

MGAMLimited

**MGAM
CYBER RISKS
INSURANCE
POLICY
WORDING**

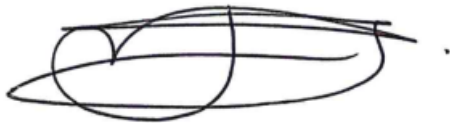
CYBER RISKS INSURANCE

This is to certify that in accordance with the authorisation granted under Contract (as identified in the **Schedule**) to the **Coverholder** specified in the **Schedule** by the **Insurer(s)** listed therein, and in consideration of the premium specified having been paid, the **Insurer(s)** agree to provide insurance to the extent and in the manner specified herein or endorsed hereon.

Provided always that:

- (1) the liability of the **Insurer(s)** shall not exceed the Limits of Liability expressed in the **Policy Schedule** or contained herein or such other Limits of Liability as may be substituted by endorsement and agreed by them or on their behalf.
- (2) this insurance provides cover only in respect of such **Insuring Clauses** of the **Policy Schedule** as are specified as being covered or have a Limit of Liability shown against them.
- (3) this insurance is subject to all the provisions, conditions, warranties and exclusions contained within the body of the wording or endorsed or added thereto, all of which are to be considered as incorporated and shall be read together as one document.

This **Policy** has been issued and signed for and on behalf of the **Insurer(s)** by



Jason Anthony
Chief Executive Officer
MGAM Limited
Authorised signatory

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1. CUSTOMER INFORMATION STATEMENTS

This insurance contract is an important document that the **Insured** should read and store carefully. It sets out what is and is not covered under the insurance cover the **Insured** has purchased and explains key contractual obligations that apply to the **Insured** and to the **Insurer(s)**.

This document has been issued by the **Coverholder** as an agent of the **Insurer(s)**.

This document, the **Schedule** and any **Endorsements** supplied to the **Insured** form the contract of insurance between the **Insured** and the **Insurer(s)** (referred to herein as the **Policy**). The **Insured** should read the **Schedule** carefully and if it is incorrect return it immediately to the **Insured's** insurance broker or intermediary for alteration.

Terms shown herein in bold font and with capital letters have a specific meaning in this **Policy**. Those meanings will be explained in Section 4 of the **Policy** ("Policy Definitions").

Cover under some or all of the **Insuring Clauses** listed in Section 2 have been purchased by the **Insured**. The **Schedule** will show whether cover under an **Insuring Clause** has been purchased and the **Limit** or **Sub-Limit** and **Deductible** applicable to that **Insuring Clause**. If cover under an **Insuring Clause** has not been purchased, then that section of the **Policy** shall not apply.

It is essential that the **Insured**:

- checks that each of the **Insuring Clauses** and the **Schedule** are correct.
- complies with the **Insured's** duties under each **Insuring Clause** and under this insurance as a whole.

The **Insured** should keep this document in a safe place as they may need to refer to it if they have to make a claim.

The **Insured** has a duty at inception and renewal of this insurance and a continuing duty throughout the **Policy Period** to disclose and to make a fair presentation of all facts that are material to the **Insurer(s)** including those relating to any claim. If the **Insured** has any doubt as to whether or not a fact is material they should disclose it to the **Insurer(s)**.

The **Insured** must pay to the **Insurer(s)** all premiums due to the **Insurers** together with all taxes due on the premiums.

In all communications the **Policy** number specified in the **Schedule** should be quoted.

The Coverholder

The **Coverholder** shall mean the **Coverholder** specified in the **Schedule** (referred to herein as the **Coverholder**).

The **Coverholder** is authorised and regulated by the Financial Conduct Authority (the "FCA") – their FCA firm reference number is specified in the **Schedule**.

What to do if You have a complaint

The **Insurer(s)** aim to provide the highest quality of service. However, if the **Insured** feels that the level of service it has received falls short of the standard that it expects, please let the **Insurer(s)** know immediately. If the **Insured** has a complaint the **Insured** has the right to raise its complaint with its broker, intermediary or agent. Alternatively, the **Insured** can write to:

The Compliance Manager
Canopus Managing Agents Limited
Gallery 9
One Lime Street
London
EC3M 7HA
Email: LDNComplaints@CMAL.com
Telephone: +44 (0) 203 943 4400

If the **Insured** remains dissatisfied, the **Insured** may refer its complaint to Lloyd's who will investigate and provide a response. See: www.lloyds.com/complaints

Ultimately, if the **Insured** remains dissatisfied it may, in writing, refer its complaint to the Financial Ombudsman Service using the details shown below.

Financial Ombudsman Service

Contact details for the FOS are:

The Financial Ombudsman Service,
Exchange Tower,
London E14 9SR.

Telephone: 0800 023 4567 (calls to this number are free from “fixed lines” in the UK) or 0300 123 9123 (calls to this number are charged at the same rate as 01 and 02 numbers on mobile phone tariffs in the UK).

Email: complaint.info@financial-ombudsman.org.uk.

The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. The **Insured** can find more information on the FOS at www.financial-ombudsman.org.uk

The FOS’s decision is binding upon the **Insurer(s)**, but the **Insured** is free to reject it without affecting their legal rights.

Accepting an award made by the FOS may affect the **Insured’s** rights to subsequently take legal action.

Financial Services Compensation Scheme (FSCS)

The **Insurer(s)** contribute to the Financial Services Compensation Scheme (FSCS).

The **Insured** may be entitled to compensation from the FSCS if the **Insurer(s)** are unable to meet their liabilities. For compulsory insurance the **Insured** may be entitled to compensation up to 100% of the claim. For non-compulsory types of insurance the **Insured** may be entitled to compensation of up to 90% of the claim.

Further information about compensation scheme arrangements is available from the FSCS:

Financial Services Compensation Scheme, 10th Floor Beaufort House, 15 St Botolph Street, London EC3A 7QU

Telephone: 0207 741 4100 or 0800 678 1100

or the **Insured** can visit their website at www.fscs.org.uk

This insurance and the information disclosed by the Insured

In deciding to accept this insurance and in setting the terms and premium, the **Insurer(s)** have relied on the information the **Insured** have given them. The **Insured** must take care when answering any questions the **Insurer(s)** ask by ensuring that all information provided is accurate and complete.

If the **Insurer(s)** establish that the **Insured** deliberately or recklessly provided them with false or misleading information they will treat the **Insured’s** insurance as if it never existed and decline all claims. The **Insurer(s)** may not return premium already paid by the **Insured** in this situation.

If the **Insurers** establish that the **Insured** provided them with false, incomplete or misleading information and that it was not deliberate or reckless on the **Insured’s** part, it can still adversely affect the **Insured’s** insurance and any claim.

For example:

- (a) where the **Insurers** could have accepted the risk and offered the **Insured** an insurance but would have charged a higher premium, they may only pay a percentage of any claim that the **Insured** makes under this insurance. The **Insurers** would do this by considering the premium they actually charged as a percentage of the higher premium they would have charged and then paying the **Insured** the same percentage of any claim.

So, as an example: if the premium the **Insurer(s)** actually charged was £250 and the higher premium they would have charged was £1,000, then the premium they actually charged represents 25% of the higher premium they would have charged and they shall only pay 25% of any claim.

- (b) the **Insurer(s)** may treat this insurance as if it had never existed and refuse to pay all claims and return the premium, subject to a deduction for any commission paid to the **Insured's** insurance broker or intermediary. The **Insurer(s)** will only do this if the false, incomplete or misleading information means that they provided the **Insured** with insurance cover when they would not otherwise have offered it at all had the risk been fairly presented.
- (c) if the **Insurer(s)** would have written the risk on different terms had it been fairly presented, they may amend this insurance to include these terms. The **Insurer(s)** may apply these amended terms as if they were already in place before a claim is made.
- (d) the **Insurer(s)** may cancel the **Insured's** insurance in accordance with its cancellation provisions.

The **Insurer(s)** will write to the **Insured** if they:

- (i) intend to treat the **Insured's** insurance as if it never existed; or
- (ii) amend the terms of the **Insured's** insurance; or
- (iii) reduce the **Insured's** claim in accordance with the above.

If the **Insured** become aware that information they have given the **Insurer(s)** is inaccurate or incomplete or if the information changes, the **Insured** must inform the **Insurer(s)** without delay. The **Insurer(s)** will be entitled to vary the premium and the terms for the rest of the **Policy Period** or, if the changes make the risk unacceptable to them, they are under no obligation to make the changes and may no longer be able to provide the **Insured** with insurance cover in which case they may cancel the **Insured's** insurance cover in accordance with the cancellation provisions.

