, dental care, psychiatric treatment or psychiatric care for a **kidnap victim** up to a maximum period of 36 months following their release;
- e. cosmetic or plastic surgery required to correct any permanent disfigurement sustained by a **kidnap victim** up to a maximum period of 36 months following their release;
- f. any legal costs and expenses;

- g. the cost of offering a reward in order to identify the perpetrators of the threat or the reward paid to an informant who provides information not otherwise obtainable which directly assists in the negotiations for the safe release of a **kidnap victim** or which leads to the arrest and conviction of those responsible for the **kidnap event**;
- h. the personal financial loss incurred by an **insured person** solely as a result of the physical inability of the **kidnap victim** to attend to their personal financial affairs during a **kidnap event**;
- i. the additional or wasted employment costs during a **kidnap event** and up to 120 days following the release of the **kidnap victim**, up to a maximum of 150% of the salary of any of the following:
 - i. a **kidnap victim**;
 - ii. any relative who left their employment to assist in the negotiations for the release of a **kidnap victim**;
 - iii. the cost for a temporary replacement of a **kidnap victim**; and
 - iv. any **employee** seconded to assist in the negotiations during a **kidnap event**;
- j. the interest for a loan from a financial institution made to **you** for the purposes of paying a ransom, provided that the loan is repaid within 30 days of **you** receiving the ransom reimbursement from **us**;
- k. security guard services for the period of time recommended by the **kidnap event response team** solely for the purpose of protecting an **insured person** located in the country of the **kidnap event** or **extortion event**, regardless of whether the **kidnap event** or **extortion event** involved the **insured person** or their property;
- l. the release of a **wrongful detention** victim where those sums are necessary to avoid endangering the **wrongful detention** victim or any other **insured person**;
- m. the hire of any communication or recording equipment or any advertising costs incurred solely to obtain the release of a **kidnapped** or detained **insured person** or to locate an **insured person** who has disappeared;
- n. any independent forensic analyst costs;
- o. the reasonable rest and rehabilitation expenses, including meals and recreation, incurred by a **kidnap victim**, including their spouse and children for a maximum period of 36 months following their release;
- p. any occupational retraining costs for a **kidnap victim**, including but not limited to the victim's salary whilst they are retrained;
- q. the repatriation of the remains of and the burial or cremation of an **insured person**;
- r. child care expenses incurred by a **kidnap victim**, including their spouse, as a result of a **kidnap event**; and
- s. all other reasonable costs necessarily incurred by **you** with **our** prior written agreement as a direct result of a **kidnap event** or **extortion event**.

SECTION E: LEGAL LIABILITY

We agree to pay on **your** behalf all sums **you** become legally obliged to pay arising out of any **claim** made against the **company** or a **senior executive officer** by or on behalf of an **insured person** solely as a direct result of a **kidnap event** or **extortion event**, provided the **claim** is made within 12 months of the **kidnap event** or **extortion event**.

We will also pay the **costs and expenses** on behalf of the **company** or a **senior executive officer**.

SECTION F: PERSONAL ACCIDENT

We agree to pay the defined benefits stated in the Declarations page to an **insured person** or a bodyguard or driver working for or on behalf of the **company** or an **insured person** in the event of **bodily injury** occurring and notified to **us** during the **period of the policy** as a direct result of an actual or attempted **kidnap event**.

SECTION G: EMERGENCY EVACUATION EXPENSES

We agree to reimburse the **company** for any reasonable sums necessarily incurred as a direct result of the **emergency political repatriation** and **relocation** of an **insured person** including:

- a. travel, accommodation and other additional costs and expenses;
- b. the gross salary of each repatriated **insured person** for a period of the earlier of 60 days after the **emergency political repatriation** or until the date of **relocation**; and
- c. the replacement of personal effects irrecoverably lost by any repatriated **insured person**.

INSURING CLAUSE 7: REPUTATION AND BRAND PROTECTION

We agree to reimburse **you** for any reasonable sums necessarily incurred with **our** prior written agreement (which will not be unreasonably withheld) for the services of a public relations consultancy to avert or mitigate damage to **your** reputation or brand as a direct result of any media report that names **you** and publicizes an act or event that is the subject of a claim for which **you** are entitled to indemnity under this Policy.

INSURING CLAUSE 8: COURT ATTENDANCE COSTS

We agree to reimburse **you** for any reasonable sums necessarily incurred by **you** with **our** prior written agreement (which will not be unreasonably withheld) to attend court or any tribunal, arbitration, adjudication, mediation or other hearing in connection with any claim for which **you** are entitled to indemnity under this Policy.

HOW MUCH WE WILL PAY

The maximum amount payable by **us** in respect of each Section and each Insuring Clause will not exceed the **limit of liability**.

Where cover is provided under multiple Sections of one or more Insuring Clauses, only one **limit of liability** will apply to that claim and this will be the highest **limit of liability** of the Sections under which cover is provided.

Where more than one claim under this Policy arises from the same original cause or single source or event, including any **interrelated wrongful act**, all of those claims will be deemed to be one claim and only one **limit of liability** will be payable.

We may at any time pay to **you** in connection with any **claim** the amount of the **limit of liability** (after deduction of any amounts already paid). Upon that payment being made **we** will relinquish the conduct and control of the **claim** and be under no further liability in connection with that **claim** except for the payment of **costs and expenses** incurred prior to the date of such payment (unless the **limit of liability** is stated to be inclusive of **costs and expenses**).

If **costs and expenses** are stated in the Declarations page to be in addition to the **limit of liability**, or if the operation of local laws require **costs and expenses** to be paid in addition to the **limit of liability**, and if a damages payment in excess of the **limit of liability** has to be made to dispose of any **claim**, **our** liability for **costs and expenses** will be in the same proportion as the **limit of liability** bears to the total amount of the damages payment.

YOUR DEDUCTIBLE

We will only be liable for that part of each and every claim which exceeds the amount of the **deductible**. If any expenditure is incurred by **us** which falls within the amount of the **deductible**, then **you** will reimburse that amount to **us** upon **our** request.

Where more than one claim under this Policy arises from the same original cause or single source or event, including any **interrelated wrongful act**, all of those claims will be deemed to be one claim and only one **deductible** will apply.

Where cover is provided under multiple Sections or multiple Insuring Clauses only one **deductible** will apply to that claim and this will be the highest **deductible** of the Sections under which cover is provided.

In respect of **INSURING CLAUSE 1 (SECTION B only)**, where **we** agree to indemnify the **insured person** for the **loss** and **costs and expenses**, the **company** will reimburse the amount of the **deductible** to **us** upon **our** request.

DEFINITIONS

1. "Actual loss sustained" means

your income that, had the incident which gave rise to the claim not occurred, would have been generated directly from **your** business activities (less sales tax) during the **indemnity period**, less:

- a. actual income (less sales tax) generated directly from **your** business activities during the **indemnity period**; and
- b. any cost savings achieved as a direct result of the reduction in income.

2. "Additional expenditure" means

costs incurred by **you** as a direct result of the complete or partial failure of **your** business activities over and above **your** normal operating expenses where these costs are designed to minimize **your actual loss sustained** and maintain continuity of **your** business activities, subject to the costs incurred being less than the potential **actual loss sustained** during the **indemnity period** had the costs not been incurred.

3. "Administration" means

- a. counseling **employees**, beneficiaries or other participants of a **benefit plan**;
- b. interpreting a **benefit plan**;
- c. handling records in connection with a **benefit plan**; and
- d. enrolling any **employee** in, or terminating any **employee** from, a **benefit plan**.

4. "Amounts owed to employees" means

any:

- a. benefit due to an **employee** by the **company** under any contract or agreement, including grants stock, warrants, shares or stock options of the **company**, or any other compensation or incentive in the form of **company** securities;
- b. monetary amount due to an **employee** by the **company**, including salary, wages, commissions, severance payments or any other monetary amount pursuant to any notice period, but not including front or back pay;
- c. future benefit or monetary amount due to an **employee** by the **company**, including salary, wages, commissions, stock ownership agreement payments of a claimant who was, is or will be hired, promoted or reinstated to employment pursuant to a settlement of, order in, or other resolution of a **claim**; or
- d. disability, social security, workers compensation, medical insurance, retirement or pension benefit payments or settlement amounts representing benefit payments.

5. "Approved claims panel providers" means

the approved claims panel providers stated in the Declarations page.

6. "Bankruptcy official" means

any:

- a. insolvency trustee
- b. bankruptcy trustee;
- c. receiver;
- d. liquidator;
- e. similar official to any of a. to d. above; or
- f. creditor committee; or
- g. bankruptcy appointed representative;

of the **company** or an **outside entity**.

7. "Benefit plan" means

- a. any employee benefit plan, pension benefit plan or welfare benefit plan, as defined in and subject to **ERISA**, the **company** is solely sponsoring for the exclusive benefit of its **employees** or any employee benefit plan, pension benefit plan or welfare benefit plan the **company** has at any time solely sponsored for the exclusive benefit of its **employees**; or
- b. any employee benefit plan or program not subject to **ERISA**, the **company** is solely sponsoring for the exclusive benefit of its **employees** or any employee benefit plan or program the **company** has at any time solely sponsored for the exclusive benefit of its **employees**.

"**Benefit plan**" does not mean any multi-employer plan as defined in **ERISA** or any similar state, provincial or foreign law.

8. "Benefit plan obligations" means

benefits payable or which may become payable under any **benefit plan**, or benefits that would be payable or become payable under the **benefit plan** if it were to comply with all applicable laws.

