

## Management Liability

# TOOLS TO HELP YOU MANAGE RISK



When you purchase Cincinnati's exceptional Pillar™ management liability insurance to protect your organization, you receive access to risk management tools at no additional cost to help you with the complex situations covered by your policy.

Depending on the coverage options you purchase, you may also gain access to services provided by risk management specialists who can answer questions related to managing your community association, employment practices issues, cyber liability exposures or workplace violence. Most of these services are also available at no additional cost.

**Nonprofit Risk Management Portal:** Are you a nonprofit organization looking for expert risk management guidance? Cincinnati's policyholders can register with Nonprofit Risk Management Center, a leader in the risk management space, to help you identify and manage risks that threaten your missions, while empowering you to take bold, mission-advancing steps. Comprehensive risk resources provide practical knowledge on the topics that matter to you, while self assessments lead you – step by step – to building a custom risk management plan. Please visit [cinfm.com/nonprofit-risk-resources](http://cinfm.com/nonprofit-risk-resources) to register for NRMC services; have your Cincinnati Insurance policy number ready.

**Community Association Helpline:** As a Pillar policyholder, you can call a toll-free helpline, 844-458-9556, for assistance reducing or avoiding a potential wrongful acts loss related to managing your community association. Please have your Pillar Directors & Officers policy number ready before you call. When you place your call, leave a message including your name, complete contact information, policy number and your question or concern. A helpline lawyer will call you back, usually within one business day. Please be advised that each helpline call is limited to one hour. There is no additional charge for using this policyholder helpline.

**Employment Practices Helpline:** Do you have questions about how to handle employment situations? Pillar policyholders whose coverage includes Cincinnati's employment practices liability insurance may call our toll-free Employment Connection helpline, 888-811-3427, for guidance from an attorney prior to making employment-related decisions. We offer eligible policyholders an unlimited number of calls seeking advice on employment policies and procedures.

For information, coverage availability in your state, quotes or policy service, please contact your local independent agent recommending coverage.



**Cyber Risk Management Portal:** Cincinnati's cyber policyholders may access eRiskHub, an online portal that provides news, information and tools to help mitigate a breach or hacking event, virus infection or other cyberattack. On eRiskHub, you will find information about privacy laws, compliance and breach response guides including compliance resources, notification letter examples, and credit bureau and government agency notifications. Other data risk management expertise may be engaged to help diagnose and repair virus infections and other common computer problems. Some services offered may extend beyond what the policy covers and include an additional charge. Please visit <https://eriskhub.com/cic> to set up an account using the access code provided with your policy or available from your agent to begin exploring this valuable resource.

**Workplace Violence Hotline:** After a covered workplace violence event, Pillar policyholders who have added Cincinnati's optional workplace violence expense coverage to their EPLI policy can receive help to create a response and begin the recovery process. Simply call the toll-free, 24-hour hotline, 877-841-1082. It's monitored by Black Swan Solutions, a business unit of Empathia, Inc., which is an industry-leading crisis support organization. Coverage also reimburses recovery expenses for security, public relations, counselors and lost salaries, wages and business income. While policyholders are not obligated to use Black Swan Solutions, this resource is available if you need them.

**Kidnap, Ransom and Extortion:** Success attracts respect, recognition and rewards, yet may leave you vulnerable to kidnapping and extortion attempts. This policy option pays for the vital services of Control Risks Group, a kidnap extortion and crisis management consulting firm. Experts help manage all aspects of the situation, work toward the safe return of the victim and negotiate ransom requests. They also try to identify those responsible, assess the circumstances and search for a motive.

### Selecting the right company

With Cincinnati's Pillar management liability coverage, know that you have an exceptional insurance program from a company offering:

- A management team specifically dedicated to keeping your program on the leading edge
- Superior claims service provided by Cincinnati professionals
- High financial strength rating from A.M. Best Co., reflecting our ability to pay claims and keep our promises.
- For qualifying accounts, multi-year policy terms are available in most states for many coverages, saving you the added time and expense of annual renewals

Your agent recommending Cincinnati can provide more details, answer questions and add the coverage you need.

Thank you for trusting your agent and Cincinnati to protect your business.



Everything Insurance Should Be®

Our loss control service is advisory only. We assume no responsibility for management or control of customer loss control activities or for implementation of recommended corrective measures. These materials were gathered from trade services and public information. We have not tried to identify all exposures. We do not warrant that this information is consistent with the underwriting guidelines of The Cincinnati Insurance Company and its subsidiaries or with any federal, state or local law, regulation or ordinance.

This is not a policy. For a complete statement of the coverages and exclusions, please see the policy contract. "The Cincinnati Insurance Companies", "Cincinnati Insurance" and "Cincinnati" refer to member companies of the insurer group providing property and casualty coverages through The Cincinnati Insurance Company or one of its wholly owned subsidiaries - The Cincinnati Indemnity Company or The Cincinnati Casualty Company. Each insurer has sole financial responsibility for its own products. Not all subsidiaries operate in all states. Do not reproduce or post online, in whole or in part, without written permission. Best's ratings are under continuous review and subject to change and/or affirmation. To confirm the current rating, please visit [www.ambest.com](http://www.ambest.com). © 2020 The Cincinnati Insurance Company, 6200 S. Gilmore Road, Fairfield, OH 45014-5141.



# RISK MANAGEMENT FOR NONPROFIT ORGANIZATIONS

*Your nonprofit serves others.  
Let us serve you.*

Volunteers. Boards of directors. Fundraising. Nonprofits have a lot to contend with – and often on a modest budget. We can help.

## **Professional risk resources at your fingertips**

Nonprofit Risk Management Center is a respected leader in the risk management space. With an experienced team of nonprofit-savvy advisers, NRMCM can help your nonprofit identify and manage risks that threaten your missions and operations while empowering you to take bold, mission-advancing steps.

Through Cincinnati's relationship with NRMCM, you can tackle the topics you care about: youth protection, workplace safety, volunteer management, reputation risk, legal compliance, insurance program oversight, fiscal oversight and fraud protection, employment practices, governance and more.

## **Real-world solutions at no additional cost**

Complete your registration with NRMCM to receive tools proven to produce results, without cost to you:

- **Self-assessment tools** – The backdrop to any enterprise lies in the details. Make sure yours' hit the mark:
  - Take *My Risk Assessment* to identify gaps and get expert recommendations designed to strengthen your risk management strategies.
  - Visit *My Risk Management Policies* to draft custom policies for your organization. In minutes, use an intuitive policy-building web app – with more than 170 templates covering 22 topics – to create fit-to-suit policies on topics from human resources and information technology to client safety and more.
  - Access *My Risk Management Plan* to create a custom risk management plan that meets the needs of your unique organizations.

It's that easy: take an assessment, let the experts guide you and come away with a plan built for you.



- **Risk resources** – Because we all learn and process information differently, you'll receive varying forums of expert-created material:
  - Access a library of 50+ recorded educational videos, helpful infographics and practical articles.
  - Subscribe to RISK eNews to receive weekly risk management insights.
  - Find answers to top-of-mind questions on topics from pandemic response to managing volunteers and more.

## **REGISTER TODAY!**

As a Cincinnati Insurance policyholder in the nonprofit sector, you are eligible for full access to a custom risk resource portal, built for you at no additional cost. Registration is easy:

- Visit [cinfin.com/nonprofit-risk-resources](http://cinfin.com/nonprofit-risk-resources).
- Click Nonprofit Risk Management Center's registration page.
- Click Register.
- Complete the portal registration form.
- Enter your Cincinnati policy number.
- Click Submit.
- Expect an email notifying you that your registration has been approved and is complete.

Your local independent insurance agent and Cincinnati's experienced knowledgeable team of loss control representatives are available to guide you through these services. To register or to learn more about this service, contact your agent or visit [cinfin.com/nonprofit-risk-resources](http://cinfin.com/nonprofit-risk-resources).

If you need registration assistance, please contact NRMC, 703-777-3504 or [info@nonprofitrisk.org](mailto:info@nonprofitrisk.org). A customer service representative will assist you.

The Cincinnati Insurance Companies", "Cincinnati Insurance" and "Cincinnati" refer to member companies of the insurer group providing property and casualty coverages through The Cincinnati Insurance Company or one of its wholly owned subsidiaries - The Cincinnati Indemnity Company or The Cincinnati Casualty Company. Each insurer has sole financial responsibility for its own products. Not all subsidiaries operate in all states. Do not reproduce or post online, in whole or in part, without written permission. © 2020 The Cincinnati Insurance Company. 6200 S. Gilmore Road, Fairfield, OH 45014-5141. Mailing address: P.O. Box 145496, Cincinnati, OH 45250-5496.

Our loss control service is advisory only, and should not be interpreted as legal advice. We assume no responsibility for management or control of customer loss control activities nor for implementation of recommended corrective measures. The information in this publication was compiled from sources believed to be reliable for informational purposes only. All sample policies and procedures herein should serve as a guide only, used to create your own policies and procedures. We do not warrant that requirements of any federal, state or local law, regulation or ordinance have or have not been met, nor that compliance with any or all of the recommendations stated herein will guarantee coverage under any specific factual scenario. We do not warrant to have identified all hazards. We do not guarantee the accuracy of the information contained herein, and disclaim any liability arising out of reliance on information contained herein.

# NOTICE TO POLICYHOLDERS

## DIRECT BILL ACCOUNT CREDIT PROCEDURE

This is a notice of how an account credit will be applied to your policy or to all of the policies being billed as single account.

### Account Credits

- A.** If your account is comprised of **a single policy** and an endorsement or premium audit results in a credit (return premium), the credit is applied to that policy. If your account does not have a future installment due at the time the endorsement or audit is processed, the credit is refunded to the payor listed for your account. If you do not wish for credits to be automatically applied to future unpaid installments, please contact us to request a refund. Please note that the amount of the refund may vary based upon the date you contact us and your billing schedule.
- B.** If your account is comprised of **more than one policy** and an endorsement or premium audit results in a credit (return premium), the credit is applied in the following manner:
- Payments previously applied to your account are deferred.
  - The credit that results from the endorsement or audit is applied to the policy generating the credit.
  - The payments that were deferred are then reapplied to the account in order to satisfy the amount due.
  - Any excess payment that results from the credit is applied proportionately to your policies with a future payment or installment due.
  - If you do not wish for credits to be automatically applied to future unpaid installments, please contact us to request a refund. Please note that the amount of the refund may vary based upon the date you contact us and your billing schedule.
  - If your account does not have a future installment or payment due at the time the endorsement or audit is processed, the credit is refunded to the payor listed for your account.

(Does not apply to audit return premium for payors located in New York; Does not apply to premiums due more than 30 days from the date of processing for payors located in New Hampshire. These credits are automatically refunded to the payor)

To request a refund, contact us at:

Mailing Address

The Cincinnati Insurance Company  
PO Box 14529  
Cincinnati, OH 45250-0529

Toll free phone number

877-942-2455

Electronic mail

CinciBill@cinfin.com

# DISCLOSURE OF DIRECT BILL FEES AND CHARGES

NO COVERAGE IS PROVIDED BY THIS DISCLOSURE, nor can it be construed to replace any provision of your policy. YOU SHOULD READ YOUR POLICY AND REVIEW YOUR DECLARATIONS PAGE CAREFULLY for complete information on the coverages provided.

Your insurance premium is being paid directly to us rather than to your insurance agency. We appreciate your prompt payment of the premium. Please note that these fees apply only in the event your payment is late, is returned to us for insufficient funds, or if your policy was previously canceled for nonpayment of premium and has been reinstated at either your or your agents request. We are not required to reinstate a policy once cancellation for nonpayment of premium has become effective. The decision to reinstate coverage is solely at the discretion of the company.

Not all fees are applicable in all states. The types of fees are listed below. Following the description of each fee, we list the states where the fee applies and the amount of the fee. Fees are not levied in KY, MD, MT and NC.

**Non-Sufficient Funds (NSF) Charge:** The first time a premium payment is returned due to Non-Sufficient Funds (NSF), the premium due is the installment amount. For each succeeding return of payment while continuously insured with The Cincinnati Insurance Companies, a charge is added to your next account statement. The amount of the charge is determined by the fees filed with and approved by the state where the payor of your account is located.

\$10 AK, FL, NJ, RI, and SC;

\$15 MA;

\$20 NY; and

\$25 AL, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, NE, NV, NH, NM, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI, WV and WY.

**Reinstatement Charge:** The first time your account is reinstated for nonpayment of premium, the premium due is the installment amount. For each succeeding reinstatement due to nonpayment of premium while continuously insured with The Cincinnati Insurance Companies, a charge is added to your next account statement. The amount of the charge is determined by the fees filed with and approved by the state where the payor of your account is located.

\$10 AK, RI, and SC;

\$15 MA;

\$20 NY; and

\$25 AL, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, NE, NV, NH, NM, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA and WY.

**Late Charge:** A charge is added to your next account statement each time your payment is received and processed after the due date as shown on the account statement. This fee will not apply to Electronic Funds Transfer (EFT). The amount of the charge is determined by the fees filed with and approved by the state where the payor of your account is located.

\$10 AK, FL, RI, and SC;

\$15 MA; and

\$25 AL, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, NE, NV, NH, NM, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI and WY.



# The Cincinnati Insurance Company

A Stock Insurance Company

Headquarters: 6200 S. Gilmore Road, Fairfield, OH 45014-5141

Mailing address: P.O. Box 145496, Cincinnati, OH 45250-5496

www.cinfin.com ■ 513-870-2000

## PILLAR COMMON POLICY DECLARATIONS

Billing Method: **DIRECT BILL**

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Policy Number: **EMN 046 61 26**

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Named Insured: **ENO TRANSPORTATION FOUNDATION, INC.**

Mailing Address: **1629 K ST NW STE 200  
WASHINGTON, DC 20006-1629**

Principal Address: **1629 K ST NW STE 200  
WASHINGTON, DC 20006-1629**

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Previous Policy Number: **EMN0466126**

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Policy Period: (At 12:01 AM standard time at your principal address shown above.)

**FROM: 12-01-2021**

**TO: 12-01-2024**

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Agency: **MOORE, CLEMENS & COMPANY, INC. 45-084**  
City, State: **LEESBURG, VA**

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Shared Annual Aggregate Limit of Liability: **N/A**

Applicable to all **claims** under the following liability coverage parts:

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In return for the payment of the premium and subject to all the terms and conditions of this policy, we agree with you to provide the insurance as stated in this policy.

Forms applicable to all coverage parts:

**ML400 01/16 SUMMARY OF PREMIUMS CHARGED**

**ML101 01/20 GENERAL PROVISIONS**

**IA4234 01/15 POLICYHOLDER NOTICE TERRORISM INSURANCE COVERAGE**

**ML4024DC 02/17 DISTRICT OF COLUMBIA CHANGES - CANCELLATION AND NONRENEWAL**

**ML458 01/16 CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

IA4427 02/13 NOTICE OF LOSS CONTROL SERVICES  
IA4521 03/20 NOTICE OF PRIVACY PRACTICES  
IP446 08/01 NOTICE TO POLICYHOLDERS  
ML4000 04/21 NOTICE OF LOSS CONTROL SERVICES  
IA4338 05/11 SIGNATURE ENDORSEMENT

Coverage part declarations:

ML505 01/16 NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE  
PART DECLARATIONS  
ML512 01/16 EMPLOYMENT PRACTICES LIABILITY COVERAGE PART DECLARATIONS  
ML513 01/18 FIDUCIARY LIABILITY COVERAGE PART DECLARATIONS  
ML502 01/18 CINCINNATI DATA DEFENDERc COVERAGE PART DECLARATIONS  
ML503 01/18 CINCINNATI NETWORK DEFENDERc COVERAGE PART DECLARATIONS  
ML516 01/18 CRIME COVERAGE PART DECLARATIONS  
ML518 01/16 CRIME XC+c (EXPANDED COVERAGE PLUS) COVERAGE PART DECLARATIONS

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## SUMMARY OF PREMIUMS CHARGED

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM CHARGE IS INDICATED

<u>NONPROFIT ORGANIZATION DIRECTORS &amp; OFFICERS LIABILITY</u>	<u>\$ 4,008</u>
<u>EMPLOYMENT PRACTICES LIABILITY</u>	<u>\$ 1,199</u>
<u>FIDUCIARY LIABILITY</u>	<u>\$ 1,085</u>
<u>DATA DEFENDER COVERAGE PART</u>	<u>\$ 143</u>
<u>NETWORK DEFENDER COVERAGE PART</u>	<u>\$ 242</u>
<u>CRIME COVERAGE</u>	<u>\$ 264</u>
<u>CRIME EXPANDED COVERAGE PLUS</u>	<u>\$ 200</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
<u>TERRORISM COVERAGE</u>	<u>\$ 125</u>
Installment Charge _____	\$ _____
Total	<u>\$ 7,266</u>

Payment Plan	First Installment	Remaining Installments
ANNUAL	\$ * _____	\$ * _____

SEE BILLING STATEMENT MAILED SEPARATELY

ALL OTHER TERMS AND CONDITIONS REMAINS UNCHANGED

# GENERAL PROVISIONS APPLICABLE TO ALL LIABILITY COVERAGE PARTS

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These General Provisions apply only to those Coverage Parts which include a liability coverage, which shall include all Coverage Parts other than Crime Coverage. Furthermore, any reference to the "policy" in these General Provisions refers to all Coverage Parts other than Crime Coverage.

Throughout this policy, the words "we", "us" and "our" refer to the Company providing this insurance.

In consideration of the payment of the premium, in reliance on all statements in the **application** and all other information provided to us and subject to all the provisions of this policy, including the Declarations, we and the **insureds** agree as set forth below.

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## SECTION I - DEFINITIONS

Where set forth in bold type in this policy, whether in singular or in plural, the following terms shall have the meanings indicated.

### A. **Application** means:

1. The Application Form for this policy;
2. Any materials submitted with the Application Form which shall be maintained on file with us and shall be deemed to be attached hereto as if physically attached; and
3. Any warranty or representation provided to us within the last three years in connection with any policy of which this policy is a renewal or replacement.

### B. **Claim** means:

1. With respect to the Cincinnati Data Defender™ Coverage Part, the Cincinnati Network Defender™ Coverage Part or the Cincinnati Cyber Defense™ Coverage Part, that meaning which is set forth in the applicable Coverage Part; or
2. With respect to any Coverage Part other than Cincinnati Data Defender™ Coverage Part, the Cincinnati Network Defender™ Coverage Part or the Cincinnati Cyber Defense™ Coverage Part, that meaning which is set forth in the applicable Coverage Part which shall precede the following:

In the event that a **claim**, as defined herein, was first made during the policy period of any other policy issued by another insurer of which the applicable coverage part of this policy is a direct replacement but no **executive** was aware of such **claim** prior to the expiration of the time to give notice of such claim under such prior policy, such **claim** is deemed to be made on the first service date of **claim** upon any **insured** but only if such claim was submitted to the prior carrier and denied due solely to such **claim** not meeting the prior policy's definition of claim until after the expiration of that policy. However, if such **claim** or any **interrelated claim** was the subject of any notice under any prior policy issued by another carrier of which the applicable coverage part of this policy is a direct replacement and such **claim** was not denied by such prior insurer due to the failure to meet the prior policy's definition of claim until after the expiration of that policy, then such **claim** shall not be deemed to be first made during the **policy period**.

### C. **Cyber terrorism** means the premeditated use of disruptive activities, or threat to use disruptive activities, against a computer system or network with the intention to cause harm, further social, ideological, religious, political or similar objectives, or to intimidate any person(s) in furtherance of such objectives. Provided, however, that such activities shall not be considered **cyber terrorism** when they are committed by or at the express direction of a government simultaneously engaged in an active conflict involving physical combat by one or more military forces of, or operating at the direction of, nation states or factions in the case of a civil war.

### D. **Debtor in possession** means a "debtor in possession" as that term is defined in Title 11 of the United States Code, as amended.

### E. **Defense costs** has the meaning set forth in the applicable coverage part.

- F. Domestic partner** means a natural person who is not otherwise an insured, in a committed relationship with an **insured person**, which is legally recognizable as a marriage, civil union or domestic partnership in the state where the **claim** is made or suit is filed and the legal existence of the relationship is verifiable by legal, government documentation existing prior to the date of the **wrongful act** complained of in the **claim**.
- G. Executive** has the meaning set forth in the applicable coverage part.
- H. Extended reporting period** means the periods of time described in Section **XIX** of the General Provisions.
- I. Insured persons** has the meaning set forth in the applicable coverage part.
- J. Insured** has the meaning set forth in the applicable coverage part.
- K. Interrelated** means all events or incidents which have as a common nexus any:
1. Fact, circumstance, situation, event, transaction, or cause; or
  2. Series of causally connected facts, circumstances, situations, events, transactions or causes.
- L. Loss** has the meaning set forth in the applicable coverage part.
- M. Named insured** means the entity or entities shown in the applicable Declarations as a Named Insured and any such entity in its capacity as a **debtor in possession**.
- N. Organization** has the meaning set forth in the applicable coverage part.
- O. Personal injury** has the meaning set forth in the applicable coverage part.
- P. Policy period** means the period from the inception date to the expiration date as set forth in the Declarations, or to the earlier date of cancellation of the applicable Coverage Part.
- Q. Policy year** means the period within the **policy period** from the inception date as set forth in the Declarations to the succeeding anniversary date exactly 1 year later at 12:01 AM standard time, and **policy year** means any subsequent annual period between anniversary dates at 12:01 AM standard time thereafter. In the event of a **policy period** less than 1 year, the **policy year** will be the same as the **policy period**.
- In the event of an odd term **policy period** longer than 1 year, the **policy year** is the period from the inception date to the next chronological date which precedes the expiration date by exactly 1 or more years at 12:01 AM standard time. If there are subsequent annual periods remaining in the **policy period** after that date at 12:01 AM standard time, such annual periods will each be a **policy year**.
- However, if after the issuance of this Coverage Part, any **policy year** is extended for an additional period of less than 12 months, that additional period of time will be deemed to be part of the last preceding **policy year**.
- R. Pollutants** mean any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acid, alkalis, chemicals, asbestos products, petroleum products and their by-products and waste. Waste includes material to be recycled, reconditioned or reclaimed. **Pollutants** does not mean noise. **Pollutants** include but are not limited to substances that are generally recognized in industry or government to be harmful or toxic to persons, property or the environment. regardless of whether the injury or damage is caused directly or indirectly by the **pollutants** and whether:
1. The insured is regularly or otherwise engaged in activities which taint or degrade the environment; or
  2. The insured uses, generates or produces the **pollutant**.
- S. Subsidiary** means any entity in which the **named insured** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors, trustees, managers (if a limited liability company) or equivalent positions and any such entity in its capacity as a **debtor in possession**.
- T. Wrongful Act** has the meaning set forth in the applicable coverage part.
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## SECTION II – EXCLUSIONS

### A. Nuclear

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, in consequence of, or in any way involving the hazardous properties, including radioactive, toxic or explosive properties, of any nuclear material. Nuclear material means any source material, special nuclear material, or by-product materials as those terms are defined under the Atomic Energy Act of 1954 or any amendments thereto.

### B. Pollution

We are not liable to pay, indemnify or defend any **claim** for:

1. The actual, alleged, or threatened exposure to discharge, generation, storage, transportation, dispersal, seepage, migration, emission, release, treatment, removal, disposal or escape of **pollutants**; or
2. Any request, demand, order or statutory or regulatory requirement that the **named insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **pollutants**; or
3. Any demand by or on behalf of any governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, **pollutants**.

However, as it applies to any Directors and Officers Liability Coverage (including Educators Legal Liability), this exclusion shall not apply to any **claim** to which Insuring Agreement **A.** solely applies.

### C. Prior Knowledge

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of, or in any way involving any **wrongful act** committed, attempted or allegedly committed or attempted prior to the **policy period** of the applicable Coverage Part if:

1. Prior to the earlier of the following dates:
  - a. The inception of the applicable Coverage Part;
  - b. The inception of the original Coverage Part of which the applicable Coverage Part is a renewal or replacement; or
  - c. The Continuity Date, if any, stated in the Declarations for the applicable Coverage Part;any **executive** knew that such **wrongful act** is or would reasonably be regarded as the basis of a **claim**; or
2. There is a previous policy under which the **insureds** are entitled to coverage for such **claim**.

### D. Prior Notice

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, in consequence of, or in any way involving:

1. Any **wrongful act** or any fact, circumstance or situation which has been the subject of any accepted notice given prior to the **policy period** under any policy or coverage part of which this policy is a direct or indirect renewal or replacement; or
2. Any other **wrongful act** whenever occurring, which, together with a **wrongful act** which has been the subject of such accepted notice, would constitute **interrelated wrongful acts**.

### E. Prior or Pending Proceeding

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of, or in any way involving any prior or pending demand or civil, criminal, administrative or regulatory proceeding against any **Insured** as of the Prior or Pending Date stated in the Declarations of the applicable coverage part or any fact, circumstance, situation, transaction or event underlying or alleged in such litigation, regardless of the legal theory asserted in such **claim**.



#### F. Telephone Consumer Protection Act

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged violation of:

1. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
2. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
3. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

#### G. War and Military Action

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, in consequence of, or in any way involving:

1. War, including undeclared or civil war; or
2. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
3. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these;

regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage.

With respect to any action that comes within the terms of this exclusion and involves nuclear reaction or radiation, or radioactive contamination, this War and Military Action Exclusion supersedes Exclusion **A.** above.

With respect to the Cincinnati Data Defender™ Coverage Form, the Cincinnati Network Defender™ Coverage Form or the Cincinnati Cyber Defense™ Coverage Form only this exclusion will not apply to **cyber terrorism**.

