

Bewica Cyber Policy

Wording

The **Policy** is an insurance contract between the **Insured** and the **Insurer**. It is comprised of this document, the **Schedule** and any endorsements. All of these documents should be read together. The **Policy** is a legal document and should be read carefully. If the **Insured** has any questions in respect of the **Policy**, these should be raised with the broker.

There are certain sections within the **Policy** which require that the **Insured** obtain the consent of the **Insurer** before the **Insured** incurs costs. The **Policy** explains when the **Insured** must contact **Insurers** to obtain the **Insurer's** consent before costs are incurred. The **Insured** has access to a **Cyber Response Team** which 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 **Insurer's** consent to costs shall not be unreasonably withheld or delayed.

Terms shown herein in bold font and with capital letters have a specific meaning in this **Policy**. Those meanings will be explained in Section 3 of the **Policy** ("Policy Definitions"). Pressing on a defined term within this **Policy** will take you to that specific definition with Section 3 of the **Policy**.

Cover under some or all of the **Insuring Clauses** listed in Section 1 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 **Excess** applicable to that **Insuring Clause**. If cover under an **Insuring Clause** has not been purchased, then that section of the **Policy** shall not apply.

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The **Insurer** agrees to reimburse the **Insured** for the following types of **Loss** or **Defence Costs** which are reasonably and necessarily incurred as a result of the specified **Insured Event** and to pay on behalf of the **Insured** the following **Damages** which the **Insured** is held legally liable to pay as a result of the specified **Insured Event**:

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

The **Insurer** will pay the **Insured** up to the **Limit** and in excess of the **Excess** 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 **Extended Reporting Period**. The **Insurer** must be notified of any **Loss, Claim** or **Insured Event** as per the terms and conditions of this **Policy**.

2.1 ACTS OR OMISSIONS OUTSIDE OF COVER

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

Any **Insured Event** (including related or continuing **Insured Events**) which:

- a) Should have been notified under any previous 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.

2.2 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**.

2.3 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.

2.4 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:

- The **Insured's** liability that would have existed in the absence of such contract or agreement; or
- The **Insured's** contractual indemnification of a customer or client for a **Security Breach, Data Breach or Privacy Breach**; or
- A **PCI Breach** where covered under **Insuring Clause (h)**; or
- Breach of the **Insured's** privacy or security policy.

2.5 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 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 applicable UK, European Union or other international data protection laws.

2.6 EXPENSE(S) INCURRED AFTER A JUDGEMENT

Expenses incurred after there is a judgment or arbitrator's decision finding that the **Insured** were not entitled to coverage under this **Policy**, or in any situation where the **Insured** admits that the **Insured** was not entitled to coverage. In such circumstances, 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**.

2.7 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.

2.8 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.

2.9 INSOLVENCY

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

2.10 INSURED V 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:

- a. Any **Claim** arising from a **Media Event** as a result of the provision of **Media Services** to that entity or individual; or
- b. Any **Claim** brought by an **Employee**; or
- c. Any **Claim** arising out of that part of any **Claim** which emanates from an independent third party.

2.11 INTENTIONAL ACTS

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

This exclusion will not apply when the wilful, deliberate, intentional, malicious, reckless, dishonest, fraudulent or criminal act or omission was committed without the knowledge or consent of any of the **Insured's** directors or senior managers including but not limited to the Chief Information Officer, Risk Manager, General Counsel, Chief Operations Officer, Chief Executive Officer or their functional equivalents. 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 act, error or omission by the **Insured** or intentional violation of law by the **Insured**, or the **Insured** admits to such an act or omission, 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**.

2.12 LAW/REGULATION

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

2.13 LOSS OF FUNDS/TRADING LIABILITY

Losses or Claims relating to, arising from or alleged to be related to or arising from 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 (c)**; 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. The face value of coupons, price discounts, prizes, awards or any other valuable consideration given in excess of the total contracted or expected amount.