9. "Bodily injury" means

- a. in respect of **INSURING CLAUSE 6**:
 - i. death or permanent total disablement;
 - ii. loss of limb, sight, hearing, smell or taste; or
 - iii. any injury requiring hospitalization for at least 3 nights, other than i. or ii. above;and
- b. in respect of all other **INSURING CLAUSES**, bodily injury, sickness, disease, death, mental anguish, humiliation or emotional distress.

10. **"Claim"** means

- a. a written demand received for monetary or non-monetary or injunctive relief;
- b. the initiation of a civil or criminal proceeding;
- c. the initiation of an arbitration, mediation or other alternative dispute resolution proceeding;
- d. the initiation of an extradition proceeding;
- e. in respect of **INSURING CLAUSES 1 (SECTION D only), 2 (SECTION D only), 3 (SECTION B only) and 4**, a **regulatory investigation**;
- f. in respect of **INSURING CLAUSE 1 (SECTION G only)**, a **shareholder derivative investigation**; and
- g. a written request to toll or waive a period of time or statute of limitations during which any of a. to f. above can be made.

"Claim" does not mean any labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement.

11. **"Claims managers"** means

the claims managers stated in the Declarations page.

12. **"Client"** means

any **third party** with whom **you** have a contract in place for the supply of **your** business services in return for a fee, or where a fee would normally be expected to be paid.

13. **"Client crime"** means

theft from a **client**:

- a. committed by an **employee** who is not in collusion with any of the **client's employees**;
- or
- b. arising out of or resulting from **forgery** committed by an **employee** who is not in collusion with any of the **client's employees**;

where **you** are required to reimburse the **client** for the **theft**.

14. **"Company"** means

the company named as the Insured in the Declarations page or any **subsidiary**.

15. **"Computer fraud"** means

theft solely directed against the **company**, committed by a **third party** by the fraudulent manipulation of **your computer systems**.

16. "Computer systems" means

all electronic computers including operating systems, software, hardware, microcontrollers and all communication and open system networks and any data or websites wheresoever hosted, off-line media libraries and data back-ups and mobile devices including but not limited to smartphones, iPhones, tablets or personal digital assistants.

17. "Conveyance" means

the transit of **money** or property, other than any ransom covered under **INSURING CLAUSES 4 (SECTION D only) or 6**, outside the **premises** from one person or place to another person or place, in the care, custody or control of an **employee** or **third party** authorized by the **company**, provided the transit of the **money** or property:

- a. begins immediately upon receipt of the **money** or property by the authorized **employee** or **third party**; and
- b. ceases immediately after the **money** or property is delivered to the designated recipient or their agent.

18. "Corporate takeover" means

- a. the acquisition by any person or entity of more than 50% of the voting rights or outstanding shares of the **company**; or
- b. the merger of the **company** into another entity resulting in the **company** not being the surviving entity.

19. "Costs and expenses" means

- a. **third party** legal and professional expenses, including disbursements, reasonably incurred in the defense of **claims** or circumstances which could reasonably be expected to give rise to a **claim**, in quashing or challenging the scope of any injunction, subpoena or witness summons, or as a result of a **shareholder derivative investigation**; and
- b. the cost of appeal, attachment and similar bonds arising out of covered judgments.

"Costs and expenses" does not include the salaries, wages, fees overhead or benefit expenses of, or associated with, **insured persons** or **employees**.

20. "Credit card fraud" means

the **forgery** or alteration of any written instrument relating to any credit card issued to the **company** or, at the request of the **company**, issued to any **employee**.

21. "Currency fraud" means

your acceptance in good faith in the regular course of business of any counterfeit paper currency or money order.

22. "Cyber event" means

any actual or suspected:

- a. unauthorized access to or electronic attack designed to damage, destroy, corrupt, overload, circumvent or otherwise impair the functionality of:
 - i. in respect of **INSURING CLAUSE 4, computer systems** used directly by **you**; and
 - ii. in respect of all other **INSURING CLAUSES, any computer systems**;

including a denial of service attack, cyber terrorism, hacking attack, Trojan horse, phishing attack, man-in-the-middle attack, application-layer attack, compromised key attack, malware infection (including spyware or ransomware) or computer virus; or

- b. **privacy breach**.

"Cyber event" does not mean **technology error**.

23. "**Cyber incident response hotline**" means

the cyber incident response hotline stated in the Declarations page.

24. "**Cyber incident response team**" means

the cyber incident response team accessible on the **cyber incident response hotline**.

25. "**Deductible**" means

the amount stated as the deductible in the Declarations page.

26. "**Director or officer**" means

- a. any past, present or prospective director, officer, general manager, in-house general counsel, trustee or manager of the **company** (or equivalent position in any jurisdiction) including de facto directors;
- b. any **employee**:
 - i. acting in a managerial or supervisory capacity for the **company**; or
 - ii. when named as co-defendant;
- c. any person who is deemed a shadow director as a consequence of being a director, officer or **employee** of the **company**;
- d. any member of the board of managers of the **company**;
- e. the estates, heirs, legal representatives or assigns of a **director or officer** described in a. to d. above in the event of their death, incapacity, insolvency or bankruptcy but only with respect to any **wrongful act** committed or alleged to have been committed while the **director or officer** was acting in their capacity as a **director or officer**; or
- f. a parent, spouse, domestic partner, civil partner or child of a **director or officer** described in a.to d. above, but only in respect of any **claim** brought against them by reason of:

- i. their status as a parent, spouse, domestic partner, civil partner or child of a **director or officer**; or
- ii. their ownership or interest in property which the claimant seeks as recovery for a **wrongful act** committed or alleged to have been committed by a **director or officer** while acting in their capacity as a **director or officer**.

27. "**Disappearance investigation**" means

an investigation into the complete and unexpected loss of contact with an **insured person** for a period of more than 36 consecutive hours commencing from the last confirmed contact with the **insured person**.

28. "**Emergency political repatriation**" means

the removal of an **insured person**, or their remains, from the country where the **insured person** is employed or visiting, but is not a citizen, to the nearest country of safety or their **resident country** as a result of:

- a. **evacuation advice**;
- b. an **insured person** being expelled or declared persona non-grata by the legal governmental authorities of the country where the **insured person** is employed or visiting; or
- c. the seizure, confiscation, nationalization, expropriation or deprivation of **your** property by the legal governmental authorities of the country where an **insured person** is employed or visiting.

29. "**Employee**" means

any person who is a past or present employee of the **company**, any volunteer working for the **company** and in respect of all **INSURING CLAUSES** other than **INSURING CLAUSE 5**, any individual working for the **company** as an independent contractor.

"**Employee**" does not mean sub-contractors engaged by any independent contractor or employees leased by the **company** to another employer.

30. "**Employee theft**" means

theft or **forgery** committed by any **employee** acting alone or in collusion with others.

31. "**ERISA**" means

the Employee Retirement Income Security Act of 1974 or any subsequent amendments to this Act.

32. "**Evacuation advice**" means

a formal recommendation issued by a **government authority** or the **kidnap event response team** that other than for medical reasons the **insured persons** should leave the country that they are in.

33. "Expiry date" means
the expiry date stated in the Declarations page.
34. "Extortion event" means
- a. **property extortion**;
 - b. **products extortion**; or
 - c. **kidnap extortion**.
35. "Forgery/Forged" means
the signing of another person's name with the intent to deceive.
36. "Funds transfer fraud" means
any fraudulent instruction in the name of the **company** created by a **third party** without the **company's** knowledge or consent and sent to a financial institution who transfers or pays **money** in accordance with the fraudulent instruction in good faith from a **company** account at the financial institution.
- "Funds transfer fraud" does not include **forgery** or **third party forgery**.
37. "Government authority" means
any government agency, department or ministry of the **resident country** of an **insured person** with the authority to issue travel advice.
38. "Hijack" means
the illegal detention, other than **kidnap**, of an **insured person** while traveling on any form of public or private transportation.
39. "HIPAA civil fine or penalty" means
civil fines or penalties imposed as a direct result of a violation of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104 – 191), or any subsequent amendments to this Act or any similar local, state, provincial, federal or foreign law.
40. "Inception date" means
the inception date stated in the Declarations page.
41. "Indemnity period" means
the period starting from the first occurrence of a **system outage** and lasting for the period stated as the indemnity period in the Declarations page.
42. "Insured person" means
- a. in respect of **INSURING CLAUSES 1 and 2**, any **director or officer** while acting in their capacity as **director or officer**;

- b. in respect of **INSURING CLAUSE 3**, any **benefit plan** committee member and any past, present or future director, officer, trustee or employee of the **company** or the **benefit plan**, while acting in this capacity; and
- c. in respect of **INSURING CLAUSE 6**:
 - i. any **employee**;
 - ii. the spouse, domestic partner, fiancé or fiancée of an **employee**;
 - iii. any relative, lineal descendant or living ancestor of an **employee** or the spouse of an **employee**, including but not limited to step-parents, step-children, step-siblings, foster children, adopted children, adopted parents and their spouse;
 - iv. persons residing in the household of or employed by an **employee**;
 - v. a guest or customer of an **employee** whilst at the home of the **employee**;
 - vi. a guest or customer of the **company** whilst on **company premises**;
 - vii. a guest or customer on board any vehicle, aircraft or waterborne vessel owned or leased by the **company** or an **employee**;
 - viii. any person who is in the care, custody or control of the **company** or for whom the **company** has accepted responsibility; and
 - ix. a person who is temporarily employed for the sole purpose of negotiating the release of a person specified above as a direct result of a **kidnap event** or delivering a ransom.

43. "**Interrelated wrongful act**" means

all **wrongful acts** that arise from the same original cause or single source, or fact, circumstance, situation, event, transaction, or series of facts, circumstances, situations, events or transactions.