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### SECTION III - SEVERABILITY OF EXCLUSIONS

With respect to determining the applicability of the above Exclusions, no **wrongful act** or knowledge possessed by any one of the **insureds** shall be imputed to any other **insureds** to determine if coverage is available, unless indicated otherwise.

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### SECTION IV - LIMITS OF INSURANCE, DEDUCTIBLES, MULTIPLE CLAIMS AND EXHAUSTION

- A. If a single **claim** is covered under more than one Coverage Part, then our maximum liability for all **loss** resulting from such **claim** shall be the largest applicable Limit of Insurance available under any one of the applicable Coverage Parts.
- B. The Deductibles for each Coverage Part apply separately to the respective Coverage Parts. If a single **claim** is covered under more than one Coverage Part, the applicable Deductibles shall be applied separately to the part of the **claim** covered by each Coverage Part but the sum of such Deductibles shall not exceed the largest applicable Deductible. The Deductibles shall be borne by the **insureds** uninsured and at their own risk.
- C. If the aggregate Limit of Insurance for a particular Coverage Part is exhausted, then all of our obligations under that Coverage Part shall be deemed to be completely fulfilled and extinguished as of the date of such exhaustion. If the Shared Annual Aggregate Limit of Liability, if so set forth on the Common Policy Declarations, is exhausted, then all of our obligations under the policy for the remainder of the annual period as described in **SECTION IV.D.** below shall be deemed to be completely fulfilled and extinguished as of the date of such exhaustion.
- D. The Limits of Insurance of each Coverage Part and the Shared Annual Aggregate Limit of Liability, if so set forth on the Common Policy Declarations, apply separately to each **policy year**. If the **policy period** of the respective Coverage Part is extended after issuance for an additional period of less than 12 months, the additional period will be deemed part of the last preceding period of the respective Coverage part for purposes of determining the Limits of Insurance.

- E. Regardless of the number of policies or Coverage Parts involved, all **claims** based upon or arising out of the same **wrongful act** or any **interrelated wrongful acts** shall be considered a single **claim**. Each **claim** shall be deemed to be first made at the earliest of the following times:
1. When notice of the earliest **claim** arising out of such **wrongful act** or **interrelated wrongful acts** is received in writing by an **insured** or by us, whichever comes first; or
  2. When notice of a **wrongful act** giving rise to such **claim** is given pursuant to Section **VI** of the General Provisions.
- F. In the event that more than one of the **insureds** is included in the same **claim**, the total amount of **loss** resulting from such **claim** and the Deductible shall be apportioned pro-rata among the **insureds** in proportion to their respective **loss** unless otherwise mutually agreed upon by the **insureds** and us.

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## SECTION V - DUTIES OF THE INSUREDS IN THE EVENT OF A CLAIM

As conditions precedent to coverage under this policy:

- A. The **insureds** shall give us written notice of any **claim** made against any of the **insureds** for a **wrongful act** as soon as practicable after any **executive** of the **named insured** has knowledge of such **claim**, and shall cooperate and provide information as we may reasonably require, including but not limited to providing a description of the **claim**, the nature of the alleged **wrongful act**, the nature of the alleged injury, the names of the claimants, and the manner in which the **insureds** first became aware of the **claim**. As soon as practicable, the **insureds** shall furnish us with copies of reports, investigations, pleadings and other papers in connection with the **claim**.
- B. The **insureds** shall provide us with all information, assistance and cooperation which we reasonably request and agree that in the event of a **claim** the **insureds** will do nothing which may prejudice our position or our potential or actual rights of recovery. The failure of any **insured person** to do so shall not impair the rights of any other **insured person** under this policy.
- C. The **insureds** shall not settle any **claim**, incur any **defense costs** or otherwise assume any obligation or admit any liability with respect to any **claim** without our prior written consent. We shall be entitled to full information and all particulars we may request in order to reach a decision as to such consent. We shall not be liable for any settlement, **defense costs**, assumed obligation or admission to which we have not consented.

If the **insureds** fail to provide notice of any **claim** to us as required under this Section, we shall not be entitled to deny coverage for the **claim** based solely upon late notice unless we can demonstrate that our interests were materially prejudiced by reason of such late notice.

This Section does not apply to the Cincinnati Data Defender™ Coverage Form, the Cincinnati Network Defender™ Coverage Form or the Cincinnati Cyber Defense™ Coverage Form.

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## SECTION VI - NOTICE OF A WRONGFUL ACT

If prior to the end of the **policy period** of the applicable Coverage Part, any of the **insureds** first become aware of a specific **wrongful act** they believe is likely to give rise to a **claim**, and if any of the **insureds** give us written notice as soon as practicable, but prior to the end of the **policy period** of the applicable Coverage Part, of:

- A. The specific **wrongful act**;
- B. The injury or damage which has or may result therefrom; and
- C. The circumstances by which the **insureds** first became aware thereof;

then any **claim** subsequently made arising out of such **wrongful act** shall be deemed to have been made when notice of the **wrongful act** was first given.

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## SECTION VII - DIRECTION OF CORRESPONDENCE TO US

All notices and other materials provided to us pursuant to the terms of this policy shall be directed to the Management Liability Claims Manager at one of the following addresses:

- A. MgmtLiabilityClaims@cinfin.com
- B. The Cincinnati Insurance Company  
P.O. Box 145496  
Cincinnati, OH 45250-5496

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## SECTION VIII - APPLICATION

The **application** is the basis of this policy and is incorporated into and constitutes a part of this policy. It is agreed by the **insureds** that the statements in the **application** are their representations, that they are material and that this policy is issued in reliance upon the truth of such representations provided.

In the event that the **application** contains any misrepresentation or omission with respect to a specific **wrongful act** or the knowledge of any of the **insureds** of any matter which such **insured** has reason to believe may give rise to a future **claim** made with the intent to deceive or which materially affects the acceptability of the risk or hazard assumed by us, then no coverage shall be afforded for any **claim** based upon, arising from or in consequence of any such misrepresentation or omission. Such misrepresentation or omission shall not be imputed to any other **insureds** for purposes of determining the validity of this policy to such other **insureds** except:

- A. Any **insured person** who knew that the statement or representation was not true as of the inception date of coverage;
- B. The **organization** with respect to any **executive** who knew that the statement or representation was not true as of the inception date of coverage; and
- C. The **organization** if the signer of the **application** knew that the statement or representation was untrue.

We shall not be entitled under any circumstances to void or rescind this policy with respect to any **insured**.

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## SECTION IX - CHANGES IN EXPOSURE

### A. Change in Ownership of Named Insured

If during the **policy period** of the applicable Coverage Part:

1. The **named insured** consolidates with or merges into another entity such that such **named insured** is not the surviving entity;
2. Another entity or person or group of entities and/or persons acting in concert acquires more than 50% ownership of the **named insured** or voting rights which result in ownership or voting control by the other organization(s) or person(s) of more than 50% of the outstanding securities or voting rights representing the present right to vote for the election of directors, trustees or managers (if a limited liability company) of the **named insured**;

then, subject to all the other provisions of this policy, coverage under the applicable Coverage Part shall continue to apply to such **named insured** and its **insureds** until the end of the applicable **policy period** or any applicable **extended reporting period**, but only with respect to **claims** for **wrongful acts** committed, attempted or allegedly committed or attempted prior to such transaction. The **named insured** shall give written notice to us as soon as practicable, but in no event later than 90 days after such transaction.

### B. Cessation of Subsidiaries

If during the **policy period** of the applicable Coverage Part any entity ceases to be a **subsidiary** as defined in the applicable Coverage Part, then, subject to all the other provisions of this policy, coverage under the applicable Coverage Part shall continue to apply to such entity and its **insureds** until the end of the applicable **policy period** or any applicable **extended reporting period**, but only with respect to **claims** for **wrongful acts** committed, attempted or allegedly committed or attempted prior to the date such entity ceases to be a **subsidiary**. The **named insured** shall give written notice to us as soon as practicable, but in no event later than 90 days after the entity ceases to be a **subsidiary**.

### C. Acquisition or Formation of Entity

If during the **policy period** of the applicable Coverage Part the **named insured** newly acquires or forms another entity over which such **named insured** maintains more than 50% ownership for the purpose of coverage under the Coverage Part applicable to such **named insured**, the newly acquired or formed entity shall be deemed to be a **subsidiary**; however, coverage shall be excess of any indemnification or insurance otherwise available to such newly acquired or formed entity from any other source. Furthermore, coverage does not apply to **claims** for **wrongful acts** committed, attempted or allegedly committed or attempted prior to the date the **named insured** acquired or formed the entity unless we agree, after presentation of a complete application and all appropriate information, to provide coverage by endorsement for such **claims** and the **named insured** pays any additional premium we require for the endorsement.

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### SECTION X - OTHER INSURANCE ISSUED BY ANOTHER INSURER

This insurance is primary except when all or any part of **loss** is also insured under any other valid and collectible prior or current policy. If any other insurance issued by another insurer (with the exception of insurance issued by us, any of our affiliated companies, or any of our predecessors or their affiliated companies) applies to any **claim**, then this insurance is excess over that other insurance, whether primary, excess, contingent or on any other basis, unless that other insurance was purchased specifically to apply excess over the limits provided in this policy. Furthermore, with respect to any coverage that may be provided for any **claim** for actual or alleged **personal injury**, such **claims** shall be specifically excess of any similar coverage provided by the **organization's** General Liability Policy.

When this policy is excess:

- A. We will have no duty to defend any **claim** when any other insurer has that duty. If another insurer fails to defend and we incur costs as a result of such failure, we will be entitled to the **insureds'** rights against such other insurer; and
- B. We will pay only our share of the amount of the **loss**, if any, that exceeds the sum of:
  - 1. The total amount that all such other insurance would pay for the **loss** in the absence of this policy; and
  - 2. The total of all deductible and self-insured amounts under all such other insurance.

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### SECTION XI - SPOUSE AND LEGAL REPRESENTATIVE EXTENSION

The liability coverage parts in this policy will, subject to all other terms, conditions and exclusions of the applicable Coverage Part and the General Provisions, be extended to apply to **claims** for the **wrongful acts** of an **insured person** made against:

- A. The spouse or **domestic partner** of an **insured person** but only to the extent such person is a party to any **claim** solely in such person's capacity as a spouse or **domestic partner** of an **insured person** and only if the **claim** seeks damages recoverable from marital community property jointly held by the **insured person** and the spouse or **domestic partner**, or property transferred from the **insured person** to the spouse; or
- B. Their estates, heirs, legal representatives or assigns in the event of their death, incapacity or bankruptcy.

We have no obligation to make any payment for **loss** in connection with any **claim** against a spouse, **domestic partner**, estates, heirs, legal representatives or assigns of an **insured person** for any actual or alleged, error, misstatement, misleading statement, act, omission, neglect or breach of duty committed, attempted or allegedly committed or attempted by such spouse, **domestic partner**, estates, heirs, legal representatives or assigns.

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### SECTION XII - MEDIATION AND ALLOCATION

- A. Any dispute including but not limited to tort claims or contract claims between an **insured** and us arising out of or relating to this policy shall be submitted to non-binding mediation prior to commencement of an action between the parties. The mediator shall be chosen by agreement. If the parties cannot agree upon a mediator, the mediator shall be chosen by the American Arbitration Association.
- B. If both **loss** covered by this policy and loss not covered by this policy are incurred in a **claim** for which coverage is afforded, either because a **claim**:



1. Against an **insured** includes both covered and uncovered matters, we will pay 100% of **defense costs** and all remaining loss will be allocated between covered **loss** and uncovered loss based upon the relative legal exposure to the parties to such matters; or
  2. Is made against both an **insured** and others, we will pay **defense costs** for our **insured**, and all remaining loss will be allocated between covered **loss** and uncovered loss based upon the relative legal exposure to the parties to such matters.
- C.** If we and the **insureds** cannot agree as to matters in **B.** above prior to a judgment or finding in the civil or administrative proceeding dealing with **claims** against the **insureds**, the parties agree that they will, to the extent it is within their control, require that the allocation between covered **loss** and uncovered loss is made in such civil or administrative proceeding. Such efforts shall include but are not limited to the submission of special interrogatories to the finder of fact in such proceeding. Such efforts shall not require us to become a party to such civil or administrative proceeding.
- D.** Notwithstanding **C.** above, if we and the **insureds** cannot agree as to matters in Section **B.** above prior to a judgment or finding in any civil or administrative proceeding in which such issues are decided, we may at any time before or after mediation under **A.** above settle all **claims** against any or all **insureds**. Following such settlement, any dispute between us and the **insureds** as to the proper allocation of covered and uncovered matters under **B.** above shall be submitted to non-binding mediation prior to the commencement of an action between the parties. In any event, only one mediation as to the same issues shall be required.

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### SECTION XIII - ACTION AGAINST US

- A.** No action shall be taken against us unless, as a condition precedent thereto, there has been full compliance with all of the terms of this policy and until the obligation of the **insureds** to pay shall have been finally determined, either by an adjudication against them or by written agreement of the **insureds**, the claimant and us. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. Bankruptcy or insolvency of an **insured** or of an **insured's** estate shall not relieve us of any of our obligations hereunder.
- B.** No person or organization shall have any right under this policy to join us as a party to any **claim**. Neither the **insureds** nor their legal representative shall implead us in any **claim**.

This Section does not apply to the Cincinnati Data Defender™ Coverage Form, the Cincinnati Network Defender™ Coverage Form or the Cincinnati Cyber Defense™ Coverage Form.

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### SECTION XIV - SUBROGATION

In the event of any payment under this policy, we shall be subrogated to all of the rights to recovery of the **insureds** to the extent of such payment. The **insureds** shall execute all papers required and shall do everything that may be necessary to secure and preserve such rights, including the execution of such documents as may be necessary to enable us to effectively bring suit in the name of the **insureds**.

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### SECTION XV - CHANGES IN THIS POLICY

No change or modification of, or assignment of interest under this policy shall be effective except when made by us through a written endorsement to this policy.

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### SECTION XVI - CONFORMITY TO STATUTE

Any terms of this policy which are in conflict with the terms of any applicable laws construing this policy are hereby amended to conform to such laws.

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### SECTION XVII - ENTIRE AGREEMENT

By acceptance of this policy, we and the **insureds** agree that this policy (including the **application**) and any written endorsements attached hereto constitute the entire agreement between the parties.

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## SECTION XVIII - REPRESENTATION BY NAMED INSURED

The first **named insured** shall act on behalf of all of the **insureds** in purchasing this policy and for any purposes under the policy.

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## SECTION XIX - EXTENDED REPORTING PERIODS

A. Upon termination of any Coverage Parts for any reason, other than nonpayment of premium, the **named insured** shall be provided a 90 day Automatic Extended Reporting Period and have the option to replace the 90 day Automatic Extended Reporting Period with a 12 month Optional Extended Reporting Period. The **named insured** may also request an Optional Extended Reporting Period with a term longer than 12 months, which may be provided solely at our discretion.

1. Automatic Extended Reporting Period

A 90 day Automatic Extended Reporting Period is automatically provided without additional charge. The Automatic Extended Reporting Period starts immediately after the end of the **policy period** of the applicable Coverage Part.

2. Optional Extended Reporting Periods

a. The **named insured** shall have the option to purchase a 12 month Extended Reporting Period to replace the 90 day Automatic Extended Reporting Period for an additional premium equal to 75% of the expiring annual premium for the applicable Coverage Part.

b. Additional Optional Extended Reporting Periods may be available for an additional premium charge if an Extended Reporting Period longer than 12 months is desired. It is solely our decision whether to permit the first **named insured** to purchase an Extended Reporting Period with a term longer than 12 months.

The first **named insured** must give us a written request of their intent to purchase an Optional Extended Reporting Period within 60 days after the **policy period** of the applicable Coverage Part or that option shall terminate. The Optional Extended Reporting Period will not go into effect unless the first **named insured** pays the additional premium promptly when due.

B. The Extended Reporting Periods do not extend the **policy period** or change the scope of coverage provided. They extend the **claims** reporting period.

C. The Extended Reporting Periods extend coverage to **claims** first made during the length of time covered by the applicable Extended Reporting Period provided the **wrongful act** was committed, attempted or allegedly committed or attempted prior to the end of the **policy period** of the applicable Coverage Part, and all such **claims** shall be subject to all other terms, conditions and exclusions of the applicable Coverage Part and the General Provisions. Such **claims** must be reported in writing to us prior to the expiration of the applicable Extended Reporting Period.

D. The Extended Reporting Period, regardless of length does not reinstate or increase the Limits of Insurance of the applicable Coverage Part or the Shared Annual Aggregate Limit of Liability, if so set forth on the Common Policy Declarations. Our total liability shall not exceed the Limit of Insurance shown in the applicable Declarations for the last **policy year** in which coverage is provided hereunder.

E. Any Extended Reporting Period will immediately terminate on the effective date and time of any other insurance issued to the **insureds** which replaces this insurance. The entire premium for any Extended Reporting Period shall be fully earned at the commencement of any Extended Reporting Period.

F. If the terms under this section are invoked under the Cincinnati Data Defender™ Coverage Part or the Cincinnati Cyber Defense™ Coverage Part, the term **claim** as used in this section may also mean **regulatory proceeding**.

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## SECTION XX - COVERAGE TERRITORY

This policy applies to any **claim** for a **wrongful act** committed, attempted or allegedly committed or attempted anywhere in the world unless indicated otherwise. However, if insurance provided by this policy would be in violation of any United States economic or trade sanctions, such insurance shall be null and void.

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## SECTION XXI - LIBERALIZATION

If we adopt any revision that would broaden the coverage under this insurance and would be effective during the **policy period** without additional premium, the broadened coverage will immediately apply to this insurance as of the latter of:

- A. The date we implemented the change in the headquarters state which is the basis upon which the policy was issued; or
  - B. The date the applicable Coverage Part became effective.
- 

## SECTION XXII - PARENT COMPANY AND FRANCHISOR EXTENSION

Upon written request of the president, chairperson or equivalent position of the **named insured**, we shall extend coverage under this policy to **defense costs** resulting from any **claim** made against a parent company or franchisor of the **named insured** or any **subsidiary** but only if and so long as:

- A. The **claim** arises out of a **wrongful act** actually or allegedly committed solely by an **insured**;
- B. The **insured** is included as a co-defendant in addition to the parent company or franchisor; and
- C. The **insured** as well as the parent company or franchisor are represented by the same counsel in connection with such **claim**.

For the purposes of this extension, a parent company or franchisor shall include:

- A. Any entity other than a natural person which owns more than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors, trustees, managers (if a limited liability company) or equivalent of a **named insured** or **subsidiary**; or
- B. Any franchisor who has granted to an **insured** under a franchise agreement any franchise or franchise rights to allow the **insured** to operate as a franchisee or a franchised dealer.

This Section does not apply to the Cincinnati Data Defender™ Coverage Form, the Cincinnati Network Defender™ Coverage Form or the Cincinnati Cyber Defense™ Coverage Form.

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## SECTION XXIII – STATE INCONSISTENCY

In the event there is an inconsistency between a state amendatory endorsement attached to this policy and any term or condition of this policy, then where permitted by law, we shall apply those terms and conditions which are most favorable to the **insured**.

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# POLICYHOLDER NOTICE

## TERRORISM INSURANCE COVERAGE

Your policy (or the policy proposed to you) contains coverage for certain losses caused by terrorism.

### **Premium:**

In accordance with the federal Terrorism Risk Insurance Act, we are required to notify you of the portion of the premium, if any, attributable to the coverage for terrorist acts certified under the Terrorism Risk Insurance Act.

- The portion of your premium that is attributable to coverage for terrorist acts certified under the Act is \$ 125\_\_\_\_\_.

### **Federal Participation:**

The Act also requires us to provide disclosure of federal participation in payment of terrorism losses.

- Under your policy, any losses caused by certified acts of terrorism would be partially reimbursed by the United States Government, Department of Treasury, under a formula established by federal law. Under this formula, the federal share equals a percentage, as specified in the Schedule below, of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

- **Schedule:**

<b>Federal Share of Terrorism Losses</b>	
<b>Percentage</b>	<b>Calendar Year</b>
85%	2015
84%	2016
83%	2017
82%	2018
81%	2019
80%	2020

### **Cap on Insurer Participation:**

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

**NOTE:** THIS NOTICE IS PROVIDED TO SATISFY THE REQUIREMENTS UNDER THE TERRORISM RISK INSURANCE ACT FOR POLICYHOLDER DISCLOSURE: (1) AT THE TIME OF OUR OFFER OF COVERAGE AND (2) AT THE TIME COVERAGE IS ISSUED.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DISTRICT OF COLUMBIA CHANGES -  
CANCELLATION AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

**PILLAR POLICY PROGRAM**

The following provision is added:

**CANCELLATION AND NONRENEWAL**

- A.** The first **named insured** may cancel this policy or any of its Coverage Parts by mailing or delivering to us advance written notice of cancellation.
- B.** We may cancel this policy or any of its Coverage Parts by mailing or delivering to the first **named insured** shown in the Declarations written notice of cancellation at least 30 days before the effective date of cancellation. At least five days before sending notice to the first **named insured**, we will notify the agent or broker, if any, who wrote the policy.

If this policy has been in effect for 30 days or less and is not a renewal of a policy we issued, we may cancel this policy or any of its Coverage Parts for any reason.

If this policy has been in effect more than 30 days, or if this policy is a renewal of a policy we issued, we may cancel this policy or any of its Coverage Parts only for one or more of the following reasons:

- 1. The **named insured** has refused or failed to pay a premium due under the terms of the policy;
  - 2. The **named insured** has made a material and willful misstatement or omission of fact to us or our employees, agents or brokers in connection with any application to or claim against us;
  - 3. The **named insured** has transferred its property or other interest to a person other than the **named insured** or the **named insured's** beneficiary, unless the transfer is permitted under the terms of the policy; or
  - 4. The property, interest or use of the property or interest has materially changed with respect to its insurability.
- C.** We will mail or deliver our notice to the first **named insured's** last mailing address known to us.
  - D.** Notice of cancellation will state the effective date of cancellation. The **policy period** will end on that date.
  - E.** If this policy or any of its Coverage Parts is cancelled, we will send the first **named insured** any premium refund due. The refund will be pro rata. The cancellation will be effective even if we have not made or offered a refund.
  - F.** If notice is mailed, proof of mailing will be sufficient proof of notice.
  - G.** We may elect not to renew this policy or a particular Coverage Part by mailing or delivering written notice of nonrenewal to the first **named insured** shown in the Declarations at least 60 days prior to:
    - 1. The expiration date of this policy; or
    - 2. The end of a **policy year**, if the policy is written for a term of more than one year.

At least five days before sending notice to the first named insured, we will notify the agent or broker, if any, who wrote the policy. If notice is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

All other provisions of the policy remain unchanged except as herein expressly modified.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CAP ON LOSSES FROM CERTIFIED  
ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

**GENERAL PROVISIONS APPLICABLE TO ALL LIABILITY COVERAGE PARTS**

**A. SECTION I - DEFINITIONS** is amended to add the following:

**Certified act of terrorism** means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a **certified act of terrorism** include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

**B. CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

**C. APPLICATION OF OTHER EXCLUSIONS**

The terms and limitations of any terrorism exclusion, or the inapplicability, omission or absence of a terrorism exclusion does not serve to create coverage for any **loss** which would otherwise be excluded under this policy, such as **losses** excluded by:

1. Exclusions that address war, warlike action, insurrection, rebellion, revolution, military action, nuclear hazard, nuclear materials, nuclear reaction, radiation, or radioactive contamination;
2. Exclusions that address pollutants, contamination, deterioration, fungi or bacteria; or
3. Any other exclusion,

regardless if the **certified act of terrorism** contributes concurrently or in any sequence to the **loss**.

**D. SUNSET CLAUSE**

If the federal Terrorism Risk Insurance Act expires or is repealed, then this endorsement is null and void for any act of terrorism that takes place after the expiration or repeal of the Act.

All other provisions of the policy remain unchanged except as herein expressly modified.

## NOTICE OF LOSS CONTROL SERVICES

The Cincinnati Insurance Companies provide certain loss prevention services to policyholders at no additional cost. These services are designed to prevent or reduce the impact of potential loss causing events or conditions related to the type(s) of insurance coverage you have purchased from us. One of these services that you can receive is described below:

### Employment Practices Liability (EPL) Toll-Free Hot Line

Have a question on how to handle an employment situation? Simply call The Cincinnati Insurance Companies Employment Connection at 1-888-811-3427 for assistance. We offer policyholders an unlimited number of calls seeking advice on employment policies and procedures.

The services provided are advisory in nature. While this program is offered as a resource in developing or maintaining a loss prevention program, you should consult competent legal counsel to design and implement your own program. No liability is assumed by reason of the services, access or information provided. All services are subject to change without notice. Use of the EPL Toll-Free Hot Line will not be deemed to satisfy any notice of claim or notice of wrongful act provision contained in any policy.

# NOTICE OF PRIVACY PRACTICES

For additional information on our privacy policies, including state specific information, please visit <https://www.cinfin.com/privacy-policy>.

**THE CINCINNATI INSURANCE COMPANY  
THE CINCINNATI CASUALTY COMPANY  
THE CINCINNATI INDEMNITY COMPANY**

**NOTICE TO POLICYHOLDERS**

Please be advised that in your application for insurance you disclosed information to The Cincinnati Insurance Company, The Cincinnati Casualty Company and The Cincinnati Indemnity Company. The information disclosed in the application and all information subsequently collected by any of these companies may be shared among all three.