Observance of insurance terms and suspension of cover

Every condition precedent that applies to this insurance (whether to one or more **Insuring Clauses** or this insurance as a whole) shall apply and continue to be in force during the whole currency of this insurance. If the **Insured** breaches any such condition precedent cover will be suspended for the period from the date of the breach until the breach has been remedied.

The **Insurer(s)** will have no liability under this insurance in respect of any loss occurring or attributable to something happening during a period of non-compliance with a condition precedent unless the **Insured** can prove that the breach of the condition precedent could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

Cancellation

The **Insured** can cancel this **Policy** at any time during the **Policy Period** by providing written notice to the **Insurer(s)** specifying when such cancellation is to take effect (the date must be after the **Insurer(s)** receive written notice). If notifying the **Insurer(s)** by post, receipt will be deemed to have occurred on the third day after mailing.

The **Insurer(s)** can cancel this **Policy** on fourteen (14) calendar days' notice in the event of non-payment of the premium by providing written notification to the **Insured** at the address stated in the **Schedule** and sending a copy of the notice to the **Insured's** broker or intermediary. Such cancellation will take effect on the fourteenth (14) day after the **Insured's** receipt of the **Insurer's** written notification. If notifying by post, receipt will be deemed to have taken place on the third (3rd) calendar day after mailing.

In the event of cancellation as above, provided that the **Insured** has not notified any actual or potential **Loss** or **Claim**, the **Insured** will be entitled to a pro-rata refund of premium. No premium will be refunded to the **Insured** if any actual or potential **Loss** or **Claim** has been notified prior to cancellation.

To exercise their right to cancel the **Insured** may contact the insurance broker or intermediary who arranged this cover for them.

The law that governs the interpretation of this insurance

This **Policy** is subject to the law and jurisdiction as stated in the **Schedule**. The courts stated in the **Schedule** shall have exclusive jurisdiction to resolve any disputes arising in connection with this **Policy**. In the event that, at the commencement of the **Policy Period**, the **Insured** is resident in (or if the **Insured** is a business, their registered office or principal place of business is situated in) Scotland or Northern Ireland then the law of that country will apply.

Claims notification

The **Insured** must provide notice to the **Insurer(s)** as soon as reasonably practicable after the **Discovery** of an **Insured Event**, or when they become aware of any act, fact or circumstance which may result in a **Loss** or a **Claim**. Notice must be provided by contacting the **Cyber Response Team** using the details shown in the **Schedule** - the **Cyber Response Team** can be contacted 24 hours-a-day, 7 days per week on the telephone number or via the monitored email address shown in the **Schedule**.

Please note there are certain sections within the **Policy** which require that the **Insured** obtain the consent of the **Insurer(s)** before the **Insured** incurs costs. The **Policy** explains when the **Insured** must contact **Insurer(s)** to obtain the **Insurer's** consent before costs are incurred. The **Insurer's** consent to costs shall not be unreasonably withheld or delayed.

Privacy Notice

by MGAM Limited (the intermediary acting on behalf of the **Insurer(s)**)

The parties identified in the **Insured's Policy** and the **Schedule** to the **Policy**, may hold and process personal data supplied by the **Insured** where it is necessary to underwrite, administer, and fulfil obligations under the **Policy** including with regard to claims. Each of the parties are data controllers and/or processors with respect to the personal data they hold. MGAM Limited, and the parties, will always act in accordance with relevant data protection legislation and the rights of data subjects under such legislation. Where the **Insured** provide MGAM Limited with personal data they are confirming to MGAM Limited that they are entitled to do so and have lawfully obtained the data.

Personal data will not be passed to any other third party except where the **Insured's** consent has been given or where permitted by law. The parties will ensure that personal data is kept secure, is used only for the purpose for which it was supplied by the **Insured**, and is retained only for as long as necessary.

If any person whose personal data was supplied pursuant to this **Policy** would like further information please go to www.mgamutual.com/privacy

MGAM Limited will respond to any such enquiry as promptly and fairly as possible providing contact details for any other party that may hold the personal data enabling the data subject to make further enquiries of those parties.

by the **Insurer(s)**

Who we are

We are the Lloyd's underwriter(s) identified in the contract of insurance and/or in the certificate of insurance.

The basics

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.

This information 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.

Other people's details you provide to us

Where you provide us or your agent or broker with details about other people, you must provide this notice to them.

Want more details?

For more information about how we use your personal information please see our full privacy notice(s), which is/are available online on our website(s) or in other formats on request.

Contacting us and your rights

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(s), please contact us, or the agent or broker that arranged your insurance.

WITH REGARD TO INSURING CLAUSES G, H, I, J & K, THIS IS A CLAIMS MADE AND REPORTED POLICY. PLEASE READ IT CAREFULLY.

2. Insuring Clauses

The **Insurer** agrees to pay on behalf of the **Insured** the following **Damages** and to reimburse the **Insured** for the following **Losses** or **Defence Costs**:

- (a) **Breach Expenses** and **Forensic Expenses** arising from a **Data Breach, Security Breach, or Privacy Breach**;
- (b) **Business Interruption Losses, Extra Expenses** and **Forensic Expenses** arising from **Operational or Administrative Error, Cyber Attack, System Failure, Data Breach, Security Breach or Privacy Breach**;
- (c) **Dependent Business Interruption Losses, Extra Expenses** and **Forensic Expenses** arising from **Operational or Administrative Error, Cyber Attack, System Failure, Data Breach, Security Breach or Privacy Breach**;
- (d) **Cyber Theft Loss** arising from a **Cyber Attack or Social Engineering Event**;
- (e) **Data Recovery Expenses, Special Expenses** and **Forensic Expenses** arising from **Operational or Administrative Error, Cyber Attack, Data Breach, Security Breach or Privacy Breach**;
- (f) **Extortion Monies and Expenses** arising from an **Extortion Threat**;
- (g) **Damages and Defence Costs** as a result of a **Claim** arising from a **Data Breach, Security Breach or Privacy Breach**;
- (h) **Regulatory Fines and Penalties** and **Regulatory Investigation Costs** as a result of a **Claim** arising from a **Data Breach, Security Breach or Privacy Breach**;
- (i) **PCI Fines, Penalties and Assessments** and **PCI DSS Claim Expenses** as a result of a **Claim** arising from a **PCI Breach**;
- (j) **Damages and Defence Costs** as a result of a **Claim** arising from a **Media Event**;
- (k) **Customer Attrition Losses** arising from a **Data Breach, Security Breach or Privacy Breach**.

The **Insurer** will pay the **Insured** up to the **Limit** and in excess of the **Deductible** as stated in the **Schedule** subject to the terms and conditions of this **Policy**.

The **Insured** must first **Discover** the **Insured Event, Loss or Claim** during the **Policy Period** or applicable **Extended Reporting Period**. For Insuring Clauses (a), (d), (g), (h), (i), (j) and (k) the specified **Insured Event** must have occurred on or after the **Retroactive Date**. The **Insurer** must be notified of any **Loss, Claim or Insured Event** as per the terms and conditions of this **Policy**.

3. Exclusions

The **Insurer** shall not be liable for:

Acts or Omissions Outside of Cover

Any **Insured Event**, including related or continuing **Insured Events**, which:

- a) Were notified prior to the inception of this **Policy** under any other insurance policy that the **Insured** had; or
- b) The **Insured** first **Discovered** (but did not disclose to the **Insurer**) prior to the commencement of the **Policy Period**; or
- c) Was **Discovered** after the **Policy Period** or applicable **Extended Reporting Period** has expired.

Bodily Injury and Property Damage

Losses or Claims relating to, arising from or alleged to be related to or arising from **Bodily Injury or Property Damage**. However, this exclusion shall not apply to emotional distress or mental anguish caused by a **Data Breach, Security Breach, Privacy Breach or Media Event**.

Consumer Protection Laws

Losses or Claims relating to, arising from or alleged to be related to or arising from a violation of the Consumer Credit Act 1974 (UK) or any amendments of or addition to such laws or any other United Kingdom or foreign act, statute, regulation, rule or common law or European Union directive.

Contractual Liability

Losses or Claims relating to, arising from or alleged to be related to or arising from any contractual liability, guarantee or obligation or any breach of contract or agreement, in either oral or written form; provided, however, this exclusion shall not apply to:

- a. The **Insured's** liability that would have existed in the absence of such contract or agreement; or
- b. The **Insured's** contractual indemnification of a customer or client for a **Security Breach, Data Breach, Privacy Breach or Media Event**; or
- c. Breach of a **Merchant Services Agreement** covered under **Insuring Clause (i)**; or
- d. Breach of the **Insured's** privacy or security policy.