44. "**In transit theft**" means

- a. **theft** or **robbery** committed by a **third party** during any **conveyance**;
- b. the actual destruction or disappearance of **money** during any **conveyance**; or
- c. the destruction of **your** property as a direct result of **robbery** committed by a **third party** during any **conveyance**.

45. "**Kidnap**" means

the actual, attempted or alleged illegal taking and detention of any **insured person** by an individual or group demanding that a ransom is paid by **you** before they will release the **insured person**.

46. "**Kidnap event**" means

- a. **kidnap**;
- b. **wrongful detention**; or
- c. **hijack**;

first occurring and notified to **us** during the **period of the policy**.

47. "Kidnap event response team" means

- a. the response consultants stated in the Declarations page; or
- b. any other crisis management consultants retained by **you** with **our** prior written agreement.

48. "Kidnap extortion" means

a ransom demand first made and notified to **us** during the **period of the policy** by an individual or group made directly against the **company** or an **insured person** who threaten to do any of the following against an **insured person** if a ransom is not paid:

- a. commit **kidnap**;
- b. injure an **insured person**;
- c. commit **wrongful detention**; or
- d. commit abduction.

49. "Kidnap victim" means

an **insured person** who is a victim of a **kidnap event**.

50. "Limit of liability" means

if expressed in the Declarations page as:

- a. "limit of liability", the maximum amount payable by **us** in respect of each claim; or
- b. "aggregate limit of liability", the maximum amount payable by **us** in respect of all claims under this Policy.

51. "Loss" means

- a. compensatory damages awarded by a court;
- b. judgments, including pre-judgment and post-judgment interest;
- c. punitive, multiple or exemplary damages where insurable by law (the most favorable State law will be applied to determine whether the punitive, multiple or exemplary damages are insurable); and
- d. settlements.

In respect of **INSURING CLAUSE 1 (SECTION A only)**, "loss" also means:

- a. any tax imposed on an **insured person** acting in their capacity as an **insured person** in connection with any bankruptcy, insolvency, receivership or liquidation of the **company**; and
- b. civil penalties imposed on an **insured person** in accordance with 15 U.S.C. §78dd-2(g)(2)(B) of the Foreign Corrupt Practices Act of 1977, or any subsequent amendments to this Act.

In respect of **INSURING CLAUSE 2**, "loss" also means:

- a. liquidated damages awarded pursuant to the Age Discrimination in Employment Act of 1967, the Family and Medical Leave Act of 1993, the Equal Pay Act of 1963 or any subsequent amendments to these Acts; and
- b. back pay and front pay.

In respect of **INSURING CLAUSE 3**, "loss" also means:

- a. the 5% or less in respect of the penalties imposed on **you** under Section 502(i) of **ERISA** while **you** are acting in the capacity as fiduciary of a **benefit plan**;
- b. the 20% or less in respect of the penalties imposed on **you** under Section 502(l) of **ERISA** while **you** are acting in the capacity as fiduciary of a **benefit plan**;
- c. the lesser of up to 5% of the **limit of liability** of **INSURING CLAUSE 3 (SECTION A only)** or USD50,000 of any penalty imposed on **you** under section 502(c) of **ERISA**, including any amendments pursuant to Section 507 of Title V of the Pension Protection Act of 2006, while **you** are acting in the capacity as fiduciary of a **benefit plan**;
- d. any **benefit plan obligations** payable as a personal obligation of an **insured person** as a direct result of a **wrongful act** committed by them; or
- e. civil fines or penalties imposed by:
 - i. the Pension Ombudsman or the Pensions Regulator appointed by the United Kingdom Secretary of State for Health and Social Care or by the United Kingdom Pensions Regulator, or any other related rules or regulations thereunder; or
 - ii. the Pensions Authority or the Financial Services and Pensions Ombudsman of the Republic of Ireland.

"Loss" does not mean any:

- a. sums uninsurable under law;
- b. sums incurred in the defense or investigation of any action, proceeding or demand that was not then a **claim** covered under this Policy, even if the sums incurred also benefit the defense of a **claim** covered under this Policy or the action, proceeding or demand subsequently gives rise to a **claim** covered under this Policy;
- c. tax, unless specifically insured under **INSURING CLAUSE 1 (SECTION A only)**;
- d. fines or penalties, other than punitive, multiple or exemplary damages, unless specifically insured under **INSURING CLAUSES 1 and 3**;
- e. liquidated damages, unless specifically insured under **INSURING CLAUSE 2**;
- f. sums incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects or, testing for, or monitoring the discharge, dispersal, release, migration, seepage or escape of **pollutants**;
- g. cost of compliance with any order for, grant of or agreement to provide non-monetary relief, including injunctive relief;

- h. sums incurred in providing any accommodation for individuals with any disability or any other protected status under any local, state, provincial, federal, statutory or common law, including the Americans with Disabilities Act of 1990, the Civil Rights Act of 1964, or any subsequent amendments to these Acts;
- i. in respect of **INSURING CLAUSE 1**, any:
 - i. sums owed or paid to any security holder of the **company** under any contract or agreement; or
 - ii. amount representing or substantially equivalent to an increase in the consideration paid, or proposed to be paid, in connection with the purchase of any assets or securities;
- j. in respect of **INSURING CLAUSE 2**, amounts owed to employees; or
- k. in respect of **INSURING CLAUSE 3**, benefit plan obligations.

52. **"Money"** means

any cash, coin, checks, bankers drafts or share or bond certificates.

"Money" does not mean any cryptoassets (including cryptocurrencies, utility tokens, securities tokens, ecosystem tokens or any other type of digital currency).

53. **"Outside directorship position"** means

the position held by an **insured person** acting in the capacity of director, officer, trustee, council member or committee member of an **outside entity**:

- a. at the specific request of the **company**; or
- b. with the knowledge and consent of the **company**.

54. **"Outside entity"** means

any entity, non-profit organization, tax-exempt trade association, registered charity and any other company, organization, institute or society, other than:

- a. the **company**;
- b. any entity that has any of its securities publicly traded; or
- c. any entity that is a bank, clearing house, credit institution, investment firm or advisor, private equity or venture capital company, stock broker, insurance company or provides similar services.

55. **"Payment card breach"** means

an actual or suspected unauthorized disclosure of payment card data stored or processed by **you** arising out of an electronic attack, accidental disclosure or the deliberate actions of a rogue **employee**.

"Payment card breach" does not mean a situation where payment card data is deliberately shared with or sold to a **third party** with the knowledge and consent of a **senior executive officer**.

56. "Period of the policy" means

the period between the **inception date** and the **expiry date** or until the Policy is canceled in accordance with **CONDITION 7**.

57. "Pollutants" means

any solid, liquid, gaseous, radiological or thermal irritant, toxic or hazardous substance, or contaminant including, but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste materials, including recycled, reconditioned or reclaimed materials.

58. "Pollution" means

the discharge, dispersal, release, migration, seepage or escape of **pollutants**.

59. "Premises" means

the premises that **you** occupy while conducting the normal course of **your** business activities.

60. "Premises theft" means

- a. **robbery** or **safe burglary** at the **premises**;
- b. the actual destruction or disappearance of **money** from the **premises**; or
- c. damage to **your** property as a direct result of any actual or attempted **robbery** at the **premises**.

committed by a **third party**.

61. "Premium" means

the amount stated as the premium in the Declarations page and any subsequent adjustments.

62. "Prior and pending litigation date" means

the prior and pending litigation date stated in the Declarations page.

63. "Privacy breach" means

an actual or suspected unauthorized disclosure of information arising out of an electronic attack, accidental disclosure, theft or the deliberate actions of a rogue **employee** or **third party**, including Personally Identifiable Information (PII), Protected Health Information (PHI) and payment card information.

"Privacy breach" does not mean a situation where information is deliberately shared with or sold to a **third party** with the knowledge and consent of a **senior executive officer**.

64. "Products extortion" means

a ransom demand first made and notified to **us** during the **period of the policy** by an individual or group made directly against the **company** or an **insured person** who threaten to do any of the following if a ransom is not paid:

- a. alter, contaminate or render substandard the products manufactured or handled by the **company**; or
- b. publicize that the products manufactured or handled by the **company** have been or will be altered, contaminated or rendered substandard.

65. "Property damage" means

direct physical damage to, destruction of, loss of possession or loss of use of tangible property.

66. "Property extortion" means

a ransom demand first made and notified to **us** during the **period of the policy** by an individual or group made directly against the **company** or an **insured person** who threaten to damage or destroy tangible property owned or leased by the **company** if a ransom is not paid.

67. "Regulatory investigation" means

a formal hearing, official investigation, examination, inquiry or any other similar proceeding initiated by a governmental, regulatory, law enforcement, professional or statutory body.

68. "Relocation" means

the return of an **insured person** to the country from which they had been evacuated.

69. "Reputational harm period" means

the period starting from when the **cyber event** is first discovered and lasting for the period stated as the reputational harm period in the Declarations page.

70. "Resident country" means

the country of which an **insured person** is a national.

71. "Retaliation" means

any adverse action taken against an **employee** by **you** as a direct result of:

- a. any **claim** made by the **employee** against **you**;
- b. any refusal by the **employee** to breach any law;
- c. any actual or attempted exercise by the **employee** of their rights in law;
- d. the **employee** being a whistleblower in respect of any wrongdoing committed or alleged to have been committed by **you**; or
- e. any actual or attempted assistance or cooperation by the **employee** in any investigation relating to any unlawful practice or violation of any law committed or alleged to have been committed by **you**.

72. "**Robbery**" means

the unlawful taking of **money** or property by forcible or violent means, which has been committed in the presence and knowledge of another person.