# NOTICE OF LOSS CONTROL SERVICES

The Cincinnati Insurance Companies provide certain loss prevention services to policyholders at no additional cost for those insureds who have purchased our cyber risk coverages: Cincinnati Cyber Defense™, Cincinnati Data Defender™ or Cincinnati Network Defender™. These services are designed to prevent or reduce the impact of potential loss causing events or conditions related to the type(s) of insurance coverage you have purchased from us. These services include those described below:

## Cyber Risk Management Resources

You gain access to <https://eriskhub.com/cic>, a portal that provides you with news, information and tools you can use to help mitigate a hacking event, virus infection or other cyberattack. The My Tech Support service available on this portal can also help you diagnose and fix common computer problems including some virus infections. It also provides you with the comprehensive, on-demand resources you need to:

- Create your breach response plan from the template
- Learn about breach laws that apply to your business
- Use the compliance reference guide and notification letter examples
- Locate credit bureau and government agency notification information
- Learn how to contact data risk management experts for more help

In addition, you are entitled to two hours of risk management services at no additional charge – one hour of pre-incident cyber/privacy risk legal consulting with one of the participating law firms, and one hour of cybersecurity risk consulting services with one of the participating cybersecurity vendors. While some of the services are similar – such as risk assessment, incident response planning and review – the law firm services focus on legal requirements, while cybersecurity vendors focus on technical cybersecurity requirements. To take advantage of these risk management services anytime, visit <https://eriskhub.com/cic> for a list of participating companies. You may be asked to provide your policy number.

The first time you visit this portal, please complete new user registration using this information:

**Access code = 12116-868**

## Identity Recovery Help Line

If you have purchased Cincinnati Cyber Defense™ or Cincinnati Data Defender™, your coverage also includes case management services and reimbursement for covered expenses if you are a covered key person and you become the victim of identity theft or account takeover. Please call our Identity Recovery Help Line, 866-219-9831, if you suspect that you may be an identity theft victim or you have questions.

## Claims Service

If you suspect or know that a data breach may have exposed or compromised your organization's private, customer or personal data, a swift response is critical for your protection. Please note that the cyber risk management portal and help line provide advice and information, and using them does not satisfy any notice of claim requirement. The only way to report a claim is to contact your independent agent or call us directly, 877-242-2544, for claims service anytime. Your agent and Cincinnati Insurance will work with you to preserve your company's goodwill, prevent regulatory sanctions or fines, avoid civil litigation and safeguard your business reputation.

The services provided are advisory in nature. While this program is offered as a resource in developing or maintaining a loss prevention program, you should consult competent legal counsel to design and implement your own program. No liability is assumed by reason of the services, access or information provided. All services are subject to change without notice. Refer to your policy for a complete statement of coverages, exclusions and limits of insurance.

# SIGNATURE ENDORSEMENT

IN WITNESS WHEREOF, this policy has been signed by our President and Secretary in the City of Fairfield, Ohio, but this policy shall not be binding upon us unless countersigned by an authorized representative of ours. The failure to countersign does not void coverage in Arizona, Virginia and Wisconsin.



Secretary



President

The signature on any form, endorsement, policy, declarations, jacket or application other than the signature of the President or Secretary named above is deleted and replaced by the above signatures.



# The Cincinnati Insurance Company

A Stock Insurance Company

## NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE PART DECLARATIONS

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

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Policy Number: **EMN 046 61 26**

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Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

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Limit of Insurance:	\$ <u>5,000,000</u>	in the aggregate
Investigative Costs Sublimit:	\$ <u>100,000</u>	in the aggregate
Excess Benefit Transaction Tax Sublimit:	\$ <u>20,000</u>	sublimit per <b>organizational manager</b>

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Additional Defense Limit of Insurance:	\$ <u>NOT COVERED</u>	in the aggregate
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Excess Side A Limit of Insurance:	\$ <u>NOT COVERED</u>	in the aggregate
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	\$ <u>0</u>	each <b>claim</b> under Insuring Agreement <b>A</b> (Insured Persons)
Deductibles:	\$ <u>15,000</u>	each <b>claim</b> under Insuring Agreement <b>B</b> (Indemnification)
	\$ <u>15,000</u>	each <b>claim</b> under Insuring Agreement <b>C</b> (Organization)

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Retroactive Date:	<u>N/A</u>
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Prior or Pending Date:	<u>12-01-1996</u>
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Continuity Date:	<u>12-01-1996</u>
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Forms and endorsements applicable to this coverage part:

ML105	01/18	NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE
ML329	01/16	PROFESSIONAL LIABILITY EXCLUSION (SCHEDULED)
ML330	01/16	PUBLISHERS/BROADCASTERS EXCLUSION

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01-27-2022 11:34

# NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE

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# NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

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## SECTION I - INSURING AGREEMENTS

- A. We will pay on behalf of the **insured persons** all **loss** which they shall be legally obligated to pay, except for such **loss** which the **organization** actually pays as indemnification, resulting from any **claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for a **wrongful act**.
- B. We will pay on behalf of the **organization** all **loss** which the **organization** is required to pay as indemnification to the **insured persons** resulting from any **claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for a **wrongful act**.
- C. We will pay on behalf of the **organization** all **loss** which the **organization** is required to pay resulting from any **claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, against the **organization** for a **wrongful act**.

We will have the right and duty to select counsel and defend the **insureds** against any such **claim**.

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## SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

### A. **Claim** means:

1. A written demand for monetary damages or non-monetary relief;
2. A civil proceeding commenced by the filing of a complaint or similar pleading;
3. A formal administrative or regulatory proceeding commenced by the filing of a complaint, charge, formal investigative order or similar document;
4. An arbitration, mediation or similar alternative dispute resolution proceeding in which monetary damages are sought if the **insured**:
  - a. Is required to participate in such proceeding; or
  - b. Agrees to participate in such proceeding with our written consent, such consent not to be unreasonably withheld;
5. A criminal proceeding commenced by the return of an indictment;
6. A written request to toll or waive a statute of limitations related to a potential **claim** described in Definitions **A.1.** through **A.5.** above; or
7. A civil, administrative, regulatory or criminal investigation of an **insured person** once such **insured person** is identified in writing by such investigating authority as a person against whom a proceeding described in Definitions **A.2.**, **A.3** or **A.5.** may be commenced. The maximum Limit of Insurance for all such investigations against any **insured persons** shall be the Investigative Costs Sublimit set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this Coverage Part;

against any **insured**, including any appeal therefrom.

- B. Defense costs** means reasonable and necessary fees, costs, and expenses incurred by us or with our consent on behalf of the **insureds** or reimbursed to any of the **insureds** by us, resulting solely from the investigation, adjustment, defense and appeal of any **claim**. **Defense costs** includes, but is not limited to, the cost of expert consultants and witnesses, and premiums for appeal, injunction, attachment or supersedeas bonds (but not the obligation to furnish such bonds).
- Defense costs** shall not include:
1. Salaries, wages, fees, overhead or expenses of our employees or any **insureds**, directors, officers, trustees or employees, other than that portion of our employed attorneys' fees, salaries and expenses allocated to a specific **claim**;
  2. Any amount covered by the duty to defend obligation of any other insurer; or
  3. Any pre-tender fees, costs or expenses.
- C. Directors and officers** means all natural persons who were, now are, or shall become an officer, a duly elected or appointed member of the board of directors, trustees, regents, managers, governors, a **LLC manager** or an equivalent position of the **organization**.
- D. Disqualified person** means a disqualified person as that term is defined in Section 4958 of the Internal Revenue Code of 1986, as amended.
- E. Employee** includes, but is not limited to, all natural persons who were, now are, or shall become full-time, part-time, seasonal, volunteer, contingent or leased workers of the **organization** as determined by federal, state or local law. **Employee** does not include independent contractors as determined by federal, state or local law.
- F. Employment related wrongful act** means a **wrongful act** arising from employment related activities including, but not limited to, hiring, training, supervision, evaluation, promotion, demotion, granting of tenure, and termination.
- G. Excess benefit transaction** means an excess benefit transaction as that term is defined in Section 4958 of the Internal Revenue Code of 1986, as amended.
- H. Excess benefit transaction tax** means any excise tax imposed by the Internal Revenue Service on any **insured** who is an **organizational manager** as a result of such **insured's** participation in an **excess benefit transaction**.
- I. Executive** means any natural person who was, now is or shall become the chief executive officer, chief financial officer, executive director or person of equivalent position to any of the foregoing of the **organization**.
- J. Financial impairment** means, with respect to the **organization** or any **outside organization**, the appointment of any receiver, conservator, liquidator, rehabilitator, trustee or similar official; or the **organization** or any **outside organization** becoming a **debtor in possession**.
- K. Insured** means the **organization** and the **insured persons**.
- L. Insured persons** means:
1. **Directors and officers**;
  2. All natural persons who were, now are, or shall become an **employee** or committee member, whether or not they were, are or shall be compensated, of the **organization**;
  3. All natural persons who were, now are, or shall become members or volunteers of the **organization** while acting on behalf of the **organization** in a voluntary capacity at the direction of the **directors and officers**; and
  4. Any natural person who is an independent contractor as determined by federal, state or local law, but only while acting in the capacity as such for the **organization** pursuant to an express written agreement between the independent contractor, or any entity on behalf of the independent contractor, and the **organization** and only if the **organization** agrees in writing to provide indemnification to such independent contractor; provided, however, that any coverage under this Coverage Part for any such independent contractor shall be excess of any indemnification or insurance otherwise available to such independent contractor from any other source.
- M. LLC manager** means any natural person who is a manager, member of the board of managers or member of the **organization** that is a limited liability company, but only with respect to the conduct of the

limited liability company's business. However, any member of a limited liability company who is a passive investor not involved in the operations of the limited liability company is not a **LLC manager**.

**N. Loss** means **defense costs** and the total amount of monetary damages which the **insured** becomes legally obligated to pay on account of any **claim** for a **wrongful act** with respect to which coverage hereunder applies, including damages, judgments, settlements, prejudgment and postjudgment interest, and punitive or exemplary damages or the multiplied portion of any multiplied damage award if insurable under the applicable law most favorable to the insurability of punitive, exemplary or multiplied damages.

**Loss** shall also include:

Any **excess benefit transaction tax** an **insured** is obligated to pay as a result of a **claim**. The maximum Limit of Insurance per each **organizational manager** for any **excess benefit transaction tax** shall be the Excess Benefit Transaction Tax Sublimit set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this Coverage Part. The **excess benefit transaction tax** shall not include the 25% excise tax assessed against any **disqualified person** or the 200% tax assessed for failure to correct an **excess benefit transaction**.

**Loss** shall not include:

1. Taxes, criminal or civil fines or penalties imposed by law, except as noted above;
2. Any restitution, disgorgement or similar sums; or
3. Any matter deemed uninsurable under the law pursuant to which this Coverage Part shall be construed.

**O. Organization** means the **named insured** and any **subsidiary**.

**P. Organizational manager** means an organizational manager as that term is defined in Section 4958 of the Internal Revenue Code of 1986, as amended.

**Q. Outside organization** means any nonprofit corporation or organization other than the **organization**, which is described in Section 501(c)(2), (3), (4), (6), (7), (8), (10), (19), or 501(d) of the Internal Revenue Code of 1986, as amended, and is exempt from federal income taxation.

**R. Outside position** means the service of any **insured person** of the **organization** as an officer or member of the board of directors, trustees, regents, managers, governors, or equivalent position in any **outside organization** but only during the time that such service is performed at the direction of the **organization** or with the consent and knowledge of the **organization**.

**S. Personal injury** means invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, false detention, abuse of process, malicious prosecution, libel, slander, defamation, or disparaging of a person's or organization's goods, products or services.

**T. Property damage** means:

1. Injury or damage, of any nature, to tangible or intangible property, including all resulting loss of use of that property; or
2. Loss of or loss of use of tangible or intangible property that is not otherwise injured or damaged.

**U. Publishers liability** means infringement of copyright, trademark, service mark or trade name, unauthorized use of title, plagiarism or misappropriation of ideas.

**V. Third party** means any natural person who is not an **employee** of the **organization**.

**W. Wrongful act** means any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty including any **personal injury** or **publishers liability** committed, attempted or allegedly committed or attempted on or after the Retroactive Date, if any, set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations and prior to the end of the **policy period** by:

1. Any of the **insured persons** in the discharge of their duties solely in their capacity as **insured persons** of the **organization**;
2. Any of the **insured persons** of the **organization** in the discharge of their duties solely in their capacity in an **outside position** in any **outside organization**;
3. Any of the **insured persons** solely by reason of their status as such; or

#### 4. The organization.

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### SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

#### A. Bodily Injury/Property Damage

We are not liable to pay, indemnify or defend any **claim** for actual or alleged:

1. Bodily injury, sickness, disease, or death of any person, mental anguish, or emotional distress; or
2. **Property damage**, including, but not limited to, physical injury, loss of or loss of use of currency or any negotiable or non-negotiable instruments or contracts representing money.

#### B. Conduct

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of any of the **insureds** or any person for whose actions the **insureds** are legally responsible:

1. Committing any deliberately fraudulent act or omission;
2. Committing any willful violation of any statute or regulation; or
3. Gaining any profit, remuneration or advantage to which they were not legally entitled;

if established by a final and non-appealable judgment or adjudication in any underlying action or proceeding adverse to the **insureds** as to such conduct.

With respect to determining the applicability of this exclusion, no conduct pertaining to any **insured person** shall be imputed to any other **insured person**; however, any conduct pertaining to any **executive** shall be imputed to the **organization** to determine if coverage is available.

#### C. Contract

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged liability of any **insureds** under the terms, conditions or warranties of any oral or written contract or agreement, except to the extent the liability would have attached to any such **insureds** in the absence thereof; provided, however, that this exclusion shall not apply to **defense costs** with respect to any **claim** against any **insured persons**.

#### D. Cyber

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged:

1. Improper dissemination of personally identifiable information or protected health information;
2. Liability of any **insured** arising out of internet and electronic services which are performed for or on behalf of any client or customer of the **organization** through the transmission of electronic data to or from the **organization's** internet website or through a private computer network controlled by the **organization**; or
3. Liability of any **insured** for internet professional services the **organization** provides to others which may include, but are not limited to, application service provider, domain name registration services, electronic exchange and auction services, internet hosting services, internet media services, internet service provider service, managed and network security services, public key infrastructure services, search engine services, web portal services, website development, software development and internet access provider;

provided, however, that this exclusion shall not apply to any **claim** to which Insuring Agreement **A.** solely applies.

#### E. Employment Practices

We are not liable to pay, indemnify or defend any **claim** for an **employment related wrongful act**.

#### F. ERISA

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged violation of the Employee Retirement Income Security Act of 1974, as amended or any rules, regulations or orders promulgated thereunder or any similar provisions of any federal, state or local statutory or common law in connection with any pension or welfare plan established for the benefit of **employees** of the **organization**.



#### G. Insured vs. Insured

We are not liable to pay, indemnify or defend any **claim** brought or maintained by, on behalf of or at the behest of any of the **insureds** in any capacity and regardless of collusion; provided, however, that this exclusion does not apply to:

1. Any **claim** brought or maintained as a derivative action on behalf of the **organization** by one or more persons who are not **insured persons** and who bring and maintain the **claim** without the solicitation, assistance or participation of any of the **insureds**;
2. Any **claim** brought or maintained by any of the **insureds** for contribution or indemnity, if such **claim** for contribution or indemnity directly results from another **claim** covered by the Coverage Part;
3. Any **claim** brought or maintained by an examiner, trustee, receiver, liquidator, rehabilitator, bankruptcy trustee or similar official, or creditors' committee of the **organization** in connection with a bankruptcy proceeding of the **organization**;
4. Any **claim** brought or maintained by **insured persons** of the **organization**:
  - a. Who are **executives** or **directors and officers** who have not served as such for at least a one year period prior to the date the **claim** is first made and who bring and maintain the **claim** without the solicitation, assistance or participation of any **insured persons** who have served as **insured persons** within such one year period; or
  - b. Other than **executives** or **directors and officers** if such **claim** is brought and maintained without any active assistance or participation of, or solicitation by, any **executives** or **directors and officers**; or
5. Any **claim** brought by a whistleblower pursuant to any federal, state, or local statutory or common law.

#### H. Intellectual Property

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of any actual or alleged infringement of patent or misappropriation of trade secrets or other intellectual property rights; provided, however, that this exclusion shall not apply to any **publishers liability**. Furthermore, this exclusion shall not apply to any **claim** against any **insured persons**.

#### I. Outside Service

We are not liable to pay, indemnify or defend any **claim** for any **wrongful act** in the discharge of the duties of any of the **insured persons** as a director, officer, trustee, employee, volunteer or member of any entity other than the **organization**, even if directed or requested to serve such other entity by the **organization**; provided, however, that this exclusion shall not apply to the extent:

1. Such **claim** is based on the service of an **insured person** in an **outside position**; and
2. The **loss** resulting from such **claim** is not indemnified by the **outside organization** or any of its insurers.

#### J. Third Party Discrimination or Sexual Harassment

We are not liable to pay, indemnify or defend any **claim** for any discrimination against or sexual harassment of any **third party**.

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### SECTION IV - SEVERABILITY OF EXCLUSIONS

With respect to determining the applicability of the above exclusions, no **wrongful act** or knowledge possessed by any one of the **insureds** shall be imputed to any other **insureds** to determine if coverage is available, unless indicated otherwise.

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### SECTION V - LIMIT OF INSURANCE AND DEDUCTIBLES

- A. We will pay 100% of **loss** in excess of the applicable Deductible amount set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations up to the Limit of Insurance set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations, subject to the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations.
- B. In the event a single **claim** is covered under more than one Insuring Agreement, the Deductibles set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations shall be applied

separately to the part of the **loss** resulting from such **claim** covered by each Insuring Agreement and the sum of the Deductibles so applied shall constitute the Deductible for each single **claim**; provided, however, that the total Deductible as finally determined shall in no event exceed the largest of the applicable Deductibles. Notwithstanding the aforementioned, the Deductible applicable to Insuring Agreement **B.** shall apply to **loss** payable under any of the Insuring Agreements for which indemnification by the **organization** is legally permissible, whether or not actual indemnification is granted, unless the **organization** fails to indemnify any **insured person** due to the **financial impairment** of the **organization**. The Deductible shall be paid by the **organization**. Any **loss** paid by us within the Deductible shall be reimbursed by the **organization** within 30 days of our written request for such reimbursement.

- C. Defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations and the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations. **Defense costs** we pay shall reduce such Limits of Insurance. **Defense costs** paid by the **organization** shall be applied against the Deductible.
- D.** Our maximum aggregate liability for all **loss** resulting from all **claims** under this Coverage Part shall be the Limit of Insurance set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations, subject to the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations.
- E.** If an Additional Defense Limit of Insurance is set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations, **defense costs** will apply first to and reduce the Additional Defense Limit of Insurance. The Additional Defense Limit of Insurance will be in addition to and not part of the Limit of Insurance set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations. The Additional Defense Limit of Liability is applicable to **defense costs** only. **Defense costs** paid by the **organization** shall be applied against the Deductible.

Upon exhaustion of the Additional Defense Limit of Insurance, **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations. **Defense costs** we pay shall reduce the Limit of Insurance.

- F.** If an Excess Side A Limit of Insurance is set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations and if the Limit of Insurance has been exhausted, we provide the **insured persons** with an excess limit of insurance under Insuring Agreement **A.** Such Excess Side A Limit of Insurance will not exceed the amount set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations. The Excess Side A Limit of Insurance is in addition to and not part of the Limit of Insurance, and it applies solely to **loss** resulting from any **claim** against an **insured person** to which Insuring Agreement **A.** is applicable.
- G.** It is agreed that:
  - 1.** If a **loss** from any **claim** is payable but such payment would exceed the remaining applicable Limit of Insurance as set forth in the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations, we will first pay the unpaid portion of such **loss** under Insuring Agreement **A.**; then to the extent that any amount of the applicable Limit of Insurance shall remain available, we will pay such **loss** to which Insuring Agreements **B.** and **C.** apply.
  - 2.** Upon written request of the president, chairperson or equivalent position of the **named insured**, we shall withhold payment of a covered **loss** under Insuring Agreements **B.** and **C.** until the president, chairperson or equivalent position of the **named insured** directs us to pay such covered **loss**. Such request shall not delay any payment under Insuring Agreement **A.**

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## SECTION VI - DEFENSE, INVESTIGATION AND SETTLEMENT

- A.** We will have the right and duty to select counsel and defend the **insureds** against any **claim**; however, we will have no duty to defend the **insureds** against any **claim** to which this insurance does not apply.
- B.** We may make any investigation we deem necessary and may, with the consent of the **insureds** named in connection with the **claim**, make any settlement of any **claim** we deem expedient. If the **insureds** withhold consent to such settlement, our liability for all **loss** in connection with such **claim** shall not exceed:
  - 1.** The amount of the proposed settlement plus **defense costs** incurred up to the date of the **insured's** refusal to consent to the proposed settlement; plus
  - 2.** 90% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 90% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement, subject in all events to the applicable Limit of Insurance and Deductible for such **claim**. The remaining 10% of any settlement or judgment in excess of the proposed settlement

amount referenced in **B.1.** above plus 10% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement shall be borne by the **insureds**, uninsured and at their own risk.

- C.** Our right and duty to defend end when we have used up the applicable Limit of Insurance in the defense or payment of damages, judgments or settlements of covered **claims**.
-

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PROFESSIONAL LIABILITY EXCLUSION (SCHEDULED)**

This endorsement modifies insurance provided under the following:

**COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE  
EDUCATORS LEGAL LIABILITY COVERAGE  
FINANCIAL INSTITUTIONS DIRECTORS AND OFFICERS LIABILITY COVERAGE  
HEALTHCARE INSTITUTIONS DIRECTORS AND OFFICERS LIABILITY COVERAGE  
NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE  
PRIVATELY HELD COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE  
PUBLICLY TRADED COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE**

**SECTION III - EXCLUSIONS** is amended to add the following:

We are not liable to pay, indemnify or defend any **claim** for the rendering of or failure to render any professional service which is shown in the **Schedule of Excluded Professional Services** below by or on behalf of any **insureds**.

**Schedule of Excluded Professional Services**

**TRANSPORTATION SERVICES  
LOBBYING  
POLITICAL SERVICES  
FUNDRAISING**

All other provisions of the policy remain unchanged except as herein expressly modified.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PUBLISHERS/BROADCASTERS EXCLUSION**

This endorsement modifies insurance provided under the following:

**COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE  
EDUCATORS LEGAL LIABILITY COVERAGE  
FINANCIAL INSTITUTIONS DIRECTORS AND OFFICERS LIABILITY COVERAGE  
HEALTHCARE INSTITUTIONS DIRECTORS AND OFFICERS LIABILITY COVERAGE  
NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE  
PRIVATELY HELD COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE  
PUBLICLY TRADED COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE**

**SECTION III - EXCLUSIONS** is amended to add the following:

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of any actual or alleged:

1. Error or omission with respect to any advertisement made or omitted;
2. Injury caused by any publication, utterance, or broadcast; or
3. Error or omission with respect to any printed material disseminated by you.

All other provisions of the policy remain unchanged except as herein expressly modified.

**ML 330 01 16**

# The Cincinnati Insurance Company

A Stock Insurance Company

## EMPLOYMENT PRACTICES LIABILITY COVERAGE PART DECLARATIONS

**THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.**

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Policy Number: **EMN 046 61 26**

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Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

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Limit of Insurance:	\$ <u>5,000,000</u>	in the aggregate
Optional Third Party Liability Sublimit	\$ <u>5,000,000</u>	in the aggregate
Wage and Hour Defense Sublimit	\$ <u>100,000</u>	in the aggregate
Immigration Defense Sublimit	\$ <u>100,000</u>	in the aggregate

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Additional Defense Limit of Insurance: \$ NOT COVERED in the aggregate

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Deductibles:	\$ <u>10,000</u>	each <b>claim</b> under Insuring Agreement <b>A</b> (Employment Practices)
	\$ <u>10,000</u>	each <b>claim</b> under Insuring Agreement <b>B</b> (Third Party)

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Retroactive Date:	<u>N/A</u>
Prior or Pending Date:	<u>12-01-1996</u>
Continuity Date:	<u>12-01-1996</u>

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Forms and endorsements applicable to this coverage part:

ML112	01/18	EMPLOYMENT PRACTICES LIABILITY COVERAGE
ML4195	09/18	NOTICE OF POST-EVENT SERVICES - WORKPLACE VIOLENCE EXPENSE COVERAGE
ML205	01/18	WORKPLACE VIOLENCE EXPENSE COVERAGE ENDORSEMENT

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01-27-2022 11:34



# EMPLOYMENT PRACTICES LIABILITY COVERAGE

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# EMPLOYMENT PRACTICES LIABILITY COVERAGE

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

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## SECTION I - INSURING AGREEMENTS

- A. We will pay on behalf of the **insureds** all **loss** which they shall be legally obligated to pay resulting from any **employment claim** or **immigration claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for an **employment wrongful act** or **immigration wrongful act**.
- B. If Optional Third Party Liability is purchased as set forth in the Employment Practices Liability Coverage Part Declarations, we will pay on behalf of the **insureds** all **loss** which they shall be legally obligated to pay resulting from any **third party claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for a **third party wrongful act**.

We will have the right and duty to select counsel and defend the **insureds** against any such **claim**.

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## SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

- A. **Benefits** means perquisites, fringe benefits, payments in connection with an employee benefit plan and any other payment, other than salary, wages or commissions to or for the benefit of an **employee** arising out of the employment relationship.
- B. **Claim** means an **employment claim**, an **immigration claim** or a **third party claim**.
- C. **Defense costs** means reasonable and necessary fees, costs, and expenses incurred by us or with our consent on behalf of the **insureds** or reimbursed to any of the **insureds** by us, resulting solely from the investigation, adjustment, defense and appeal of any **claim**. **Defense costs** includes, but is not limited to, the cost of expert consultants and witnesses, and premiums for appeal, injunction, attachment or supersedeas bonds (but not the obligation to furnish such bonds).

