



**LAWYERS'
MUTUAL**
INSURANCE COMPANY

LAWYERS PROFESSIONAL LIABILITY POLICY

NOTICE

THIS IS A CLAIMS-MADE POLICY

This is a “Claims-Made” policy. The coverage afforded by this policy is limited to Claims which are first made against the Insured and reported in writing to the Company while the policy is in force. Please review the policy carefully and discuss the coverage hereunder with your insurance agent, broker or other representative.

This policy does not provide coverage for prior acts. Unless otherwise provided in an endorsement attached to this policy, this policy provides no coverage or defense for Claims based on acts, errors, omissions or Personal Injuries which occur prior to the effective date of the first policy issued to the Named Insured or any predecessor thereof by the Company and continuously renewed thereafter.

IMPORTANT

This policy does not become effective unless a
DECLARATIONS page (“Declarations”) is issued to the Named Insured to form
part of this policy.

In consideration of the undertaking of the Insured to pay, when due, the premium, the Deductible, and other amounts as described herein, and in reliance upon the statements in any Applications, all of which are made a part hereof, and subject to all the terms and conditions of this policy, Lawyers' Mutual Insurance Company ("Company") agrees with the Insured as follows:

**ARTICLE 1.
The Definitions**

Whenever used in this policy, the term:

1.1 "Applications" means:

the applications, renewal update requests, any similar documents, and any written information submitted by the Insured to the Company in connection with issuance of any policy of insurance.

1.2 "Claim" means:

a demand for money or services received by any Insured, including service of suit or institution of arbitration proceedings. A Multiple Claim shall constitute one Claim for purposes of this policy.

1.3 "Claim Expenses" means:

(a) Except as provided in Section (b) below:

(i) fees charged by any lawyer retained by the Company;

(ii) all other fees, costs and expenses incurred by the Company in the investigation, adjustment, defense and appeal of a Claim;

(iii) reasonable fees, at hourly rates and in the aggregate not to exceed those customarily charged by the panel of defense counsel designated by the Company, charged by any Lawyer designated by the Insured with the prior written consent of the Company.

(iv) premiums for attachment or appeal bonds; however, the Company shall have no obligation to apply for or furnish, or provide collateral for, attachment or appeal bonds.

(b) "Claim Expenses" do not include:

(i) salaried charges of regular employees or officials of the Company;

(ii) any fees and costs incurred by the Insured without the prior written consent of the Company, and/or any fees and costs incurred prior to the date the Claim out of which such fees and costs arise is first reported to the Company;

(iii) any fees and costs incurred for the prosecution of any action or affirmative claim, by complaint, cross-complaint, demand for arbitration or otherwise, by or on behalf of any Insured.

1.4 "Claim Expense Allowance" means:

a \$50,000 allowance per Policy Period for Claim Expenses in excess of the applicable Deductible(s).

1.5 "Claimant" means:

a person or entity making a Claim against an Insured.

1.6 "Damages" means:

a final monetary judgment, award or settlement but does not include:

(a) any fine, sanction, penalty, multiplied or punitive or exemplary damages;

(b) any amounts ordered as restitution, disgorgement or forfeiture of any sums;

- (c) any reduction or set off of any fees or costs paid to or charged by any Insured, or any other offset; or
- (d) prevailing party attorneys' fees pursuant to contract.

1.7 "Deductible" means:

the amount specified in the Declarations, which must be paid by the Insured with respect to each Claim toward Claim Expenses and/or Damages before the Company has any obligation to pay any sums.

1.8 "Disciplinary Proceeding" means:

a proceeding, other than an initial inquiry, in which a complaint alleging violation of any disciplinary rule or other professional misconduct and seeking to impose discipline is brought before a state or federal licensing board.

1.9 "Effective Date" means:

the Effective Date set forth at Item 4 of the Declarations.

1.10 "Employee" means:

a Lawyer or other person on the Named Insured's regular payroll and/or any unpaid clerk or intern but does not include an independent contractor.

1.11 "Excess Claim Expenses" means:

any Claim Expenses in excess of the Claim Expense Allowance. Excess Claim Expenses are included in and reduce the policy limits.

1.12 "Expiration Date" means:

the Expiration Date set forth at Item 5 of the Declarations or the Termination date, whichever is earlier.

1.13 "Extended Reporting Period" means:

the period provided for in an Extended Reporting Period Endorsement issued pursuant to Section 2.6 of this Policy.

1.14 "Extended Reporting Period Endorsement" means:

an endorsement issued pursuant to Section 2.6 of this Policy.

1.15 "Insured" means:

- (a) the Named Insured;
- (b) any Lawyer who is a shareholder in, partner in, member of or Employee of the Named Insured at the Effective Date, for so long as such Lawyer remains a shareholder in, partner in, member of or Employee of the Named Insured, but solely with respect to Professional Services on behalf of the Named Insured. The individuals listed in Item 2 of the Declarations will be conclusively presumed to constitute all such individuals at the Effective Date.
- (c) any Lawyer who becomes a shareholder in, partner in, member of or Employee of the Named Insured during the Policy Period, for so long as such Lawyer remains a shareholder in, partner in, member of or Employee of the Named Insured, but solely with respect to Professional Services on behalf of the Named Insured. A Lawyer shall be an Insured pursuant to this subsection 1.15(c) if and only if, within 30 days after the date of such Lawyer becoming a shareholder in, partner in, member of or Employee of the Named Insured, the Named Insured and such Lawyer have submitted appropriate underwriting information to the Company and the Company has approved said Lawyer as an Insured;
- (d) any Lawyer who was formerly a shareholder in, partner in, member of, Employee of or Of Counsel to the Named Insured or Predecessor Firm, but solely with respect to Professional Services on behalf of the Named Insured or Predecessor Firm and if and only if such person qualified as an Insured under the policy or policies in effect when such person was a shareholder in, partner in, member of, Employee of or Of Counsel to the Named Insured or Predecessor Firm;

- (e) any Employee or former Employee of the Named Insured or Predecessor Firm who is not a Lawyer, but solely with respect to acts on behalf of the Named Insured or Predecessor Firm which are within the course and scope of his or her employment and in the performance of the Named Insured's Professional Services;
- (f) any Predecessor Firm;
- (g) any Lawyer who acts as Of Counsel or an independent contractor to the Named Insured or Predecessor Firm, for so long as such Lawyer remains as Of Counsel or an independent contractor to the Named Insured or Predecessor Firm, but solely with respect to Professional Services on behalf of the Named Insured or Predecessor Firm, and under the name of the Named Insured or Predecessor Firm. The individuals listed in Item 2 of the Declarations will be conclusively presumed to constitute all such individuals as of the Effective Date. Any Lawyer who acts as Of Counsel or an independent contractor to the Named Insured subsequent to the Effective Date shall be an Insured pursuant to this subsection 1.15(g) if and only if, within 30 days after the date of such Lawyer becoming an Of Counsel or an independent contractor, the Named Insured and such Lawyer have submitted appropriate underwriting information to the Company and the Company has approved said Lawyer as an Insured.

1.16 "Lawyer" means:

an individual licensed and eligible to practice law or professional corporation owned by such a person.

1.17 "Limit of Liability - Each Claim" means:

the limit of liability for each Claim as set forth in Item 7 of the Declarations.

1.18 "Limit of Liability - Policy Aggregate" means:

the limit of liability for all Claims under the policy as set forth in Item 7 of the Declarations.

1.19 "Multiple Claim" means:

two or more Claims against an Insured, arising out of or relating to a single act, error, or omission or Personal Injury or a series of related acts, errors, omissions or Personal Injuries, whether such Claims are made against one or more Insured or whether made by one or more Claimant.

1.20 "Named Insured" means:

the entity or individual named in Item 1 of the Declarations.