**2.14
MECHANICAL, ELECTRICAL OR
INFRASTRUCTURE FAILURE**

Losses or Claims relating to, arising from or alleged to be related to or arising from any satellite, mechanical or electrical failure or interruption including any electrical disturbance, brownout, blackout, short circuit, induction, voltage fluctuations; any outages to gas, water, telephone, cable, telecommunications, internet or other infrastructure outside of the **Insured's** operational control.

**2.15
PATENT AND TRADE SECRET**

Losses or Claims related to or arising 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**.

**2.16
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.

**2.17
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.

**2.18
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.

**2.19
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 with any state or federal regulatory security obligations, except this exclusion shall not apply to the extent specifically and expressly covered by **Insuring Clause (g)**.

**2.20
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.

2.21 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 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.

2.22 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 except this exclusion shall not apply to a **Claim** specifically covered under **Insuring Clause (i)** relating to **Media Events** a) and d).

2.23 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**.

2.24 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.

2.25 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.

2.26 WEAR AND TEAR

Loss, Claims or damage directly or indirectly occasioned by, happening through or as a consequence of wear and tear, drop in performance, progressive or gradual deterioration of the **Insured's Computer Systems** or the failure of the **Insured** or its employees to maintain its **Computer Systems**.

Additional 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** to a period of 60 days within which to comply with the Notification provisions under Section 5.1 with regard to an **Insured Event** that occurred prior to the expiry of the **Policy**.

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) **Forensic Expenses**
- b) **Notification 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 **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 or adjudication proceedings; or
- c) The commencement of legal, arbitration or adjudication proceedings, an invocation of a pre-action protocol; or
- d) A **Regulatory Action** but only with respect to **Insuring Clause (g)**; or
- e) 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 (h)**.

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 or 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 and post-judgement interest. **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 if such damages exceed the amount for which the **Insured** would have been liable in the absence of such an agreement; or
- 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 by the **Insured** including computer programs, **Software** and **Firmware**. **Data** does not include **Hardware**.

Data Breach

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

Data Recovery Expenses

The reasonable and necessary costs incurred by the **Insured** with **Insurer's** prior consent, in relation to the recovery, restoration or replacement of damaged **Data** to ensure that the **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** will pay the reasonable costs of recreating the **Data** where the damaged **Data** is critical to the **Insured's Business**.

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. 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 Subjects

An individual whose **Personal Data** was held by the **Insured** and has been or may have been compromised as a result of a **Data Breach**.

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, mitigation 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 the directors or senior management of the **Insured**.

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). It includes individuals undertaking work experience or internship (paid or unpaid).

Excess

The amount to be paid by the **Insured** before the **Insurer** will make any payments under the **Policy**. The **Excess** is stated 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 unauthorized access or unauthorized use of the **Insured's** or **Outsource Service Provider's Computer Systems**; or
- b) Introduce malicious code or ransomware into the **Insured's** or **Outsource Service Provider's Computer Systems**; or
- c) Corrupt, damage or destroy the **Insured's** or **Outsource Service Provider'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 labor costs and expenses for special advertising; and 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.

Extra Expenses do not include any **Breach 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.

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**.

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

Cyber Attack, Extortion Threat, Cyber Theft Loss, Data Breach, Security Breach, Privacy Breach, PCI Breach, Social Engineering Event, 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 Underwriters subscribing to this **Policy**.

Insured(s)

The:

- a. **Named Insured**; or
- b. Any **Subsidiary** (but only in respect of acts which occur in whole or in part while it is a **Subsidiary** and is otherwise covered by this **Policy**); or
- c. Any **Employee**, director or officer of the **Insured** 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; or
- f. Any entity required by contracts to be named as an **Insured** under this **Policy** but only with the prior written consent of the **Insurer** and only for the acts of any party described above for which insurance is otherwise covered by this **Policy**).