Employment Related Liability

Losses or Claims relating to, arising from or alleged to be related to or arising from any liability to any **Employee**, former **Employee** or prospective **Employee** in respect of any harassment, unfair or wrongful dismissal, wrongful disciplinary action, defamation, humiliation, discrimination, deprivation of career opportunity, refusal to employ or promote, or repudiate or breach of any employment contract under the Employment Rights Act 1996, or any liability arising or alleged to have arisen from any employee benefit plan or pension plan, including but not limited to the Employee Retirement Income Security Act of 1974 (ERISA), Pensions Act 1995 (UK) or other legislation, regulation or laws governed or enforced by the Occupational Pensions Advisory Service or any other similar entities, bodies or enforcement authorities.

This exclusion does not apply to the **Insured's** obligations to **Employees** under **Privacy Regulations** or a **Claim** brought against the **Insured** by an **Employee** as a result of an otherwise covered **Data Breach, Privacy Breach or Security Breach**.

Fair Credit Reporting

Losses or Claims relating to, arising from or alleged to be related to or arising from any actual or alleged violation of the Fair Credit Reporting Act, the Fair and Accurate Credit Transaction Act, or any amendment of or addition to such laws or any other local, state, federal or foreign act, statute, rule or common law.

False Advertising

Losses or Claims relating to, arising from or alleged to be related to or arising from any false advertising by the **Insured** or by a third party on behalf of the **Insured**.

Force Majeure

Losses or Claims relating to, arising from or alleged to be related to or arising from fire, smoke, explosion, lightning, wind, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other similar physical event howsoever caused or from any consequential losses arising or alleged to have arisen therefrom.

Inaccurate Description of Goods, Products or Services

Losses or Claims relating to, arising from or alleged to be related to or arising from any inaccurate, inadequate or incomplete description of or the price of the **Insured's** goods, products or services, or cost guarantees, cost representations, contract price or estimates of probable costs or costs estimates being exceeded.

Insolvency

Losses or Claims relating to, arising from or alleged to be related to or arising from the **Insured's** insolvency or bankruptcy.

Insured vs Insured

Any payment for any **Loss** or **Claim** which is made by or on behalf of any **Insured** against any other **Insured**. This exclusion shall not apply to any **Claim** brought by an **Employee**.

Intentional Acts

Losses or Claims which arise from the actual or alleged wilful, deliberate, intentional, malicious, reckless, dishonest, fraudulent or criminal acts or omissions of the **Insured**.

This exclusion will not apply when the wilful, deliberate, intentional, malicious, reckless, dishonest, fraudulent or criminal acts or omissions were committed without the knowledge or consent of any **Member of the Control Group**.

This exclusion shall not apply to **Losses or Claims** which arise from the actual or alleged wilful, deliberate, intentional, malicious, reckless, dishonest, fraudulent or criminal acts or omissions of one of the **Insured's Outsource Service Providers** if the **Members of the Control Group** were unaware of the actual or alleged act which has caused the **Loss or Claim**. Where any **Member of the Control Group** was aware of the actual or alleged act of the **Outsource Service Provider**, then this exclusion will apply. This does not affect the **Insured's** rights to subrogate against the **Insured's Outsource Service Providers**.

Law/Regulation

Any amount the **Insurer** is prohibited from covering as a result of applicable law or regulation.

Loss of Funds/Trading Liability

Claims relating to, arising from or alleged to be related to or arising from or **Losses** for any:

- a. Loss, theft of, the decrease in value, or the actual value of any currency, electronic fund transfer, securities or any equivalents thereof (including e-certificates, coupons, gift cards and vouchers), except where specifically covered under **Insuring Clause (d)**; or
- b. Trading losses or liabilities (including commissions or fees) resulting from the fluctuation of any stock, share, security or currency on any financial markets or exchanges; or
- c. Any valuable consideration given in excess of the total contracted or expected amount, including but not limited to over-redemption of the face value of coupons, price discounts, prizes or awards.

Mechanical, Electrical or Infrastructure Failure

Losses or Claims relating to, arising from or alleged to be related to or arising from any failure, interruption or degradation of :

- a. Power or utility services including any electrical disturbance, brownout, blackout, short circuit, induction, voltage fluctuation or any outages unless such power or utility services are in the direct operational control of the **Insured** or an **Outsource Service Provider**; or
- b. Satellites; or
- c. Telecommunication services unless such telecommunication services are in the direct operation control of the **Insured** or an **Outsource Service Provider**; or
- d. Any nationwide telecommunication or power infrastructure, regardless of operational control.

Opioids

Losses or **Claims** arising out of, based upon, attributable to or in any way connected with:

- a. The manufacture, marketing, distribution or sale of any **Opioid**.
- b. Medical malpractice, including but not limited to, the rendering of or failure to render medical professional services, treatment or advice.

Patent and Trade Secret

Losses or **Claims** related to, arising from or alleged to be related to or arising from infringement of any patent or the misappropriation of any trade secret. However, this exclusion shall not apply to the misappropriation of a trade secret as the result of a **Media Event** or the theft of a third party's trade secret arising from a **Data Breach**, **Security Breach** or **Privacy Breach**.

Pollutants

Losses or **Claims** relating to, arising from or alleged to be related to or arising from an actual, alleged or threatened presence, discharge, dispersal, release, or escape of a **Pollutant**; or a governmental or regulatory directive or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralise a **Pollutant**, or in any way respond or assess the effects of a **Pollutant**.

Product Recall

Any costs or expenses relating to or incurred by any person or entity to withdraw or recall any product including any technology product from the market place or from loss of use arising out of such withdrawal or recall.

Radioactive Contamination

Loss, damage, liability or expense directly or indirectly caused by or contributed to, by or arising from:

- a. Ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or
- b. The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; or
- c. Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or
- d. The radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes; or
- e. Any chemical, biological, bio-chemical or electromagnetic weapon.

Regulatory Enforcement

Losses or **Claims** relating to, arising from or alleged to be relating to or arising from any action to comply with government enforcement of any state or federal regulatory security obligations, except this exclusion shall not apply to the extent specifically and expressly covered by **Insuring Clause (h)**,

RICO

Losses or Claims relating to, arising from or alleged to be related to or arising from any failure to comply with the Racketeer Influenced and Corrupt Organization Act or equivalent legislation under state, federal or international law.

Sanctions

Any **Claim, Loss** or provision of any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that **Insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

Securities / Directors' and Officers' Liability

Losses or Claims relating to, arising from or alleged to be related to or arising from the purchase, sale, offer of, or solicitation of an offer to purchase or sell securities including any actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act of 1934, Financial Services and Markets Act 2000 or the Financial Services Act 2012 (including any subsequent amendments or any rules or regulations promulgated thereunder), or any other similar law (including common law), regulation, or statute whether enacted in the UK or as part of the broader requirement or regulation under European Union Securities regulation or such legislation, statute or other law as applicable but issued or enforced by a foreign jurisdiction; or any shareholder demands or shareholder derivative lawsuit complaining of a breach of duties by any of the Insured's directors or officers, or seeking access to books, records or other information.

Unfair Trade Practices

Losses or Claims relating to, arising from or alleged to be related to or arising from any actual or alleged antitrust violation, restraint of trade, unfair competition or false, deceptive, or unfair trade practices.

Unjust Enrichment

Losses or Claims relating to, arising from or alleged to be related to or arising from the **Insured's** gaining of profit, remuneration or financial advantage to which the **Insured** was not legally entitled except for amounts paid to the **Insured** or on the **Insured's** behalf by the **Insurer** under the **Policy** incurred until such time as there is a decision or determination by any court, arbitration panel or arbitrator, or governmental, regulatory or administrative body finding that the **Insured** was not so entitled, or the **Insured** admits that it was not so entitled. If this occurs, the **Insured** are obliged to reimburse the amount paid to the **Insured** or on the **Insured's** behalf by the **Insurer**.

Unsolicited Communications

Losses or Claims relating to, arising from or alleged to be related to or arising from the unsolicited distribution, transmission or posting of emails, texts, advertisements or other communications including telemarketing, eavesdropping, wiretapping or audio or video recording. This exclusion shall not apply to an otherwise covered claim under point d) of **Extortion Threat**.

War

Losses, Claims or damage directly or indirectly occasioned by, happening through or as a consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

For the avoidance of doubt, the intent of this **Policy** is to cover **Cyber Terrorism**.

4. Policy Definitions

Aggregate Limit of Liability

The maximum amount payable by the **Insurer** to the **Insured** within the **Policy Period**. The **Aggregate Limit of Liability** is stated in the **Schedule**.

Application

The material submitted to the **Insurer** by the **Named Insured** or on the **Named Insured's** behalf in connection with the underwriting of this **Policy**. The **Application** is deemed attached to and incorporated into this **Policy**.

Bodily Injury

Death or any physical injury or illness to a person.