1.21 "Of Counsel" means:

any Lawyer identified by the Named Insured on its letterhead as Of Counsel to the Named Insured or Predecessor Firm.

1.22 "Personal Injury" means:

- (a) false arrest, detention or imprisonment, wrongful entry or eviction, malicious prosecution or abuse of process; or
- (b) the publication or utterance of a libel or slander or other defamatory or disparaging material or a publication or utterance in violation of rights of privacy.

1.23 "Policy Period" means:

the period from the Effective Date to the Expiration Date, but not including the Extended Reporting Period, if any.

1.24 "Predecessor Firm" means:

an individual, partnership or professional corporation which is listed in Item 3 of the Declarations.

1.25 “Professional Services” means:

- (a) legal services for a client as a Lawyer;
- (b) legal services for a client as an administrator, conservator, receiver, executor, guardian, or trustee of an express trust;
- (c) services as an arbitrator, mediator, judge pro tem, discovery referee, or a notary public; or
- (d) services as an expert witness regarding legal issues.

1.26 “Related Individual” means:

current or former spouse, domestic partner, child, step-child, grandchild, parent or sibling of an Insured, and any trust or estate of which any of them is a beneficiary. With respect to a professional corporation which is an Insured, “Related individual” includes a Related Individual of each owner of such professional corporation.

1.27 “Termination” means:

cancellation or non-renewal of the policy by either the Named Insured or the Company.

ARTICLE 2. The Coverage

2.1 Indemnity.

Subject to the terms and conditions of this policy, applicable legal authority, and in reliance upon the representations made in the Applications, the Company agrees to pay on behalf of the Insured all sums in excess of the Deductible which the Insured shall become legally obligated to pay as Damages as a result of CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE COMPANY DURING THE POLICY PERIOD:

- (a) Based on any act, error, omission or Personal Injury in the performance of Professional Services rendered or that should have been rendered by the Insured; or
- (b) Based on any act, error, omission or Personal Injury committed by any Insured who is a non- Lawyer Employee of the Named Insured.

PROVIDED THAT such act, error, omission or Personal Injury happens on or subsequent to the effective date of the first policy issued to the Named Insured or any Predecessor Firm by the Company and continuously renewed and maintained in effect to the Effective Date of this policy or such earlier date as set forth in an endorsement to this policy, and before the Expiration Date.

PROVIDED FURTHER THAT no Claim (including a Multiple Claim) shall be deemed first made against the Insured during the Policy Period if such Claim or any act, error, omission or Personal Injury giving rise to such Claim was reported by the Insured prior to the Effective Date of this policy to the Company or to any other professional liability insurer, or was known to the Insured prior to the Effective Date of this policy.

2.2 Defense and Settlement.

The Company will have the right and duty to defend the Insured and to pay Claim Expenses, and to appoint counsel of the Company’s choice to defend the Insured, as to any Claim described in Section 2.1, even if any or all of the Claimant’s allegations are groundless, false or fraudulent.

The Company may investigate, negotiate and, with the written consent of any Insured against whom a Claim has been made or the Named Insured, settle any Claim. The Company shall have the right, but not the obligation, to initiate and participate in settlement negotiations with a Claimant at any time without the consent of an Insured.

If all Insureds against whom a Claim has been made and the Named Insured shall refuse to consent to any settlement recommended by the Company and acceptable to the Claimant and shall elect to continue to contest the Claim, or if all Insureds against whom a Claim has been made and the Named Insured shall refuse to allow the Company to satisfy any judgment against an Insured, whether or not final, then the Company's liability shall not exceed the amount for which the Company would have been liable for Damages and Claim Expenses at the time the Claim could have been settled or the judgment satisfied.

The Company shall not be obligated to pay any Damages or Claim Expenses or continue to defend any Claim after the Limit of Liability - Each Claim or the Limit of Liability - Policy Aggregate has been exhausted by payments of Damages and/or Claim Expenses. Upon such exhaustion, the Company shall have no further duty to defend and shall withdraw from further defense.

2.3 **Supplemental Coverages.**

The Company will make the following supplemental payments:

- (a) **Disciplinary Proceedings:** The Company will reimburse the Insured for reasonable costs and attorneys' fees incurred by the Insured, through counsel selected by the Insured, in connection with any Disciplinary Proceeding brought against the Insured during the Policy Period and reported to the Company during the Policy Period. The Company's liability in connection with all such Disciplinary Proceedings is limited to \$50,000 per Policy Period. The Claim Expense Allowance shall not apply and no Deductible will be due with respect to such a Disciplinary Proceeding.
- (b) **Attendance at Trial or Arbitration:** The Company will reimburse the Insured for actual loss of earnings and reasonable expenses, up to \$500 per day and \$5,000 per Claim, incurred by the Insured at the Company's written request in connection with attendance at trial or arbitration of any Claim. However, no such payment will be made with respect to any Claim for which the Insured refused to consent to a settlement acceptable to the Company and Claimant, or for any Claim with respect to which any Insured is in breach of any of its obligations under the policy, including but not limited to payment of the Deductible. Any reimbursement under this Section will be subject to Section 4.3.
- (c) **Subpoena Assistance:** The Company may, at its sole discretion, retain an attorney to provide advice relating to a subpoena received by the Insured regarding production of documents, to prepare the Insured for sworn testimony, and to represent the Insured at deposition of the Insured, provided that the subpoena arises out of a lawsuit to which the Insured is not a party and relates to a matter in which the Insured performed Professional Services. Any notice the Insured provides the Company of such subpoena shall be deemed notice of a potential Claim pursuant to Section 5.2. The Claim Expense Allowance shall apply, and the Deductible will be due with respect to such subpoena assistance.
- (d) **Pre-Claim Assistance:** Prior to the date a Claim is made, the Company may, at its sole discretion, appoint counsel to investigate a potential Claim the Insured reports in accordance with Section 5.2. The Claim Expense Allowance shall apply, and the Deductible will be due with respect to such pre-claim assistance.

2.4 **Policy Territory.**

This policy applies to Claims arising out of acts, errors or omissions or Personal Injuries occurring anywhere in the world, provided that the Company shall have no obligation to pay any amount as Damages pursuant to a judgment or award made in any suit or proceeding brought in a jurisdiction outside of the United States (including its territories and possessions) or Canada, or in any suit or proceeding brought within the United States to enforce or collect upon a judgment or award made in a suit or proceeding brought in a jurisdiction outside of the United States (including its territories and possessions) or Canada, or defend the Insured pursuant to Article 2, Section 2.2 in such suit or proceeding. However, the Company may, at its option, assume the defense of such a suit or proceeding. Even if the Company defends such a suit or proceeding, it shall have no obligation to pay any amount on behalf of the Insured with respect to any judgment or award of Damages in such proceeding.

2.5 **Reduction of Claim Payment.**

The Company shall reduce any sum otherwise payable on behalf of the Insured as Damages with respect to a Claim by an amount equal to (a) any amount received by the Insured, or any assignee of an Insured, on or after the date such Claim is first made, from or on behalf of the Claimant, plus (b) any amount claimed, as of the date payment is made on behalf of an Insured by the Company as Damages, by any Insured or any assignee of an Insured for Professional Services rendered to the Claimant.