**Defense costs** shall not include:

1. Salaries, wages, fees, overhead or expenses of our employees or any **insureds**, directors, officers, trustees or employees, other than that portion of our employed attorneys' fees, salaries and expenses allocated to a specific **claim**;
  2. Any amount covered by the duty to defend obligation of any other insurer; or
  3. Any pre-tender fees, costs or expenses.
- D. **Employee** includes, but is not limited to, full-time, part-time, seasonal, volunteer, contingent or leased workers as determined by the federal, state or local law. **Employee** does not include independent contractors as determined by federal, state or local law.
- E. **Employment claim** means:
1. A written demand for monetary damages or non-monetary relief;
  2. A civil proceeding commenced by the filing of a complaint or similar pleading;
  3. A formal administrative or regulatory proceeding commenced by the filing of a complaint, charge, formal investigative order or similar document;
  4. An arbitration, mediation or similar alternative dispute resolution proceeding (other than a labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement) if the **insured** is required or agrees to participate in such proceeding with our written consent;

5. In the context of an audit conducted by the Office of Federal Contract Compliance Programs, a Notice of Violation or Order to Show Cause or written demand for monetary or non-monetary relief, commenced by the receipt by an **insured** of such Notice, Order or written demand; or
6. A written request to toll or waive a statute of limitations relating to a potential **employment claim** described in Definitions **E.1.** through **E.5.** above;

which is brought by or on behalf of any past, present or prospective **employee(s)** of the **organization** against any of the **insureds**, including any appeal therefrom.

**F. Employment wrongful act** means any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty committed for:

1. Wrongful discharge, dismissal or termination of employment, including constructive discharge;
2. Breach of any oral, written or implied employment contract or quasi-employment contract other than any labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement;
3. Employment related misrepresentation;
4. Violation of any federal, state or local law that concerns employment discrimination:
  - a. Including:
    1. Sexual harassment involving unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature; or
    2. Workplace bullying or workplace harassment of a non-sexual nature;
  - b. That:
    1. Are made a condition of employment;
    2. Are used as a basis for employment decisions; or
    3. Create a work environment that is intimidating, offensive, hostile or interferes with performance;
5. Wrongful failure to employ or promote;
6. Wrongful demotion;
7. Wrongful discipline;
8. Wrongful deprivation of a career opportunity;
9. Negligent hiring, supervision, promotion or retention;
10. Negligent evaluation;
11. Employment related **personal injury**;
12. Wrongful failure to grant tenure;
13. Employment related wrongful infliction of emotional distress;
14. Violation of the Family Medical Leave Act;
15. Wrongful **retaliation**;
16. Wrongful denial of training, denial or deprivation of seniority or evaluation;
17. Failure to adopt, create, provide or enforce adequate workplace or employment practices and procedures; or
18. Wrongful handling of any background check which is issued or expected to be used or collected in whole or in part for the purpose of serving as a factor in any employment related activities, including but not limited to any violation of the Fair Credit Reporting Act;

including any actual or alleged assault, battery, or loss of consortium in connection with Subparagraphs **1.** through **18.** above.

**G. Executive** means any natural person who was, now is or shall become the chairperson, president, chief executive officer, chief financial officer, executive director, in-house general counsel or person of equivalent position to any of the foregoing of the **organization**.

- H. Immigration claim** means any criminal investigation of any **insured** by any governmental agency for any actual or alleged hiring of illegal aliens.
- I. Immigration wrongful act** means any actual or alleged violation of the Immigration Reform and Control Act of 1986 or any amendments to or rules, regulations or orders promulgated pursuant to it, or similar provisions of any federal, state, or local statutory or common law.
- J. Insured** means the **organization** and the **insured persons**.
- K. Insured persons** means:
1. All natural persons who were, now are, or shall become an officer or a duly elected or appointed member of the board of directors, trustees, regents, managers, governors, a **LLC manager** or an equivalent position of the **organization**;
  2. All natural persons who were, now are, or shall become an **employee** or committee member, whether or not they were, are or shall be compensated, of the **organization**;
  3. All natural persons who were, now are, or shall become members or volunteers of the **organization**, if the **organization** is nonprofit in nature, while acting on behalf of the **organization** in a voluntary capacity at the direction of the board of directors, trustees, regents, managers, governors, or an equivalent position; and
  4. Any natural person who is an independent contractor as determined by federal, state or local law, but only while acting in the capacity as such for the **organization** pursuant to an express written agreement between the independent contractor, or any entity on behalf of the independent contractor, and the **organization** and only if the **organization** agrees in writing to provide indemnification to such independent contractor; provided, however, that any coverage under this Coverage Part for any such independent contractor shall be excess of any indemnification or insurance otherwise available to such independent contractor from any other source;

but only for acts with respect to their duties for or service to the **organization**.

- L. LLC manager** means any natural person who was, now is or shall become a manager, member of the board of managers or member of the **organization** that is a limited liability company but only with respect to the conduct of the limited liability company's business. However, any member of a limited liability company who is a passive investor not involved in the operations of the limited liability company is not a **LLC manager**.
- M. Loss** means **defense costs** and the total amount of monetary damages which the **insured** becomes legally obligated to pay on account of any **claim** for a **wrongful act** with respect to which coverage hereunder applies, including damages (including back pay and front pay), judgments, settlements, prejudgment and postjudgment interest, and punitive or exemplary damages or the multiplied portion of any multiplied damage award if insurable under the applicable law most favorable to the insurability of punitive, exemplary or multiplied damages.

**Loss** shall not include any amount for which an **insured** is not financially liable, compensation earned in the course of employment but not paid by an **insured** or matters which are deemed uninsurable under the law pursuant to which this Coverage Part shall be construed.

**Loss** shall not include, (other than **defense costs**):

1. **Benefits** or the equivalent value, however, this provision does not apply to **loss** resulting solely from wrongful termination of employment;
2. Amounts, which arise out of, are based upon, or are attributable to the employment reinstatement of the claimant by an **insured** or the continued employment of the claimant;
3. Future compensation, including salary or **benefits** for an **employee**, if the **insured** is ordered in accordance with a judgment or other final adjudication but fails to reinstate the claimant as an **employee**;
4. That part of any express contract of employment or an express obligation to make payments in the event of the termination of employment;
5. Salary, wages, commissions, **benefits** or other monetary payments which constitute severance payments or payments pursuant to a notice period;
6. Civil or criminal fines or penalties imposed by law, liquidated damages (other than liquidated damages awarded under the Age Discrimination in Employment Act or the Equal Pay Act), payroll or other taxes, or damages, penalties or types of relief deemed uninsurable under applicable law;

7. Future compensation, including salary or **benefits** for an **employee** who has been or will be hired, promoted or reinstated to employment pursuant to a settlement, court order, judgment, award or other resolution of a **claim**; or
8. Medical, pension, disability, life insurance, stock option or other **employee** type **benefit**.

**N. Organization** means the **named insured** and any **subsidiary**.

**O. Personal injury** means injury, other than bodily injury, arising out of one or more of the following offenses:

1. False arrest, detention or imprisonment;
2. Oral or written publication of material that libels, slanders or defames a past, present or prospective **employee**;
3. Invasion of a past, present or prospective **employee's** right of privacy;
4. Malicious prosecution; or
5. Abuse of process.

**P. Property damage** means:

1. Injury or damage, of any nature, to tangible or intangible property, including all resulting loss of use of that property; or
2. Loss of or loss of use of tangible or intangible property that is not otherwise injured or damaged.

**Q. Retaliation** means any actual or alleged wrongful termination of employment or other adverse employment action against a claimant with respect to any person's exercise or attempted exercise of rights protected by law, refusal to violate any law, disclosure or threat of disclosure to a superior or to any governmental agency actual or alleged violations of the law, or having assisted or testified in or cooperated with a proceeding or investigation regarding alleged violations of law.

**R. Third party** means any natural person who is not an **employee** of the **organization**.

**S. Third party claim** means:

1. A written demand for monetary damages or non-monetary relief;
2. A civil proceeding commenced by the filing of a complaint or similar pleading;
3. A formal administrative or regulatory proceeding commenced by the filing of a complaint, charge, formal investigative order or similar document;
4. An arbitration, mediation or similar alternative dispute resolution proceeding (other than a labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement) if the **insured** is required or agrees to participate in such proceeding with our written consent; or
5. A written request to toll or waive a statute of limitations relating to a potential **third party claim** described in Definitions **S.1.** through **S.4.** above;

which is brought by or on behalf of any **third party** against any of the **insureds**, including any appeal therefrom.

**T. Third party wrongful act** means any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty committed, attempted or allegedly committed or attempted on or after the Retroactive Date, if any, set forth in the Employment Practices Liability Coverage Part Declarations and prior to the end of the **policy period** by an **insured** or any person for whose acts the **insured** is legally liable for:

1. Discrimination by any **insured** against a **third party** in violation of any applicable federal, state or local statute, ordinance or common law;
2. Sexual or other harassment by any **insured**, including unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature against a **third party** which violates the civil rights of the **third party**; or
3. **Wrongful eviction** when arising out of discrimination or harassment by any **insured** against a **third party** in violation of any applicable federal, state or local statute, ordinance or common law.

**U. Wrongful act** means an **employment wrongful act**, an **immigration wrongful act** or a **third party wrongful act** attempted or allegedly committed or attempted on or after the Retroactive Date, if any, set

forth in the Employment Practices Liability Coverage Part Declarations and prior to the end of the **policy period** by an **insured** or any person for whose acts the **organization** is legally liable.

- V. **Wrongful eviction** means the act of dispossessing or attempting to dispossess a **third party** of real property to which such **third party** claims a right to occupy, and such real property is owned, operated or controlled by the **organization**.

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## SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

A. Exclusions applicable to **loss** other than **defense costs**:

1. Americans With Disabilities Act

This insurance does not apply to **loss** incurred by the **insured** in making physical changes, modifications, alterations, or improvements as part of an accommodation pursuant to the Americans With Disabilities Act or similar provisions of any federal, state or local statutory or common law; provided, however, that this exclusion does not apply to **defense costs**.

2. Wage and Hour (with Defense Sublimit)

This insurance does not apply to any **claim** based upon, arising out of or in consequence of the Fair Labor Standards Act (except the Equal Pay Act) or any amendments to or rules, regulations or orders promulgated pursuant to it, or similar provisions of any federal, state, or local statutory or common law; except we shall reimburse the **insureds** for up to a maximum payment of the Wage and Hour Defense Sublimit set forth in the Employment Practices Liability Coverage Part Declarations in **defense costs** that exceed the Deductible amount as set forth in the Employment Practices Liability Coverage Part Declarations. Any payment of **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations and such payment reduces the Limit of Insurance. However, this exclusion shall not apply to an **employment claim** for retaliatory treatment of a person with respect to actual or threatened disclosures by such person of any actual or alleged violation of the Fair Labor Standards Act by any **insured**.

3. Immigration (with Defense Sublimit)

This insurance does not apply to any **immigration claim** except we shall reimburse the **insureds** for up to a maximum payment of the Immigration Claim Defense Sublimit set forth in the Employment Practices Liability Coverage Part Declarations in **defense costs** that exceed the Deductible amount as set forth in the Employment Practices Liability Coverage Part Declarations. Any payment of **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations and such payment reduces the Limit of Insurance. However, this exclusion shall not apply to an **employment claim** for retaliatory treatment of a person with respect to actual or threatened disclosures by such person of any actual or alleged violation of the Immigration Reform and Control Act of 1986 by any **insured**.

B. Exclusions applicable to all **loss**:

1. Bodily Injury/Property Damage

We are not liable to pay, indemnify or defend any **claim** for actual or alleged:

- a. Bodily injury, sickness, disease, or death of any person; or
- b. **Property damage**, including, but not limited to, physical injury, loss of or loss of use of currency or any negotiable or non-negotiable instruments or contracts representing money.

2. COBRA, ERISA, NLRA, OSHA and WARN (with Retaliation Carve Back)

This insurance does not apply to any **claim** based upon, arising out of or in consequence of the:

- a. Consolidated Omnibus Budget Reconciliation Act of 1985;
- b. Employee Retirement Income Security Act of 1974 (except Section 510 thereof);
- c. National Labor Relations Act (including the Labor Management Relations Act of 1947);
- d. Occupational Safety and Health Act;

e. Worker Adjustment and Retraining Notification Act; or

any amendments to or rules, regulations or orders promulgated pursuant to these laws, or similar provisions of any federal, state, or local statutory or common law. However, this exclusion shall not apply to any **employment claim** for retaliatory treatment of a person with respect to actual or threatened disclosures by such person of any actual or alleged violation of the acts described in **B.2.a.** through **B.2.e.** above by any **insured**.

**3. Contractual (Other than Employment Contract)**

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of or in consequence of any actual or alleged liability of any **insureds** under the terms, conditions or warranties of any oral or written contract or agreement, except:

- a. To the extent the liability would have attached to any such **insureds** in the absence thereof; or
- b. With respect to any **claim** for breach of an employment contract.

**4. Labor Relations**

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of or in consequence of any actual or alleged:

- a. Labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement; or
- b. **Wrongful act** committed, attempted, or allegedly committed or attempted concurrent with or after a lockout, strike, picket line, replacement or other similar actions resulting from labor disputes or labor negotiations.

**5. Workers' Compensation, Unemployment, Social Security and Disability (with Retaliation Carve Back)**

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of or in consequence of any actual or alleged obligation of any **insured** under any workers' compensation, unemployment insurance, social security, disability benefits or similar law, or derivative actions arising out of any of these. However, this exclusion shall not apply to any **employment claim** for retaliatory treatment by an **insured** due to the exercise of rights granted under any such law.

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## SECTION IV - SEVERABILITY OF EXCLUSIONS

With respect to determining the applicability of the above exclusions, no **wrongful act** or knowledge possessed by any one of the **insureds** shall be imputed to any other **insureds** to determine if coverage is available, unless indicated otherwise.

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## SECTION V - LIMIT OF INSURANCE AND DEDUCTIBLE

- A. The Limits of Insurance shown in the Employment Practices Liability Coverage Part Declarations and the rules below fix the most we will pay regardless of the number of:
  - 1. **Insureds** under this Coverage Part;
  - 2. **Claims** made or suits brought on account of **wrongful acts** or otherwise; or
  - 3. Persons or organizations making **claims** or bringing suits.
- B. Our liability shall apply only to that part of each covered **loss** which is excess of the Deductible amount specified in the Employment Practices Liability Coverage Part Declarations and such Deductible amount shall be borne by the **insureds**.
- C. **Defense costs** incurred by us or by the **insured** with our written consent are part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations and the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations. **Defense costs** we pay shall reduce such Limits of Insurance. **Defense costs** paid by the **insureds** shall be applied against the Deductible.
- D. Our maximum aggregate liability for all **loss** resulting from all **claims** under this Coverage Part shall be the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations, subject to the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations.



- E. If an Additional Defense Limit of Insurance is set forth in the Employment Practices Liability Coverage Part Declarations, **defense costs** will apply first to and reduce the Additional Defense Limit of Insurance. The Additional Defense Limit of Insurance will be in addition to, and not part of the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations. The Additional Defense Limit of Liability is applicable to **defense costs** only. **Defense costs** paid by the **insureds** shall be applied against the Deductible.

Upon exhaustion of the Additional Defense Limit of Insurance, **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations. **Defense costs** we pay shall reduce the Limit of Insurance.

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## SECTION VI - DEFENSE, INVESTIGATION AND SETTLEMENT

- A. We will have the right and duty to select counsel and defend the **insureds** against any **claim**; however, we will have no duty to defend the **insureds** against any **claim** to which this insurance does not apply.
- B. We may make any investigation we deem necessary and may, with the consent of the **insureds** named in connection with the **claim**, make any settlement of any **claim** we deem expedient. If the **insureds** withhold consent to such settlement, our liability for all **loss** in connection with such **claim** shall not exceed:
1. The amount of the proposed settlement plus **defense costs** incurred up to the date of the **insured's** refusal to consent to the proposed settlement; plus
  2. 90% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 90% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement, subject in all events to the applicable Limit of Insurance and Deductible for such **claim**. The remaining 10% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 10% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement shall be borne by the **insureds**, uninsured and at their own risk.
- C. Our right and duty to defend end when we have used up the applicable Limit of Insurance in the defense or payment of damages, judgments or settlements of covered **claims**.

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## SECTION VII - SUPPLEMENTARY PAYMENTS

We will pay with respect to any **claim** we defend:

- A. The cost of any appeal bond, attachment bond, or any similar bond, but only for bond amounts within the applicable Limit of Insurance; provided, however, that we do not have to apply for or furnish these bonds; and
- B. All reasonable expenses incurred by the **insured** at our request to assist us in the investigation or defense of the **claim**, including actual loss of earnings up to \$250 a day because of time off from work.

These payments will not reduce the Limits of Insurance.

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## **NOTICE OF POST-EVENT SERVICES - WORKPLACE VIOLENCE EXPENSE COVERAGE**

Your policy includes valuable workplace violence expense coverage from the Cincinnati Insurance Company. In the event of a workplace violence event, you may utilize an outside vendor to assist your organization. The associated workplace violence expenses may be covered by your policy. The Cincinnati Insurance Company has teamed with Black Swan Solutions. A crisis management service through Empathia, Inc., Black Swan is a leader in supporting organizations affected by crisis and can provide policyholders with services following a workplace violence event. While you have no obligation to use the services of Black Swan Solutions, they are available if you want to consult with an outside vendor. However, if you opt to use the services of another organization or choose not to utilize an outside vendor, it will not impact your coverage under the Workplace Violence Expense Coverage Endorsement.

Black Swan Solutions offers a variety of services. Some expenses related to these services may be covered by your policy and some may not. The final determination of any expense reimbursement coverage will come from the Cincinnati Insurance Company. Black Swan Solutions can also engage in pre-event consulting, but such an expense would be borne solely by you.

**The Cincinnati Insurance Company Workplace Violence Post-Event Hotline**, monitored by Black Swan Solutions, is available to help your organization and your employees after a workplace violence event. You can contact Black Swan Solutions any time of day or night by calling our 24 hour hotline: 877-841-1082.

**Use of Workplace Violence Post-Event Hotline will not be deemed to satisfy any notice of claim or notice of workplace violence event provision contained in any policy. The selection of a vendor is the independent choice of the policyholder. The Cincinnati Insurance Company makes no warranties and assumes no liability for services, products, or loss control measures provided by Black Swan Solutions.**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WORKPLACE VIOLENCE EXPENSE COVERAGE ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **EMPLOYMENT PRACTICES LIABILITY COVERAGE**

**A. SECTION I - INSURING AGREEMENTS** is amended to include the following Insuring Agreement:

We will reimburse all **workplace violence expenses** sustained by the **organization** as a result of a **workplace violence event** occurring during the **policy period** and reported to us as soon as practicable but in no event after the expiration of the policy or any **extended reporting period** included in or endorsed to this Coverage Part.

**B. SECTION II - DEFINITIONS** is amended to include the following:

**1. Business interruption expense** means:

- a.** The excess of revenues over expenses, if any, that would have been earned by the **organization** had no **workplace violence event** occurred; and
- b.** The reasonable costs and expenses that would not have been incurred by the **organization** except for a **workplace violence event** with the sole purpose to:
  - (1)** Continue the activities necessary for the organization to resume operations to substantially the same level that existed immediately prior to the **workplace violence event**; or
  - (2)** Reduce any **business interruption expense**, not to exceed the amount of actual reduction of such **business interruption expense**.

However, **business interruption expense** shall be reduced by all recoveries, other insurance, suretyship and other indemnity which cover **business interruption expense**. Additionally, **business interruption expense** shall be reduced by the amount by which the organization reasonably could have reduced **business interruption expense** but fails to do so.

- 2. Premises** means any building, facility or property occupied by the **organization** in the conduct of its business.
- 3. Workplace violence event** means any actual or alleged intentional and unlawful:
  - a.** Use of deadly force; or
  - b.** Threat of deadly force involving the display of a lethal weapon;which occurs on **premises** and which did or could result in bodily injury or death to an **insured person**.
- 4. Workplace violence expenses** means the reasonable fees, costs and expenses for:
  - a.** The services of an independent security consultant for up to 90 days following a **workplace violence event**;
  - b.** The services of an independent public relations consultant for up to 90 days following a **workplace violence event**;
  - c.** Counseling services provided to **insured persons** by an independent counselor on **premises** for up to 120 days following a **workplace violence event**;
  - d.** Independent security guards and other reasonable costs to secure the **premises** for up to 30 days following a **workplace violence event**;
  - e.** The services of an independent forensic analyst for up to 120 days following a **workplace violence event**;

- f. The salaries or wages for up to 90 days following a **workplace violence event** paid by the **organization to insured persons** victimized by a **workplace violence event** and unable to work because of such **workplace violence event**; and
- g. **Business interruption expense** until the earlier of 90 days following a **workplace violence event** or until the organization restores operations to substantially the same level that existed immediately prior to the **workplace violence event**.

**C. SECTION III - EXCLUSIONS, B.** is amended to include the following:

1. Robbery

This insurance does not apply to any **workplace violence event** based upon, arising out of or in consequence of a purpose of demanding money, securities or property.

2. Riot

This insurance does not apply to any **workplace violence event** based upon, arising out of or in consequence of riot, civil upheaval or civil unrest.

**D. SECTION V - LIMIT OF INSURANCE AND DEDUCTIBLE** is amended to include the following:

- 1. The Aggregate Limit of Insurance for all **workplace violence expenses** paid under this endorsed Insuring Agreement shall be \$ 100,000 per **policy year** and shall apply as indicated by  below:
  - This separate limit shall be in addition to and not part of the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations.
  - This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations.
- 2. No deductible shall apply to **workplace violence expenses** paid under this endorsed Insuring Agreement.

All other provisions of the policy remain unchanged except as herein expressly modified.

# The Cincinnati Insurance Company

A Stock Insurance Company

## FIDUCIARY LIABILITY COVERAGE PART DECLARATIONS

**THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.**

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Policy Number: **EMN 046 61 26**

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Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

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Limit of Insurance:	\$ <u>1,000,000</u>	in the aggregate
Voluntary Settlement Program Sublimit	\$ <u>250,000</u>	in the aggregate
HIPAA Sublimit	\$ <u>150,000</u>	in the aggregate
Pension Protection Act Sublimit	\$ <u>50,000</u>	in the aggregate
ERISA 502(c) Sublimit	\$ <u>50,000</u>	in the aggregate
Healthcare Reform Sublimit	\$ <u>50,000</u>	in the aggregate
Section 4975 Sublimit	\$ <u>50,000</u>	in the aggregate

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Additional Defense Limit of Insurance:	\$ <u>NOT COVERED</u>	in the aggregate
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Deductible:	\$ <u>1,000</u>	each <b>claim</b>
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Retroactive Date:	<u>N/A</u>
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Prior or Pending Date:	<u>12-01-2006</u>
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Continuity Date:	<u>12-01-2006</u>
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Forms and endorsements applicable to this coverage part:

**ML113 01/18 FIDUCIARY LIABILITY COVERAGE**

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01-27-2022 11:34

# FIDUCIARY LIABILITY COVERAGE

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# FIDUCIARY LIABILITY COVERAGE

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

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## SECTION I - INSURING AGREEMENTS

- A. We will pay on behalf of the **insureds** all **loss** which they shall be legally obligated to pay resulting from any **claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for a **wrongful act**. We will have the right and duty to defend the **insureds** against any such **claim**.
- B. We will pay on behalf of the **insureds** the **settlement fees** and **defense costs** in an amount not to exceed the Voluntary Settlement Program Sublimit set forth in the Fiduciary Liability Coverage Part Declarations with respect to a **settlement program notice**; provided we shall pay no **settlement fees** to satisfy or settle any investigation or **claim** about which any **insureds** first received notice prior to the inception date set forth in the Common Policy Declarations or subsequent to the expiration date set forth in the Common Policy Declarations or any effective date of cancellation. Such amount shall be subject to the Coverage Part Deductible amount set forth in the Fiduciary Liability Coverage Part Declarations and shall be part of and not in addition to the applicable Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations.
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## SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

A. **Administration** means:

1. Giving counsel, advice or notice to employees of the **organization**, participants or beneficiaries with respect to any **insured plan**;
2. Interpreting any **insured plan**;
3. Handling records of any **insured plan**; and
4. Effecting enrollment, termination, or cancellation of employees of the **organization**, participants or beneficiaries under any **insured plan**.

B. **Claim** means:

1. A written demand for monetary damages or non-monetary relief;
2. A civil proceeding commenced by the filing of a complaint or similar pleading;
3. A formal administrative or regulatory proceeding commenced by a filing of charges, formal investigative order or similar document;
4. An arbitration, mediation or similar alternative dispute resolution proceeding if the **insured** is required or agrees to participate in such proceeding, with our written consent;
5. A criminal proceeding commenced by the filing of charges;
6. A written notice of commencement of a fact-finding investigation by the U.S. Department of Labor, the Pension Benefit Guaranty Corporation or any similar governmental authority; or
7. A written request to toll or waive a statute of limitations relating to a potential **claim** described in Definitions **B.1.** through **B.6.** above;

against any **insured**, including any appeal therefrom.

**Claim** shall not include any internal claim or appeal process provided for in the **insured plan(s)** documents or otherwise required by law.



**C. Defense costs** means reasonable and necessary fees, costs, and expenses incurred by us or with our consent on behalf of the **insureds** or reimbursed to any of the **insureds** by us, resulting solely from the investigation, adjustment, defense and appeal of any **claim**. **Defense costs** includes, but is not limited to, the cost of expert consultants and witnesses, and premiums for appeal, injunction, attachment or supersedeas bonds (but not the obligation to furnish such bonds).