Breach Expenses

- a. **Notification Expenses;**
- b. **Legal Expenses;**
- c. **Call Centre Expenses;**
- d. **Credit Monitoring Expenses;**
- e. **Public Relations Expenses.**

Breach Expenses do not include:

Salaries, overhead expenses, or other internal charges or costs that the **Insured** incurs for any time that the **Insured** or the **Insured's Employees** spend cooperating with any investigations or responding to any customer complaints following the specified **Insured Event**.

Business

The commercial activities undertaken by the **Insured** including the offering of any products, services or activities carried on in the course of trade and commerce.

Business Interruption Losses

Loss of Income as a direct result of **Disruption** to the **Insured's Computer System**. **Loss of Income** will only be recoverable where the **Disruption** to the **Insured's Computer System** lasts longer than the **Waiting Period**.

Call Centre Expenses

Reasonable and necessary expenses incurred with the **Insurer's** prior written consent arising from the provision of a call centre service to respond to inquiries from affected or potentially affected **Data Subjects**.

Claim

Any of the following made against the **Insured**:

- a. A demand in writing to cease and desist, for compensation, **Damages** or injunctive relief; or
- b. A notice in writing of an intention to commence legal, arbitration, mediation or adjudication proceedings; or
- c. The commencement of legal, arbitration or adjudication proceedings, an invocation of a pre-action protocol; or
- d. A request to toll or waive any applicable statute of limitations; or
- e. A **Regulatory Action** but only with respect to **Insuring Clause (h)**; or
- f. The commencement of an investigation, proceeding or other legal action or similar proceeding initiated by the Payment Card Industry Security Standards Council, card brand, payment processor or other acquiring bank directly resulting from a **PCI Breach** but only with respect to **Insuring Clause (i)**.

Computer System

Interconnected electronic, wireless, web or similar systems used to process **Data** or information in analogue, digital, electronic or wireless format including, but not limited to, computers, computer devices, data storage devices, back-up facilities, operating systems, control systems, network systems, **Hardware**, websites, email systems, intranet, Industrial Control Systems, SCADA Systems and mobile devices.

Confidential Information

Confidential commercial or corporate information, whether printed or digital.

Credit Monitoring Expenses

Reasonable and necessary expenses incurred with the **Insurer's** prior written consent for up to twelve (12) months' credit monitoring services (or such longer period as may be required under relevant legislation or by a regulator) offered by the **Insured** to the **Data Subjects**. **Credit Monitoring Expenses** shall include identity theft protection insurance, identity protection and restoration services (including medical identity restoration services) and credit consultation services where reasonable and necessary.

Customer Attrition Losses

Loss of Income as a direct result of the reputational damage caused by an allegation made in the public domain or the release of information in the public domain alleging that the **Insured** or any third party acting on their behalf, committed or failed to prevent a **Data Breach, Security Breach or Privacy Breach**.

Customer Attrition Period of Restoration

The time period starting when the allegation is first made in the public domain or the release of information is first made in the public domain alleging that the **Insured** or any third party acting on their behalf, committed or failed to prevent a **Data Breach, Security Breach or Privacy Breach** and ending 12 months later.

Cyber Attack

Any unauthorised access or usage of the **Insured's** or **Outsource Service Provider's Computer Systems** (including but not limited to malicious code and denial of service attacks) whether as part of a specifically targeted attack or a generally distributed attack including as a result of **Cyber Terrorism**.

Cyber Response Team

The advisors who will assist the **Insured** if an **Insured Event** occurs or is alleged to have occurred. The contact details are stated in the **Schedule**.

Cyber Terrorism

An act or series of acts of any person or group(s) of persons, whether acting alone or on behalf or in connection with any organisation(s), committed for political, religious or ideological purposes. This shall include, but is not limited to, the intention to influence any government and/or to put the public in fear or such purposes by using activities perpetrated electronically or otherwise that are directed towards the destruction, disruption of subversion of communication and information systems, infrastructure, computers, the internet, telecommunications or electronic networks and/or its content thereof or sabotage and/or threat there from. **Cyber Terrorism** does not include any activities which contribute to or are in support of any military action, war or warlike operation.

Cyber Theft Loss

The transfer, disbursement, alteration, corruption or loss of money, securities or assets belonging to the **Insured** or from an account that is in the trust or control of the **Insured**.

Damages

Any financial award or settlement to a third party, including pre-judgement interest, post-judgement interest and claimant's legal costs that the **Insured** is held liable to pay. **Damages** do not include any:

- a. Criminal fines or penalties; or

- b. Aggravated, punitive and exemplary damages unless insurable by the law of an applicable venue that would most favour coverage; or
- c. Past or future royalties or profits, restitution or disgorgement of the profits of the **Insured**; or
- d. Unpaid license fees; or
- e. Liquidated damages where the amount of liquidated damages for which the Insured is liable (as agreed under contract) exceeds the amount for which the **Insured** would have been liable were it not for such contractual agreement;
- f. Any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**; or
- g. Cost of complying with orders granting injunction or non-monetary relief; or
- h. Return or offset of the **Insured's** fees, charges or commissions for goods or services already provided or contracted to be provided; or
- i. **Regulatory Fines and Penalties**; or
- j. **PCI Fines, Penalties and Assessments**.

Data

Information which is stored electronically on a **Computer System** including computer programs, **Software** and **Firmware**. **Data** does not include **Hardware**.

Data Breach

Any actual or suspected loss, theft, destruction, corruption, encryption or unauthorised disclosure of or access to **Personal Data** or **Confidential Information**. **Data Breach** shall include the misuse of **Personal Data** or **Confidential Information**.

Data Recovery Expenses

The reasonable and necessary costs incurred by the **Insured** with **Insurer's** prior written consent, in relation to the recovery, restoration or replacement of the **Insured's** damaged **Data** to ensure that the **Insured's Data** is in the same or substantially the same condition that it was prior to the damage. Where the **Insured's Data** cannot be restored from back-up files or other storage, the **Insurer** shall pay the reasonable costs of recreating the **Data**.

These costs will be payable by the **Insurer** following the **Discovery** of the damage and will be capped at the re-purchase price of **Data**. If any computer programs, **Software** or **Firmware** are no longer available for sale in the open market, then an equivalent where available can be purchased up to the cost of the original purchase price. If it is determined that the **Data** cannot be replaced, restored or recreated then the **Insurer** will only reimburse the **Insured's** reasonable and necessary costs incurred until that determination occurs.

Data Subject

An individual whose **Personal Data** has been or may have been compromised as a result of a **Data Breach**.

Deductible

The amount to be paid by the **Insured** before the **Insurer** will make any payments under the **Policy**. The **Deductible** is stated in the **Schedule**.

Defence Costs

The reasonable and necessary legal costs and expenses (excluding the **Insured's** internal costs and expenses) incurred with the **Insurer's** prior written consent in relation to the investigation, defence or settlement of any **Claim**.

Defence Costs do not include **Regulatory Investigation Costs**, **PCI DSS Claim Expenses**, salaries, overhead expenses, or other internal charges or costs that the **Insured** incurs for any time that the **Insured** or the **Insured's Employees** spend cooperating with any investigations or responding to any customer complaints.

Dependent Business Interruption Losses

Loss of Income as a direct result of **Disruption** to a **Computer System** operated by an **Outsource Service Provider** for the **Insured**. **Loss of Income** will only be recoverable where the **Disruption** to the **Computer System** operated by an **Outsource Service Provider** for the **Insured** lasts longer than the **Waiting Period**.

Discovered

Discovered by a **Member of the Control Group**.

Disruption

Total or partial interruption or degradation in service.

Employees

An individual contracted to work for the **Insured** under a contract of service in a permanent, part time, or fixed term basis (excluding partners or directors), or any individual who is working on the **Insured's** behalf, at the **Insured's** direction and/or under the **Insured's** direct control. It includes individuals undertaking work experience or internship (paid or unpaid).

Extended Reporting Period

The additional period of time in which the **Insured** may notify the **Insurer** of a **Claim** or a **Loss** after the **Policy Period** has expired. The **Insured** has the right in the event of cancellation or non-renewal of the **Policy**, and where no replacement of this **Policy** is put into effect, to a period of 60 days within which to comply with the Notification provisions under Section 6 (i) with regard to an **Insured Event** that occurred prior to the expiry of the **Policy**. This period of time may be extended upon the payment of an additional premium, as stated in the **Schedule**, by the **Insured** within 30 days of the date of cancellation or non-renewal of the **Policy**.

The **Extended Reporting Period** only applies to those **Insuring Clauses** as shown in the **Schedule**. The **Aggregate Limit of Liability** for the **Extended Reporting Period** shall be part of, and not in addition to the, **Aggregate Limit of Liability** for the **Policy Period**. At the commencement of the **Extended Reporting Period** the entire premium shall be deemed earned and in the event the **Insured** terminates the **Extended Reporting Period** for any reason prior to its natural expiration, the **Insurer** will not be liable to return any premium paid for the **Extended Reporting Period**. All notices and premium payment with respect to prolonging the **Extended Reporting Period** should be directed to **Insurers** through the entity named in the **Schedule**.