2.6 **Extended Reporting Option.**

Upon Termination, the Named Insured shall have the right, within 30 days of the Expiration Date and upon payment of an additional premium, to have issued an Extended Reporting Period Endorsement covering Claims first reported during the Extended Reporting Period arising from acts, errors, or omissions or Personal Injuries occurring prior to the Expiration Date and on or subsequent to the effective date of the first policy issued to the Named Insured or any Predecessor Firm by the Company and continuously renewed and maintained in effect to the Effective Date of this policy (or such earlier date as provided in an endorsement to this policy). The Extended Reporting Period Endorsement premium will be a percentage of the premium paid for this policy, subject to ratering the Named Insured as of the Termination date, as follows:

Extended Reporting Period	Percentage
1 year	100%
3 years	180%
5 years	220%
Lifetime	285%

Issuance of such Extended Reporting Period Endorsement shall not increase the Limit of Liability – Each Claim or the Limit of Liability – Policy Aggregate.

If, on the date of Termination, the Named Insured has failed to pay a premium due or has failed, after demand, to reimburse the Company such amounts as the Company has paid as Damages or for Claim Expenses in excess of the applicable Limits of Liability, or within the amount of the applicable Deductible, or has otherwise failed to pay other amounts due the Company, the Named Insured shall not have the right to have such Extended Reporting Period Endorsement issued.

**ARTICLE 3.
The Exclusions**

THIS POLICY DOES NOT APPLY:

- 3.1 To any Claim arising out of or relating to any intentionally wrongful, criminal, fraudulent, malicious or dishonest act, error, or omission or Personal Injury; however, a defense will be provided with respect to such Claim.
- 3.2 To any Claim by the Named Insured, Predecessor Firm, any current or former shareholder in, partner in, member of, Of Counsel to, independent contractor to or Employee of the Named Insured or Predecessor Firm, any Related Individual, or any entity of which an Insured is an officer, director, owner, beneficiary, trustee, trustor or employee.
- 3.3 To any Claim or any portion of a Claim, for emotional distress, mental illness, humiliation, bodily injury, sickness, disease or death of any person, or injury to, conversion of, or destruction of, any tangible or intangible property or to the loss of use thereof or profits or interest therefrom.
- 3.4 To any Claim for loss sustained by an Insured as the beneficiary or distributee of any trust or estate.
- 3.5 To any Claim based on liability under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisors Act of 1940, the Investment Company Act of 1940, as any of the foregoing are or become amended, or any similar federal or state law, or any rules of regulations promulgated thereunder, to the extent Damages for any such Claim or for all such Claims in the aggregate are in excess of \$50,000.
- 3.6 To any Claim made against or by any business enterprise (other than the Named Insured or Predecessor Firm), any not-for profit organization, or any plan, fund or trust in which an Insured or Related Individual is or was a director, officer, employee, trustee, administrator, partner, manager or with respect to which an Insured or Related Individual has or had any ownership interest (whether through ownership of stock, partnership shares or otherwise), other than a beneficial ownership of securities of a class registered under Section 12 of the Securities Exchange Act of 1934 or exempted from registration by Section 12(g)(2)(A) thereof, if, taking into account the beneficial ownership interest of each and every Insured and the beneficial ownership interest of their respective Related Individuals as a group, such group does not beneficially own more than 1% of the outstanding securities of such class.

- 3.7 To any Claim arising out of or relating to an Insured's services and/or capacity as:
- (a) an officer, director, partner, trustee, or employee of a business enterprise (other than the Named Insured or Predecessor Firm) or not-for profit organization or any plan, fund or trust;
 - (b) a public official, or an employee of a governmental body, subdivision, or agency;
 - (c) a fiduciary under the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto, except if the Insured is deemed to be a fiduciary solely by reason of legal advice rendered with respect to an employee benefit plan; or
 - (d) a securities or commodities broker or dealer, investment advisor, accountant, real estate broker, real estate agent, business manager, personal manager, entertainment agent, literary agent, sports agent, insurance agent or escrow holder, or any similar services or capacities.
- 3.8 To any Claim arising out of or relating to, in whole or in part, actual or alleged discrimination or harassment of any kind by an Insured including, but not limited to, discrimination or harassment on the basis of race, national origin, creed, religion, age, gender, sexual preference, disability or marital status.
- 3.9 To any Claim arising out of or relating to the notarization, attestation, certification or acknowledgement of a signature by an Insured if such notarization, attestation, certification or acknowledgement was made without the contemporaneous physical presence of the individual whose act of signature was being notarized, attested, certified or acknowledged.
- 3.10 To any Claim arising out of or relating to, in whole or in part, a contract or lien for, or other right relating to, division of fees or fee apportionment between an Insured and any other Lawyer or Lawyers, or by any Claimant with whom or which the Insured has or had a fee sharing agreement or any other arrangement or obligation for division of fees or fee apportionment.
- 3.11 To any Claim or proceeding or suit brought by any governmental or quasi-governmental regulatory agency (including, but not limited to, the State Bar of California), including suits seeking to impose disciplinary action, injunctive relief, criminal sanctions, statutory fines or incidental damages, except as provided in Section 2.3(a) of this policy.
- 3.12 To any Claim arising out of or relating to an Insured's obligation assumed by contract (other than a contract to perform Professional Services), or to any attorneys' fees awarded under any contract, including a contract to perform Professional Services.
- 3.13 To any Claim arising out of or relating to, in whole or in part, the rendering of investment advice by an Insured.
- 3.14 To any Claim arising out of or relating to deprivation by an Insured of any rights, privileges or immunities secured by the Constitution and/or laws of the United States of America or the States thereof, including but not limited to, Federal Civil Rights Act of 1964, Federal Civil Rights Act of 1957, Federal Civil Rights Act of 1968, California Unruh Civil Rights Act (California Civil Code § 51 et seq.), California Fair Employment and Housing Act (California Government Code § 12900, the California Rumford Act (Health & Safety Code § 3500 et seq.), as any of the foregoing are or become amended, and other similar statutes.
- 3.15 To any Claim arising out of or relating to, in whole or in part, any loan or other business transaction (other than for the performance of Professional Services), between an Insured and a third party.
- 3.16 To any Claim arising out of or relating to, in whole or in part, physical contact between an Insured and any other person, whether or not consensual, sexual relations between an Insured and any other person, whether or not consensual, or other physical or non-physical sexual harassment or sexual misconduct, including but not limited to conditioning Professional Services on sexual favors.
- 3.17 To any Claim arising out of or relating to, in whole or in part, any act, error, omission, Professional Service, Personal Injury or disagreement which, prior to the Effective Date, an Insured knew or reasonably should have known was likely to give rise to a Claim by or a dispute with any person or entity.
- 3.18 To any Claim arising out of or relating to statements made or advice given or allegedly given by an Insured through or on the internet, social media, in a television show, radio show, seminar, mass communication, blog, advertisement, newsletter, or by similar means.
- 3.19 To any Claim arising out of or relating to, in whole or in part, an Insured's unauthorized practice of law.

- 3.20 To any Claim arising out of or relating to an Insured's role, capacity or affiliation as shareholder, partner or member of any law firm, or with any lawyer, other than the Named Insured or a Predecessor Firm.

**ARTICLE 4.
Limits of Liability**

4.1 Limit of Liability - Each Claim.

The liability of the Company for each Claim shall not exceed the Limit of Liability - Each Claim, and is reduced by Excess Claim Expenses and Damages paid by the Company.

4.2 Limit of Liability - Policy Aggregate.

The aggregate liability of the Company shall not exceed the Limit of Liability - Policy Aggregate, and is reduced by Excess Claim Expenses and Damages paid by the Company.

4.3 Reducing Limits.

After exhaustion of the \$50,000 Claim Expense Allowance, the Limit of Liability - Each Claim and the Limit of Liability - Policy Aggregate shall be reduced by Excess Claim Expenses and Damages.

4.4 Multiple Insureds Claims and Claimants.

A Multiple Claim shall be deemed one Claim subject to the Limit of Liability - Each Claim under the policy applicable to the earliest Claim which is part of the Multiple Claim. The inclusion in a Claim of more than one Insured or the making of Claims by more than one Claimant shall not operate to increase the number of Claims or the Limit of Liability - Each Claim or Limit of Liability - Policy Aggregate.