73. "**Safe burglary**" means

the unlawful taking of **money** or property from a locked vault or safe by forcible or violent means.

74. "**Senior executive officer**" means

board members, C-level executives, in-house lawyers and risk managers of the **company**.

75. "**Shareholder derivative investigation**" means

any investigation initiated on behalf of the **company** as a direct result of any written request by the shareholders of the **company** that the **senior executive officers** investigate or evaluate any fact, circumstance or situation which may reasonably be expected to give rise to a **claim** being made on behalf of the **company**.

76. "**Social engineering attack**" means

the misrepresentation of any material fact to an **employee** who believes the misrepresented material fact is genuine, which results in the transfer, payment or delivery of **money** or property by the **employee** to an unintended **third party**.

77. "**Subsidiary**" means

any entity which the **company** controls directly or indirectly on or before the **inception date**, through:

- a. holding more than 50% of the voting rights;
- b. having the right to appoint or remove more than 50% of its board of directors; or
- c. controlling alone, pursuant to a written agreement with other shareholders or members, more than 50% of the voting rights therein.

78. "**System outage**" means

a material degradation in the performance of **your** computer systems which renders them incapable of supporting their normal business function.

79. "**Technology error**" means

any:

- a. unintentional human error in entering, processing or amending electronic data within any **computer systems** or in the upgrading, maintenance or configuration of any **computer systems**; or

- b. application bug, internal network failure, external network failure or hardware failure directly impacting any **computer systems** which renders them incapable of supporting their normal business function;

that does not arise directly or indirectly out of any **cyber event**.

80. **"Telephone crime"** means

the hacking of **your** telephone system by a **third party**, including their unauthorized use of **your** bandwidth or their making of unauthorized calls.

81. **"Theft"** means

the unlawful taking of **money** or property, other than by forcible or violent means.

82. **"Third party"** means

any person who is not an **employee** or **insured person**, or any legal entity that is not the **company**.

83. **"Third party forgery"** means

the signing by a **third party** of another person's name with the intent to deceive.

84. **"Wage and hour duty"** means

any local, state, provincial, federal, foreign or other law or duty, including the Fair Labor Standards Act of 1938 and any subsequent amendments to this Act, relating to wage and hour, including:

- a. the calculation, amount, timeliness or manner of payment of wages, including tips, commissions, minimum wages, overtime pay, on-call time or rest and meal periods;
- b. the calculation, amount, timeliness or manner of payment of, or reimbursement of, work-related expenses;
- c. the classification of persons as employees or independent contractors;
- d. the classification of **employees** for wage or hours of work;
- e. withholding or other deductions from wages;
- f. rights to leave or absence from work or rights to pay during the absence;
- g. child labor; or
- h. pay equity or comparable worth.

85. **"Waiting period"** means

the number of hours stated as the waiting period in the Declarations page.

86. **"We/our/us"** means

the underwriters stated in the Declarations page.

87. **"Wrongful act"** means

in respect of **INSURING CLAUSE 1**, any:

- a. negligent act, error, omission, misstatement or misrepresentation; or
- b. breach of duty, including fiduciary or statutory duty;

in respect of **INSURING CLAUSE 2 (SECTION A only)**, any:

- a. actual or constructive wrongful dismissal, discharge or termination of employment;
- b. breach of an express or implied contract or contractual obligation arising out of an employment relationship;
- c. employment related discrimination based on any protected characteristic under local, state, provincial, federal or foreign law, including discrimination based on race, color, religion, creed, age, gender, national origin, disability, pregnancy, genetic characteristics, HIV status, marital status, military status, sexual orientation or gender identity and expression;
- d. sexual or other harassment in the workplace, including the creation of an abusive or hostile working environment;
- e. **retaliation**;
- f. employment related libel, slander or defamation;
- g. employment related infliction of emotional distress, mental anguish or humiliation;
- h. violation of data protection laws relating to **employee** data;
- i. wrongful deprivation of a career opportunity, employment, demotion or promotion, including failure to grant tenure;
- j. negligent retention, hiring, training, evaluation or supervision; or
- k. failure to adopt or enforce workplace or employment practices, policies and procedures in respect of employment related discrimination or harassment;

in respect of **INSURING CLAUSE 3 (SECTION A only)**:

- a. **your** violation of any duty, obligation or responsibility imposed on fiduciaries of **benefit plans** by **ERISA** when **you** are acting in the capacity as fiduciary of any **benefit plan** or any other matter claimed against **you** solely by reason of **you** acting in this capacity;
- b. **your** negligent act, error or omission in the **administration** of a **benefit plan**; or
- c. **your** negligent act, error or omission in the provision of any **benefit plan** settlor duties when **you** are acting in the capacity as settlor of any **benefit plan**, including amending the **benefit plan**, determining levels of contribution into the **benefit plan** or terminating, freezing or merging the **benefit plan**; and

in respect all other **INSURING CLAUSES** and **SECTIONS**, any act, error or omission.

88. "Wrongful detention" means

the holding under duress for more than 6 consecutive hours by an individual or group, other than a **kidnap, hijack or disappearance investigation** of an **insured person**.

89. "You/Your" means

the **company** and:

- a. in respect of **INSURING CLAUSES 1 and 6**, the **insured persons**;
- b. in respect of **INSURING CLAUSE 2**, the **insured persons** and the **employees**;
- c. in respect of **INSURING CLAUSE 3**, the **insured persons** and a **benefit plan**;
- d. in respect of **INSURING CLAUSE 4**, the **employees**; and
- e. in respect of **INSURING CLAUSE 5**, the **senior executive officers**.

EXCLUSIONS

We will not make any payment under this Policy:

EXCLUSIONS RELATING TO DIRECTORS AND OFFICERS LIABILITY

In respect of **INSURING CLAUSE 1** only:

1. **Employment practices liability**

arising directly or indirectly out of any:

- a. employer-employee relations, policies, practices or misconduct; or
- b. refusal to employ any person.

2. **Personal injury**

arising directly or indirectly out of any libel, slander, false imprisonment, invasion of privacy, assault, battery, eviction, false arrest, malicious prosecution or loss of consortium.

3. **Professional services**

arising directly or indirectly out of carrying out, or failing to carry out, professional services for a fee or any act, error or omission relating to a professional service.

However, this Exclusion will not apply to any **claim** arising out of the actual or alleged failure to supervise an **employee**.

4. **Publicly traded securities**

arising directly or indirectly out of:

- a. any public offering of securities undertaken or consummated by or on behalf of the **company** or an **outside entity** in which an **insured person** acts in an **outside directorship position**, or the solicitation, sale, purchase, distribution or issuance of those **company** or **outside entity** securities; or

- b. any actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act 1934, or any subsequent amendments to these Acts, or any rule or regulation of the Securities Exchange Commission, or any state, provincial, federal or foreign law regulating securities, or any subsequent amendments to these regulations or laws, relating to a public offering or to any securities issued, sold or distributed pursuant to a public offering.

However, this Exclusion will not apply to any transaction that is exempt from registration under the Securities Act of 1933, or any subsequent amendments to this Act, or any similar foreign law regulating securities.

In respect of **INSURING CLAUSE 1, SECTION C:**

5. **Antitrust**

arising directly or indirectly out of any actual or alleged:

- a. antitrust violation, restraint of trade, unfair competition, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive advertising; or
- b. violation of the Federal Trade Commission Act of 1914, the Sherman Antitrust Act of 1890, the Clayton Antitrust Act of 1914, or any subsequent amendments to these Acts or any similar local, state, provincial, federal or foreign law.

6. **Breach of contract**

arising directly or indirectly out of any actual or alleged breach of written contract or agreement to which the **company** is a party.

However, this Exclusion will not apply if liability would have attached in the absence of that contract.

7. **Product defect**

arising directly or indirectly out of any actual or alleged product defect, product deficiency, product inadequacy or the non-performance of any product which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered, processed, cleaned, renovated or repaired by **you** or on **your** behalf.

EXCLUSIONS RELATING TO EMPLOYMENT PRACTICES LIABILITY

In respect of **INSURING CLAUSE 2** only:

8. **Breach of employment contract**

arising directly or indirectly out of any actual or alleged breach of any written employment contract.

However, this Exclusion will not apply:

- a. if liability would have attached in the absence of that employment contract; or

b. to **costs and expenses**.

9. **Employee benefits program**

for any actual or alleged violation of the responsibilities, obligations or duties imposed by:

- a. the Consolidated Omnibus Budget Reconciliation Act of 1985 or any subsequent amendments to this Act or any similar local, state, provincial, federal or foreign law;
- b. **ERISA**, other than section 510 of the Act; or
- c. any local, state, provincial, federal, statutory or common law anywhere in the world that are equivalent or similar to a. or b. above, including any rule or regulation promulgated under these laws;

that govern any employee benefit arrangement, program, policy plan or scheme.

However, this Exclusion will not apply to any **claim** arising out of **retaliation**.

10. **Labor management relations**

for any actual or alleged violation of the responsibilities, obligations or duties imposed by the National Labor Relations Act of 1935 or any subsequent amendments to this Act or any similar local, state, provincial or federal law that governs:

- a. the rights of employees to engage in, or abstain from engaging in, union activities;
- b. the duty to notify, meet, discuss, consult or bargain with any employee or representative;
- c. the enforcement of any collective bargaining agreements, including grievance and arbitration proceedings; or
- d. strikes, work stoppages, boycotts, picketing, lockouts or any other industrial action.

However, this Exclusion will not apply to any **claim** arising out of **retaliation**.

11. **Occupational safety and health**

for any actual or alleged violation of the responsibilities, obligation or duties imposed by the Occupational Safety and Health Act of 1970 or any subsequent amendments to this Act or any similar local, state, provincial, federal or foreign law that governs workplace safety and health.