**Defense costs** shall not include:

1. Salaries, wages, fees, overhead or expenses of our employees or any **insureds**, directors, officers, trustees or employees, other than that portion of our employed attorneys' fees, salaries and expenses allocated to a specific **claim**;
2. Any amount covered by the duty to defend obligation of any other insurer; or
3. Any pre-tender fees, costs or expenses.

**D. Employee pension plan** means any plan as defined in Section 3(2) of **ERISA** or any similar or related federal, state or local law or regulation.

**E. ERISA** means the Employee Retirement Income Security Act of 1974, including amendments thereto and regulations promulgated thereunder.

**F. ESOP** means any employee stock ownership plan so defined in Section 407(d)(6)(A) of **ERISA**, or any similar or related federal, state or local law or regulation.

**G. Employee welfare plan** means any plan as defined in Section 3(1) of **ERISA** or any similar or related federal, state or local law or regulation.

**H. Executive** means any natural person who was, now is or shall become the chairperson, president, chief executive officer, chief financial officer, executive director, in-house general counsel or person of equivalent position to any of the foregoing of the **organization**.

**I. Insured** means the **organization** and the **insured persons**.

**J. Insured persons** means:

1. All natural persons who were, now are, or shall become an officer or a duly elected or appointed member of the board of directors, trustees, regents, managers, governors, or a functional equivalent thereof of the **organization** or of the **insured plan(s)**; and
2. All natural persons who were, now are, or shall become an employee or committee member, whether or not they were, are or shall be salaried, of the **organization**;

while acting in the capacity as a fiduciary of an **insured plan** or while performing **administration** provided such natural person is not prohibited by law from acting as a fiduciary.

**K. Insured plan** means an employee benefit plan to include:

1. Any **employee welfare plan** which was, is now, or shall become sponsored solely by the **organization** exclusively for the benefit of employees of the **organization**;
2. Any **employee pension plan** which was or is now sponsored solely by the **organization** exclusively for the benefit of employees of the **organization**;
3. Any **ESOP** which was or is now sponsored solely by the **organization** exclusively for the benefit of employees of the **organization** and is disclosed as an **ESOP** in the **application**;
4. Any **multiemployer plan** to which the **organization** was or is now required to contribute and is disclosed as a **multiemployer plan** in the **application**;
5. Any benefits provided under workers' compensation insurance, unemployment insurance, Social Security, disability insurance, and the Consolidated Omnibus Budget Reconciliation Act of 1985 and amendments thereto which are administered by the **organization** exclusively for the benefit of employees of the **organization**; or
6. Any other benefit plan which is operated solely by the **organization** solely for the benefit of the employees of the **organization**.

**L. Loss** means **defense costs** and the total amount of monetary damages which the **insureds** become legally obligated to pay on account of any **claim** for a **wrongful act** with respect to which coverage hereunder applies, including damages, judgments, settlements, prejudgment and postjudgment interest, and punitive or exemplary damages or the multiplied portion of any multiplied damage award if insurable under the applicable law most favorable to the insurability of punitive, exemplary or multiplied damages.

**Loss** shall not include:

1. Taxes, civil or criminal fines, sanctions, liquidated damages, payroll or penalties except for:
    - a. The 5% or less or 20% or less civil penalties imposed upon any of the **insureds** as a fiduciary under Sections 502(i) or 502(l), respectively, of **ERISA**;
    - b. Civil money penalties imposed upon any **insured** for violation of the privacy provisions of the Health Insurance Portability and Accountability Act. The maximum Limit of Insurance for all such civil money penalties in the aggregate shall be the HIPAA Sublimit set forth in the Fiduciary Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this Coverage Part;
    - c. Civil money penalties imposed upon any **insured** under the Pension Protection Act of 2006. The maximum Limit of Insurance for all such civil money penalties in the aggregate shall be the Pension Protection Act Sublimit set forth in the Fiduciary Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this Coverage Part;
    - d. Civil money penalties imposed upon any **insured** as a fiduciary under Section 502(c) of the **ERISA**, as amended (including, any amendments pursuant to Section 507 of Title V of the Pension Protection Act of 2006). The maximum Limit of Insurance for all such civil money penalties in the aggregate shall be the ERISA 502(c) Sublimit set forth in the Fiduciary Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this Coverage Part;
    - e. Civil money penalties imposed upon any **insured** under the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act or any similar or related federal law or regulation. The maximum Limit of Insurance for all such civil money penalties in the aggregate shall be the Healthcare Reform Sublimit set forth in the Fiduciary Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this Coverage Part; or
    - f. The 15% or less excise tax penalty imposed under Section 4975 of the Internal Revenue Code, as amended. The maximum Limit of Insurance for all such penalties in the aggregate shall be the Section 4975 Sublimit set forth in the Fiduciary Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this coverage part;
  2. Any matter deemed uninsurable under the law pursuant to which this Coverage Part shall be construed;
  3. Any amount for which the **insureds** are not financially liable whether the **insureds** are absolved from payment by any covenant, agreement, court order or otherwise;
  4. Benefits due or to become due under the terms of the **insured plans** except to the extent that recovery for such benefits is based on a **wrongful act** and the payment constitutes a personal obligation of the **insured**; or
  5. Payment of medical, pension and/or severance benefits which are or may become due.
- M. Multiemployer plan** means an **employee pension plan** or an **employee welfare plan** maintained pursuant to one or more collective bargaining agreements to which the **organization** and at least one other employer is required to contribute.
- N. Organization** means the **named insured**, any **subsidiary**, and the **insured plans**.
- O. Property damage** means:
1. Injury or damage, of any nature, to tangible or intangible property, including all resulting loss of use of that property; or
  2. Loss of or loss of use of tangible or intangible property that is not otherwise injured or damaged.

- P. Settlement fees** means any fees, penalties or sanctions imposed by law under a **settlement program** that any **insured** becomes legally obligated to pay as a result of a **wrongful act**. The **settlement fees** shall not include any costs or expenses other than such fees, penalties or sanctions.
- Q. Settlement program** means any voluntary compliance resolution program or similar voluntary **settlement program** administered by the Internal Revenue Service or Department of Labor of the United States, including, but not limited to, the Employee Plans Compliance Resolution System, the Self Correction Program, the Audit Closing Agreement Plan, the Delinquent Filer Voluntary Compliance Program, and the Voluntary Fiduciary Correction Program, Tax Sheltered Annuity Voluntary Correction Program, Walk-in Closing Agreement Program, Voluntary Compliance Resolution Program or any similar program entered into by the **organization**.
- R. Settlement program notice** means a written notice to us by the **insured** of the **insured's** intent to enter into a **settlement program**.
- S. Wrongful act** means:
1. Any actual or alleged breach of fiduciary duty, neglect, error, misstatement, misleading statement, omission or other act done or wrongfully attempted by the **insureds** in the discharge of their duties solely in their capacity as:
    - a. A fiduciary of the employee benefit plan(s) (as the term fiduciary is defined in the **ERISA** and amendments thereto) in connection with the management and/or administration of any **insured plan(s)** or assets of the **insured plan(s)**;
    - b. An authorized agent of the **organization** with respect to the **administration** of any **insured plan(s)**; or
    - c. a settlor with respect to establishing, amending, funding or terminating an **insured plan**; or
  2. Any matter claimed against any of the **insureds** solely by reason of their fiduciary capacity with any **insured plan(s)** or by reason of their capacity as authorized agent of the **organization** with respect to the **administration** of the **insured plan(s)**;

provided the breach of fiduciary duty, neglect, error, misstatement, misleading statement, omission or other act or the conduct that is the subject of such matter was committed, attempted or allegedly committed or attempted on or after the Retroactive Date, if any, and set forth in the Fiduciary Liability Coverage Part Declarations and prior to the end of the **policy period**.

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### SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

**A. Bodily Injury/Property Damage**

We are not liable to pay, indemnify or defend any **claim** for actual or alleged:

1. Bodily injury, sickness, disease, or death of any person, mental anguish, or emotional distress; or
2. **Property damage**, including, but not limited to, physical injury, loss of or loss of use of currency or any negotiable or non-negotiable instruments or contracts representing money.

**B. Conduct**

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of any of the **insureds** or any person for whose actions the **insureds** are legally responsible:

1. Committing any deliberately fraudulent act or omission;
2. Committing any willful violation of any statute or regulation; or
3. Gaining any profit, remuneration or advantage to which they were not legally entitled;

if established by a final and non-appealable judgment or adjudication in any underlying action or proceeding adverse to the **insureds** as to such conduct.

With respect to determining the applicability of this exclusion, no conduct pertaining to any **insured person** shall be imputed to any other **insured person**; however, any conduct pertaining to any **executive** shall be imputed to the **organization** to determine if coverage is available.

### C. Contract

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of, or in any way involving any actual or alleged liability of any **insureds** under the terms, conditions or warranties of any oral or written contract or agreement, except to the extent:

1. The liability would have attached to any such **insureds** in the absence thereof; or
2. The liability was assumed in accordance with the agreement or declaration of trust pursuant to which the **insured plan** was established.

### D. FLSA, NLRA, WARN and OSHA

We are not liable to pay, indemnify or defend any **claim** where all or part of such **claim** is based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving the:

1. Fair Labor Standards Act;
2. National Labor Relations Act (including the Labor Management Relations Act of 1947);
3. Worker Adjustment and Retraining Notification Act; or
4. Occupational Safety and Health Act.

### E. Failure to Collect Contributions or Return of Contributions (other than Defense Costs)

We are not liable to pay for or indemnify that part of **loss** other than **defense costs** based upon, arising out of, or in consequence of the failure to collect contributions owed by an employer to the **insured plan(s)** unless such failure is due to the negligence of any of the **insureds** or which constitutes the return or reversion of any contributions or assets of the sponsored **insured plan(s)** to an employer.

### F. Other Plans

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of the service of any of the **insureds** as a fiduciary or administrator of any plan(s) other than an **insured plan** or the status of any of the **insureds** as a fiduciary of such other plan(s).

### G. Wage Disputes

We are not liable to pay, indemnify or defend any **claim** where all or part of such **claim** is based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged:

1. Calculation, timing or manner of payment of minimum wages, prevailing wage rates, overtime pay or other compensation alleged to be due and owing;
2. Classification of any organization or person for wage and hour purposes, garnishments, withholdings or other deductions from wages; or
3. Child labor laws, pay equity or comparable worth, or any similar policies or practices.

### H. Workers Compensation, Unemployment, Social Security, Disability

We are not liable to pay, indemnify or defend any **claim** where all or part of such **claim** is based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged obligation of any **insured** under any workers' compensation, unemployment insurance, social security, disability benefits or similar law.

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## SECTION IV - SEVERABILITY OF EXCLUSIONS

With respect to determining the applicability of the above exclusions, no **wrongful act** or knowledge possessed by any one of the **insureds** shall be imputed to any other **insureds** to determine if coverage is available, unless indicated otherwise.

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## SECTION V - LIMIT OF INSURANCE AND DEDUCTIBLE

- A. We will pay 100% of **loss** in excess of the Deductible amount set forth in the Fiduciary Liability Coverage Part Declarations up to the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations, subject to the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations.

- B. The Deductible amount set forth in the Fiduciary Liability Coverage Part Declarations shall apply to each and every **claim**. The Deductible shall be paid by the **insureds**.
- C. **Defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations and the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations. **Defense costs** we pay shall reduce such Limits of Insurance. **Defense costs** paid by the **insureds** shall be applied against the Deductible.
- D. Our maximum aggregate liability for all **loss** resulting from all **claims** under this Coverage Part shall be the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations, subject to the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations.
- E. If an Additional Defense Limit of Insurance is set forth in the Fiduciary Liability Coverage Part Declarations, **defense costs** will apply first to and reduce the Additional Defense Limit of Insurance. The Additional Defense Limit of Insurance will be in addition to, and not part of the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations. The Additional Defense Limit of Liability is applicable to **defense costs** only. **Defense costs** paid by the **insureds** shall be applied against the Deductible.

Upon exhaustion of the Additional Defense Limit of Insurance, **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Fiduciary Liability Coverage Part Declarations. **Defense costs** we pay shall reduce the Limit of Insurance.

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## SECTION VI - DEFENSE, INVESTIGATION AND SETTLEMENT

- A. We will have the right and duty to select counsel and defend the **insureds** against any **claim**; however, we will have no duty to defend the **insureds** against any **claim** to which this insurance does not apply.
- B. We may make any investigation we deem necessary and may, with the consent of the **insureds** named in connection with the **claim**, make any settlement of any **claim** we deem expedient. If the **insureds** withhold consent to such settlement, our liability for all **loss** in connection with such **claim** shall not exceed:
  - 1. The amount of the proposed settlement plus **defense costs** incurred up to the date of the **insured's** refusal to consent to the proposed settlement; plus
  - 2. 90% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 90% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement, subject in all events to the applicable Limit of Insurance and Deductible for such **claim**. The remaining 10% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 10% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement shall be borne by the **insureds**, uninsured and at their own risk.
- C. Our right and duty to defend end when we have used up the applicable Limit of Insurance in the defense or payment of damages, judgments or settlements of covered **claims**.

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## SECTION VII - FORMATION, ACQUISITION OR TERMINATION OF AN EMPLOYEE BENEFIT PLAN

### A. Acquisition or Formation of an Employee Benefit Plan

If during the **policy period** of the applicable Coverage Part the **organization** newly acquires or forms another employee benefit plan which is then sponsored by the **organization** solely for the benefit of the employees of the **organization**, the newly acquired or formed employee benefit plan shall be deemed to be an **insured plan**. However;

- 1. For a newly acquired or formed employee pension plan whose assets are greater than 35% of the sum of the assets all other insured plans, coverage is afforded only until the 90th day after the organization acquires or forms the entity or the end of the policy period, whichever is earlier. All newly acquired or formed employee benefit plans whose assets are less than or equal to 35% of the sum of the assets all other insured plans shall be automatically afforded coverage until the end of the policy period;
- 2. For a newly acquired or formed ESOP or multiemployer plan, coverage is afforded only until the 90th day after the organization acquires or forms the entity or the end of the policy period, whichever is earlier. Coverage for the newly acquired or formed ESOP or multiemployer plan will not be afforded following such 90-day period unless we have agreed to provide such coverage, subject to any documentation and information that we may require, and the named insured has paid us any additional premium as we may require; and

3. Coverage does not apply to claims for wrongful acts committed, attempted or allegedly committed or attempted prior to the date the organization acquired or formed the employee benefit plan unless we agree, after presentation of any documentation and information that we may require, to provide coverage by endorsement for such claims and the named insured pays any additional premium we require for the endorsement.

#### **B. Termination of an Employee Benefit Plan**

If during the **policy period** the **sponsor** terminates an **insured plan**, then, subject to all the other provisions of this policy, coverage shall continue to apply to such **insured plan** and its **insureds** until the end of the applicable **policy period** or any applicable **extended reporting period**, but only with respect to **claims** for **wrongful acts** committed, attempted or allegedly committed or attempted prior to the date such **insured plan** was terminated. The **named insured** shall give written notice to us as soon as practicable, but in no event later than 90 days after the **insured plan** is terminated.

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#### **SECTION VIII - WAIVER OF RIGHT OF RECOURSE**

In the event that this Coverage Part has been purchased in whole or in part by an **insured** other than an **insured plan**, it is agreed that we waive our right of recourse against such **insured** under Section 410(b)(1) of **ERISA** as amended.

This supersedes any rights to recovery contrary to the aforementioned which may be set forth in **SECTION XIV - SUBROGATION** of the **GENERAL PROVISIONS APPLICABLE TO ALL LIABILITY COVERAGE PARTS**.

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# The Cincinnati Insurance Company

A Stock Insurance Company

## CINCINNATI DATA DEFENDER™ COVERAGE PART DECLARATIONS

**THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.**

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Policy Number: **EMN 046 61 26**

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Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

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Insuring Agreement <b>A</b> - Response Expenses Limit of Insurance:	<u>\$ 50,000</u>	in the aggregate
Forensic IT Review Sublimit	<u>\$ 25,000</u>	
Legal Review Sublimit	<u>\$ 25,000</u>	
PR Services Sublimit	<u>\$ 25,000</u>	

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Insuring Agreement <b>B</b> - Defense and Liability Limit of Insurance:	<u>\$ 50,000</u>	in the aggregate
Regulatory Fines and Penalties Sublimit	<u>\$ 25,000</u>	
PCI Fines and Penalties Sublimit	<u>\$ 25,000</u>	

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Insuring Agreement <b>C</b> - Identity Recovery Limit of Insurance:	<u>\$ 25,000</u>	in the aggregate
Lost Wages and Child and Elder Care Sublimit	<u>\$ 5,000</u>	
Mental Health Counseling Sublimit	<u>\$ 1,000</u>	
Miscellaneous Unnamed Costs Sublimit	<u>\$ 1,000</u>	

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	<u>\$ 1,000</u>	each <b>claim</b> under Insuring Agreement <b>A</b> - Response Expenses
Deductibles:	<u>\$ 1,000</u>	each <b>claim</b> under Insuring Agreement <b>B</b> - Defense and Liability
	<u>\$ 250</u>	each <b>claim</b> under Insuring Agreement <b>C</b> - Identity Recovery

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Retroactive Date: 12-01-2017

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Forms and endorsements applicable to this coverage part:

**ML102 01/20 CINCINNATI DATA DEFENDERc COVERAGE FORM**

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# CINCINNATI DATA DEFENDER™ COVERAGE

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# CINCINNATI DATA DEFENDER™ COVERAGE

**THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.**

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Throughout this Coverage Part the words "you" and "your" refer to the **Named Insured** shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

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## SECTION I - INSURING AGREEMENTS

Coverage is provided under the following Insuring Agreements for which an Aggregate Limit of Insurance is shown in the Declarations:

### A. Response Expenses

1. Coverage under Insuring Agreement **A** - Response Expenses applies only if all of the following conditions are met:

- a. There has been a **personal data compromise**; and
- b. Such **personal data compromise** is first discovered by you during the **policy year**; and
- c. Such **personal data compromise** is reported to us within 60 days after the date it is first discovered by you.

2. If the conditions listed in **1.** above have been met, then we will provide coverage for the following expenses when they arise directly from the **personal data compromise** described in **1.** above and are necessary and reasonable. Coverages **d.** and **e.** apply only if there has been a notification of the **personal data compromise** to **affected individuals** as covered under coverage **c.**

- a. FORENSIC IT REVIEW - Professional information technologies review if needed to determine, within the constraints of what is possible and reasonable, the nature and extent of the **personal data compromise** and the number and identities of the **affected individuals**.

This does not include costs to analyze, research or determine any of the following:

- (1) Vulnerabilities in systems, procedures or physical security;
- (2) Compliance with PCI or other industry security standards; or
- (3) The nature or extent of loss or damage to data that is not **personally identifying information** or **personally sensitive information**.

If there is reasonable cause to suspect that a covered **personal data compromise** may have occurred, we will pay for costs covered under Forensic IT Review, even if it is eventually determined that there was no covered **personal data compromise**. However, once it is determined that there was no covered **personal data compromise**, we will not pay for any further costs.

- b. LEGAL REVIEW - Professional legal counsel review of the **personal data compromise** and how you should best respond to it.

If there is reasonable cause to suspect that a covered **personal data compromise** may have occurred, we will pay for costs covered under Legal Review, even if it is eventually determined that

Includes copyrighted material of Insurance

there was no covered **personal data compromise**. However, once it is determined that there was no covered **personal data compromise**, we will not pay for any further costs.

- c. NOTIFICATION TO AFFECTED INDIVIDUALS - We will pay your necessary and reasonable costs to provide notification of the **personal data compromise to affected individuals**.
- d. SERVICES TO AFFECTED INDIVIDUALS - We will pay your necessary and reasonable costs to provide the following services to **affected individuals**:

(1) The following services apply to any **personal data compromise**.

(a) Informational Materials

A packet of loss prevention and customer support information.

(b) Help Line

A toll-free telephone line for **affected individuals** with questions about the **personal data compromise**. Where applicable, the line can also be used to request additional services as listed in (2) (a) and (b) below.

Note, calls by **affected individuals** or their representatives to the Help Line do not constitute the making of a **claim** under Insuring Agreement **B – Defense and Liability**.

(2) The following additional services apply to **personal data compromise** events involving **personally identifying information**.

(a) Credit Report and Monitoring:

A credit report and an electronic service automatically monitoring for activities affecting an individual's credit records. This service is subject to the **affected individual** enrolling for this service with the designated service provider.

(b) Identity Restoration Case Management:

As respects any **affected individual** who is or appears to be a victim of **identity theft** that may reasonably have arisen from the **personal data compromise**, the services of an identity restoration professional who will assist that **affected individual** through the process of correcting credit and other records and, within the constraints of what is possible and reasonable, restoring control over his or her personal identity.

- e. PR SERVICES – We will pay the necessary and reasonable fees and expenses you incur, with our prior written consent, for a professional public relations firm review of and response to the potential impact of the **personal data compromise** on your business relationships. We will only pay for such fees and expenses when such a public relations firm review and response is reasonably necessary to avert or mitigate material damage to your business relationships from the **personal data compromise**.

Such fees and expenses include costs to implement public relations recommendations of such public relations firm. However, when such recommendations include advertising and special promotions designed to retain your relationship with **affected individuals**, we will not pay for promotions:

(1) Provided to any of your **executives** or **employees**; or

(2) Costing more than \$25 per **affected individual**.

## B. Defense and Liability

- 1. Coverage under Insuring Agreement **B - Defense and Liability** applies only if all of the following conditions are met:

- a. During the **policy year** or any applicable **extended reporting period**, you first receive notice of a **claim** or **regulatory proceeding** which arises from a **personal data compromise** that took place on or after the Retroactive Date shown in the Declarations and before the end of the **policy period**; and

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- b. Such **claim** or **regulatory proceeding** is reported to us as soon as practicable, but in no event more than 60 days after the date it is first received by you.
- 2. If the conditions listed in **1.** above have been met, then we will pay on behalf of the **insured defense costs** and **data compromise liability** directly arising from the **claim** or **regulatory proceeding**.
- 3. All **claims** or **regulatory proceedings** caused by a single **personal data compromise** will be deemed to have been made at the time that notice of the first of those **claims** or **regulatory proceedings** is received by you.

**C. Identity Recovery**

- 1. Coverage under Insuring Agreement **C** - Identity Recovery applies only if all of the following conditions are met:
  - a. There has been an **identity theft** involving the personal identity of an **identity recovery insured** under this Coverage Part; and
  - b. Such **identity theft** is first discovered by the **identity recovery insured** during the policy year; and
  - c. Such **identity theft** is reported to us within 60 days after it is first discovered by the **identity recovery insured**.
- 2. If the conditions listed in **1.** above have been met, then we will provide the following to the **identity recovery insured**:
  - a. Services of an **identity recovery case manager** as needed to respond to the **identity theft**; and
  - b. Reimbursement of necessary and reasonable **identity recovery expenses** incurred as a direct result of the **identity theft**.

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**SECTION II - DEFINITIONS**

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

- 1. **Affected individual** means any person whose **personally identifying information** or **personally sensitive information** is lost, stolen, accidentally released or accidentally published by a **personal data compromise** covered under this Coverage Part. This definition is subject to the following provisions:
  - a. **Affected individual** does not include any business or organization. Only an individual person may be an **affected individual**.
  - b. An **affected individual** may reside anywhere in the world.
- 2. **Authorized representative** means a person or entity authorized by law or contract to act on behalf of an **identity recovery insured**.
- 3. **Claim**:
  - a. Means:
    - (1) A civil proceeding in which it is alleged that the claimant suffered damages arising from:
      - (a) A **personal data compromise**; or
      - (b) The violation of a governmental statute or regulation arising from a **personal data compromise**.
    - (2) **Claim** includes:
      - (a) An arbitration proceeding in which such damages are claimed and to which the **insured** must submit or does submit with our consent;

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- (b) Any other alternative dispute resolution proceeding in which such damages are claimed and to which the **insured** must submit or does submit with our consent; or
  - (c) A written demand for money, when such demand could reasonably result in a civil proceeding as described in this definition.
- b. Does not include any demand or action brought by or on behalf of someone who is:
- (1) Your **executive**;
  - (2) Your owner or part-owner; or
  - (3) A holder of your securities;

in their capacity as such, whether directly, derivatively, or by class action. **Claim** will include proceedings brought by such individuals in their capacity as **affected individuals**, but only to the extent that the damages claimed are the same as would apply to any other **affected individual**.

**4. Data compromise liability:**

- a. Means the following, when they arise from a **claim** or **regulatory proceeding**:
- (1) Damages (including punitive and exemplary damages and the multiple portion of any multiplied damage award), judgments or settlements;
  - (2) Attorney's fees and other litigation costs added to that part of any judgment paid by us, when such fees and costs are awarded by law or court order; and
  - (3) Pre-judgment interest on that part of any judgment paid by us.
- b. Also includes any Payment Card Industry (PCI) fine or penalty imposed under a contract to which you are a party when such fine or penalty arises from a **claim**. PCI Fines and Penalties do not include any increased transaction costs.
- c. Also includes any fine or penalty imposed by law, to the extent such fine or penalty is legally insurable under the law of the applicable jurisdiction when such fine or penalty arises from a **regulatory proceeding**.
- d. Does not include:
- (1) Civil or criminal fines or penalties imposed by law, except for civil fines and penalties expressly covered under paragraphs **b.** and **c.** above;
  - (2) Taxes; or
  - (3) Matters which may be deemed uninsurable under the applicable law.
- e. With respect to fines and penalties and punitive, exemplary and multiplied damages, the law of the jurisdiction most favorable to the insurability of those fines, penalties or damages shall control for the purpose of resolving any dispute between us and any **insured** regarding whether the fines, penalties or damages specified in this definition above are insurable under this Coverage Part, provided that such jurisdiction:
- (1) Is where those fines, penalties or damages were awarded or imposed;
  - (2) Is where any **personal data compromise** took place for which such fines, penalties or damages were awarded or imposed;
  - (3) Is where you are incorporated or you have your principal place of business; or
  - (4) Is where we are incorporated or have our principal place of business.