4.5 Deductible.

The Deductible stated in the Declarations shall be applicable to Damages and Claim Expenses with respect to each Claim.

4.6 Reimbursement.

If the Company has paid any amounts as Damages or Claim Expenses in excess of the applicable Limit of Liability - Each Claim or Limit of Liability - Policy Aggregate or within the amount of the applicable Deductible, all Insureds named in the Claim and the Named Insured shall be jointly and severally liable to the Company for any and all such amounts and, upon written demand, shall pay such amounts within 30 days to the Company.

**ARTICLE 5.
Claims**

5.1 Notice of Claim or Suit.

As a condition precedent to the Insured's right to a defense and/or indemnity under this policy, the Insured shall IMMEDIATELY, and during the Policy Period, give to the Company written notice of any Claim made against the Insured by email to tender@lawyersmutual.com or pursuant to Section 6.11. Such written notice shall include:

- (a) the specific act, error, omission or Personal Injury giving rise to the Claim;
- (b) the injury or damage which has or may result from such act, error, omission or Personal Injury; and
- (c) the circumstances by which the Insured first became aware of such act, error, omission or Personal Injury.

In the event suit is brought against the Insured, the Insured shall IMMEDIATELY, and during the Policy Period, forward to the Company every demand, notice, summons or other process received by such Insured.

Even though it may not qualify as a Claim under this policy, the Insured shall IMMEDIATELY, and during the Policy Period, give to the Company similar written notice of any request that the Insured enter into an agreement to toll a statute of limitations, or any required or requested participation in hearings or proceedings.

5.2 Notice of Potential Claim.

If, during the Policy Period, the Insured shall first become aware that an Insured has or allegedly has committed an act, error or omission or Personal Injury as to which the Insured reasonably believes a Claim may be made, and if, during the Policy Period, the Insured gives the Company written notice of:

- (a) the specific act, error or omission or Personal Injury;
- (b) the injury or damage which has or may result from such act, error or omission or Personal Injury;
- (c) the circumstances by which the Insured first became aware of such act, error or omission or Personal Injury,

then any Claim subsequently made against the Insured based on such act, error or omission or Personal Injury shall be deemed made and reported in writing on the date such notice is received by the Company.

5.3 Assistance and Cooperation of the Insured.

No Insured shall be entitled to defend itself or to be defended by any other Insured for a Claim. All Insureds shall, without charge to the Company, assist and cooperate with the Company in connection with defending Claims and investigating coverage, including:

- (a) meeting with the Company's authorized representatives for the purpose of coverage investigation or claim defense, giving written statements as requested by the Company, responding under oath to questions posed by authorized representatives of the Company and otherwise providing information requested by the Company;
- (b) cooperating in the defense of any Claim, including attending mediations, settlement conferences, hearings, depositions and trials, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits or other proceedings;
- (c) doing whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which any Insured may have, and the Company may exercise those rights in the name of any Insured;
- (d) giving written notice to the Company of the Insured's right to demand or reject arbitration of a Claim and exercising such right as instructed by the Company; and,
- (e) not making any payments, admitting any liability, settling any Claims, assuming any obligation, or incurring any expense without the prior written consent of the Company.

5.4 Subrogation/Recoveries by Insured.

In the event of any payment under this policy:

- (1) the Company shall be subrogated to all the Insured's rights of recovery therefor against any person or organization, and the Insured shall execute and deliver all instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing to prejudice such rights. The Company shall have the right to pursue subrogation in the name of the Insured or in its own name;
- (2) the Company shall be entitled to payment of any sanctions or return of costs or attorneys' fees awarded to an Insured as to any Claim being defended by the Company;
- (3) the Company shall be entitled to any recovery obtained by an Insured through a malicious prosecution or abuse of process claim brought by such Insured against any Claimant or Claimant's counsel.

The Company shall not exercise any such subrogation rights against any Insured, except the Company may exercise rights of subrogation against an Insured with respect to any Claim brought about or contributed to by the dishonest, fraudulent, criminal, malicious or knowingly wrongful acts, errors or omissions committed by or at the direction of, or ratified by, such Insured or where such Insured intended to inflict the harm out of which the Claim arises or acted with a conscious disregard of the rights of others. The Company may pursue any subrogation or contribution rights which may exist with regard to any other coverage possessed by an Insured.

Any amount recovered as provided in this Section 5.4, shall be apportioned as follows: First, for the repayment of the Company's expenses incurred toward subrogation or recovery; second, to Damages and/or Claim Expenses paid by the Company; third, to any loss and expense payment by the Insured in excess of any Deductible(s); fourth, to any loss and expense payments by an excess carrier on behalf of the Insured; fifth, to any loss and expense payments by any primary carrier on behalf of the Insured; and last, to repayment of the Deductible.

5.5 Arbitration.

All disputes between an Insured and the Company, including but not limited to disputes with respect to (1) coverage; (2) liability for premiums, deductibles, or other amounts; (3) the handling of any Claim; or (4) any term of condition of the Policy, shall be resolved by arbitration, and such arbitration shall be governed by the provisions of the California Arbitration Act, Sections 1280 through 1294.2 of the Code of Civil Procedure. If a dispute subject to arbitration hereunder should arise, either party may make a demand for arbitration by filing a demand in writing with the other. There shall be three arbitrators, one named in writing by each of the parties within ten (10) days after demand for arbitration is given and a third chosen by the two appointed. Should either party refuse or neglect to join in the appointment of the arbitrator(s) or to furnish the arbitrator(s) with any papers or information demanded, the arbitrator(s) are empowered by both parties to proceed ex parte.

Arbitration shall take place in the City of Burbank, County of Los Angeles, State of California, and the hearing before the arbitrator(s) shall be at the time and place within said city as is selected by the arbitrator(s). The arbitrator(s) shall select such time and place promptly after or their appointment and shall give written notice thereof to each party at least 20 days prior to the date so fixed. At the hearing any relevant evidence may be presented by either party, and the formal rules of evidence applicable to judicial proceedings shall not govern. Evidence may be admitted or excluded in the sole discretion of the arbitrator(s). Said arbitrator(s) shall hear and determine the matter and shall execute and acknowledge their award in writing and cause a copy thereof to be delivered to each of the parties.

The decision of any two arbitrators shall be final, binding and conclusive. If three arbitrators are selected under the foregoing procedure but two of the three fail to reach an agreement in the determination of the matter in question, the matter shall be decided by three new arbitrators who shall be appointed and shall proceed in the same manner, and the process shall be repeated until a decision is finally reached by two of the three arbitrators selected.

Either party has the right to petition the Superior Court to compel arbitration or to compel appointment of an arbitrator. Either party may also petition the Superior Court to confirm, vacate, modify or correct any arbitration award. Each party shall pay for its own counsel in such arbitration, unless otherwise provided by law. The costs of such arbitration shall be borne equally by the parties or in such proportions as the arbitrator(s) shall determine.

This Section 5.5 is not to be construed to give a direct right of action against the Company by a Claimant not otherwise provided by law.

5.6 Action Against the Company.

No action shall lie against the Company unless, as a condition precedent thereto, the Insured has fully complied with all the terms of this policy, nor until the amount of the Insured's obligations to pay has been fully and finally determined either by judgment against the Insured after actual trial or by written agreement of the Claimant and the Company.

Nothing contained in this policy shall give any person or organization any right to join the Company as a defendant in any action against the Insured to determine the Insured's liability. Bankruptcy or insolvency of the Insured or the Insured's estate shall not relieve the Company of any of its obligations hereunder.