However, this Exclusion will not apply to any **claim** arising out of **retaliation**.

12. **Workplace notification**

arising directly or indirectly out of any breach of any law requiring an employer to notify, discuss or bargain with its employees or others in advance of any mass lay-off, or in respect of a branch, plant or facility closing or any other similar requirement.

However, this Exclusion will not apply in respect of:

- a. **INSURING CLAUSE 2 (SECTION A only)**, to any **claim** arising out of **retaliation**; or

- b. **INSURING CLAUSE 2 (SECTION E only)**.

EXCLUSIONS RELATING TO FIDUCIARY LIABILITY

In respect of **INSURING CLAUSE 3** only:

13. **Failure to fund or collect**

arising directly or indirectly out of any:

- a. failure to fund a **benefit plan** in compliance with a **benefit plan's** trust document or other similar provisions; or
- b. the failure to collect contributions from the **company** which are owed to a **benefit plan**

However, this Exclusion will not apply if the failure to fund the **benefit plan** or the failure to collect contributions is the result of **your** negligence while acting in the capacity of fiduciary or trustee of the **benefit plan**.

EXCLUSIONS RELATING TO CYBER AND PRIVACY

In respect of **INSURING CLAUSE 4** only:

14. **Betterment**

which results in **you** being in a better financial position or **you** benefiting from upgraded versions of **your computer systems** as a direct result of the event which gave rise to the claim under this policy.

However, in the event of a hacking attack, malware infection or computer virus, when rebuilding **your computer systems** we will pay the additional costs and expenses incurred to install a more secure and efficient version of the affected **computer system**, provided that the maximum amount **we** will pay is 25% more than the cost that would have been incurred to repair or replace the original model or license. Under no circumstances will **we** pay the cost of acquiring or installing **computer systems** which did not form a part of **your computer systems** immediately prior to the incident which gave rise to the claim.

15. **Chargebacks**

for any credit card company or bank, wholly or partially, reversing or preventing a payment transaction.

However, this Exclusion will not apply to **INSURING CLAUSE 4 (SECTION B only)**.

16. **Collection of private data without consent**

arising directly or indirectly from **your** actual or alleged failure to obtain agreement from any private individual before collecting, storing or processing any of their personal information, including but not limited to internet search history and internet browsing habits.

17. **Core internet infrastructure failure**

arising directly from a failure, material degradation or termination of any core element of the internet, telecommunications or GPS infrastructure that results in a regional, countrywide or global outage of the internet or core telecommunications network, including a failure of the core DNS root servers, satellite network or the IP addressing system or an individual state or non-state actor turning off all or part of the internet.

18. **Loss of economic value**

for the reduction in economic or market value (including loss of potential future sales) of any of **your** intellectual property assets.

19. **Payment card industry related fines, penalties and assessments**

for fines, penalties and card brand assessments, including fraud recoveries, operational reimbursements, non-cooperation costs and case management fees which **you** become legally obliged to pay **your** acquiring bank or payment processor as a direct result of a **payment card breach**.

However, this Exclusion will not apply to **INSURING CLAUSE 4 (SECTION B only)**.

20. **Power failure**

arising directly or indirectly from any failure in the power supply, including that caused by any surge or spike in voltage, electrical current or transferred energy.

21. **Regular hours staff costs**

for contracted salary and bonus costs paid to **employees** or **senior executive officers**.

22. **Unlawful surveillance**

in respect of any actual or alleged eavesdropping, wiretapping, or unauthorized audio or video recording committed by **you** or by a **third party** on **your** behalf with the knowledge and consent of **your senior executive officers**.

23. **Unsolicited communications**

arising directly or indirectly from any actual or alleged violation of:

- a. the CAN-SPAM Act of 2003 or any subsequent amendments to that Act;
- b. the Telephone Consumer Protection Act (TCPA) of 1991 or any subsequent amendments to that Act; or
- c. any other law, regulation or statute relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device.

However, this Exclusion will not apply to **INSURING CLAUSE 4 (SECTION B only)**.

In respect of **INSURING CLAUSE 4, SECTIONS E and F**:

24. Business interruption liability

for that part of any **claim** that constitutes actual or alleged liability to a **third party**, or legal costs in the defense of any **claim**, including customer compensation.

EXCLUSIONS RELATING TO CRIME

In respect of **INSURING CLAUSE 5** only:

25. Agent or broker

arising directly or indirectly out of any **theft, forgery** or other fraudulent, dishonest or criminal act committed by any broker, factor, commission merchant, consignee, contractor, or other agent or representative of the same general character or categorization.

26. Authorized representative

arising directly or indirectly out of **theft, forgery** or other fraudulent, dishonest or criminal act committed by an authorized representative of the **company**.

However, this Exclusion will not apply if the authorized representative colludes with an **employee** to commit the **theft, forgery** or other fraudulent, dishonest or criminal act.

27. Confidential information

arising directly or indirectly out of any:

- a. theft or misappropriation of any trade secret, technical secret, invention, design, manufacturing process, craft, recipe, idea, business secret or confidential business information, regardless of the cause of action brought;
- b. breach of any non-compete agreement; or
- c. interference with business relationship.

28. Consequential loss

for any:

- a. consequential loss which is a direct result of a crime; or
- b. loss of income not realized as a result of a claim covered under **INSURING CLAUSE 5**.

However, this Exclusion will not apply to **INSURING CLAUSE 5 (SECTION D only)**.

29. Custody or care

arising directly or indirectly out of the disappearance or damage of any **money** or property that **you** have entrusted to the custody or care of any bank, trust company, similar recognised place of safe deposit, armored motor vehicle company, or any **third party** that **you** have authorized with this custody or care.

However, this Exclusion will not apply to any amount in excess of the amount that is recovered or received by **you** from any other insurance, indemnification or other contractual

reimbursement from any of the above parties that is provided to **you** as a result of this disappearance or damage.

30. Employee dishonesty

for any direct financial loss arising out of any **theft, forgery** or other fraudulent or dishonest or criminal act committed by any **employee**:

- a. after a **senior executive officer** becomes aware of a **theft, forgery** or other fraudulent, dishonest or criminal act committed by the **employee** during their employment or service with the **company**;
- b. after a **senior executive officer** becomes aware of a **theft, forgery** or other fraudulent, dishonest or criminal act, committed by the employee prior to their employment or service with the **company**; or
- c. ninety days or more following the termination of their employment or service with the **company**.

31. Fire

for any direct financial loss caused by or resulting from fire.

However, this Exclusion will not apply to:

- a. any destruction of **money** at the **premises** committed by a **third party**;
- b. any disappearance of **money** from the **premises**; or
- c. any **theft** committed by a **third party** from a locked vault or safe located at the **premises** by breaking into the locked vault or safe by the application of fire.

32. Loss of one company to the advantage of another company

for any direct financial loss of one company to the advantage of another company.

33. Shareholder crime

for any direct financial loss arising out of **theft** or **forgery** committed by a shareholder of the **company** whether acting alone or in collusion with others.

However, this Exclusion will not apply to the extent that the coverage of **theft** or **forgery** under parts a. and j. of **INSURING CLAUSE 5 (SECTION A)** only) is in excess of the amount of the shareholder's percentage of ownership of the **company** on the day immediately preceding that date of the discovery of the **theft** or **forgery** committed by the shareholder, multiplied by the **company's** total assets as stated in the **company's** most recent audited financial statements.

34. Social engineering attacks

arising directly or indirectly out of any **social engineering attack**.

However, this Exclusion will not apply to **INSURING CLAUSE 5 (SECTION B)** only).

35. Trade debt

arising directly or indirectly out of any trading losses or trading liabilities incurred by **you**, or any loss of **your** profit arising from the loss of any **client**, account or business.

36. Trading losses

for any direct financial loss as a result of:

- a. any authorized or unauthorized trading of **money** or property, whether or not in the name of the **company** or **benefit plan**, and whether or not in a genuine or fictitious account; or
- b. fraudulent manipulation of price discounts, prizes, awards or other valuable consideration given or redeemed.

However, this Exclusion will not apply to any direct financial loss of the **company** which is caused by **theft** or **forgery** and which results in an improper gain to an **employee**.

37. Voluntary exchange

for any direct financial loss discovered by the **company** as a result of **you** voluntarily giving any **money** or property to any **third party** who is not in collusion with any **employee**.

However, this Exclusion will not apply to **INSURING CLAUSE 5 (SECTION B only)**.

In respect of **INSURING CLAUSE 5, SECTION B**:

38. Forgery, funds transfer fraud, computer fraud or currency fraud

arising directly or indirectly out of any:

- a. **theft** or **forgery** committed by an **employee**; or
- b. **funds transfer fraud**, **computer fraud** or **currency fraud**.

In respect of **INSURING CLAUSE 5, SECTION C**:

39. Benefit plan consequential loss

for any direct financial loss of a **benefit plan**, where the direct financial loss is covered under **INSURING CLAUSE 5 (SECTIONS A or B only)**.

EXCLUSIONS RELATING TO KIDNAP AND RANSOM

In respect of **INSURING CLAUSE 6 only**:

40. Formal advice to leave

arising directly or indirectly out of the failure to respond to **evacuation advice**, unless with **our** prior written agreement.

41. Fraudulent or criminal acts

arising out of any actual or attempted fraudulent or criminal act by a **senior executive officer** whether the **senior executive officer** is acting alone or in collusion with others.

42. Government advice not to travel

arising directly or indirectly out of the failure to follow any advice issued by a **government authority** not to travel to a specified country, unless otherwise agreed with **our** prior written consent.