Extortion Monies and Expenses

Reasonable and necessary monies, property, online credit or other cryptocurrency payable by the **Insured** and expenses incurred by the **Insured** with the **Insurer's** prior written consent in order to meet, eliminate or remove an **Extortion Threat**.

Extortion Threat

A threat that is both real and immediate from a third party or **Employee** against the **Insured** to:

- a. Release, divulge, disseminate, destroy or use the **Personal Data** or **Confidential Information** acquired by unauthorised access or unauthorised use of the **Insured's** or **Outsource Service Provider's Computer Systems**; or
- b. Introduce malicious code or ransomware into the **Insured's Computer Systems**; or
- c. Corrupt, damage or destroy the **Insured's Computer Systems**; or
- d. Electronically communicate with the **Insured's** customers and falsely claim to be the **Insured** or to be acting under the **Insured's** direction in order to falsely obtain **Personal Data** or **Confidential Information** from the **Insured's** customers (also known as "pharming," "phishing," or other types of false communications); or
- e. Restrict or hinder access to the **Insured's** or **Outsource Service Provider's Computer Systems**, including the threat of a denial of service attack; or
- f. Release, divulge, disseminate, destroy or use the **Insured's Data**; or

- g. Deface the **Insured's** website.

Extra Expenses

The **Insured's** reasonable and necessary expenses incurred to:

- a. Avoid or minimize the suspension or deterioration in its **Business**, which it would not have incurred if the specified **Insured Event** had not occurred, including but not limited to: the cost of renting or leasing equipment, expense of moving to temporary premises and the rental expenses of these premises, consultancy fees and third party services, substitute work or production procedures, extra labour costs and expenses for special advertising; and/or to
- b. Minimize or avoid any specified **Insured Event** to enable the **Insured's Business** to continue operating.

The total expenses incurred under a) and b) above combined shall not exceed the amount by which the **Insured's Loss of Income** is reduced by such expenses. The **Insurer** shall only reimburse the **Insured** for those **Extra Expenses** incurred during the **Period of Restoration**.

Extra Expenses do not include any **Breach Expenses** or **Forensic Expenses**.

Firmware

Software that is embedded within a piece of **Hardware** owned or under the control of the **Insured** (providing low-level control for the specific piece of **Hardware**).

Fixed Expenses

All charges and expenses that do not cease or reduce during the **Period of Restoration**.

Forensic Expenses

Reasonable and necessary expenses incurred with the **Insurer's** prior written consent associated with computer forensic analysis performed by outside experts to investigate the source, scope and cause of, provide confirmation of or respond to the specified **Insured Event**. These expenses also include costs incurred to preserve critical evidence of criminal activity or malicious wrongdoing. I

Under **Insuring Clauses b) and c)**, the **Insurer** shall only reimburse the **Insured** for those **Forensic Expenses** incurred during the **Period of Restoration**.

Forensic Expenses do not include:

Salaries, overhead expenses, or other internal charges or costs that the **Insured** incurs for any time that the **Insured** or the **Insured's Employees** spend cooperating with any investigations or responding to any customer complaints following the specified **Insured Event**.

Gross Earnings

Means for manufacturing operations: the **Net Sales** value of production less the cost of all raw stock, materials and supplies used in such production; or

Means for mercantile or non-manufacturing operations: the total **Net Sales** less the cost of merchandise sold, materials and supplies consumed in the operations or services rendered by the **Insured**.

Gross Profit

The amount produced by adding to the **Net Profit** the amount of **Fixed Expenses**. If there is no net operating profit, the amount of net operating loss will be deducted from the **Fixed Expenses**.

Hardware

The physical components of a **Computer System**. **Hardware** shall include **IoT Devices**.

Incident Manager

The individual leading the **Cyber Response Team** as identified in the **Schedule**.

IoT (Internet of Things) Devices

Any physical devices which have been embedded with technology so they can be used to interact via the internet.

Insured Event

Operational or Administrative Error, Cyber Attack, System Failure, Extortion Threat, Data Breach, Security Breach, Privacy Breach, PCI Breach, Social Engineering Event or Media Event..

The **Schedule** specifies whether the **Insured** has coverage for each of the types of **Insured Event** (see **Insuring Clauses**). The **Policy** shall only respond to an **Insured Event** where coverage has been given for that type of **Insured Event** in the **Schedule** and the specific **Loss** or **Claim** satisfies the specific definition given for that type of **Insured Event** in the **Policy**.

Insurer(s)

The Company subscribing to this **Policy**.

Insured(s)

The:

- a. **Named Insured**; or
- b. Any **Subsidiary**; or
- c. Any **Employee**, director or officer of the **Named Insured** or **Subsidiary** but only in respect of acts, errors or omissions committed, or alleged to have been committed in their capacity as such; or
- d. Any agent or independent contractors, including distributors, licensees and sub-licensees but only whilst acting on behalf or at the direction or under the control of the **Named Insured** or a **Subsidiary**; or
- e. If the **Named Insured** or any **Subsidiary** is a partnership, limited liability partnership or limited liability company then any general or managing partner, principal, stockholder or owner thereof but only in respect of acts, errors or omissions committed, or alleged to have been committed in their capacity as such.

Insuring Clauses

The coverage sections purchased by the **Insured** as outlined in the **Schedule**.

Legal Expenses

Reasonable and necessary expenses incurred with the **Insurer's** prior written consent in appointing a legal advisor to assist the **Insured** in handling the **Insured's** direct response to an **Insured Event**.

Limit(s)

The maximum amount payable by the **Insurer** for each **Insuring Clause** listed in the **Schedule**. The **Limits** are stated in the **Schedule**.

Loss/Losses

Any **Breach Expenses, Forensic Expenses, Business Interruption Losses, Dependent Business Interruption Losses, Extra Expenses, Data Recovery Expenses, Special Expenses, Cyber Theft Loss, Extortion Monies and Expenses, Regulatory Fines and Penalties, Regulatory Investigation Costs, PCI Fines, Penalties and Assessments, PCI Claims Expenses** and **Customer Attrition Losses** but does not include:

- a. Any costs that result in any **Computer System** having a higher level of functionality than it did prior to the specified **Insured Event**; or
- b. Any costs incurred to identify, patch or remediate **Software** program errors or vulnerabilities of the **Computer System** except following the specified **Insured Event**.

Loss of Income

The decrease in income that is suffered by the **Insured** calculated in accordance with Section 7.

Media Event

The actual or suspected occurrence of any of the following in the **Insured's** provision of **Media Services**:

- a. Infringement of intellectual property rights including copyright, title, slogan, trademark, trade name, trade dress, service name, database rights, domain name, deep-linking or framing but not including patent infringement; or
- b. Plagiarism, piracy, violation of moral rights, passing off, misappropriation of property rights, ideas or information; or
- c. Any form of invasion, infringement or interference with rights of privacy or publicity, including, but not limited to false light, public disclosure of private facts, intrusion and commercial appropriation of name, persona or likeness; or
- d. Any form of defamation or other tort related to disparagement or harm to character, reputation or the feelings of any person or entity, including, but not limited to, libel, slander, product disparagement, and trade libel; or
- e. Wrongful entry or eviction, trespass, eavesdropping or other invasion of the right to private occupancy; or
- f. False arrest, detention or imprisonment, abuse of process, or malicious prosecution;
- g. Improper linking or framing; or
- h. The infliction of emotional distress or mental anguish as a direct result of acts (a)-(g) above.

Media Services

The creation, display, broadcast, dissemination, distribution or release of any media content to the public by the **Insured** and/or the collection of media content by the **Insured** for inclusion in any display, broadcast, dissemination or release in the course of the **Insured's Business. Media Services** do not include the design or manufacture of the **Insured's** goods, products or services.

Member of the Control Group

The **Insured's** Chief Executive Officer, Chief Information Officer, Chief Technology Officer, Chief Security Officer, Chief Privacy Officer, General Counsel, Risk Manager or their functional equivalents.

Merchant Services Agreement

An agreement between the **Insured** and a financial institution, credit or debit card company, credit or debit card processor or independent service operator enabling the **Insured** to accept credit card, debit card, pre-paid card or other payment cards for payments or donations.

Named Insured

The entity designated as such in the **Schedule**.

Net Profit

The net operating profit (or net operating loss) resulting from the **Business** of the **Insured** after due provision has been made for all **Fixed Expenses** and other expenses, including depreciation, but before the deduction of any taxes on profits.