Insuring Clauses

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

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, 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** and **PCI Fines, Penalties and Assessments** but does not include:

- Any costs that result in any **Computer System** having a higher level of functionality than it did prior to the specified **Insured Event**; or
- 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 6.

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) Common law unfair competition or unfair trade practices only where alleged in conjunction with **Media Events** (a) and (d); or
- (i) 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 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.

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 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**.

Outsource Service Provider

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

PCI Breach

An actual or suspected breach of standards, requirements and procedures issued from time to time by the Payment Card Industry Security Standards Council.

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**.

PCI Fines, Penalties and Assessments

Fines, penalties, assessments or payments imposed by the Payment Card Industry ('PCI') Security Standards Council for any **PCI Breach** incurred in connection with any preceding investigation.

Period of Restoration

The time period starting when the **Disruption** to the **Computer System** began and ending 6 months later.

Personal Data

Sensitive 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

Privacy Breach

Any actual or suspected:

- (a) Failure to implement, maintain or comply with the **Insured's** privacy or security policy;
- (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 applicable within the United Kingdom or alternatively based upon an European Union Directive or international legal obligation 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.

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 a public relations consultant to assist the **Insured** in mitigating the reputational damage caused by the **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 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 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**.

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)** and the **Deductible** amongst other information.

Security Breach

Any actual or suspected **Social Engineering Event** or unauthorised access or usage of the **Insured's Computer Systems** as a result of which:

- (a) The **Insured** is unable to gain access to its **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.

Security Breach shall include such actions resulting from **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** from the **Insured** or to elicit the transfer of funds by the **Insured**.

Software

A collection of data or computer instructions which tells the computer or device how to work.

Special Expenses

Reasonable and necessary costs that the **Insured** incurs with the **Insurer's** prior 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

The **Sales** during that period in the twelve months immediately before the date of the loss adjusted for trend so that the standard **Sales** reflects the **Sales** that would have been experienced if the **Insured Event** had 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 7.4.

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 Clause** b) and k).

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 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 **Excess** to be deducted from the amount payable by the **Insurer**).

5.1 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 allegedly 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 **Excess**.

5.2 CLAIMS ASSISTANCE, COOPERATION & 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 during 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.

5.3 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**.

5.4 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 director or one of the **Insured's** senior management knew of such misrepresentation or non-disclosure.

5.5 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.

The **Schedule** states:

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

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 **Excess**. The **Insurer** can reduce payment of any covered amount owed by the Insurer to the **Insured** by the **Excess**. The value of the **Excess** does not reduce the applicable Limit.

Before **Insurers** will pay any **Loss** under **Insuring Clauses** b) or k) the **Waiting Period** must have been exceeded. The **Excess** will apply to these **Insuring Clauses** once the **Waiting Period** has been exceeded.

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**.

6.1 AGGREGATION AND ALLOCATION

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

6.2 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 on the time the first such related act, fact, incident, circumstance, error or omission occurred.

6.3 LOSS OF INCOME

In order to calculate the **Insured's Loss of Income**, 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**.

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.

6.4 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:

- i. Information and evidence known to the **Insured** of the facts relating to the **Insured Event**, threat, or failure, the amount of the **Loss**;
- ii. A description of the incident and any **Data**, programs and equipment involved;
- iii. Identification of involved personnel;
- iv. Copies of available system and security logs, and any reports of outside experts and consultants; and
- v. 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.

7.1 ASSIGNMENT

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

7.2 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**.

7.3 CANCELLATION

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

The **Insurer** 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**. 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.

7.4 MERGERS AND ACQUISITION AND CHARGE OF CONTROL

If, during the **Policy Period**, the **Insured** or any **Subsidiary** of the **Insured** acquires another entity (which increases the **Insured's** revenue by less than or equal to 15% from the figures within the **Application**), the acquired entity shall be considered as a **Subsidiary** under the **Policy**.