43. Immigration status

arising directly or indirectly out of the failure to obtain or maintain the correct immigration status, work, residence or other visa requirements.

44. Insured persons' resident country

for any **insured person** who is a national of the country in which an **emergency political repatriation** takes place.

45. Natural disasters

arising directly or indirectly out of any natural disaster, including but not limited to earthquake, flood, fire, famine, pandemic disease, volcanic eruption or windstorm.

46. Off premises robbery

if the ransom is surrendered in any face to face encounter, other than where a ransom demand has been received by **you** and the ransom was being conveyed to an agreed location for the sole purpose of paying the ransom.

47. On premises robbery

if the ransom is surrendered at the location of the **kidnap event** or at the location where the **extortion event** is first made, other than where the ransom has been brought to either location as a result of a ransom demand being made.

48. Prolonged disappearance

for any **disappearance investigation** costs incurred beyond 90 consecutive days from the date the disappearance was first reported to or discovered by **you**.

49. Violation of laws

arising directly or indirectly out of any violation by an **insured person** of the law of the country where the **kidnap event**, **disappearance investigation** or **extortion event** takes place.

50. Wrongful detention

in respect of **wrongful detention** only, arising out of any actual act by an **insured person** who is determined by final adjudication to be guilty of an act which would be a criminal offense in the country where the **company** is registered or the **resident country**.

EXCLUSIONS RELATING TO ALL INSURING CLAUSES

51. Benefit laws

arising out of any violation of any obligation imposed by any local, state, provincial, federal, statutory or common law anywhere in the world to comply with any duties relating to workers' compensation, unemployment insurance, social security, disability benefits or pension benefits.

However, this Exclusion will not apply in respect of:

- a. **INSURING CLAUSE 2**, to any **claim** arising out of **retaliation**; or
- b. **INSURING CLAUSE 3**, to any **claim** arising out of:
 - i. any violation of the Health Insurance Portability and Accountability Act of 1996 or the Consolidated Omnibus Budget Reconciliation Act of 1985 or any subsequent amendments to these Acts; and
 - ii. any violation of any obligation imposed by any local, state, provincial, federal, statutory or common law anywhere in the world to comply with any duties relating to pension benefits.

52. Bodily injury

arising directly or indirectly out of **bodily injury**.

However, this Exclusion will not apply in respect of:

- a. **INSURING CLAUSES 2, 3 and 4 (SECTION B only)**, for any **claim** arising out of mental anguish, emotional distress or humiliation; or
- b. **INSURING CLAUSE 6**, provided that the **bodily injury** occurred within 36 consecutive calendar months from the date of the **kidnap event**.

53. Cyber Perils

in respect of:

- a. **INSURING CLAUSE 1 (SECTION C only)**;
- b. parts b, c and h of **INSURING CLAUSE 5 (SECTION A only)**; and
- c. **INSURING CLAUSE 6**;

arising directly or indirectly out of any **cyber event** or **technology error**.

54. ERISA

based upon or arising out of any violation of **ERISA** or any rules or regulations promulgated thereunder.

However, this Exclusion will not apply in respect of:

- a. **INSURING CLAUSE 2 (SECTION A only)**, to any **claim** arising out of **retaliation**; or

b. **INSURING CLAUSE 3.**

55. **Insured vs Insured**

arising out of any **claim** made by **you** or on **your** behalf, or made by an **outside entity** in which an **insured person** acts in an **outside directorship position**.

However, this Exclusion will not apply to:

- a. **INSURING CLAUSES 2 and 3;**
- b. any **claim** made directly or derivatively by a shareholder of the **company** acting solely in their capacity as shareholder of the **company** which is instigated and continues totally independent of **you** and totally without any solicitation, assistance, active participation or intervention by **you**;
- c. any **claim** made by an **insured person** for contribution or indemnity where the **claim** is itself a direct result of another covered **claim** under this Policy;
- d. any **claim** made by an **insured person** who has ceased acting in their capacity as an **insured person** for more than 2 years, prior to the date the **claim** is made, and which is instigated and continues totally independent of **you** and totally without solicitation, assistance, active participation or intervention by **you**;
- e. any **claim** made against an **insured person** by a whistleblower pursuant to any whistleblower law in any jurisdiction;
- f. any **claim** made by an **insured person** who resides outside of the United States of America;
- g. any **claim** made by any **bankruptcy official** or their assignee; or
- h. any **claim** made by any debtor-in-possession organization or the bankruptcy estate of the **company** under any bankruptcy law in any jurisdiction.

56. **Intellectual property rights infringement**

in respect of **INSURING CLAUSES 1 (SECTION C only) and 4**, arising directly or indirectly out of the actual or alleged infringement of any patent, copyright, trademark or service mark, design right, domain name, trade secret or any other intellectual property right.

57. **Known claims and circumstances**

arising directly or indirectly out of any actual, alleged or suspected:

- a. **wrongful act, cyber event**, direct financial loss, fact, circumstance, situation, event, transaction or other matter which might give rise to a claim under this Policy which a **senior executive officer** was aware of, or ought reasonably to have been aware of, prior to the **inception date**, or which is the subject of or alleged in any claim or circumstance notified to any other insurer; or
- b. **wrongful act** which together with any other **wrongful act** that has been the subject of a. above, would constitute an **interrelated wrongful act**.

58. Legal action

where any legal action is brought outside the legal action territories stated in the Declarations page, or where an action is brought within those territories to enforce a judgment outside of those territories whether by way of reciprocal agreement or otherwise.

59. Nuclear

arising directly or indirectly from or contributed to by:

- a. ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component.

60. Opioids

arising directly or indirectly out of any opioids, including the manufacturing, distribution or advertising of any opioid substance or medication, including fentanyl, oxycodone, hydrocodone, tramadol, methadone, codeine and morphine.

61. Other insurance

for which **you** are entitled to cover under any other insurance except for:

- a. any additional sum which is payable over and above the other insurance where that insurance has been declared to **us**;
- b. any additional sum which is payable over and above:
 - i. any other insurance protecting an **insured person** while acting in an **outside directorship position**; or
 - ii. any indemnification or defense which an **outside entity** has agreed or is legally obliged to provide an **insured person** with while acting in an **outside directorship position**; or
- c. any contribution that **we** are obliged to make by law and that contribution will be in proportion to the indemnity available under the Policies.

However, this Exclusion will not apply to **INSURING CLAUSE 2** which will always respond to any covered **claim** as primary policy, unless the **claim** arises out of an **insured person's** liability for an independent contractor or leased **employee** in which case this Policy will be excess over any cover available to the independent contractor or the leased **employee**.

62. Personal profit and deliberate acts

arising out of:

- a. the gaining of any personal profit or financial advantage to which **you** were not legally entitled as determined by final adjudication, arbitral tribunal or written admission; or

- b. the committing of any dishonest or fraudulent act or omission by **you** as determined by final adjudication, arbitral tribunal or written admission.

However, this Exclusion will not apply to **INSURING CLAUSE 5** in respect of any dishonest or fraudulent act committed by an **employee**.

63. Pollution

arising directly or indirectly out of **pollution**.

However, this Exclusion will not apply in respect of:

- a. **INSURING CLAUSE 1 (SECTION A only)**;
- b. **INSURING CLAUSE 1**, to any **claim** made by any shareholder of the **company** acting in their capacity as a shareholder of the **company**, which is instigated and continues totally independent of **you** and totally without **your** solicitation, assistance, active participation or intervention;
- c. **INSURING CLAUSE 2 (SECTION A only)**, to any **claim** arising out of **retaliation**; and
- d. **INSURING CLAUSE 3**, to any **claim** made by or on behalf of a beneficiary of, or participant in any **benefit plan**, arising directly or indirectly out of the diminution in value of any securities owned by the **benefit plan** if the diminution in value is alleged to be the direct result of **pollution**.

64. Prior and pending litigation

arising directly or indirectly out of:

- a. any litigation, **regulatory investigation** or other proceeding that commenced or is pending on or before the **prior and pending litigation date**; or
- b. the same, or substantially the same, **wrongful act**, fact, circumstance, situation, event, transaction or any other matter which is the subject of or alleged in the litigation, **regulatory investigation** or other proceeding in a. above.

65. Property damage

arising directly or indirectly out of **property damage**.

66. RICO

for any actual or alleged violations of the Racketeer Influenced and Corrupt Organization Act of 1970 and any subsequent amendments to this Act.

However, this Exclusion will not apply to any **claim** arising out of **retaliation**.

67. Sanctions

or will be deemed to provide any cover, to the extent that the provision of such payment or cover will expose **us** to any sanction, prohibition or restriction under the United Nations

resolutions or the trade or economic sanctions, laws or regulations of Australia, Canada, the European Union, United Kingdom or United States of America.

68. Territorial scope

arising directly or indirectly out of any **wrongful act** committed or alleged to have been committed outside the territorial scope stated in the Declarations page.

69. Terrorism

arising directly or indirectly out of:

- a. any act or threat of force or violence by an individual or group, whether acting alone or on behalf of or in connection with any organization or government, committed for political, religious, ideological or similar purposes including the intention to influence any government or to put the public, or any section of the public, in fear; or
- b. any action taken in controlling, preventing, suppressing or in any way relating to a. above.

However, this Exclusion does not apply to:

- a. a **cyber event** affecting **your computer systems**; or
- b. **INSURING CLAUSE 6**.

70. Uninsurable fines

for fines, penalties, civil or criminal sanctions or multiple, punitive or exemplary damages, unless insurable by law.

We will apply the most favorable State law to **you** in determining whether such fines, penalties, civil or criminal sanctions, multiple, punitive or exemplary damages are insurable.