Net Sales

The gross **Sales** less discounts, returns, allowances for damage or missing goods, bad debts, and prepaid freights, if any of those items are included in the gross **Sales** figures.

Notification Expenses

Reasonable and necessary expenses incurred with the **Insurer's** prior written consent to comply with any statutory or regulatory notification requirements, including drafting of appropriate notification letters to both the regulator and those allegedly and actually affected. These expenses shall extend to voluntary notification if agreed upon by the **Insurer**.

Operational or Administrative Error

An accidental, unintentional or negligent act, error or omission in the operation or maintenance of a **Computer System** or the entry, creation, modification or handling of **Data** by an **Insured** or **Outsource Service Provider**.

Opioid

Any opioid or opiate substance, including but not limited to codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, OxyContin, buprenorphine/naloxone or any:

- (a) generic substitute or alternative;
- (b) derivative thereof;
- (c) narcotic with a similar chemical formula, structure or function; or
- (d) degradation by-product.

Outsource Service Provider

Any third party contractor or company employed by the **Insured** by written contract to provide information technology services to the **Insured** or on behalf of the **Insured**. **Outsource Service Provider** shall include cloud service providers.

PCI Breach

Any actual or suspected breach of standards, requirements and procedures imposed by the Payment Card Industry Security Standards Council that are in place at the time of the actual or suspected breach.

PCI DSS Claim Expenses

Reasonable and necessary legal costs and expenses (excluding the **Insured's** internal costs and expenses) incurred with the **Insurer's** prior written consent in relation to the investigation, defence, mitigation or settlement of any **PCI Breach**. These shall include the costs of appointing a PCI Forensic Investigator to conduct a Payment Card Industry Forensic Investigation.

PCI Fines, Penalties and Assessments

Fines, penalties, assessments or payments that the **Insured** is contractually obligated to pay under **its Merchant Services Agreement** (s) as a result of any **PCI Breach**.

Period of Restoration

The time period starting when the **Disruption** to the **Computer System** began and ending up to 120 days later.

Personal Data

Information, whether printed or digital, which relates to an individual (referred to as a **Data Subject**) and by virtue of which an individual can be identified, located or contacted.

Policy

This document, the **Schedule** and any endorsements agreed between the **Insured** and the **Insurer**.

Policy Period

The set of dates in which the **Policy** is effective as stated in the **Schedule** or as modified by an earlier cancellation date.

Pollutant

Any pollutant or contamination of any kind, including:

- a. Smoke, vapour, soot, fumes, acid, alkali, chemicals or waste;
- b. Ionizing radiation or contamination by radioactivity from nuclear fuel, or nuclear waste from the combustion of nuclear fuel' or the radioactive, toxic or explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

- c. Mould, mildew, spores, fungi, mycotoxins, organic pathogens, or other micro-organisms;
- d. An electromagnetic field, electromagnetic radiation or electromagnetism;
- e. Asbestos, asbestos fibres or asbestos dust; or
- f. Any solid, liquid, gaseous or thermal irritants or contaminants.

Privacy Breach

Any actual or suspected:

- a. Failure to implement, maintain or comply with the **Insured's** privacy or security policy; or
- b. Failure to notify **Data Subjects** or any other affected individuals of a **Data Breach** or **Security Breach**; or
- c. An infringement or violation of any rights to privacy or confidentiality; or
- d. Breach of any requirements relating to the disposal of or wrongful collection of **Personal Data** or **Confidential Information**; or
- e. Failure to comply with **Privacy Regulations**.

Privacy Regulations

Statutes, regulation and legislative instruments at either state, federal or international level which are associated with protecting the confidentiality, control, use of and access to personally identifiable information including financial and medical information as that information exists now and in the future. These include but are not limited to the following (as currently enacted or as amended in the future):

- a. California Security Breach Notification Act;
- b. California Consumer Privacy Act 2018;
- c. Data Protection Act 2018;
- d. General Data Protection Regulation;
- e. Fair and Accurate Credit Transactions Act 2003;
- f. Gramm-Leach-Bliley Financial Services Modernization Act of 1999;
- g. The Health Insurance Portability and Accountability Act of 1996 and Health Information Technology for Economic and Clinical Health Act;
- h. New York Cybersecurity Regulation;
- i. Privacy Act 1974.

Property Damage

Physical injury to, impairment, destruction or corruption of any tangible property including loss of use of such property. **Data** is not considered to be tangible property. Loss of use of **Hardware** as a direct result of the re-programming of **Firmware** that renders such **Hardware** non-functional for its intended purpose but does not cause any physical damage shall not be considered **Property Damage**.

Public Relations Expenses

Reasonable and necessary costs and expenses incurred with the **Insurer's** prior written consent in appointing public relations consultants to assist the **Insured** in mitigating the reputational damage caused by a **Data Breach**, **Security Breach** or **Privacy Breach**.

Rate of Gross Profit

The rate of **Gross Profit** earned on **Sales** during the twelve full calendar months immediately before the date of the loss, corresponding with the **Period of Restoration** adjusted for trend so that the rate of **Gross Profit** reflects the rate of **Gross Profit** that would have been experienced if the specified **Insured Event** had not occurred.

Regulatory Action

An investigation, inquiry or a proceeding by a regulator alleging any failure to maintain the security of **Personal Data**, or to comply with the requirements of any **Privacy Regulations**.

Regulatory Fines and Penalties

Fines, penalties or any other financial imposition or penalty where insurable by law which the **Insured** is obliged to pay based upon an order or requirement or demand from a regulator. However, these do not include any criminal fines, penalties or sanctions issued by any regulatory agency or **PCI Fines, Penalties and Assessments**.

Regulatory Investigation Costs

Means reasonable and necessary legal costs and expenses (excluding the **Insured's** internal costs and expenses) incurred with the **Insurer's** prior written consent in relation to the investigation, defence, mitigation or settlement of any **Regulatory Action**.

Retroactive Date

The date specified as such in the **Schedule**.

Sales

The money paid or payable to the **Insured** for goods sold and delivered and/or for services rendered in the conduct of its **Business**.

Schedule

Means the document which confirms the coverage which is available to the **Insured** under the **Policy**. The **Schedule** states the **Limit(s)**, the **Retroactive Date** and the **Deductible** amongst other information.

Security Breach

Any actual or suspected unauthorised access or usage of the **Insured's** or **Outsource Service Provider's Computer Systems** as a result of which:

- a. The **Insured** is unable to gain access to its **Data** or **Computer Systems** (including a Denial of Service attack); or
- b. Malicious code is transmitted from the **Insured's Computer Systems** to the **Computer Systems** of a third party; or
- c. **Data** is damaged, altered, corrupted or destroyed; or
- d. Attempted or actual cryptocurrency mining occurs

Security Breach shall include such actions resulting from both a **Social Engineering Event** and **Cyber Terrorism**.

Social Engineering Event

The manipulation of the **Insured** by a third party, either by use of a website or electronic communication, in an attempt to obtain **Confidential Information** or **Personal Data** from the **Insured** or to elicit the transfer of funds by the **Insured**.

Software

Computer programs or electronic instructions (including but not limited to applications, data, information and scripts) used by a computer or device.

Special Expenses

Reasonable and necessary costs that the **Insured** incurs with the **Insurer's** prior written consent to prevent, preserve, minimize, or mitigate any further damage to **Data**, including purchasing replacement licenses for programs because the copy protection system and/or access control **Software** was damaged or destroyed.

Standard Sales

An approximate **Sales** projection calculated based on the **Sales** during the twelve month period immediately preceding the date of the loss adjusted to reflect trends affecting the **Insured's Business**. This projection should be approximately equivalent to the **Sales** which the **Insured** would have made had the **Insured Event** not occurred.

Sub-Limits

The individual limit stated within the **Schedule** for a particular **Insuring Clause**. The **Sub-Limit** will be lower than the **Aggregate Limit of Liability** stated in the **Schedule**.

Subsidiary

Any company in respect of which the **Named Insured**:

- a. Holds more than half of the issued share capital; or
- b. Controls more than half of the voting power; or
- c. Otherwise controls the composition of the board of directors;

at the inception date of this **Policy** or is subsequently included subject to Section 8 (iv).

Where a **Subsidiary** is subsequently included subject to Section 8 (iv), coverage is only extended to such **Subsidiary** for any **Claim** or **Loss** or any other notification under this **Policy** that arises out of any **Insured Events**, acts, errors, or omissions first committed or first occurring after the entity becomes a **Subsidiary**.

System Failure

Any unintentional or unplanned outage of the **Insured's** or **Outsource Service Provider's Computer System**.

Waiting Period(s)

The period of time stated in the **Schedule** that the **Disruption** of a **Computer System** must last for, before coverage will be provided under **Insuring Clauses b) or c)**. Any **Loss** incurred during the **Waiting Period** is uninsured.