5.7 False or Fraudulent Claims.

If any Insured shall commit fraud in proffering any Claims, as to amount or otherwise, this insurance shall become void as to such Insured from the date such fraudulent Claim is proffered.

ARTICLE 6. Other Conditions

6.1 Applications.

By acceptance of this policy, each Insured agrees that the statements in the Applications are each of the Insureds' representations, that they are material, and that this policy is issued in reliance upon the truth of such representations as to all Insureds.

6.2 Integration.

This policy, including the Declarations, Applications and any endorsements, embodies the entire, final and binding agreement between the Insureds and the Company or any of their respective agents relating to this policy and no other statement or representation, written or oral, express or implied, has been received or relied upon by the Insureds in purchasing this policy.

6.3 Conformity to Law.

Notwithstanding anything contained herein to the contrary, in the event that any term or condition of this policy shall be held void, voidable or unenforceable, the remaining portions shall remain in full force and effect.

6.4 Multiple Policies.

If any Insured has a right to defense or indemnity for a Claim under more than one policy issued by the Company, then the most the Company is obligated to pay for Damages and Claim Expenses with respect to such Claim is the highest Limit of Liability - Each Claim under any one of those policies, subject to the Deductible due under such policy. Any amount paid shall be deemed paid under the policy providing such highest Limit of Liability - Each Claim or, in the event the Limit of Liability - Each Claim of multiple applicable policies are identical, the Company shall have discretion to determine under which policy payment will be made.

6.5 Other Insurance.

This policy shall be in excess of any other valid and collectible insurance available to the Insured, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as a specific excess insurance over the limits of liability provided in this policy. No policy issued by the Company shall be considered other valid and collectible insurance within the meaning of this Section.

6.6 Policy Changes/Non-Waiver.

Notice to or knowledge possessed by the Company or any agent or other person acting on behalf of the Company shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed except by endorsement issued to form a part of this policy. No breach of this policy or any provision herein by any Insured can be waived except by an express written waiver executed by the Company. Waiver of any one breach shall not be deemed a waiver of the same or other provisions of this policy.

6.7 Assignment.

No Insured may assign any rights against the Company or grant a lien in the policy benefits to any person or entity, and no such assignment or lien shall be binding on the Company.

6.8 Cancellation.

This policy may be cancelled by the Named Insured by surrender thereof to the Company or to any of its authorized agents or by written notice to the Company stating when, thereafter, such cancellation shall be effective. If cancelled by the Named Insured, the Company shall return to the Named Insured a proportion of the premium determined in accordance with the Company's standard practices which may include use of a customary "short rate" table. The Company may offset the return premium against sums otherwise due and owing to the Company by the Named Insured.

This policy may be cancelled by the Company by mailing to the Named Insured, and to the producer of record, if any, written notice stating when, not less than thirty (30) days thereafter, such cancellation shall be effective. However, if the Company cancels the policy because the Insured has failed to pay premium when due, or for fraud, this policy may be cancelled by the Company by mailing a written notice of cancellation to the Named Insured and his producer of record, if any, stating when, but not less than ten (10) days thereafter, such cancellation shall be effective. If cancelled by the Company, returned premium shall be computed pro rata. The Company may offset the return premium against sums otherwise due and owing to the Company by the Named Insured. Premium adjustment may be made at the time cancellation is effected or as soon as practicable thereafter. Without limiting the generality of the foregoing, the Company may cancel this policy if the Named Insured is subject to dissolution and there is no successor firm. Any such cancellation shall not affect the liability of the Named Insured for premiums then due.

6.9 **Premium.**

The premium for this policy is as set forth in the Declarations. Should a person become an Insured pursuant to Section 1.15 during the Policy Period, the Company may assess additional premium for the coverage afforded to such person. Any such additional premium is due and owing immediately upon assessment.

6.10 **Death, Incompetency or Bankruptcy of Insured.**

If an Insured dies or is adjudged incompetent or bankrupt, this policy shall inure to the benefit of the legal representative of such Insured. Death, bankruptcy or insolvency of the Insured or the Insured's estate shall not relieve the Company of any of its obligations hereunder, except the Company then may settle a Claim without the consent of the Insured or its Executor/Administrator, Bankruptcy Trustee, Conservator or other legal representative.

6.11 **Notices.**

All notices to the Company required hereunder shall be sent to Lawyers' Mutual Insurance Company, 3110 West Empire Avenue, Burbank, California 91504. All notices to the Company or the Insured shall be in writing and shall be deemed effective on the date of delivery if delivered personally (and a receipt obtained therefor), on the postmark date if sent by registered or certified mail, or on the date actually received if sent by any other means, including facsimile. Notices to any Insured shall be mailed to the address shown on the Declarations, or such other address provided to the Company in a written notice delivered pursuant to this Section 6.11.

6.12 **Period of Membership.**

The Policyholder shall be a member of the Company during the Policy Period. "Policyholder" means the individual and/or entity indicated as the Named Insured in the Declarations, and, if an entity and an individual are both indicated as the Named Insured in the Declarations, "Policyholder" means the individual only. Under a group policy, the named holder thereof shall be the "Policyholder." All rights of membership shall cease upon Termination. If the Company allows, by contract, conduct or otherwise, the holder of an Extended Reporting Period Endorsement to have privileges, in whole or in part, identical or similar to some or all of the rights of membership, such holder shall nevertheless not be deemed a member of the Company during the Extended Reporting Period.

6.13 **Rights of Members; Dividends; Voting.**

Members (a) shall participate, to the extent and upon the conditions fixed and determined by the Board of Directors of the Company in accordance with the provisions of law, in the distribution of dividends so fixed and determined, and (b) are entitled to vote, either in person or by proxy, at any Annual Meeting or Special Meeting of the members of the Company, pursuant to the Bylaws and Articles of Incorporation thereof.


6.14 **Mutual Policy Condition: Nonassessable Policy.**

This policy is not assessable.

6.15 **Captions.**

Article, Section and other captions or headings contained in this policy are inserted as a matter of convenience and for reference, and in no way, define, limit, extend or otherwise describe the scope or intent of the policy or any provision therein and shall not affect in any way the meaning or interpretation of the policy.

IN WITNESS WHEREOF, LAWYERS' MUTUAL INSURANCE COMPANY has caused this policy to be signed by its President and Secretary at Burbank, California, but the policy does not become effective unless a Declarations page is issued to the Named Insured to form part of this policy by a duly authorized representative of the Company.



ANDREW CHICK
President



BRIAN A. RAWERS
Secretary

WHAT TO DO IN CASE OF A CLAIM

ALL CLAIMS MUST BE REPORTED IN WRITING.

Mailing Address: Lawyers' Mutual Insurance Company
 3110 West Empire Avenue
 Burbank, California 91504
 Attn: Claims Administrator

Email: tender@lawyersmutual.com

**TELEPHONE NOTICE IS NOT SUFFICIENT TO CONSTITUTE NOTICE UNDER
THE POLICY.**

However, if you have any **questions** regarding a potential claim:

Telephone: (818) 565-5512
 (800-252-2045)



**CYBER INSURANCE ENDORSEMENT
(Event Discovered and Reported First Party Coverage)**

NOTICE

This Endorsement (“Endorsement”) amends the Professional Liability Policy (“the policy”) issued by Lawyers’ Mutual Insurance Company (“the Company”) to provide first-party Cyber Insurance on an Event Discovered and Reported basis. This Endorsement does not alter or change the terms and conditions of the policy.