71. Unjust enrichment

for that part of any **claim** that results in **you** being in a better financial position as a direct result of **your wrongful act** than **you** would have been if **you** had not committed the **wrongful act**.

72. Wage and hour

arising out of any actual or alleged breach of any **wage and hour duty**.

However, this Exclusion will not apply in respect of:

- a. **INSURING CLAUSE 2 (SECTION A only)**, to any **claim** arising out of:
 - i. any actual or alleged violation of the Equal Pay Act of 1963 and any subsequent amendments to this Act or any similar local, state, provincial, federal law and any amendment thereto, or rules or regulations promulgated thereunder; or
 - ii. **retaliation**; and

b. **INSURING CLAUSE 2 (SECTION C only)**.

73. War

arising directly or indirectly out of:

- a. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), civil war, rebellion, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b. any action taken in controlling, preventing, suppressing or in any way relating to a. above.

CONDITIONS

1. What you must do in the event of a claim or any incident which may give rise to a claim under this Policy

If any **senior executive officer** becomes aware of any incident which may reasonably be expected to give rise to a claim under this Policy **you** must:

- a. notify the **claims managers**, or the **kidnap event response team** in respect of **INSURING CLAUSE 6**, as soon as is reasonably practicable, provide them with full details of the incident and follow their directions (in respect of cyber incidents, a telephone call to **our cyber incident response hotline** will constitute notification). However, in respect of **INSURING CLAUSES 1, 2 and 3**, this notification must be made no later than 60 days following the **expiry date**;
- b. in respect of **INSURING CLAUSES 5 and 6**, report the incident as soon as is reasonably practicable to the appropriate law enforcement authorities and provide **us** with a copy of this report on **our** request; and
- c. not admit liability for or settle or make or promise any payment or incur any **costs and expenses** without **our** prior written agreement (which will not be unreasonably withheld).

Due to the nature of the coverage offered by this Policy, any unreasonable delay by **you** in notifying the **claims managers** or the **kidnap event response team** of the above could lead to the size of the claim increasing, **our** rights being restricted or the personal safety of an **insured person** being compromised. **We** will not be liable for any costs or that portion of any claim that is due to any unreasonable delay in **you** notifying the **claims managers** or **kidnap event response team**.

We require **you** to provide full details of the incident, including but not limited to:

- a. the time, place and nature of the incident;
- b. the manner in which **you** first became aware of this incident;

- c. the reasons why **you** believe that this incident could give rise to a claim under this Policy;
- d. in respect of **INSURING CLAUSES 1, 2 and 3**, the identity of the potential claimant; and
- e. an indication as to the size of the claim that could result from this incident.

If **you** notify an incident that **we** agree is reasonably expected to give rise to a **claim**, **we** will accept any **claim** that arises out of the incident as being notified under this Policy.

In respect of **INSURING CLAUSE 4**, if **you** discover a **cyber event** **you** may only incur costs without **our** prior written consent within the first 72 hours following the discovery and any **third party** costs incurred must be with a **company** forming part of the **approved claims panel providers**. All other costs may only be incurred with the prior written consent of the **claims managers** (which will not be unreasonably withheld).

2. Agreement to pay claims (duty to defend)

We have the right and duty to take control of and conduct in **your** name the investigation, settlement or defense of any **claim**. Except as provided for in **CONDITION 3**, **we** will not have any duty to pay **costs and expenses** for any part of a **claim** that is not covered by this Policy.

We have the right to select defense counsel. Should a conflict of interest exist between any of the **insured persons** and the **company**, then at their request and subject always to the **claims managers'** prior written consent (which will not be unreasonably withheld), separate defense counsel may be appointed by **us** to protect their respective interests.

We will endeavor to settle any **claim** through negotiation, mediation or some other form of alternative dispute resolution and will pay on **your** behalf the amount **we** agree with the claimant. If **we** cannot settle using these means, **we** will pay the amount which **you** are found liable to pay either in court or through arbitration proceedings, subject to the **limit of liability**.

We will not settle any **claim** without **your** consent. If **you** refuse to provide **your** consent to a settlement recommended by **us** and elect to continue legal proceedings in connection with the **claim**, any further **costs and expenses** incurred will be paid by **you** and **us** on a proportional basis, with 80% payable by **us** and 20% payable by **you**. As a consequence of **your** refusal, **our** liability for the **claim**, excluding **costs and expenses**, will not be more than the amount for which the **claim** could have been settled.

3. Allocation

In the event a **claim** includes both allegations or persons that are covered under this Policy and allegations or persons that are not covered under this Policy then **you** and **we** will need to agree a fair and proper allocation of any **claim** settlement amount and all incurred **costs and expenses**.

If a fair and proper allocation cannot be agreed, **we** will advance **costs and expenses** that **we** determine to be fair and proper until a different amount is agreed upon.

Final allocation will be determined by a lawyer agreed between the **company**, the **insured persons** and **us**. The determination will be based upon written submissions only and will be final and binding. Pending that determination **we** may at **our** sole discretion meet the **claim** on an interim basis. After the determination, the **insured persons** or the **company** (whichever is appropriate) will refund **us** any amount which **we** have paid that exceeds the entitlement under this Policy.

The costs of any reference to a lawyer will be borne by **us**.

4. Application warranty

You agree that all statements made by **you** in the application form, including any renewal application form, and any supplemental materials **you** have supplied in support of the application for insurance, are **your** agreements and representations to **us** and the Policy is issued in reliance upon that information. The misrepresentation or non-disclosure of any matter by **you** or **your** agent will render this Policy null and void and relieve **us** from all liability under this Policy.

5. Authorization

The first company named as the Insured on the Declarations page will be considered the sole agent of and will act on behalf of all other parties insured under this Policy, other than in respect of any request to:

- a. cancel this Policy in accordance with **CONDITION 7**; and
- b. purchase an extended reporting period in accordance with **CONDITION 14**.

6. Calculation of business interruption losses

In respect of **INSURING CLAUSE 4 (SECTION F only)**, in the event of a claim for any financial loss sustained by **you**, **you** must provide the **claims managers** with **your** calculation of the financial loss including.

- a. how the loss has been calculated and what assumptions have been made; and
- b. supporting documents including account statements, sales projections and invoices.

If **we** are unable to agree with **your** calculation of the financial loss, **we** will appoint an independent expert agreed between **you** and **us** which will be paid for by **us**. If an independent expert cannot be agreed upon, one will be appointed by an arbitrator mutually agreed between **you** and **us** whose decision will be final and binding.

Once an independent expert has been appointed, their calculation of any financial loss sustained by **you** will be final and binding.

7. Cancellation

This Policy may be canceled with 30 days written notice by either **you** or **us**.

If **you** give **us** notice of cancellation, the return **premium** will be in proportion to the number of days that the Policy is in effect. However, if **you** have made a claim under this Policy there will be no return **premium**.

If **we** give **you** notice of cancellation, the return **premium** will be in proportion to the number of days that the Policy is in effect.

We also reserve the right of cancellation in the event that any amount due to **us** by **you** remains unpaid more than 60 days beyond the **inception date**. If **we** exercise this right of cancellation it will take effect from 14 days after the date the written notice of cancellation is issued.

The Policy Administration Fee will be deemed fully earned upon inception of the Policy.

8. Fraudulent claims

If **you** notify **us** of any claim knowing it to be false or fraudulent in any way, **we** will have no responsibility to pay that claim and reserve the right to void this Policy from the date of the fraudulent act. If **we** exercise this right **we** will not be liable to return any **premium** to **you**. However, this will not affect any claim under this Policy which has been previously notified to **us**.

9. Mergers and acquisitions

If **you** create or acquire an entity during the **period of the policy** whose total gross assets do not exceed 35% of the **company's** total gross assets, as stated in its most recent annual financial statements, cover is automatically extended under this Policy to include the entity as a **subsidiary** from the date of its creation or acquisition.

If **you** create or acquire an entity during the **period of the policy** whose total gross assets exceed 35% of the **company's** total gross assets, as stated in its most recent annual financial statements, cover is automatically extended under this Policy to include the entity as a **subsidiary** for 30 days from the date of its creation or acquisition.

We will consider providing cover for the created or acquired entity after the period of 30 days if:

- a. **you** give **us** full details of the entity within 30 days of its creation or acquisition; and
- b. **you** accept any amendment to the terms and conditions of this Policy and agree to pay any additional **premium** required by **us**.

In the event **you** do not comply with a. and b. above, cover will automatically terminate for the entity 30 days after the date of its creation or acquisition.

Cover for any created or acquired entity is only provided under this Policy in respect of any **wrongful act** committed or alleged to have been committed, or an event first occurring, on or after the date of its creation or acquisition.

No cover will be automatically provided under this Policy for any created or acquired entity:

- a. which has any of its securities listed on any exchange;
- b. which is a bank, clearing house, credit institution, investment firm or advisor, private equity or venture capital company, stock broker, insurance company or other entity that provides similar services;
- c. whose total number of employees is more than 10% of the total number of **your employees**, if **you** have purchased cover for **INSURING CLAUSE 2**; or
- d. that has experienced a **cyber event** in the 3 years period prior to its acquisition, if **you** have purchased **INSURING CLAUSE 4** and the **cyber event** cost more than the highest **deductible** of this Insuring Clause.

In the event:

- a. of a **corporate takeover**;
- b. the **company** is wound up; or
- c. the **company** makes a public offering of its securities;

during the **period of the policy**, then cover under this Policy will continue to apply but only in respect of any **wrongful act** committed or alleged to have been committed, or an event first occurring, prior to the effective date of the event above.