5. Defence and Settlements

The **Insurer** shall have the right and duty to defend any **Claim** brought against the **Insured** (with the exception of a **Regulatory Action**) regardless of whether the **Claim** is groundless, fraudulent or false. The **Insured** shall not admit or assume liability, make a payment, enter into a settlement agreement or consent to a judgment without the prior written consent of the **Insurer**, such consent not to be unreasonably withheld or delayed.

The **Insurer** shall have the right, but not the duty, to defend the **Insured** in respect of any **Regulatory Action**.

If the **Insured** refuses to consent to a settlement which is recommended by the **Insurer** and the **Insured** insists on contesting the **Claim**, the **Insurer's** total liability for any **Damages, Defence Costs** or other expenses under this **Policy** shall not exceed:

- a. The amount for which the **Claim** could have been settled plus the **Damages, Defence Costs** and other expenses incurred up until the date when the **Insured** refused to agree to the settlement recommended by the **Insurer** (the **Deductible** to be deducted from the amount payable by the **Insurer**); and
- b. Fifty percent (50%) of any **Damages, Defence Costs** or other expenses recoverable under this **Policy** after the date upon which the **Insured** refused to agree to the settlement recommended by the **Insurer**. The remaining thirty percent (30%) shall be payable by the **Insured** and uninsured under this **Policy**.

6. Conditions

(i) Claim Notification & Breach Response

The **Insured** must provide notice to the **Insurers** as soon as reasonably practicable after the **Discovery** of an **Insured Event**, or becomes aware of any act, fact or circumstance which may result in a **Loss** or a **Claim**. Notice must be provided by contacting the **Incident Manager**. The **Incident Manager** will assist the **Insured** in the handling of the **Insured Event**. The **Cyber Response Team** can be contacted 24 hours-a-day, 7 days per week on the telephone number or via the monitored email address shown in the **Schedule**. The **Incident Manager** will arrange for the **Insured** to receive appropriate services via the **Cyber Response Team** depending on the nature of the **Insured Event** that has occurred or is suspected to have occurred.

Subject to the terms and conditions of the **Policy**, the **Insurer** will cover the costs of the **Cyber Response Team** up to the **Aggregate Limit of Liability** as stated in the **Schedule**. The costs incurred by the **Cyber Response Team** will be subject to the **Deductible**.

(ii) Claims Assistance, Cooperation and Conduct

The **Insured** must provide assistance to or cooperate with the **Insurer** or representatives appointed on the **Insurer's** behalf. This includes cooperation and assistance in the investigation, production or preservation of documentation, information or other physical evidence about an **Insured Event**.

The **Insured** must provide such information, respond to all relevant correspondence, communication, demand, claim for, adjudication notice, referral, statement of case, submission, notice of hearing, order or other correspondence from the resolution process (including communication from a court, arbitrator, mediator, adjudicator) in a timely manner. The **Insured** may also be required by the **Insurer** to provide a position statement, witness statement, expert report, legal or quasi legal paper or report.

(iii) Confidentiality

The **Insured** will not disclose the terms, conditions, exclusions, or the **Limit** of this **Policy** or the amount of the premium paid to any third party except to the extent that they are required to do so by law, for contractual or bidding purposes, or the **Insurer** consents in writing, such consent not to be unreasonably withheld, to such disclosure.

(iv) Fraud

If the **Insured** notifies a **Loss** believing the same to be false or fraudulent with respect to the amount claimed or otherwise, **Insurers** at their sole discretion may treat this **Policy** as void ab initio and the **Insured** shall forfeit all benefit under it. **Insurers** may alternatively at their sole discretion elect to give notice to the **Insured** that the **Policy** remains in full force and effect, but no indemnity or any other payment will be made for any **Claim** or **Loss** based upon, directly or indirectly arising out of, or in any way involving the circumstance that entitled **Insurers** to avoid this **Policy**.

(v) Representation

The **Insured** accepts that this **Policy** has been issued in reliance that the agreements and representations contained within the **Application** are true and complete. The misrepresentation or non-disclosure of any material facts or material statements within the **Application** will render the **Policy** null and void with respect to any **Insured** who knew of such misrepresentation or non-disclosure and with respect to the **Insured** if a **Member of the Control Group** knew of such misrepresentation or non-disclosure.

(vi) Reimbursement of Costs

Where expenses are incurred after there is a judgment or arbitrator's decision finding that the **Insured** was not entitled to coverage under this **Policy**, then the **Insured** shall reimburse to the **Insurer** any **Defence Costs** or other expenses paid to the **Insured** or on the **Insured's** behalf by the **Insurer**.

If the **Insurer** pays to the **Insured** an amount (including **Defence Costs**) in respect of a **Claim** or a **Loss** and later there is a determination or decision from any court, arbitration panel or arbitrator, or governmental, regulatory or administrative body finding any such intentional, wilful, deliberate, criminal, dishonest, fraudulent or malicious acts, errors or omissions by the **Insured** or intentional violations of law by the **Insured**, or the **Insured**

admits to such an acts or omissions, then the **Insured** must reimburse to the **Insurer** any money that has been paid to the **Insured** or on the **Insured's** behalf by the **Insurer**.

(vii) Material Changes

The **Insured** must advise the **Insurer** as soon as practicable of information of which the **Insured** becomes aware deemed to be material to the risk. The **Insurer** reserves the right to amend the terms and conditions of this **Policy** and to charge an additional premium because of the change.

7. How Much the Insurer Will Pay to the Insured

The **Schedule** states:

- a. Whether the **Insured** has purchased cover for each of the **Insuring Clauses**; and
- b. The **Limit** and **Deductible** applicable to each of the **Insuring Clauses**.
- c. The **Waiting Period** applicable to **Insuring Clauses b) and c)**.

All payments that are made to the **Insured** under this **Policy** shall reduce and may exhaust the **Limit(s)**, **Sub-Limits** and **Aggregate Limit of Liability**. Any payment will be subject to the terms and conditions contained within the **Policy**.

The **Insurer** will only pay that portion of any **Loss** or **Claim** which exceeds the **Deductible**. The **Insurer** can reduce payment of any covered amount owed by the **Insurer** to the **Insured** by the **Deductible**. The value of the **Deductible** does not reduce the applicable **Limit**.

Before **Insurers** will pay any **Loss** under **Insuring Clauses b) or c)** the **Waiting Period** must have been exceeded. The **Deductible** will apply to these **Insuring Clauses** from the expiration of the applicable **Waiting Period**.

The **Limit** or **Sub-Limit** applicable to each **Insuring Clause** is the maximum amount the **Insurer** will pay under this **Policy** including expenses where applicable, regardless of the number of **Insured Events, Claims or Losses**. Any **Limit** or **Sub-Limit** is part of and not in addition to the **Aggregate Limit of Liability**.

The maximum amount that the **Insurer** will pay to the **Insured**, or on the **Insured's** behalf, in the aggregate, under this **Policy** shall be the **Aggregate Limit of Liability** stated in the **Schedule** regardless of the number of **Insured Events, Claims or Losses**.

(i) Aggregation and Allocation

In the event that a **Loss** or **Claim** arises from more than one **Insured Event**, only one **Deductible** shall apply. The highest of any applicable **Deductibles** which apply to the relevant **Insured Event** will be the amount payable by the **Insured**.

(ii) Related Matters

Any **Losses, Claims or Insured Events** that arise out of the same, related or continuing acts, facts, incidents, circumstances, errors or omissions shall be treated as a single event and will be deemed to have occurred when the first such related act, fact, incident, circumstance, error or omission occurred.

(iii) Loss of Income

In order to calculate the **Insured's Loss of Income**, the **Insurer** will adopt one of the following three methods as chosen by the **Insured**:

- (A) Loss of Gross Profit – The amount payable as indemnity hereunder shall be:

The **Insurer** will take the **Insured's** reduction in **Sales**, which is the figure produced by applying the **Rate of Gross Profit** to the amount by which **Sales** during the **Period of Restoration** or **Customer Attrition Period of Restoration** (where applicable), are less than **Standard Sales** as a result of the specified **Insured Event**, and reduce this figure by any amount that the **Insured** saved during the **Period of Restoration** or **Customer Attrition Period of Restoration** (where applicable), due to any charges or expenses (paid out of **Gross Profit**) which cease/are reduced during the **Period of Restoration** or **Customer Attrition Period of Restoration**.

(B) Loss of Gross Earnings – The amount payable as indemnity hereunder shall be:

The **Insurer** will take the **Insured's Gross Earnings** and all other earnings that would have been earned during the **Period of Restoration** or **Customer Attrition Period of Restoration** (where applicable), if the specified **Insured Event** had not occurred. The **Insurer** will reduce that figure by all charges and expenses that cease/are reduced during the **Period of Restoration** or **Customer Attrition Period of Restoration** (where applicable).