Written notice of an **insured event** must be reported pursuant to the terms of Section V of this Endorsement. Notice shall be given to the Company via Tokio Marine HCC at:

**Tokio Marine HCC
16501 Ventura Blvd., Suite 200
Encino, CA 91436
Telephone: (888) 627-8995
CPL.claims@TMHCC.com**

NOTICE OF AN INSURED EVENT UNDER THIS ENDORSEMENT SHALL NOT BE DEEMED TO CONSTITUTE NOTICE OF A CLAIM OR POTENTIAL CLAIM UNDER THE POLICY TO WHICH THIS ENDORSEMENT IS ATTACHED.

Various provisions in this Endorsement restrict coverage. Read the entire Endorsement carefully to determine the insured’s rights and duties and what is and is not covered. The terms, conditions, exclusions, and limits of insurance set forth in this Endorsement apply only to the coverage provided by this Endorsement.

COVERAGE HEREUNDER EXPIRES ON THE EXPIRATION DATE OF THE POLICY OR ON ITS EARLIER CANCELLATION OR NON-RENEWAL DATE. NO EXTENDED REPORTING PERIOD IS AVAILABLE FOR THE COVERAGE UNDER THIS ENDORSEMENT.

All words and phrases in this Endorsement that appear in bold print have the meanings set forth in Section I of this Endorsement. To the extent any words or phrases used in this Endorsement are defined elsewhere in the policy, such definitions provided elsewhere do not apply to or give meaning to the words or phrases used in this Endorsement.

The limits of Cyber Insurance are specified in the Schedule of Limits (“Schedule”) shown below. Such limits of insurance are in addition to, and will not erode, the limits of liability of the policy set forth in the Company’s Declarations.

SCHEDULE OF COVERAGE AGREEMENTS AND LIMITS

Coverage Agreements	Limits
Privacy Breach Response Costs, Notification Expenses and Breach Support and Credit Monitoring Expenses Coverage	\$100,000 each insured event \$100,000 aggregate limit
Network Asset Protection Coverage	
Cyber Extortion Coverage	

IMPORTANT

The Endorsement contained herein does not become effective unless a DECLARATIONS insert (“Declarations”) is issued to form a part hereof.

SECTION I - DEFINITIONS

Whenever used in this Endorsement:

Adverse media report means any report or communication of an actual or potential **security breach** or **privacy breach**, which:

- A. Has been publicized through any media channel including, but not limited to, television, **print media**, radio or electronic networks, the **internet**, and/or electronic mail; and
- B. Threatens material damage to the **insured's reputation**.

BPO service provider means any third party independent contractor that provides business process outsourcing services for the **insured's** benefit under a written contract with the **insured**, including, but not limited to, call center services, fulfillment services, and logistical support.

Breach support and credit monitoring expenses means those reasonable and necessary expenses which the **insured** incurs, with the Company's prior written consent, for the provision of support activity to affected persons or organizations, including corporate clients, in the event of a **privacy breach**. For purposes of this definition, "support activity" includes the provision of credit file monitoring services and identity theft education and assistance for up to a period of twelve (12) months from the date of enrollment in such services.

Computer hardware means the physical components of any **computer system** including CPUs, memory, storage devices, storage media, and input/output devices and other peripheral devices and components, including, but not limited to, cable, connectors, fiber optics, wire, power supply units, keyboards, display monitors, and audio speakers.

Computer program means an organized set of instructions that, when executed, causes a computer to behave in a predetermined manner. **Computer program** includes, but is not limited to, communications, networking, operating system, and related **computer programs** used to create, maintain, process, retrieve, store, and/or transmit electronic **data**.

Computer system means interconnected electronic, wireless, web, or similar systems (including all **computer hardware** and software) used to process and store **data** or information in an analogue, digital, electronic, or wireless format including, but not limited to, **computer programs**, electronic **data**, operating systems, **firmware**, servers, media libraries, associated input and output devices, mobile devices, networking equipment, websites, extranets, off line storage facilities (to the extent that they hold electronic **data**), and electronic backup equipment.

Covered cause of loss means, and is limited to, the following:

A. Accidental Damage or Destruction

- (1) Accidental physical damage or destruction of **electronic media** so that stored **digital assets** are no longer machine-readable;
- (2) Accidental physical damage or destruction of **computer hardware** so that stored **data** is no longer machine-readable;
- (3) Failure in power supply or under/over voltage only if such power supply, including back-up generators, is under the **insured's** direct operational control;
- (4) **Programming error of delivered programs**; or
- (5) Electrostatic build-up and static electricity.

B. Administrative or Operational Mistakes

An accidental, unintentional, or negligent act, error or omission by an **insured**, a **BPO service provider**, or **outsourced IT service provider** in:

- (1) The entry or modification of the **insured's** electronic **data**, which causes damage to such **data**;
or
- (2) The creation, handling, development, modification, or maintenance of **digital assets**; or

- (3) The ongoing operation or maintenance of an **insured computer system** excluding the design, architecture, or configuration of an **insured computer system**.

C. Computer Crime and Computer Attacks

An act, mistake or negligent error or omission in the operation of an **insured computer system** or in the handling of **digital assets** by an **insured**, a **BPO service provider**, or **outsourced IT service provider**, which fails to prevent or hinder any of the following on an **insured computer system**:

- (1) **A denial of service attack;**
- (2) **Malicious code;**
- (3) **Unauthorized access;** or
- (4) **Unauthorized use.**

Cyber extortion expenses means all reasonable and necessary costs and expenses which the **insured** incurs, with the Company's prior written consent, as a direct result of a **cyber extortion threat**, other than **cyber extortion monies**.

Cyber extortion monies means any funds or property which the **insured** pays, with the Company's prior written consent, to a person(s) or entity(ies) reasonably believed to be responsible for a **cyber extortion threat**, for the purpose of terminating such **cyber extortion threat**.

Cyber extortion threat means a credible threat or series of related credible threats, including, but not limited to, a demand for **cyber extortion monies**, directed at an **insured** to:

- A. Release, divulge, disseminate, destroy or use the confidential information of a third party taken from the **insured** as a result of **unauthorized access** to, or **unauthorized use** of, an **insured computer system**;
- B. Introduce **malicious code** into an **insured computer system**;
- C. Corrupt, damage or destroy an **insured computer system**;
- D. Restrict or hinder access to an **insured computer system**, including, but not limited to the threat of a **denial of service attack**; or
- E. Electronically communicate with the **insured's** clients and falsely claim to be the **insured** or to be acting under the **insured's** direction in order to falsely obtain personal or confidential information of the **insured's** clients (also known as "pharming," "phishing," or other types of false communications).

Data means any and all machine-readable information, including, but not limited to, ready-for-use programs, applications, account information, personal information, health and medical information, or electronic information subject to back-up procedures, irrespective of the way it is used and rendered.

Delivered programs means programs, applications, and software where the development stage has been finalized, having passed all test-runs, and been proven successful in a live environment.

Denial of service attack means an event caused by unauthorized or unexpected interference or a malicious attack intended by the perpetrator to overwhelm the capacity of a **computer system** by sending an excessive volume of electronic **data** to such **computer system** in order to prevent authorized access to such **computer system**.

Digital assets means **data** and **computer programs** that exist in an **insured computer system**.

Digital assets do not include **computer hardware**.

Digital assets loss means reasonable and necessary expenses and costs which the **insured** incurs to replace, recreate, or restore **digital assets** to the same state and with the same contents immediately before it was damaged, destroyed, altered, misused, or stolen, including expenses for materials and machine time. **Digital assets loss** will be determined as follows:

- A. If the impacted **digital asset** was purchased from a third party, the Company will pay only the lesser of the original purchase price of the **digital asset** or the reasonable and necessary **digital assets loss**.
- B. If it is determined that the **digital assets** cannot be replaced, restored or recreated, then the Company will only reimburse the actual and necessary **digital assets loss** incurred up to such determination.

Electronic media means floppy disks, CD ROMs, hard drives, magnetic tapes, magnetic discs, or any other media on which electronic data is recorded or stored.