If, during the **Policy Period**, the **Insured** or any **Subsidiary** of the **Insured** acquires another entity (which increases the **Insured's** revenue by more than 15% from the figures within the **Application**), 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**.

7.5 LAW & JURISDICTION

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**.

7.6 ACTION AGAINST INSURER

No action may be brought against the **Insurer** unless the **Insured** has fully complied with all the terms of the **Policy** and the amount of the **Insured's** obligation to pay has been finally determined by the claimant, **Insured** and **Insurer**. No party shall have the right to join **Insurers** as a party to any action or other proceeding against the **Insured** to determine the **Insured's** liability nor shall the **Insurers** be impleaded by the **Insured** or the **Insured's** legal representative.

7.7 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 **Excess**, any notice (including cancellation and receipt and acceptance of any endorsements).

7.8 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 **Excess** under this **Policy**.

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

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 section 7.9 Subrogation to secure such rights.

7.9 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 **Excess**. 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).

7.10 INNOCENT INSURED PROVISION

a. Whenever coverage under this **Policy** would be excluded, suspended, or lost because of non-compliance with Section 5.1 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 5.1, 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.

b. 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.

7.11 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").

7.12 PRIVACY AND DATA NOTICE

The **Insurer** (the Data Controller) is committed to protecting and respecting the **Insured's** privacy in accordance with the current data protection legislation. Below is a summary of the main ways in which the **Insurer** processes the **Insured's** information, for more details please visit the **Insurer's** website at www.amtrustatlloyds.com.

The **Insurer** may use the information that it holds about the **Insured** for the purposes of providing insurance; including handling claims and any other related purposes, underwriting (which may include underwriting decisions made via automated means), offering renewal terms, pricing or statistical purposes. The **Insurer** may also use the **Insured's** information to safeguard against fraud and money laundering and to meet its general legal and regulatory obligations.

The **Insurer** may disclose the **Insured's** information to third parties involved in providing products or services to the **Insurer**, or to service providers who perform services on behalf of the **Insurer**. These include the **Insurer's** group companies, affinity partners, brokers, agents, third party administrators, other insurers, reinsurers, other insurance intermediaries, insurance reference bureaus, credit agencies, medical service providers, fraud detection agencies, loss adjusters, external law firms, external accountants and auditors, regulatory authorities, and as may be required by law.

The **Insurer** may transfer the **Insured's** information to destinations outside the European Economic Area ("EEA"). Where the **Insurer** transfers the **Insured's** information outside of the EEA, the **Insurer** will ensure that it is treated securely and in accordance with the relevant legislation.

The **Insured** has the right to ask the **Insurer** not to process the **Insured's** information for marketing purposes, to see a copy of the information that the **Insurer** holds about the **Insured**, to have the **Insured's** information deleted (subject to certain exemptions), to have any inaccurate or misleading information corrected or deleted, to restrict the processing of the **Insured's** information, to ask the **Insured** to provide a copy of the **Insured's** information to any controller and to lodge a complaint with the local data protection authority.

The **Insured's** information will not be retained for longer than is necessary, and will be managed in accordance with the **Insurer's** data retention policy. In most cases the retention

period will be for a period of seven (7) years following the expiration of the contract of insurance, or the **Insurer's** business relationship with the **Insured**, unless the **Insurer** is required to retain the information for a longer period due to business, legal or regulatory requirements.

If the **Insured** has any questions concerning the **Insurer's** use of the **Insured's** information, please contact the Data Protection Officer, AmTrust International - please see our website for full contact details.

7.13 COMPLAINTS

The **Insurer** aims 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** 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
Am Trust at Lloyd's
Exchequer Court
33 St Mary Axe
London
EC3A 8AA

Email: complaints@amtrustgroup.com

Telephone: +44 (0) 207 456 1800

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 (FOS). See: www.financial-ombudsman.org.uk

This complaints procedure is without prejudice to the **Insured's** right to initiate legal proceedings.