**5. Defense costs:**

- a. Means reasonable and necessary expenses resulting solely from the investigation, defense and appeal of any **claim** or **regulatory proceeding** against an **insured**. Such expenses may be incurred by us. Such expenses may include premiums for any appeal bond, attachment bond or similar bond. However, we have no obligation to apply for or furnish such bond.

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- b. Does not include the salaries or wages of your **employees, executives or independent contractors**, or your loss of earnings.
6. **Employee** means any natural person, other than an **executive or independent contractor**, who was, now is or will be:
- a. Employed on a full- or part-time basis by you;
  - b. Furnished temporarily to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions;
  - c. Leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph **8.b.**; or
  - d. Your volunteer worker, which includes unpaid interns.
7. **Executive** means any natural person who was, now is or will be:
- a. The owner of a sole proprietorship that is a **named insured**; or
  - b. A duly elected or appointed:
    - (1) Director;
    - (2) Officer;
    - (3) Managing Partner;
    - (4) General Partner;
    - (5) Member (if a limited liability company);
    - (6) Manager (if a limited liability company); or
    - (7) Trustee,
 of an **organization**.
8. **Identity recovery case manager** means one or more individuals assigned by us to assist an **identity recovery insured** with communications we deem necessary for re-establishing the integrity of the personal identity of the **identity recovery insured**. This includes, with the permission and cooperation of the **identity recovery insured**, written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.
9. **Identity recovery expenses** means the following when they are reasonable and necessary expenses that are incurred as a direct result of an **identity theft** suffered by an **identity recovery insured**:
- a. Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an **identity theft**.
  - b. Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of your efforts to report an **identity theft** or amend or rectify records as to your true name or identity as a result of an **identity theft**.
  - c. Costs for credit reports from established credit bureaus.
  - d. Fees and expenses for an attorney approved by us for the following:
    - (1) The defense of any civil suit brought against an **identity recovery insured**.
    - (2) The removal of any civil judgment wrongfully entered against an **identity recovery insured**.
    - (3) Legal assistance for an **identity recovery insured** at an audit or hearing by a governmental agency.
    - (4) Legal assistance in challenging the accuracy of the **identity recovery insured's** consumer credit report.

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- (5) The defense of any criminal charges brought against an **identity recovery insured** arising from the actions of a third party using the personal identity of the **identity recovery insured**.
- e. Actual lost wages of the **identity recovery insured** for time reasonably and necessarily taken away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self-employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.
- f. Actual costs for supervision of children or elderly or infirm relatives or dependents of the **identity recovery insured** during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the **identity recovery insured**.
- g. Actual costs for counseling from a licensed mental health professional. Such care must be provided by a professional care provider who is not a relative of the **identity recovery insured**.
- h. Any other reasonable costs necessarily incurred by an **identity recovery insured** as a direct result of the **identity theft**.
- (1) Such costs include:
- (a) Costs by the **identity recovery insured** to recover control over his or her personal identity.
- (b) Deductibles or service fees from financial institutions.
- (2) Such costs do not include:
- (a) Costs to avoid, prevent or detect **identity theft** or other loss.
- (b) Money lost or stolen.
- (c) Costs that are restricted or excluded elsewhere in this Coverage Part or policy.

**10. Identity recovery insured** means the following:

- a. When the entity insured under this Coverage Part is a sole proprietorship, the **identity recovery insured** is the individual person who is the sole proprietor of the **named insured**.
- b. When an **organization** under this Coverage Part is a partnership, the **identity recovery insureds** are the current partners.
- c. When the **named insured** under this Coverage Part is a corporation or other form of organization, other than those described in **a.** or **b.** above, the **identity recovery insureds** are all individuals having an ownership position of 20% or more of the insured entity. However, if and only if there is no one who has such an ownership position, then the **identity recovery insured** shall be:
- (1) The chief executive of the insured entity; or
- (2) As respects a religious institution, the senior ministerial employee.
- d. The legally recognized spouse of any individual described in **a.**, **b.** or **c.** above.

An **identity recovery insured** must always be an individual person. The **organization** under this Coverage Part is not an **identity recovery insured**.

**11. Identity theft** means the fraudulent use of **personally identifying information**. This includes fraudulently using such information to establish credit accounts, secure loans, enter into contracts or commit crimes.

**Identity theft** does not include the fraudulent use of a business name, d/b/a or any other method of identifying a business activity.

**12. Independent contractor** means any natural person who performs labor or service for you under a written contract or agreement with you. The status of an individual as an **independent contractor** will be determined as of the date of an alleged act, error or omission by such **independent contractor**.

**13. Insured** means:

- a. With respect to Insuring Agreement **A** - Response Expenses any **organization**.
- b. With respect to Insuring Agreement **B** - Defense and Liability:
  - (1) Any **organization**; and
  - (2) Any **employee** or **executive** of an **organization**, but:
    - (a) Only for the conduct of the **organization's** business within the scope of his or her employment or duties as an **executive**; and
    - (b) Such **employee** or **executive** shall not be an **insured** to the extent his or her actions or omissions are criminal, fraudulent, dishonest or constitute an intentional or knowing violation of the law.
  - (3) At your option, any **independent contractor**, but:
    - (a) Only for conduct related to the **organization's** business and within the scope of his or her duties as an **independent contractor**; and
    - (b) Such **independent contractor** shall not be an **insured** to the extent his or her actions or omissions are criminal, fraudulent, dishonest or constitute an intentional or knowing violation of the law.
- c. With respect to Insuring Agreement **C** - Identity Recovery any **organization**.

**14. Loss** means:

- a. With respect to Insuring Agreement **A** - Response Expenses:  
Those expenses enumerated in Section **I, A.**, Paragraph **2**.
- b. With respect to Insuring Agreement **B** - Defense and Liability:
  - (1) **Defense costs**; and
  - (2) **Data compromise liability**.
- c. With respect to Insuring Agreement **C** - Identity Recovery, **identity recovery expenses**.

**15. Organization** means the **named insured** and any **subsidiary**.

**16. Personal data compromise** means the loss, theft, accidental release or accidental publication of **personally identifying information** or **personally sensitive information** as respects one or more **affected individuals**. If the loss, theft, accidental release or accidental publication involves **personally identifying information**, such loss, theft, accidental release or accidental publication must result in or have the reasonable possibility of resulting in the fraudulent use of such information. This definition is subject to the following provisions:

- a. At the time of the loss, theft, accidental release or accidental publication, the **personally identifying information** or **personally sensitive information** need not be at the insured premises but must be in the direct care, custody or control of:
  - (1) You; or
  - (2) A professional entity with which you have a direct relationship and to which you (or an **affected individual** at your direction) have turned over (directly or via a professional transmission or transportation provider) such information for storage, processing, transmission or transportation of such information.
- b. **Personal data compromise** includes disposal or abandonment of **personally identifying information** or **personally sensitive information** without appropriate safeguards such as shredding or destruction, subject to the following provisions:
  - (1) The failure to use appropriate safeguards must be accidental and not reckless or deliberate; and



- (2) Such disposal or abandonment must take place during the time period for which this Coverage Part is effective.
- c. **Personal data compromise** includes situations where there is a reasonable cause to suspect that such **personally identifying information** or **personally sensitive information** has been lost, stolen, accidentally released or accidentally published, even if there is no firm proof.
- d. All incidents of **personal data compromise** that are discovered at the same time or arise from the same cause will be considered one **personal data compromise**.
17. **Personally identifying information** means information, including health information, that could be used to commit fraud or other illegal activity involving the credit, access to health care or identity of an **affected individual** or **identity recovery insured**. This includes, but is not limited to, Social Security numbers or account numbers.
- Personally identifying information** does not mean or include information that is otherwise available to the public, such as names and addresses.
18. **Personally sensitive information** means private information specific to an individual the release of which requires notification of **affected individuals** under any applicable law.
- Personally sensitive information** does not mean or include **personally identifying information**.
19. **Regulatory proceeding** means an investigation, demand or proceeding alleging a violation of law or regulation brought by, or on behalf of, the Federal Trade Commission, Federal Communications Commission or other administrative or regulatory agency, or any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity.

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### SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

**A.** Applicable to Insuring Agreements **A** and **B** only:

1. Contractual Liability

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of an **insured's** assumption of liability by contract or agreement, whether oral or written. However, this exclusion shall not apply to:

- a. Any liability that an **insured** would have incurred in the absence of such contract or agreement; or
- b. Any PCI fines or penalties explicitly covered under Insuring Agreement **B** - Defense and Liability.

2. Criminal Investigations or Proceedings

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any criminal investigations or proceedings.

3. Deficiency Correction

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of costs to research or correct any deficiency. This includes, but is not limited to, any deficiency in your systems, procedures or physical security that may have contributed to a **personal data compromise**.

4. Extortion

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any extortion or blackmail. This includes, but is not limited to, ransom payments and private security assistance.

5. Fraudulent, Dishonest or Criminal Acts

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any criminal, fraudulent or dishonest act, error or omission, or any intentional or knowing violation of the law by the **insured**.

6. Non-monetary Relief

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of that part of any **claim** seeking any non-monetary relief.

7. Prior Data Compromises

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any **personal data compromise** first occurring before the Retroactive Date shown in the Declarations, or any **claim** arising from a **personal data compromise** that first occurred prior to the Retroactive Date shown in the Declarations.

8. Prior or Pending Litigation

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any **claim** or other proceeding against an **insured** which was pending or existed prior to the **policy year**, or arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such **claim** or other proceeding.

9. Uninsurable

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any amount not insurable under applicable law.

10. Willful Complicity

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of the **insured's** intentional or willful complicity in a **personal data compromise**.

B. Applicable to Insuring Agreement **C** only:

1. Fraudulent, Dishonest or Criminal Acts

This insurance does not apply to any fraudulent, dishonest or criminal act by an **identity recovery insured** or any person aiding or abetting an **identity recovery insured**, or by any **authorized representative** of an **identity recovery insured**, whether acting alone or in collusion with others. However, this exclusion shall not apply to the interests of an **identity recovery insured** who has no knowledge of or involvement in such fraud, dishonesty or criminal act.

2. Professional or Business Identity

This insurance does not apply to the theft of a professional or business identity.

3. Unreported Identity Theft

This insurance does not apply to an **identity theft** that is not reported in writing to the police.

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## SECTION IV - LIMITS OF INSURANCE AND DEDUCTIBLE

A. Insuring Agreement **A** - Response Expenses:

1. The most we will pay under Insuring Agreement **A** - Response Expenses is the Response Expenses Limit of Insurance stated in the Declarations.
2. The Response Expenses Limit of Insurance is an annual aggregate limit. This amount is the most we will pay for the total of all **loss** covered under Insuring Agreement **A** - Response Expenses arising out of all **personal data compromise** events which are first discovered by you during the **policy year**. This limit applies regardless of the number of **personal data compromise** events discovered by you during that period.

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3. A **personal data compromise** may be first discovered by you in one **policy year** but cause covered **loss** in one or more subsequent **policy years**. If so, all covered **loss** arising from such **personal data compromise** will be subject to the Response Expenses Limit of Insurance applicable to the **policy year** when the **personal data compromise** was first discovered by you.
4. The most we will pay under Insuring Agreement **A** - Response Expenses for Forensic IT Review, Legal Review and PR Services coverages for **loss** arising from any one **personal data compromise** is the applicable sublimit for each of those coverages stated in the Declarations. These sublimits are part of, and not in addition to, the Aggregate Limit of Insurance referenced in Paragraph **2**. PR Services coverage is also subject to a limit per **affected individual** as described in Section **I.A.2.e.(2)** PR Services.
5. Coverage for Services to **affected individuals** is limited to costs to provide such services for a period of up to one year from the date of the notification to the **affected individuals** or the period required by law, whichever is longer. Notwithstanding the foregoing, coverage for Identity Restoration Case Management services initiated within such period may continue for a period of up to one year from the date such Identity Restoration Case Management services are initiated.
6. Response Expenses coverage is subject to the Response Expenses Deductible stated in the Declarations. You shall be responsible for such deductible amount as respects each **personal data compromise** covered under this Coverage Part. We may, at our option, pay any part or all of the deductible amount in order to respond effectively to a **personal data compromise** and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

**B. Insuring Agreement B - Defense and Liability:**

1. The most we will pay under Insuring Agreement **B** - Defense and Liability (other than post-judgment interest) is the Limit of Insurance stated in the Declarations.
2. The Insuring Agreement **B** - Defense and Liability Limit of Insurance is an annual aggregate limit. This amount is the most we will pay for all **loss** covered under Insuring Agreement **B** - Defense and Liability (other than post-judgment interest) arising out of all **claims**.
3. The most we will pay under Insuring Agreement **B** - Defense and Liability for **data compromise liability** and **defense costs** related to Regulatory Fines and Penalties and PCI Fines and Penalties coverages arising from any one **claim** or **regulatory proceeding** is the applicable sublimit for each of those coverages stated in the Declarations. These sublimits are part of, and not in addition to, the Aggregate Limit of Insurance referenced in Paragraph **2**.
4. The Insuring Agreement **B** - Defense and Liability coverage is subject to the Deductible stated in the Declarations. You shall be responsible for such deductible amount as respects each **claim** or **regulatory proceeding** covered under this Coverage Part. We may, at our option, pay any part or all of the deductible amount to defend or effect settlement of any **claim, loss** or **regulatory proceeding** and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

**C. Insuring Agreement C - Identity Recovery:**

1. Case Management Service is available as needed for any one **identity theft** for up to 12 consecutive months from the inception of the service. Expenses we incur to provide Case Management Service do not reduce the Limit of Insurance available for **identity recovery expenses**.
2. Coverage under Insuring Agreement **C** - Identity Recovery is subject to the Annual Aggregate Limit of Insurance stated in the Declarations per **identity recovery insured**. Regardless of the number of **identity theft** incidents, this limit is the most we will pay for the total of all **loss** arising out of all **identity thefts** suffered by one **identity recovery insured** which are first discovered by the **identity recovery insured** during the **policy year**. If an **identity theft** is first discovered in one **policy year** and continues into other **policy years**, all **loss** arising from such **identity theft** will be subject to the aggregate Limit of Insurance applicable to the **policy year** when the **identity theft** was first discovered.
3. Legal costs as provided under item d. of the definition of **identity recovery expenses** are part of, and not in addition to, the aggregate limit described in Paragraph **2**.
4. Item **e.** (Lost Wages) and Item **f.** (Child and Elder Care Expenses) of the definition of **identity recovery expenses** are jointly subject to the sublimit stated in the Declarations. This sublimit is part of, and not

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in addition to, the aggregate Limit of Insurance described in Paragraph 2. Coverage is limited to wages lost and expenses incurred within 12 months after the first discovery of the **identity theft** by the **identity recovery insured**.

5. Item **g.** (Mental Health Counseling) of the definition of **identity recovery expenses** is subject to the sublimit stated in the Declarations. This sublimit is part of, and not in addition to, the aggregate limit described in Paragraph 2. Coverage is limited to counseling that takes place within 12 months after the first discovery of the **identity theft** by the **identity recovery insured**.
6. Item **h.** (Miscellaneous Unnamed Costs) of the definition of **identity recovery expenses** is subject to the sublimit stated in the Declarations. This sublimit is part of, and not in addition to, the aggregate Limit of Insurance described in Paragraph 2. Coverage is limited to costs incurred within 12 months after the first discovery of the **identity theft** by the **identity recovery insured**.
7. Coverage under Insuring Agreement **C** - Identity Recovery is subject to the Identity Recovery Deductible stated in the Declarations. Each **identity recovery insured** shall be responsible for such deductible amount only once during each **policy year**. This deductible applies only to **identity recovery expenses**.

The Limits of Insurance apply separately to each **policy year**.

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## SECTION V - DEFENSE AND SETTLEMENT

The provisions contained within this Section apply only to Insuring Agreement **B** - Defense and Liability.

1. We will have the right and duty to select counsel and defend the **insured** against any **claim** or **regulatory proceeding** covered by Insuring Agreement **B** - Defense and Liability, regardless of whether the allegations of such **claim** or **regulatory proceeding** are groundless, false or fraudulent. However, we shall have no duty to defend the **insured** against any **claim** or **regulatory proceeding** seeking damages or other relief not insured by Insuring Agreement **B** - Defense and Liability.
2. We may, with your written consent, make any settlement of a **claim** or **regulatory proceeding** which we deem reasonable. If you withhold consent to such settlement, our liability for all **loss** resulting from such **claim** will not exceed the amount for which we could have settled such **claim** or **regulatory proceeding** plus **defense costs** incurred as of the date we proposed such settlement in writing to you.
3. We shall not be obligated to pay any **loss**, or to defend or continue to defend any **claim** or **regulatory proceeding**, after the Insuring Agreement **B** - Defense and Liability Limit of Insurance has been exhausted.
4. We shall pay all interest on that amount of any judgment within the Insuring Agreement **B** - Defense and Liability Limit of Insurance which accrues:
  - a. After entry of judgment; and
  - b. Before we pay, offer to pay or deposit in court that part of the judgment within the Insuring Agreement **B** - Defense and Liability Limit of Insurance or, in any case, before we pay or offer to pay the entire Insuring Agreement **B** - Defense and Liability Limit of Insurance.

These interest payments shall be in addition to and not part of the Defense and Liability Limit.

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## SECTION VI - CONDITIONS

### 1. Bankruptcy

Your bankruptcy, or the bankruptcy of your estate if you are a sole proprietor, will not relieve us of our obligations under this Coverage Part.

### 2. Due Diligence

You agree to use due diligence to prevent and mitigate **loss** covered under this Coverage Part. This includes, but is not limited to, complying with, and requiring your vendors to comply with, reasonable and industry-accepted protocols for:

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- a. Providing and maintaining appropriate physical security for your premises, computer systems and hard copy files;
- b. Providing and maintaining appropriate computer and Internet security;
- c. Maintaining and updating at appropriate intervals backups of computer data;
- d. Protecting transactions, such as processing credit card, debit card and check payments; and
- e. Appropriate disposal of files containing **personally identifying information** or **personally sensitive information**, including shredding hard copy files and destroying physical media used to store electronic data.

3. Duties in the Event of a Claim, Regulatory Proceeding or Loss

- a. If, during the **policy year**, the **insured** first becomes aware of any circumstance that could reasonably be expected to give rise to a **claim** or **regulatory proceeding**, the **insured** may give written notice to us. The notice must be made as soon as practicable, but in no event more than 60 days after the date the circumstance is first discovered by the **insured**, must be made during the **policy year** and must include:
  - (1) the specific details, including the date, of the circumstance;
  - (2) The alleged injuries or damage sustained or which may be sustained;
  - (3) The names of potential claimants; and
  - (4) The manner in which the **insured** first became aware of the circumstance.

Any subsequent **claim** or **regulatory proceeding** arising out of any circumstance which is the subject of such a written notice will be deemed to have been made at the time written notice in compliance with these requirements was first received by us.

- b. If a **claim** or **regulatory proceeding** is brought against any **insured**, you must:
  - (1) Immediately record the specifics of the **claim** or **regulatory proceeding** and the date received; and
  - (2) Provide us with written notice, as soon as practicable, but in no event more than 60 days after the date the **claim** or **regulatory proceeding** is first received by you.
  - (3) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **regulatory proceeding**;
  - (4) Authorize us to obtain records and other information;
  - (5) Cooperate with us in the investigation, settlement or defense of the **claim** or **regulatory proceeding**;
  - (6) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of **loss** or **defense costs** to which this insurance may also apply; and
  - (7) Not take any action, or fail to take any required action, that prejudices your rights or our rights with respect to such **claim** or **regulatory proceeding**.
- c. In the event of a **personal data compromise** covered under Insuring Agreement **A** – Response Expenses, you must see that the following are done:
  - (1) Notify the police if a law may have been broken.
  - (2) Notify us as soon as practicable, but in no event more than 60 days after the **personal data compromise**. Include a description of any property involved.
  - (3) As soon as possible, give us a description of how, when and where the **personal data compromise** occurred.
  - (4) As often as may be reasonably required, permit us to:

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- (a) Inspect the property proving the **personal data compromise**;
  - (b) Examine your books, records, electronic media and records and hardware;
  - (c) Take samples of damaged and undamaged property for inspection, testing and analysis; and
  - (d) Make copies from your books, records, electronic media and records and hardware.
- (5) Send us signed, sworn proof of loss containing the information we request to investigate the **personal data compromise**. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (6) Cooperate with us in the investigation of the **personal data compromise** or settlement of the **loss**.
- (7) If you intend to continue your business, you must resume all or part of your operations as quickly as possible.
- (8) Make no statement that will assume any obligation or admit any liability, for any loss for which we may be liable, without our prior written consent.
- (9) Promptly send us any legal papers or notices received concerning the **personal data compromise** or **loss**.
- d. We may examine any **insured** under oath, while not in the presence of any other **insured** and at such times as may be reasonably required, about any matter relating to this insurance or the **claim** or **loss**, including an **insured's** books and records. In the event of an examination, an **insured's** answers must be signed.
- e. No **insured** may, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without our prior written consent.

#### 4. Help Line

For assistance, the **identity recovery insured** should call the **Identity Recovery Help Line** at **1-866-219-9831**. The **Identity Recovery Help Line** can provide the **identity recovery insured** with:

- a. Information and advice for how to respond to a possible **identity theft**; and
- b. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an **identity recovery insured** prior to a determination that a covered **identity theft** has occurred. Our provision of such services is not an admission of liability under the policy. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered **identity theft** has not occurred.

As respects Expense Reimbursement Coverage, the **identity recovery insured** must send to us, within 60 days after our request, receipts, bills or other records that support his or her claim for **identity recovery expenses**.

#### 5. Legal Action Against Us

- a. No person or organization has a right:
  - (1) To join us as a party or otherwise bring us into a suit asking for damages from an **insured**; or
  - (2) To sue us under this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an **insured**; but we will not be liable for damages that are not payable under this Coverage Part, or that are in excess of the applicable Aggregate Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the first **named insured** and the claimant or the claimant's legal representative.

- b. You may not bring any legal action against us involving **loss**:
  - (1) Unless you have complied with all the terms of this insurance;
  - (2) Until 90 days after you have filed proof of **loss** with us; and

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(3) Unless brought within 2 years from the date you reported the **claim** or **loss** to us.

If any limitation in this condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

6. Legal Advice

We are not your legal advisor. Our determination of what is or is not covered under this Coverage Part does not represent advice or counsel from us about what you should or should not do.

7. Office of Foreign Assets Control (OFAC) Compliance

Whenever insurance coverage provided by this policy would be in violation of any United States economic or trade sanctions, such insurance coverage shall be null and void.

8. Pre-Notification Consultation

You agree to consult with us prior to the issuance of notification to **affected individuals**. We assume no responsibility under this Coverage Part for any services promised to **affected individuals** without our prior agreement. If possible, this pre-notification consultation will also include the designated service provider(s) as agreed to under Condition 10. Service Providers. You must provide the following at our pre-notification consultation with you:

- a. The exact list of **affected individuals** to be notified, including contact information.
- b. Information about the **personal data compromise** that may appropriately be communicated with **affected individuals**.
- c. The scope of services that you desire for the **affected individuals**. For example, coverage may be structured to provide fewer services in order to make those services available to more **affected individuals** without exceeding the available Response Expenses Limit.

9. Separation of Insureds

Except with respect to the applicable Limit of Insurance, and any rights or duties specifically assigned in this Coverage Part or the policy to which it is attached, to the first **named insured**, this insurance applies separately to each **insured** against whom a **claim** is made.

10. Service Providers

- a. We will only pay under this Coverage Part for services that are provided by service providers approved by us. You must obtain our prior approval for any service provider whose expenses you want covered under this Coverage Part. We will not unreasonably withhold such approval.
- b. Prior to the Pre-Notification Consultation described in the Pre-Notification Consultation Condition above, you must come to agreement with us regarding the service provider(s) to be used for the Notification to Affected Individuals and Services to Affected Individuals. We will suggest a service provider. If you prefer to use an alternate service provider, our coverage is subject to the following limitations:
  - (1) Such alternate service provider must be approved by us;
  - (2) Such alternate service provider must provide services that are reasonably equivalent or superior in both kind and quality to the services that would have been provided by the service provider we had suggested; and
  - (3) Our payment for services provided by any alternate service provider will not exceed the amount that we would have paid using the service provider we had suggested.

11. Services

The following conditions apply as respects any services provided to you or any **affected individual** or **identity recovery insured** by us, our designees or any service firm paid for in whole or in part under this Coverage Part:

- a. The effectiveness of such services depends on the cooperation and assistance of you, **affected individuals** and **identity recovery insureds**.

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- b. All services may not be available or applicable to all individuals. For example, **affected individuals** and **identity recovery insureds** who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in the United States and Puerto Rico in accordance with local conditions.
- c. We do not warrant or guarantee that the services will end or eliminate all problems associated with the covered events.
- d. Except for the services of an **identity recovery case manager** under Insuring Agreement **C** - Identity Recovery, which we will provide directly, you will have a direct relationship with the professional service firms paid for in whole or in part under this Coverage Part. Those firms work for you.