Endorsement effective date means the date listed as such on this Endorsement.

Endorsement period means the period of coverage commencing on the **endorsement effective date** and ending on the earlier of the termination, expiration or cancellation date of the policy to which this Endorsement attaches. **Endorsement period** does not include the time period set forth in any Extended Reporting Period Endorsement issued by the Company.

Firmware means the fixed programs that internally control basic low-level operations in a device.

Insured means the **named insured**. **Insured** also means any persons who qualify as “insureds” under the policy, but only while such persons are acting within the scope of their duties on behalf of the **named insured**.

Insured computer system means:

- (1) A **computer system** operated by and either owned by, or leased to, the **named insured**;
- (2) With respect to Coverage Agreement B only, a **computer system** operated by a **BPO service provider** or **outsourced IT service provider** and used for the sole purpose of providing hosted computer application services to the **insured** or for processing, maintaining, hosting, or storing electronic **data** on behalf of the **insured**, pursuant to a written contract with the **insured** for such services.

Insured event means:

- A. With respect to Coverage Agreement A (Privacy Breach Response Costs, Notification Expenses, and Breach Support and Credit Monitoring Expenses), an **adverse media report, security breach, or privacy breach**.
- B. With respect to Coverage Agreement B (Network Asset Protection), a **covered cause of loss**.
- C. With respect to Coverage Agreement C (Cyber Extortion), a **cyber extortion threat**.

Insured event only pertains to loss sustained by the **insured** and does not include any demand, allegation or lawsuit made or brought by or on behalf of any third party.

Insured’s reputation means the estimation of trust that clients have in doing business with the **insured** or in retaining the **insured’s** services.

Internet means the worldwide public network of computers which enables the transmission of electronic **data** between different users, including a private communications network existing within a shared or public network platform.

Malicious code means software intentionally designed to insert itself and damage a **computer system** without the owner’s informed consent by a variety of forms including, but not limited to, virus, worm, Trojan horses, spyware, dishonest adware, and crimeware.

Named insured means the partnership, professional corporation or individual named as such on the Company’s Declarations.

Notification expenses means:

- A. Those reasonable and necessary legal expenses, computer forensic and investigation fees, public relations expenses, postage expenses and related advertising expenses incurred by the **insured**, with the Company’s prior written consent, to comply with governmental privacy legislation mandating notification to affected individuals in the event of a **security breach** or **privacy breach**; and
- B. **Voluntary notification expenses** incurred with the Company’s prior written consent.

Operational programs means programs and software which are ready for operational use, having been fully developed, tested, and accepted by the **insured**.

Outsourced IT service provider means a third party independent contractor that provides information technology services for the **insured's** benefit under a written contract with the **insured**. **Outsourced IT service provider** services include, but are not limited to, hosting, security management, co-location, and **data** storage.

Print media means newspapers, newsletters, magazines, books, and literary works in any form, brochures or other types of publications, and advertising materials, including packaging, photographs, and digital images.

Privacy breach means any of the below, whether actual or alleged, but only if committed or allegedly committed by an **insured**, or by others acting on the **insured's** behalf and for whom the **insured** is legally responsible, including **BPO service providers** and **outsourced IT service providers**:

- A. The unauthorized collection, disclosure, use, access, destruction or modification of private information, or the inability to access, or failure to provide, private information;
- B. The surrender of private information as a result of false communications or social engineering techniques including but not limited to phishing, spear-phishing, and pharming;
- C. Any breach of privacy regulations, as they currently exist and as amended, associated with the confidentiality, access, control, and use of personally identifiable, non -public information, including, but not limited to:
 - (1) Health Insurance Portability and Accountability Act of 1996 (Public Law 104- 191), known as HIPAA, and related state medical privacy laws;
 - (2) Gramm-Leach-Bliley Act of 1999 (G-L-B), also known as the Financial Services Modernization Act of 1999;
 - (3) State and federal statutes and regulations regarding the security and privacy of consumer information;
 - (4) Governmental privacy protection regulations or laws associated with the control and use of personal information;
 - (5) Privacy provisions of consumer protection laws, including the Federal Fair Credit Reporting Act (FCRA) and similar state laws;
 - (6) Title XIII, the Health Information Technology for Economic and Clinical Health Act ("HITECH"), of the American Recovery and Reinvestment Act of 2009 ("ARRA").

Privacy breach response costs means:

- A. Those reasonable and necessary fees and expenses the **insured** incurs, with the Company's prior written consent, for the employment of a public relations consultant following the publication of an **adverse media report**, if the **insured** reasonably considers such action is necessary in order to avert or mitigate any material damage to the **insured's reputation**, which results or reasonably will result from the **adverse media report**; and
- B. **Proactive privacy breach response costs** incurred with the Company's prior written consent.

Proactive privacy breach response costs means those reasonable and necessary public relations expenses the **insured** incurs, with the Company's prior written consent, in response to an actual or potential **security breach** or **privacy breach**, but prior to the publication of an **adverse media report**, in an effort to avert or mitigate the potential impact of an **adverse media report**.

Programming error means an error which occurs during the development or encoding of a computer program, software, or application, which would, when in operation, result in a malfunction or incorrect operation of a **computer system**.

Property damage means injury to tangible property, including all resulting loss of use of that property, and loss of use of tangible property that is not physically injured. **Data** is not considered tangible property.

Security breach means any of the following, whether a specifically targeted attack or a generally distributed attack:

- A. **Unauthorized access** to, or **unauthorized use** of, an **insured computer system**, including **unauthorized access** or **unauthorized use** resulting from the theft of a password from an **insured computer system** or from any **insured**;
- B. A **denial of service attack** against an **insured computer system**; or
- C. Infection of an **insured computer system** by **malicious code** or the transmission of **malicious code** from an **insured computer system**,

Special expenses means reasonable and necessary costs and expenses which the **insured** incurs to:

- A. Prevent, preserve, minimize, or mitigate any further damage to **digital assets**, including the reasonable and necessary fees and expenses of specialists, outside consultants, or forensic experts;
- B. Preserve critical evidence of any criminal or malicious wrongdoing;
- C. Purchase replacement licenses for **computer programs** because the copy protection system and/or access control software was damaged or destroyed by a **covered cause of loss**; or
- D. Notify clients of a total or partial interruption, degradation in service, or failure of an **insured computer system** resulting from a **covered cause of loss**.

Unauthorized access means the gaining of access to a **computer system** by an unauthorized person or persons.

Unauthorized use means the use of a **computer system** by unauthorized persons or authorized persons in an unauthorized manner.

Voluntary notification means written notice to any individual or organization of a **privacy breach** or **security breach** where there is no specific legal requirement in the applicable jurisdiction mandating such notice.

Voluntary notification expenses means reasonable and necessary legal expenses, computer forensic and investigation fees, public relations expenses, postage expenses and related advertising expenses incurred by the **insured**, with the Company's prior written consent, as a result of **voluntary notification**.

SECTION II – CYBER INSURANCE COVERAGE

In consideration of the premium paid and subject to all terms, conditions, definitions, exclusions and other provisions of this Endorsement, the Company agrees as follows:

A. **PRIVACY BREACH RESPONSE COSTS, NOTIFICATION EXPENSES, AND BREACH SUPPORT AND CREDIT MONITORING EXPENSES COVERAGE**

Subject to the limits shown in the Schedule, the Company will pay reasonable **privacy breach response costs, notification expenses, and breach support and credit monitoring expenses** which the **insured** incurs after the **endorsement effective date** as a direct result of an **adverse media report, security breach** or **privacy breach**, provided that:

- (1) The **adverse media report, security breach** or **privacy breach** takes place or first commences on or after the **endorsement effective date**;
- (2) The **adverse media report, security breach** or **privacy breach** is first discovered by the **insured** during the **endorsement period**; and
- (3) The **adverse media report, security breach** or **privacy breach** is reported to the Company no later than 60 days from the date the **insured** first discovers the **adverse media report, security breach** or **privacy breach**.

