

Security Failure Claims-Made- and-Reported Insurance Policy with Third Party Coverage

1. INSURANCE POLICY

This Insurance **Policy** (this **Policy**) is made with respect to **Claims** first made against **You** during the declared **Policy Period** and reported to **Us** during the **Policy Period** pursuant to the terms of this **Policy**.

We will pay on your behalf for all **Losses** that exceed the declared **Retention Amount** up to the declared Limit of Liability that **You** are required to pay as the result of a **Claim** alleging a **Security Failure**.

DEFENSE

We have the right to investigate any **Claim**. **We** also have the right and duty to defend any suit alleging a **Security Failure**. **Our** duty to defend ends if you refuse to consent to any settlement that we are able to negotiate with a **Claimant**.

SETTLEMENT

We have the right, with your consent, to settle any proper **Claim**. **You** may settle any **Claim** for any amount that is less than to your **Retention Amount**.

2. DEFINITIONS

"Claim" means a written demand for money, services, or non-monetary relief.

"Computer System" means hardware, software, or similar components networked together and accessible through the Internet, an internal network, or connected device.

"Loss" means compensatory damages, judgments, settlements, pre-judgment and post-judgment interest and defense costs, including without limitation:

- (a) extraordinary damages where insurable by applicable law; and
- (b) any monetary amount that **You** are required by law or settlement agreement to deposit into a consumer redress fund.

"Security Failure" means:

- (a) the failure or violation of the security of a **Computer System** under your control, including the loss of confidentiality, integrity, or availability of data;

(b) the physical theft of hardware under your control on which data is stored from premises occupied by **You**; or

(c) Your failure to disclose an event occurring under (a) or (b) in violation of legal requirement.

3. EXCLUSIONS

This **Policy** excludes coverage for:

(a) Any **Claim** alleging, arising out of, based upon, or attributable to, any dishonest, fraudulent, criminal or malicious act, error, or omission, or any intentional or knowing violation of law;

(b) Your expenses or charges, including employee compensation and benefits, overhead, over-charges or cost over-runs;

(c) Your costs to provide, correct, re-perform, or complete any services;

(d) Civil or criminal fines or penalties against **You** that are uninsurable under the law, however, this subparagraph (d) shall not apply to any monetary amounts that **You** are required by law or settlement agreement to deposit into a consumer redress fund;

(e) Your costs and expenses of complying with any injunctive or other form of equitable relief;

(f) Taxes incurred by **You**;

(g) Amounts for which **You** are not financially liable or which are without legal recourse;

(h) Amounts **You** agree to pay pursuant to a contract, including without limitation, liquidated damages, setoffs or penalties; provided, however, that this exclusion does not apply to your obligation to prevent a **Security Failure** based on the applicable industry standard of care or liability that **You** would have had in the absence of such contract or agreement; or

(i) Any **Claim** alleging, arising out of, based upon, or attributable to any seizure, confiscation, nationalization, or destruction of a **Computer System** by order of a governmental authority.

4. LIMIT OF LIABILITY

The stated **Limit of Liability** shall be our maximum liability for all **Loss**.

5. RETENTION

The declared **Retention Amount** shall apply to all **Claims** that allege related acts. **We** shall only be liable for the amount of **Loss** arising from **Claims** that exceed the declared **Retention Amount**. **You** are responsible for the **Retention Amount**, and such amount remains uninsured.

6. NOTICE

As a condition precedent to insurance coverage, **You** shall give **Us** written notice as soon as practicable after:

- (a) **You** discover a **Security Failure** that may give rise to a **Claim**; or
- (b) **You** first become aware of a **Claim**.

7. SUBROGATION

You must do all that is possible after **You** discover a **Security Failure** to preserve any and all rights of recovery from someone other than **Us**. As a condition of any payment by **Us**, your rights of recovery from such persons will be transferred to **Us**. **You** agree to do whatever is necessary to assist **Us** in obtaining that recovery.

8. BANKRUPTCY

Your bankruptcy or insolvency shall not relieve **Us** of any of our obligations hereunder.