**12. Valuation - Settlement**

All premiums, Limits of Insurance, Deductible Amounts, **loss** and any other monetary amounts under this Coverage Part are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is agreed to or another component of **loss** under this Coverage Part is expressed in any currency other than United States of America dollars, payment under this Coverage Part shall be made in United States dollars at the rate of exchange published in *The Wall Street Journal* on the date the final judgment is entered, settlement amount is agreed upon, or the other component of **loss** is due, respectively.



# The Cincinnati Insurance Company

A Stock Insurance Company

## CINCINNATI NETWORK DEFENDER™ COVERAGE PART DECLARATIONS

**THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.**

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Policy Number: **EMN 046 61 26**

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Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

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Insuring Agreement <b>A</b> - Computer Attack Limit of Insurance:	\$ <u>100,000</u>	in the aggregate
Cyber Extortion Sublimit	\$ <u>10,000</u>	
Loss of Business Sublimit	\$ <u>50,000</u>	
Public Relations Sublimit	\$ <u>50,000</u>	

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Insuring Agreement <b>B</b> - Network Security and Electronic Media Liability Limit of Insurance:	\$ <u>100,000</u>	in the aggregate
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Deductibles:	\$ <u>1,000</u>	each <b>claim</b> under Insuring Agreement <b>A</b> - Computer Attack other than Cyber Extortion
	\$ <u>1,000</u>	each <b>claim</b> under Insuring Agreement <b>A</b> - Cyber Extortion
	\$ <u>1,000</u>	each <b>claim</b> under Insuring Agreement <b>B</b> - Network Security and Electronic Media Liability

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Retroactive Date:	<u>12-01-2017</u>
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Forms and endorsements applicable to this coverage part:

**ML103 01/20 CINCINNATI NETWORK DEFENDERc COVERAGE FORM**

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01-27-2022 11:34

# CINCINNATI NETWORK DEFENDER™ COVERAGE

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# CINCINNATI NETWORK DEFENDER™ COVERAGE

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

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Throughout this Coverage Part the words "you" and "your" refer to the **Named Insured** shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

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## SECTION I - INSURING AGREEMENTS

Coverage is provided under the following Insuring Agreements for which an Aggregate Limit of Insurance is shown in the Declarations:

### A. Computer Attack

1. Coverage under Insuring Agreement **A** - Computer Attack applies only if all of the following conditions are met:
  - a. There has been a **computer attack**; and
  - b. Such **computer attack** is first discovered by you during the **policy period**; and
  - c. Such **computer attack** occurred in the **coverage territory**; and
  - d. Such **computer attack** is reported to us as soon as practicable, but in no event more than 60 days after the date it is first discovered by you.
2. If all of the conditions in **a.** above have been met, then we will provide you the following coverages for **loss** directly arising from such **computer attack**.
  - a. CYBER EXTORTION - We will pay your necessary and reasonable **cyber extortion expenses**.
  - b. DATA RESTORATION - We will pay your necessary and reasonable **data restoration costs**.
  - c. DATA RE-CREATION - We will pay your necessary and reasonable **data re-creation costs**.
  - d. SYSTEM RESTORATION - We will pay your necessary and reasonable **system restoration costs**.
  - e. LOSS OF BUSINESS - We will pay your actual **business income loss** and your necessary and reasonable **extra expenses**.
  - f. PUBLIC RELATIONS - If you suffer covered **business income loss**, we will pay the necessary and reasonable fees and expenses you incur, with our prior written consent, for a professional public relations firm review of and response to the potential impact of the **computer attack** on your business relationships. We will only pay for such fees and expenses when such a public relations firm review and response is reasonably necessary to avert or mitigate material damage to your business relationships from the **computer attack**.

### B. Network Security and Electronic Media Liability

1. Coverage under Insuring Agreement **B** - Network Security and Electronic Media Liability applies only if all of the following conditions are met:
  - a. During the **policy year** or any applicable **extended reporting period**, you first receive notice of a **claim** which arises from a **wrongful act** that:
    - (1) Took place on or after the Retroactive Date shown in the Declarations and before the end of the **policy period**; and
    - (2) Took place in the **coverage territory**; and

- b. Such **claim** is reported to us as soon as practicable, but in no event more than 60 days after the date it is first received by you.
- 2. If the conditions listed in **a.** above have been met, then we will pay on behalf of the **insured** the **insured's** necessary and reasonable **defense costs** and **settlement costs** directly arising from the **claim**.
- 3. All **claims** caused by a single **wrongful act** or series of **interrelated wrongful acts** will be deemed to have been made at the time that notice of the first of those **claims** is received by you.

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## SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

1. **Actual cash value** means replacement cost less a deduction that reflects depreciation, age, condition and obsolescence.
2. **Bodily injury** means bodily harm or injury, sickness, disease, disability, humiliation, shock, fright, mental anguish or mental injury, including care, loss of services or death resulting from any of these at any time.
3. **Business income loss** means the sum of the:
  - a. Net income (net profit or loss before income taxes) that would have been earned or incurred; and
  - b. Continuing normal and necessary operating expenses incurred, including **employee, executive** and **independent contractor** payroll,  
actually lost by you during the **period of restoration**.
4. **Claim:**
  - a. Means a civil proceeding against an **insured** in which damages are alleged arising from a **wrongful act** or a series of **interrelated wrongful acts** allegedly committed by an **insured**, including any appeal therefrom.
  - b. **Claim** includes
    - (1) an arbitration or alternative dispute resolution proceeding that the **insured** is required to submit to or does submit to with our consent; or
    - (2) A written demand for money, when such demand could reasonably result in a civil proceeding as described in this definition.
  - c. Does not include any demand or action brought by or on behalf of someone who is:
    - (1) Your **executive**;
    - (2) Your owner or part-owner; or
    - (3) A holder of your securities;in their capacity as such, whether directly, derivatively, or by class action.
5. **Computer attack** means one of the following involving the **computer system**:
  - a. An **unauthorized access incident**;
  - b. A **malware attack**;
  - c. A **denial of service attack** against a **computer system**; or
  - d. A **cyber extortion threat**.
6. **Computer system** means a computer or other electronic hardware that:
  - a. Is owned or leased by you and operated under your control; or
  - b. Is operated by a third party service provider and used for the purpose of providing hosted computer application services to you or for processing, maintaining, hosting or storing your electronic data, pursuant to a written contract with you for such services, but such computer or other electronic

hardware operated by such third party shall only be considered to be a **computer system** with respect to the specific services provided by such third party to you under such contract.

**7. Cyber extortion expenses** means:

- a. The cost of a negotiator or investigator retained by you in connection with a **cyber extortion threat**; and
- b. Any amount paid by you in response to a **cyber extortion threat** to the party that made the **cyber extortion threat** for the purposes of eliminating the **cyber extortion threat**;

when such expenses are necessary and reasonable and arise directly from a **cyber extortion threat**. The payment of **cyber extortion expenses** must be approved in advance by us. We will not pay for **cyber extortion expenses** that have not been approved in advance by us. We will not unreasonably withhold our approval.

**9. Cyber extortion threat** means a demand for money from you based on a credible threat, or series of related credible threats, to:

- a. Launch a **denial of service attack** against the **computer system**;
- b. Gain access to a **computer system** and use that access to steal, release or publish **personally identifying information, personally sensitive information or third party corporate data**;
- c. Alter, damage or destroy electronic data or software while such electronic data or software is stored within a **computer system**;
- d. Launch a **computer attack** against a **computer system** in order to alter, damage or destroy electronic data or software while such electronic data or software is stored within a **computer system**;
- e. Cause the **insured** to transfer, pay or deliver any funds or property using a **computer system** without your authorization; or
- f. Inflict **ransomware** on a **computer system**.

**Cyber extortion threat** does not include any threat made in connection with a legitimate commercial dispute.

**10. Data re-creation costs:**

- a. **Data re-creation costs** means the costs of an outside professional firm hired by you to research, re-create and replace data that has been lost or corrupted and for which there is no electronic source available or where the electronic source does not have the same or similar functionality to the data that has been lost or corrupted.
- b. **Data re-creation costs** also means your actual **business income loss** and your necessary and reasonable **extra expenses** arising from the lack of the lost or corrupted data during the time required to research, re-create and replace such data.
- c. **Data re-creation costs** does not mean costs to research, re-create or replace:
  - (1) Software programs or operating systems that are not commercially available; or
  - (2) Data that is obsolete, unnecessary or useless to you.

**11. Data restoration costs:**

- a. Means the costs of an outside professional firm hired by you to replace electronic data that has been lost or corrupted. In order to be considered **data restoration costs**, such replacement must be from one or more electronic sources with the same or similar functionality to the data that has been lost or corrupted.
- b. Does not include costs to research, restore or replace:
  - (1) Software programs or operating systems that are not commercially available; or
  - (2) Data that is obsolete, unnecessary or useless to you.

**12. Defense costs:**

- a. Means reasonable and necessary expenses resulting solely from the investigation, defense and appeal of any **claim** against an **insured**. Such expenses may be incurred by us. Such expenses may include premiums for any appeal bond, attachment bond or similar bond. However, we have no obligation to apply for or furnish such bond.
- b. Does not include the salaries or wages of your **employees, executives or independent contractors**, or your loss of earnings.

**13. Denial of service attack** means an intentional attack against a target computer or network of computers designed to overwhelm the capacity of the target computer or network in order to deny or impede authorized users from gaining access to the target computer or network through the internet.

**14. Electronic media incident** means the display of information in electronic form by you on a website or in an **insured's** email that resulted in an allegation of:

- a. Infringement of another's copyright, title, slogan, trademark, trade name, trade dress, service mark or service name;
- b. Defamation against a person or organization that is unintended;
- c. A violation of a person's right of privacy, including false light and public disclosure of private facts; or
- d. Interference with a person's right of publicity.

**15. Employee** means any natural person, other than an **executive or independent contractor**, who was, now is or will be:

- a. Employed on a full- or part-time basis by you;
- b. Furnished temporarily to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions;
- c. Leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph **b.**; or
- d. Your volunteer worker, which includes unpaid interns.

**16. Executive** means any natural person who was, now is or will be:

- a. The owner of a sole proprietorship that is a **named insured**; or
- b. A duly elected or appointed:
  - (1) Director;
  - (2) Officer;
  - (3) Managing Partner;
  - (4) General Partner;
  - (5) Member (if a limited liability company);
  - (6) Manager (if a limited liability company); or
  - (7) Trustee,of an **organization**.

**17. Extra expense** means the additional cost you incur to operate your business during the **period of restoration** over and above the cost that you normally would have incurred to operate your business during the same period had no **computer attack** occurred.

**18. Independent contractor** means any natural person who performs labor or service for you under a written contract or agreement with you. The status of an individual as an **independent contractor** will be determined as of the date of an alleged act, error or omission by such **independent contractor**.

**19. Insured** means:

- a. With respect to Insuring Agreement **A** - Computer Attack any **organization**.

- b. With respect to Insuring Agreement **B** - Network Security and Electronic Media Liability:
    - (1) Any **organization**; and
    - (2) Any **employee** or **executive** of an **organization**, but:
      - (a) Only for the conduct of the **organization's** business within the scope of his or her employment or duties as an **executive**; and
      - (b) Such **employee** or **executive** shall not be an **insured** to the extent his or her actions or omissions are criminal, fraudulent, dishonest or constitute an intentional or knowing violation of the law.
    - (3) At your option, any **independent contractor**, but:
      - (a) Only for conduct related to the **organization's** business and within the scope of his or her duties as an **independent contractor**; and
      - (b) Such **independent contractor** shall not be an **insured** to the extent his or her actions or omissions are criminal, fraudulent, dishonest or constitute an intentional or knowing violation of the law.
20. **Loss** means:
- a. With respect to Insuring Agreement **A** - Computer Attack:  
Those expenses enumerated in Section **I, A**, Paragraph **2**.
  - b. With respect to Insuring Agreement **B** - Network Security and Electronic Media Liability:
    - (1) **Defense costs**; and
    - (2) **Settlement costs**.
21. **Malware attack** means an attack that damages a **computer system** or data contained therein arising from malicious code, including viruses, worms, Trojans, spyware and keyloggers. This does not mean damage from shortcomings or mistakes in legitimate electronic code or damage from code installed on your **computer system** during the manufacturing process or normal maintenance.
22. **Network security incident** means a negligent security failure or weakness with respect to a **computer system** which allowed one or more of the following to happen:
- a. The unintended propagation or forwarding of malware, including viruses, worms, Trojans, spyware and keyloggers. Malware does not include shortcomings or mistakes in legitimate electronic code.
  - b. The unintended abetting of a **denial of service attack** against one or more other systems.
  - c. The unintended loss, release or disclosure of **third party corporate data**.
23. **Organization** means the **named insured** and any **subsidiary**.
24. **Period of restoration** means the period of time that begins at the time that the **computer attack** is discovered by you and continues until the earlier of:
- a. The date that all data restoration, data re-creation and system restoration directly related to the **computer attack** has been completed; or
  - b. The date on which such data restoration, data re-creation and system restoration could have been completed with the exercise of due diligence and dispatch.
25. **Personally identifying information** means information, including health information, that could be used to commit fraud or other illegal activity involving the credit, access to health care or identity of an individual. This includes, but is not limited to, Social Security numbers or account numbers.
- Personally identifying information** does not mean or include information that is otherwise available to the public, such as names and addresses.
26. **Personally sensitive information** means private information specific to an individual the release of which requires notification of affected individuals under any applicable law.
- Personally sensitive information** does not mean or include **personally identifying information**.

**27. Property damage** means:

- a. Physical injury to or destruction of tangible property including all resulting loss of use; or
- b. Loss of use of tangible property that is not physically injured.

**28. Ransomware** means any software that is used to demand a ransom payment by:

- a. Restricting access to a **computer system**; or
- b. Encrypting data held within a **computer system**.

**29. Settlement costs:**

- a. Means the following, when they arise from a **claim**:
  - (1) Damages (including punitive and exemplary damages and the multiple portion of any multiplied damage award), judgments or settlements;
  - (2) Attorney's fees and other litigation costs added to that part of any judgment paid by us, when such fees and costs are awarded by law or court order; and
  - (3) Pre-judgment interest on that part of any judgment paid by us.
- b. Does not include:
  - (1) Civil or criminal fines or penalties imposed by law;
  - (2) Taxes; or
  - (3) Matters which may be deemed uninsurable under the applicable law.
- c. With respect to punitive, exemplary and multiplied damages, the law of the jurisdiction most favorable to the insurability of those fines, penalties or damages shall control for the purpose of resolving any dispute between us and any **insured** regarding whether the fines, penalties or damages specified in this definition above are insurable under this Coverage Part, provided that such jurisdiction:
  - (1) Is where those fines, penalties or damages were awarded or imposed;
  - (2) Is where any **personal data compromise** took place for which such fines, penalties or damages were awarded or imposed;
  - (3) Is where you are incorporated or you have your principal place of business; or
  - (4) Is where we are incorporated or have our principal place of business.

**30. System restoration costs:**

- a. Means the costs of an outside professional firm hired by you to do any of the following in order to restore your **computer system** to its pre- **computer attack** level of functionality:
  - (1) Replace or reinstall computer software programs;
  - (2) Remove any malicious code; and
  - (3) Configure or correct the configuration of your **computer system**.
- b. Does not include:
  - (1) Costs to increase the speed, capacity or utility of your **computer system**;
  - (2) Labor of your **employees** or **executives**;
  - (3) Any costs in excess of the **actual cash value** of your **computer system**; or
  - (4) Costs to repair or replace hardware.

**31. Third party corporate data** means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not an **insured** under this Coverage Part which is not available to the general public and is provided to the **organization** subject to a mutually executed written confidentiality agreement or which the **organization** is legally required to maintain in confidence; however, **third party corporate data** shall not include **personally identifiable information** or **personally sensitive information**.



**32. Unauthorized access incident** means the gaining of access to a **computer system** by:

- a. An unauthorized person or persons; or
- b. An authorized person or persons for unauthorized purposes.

**33. Wrongful act** means:

- a. An **electronic media incident**; or
- b. A **network security incident**.

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## SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

**1. Contractual Liability**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of an **insured's** assumption of liability by contract or agreement, whether oral or written. However, this exclusion shall not apply to any liability that an **insured** would have incurred in the absence of such contract or agreement.

**2. Criminal Investigations or Proceedings**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any criminal investigations or proceedings.

**3. Deficiency Correction**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of costs to research or correct any deficiency.

**4. Extortion**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any threat, extortion or blackmail. This includes, but is not limited to, ransom payments and private security assistance.

This exclusion does not apply to the extent that insurance coverage is provided under **SECTION I – INSURING AGREEMENTS, A.2.a. CYBER EXTORTION**.

**5. Fines or Penalties**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any fines or penalties.

**6. Fraudulent, Dishonest or Criminal Acts**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any criminal, fraudulent or dishonest act, error or omission, or any intentional or knowing violation of the law by the **insured**.

**7. Information Technology Products**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of the propagation or forwarding of malware, including viruses, worms, Trojans, spyware and keyloggers in connection with hardware or software created, produced or modified by you for sale, lease or license to third parties.

**8. Infrastructure Failure**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of failure or interruption of or damage to any electrical power supply network or telecommunication network not owned and operated by the **insured** including, but not limited to, the internet, internet service providers, DNS service providers, cable and wireless providers, internet exchange providers, search engine providers, tier 1 internet protocol networks and other providers of telecommunications or internet infrastructure.

**9. Knowledge of Falsity**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any oral or written publication of material, if done by the **insured** or at the **insured's** direction with knowledge of its falsity.

**10. Non-monetary Relief**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of that part of any **claim** seeking any non-monetary relief.

**11. Patent or Trade Secret Infringement**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any actual or alleged patent or trade secret violation including any actual or alleged violation of the Patent Act, the Economic Espionage Act of 1996, or the Uniform Trade Secrets Act and their amendments.

**12. Prior Wrongful Acts**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any **wrongful act** first occurring before the Retroactive Date shown in the Declarations or any **claim** arising from a **wrongful act** that first occurred prior to the Retroactive Date shown in the Declarations.

**13. Prior or Pending Litigation**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any **claim** or other proceeding against an **insured** which was pending or existed prior to the **policy year**, or arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such **claim** or other proceeding.

**14. Property Damage or Bodily Injury**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of **property damage** or **bodily injury** other than **bodily injury** arising from an **electronic media incident**.

**15. Willful Complicity**

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of the **insured's** intentional or willful complicity in a covered **loss** event or your reckless disregard for the security of your **computer system** or data.

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**SECTION IV - LIMITS OF INSURANCE AND DEDUCTIBLE**

**A. Insuring Agreement A - Computer Attack**

1. The most we will pay under Insuring Agreement **A** - Computer Attack for Cyber Extortion coverage for **loss** arising from any one **computer attack** is the Cyber Extortion Sublimit stated in the Declarations. This Limit of Insurance is part of, and not in addition to, the Computer Attack Aggregate Limit of Insurance stated in Paragraph **4**, below.
2. The most we will pay under Insuring Agreement **A** - Computer Attack for Loss of Business coverage for **loss** arising from any one **computer attack** is the Loss of Business Sublimit stated in the Declarations. This sublimit is part of, and not in addition to, the Computer Attack Aggregate Limit of Insurance stated in Paragraph **4**, below.
3. The most we will pay under Insuring Agreement **A** - Computer Attack for Public Relations coverage for **loss** arising from any one **computer attack** is the Public Relations Sublimit stated in the Declarations. This sublimit is part of, and not in addition to, the Computer Attack Aggregate Limit of Insurance stated in Paragraph **4**, below.
4. The Computer Attack Aggregate Limit of Insurance is an annual aggregate limit. This amount is the most we will pay for the total of all **loss** covered under Insuring Agreement **A** - Computer Attack arising out of all **computer attack** events which are first discovered by you during the **policy year**. This limit applies regardless of the number of **computer attack** events first discovered during the **policy year**.
5. A **computer attack** may be first discovered by you in one **policy year** but it may cause covered **loss** in one or more subsequent **policy years**. If so, all covered **loss** arising from such **computer attack** will be subject to the Computer Attack Aggregate Limit of Insurance applicable to the **policy year** when the **computer attack** was first discovered by you.
6. The Computer Attack coverage is subject to the:
  - a. Computer Attack other than Cyber Extortion; and
  - b. Cyber Extortion,

deductibles stated in the Declarations. In the event that elements of **loss** from the same **computer attack** include **cyber extortion expenses** as well as other insured expenses or costs, then only the single highest deductible will apply. You shall be responsible for the applicable deductible amount as respects **loss** arising from each **computer attack** covered under this Coverage Part.

## B. Insuring Agreement B - Network Security and Electronic Media Liability

1. Except for post-judgment interest, the most we will pay under Insuring Agreement **B** - Network Security and Electronic Media Liability is the Network Security and Electronic Media Liability Aggregate Limit of Insurance stated in the Declarations.
2. The Network Security and Electronic Media Liability Aggregate Limit of Insurance is an annual aggregate limit. This amount is the most we will pay for the total of all **loss** covered under Insuring Agreement **B** – Network Security and Electronic Media Liability (other than post-judgment interest) arising out of all **claims**.
3. The Insuring Agreement **B** – Network Security and Electronic Media Liability coverage is subject to the Network Security and Electronic Media Liability Deductible stated in the Declarations. You shall be responsible for the applicable deductible amount as respects **loss** arising from each **claim** covered under this Coverage Part. We may, at our option, pay any part or all of the deductible amount to defend or effect settlement of any **claim** or **loss** and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

The Limits of Insurance apply separately to each **policy year**.

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## SECTION V - DEFENSE AND SETTLEMENT

The provisions contained within this Section apply only to Insuring Agreement **B** - Network Security and Electronic Media Liability.

1. We will have the right and duty to select counsel and defend the **insured** against any **claim** covered by Insuring Agreement **B** - Network Security and Electronic Media Liability, regardless of whether the allegations of such **claim** are groundless, false or fraudulent. However, we shall have no duty to defend the **insured** against any **claim** seeking damages or other relief not insured by Insuring Agreement **B** - Network Security and Electronic Media Liability.
2. We may, with your written consent, make any settlement of a **claim** which we deem reasonable. If you withhold consent to such settlement, our liability for all **loss** resulting from such **claim** will not exceed the amount for which we could have settled such **claim** plus **defense costs** incurred as of the date we proposed such settlement in writing to you.
3. We shall not be obligated to pay any **loss**, or to defend or continue to defend any **claim**, after the Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance has been exhausted.
4. We shall pay all interest on that amount of any judgment within the Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance which accrues:
  - a. After entry of judgment; and
  - b. Before we pay, offer to pay or deposit in court that part of the judgment within the Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance or, in any case, before we pay or offer to pay the entire Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance.

These interest payments shall be in addition to and not part of the Network Security and Electronic Media Liability Limit of Insurance.

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## SECTION VI - CONDITIONS

1. Bankruptcy

Your bankruptcy, or the bankruptcy of your estate if you are a sole proprietor, will not relieve us of our obligations under this Coverage Part.
2. Due Diligence

You agree to use due diligence to prevent and mitigate **loss** covered under this Coverage Part. This includes, but is not limited to, complying with, and requiring your vendors to comply with, reasonable and industry-accepted protocols for:

  - a. Providing and maintaining appropriate physical security for your premises, **computer systems** and hard copy files;
  - b. Providing and maintaining appropriate computer and Internet security; and

c. Maintaining and updating at appropriate intervals backups of computer data.

3. Duties in the Event of a Claim or Loss

a. If, during the **policy year**, the **insured** first becomes aware of any circumstance that could reasonably be expected to give rise to a **claim**, the **insured** may give written notice to us. The notice must be made as soon as practicable, but in no event more than 60 days after the date the circumstance is first discovered by the **insured**, must be made during the **policy year** and must include:

- (1) the specific details, including the date, of the circumstance;
- (2) The alleged injuries or damage sustained or which may be sustained;
- (3) The names of potential claimants; and
- (4) The manner in which the **insured** first became aware of the circumstance.

Any subsequent **claim** arising out of any circumstance which is the subject of such a written notice will be deemed to have been made at the time written notice in compliance with these requirements was first received by us.

b. If a **claim** is brought against any **insured**, you must:

- (1) Immediately record the specifics of the **claim** and the date received; and
- (2) Provide us with written notice, as soon as practicable, but in no event more than 60 days after the date the **claim** is first received by you.
- (3) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim**;
- (4) Authorize us to obtain records and other information;
- (5) Cooperate with us in the investigation, settlement or defense of the **claim**;
- (6) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of **loss** to which this insurance may also apply; and
- (7) Not take any action, or fail to take any required action, that prejudices your rights or our rights with respect to such **claim**.

c. In the event of a **computer attack** covered under Insuring Agreement **A - Computer Attack**, you must see that the following are done:

- (1) Notify the police if a law may have been broken.
- (2) Notify us as soon as practicable, but in no event more than 60 days after the **computer attack**. Include a description of any property involved.
- (3) As soon as possible, give us a description of how, when and where the **computer attack** occurred.
- (4) As often as may be reasonably required, permit us to:
  - (a) Inspect the property proving the **computer attack**;
  - (b) Examine your books, records, electronic media and records and hardware;
  - (c) Take samples of damaged and undamaged property for inspection, testing and analysis; and
  - (d) Make copies from your books, records, electronic media and records and hardware.
- (5) Send us signed, sworn proof of loss containing the information we request to investigate the **computer attack**. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (6) Cooperate with us in the investigation or settlement of the **computer attack**.
- (7) If you intend to continue your business, you must resume all or part of your operations as quickly as possible.
- (8) Make no statement that will assume any obligation or admit any liability, for any **loss** for which we may be liable, without our prior written consent.

(9) Promptly send us any legal papers or notices received concerning the **computer attack** or **loss**.