The **insured** shall not pay **privacy breach response costs, notification expenses, or breach support and credit monitoring expenses** without the Company's prior consultation and written authorization.

B. **NETWORK ASSET PROTECTION COVERAGE**

Subject to the limits shown in the Schedule, the Company will reimburse the **insured** for **digital assets loss** and **special expenses** which the **insured** incurs after the **endorsement effective date** as a direct result of damage, alteration, corruption, distortion, theft, misuse, or destruction of **digital assets**, provided that:

- (1) Such damage, alteration, corruption, distortion, theft, misuse, or destruction of **digital assets** is directly caused by a **covered cause of loss** that takes place or first commences on or after the **endorsement effective date**;
- (2) The **covered cause of loss** is first discovered by the **insured** during the **endorsement period**;
- (3) The **covered cause of loss** is reported to the Company no later than 60 days from the date the **insured** first discovers the **covered cause of loss**.

The **insured** shall not pay **digital assets loss** or **special expenses** without the Company's prior consultation and written authorization. The Company will pay **digital assets loss** and **special expenses** for a period of up to twelve (12) months following the discovery of the damage, alteration, corruption, distortion, theft, misuse, or destruction of **digital assets**.

C. **CYBER EXTORTION COVERAGE**

Subject to the limits shown in the Schedule, the Company will reimburse the **insured** for **cyber extortion expenses** incurred and **cyber extortion monies** paid after the **endorsement effective date** as a direct result of a **cyber extortion threat**, including a demand for **cyber extortion monies**, provided that:

- (1) Such **cyber extortion threat** is first made against the **insured** during the **endorsement period**;
- (2) The **cyber extortion expenses** and **cyber extortion monies** directly resulted from the **cyber extortion threat**; and
- (3) The **cyber extortion threat** is reported to the Company no later than 60 days from the date the **cyber extortion threat** is made against the **insured**.

The **insured** shall not pay **cyber extortion expenses** or **cyber extortion monies** without the Company's prior consultation and written authorization. The **insured** must make every reasonable effort to notify local law enforcement authorities and the Federal Bureau of Investigation, or similar equivalent foreign agency, before surrendering any **cyber extortion monies** in response to a **cyber extortion threat**.

SECTION III – CYBER INSURANCE EXCLUSIONS

This Endorsement does not apply to:

A. Any **insured event**:

- (1) Which was the subject of written notice given to the Company or to any other insurer prior to the **endorsement effective date**; or
- (2) Which an **insured** had knowledge of prior to the **endorsement effective date**.

B. Any loss which is covered under the policy to which this endorsement is attached.

C. **Property damage.**

D. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving:

- (1) Satellite failures;
- (2) Electrical or mechanical failures or interruption including, but not limited to, electrical disturbance, spike, brownout, or blackout;
- (3) Outages to gas, water, telephone, cable, telecommunications or other infrastructure, unless such

infrastructure is under the **insured's** direct operational control and such **insured event** is otherwise covered under Coverage Agreement B;

- (4) The failure of overhead transmission and distribution lines;
- (5) The gradual deterioration of subterranean insulation; or
- (6) The existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism.

E. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving any of the following, if committed by any person with ownership interest in the **named insured**, whether acting alone or in collusion with other persons:

- (1) Any willful, deliberately dishonest, malicious, or fraudulent act or omission;
- (2) Any intentional violation of the law or of the **named insured's** privacy policy;
- (3) The gaining in fact of any profit, remuneration or financial advantage to which the **insured** was not legally entitled.

F. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving any business, joint venture or enterprise of an **insured** which is not named on the Company's Declarations.

G. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving any conduct, act, error or omission of any **insured** serving in any capacity other than as the **named insured's** officer, director, partner, stockholder, trustee or employee.

H. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving:

- (1) The wear and tear, drop in performance, progressive deterioration, or aging of the **insured's** electronic equipment or **computer hardware**; or
- (2) The gradual deterioration or wear and tear of an **insured computer system**.

I. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, force majeure or any other physical event, however caused.

J. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving:

- (1) The confiscation, nationalization, commandeering, requisition or destruction of, or damage to, **computer hardware** or other property by order of a public or local authority, government de jure or government de facto for whatever reason;
- (2) Strikes or similar labor actions, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular uprising, military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions; or
- (3) Any action taken in controlling, preventing, suppressing or in any way relating to J(1) or J(2) above.

K. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving the use of programs that are not **operational programs** or **delivered programs**.

L. Any **insured event** based upon, arising out of, resulting from, in consequence of, or in any way involving any **insured's** intentional use of illegal or unlicensed programs that are in violation of the provisions or laws referring to software protection.

M. Physical damage to **computer hardware** or **data** center, other than accidental physical damage or destruction of **electronic media** so that stored **digital assets** are no longer machine-readable.

N. Any obligation to reimburse or indemnify third parties for whatever reason.

- O. Fines or penalties imposed by law.
- P. The economic or market value of **digital assets**.
- Q. Costs or expenses incurred to identify, patch or remediate software program errors or **computer system** vulnerabilities.
- R. Costs to upgrade, redesign, reconfigure or maintain an **insured computer system** to a level of functionality beyond that which existed prior to the **covered cause of loss**; or costs to restore, update or replace **digital assets** to a level beyond that which existed prior to the **covered cause of loss**.
- S. Loss of revenue resulting from an **insured event**.

SECTION IV – CYBER INSURANCE LIMITS

- A. The “each **insured event**” limit shown in the Schedule is the most the Company will pay for each **insured event**, regardless of the number of **insureds** involved or affected.
- B. The “aggregate limit” shown in Schedule is the most the Company will pay for loss arising from any and all **insured events** for which coverage attaches under this Endorsement, regardless of the number of **insureds** involved or affected or the number of **insured events**. The “aggregate limit” is shared with all **insureds**.
- C. If the “aggregate limit” is exhausted, then the Company’s obligations under this Endorsement will be deemed completely fulfilled and extinguished. The Company’s obligations under this Endorsement will not be affected by the exhaustion of the Professional Liability Aggregate Limit of the policy to which this Endorsement is attached.
- D. All **insured events** arising out of the same, related, repeated or continuing acts, facts, circumstances incidents or events, will be considered a single **insured event**. Such **insured event** will be deemed to have been first reported to the Company on the date the first of the related **insured events** was reported to the Company. **Insured events** will be deemed related if the Company determines that they are logically or causally connected by any common fact, circumstance, situation, event, transaction or series of facts, circumstances, situations, events or transactions.

SECTION V – CYBER INSURANCE NOTICE PROVISIONS

- A. As a condition precedent to coverage under this Endorsement, the **insured** must give the Company written notice of any **insured event** no later than 60 days from the date the **insured** first discovers the **insured event**.
- B. Written notice shall be given to the Company via Tokio Marine HCC at:

Tokio Marine HCC
16501 Ventura Blvd., Suite 200
Encino, CA 91436
Telephone: (888) 627-8995
CPL.claims@TMHCC.com

The **insured** must provide Tokio Marine HCC with supporting documentation as well as any authorization, cooperation, or assistance required.

- C. The Company will not be obligated to pay any amounts incurred prior to notice of an **insured event** to the Company or amounts incurred without the Company’s prior written consent.
- D. Notice of an **insured event** under this Endorsement shall not be deemed to constitute notice of a claim or potential claim under the Professional Liability policy to which this Endorsement is attached.