10. New benefit plans

If **you** create or acquire a **benefit plan** during the **period of the policy** that is not an employee stock ownership plan and whose total assets do not exceed 25% of the **company's** total **benefit plan** assets as stated in the most recent application form, cover is automatically extended under **INSURING CLAUSES 3 and 5 (SECTION C only)** to include this **benefit plan** from the date of its creation or acquisition.

If **you** create or acquire a **benefit plan** during the **period of the policy** that is an employee stock ownership plan or whose total assets exceed 25% of the **company's** total **benefit plan** assets as stated in the most recent application form, cover is automatically extended under **INSURING CLAUSES 3 and 5 (SECTION C only)** to include the **benefit plan** for 30 days from the date of its creation or acquisition.

We will consider providing cover for the created or acquired **benefit plan** after the period of 30 days if:

- a. **you** give **us** full details of the **benefit plan** within 30 days of its creation or acquisition;
- and

- b. **you** accept any amendment to the terms and conditions of this Policy and agree to pay any additional **premium** required by **us**.

In the event **you** do not comply with a. and b. above, cover will automatically terminate for the **benefit plan** 30 days after the date of its creation or acquisition.

Cover for any created or acquired **benefit plan** is only provided under this Policy in respect of any **wrongful act** committed or alleged to have been committed, or an event first occurring, on or after the date of its creation or acquisition.

11. Prior subsidiaries

Should an entity cease to be a **subsidiary** after the **inception date**, cover in respect of the entity will continue as if it was still a **subsidiary** during the **period of the policy**, but only in respect of any **wrongful act** committed or alleged to have been committed, or an event first occurring, prior to the date that it ceased to be a **subsidiary**.

12. Wound up benefit plans

In respect of **INSURING CLAUSE 3**, should:

- a. a **benefit plan** be wound up;
- b. a Pension Benefit Guaranty corporation become a trustee of a **benefit plan**;

during the **period of the policy**, then cover under this Policy in respect of the **benefit plan** will continue to apply but only in respect of any **wrongful act** committed or alleged to have been committed prior to the effective date of the event above.

13. Non-rescission or voidance

Notwithstanding **CONDITION 4**, **we** will not rescind or deem this Policy void in respect of any **insured person** who had no knowledge of, or participation in, the misrepresentation or non-disclosure of any matter to **us**.

14. Optional extended reporting period

In respect of **INSURING CLAUSES 1, 2, 3** and **4**, if:

- a. **you** cancel or decline to renew this Policy; or
- b. **we** cancel or decline to renew this Policy for reasons other than failure to pay the **premium**;

then **you** will have the right to purchase an endorsement providing an extended reporting period for the duration stated in the Declarations page, which will be effective from the cancellation or non-renewal date. This extended reporting period will cover:

- a. in respect of **INSURING CLAUSES 1, 2** and **3**, **claims** first made against **you** and reported to **us** during this extended reporting period but only in respect of any **claim** arising out

of any **wrongful act** committed or alleged to have been committed prior to the cancellation or non-renewal date; and

- b. in respect of **INSURING CLAUSE 4, cyber events** first discovered by **you** during this optional extended reporting period, provided that the **cyber event** first occurred during the **period of the policy**;

and subject to all other terms, conditions, exclusions and the **limit of liability** of this Policy. In no event will the granting of an extended reporting period increase the **limit of liability**.

If **you** would like to purchase the extended reporting period, **you** must notify **us** and pay **us** the extended reporting period **premium** stated in the Declarations page within 30 days of the cancellation or non-renewal date. The **premium** for the extended reporting period will be deemed fully earned upon inception of the extended reporting period.

In the event that this Policy is canceled or is not renewed for reasons other than failure to pay the **premium** then **we** may, at **your** request, quote an extended reporting period **premium** for a period of more than 1 year.

The right to the extended reporting period will not be available to **you** where cancellation or non-renewal by **us** is due to non-payment of the **premium** or **your** failure to pay any amounts in excess of the applicable **limit of liability** or within the amount of the applicable **deductible** as is required by this Policy in the payment of **claims**.

At the renewal of this Policy, **our** quotation of different **premium, deductible, limits of liability** or changes in policy language will not constitute non-renewal by **us**.

In the event of a **corporate takeover** or if the **company** is wound up, **you** will have the right during the **period of the policy** to request from **us** a quotation for an extended reporting period for **INSURING CLAUSES 1, 2, 3 and 4**, but only in respect of any **wrongful act** committed or alleged to have been committed, or any **cyber event** first discovered by **you**, prior to the effective date of the **corporate takeover** or the **company** being wound up and subject to any amended terms, conditions, exclusions and **limits of liability**.

15. Order of payments

In respect of **INSURING CLAUSES 1, 2 and 3**, **we** will pay **claims** made under this Policy in the order they are received by **us**. However, in respect of any **claim** that is covered under **INSURING CLAUSE 1**, **we** will first pay that part of the **claim** which is covered under **INSURING CLAUSE 1 (SECTION A only)**, followed by that part of the **claim** which is covered under **INSURING CLAUSE 1 (SECTION B only)** and thereafter that part of the **claim** which is covered under any other Section or Insuring Clause. In no event will any amount payable by **us** exceed any applicable **limit of liability**.

16. Our rights of recovery

If **we** make any payment under this Policy and **you** have any right of recovery against a **third party** in respect of this payment, then **we** will maintain this right of recovery. **You** will do whatever is reasonably necessary to secure this right and will not do anything after the event which gave rise to the claim to prejudice this right.

We will not exercise any rights of recovery against any **employee** or **insured person**, unless this is in respect of any fraudulent or dishonest acts or omissions as proven by final adjudication, arbitral tribunal or written admission by the **employee** or **insured person**.

Any recoveries will be applied as follows:

- a. towards any recovery expenses incurred by **us**;
- b. then to **us** up to the amount of **our** payment under this Policy, including **costs and expenses**;
- c. then to **you** as recovery of **your deductible**.

17. Presumptive indemnification

In respect of **INSURING CLAUSE 1 (SECTION B only)**, in the event the **company** is permitted or required by law to indemnify an **insured person** for any **loss** and **costs and expenses** incurred by them but fails to do so for any reason, other than insolvency, then **we** will indemnify the **insured person** under this Section and no cover will be available to the **insured person** under **INSURING CLAUSE 1 (SECTION A only)**. In this event the **insured person** is not liable for the **deductible** and the **company** is required to reimburse the amount of the **deductible** to **us** upon **our** request.

18. Process for paying privacy breach notification costs

Any **privacy breach** notification transmitted by **you** or on **your** behalf must be done with **our** prior written consent. **We** will ensure that notification is compliant with any legal or regulatory requirements and contractual obligations. No offer must be made for financial incentives, gifts, coupons, credits or services unless with **our** prior written consent which will only be provided if the offer is commensurate with the risk of harm.

We will not be liable for any portion of the costs **you** incur under **INSURING CLAUSE 4 (SECTION C only)** that exceed the costs that **you** would have incurred had **you** gained **our** prior written consent. In the absence of **our** prior written consent **we** will only be liable to pay **you** the equivalent cost of a notification made using the most cost effective means permissible under the governing law.

19. Severability

The application form for this insurance will be construed as a separate application form by each of the **insured persons**. With respect to the declarations and statements contained in the application form, no declaration, statement or knowledge possessed by any **insured**

person will be imputed to any other **insured person** for the purpose of determining the availability of cover for **insured persons** under this Policy.

Only a declaration or statement contained in the application form and knowledge possessed by an **insured person** will be imputed to the **company** for the sole reason of determining the availability of cover for the **company** under this Policy.

No **wrongful act** of one or more **insured person** will be imputed to any other **insured person** for the purpose of determining the applicability of any of the Exclusions.

20. Valuation and currency

In respect of **INSURING CLAUSE 5**, we will pay:

- a. the lesser of:
 - i. the actual cash value of property at the time the **company** complies with **CONDITION 1**; or
 - ii. the cost to repair or replace property, other than precious metals, with property of similar quality and value at the time the **company** complies with **CONDITION 1**;
- b. the United States of America dollar value of any foreign currency in accordance with the exchange rate published in The Wall Street Journal on the day direct financial loss of any foreign currency is first discovered; or
- c. the United States of America dollar value of any precious metals in accordance with the exchange rate published in the Wall Street Journal on the day the direct financial loss of any precious metals is first discovered.

21. Waiver of subrogation

Notwithstanding **CONDITION 16**, we agree to waive **our** rights of recovery against any **third party** if, prior to the claim or incident which **you** reasonably expected to give rise to a claim, **you** entered into a contract that contains a provision requiring **you** to do this.

22. Choice of law, jurisdiction and service of suit

In the event of a dispute between **you** and **us** regarding this Policy, the dispute will be governed by the laws of the State of the United States of America shown as the choice of law stated in the Declarations page. **We** agree, at **your** request, to submit to the jurisdiction of a court of competent jurisdiction within the United States of America.

Nothing in this Condition constitutes or should be understood to constitute a waiver of **our** rights to commence an action in any court of competent jurisdiction in the United States of America, to move an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States of America or the laws of any State of the United States of America.

It is further agreed that service of process in such suit may be made upon the representative stated in the Declarations page and that in any suit instituted against **us, we** will abide by the final decision of such court or of any appellate court in the event of an appeal. The representative stated in the Declarations page is authorized and directed to accept service of process on **our** behalf in any such suit and, at **your** request, to give a written undertaking to **you** that they will enter a general appearance on **our** behalf in the event such suit is instituted.

Additionally, in accordance with the statute of any state, territory or district of the United States which makes such a provision, **we** hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as **our** true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by **you** arising out of this Policy. The representative stated in the Declarations page is hereby designated as the person to whom the above mentioned officer is authorized to mail such process or a copy thereof.