It is hereby understood and agreed that where there is a loss of production, but no materially lower or zero loss of **Sales**, then due account shall be taken when quantifying the loss payable under this **Policy** in order to indemnify the **Insured** for the actual loss sustained.

(C) Loss of Net Income – The amount payable as indemnity hereunder shall be:

The **Insurer** will take the **Insured's** net income before tax that would have been achieved during the **Period of Restoration** or **Customer Attrition Period of Restoration** (where applicable), if the specified **Insured Event** had not occurred. The **Insurer** will add to that figure, the **Insured's** continuing normal operating expenses (including but not limited to payroll, rent and utility bills) which are redundant because of the **Insured Event** (to the extent that the **Insured** must continue to pay these expenses during the **Period of Restoration** or **Customer Attrition Period of Restoration** (where applicable)).

In the event that, during the **Period of Restoration** or **Customer Attrition Period of Restoration** (where applicable), goods are sold or services are rendered by means of alternative methods, facilities or personnel, the money which is paid or payable for these goods or services shall be taken into account by the **Insurer** when it calculates the **Insured's Loss of Income** (by any of the three methods referred to above).

In the course of calculating the **Insured's Loss of Income**, the **Insurer** shall make adjustments as required to allow for trends, changes in circumstances or variations affecting the **Insured's Business** before or after the specified **Insured Event** occurred or which would have affected the **Insured's Business** had the specified **Insured Event** not occurred.

Once the **Insurer** has completed its adjustment of the figures by one of the methods described above, the final figure shall represent as closely as possible, the results which the **Insured** would have obtained during the **Period of Restoration** or **Customer Attrition Period of Restoration** (where applicable) had the specified **Insured Event** not occurred.

(iv) Proof of Loss

The **Insured** shall provide as soon as practicable, but in any event no later than 180 days after a loss is **Discovered**, a proof of loss detailing the **Loss** for which it is seeking coverage under this **Policy**, including as may be appropriate:

- a. Information and evidence known to the **Insured** of the facts relating to the **Insured Event**, threat, or failure, the amount of the **Loss**;
- b. A description of the incident and any **Data**, programs and equipment involved;
- c. Identification of involved personnel;
- d. Copies of available system and security logs, and any reports of outside experts and consultants; and
- e. Any other information as reasonably requested by the **Insurer's** representatives.

The **Insured** may provide an interim proof of loss and request interim payment from **Insurers** if the loss is incapable of being fully quantified.

8. Other Information

(i) Assignment

The **Insured** interest under this **Policy** cannot be assigned in whole or in part without the **Insurer's** prior written consent.

(ii) Insolvency

If the **Insured** becomes bankrupt or subject to insolvency proceedings, this will not automatically terminate or relieve the **Insurer** of obligations owed under this **Policy**.

(iii) Mergers and Acquisition and Change of Control

If, during the **Policy Period**, the **Insured** or any **Subsidiary** of the **Insured** acquires another entity the acquired entity shall automatically be considered as a **Subsidiary** under the **Policy** unless:

- That entity increases the **Insured's** revenue by more than 15% from the prior year revenue figure provided in the **Application**; and/or
- That entity stores a total number of unique, personally identifiable records, at the date of the completion of such acquisition, that is more than 20% of the total unique, personally identifiable records that the **Insured** declared within the **Application**;

In such cases, the acquired entity shall only be considered as a **Subsidiary** under the **Policy** if the **Insurer** receives prior written notice and sufficient details (regarding the acquisition) within thirty (30) days. The **Insured** must also agree to pay any resulting additional premium that the **Insurer** deems appropriate in order for the new acquisition to be considered a **Subsidiary** under the **Policy**.

The **Insurer** will only provide coverage to any new **Subsidiary** for a **Claim** or **Loss** which arises out of an **Insured Event** which first occurred after the new acquisition became a **Subsidiary** under the **Policy**.

If, during the **Policy Period**, the **Insured** is acquired by another entity, merged with another entity, sold, dissolved or liquidated, any cover under this **Policy** terminates on the date of the merger or acquisition. Subject to the terms and conditions contained herein, the **Policy** shall respond to any **Claims** or **Losses** that arise from **Insured Events** that occurred before the date of acquisition or merger.

The **Insurer** shall not provide any coverage for the **Insured** after the date of acquisition or merger unless the **Insured** provides the **Insurer** with prior written notice of the forthcoming acquisition, merger, sale, dissolution or liquidation and has agreed to pay any additional premium required by the **Insurer**. In these circumstances, the **Insurer** shall issue an endorsement extending the coverage under the **Policy**.

(iv) Administration of the Policy

The **Named Insured** shall act on behalf of each and every **Insured** for all purposes including but not limited to negotiation of terms and conditions of the **Policy**, exercising all the **Insured's** rights under the **Policy**, paying applicable premiums and **Deductibles**, any notice (including cancellation and receipt and acceptance of any endorsements).

(v) Other Insurance

The coverage afforded by this **Policy** shall apply in excess of any other valid and collectible insurance available to the **Insured**, including any retention or equivalent portion thereof, unless such other insurance is written only as specific excess insurance over the **Limit** of this **Policy**. This **Policy** shall be specifically excess of any insurance contract providing a duty to defend the **Insured** and shall be excess of amounts paid by any Directors & Officers Liability Insurance, Employment Practices Liability Insurance, and Commercial General Liability Insurance. If any portion of **Defence Costs** incurred by the **Insured** are covered under any other valid and collectible insurance, this **Policy** shall be responsible only for the portion of such **Defence Costs** not paid under any other insurance policy.

Notwithstanding the foregoing, this **Policy** shall recognize payment by the **Insured** of applicable retentions in other insurance and apply such payment against any applicable **Deductible** under this **Policy**.

However, this **Policy** shall act as primary insurance in respect of the following **Insuring Clauses; (a), (f), (g) and (h)**.

This clause shall not be interpreted to prejudice the defence or settlement of any **Claim** or **Loss**. In the event that an insurer providing coverage to which this **Policy** is excess fails to pay covered losses, the **Insurer** shall advance and indemnify such covered losses unless and until such other insurance pays. If and to the extent the **Insurer** pays covered losses covered by other insurance to which this **Policy** is excess, the **Insurer** shall be

subrogated to the **Insured's** rights of recovery under such other insurance and the **Insured** will comply with (vi) Subrogation below to secure such rights.

(vi) Subrogation

If any payment is made under this **Policy** and there is available to the **Insurer** any of the **Insured's** rights of recovery against any third party, then the **Insurer** shall maintain all such rights of recovery. The **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to **Damages, Defence Costs**, or any other amounts paid by the **Underwriters**, and lastly to the **Deductible**. Any additional amounts recovered shall be paid to the **Insured**. Notwithstanding the foregoing, there shall be no subrogation against the specific critical vendors, clients, or other parties scheduled by endorsement (if any).

(vii) Innocent Insured Provision

Whenever coverage under this **Policy** would be excluded, suspended, or lost because of non-compliance with Section 6 (i) relating to providing notice of a **Claim** or any **Loss** to **Insurers**, with respect to which any other **Insured** shall be in default solely because of the failure to give such notice or concealment of such failure by one or more **Insureds**, then such insurance as would otherwise be afforded under this **Policy** shall cover and be paid with respect to those **Insureds** who did not personally commit, personally participate in committing, or personally acquiesce in such failure to give notice, provided that the **Insured** entitled to the benefit of this provision shall comply with Section 6 (i), promptly after obtaining knowledge of the failure of any other **Insured** to comply therewith. Notwithstanding the foregoing, the reporting of any such **Claim** or **Loss** must be made during the **Policy Period** or **Extended Reporting Period**, if applicable.

Whenever coverage under this **Policy** would be excluded, suspended, or lost because of Exclusion: Intentional Acts, relating to any deliberate, intentional, malicious, criminal, unlawful, fraudulent, or dishonest act by any **Insured**, then such insurance as would otherwise be afforded under this **Policy** shall cover and be paid with respect to those **Insureds** who did not personally commit, personally participate in committing, personally acquiesce, or remain passive after having personal knowledge thereof.

(viii) Dispute Resolution

In the event of any dispute between the **Insured** and **Insurer** involving this **Policy** or a **Claim** or **Loss** hereunder, the parties shall attempt in good faith to resolve any dispute or controversy by negotiation. If the dispute has not been resolved by negotiation within thirty (30) days of the disputing party's notice, the dispute shall be referred to non-binding mediation. Unless both parties agree otherwise, any non-binding mediation shall be administered by the Centre for Effective Dispute Resolution ("CEDR").