- d. We may examine any **insured** under oath, while not in the presence of any other **insured** and at such times as may be reasonably required, about any matter relating to this insurance or the **claim** or **loss**, including an **insured's** books and records. In the event of an examination, an **insured's** answers must be signed.
- e. No **insured** may, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without our prior written consent.

#### 4. Legal Action Against Us

a. No person or organization has a right:

- (1) To join us as a party or otherwise bring us into a suit asking for damages from an **insured**; or
- (2) To sue us under this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an **insured**; but we will not be liable for damages that are not payable under this Coverage Part, or that are in excess of the applicable Aggregate Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the first **named insured** and the claimant or the claimant's legal representative.

b. You may not bring any legal action against us involving **loss**:

- (1) Unless you have complied with all the terms of this insurance;
- (2) Until 90 days after you have filed proof of **loss** with us; and
- (3) Unless brought within 2 years from the date you reported the **claim** or **loss** to us.

If any limitation in this condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

#### 5. Office of Foreign Assets Control (OFAC) Compliance

Whenever insurance coverage provided by this policy would be in violation of any United States economic or trade sanctions, such insurance coverage shall be null and void.

#### 6. Separation of Insureds

Except with respect to the applicable Limit of Insurance, and any rights or duties specifically assigned in this Coverage Part or the policy to which it is attached, to the first **named insured**, this insurance applies separately to each **insured** against whom **claim** is made.

#### 7. Services

The following conditions apply as respects any services provided to you by any service firm provided or paid for in whole or in part under this Coverage Part:

- a. The effectiveness of such services depends on your cooperation and assistance.
- b. We do not warrant or guarantee that the services will end or eliminate all problems associated with the covered events.

#### 8. Valuation - Settlement

All premiums, Limits of Insurance, Deductible Amounts, **loss** and any other monetary amounts under this Coverage Part are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is agreed to or another component of **loss** under this Coverage Part is expressed in any currency other than United States of America dollars, payment under this Coverage Part shall be made in United States dollars at the rate of exchange published in *The Wall Street Journal* on the date the final judgment is entered, settlement amount is agreed upon, or the other component of **loss** is due, respectively.

# The Cincinnati Insurance Company

A Stock Insurance Company

## CRIME COVERAGE PART DECLARATIONS

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Policy Number: **EMN 046 61 26**

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Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

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Employee Benefit Plan(s) Included as Insureds:

**ALL PLANS GOVERNED BY ERISA AND SPONSORED SOLELY BY THE NAMED INSURED AS OF THE EFFECTIVE DATE OF COVERAGE AND ANY SUCH PLAN ADDED DURING THE POLICY PERIOD.**

<b>Insuring Agreements</b>	<b>Limit of Insurance</b>	<b>Deductible Amount</b>
A. Employee Theft	\$1,000,000	\$10,000
B. Forgery or Alteration	\$75,000	\$0
C. Inside the Premises	\$NOT COVERED	\$N/A
D. Outside the Premises	\$NOT COVERED	\$N/A
E. Computer Fraud	\$NOT COVERED	\$N/A
F. Funds Transfer Fraud	\$NOT COVERED	\$N/A
G. Money Orders and Counterfeit Money	\$NOT COVERED	\$N/A
H. Clients' Property	\$NOT COVERED	\$N/A
I. Claim Expense	\$NOT COVERED	\$N/A

Forms and endorsements applicable to this coverage part:

**ML116 01/16 CRIME COVERAGE**

**ML435 01/16 CHANGE IN CONTROL OF THE INSURED - NOTICE TO THE COMPANY**

**ML436 01/18 ADD CREDIT, DEBIT OR CHARGE CARD FORGERY**

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# CRIME COVERAGE

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# CRIME COVERAGE

Throughout this Coverage Part the words "you" and "your" refer to the Named Insured shown in the Crime Coverage Part Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

## SECTION I - INSURING AGREEMENTS

Coverage is provided under the following Insuring Agreements for which a Limit of Insurance is shown in the Crime Coverage Part Declarations and applies to loss that you sustain resulting directly from an **occurrence** taking place at any time which is **discovered** by you during the Policy Period shown in the Common Policy Declarations or during the period of time provided in the Extended Period to Discover Loss Condition **A.7.**:

### A. Employee Theft

We will pay for loss of or damage to **money, securities** and **other property** resulting directly from **theft** committed by an **employee**, whether identified or not, acting alone or in collusion with other persons.

For the purposes of this Insuring Agreement, **theft** shall also include forgery.

### B. Forgery or Alteration

1. We will pay for loss resulting directly from **forgery** or alteration of checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in **money** that are:

- a. Made or drawn by or drawn upon you; or
  - b. Made or drawn by one acting as your agent;
- or that are purported to have been so made or drawn.

For the purposes of this Insuring Agreement, a substitute check as defined in the Check Clearing for the 21st Century Act shall be treated the same as the original it replaced.

2. If you are sued for refusing to pay any instrument covered in Paragraph **B.1.**, on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur and pay in that defense. The amount that we will pay is in addition to the Limit of Insurance applicable to this Insuring Agreement.

### C. Inside the Premises

1. We will pay for loss of:

a. **Money** and **securities** inside the **premises** or **banking premises**:

- (1) Resulting directly from **theft** committed by a person present inside such **premises** or **banking premises**; or
- (2) Resulting directly from disappearance or destruction.

b. Or damage to **other property**:

- (1) Inside the **premises** resulting directly from an actual or attempted **robbery** of a **custodian**; or
- (2) Inside the **premises** in a safe or vault resulting directly from an actual or attempted **safe burglary**.

2. We will pay for loss from damage to the **premises** or its exterior resulting directly from an actual or attempted **theft** of **money** and **securities** or **robbery** or **safe burglary** of **other property**, if you are the owner of the **premises** or are liable for damage to it.

3. We will pay for loss of or damage to a locked safe, vault, cash register, cash box or cash drawer located inside the **premises** resulting directly from an actual or attempted **theft** of, **robbery**, **safe burglary** or unlawful entry into those containers.



**D. Outside the Premises**

1. We will pay for loss of **money** and **securities** outside the **premises** in the care and custody of a **messenger** or an armored motor vehicle company resulting directly from **theft**, disappearance or destruction.
2. We will pay for loss of or damage to **other property** outside the **premises** in the care and custody of a **messenger** or an armored motor vehicle company resulting directly from an actual or attempted **robbery**.

**E. Computer Fraud**

We will pay for loss of or damage to **money**, **securities** and **other property** resulting directly from the use of any computer to fraudulently cause a transfer of that property from inside the **premises** or **banking premises**:

1. To a person (other than a **messenger**) outside those **premises**; or
2. To a place outside those **premises**.

**F. Funds Transfer Fraud**

We will pay for loss of **funds** resulting directly from a **fraudulent instruction** directing a financial institution to transfer, pay or deliver **funds** from your **transfer account**.

**G. Money Orders and Counterfeit Money**

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, **money** or services:

1. Money orders issued by any post office, express company or bank that are not paid upon presentation; or
2. **Counterfeit money** that is acquired during the regular course of business.

**H. Clients' Property**

We will pay for loss of or damage to **money**, **securities** and **other property** sustained by your **client** resulting directly from **theft** committed by an identified **employee** acting alone or in collusion with other persons.

**I. Claim Expense**

We will pay for **claim expenses** incurred by you to establish the existence and amount of any covered loss under any Insuring Agreement under this Coverage Part.

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**SECTION II - DEFINITIONS**

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

- A. Banking premises** means the interior of that portion of any building occupied by a banking institution or similar safe depository.
- B. Claim expense** means necessary and reasonable expenses incurred and paid by you to establish the existence and amount of any covered loss. **Claim expense** shall not include any of your internal corporate fees or costs (direct or indirect) including, but not limited to, wages and salaries. **Claims expenses** shall not include expenses incurred by any **client**.
- C. Client** means any entity for whom you perform services under a written contract.
- D. Counterfeit money** means an imitation of **money** that is intended to deceive and to be taken as genuine.
- E. Custodian** means you, or any of your partners or **members**, or any **employee** while having care and custody of property inside the **premises**, excluding any person while acting as a **watchperson** or janitor.
- F. Discover** or **discovered** means the time when you first become aware of facts which would cause a reasonable person to assume that a loss of a type covered by this insurance has been or will be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details of loss may not then be known.

**Discover** or **discovered** also means the time when you first receive notice of an actual or potential claim in which it is alleged that you are liable to a third party under circumstances which, if true, would constitute a loss under this insurance.

**G. Employee:**

**1. Employee** means:

**a.** Any natural person:

- (1)** While in your service and for the first 30 days immediately after termination of service, unless such termination is due to **theft** or any other dishonest act committed by the **employee**;
- (2)** Who you compensate directly by salary, wages or commissions; and
- (3)** Who you have the right to direct and control while performing services for you;

**b.** Any natural person who is furnished temporarily to you:

- (1)** To substitute for a permanent **employee** as defined in Paragraph **1.a.**, who is on leave; or
- (2)** To meet seasonal or short-term work load conditions;

while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the **premises**;

**c.** Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph **1.b.**;

**d.** Any natural person who is:

- (1)** A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any **employee benefit plan**; and
- (2)** A director or trustee of yours while that person is engaged in handling **funds** or **other property** of any **employee benefit plan**;

**e.** Any natural person who is a former **employee**, partner, **member**, **manager**, director or trustee retained as a consultant while performing services for you;

**f.** Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the **premises**;

**g.** Any **employee** of an entity merged or consolidated with you prior to the effective date of this insurance; or

**h.** Any of your **managers**, directors or trustees while:

- (1)** Performing acts within the scope of the usual duties of an **employee**; or
- (2)** Acting as a member of any committee duly elected or appointed by resolution of your board of directors or board of trustees to perform specific, as distinguished from general, directorial acts on your behalf.

**2. Employee** does not mean any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in Paragraph **G.1.**

**H. Employee benefit plan** means any welfare or pension benefit plan shown in the Crime Coverage Part Declarations that you sponsor and which is subject to the Employee Retirement Income Security Act of 1974 (ERISA) and any amendments thereto.

**I. Forgery** means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.

**J. Fraudulent instruction** means:

1. An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;
  2. A written instruction (other than those described in Insuring Agreement **B.**) issued by you, which was forged or altered by someone other than you without your knowledge or consent, or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent; or
  3. An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by you which purports to have been transmitted by an **employee** but which was in fact fraudulently transmitted by someone else without your or the **employee's** knowledge or consent.
- K. Funds** means **money** and **securities**.
- L. Manager** means a person serving in a directorial capacity for a limited liability company.
- M. Member** means an owner of a limited liability company represented by its membership interest, who also may serve as a **manager**.
- N. Messenger** means you, or a relative of yours, or any of your partners or **members**, or any **employee** while having care and custody of property outside the **premises**.
- O. Money** means a medium of exchange in current use including:
1. Currency, coins, bank notes and bullion; and
  2. Travelers checks, register checks and money orders held for sale to the public.
- P. Occurrence** means:
1. Under Insuring Agreements **A.** and **H.**:
    - a. An individual act;
    - b. The combined total of all separate acts whether or not related; or
    - c. A series of acts whether or not related;
 committed by an **employee** acting alone or in collusion with other persons, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.
  2. Under Insuring Agreement **B.**:
    - a. An individual act;
    - b. The combined total of all separate acts whether or not related; or
    - c. A series of acts whether or not related;
 committed by a person acting alone or in collusion with other persons, involving one or more instruments, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.
  3. Under All Other Insuring Agreements:
    - a. An individual act or event;
    - b. The combined total of all separate acts or events whether or not related; or
    - c. A series of acts or events whether or not related;
 committed by a person acting alone or in collusion with other persons, or not committed by any person, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.
- Q. Other property** means any tangible property other than **money** and **securities** that has intrinsic value. **Other property** does not include computer programs, electronic data or any property specifically excluded under this insurance.
- R. Premises** means the interior of that portion of any building you occupy in conducting your business.
- S. Robbery** means the unlawful taking of property from the care and custody of a person by one who has:

1. Caused or threatened to cause that person bodily harm; or
  2. Committed an obviously unlawful act witnessed by that person.
- T. Safe burglary** means the unlawful taking of:
1. Property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior; or
  2. A safe or vault from inside the **premises**.
- U. Securities** means negotiable and nonnegotiable instruments or contracts representing either **money** or property and includes:
1. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
  2. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;
- but does not include **money**.
- V. Theft** means:
1. Under Insuring Agreement **H.**, the unlawful taking of property to the deprivation of your **client**.
  2. Under All Other Insuring Agreements, the unlawful taking of property to the deprivation of the Insured.
- W. Transfer account** means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of **funds**:
1. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or
  2. By means of written instructions (other than those described in Insuring Agreement **B.**) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.
- X. Watchperson** means any person you retain specifically to have care and custody of property inside the **premises** and who has no other duties.

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### SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

**A. Acts Committed by You, Your Partners or Your Members**

This insurance does not cover loss resulting from **theft** or any other dishonest act committed by:

1. You; or
2. Any of your partners or **members**;

whether acting alone or in collusion with other persons.

**B. Acts of Employees Learned of by You Prior to the Policy Period**

This insurance does not cover loss caused by an **employee** if the **employee** had also committed **theft** or any other dishonest act prior to the effective date of this insurance and you or any of your partners, **members**, **managers**, officers, directors or trustees, not in collusion with the **employee**, learned of that **theft** or dishonest act prior to the Policy Period shown in the Common Policy Declarations.

**C. Acts of Employees, Managers, Directors, Trustees or Representatives**

This insurance does not cover loss resulting from **theft** or any other dishonest act committed by any of your **employees**, **managers**, directors, trustees or authorized representatives:

1. Whether acting alone or in collusion with other persons; or
2. While performing services for you or otherwise;

except when covered under Insuring Agreements **A.** or **H.**

**D. Confidential Information**

This insurance does not cover loss resulting from:

1. The unauthorized disclosure of your confidential information including, but not limited to, patents, trade secrets, processing methods or customer lists; or
2. The unauthorized use or disclosure of confidential information of another person or entity which is held by you including, but not limited to, financial information, personal information, credit card information or similar non-public information.

**E. Governmental Action**

This insurance does not cover loss resulting from seizure or destruction of property by order of governmental authority.

**F. Indirect Loss**

This insurance does not cover loss that is an indirect result of an **occurrence** covered by this insurance including, but not limited to, loss resulting from:

1. Your inability to realize income that you would have realized had there been no loss of or damage to **money, securities or other property.**
2. Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.
3. Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance, except when covered under Insuring Agreement **I.**

**G. Legal Fees, Costs and Expenses**

This insurance does not cover fees, costs and expenses incurred by you which are related to any legal action, except when covered under Insuring Agreement **B.**

**H. Nuclear Hazard**

This insurance does not cover loss or damage resulting from nuclear reaction or radiation or radioactive contamination, however caused.

**I. Pollutants**

This insurance does not cover loss or damage caused by or resulting from pollutants. Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, petroleum and petroleum by-products, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. Pollutants include but are not limited to substances which are generally recognized in industry or government to be harmful or toxic to persons, property, or the environment regardless of whether injury or damage is caused directly or indirectly by the pollutants and whether:

1. You are regularly or otherwise engaged in activities which taint or degrade the environment; or
2. You use, generate or produce the pollutant.

**J. War and Military Action**

This insurance does not cover loss or damage resulting from:

1. War, including undeclared or civil war;
2. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
3. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**K. Inventory Shortages**

Insuring Agreement **A.** does not cover loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

1. An inventory computation; or
2. A profit and loss computation.

However, where you establish wholly apart from such computations that you have sustained a loss, then you may offer your inventory records and actual physical count of inventory in support of the amount of loss claimed.

**L. Trading**

Insuring Agreement **A.** does not cover loss resulting from trading, whether in your name or in a genuine or fictitious account.

**M. Warehouse Receipts**

Insuring Agreement **A.** does not cover loss resulting from the fraudulent or dishonest signing, issuing, cancelling or failing to cancel, a warehouse receipt or any papers connected with it.

**N. Accounting or Arithmetical Errors or Omissions**

Insuring Agreements **C.** and **D.** do not cover loss resulting from accounting or arithmetical errors or omissions.

**O. Exchanges or Purchases**

Insuring Agreements **C.** and **D.** do not cover loss resulting from the giving or surrendering of property in any exchange or purchase.

**P. Fire**

Insuring Agreements **C.** and **D.** do not cover loss or damage resulting from fire, however caused, except:

1. Loss of or damage to **money** and **securities**; and
2. Loss from damage to a safe or vault.

**Q. Money Operated Devices**

Insuring Agreements **C.** and **D.** do not cover loss of property contained in any money operated device unless the amount of **money** deposited in it is recorded by a continuous recording instrument in the device.

**R. Motor Vehicles or Equipment and Accessories**

Insuring Agreements **C.** and **D.** do not cover loss of or damage to motor vehicles, trailers or semi-trailers or equipment and accessories attached to them.

**S. Transfer or Surrender of Property**

Insuring Agreements **C.** and **D.** do not cover loss of or damage to property after it has been transferred or surrendered to a person or place outside the **premises** or **banking premises**:

1. On the basis of unauthorized instructions;
2. As a result of a threat to do bodily harm to any person;
3. As a result of a threat to do damage to any property;
4. As a result of a threat to introduce a denial of service attack into your computer system;
5. As a result of a threat to introduce a virus or other malicious instruction into your computer system which is designed to damage, destroy or corrupt data or computer programs stored within your computer system;
6. As a result of a threat to contaminate, pollute or render substandard your products or goods; or
7. As a result of a threat to disseminate, divulge or utilize:
  - a. Your confidential information; or

- b. Weaknesses in the source code within your computer system.

But, this Exclusion does not apply under Insuring Agreement **D.** to loss of **money, securities** or **other property** while outside the **premises** in the care and custody of a **messenger** if you had no knowledge of any threat at the time the conveyance began or had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

**T. Vandalism**

Insuring Agreements **C.** and **D.** do not cover loss from damage to the **premises** or its exterior, or to any safe, vault, cash register, cash box, cash drawer or **other property** by vandalism or malicious mischief.

**U. Voluntary Parting of Title to or Possession of Property**

Insuring Agreements **C.** and **D.** do not cover loss resulting from your, or anyone acting on your express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.

**V. Credit Card Transactions**

Insuring Agreement **E.** does not cover loss resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

**W. Funds Transfer Fraud**

Insuring Agreement **E.** does not cover loss resulting from a **fraudulent instruction** directing a financial institution to transfer, pay or deliver **funds** from your **transfer account**.

**X. Inventory Shortages**

Insuring Agreement **E.** does not cover loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

1. An inventory computation; or
2. A profit and loss computation.

**Y. Computer Fraud**

Insuring Agreement **F.** does not cover loss resulting from the use of a computer to fraudulently cause a transfer of **money, securities** or **other property**.

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## SECTION IV - LIMIT OF INSURANCE

The most we will pay for all loss resulting directly from an **occurrence** is the applicable Limit of Insurance shown in the Crime Coverage Part Declarations.

If any loss is covered under more than one Insuring Agreement or Coverage, the most we will pay for such loss shall not exceed the largest Limit of Insurance available under any one of those Insuring Agreements or Coverages.

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## SECTION V - DEDUCTIBLE

We will not pay for loss resulting directly from an **occurrence** unless the amount of loss exceeds the Deductible Amount shown in the Crime Coverage Part Declarations. We will then pay the amount of loss in excess of the Deductible Amount, up to the Limit of Insurance.

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## SECTION VI - CONDITIONS

**A. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS**

**1. Additional Premises or Employees**

If, while this insurance is in force, you establish any additional **premises** or hire additional **employees**, other than through consolidation or merger with, or purchase or acquisition of assets or liabilities of, another entity, such **premises** and **employees** shall automatically be covered under this insurance. Notice to us of an increase in the number of **employees** or **employees** need not be given

and no additional premium need be paid for the remainder of the Policy Period shown in the Common Policy Declarations.

## 2. Concealment, Misrepresentation or Fraud

This insurance is void in any case of fraud by you as it relates to this insurance at any time. It is also void if you or any other Insured, at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This insurance;
- b. The property covered under this insurance;
- c. Your interest in the property covered under this insurance; or
- d. A claim under this insurance.

## 3. Consolidation - Merger or Acquisition

If you consolidate or merge with, or purchase or acquire the assets or liabilities of, another entity:

- a. You must give us written notice as soon as possible and obtain our written consent to extend the coverage provided by this insurance to such consolidated or merged entity or such purchased or acquired assets or liabilities. We may condition our consent by requiring payment of an additional premium; but
- b. For the first 90 days after the effective date of such consolidation, merger or purchase or acquisition of assets or liabilities, the coverage provided by this insurance shall apply to such consolidated or merged entity or such purchased or acquired assets or liabilities, provided that all **occurrences** causing or contributing to a loss involving such consolidation, merger or purchase or acquisition of assets or liabilities, must take place after the effective date of such consolidation, merger or purchase or acquisition of assets or liabilities.

## 4. Cooperation

You must cooperate with us in all matters pertaining to this insurance as stated in its terms and conditions.

## 5. Duties in the Event of Loss

After you **discover** a loss or a situation that may result in loss of or damage to **money, securities or other property** you must:

- a. Notify us as soon as possible. If you have reason to believe that any loss (except for loss covered under Insuring Agreement **A.**, **B.** or **H.**) involves a violation of law, you must also notify the local law enforcement authorities.
- b. Submit to examination under oath at our request and give us a signed statement of your answers.
- c. Produce for our examination all pertinent records.
- d. Give us a detailed, sworn proof of loss within 120 days.
- e. Cooperate with us in the investigation and settlement of any claim.

## 6. Employee Benefit Plans

- a. The **employee benefit plans** shown in the Crime Coverage Part Declarations (hereafter referred to as Plan) are included as Insureds under Insuring Agreement **A.**
- b. If any Plan is insured jointly with any other entity under this insurance, you or the Plan Administrator must select a Limit of Insurance for Insuring Agreement **A.** that is sufficient to provide a Limit of Insurance for each Plan that is at least equal to that required if each Plan were separately insured.
- c. With respect to loss sustained or **discovered** by any such Plan, Insuring Agreement **A.** is replaced by the following:

We will pay for loss of or damage to **funds and other property** resulting directly from fraudulent or dishonest acts committed by an **employee**, whether identified or not, acting alone or in collusion with other persons.



- d. If the first Named Insured is an entity other than a Plan, any payment we make for loss sustained by any Plan will be made to the Plan sustaining the loss.
- e. If two or more Plans are insured under this insurance, any payment we make for loss:
  - (1) Sustained by two or more Plans; or
  - (2) Of commingled **funds** or **other property** of two or more Plans;
 resulting directly from an **occurrence** will be made to each Plan sustaining loss in the proportion that the Limit of Insurance required for each Plan bears to the total Limit of Insurance of all Plans sustaining loss.
- f. The Deductible Amount applicable to Insuring Agreement **A.** does not apply to loss sustained by any Plan.

7. Extended Period to Discover Loss

We will pay for loss that you sustained prior to the effective date of cancellation of this insurance, which is **discovered** by you:

- a. No later than 60 days from the date of that cancellation. However, this extended period to **discover** loss terminates immediately upon the effective date of any other insurance obtained by you, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for loss sustained prior to its effective date.
- b. No later than 1 year from the date of that cancellation with regard to any **employee benefit plans**.

8. Joint Insured

- a. If more than one Insured is named in the Crime Coverage Part Declarations, the first Named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first Named Insured ceases to be covered, then the next Named Insured will become the first Named Insured.
- b. If any Insured, or partner, **member** or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.
- c. An **employee** of any Insured is considered to be an **employee** of every Insured.
- d. If this insurance or any of its coverages is cancelled as to any Insured, loss sustained by that Insured is covered only if it is **discovered** by you:
  - (1) No later than 60 days from the date of that cancellation. However, this extended period to **discover** loss terminates immediately upon the effective date of any other insurance obtained by that Insured, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for loss sustained prior to its effective date.
  - (2) No later than 1 year from the date of that cancellation with regard to any **employee benefit plans**.
- e. We will not pay more for loss sustained by more than one Insured than the amount we would pay if all such loss had been sustained by one Insured.
- f. Payment by us to the first Named Insured for loss sustained by any Insured, other than an **employee benefit plan**, shall fully release us on account of such loss.

9. Legal Action Against Us

You may not bring any legal action against us involving loss:

- a. Unless you have complied with all the terms of this insurance;
- b. Until 90 days after you have filed proof of loss with us; and
- c. Unless brought within 2 years from the date you **discovered** the loss.

If any limitation in this Condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

## 10. Liberalization

If we adopt any revision that would broaden the coverage under this insurance and would be effective during the Policy Period without additional premium, the broadened coverage will immediately apply to this insurance as of the latter of:

- a. The date we implemented the change in the headquarters state which is the basis upon which the policy was issued; or
- b. The date the applicable Coverage Part became effective.

## 11. Other Insurance

If other valid and collectible insurance is available to you for loss covered under this insurance, our obligations are limited as follows:

### a. Primary Insurance:

When this insurance is written as primary insurance, and:

- (1) You have other insurance subject to the same terms and conditions as this insurance, we will pay our share of the covered loss. Our share is the proportion that the applicable Limit of Insurance shown in the Crime Coverage Part Declarations bears to the total limit of all insurance covering the same loss.
- (2) You have other insurance covering the same loss other than that described in Paragraph a.(1), we will only pay for the amount of loss that exceeds:
  - (a) The Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not; or
  - (b) The Deductible Amount shown in the Crime Coverage Part Declarations;whichever is greater. Our payment for loss is subject to the terms and conditions of this insurance.

### b. Excess Insurance:

- (1) When this insurance is written excess over other insurance, we will only pay for the amount of loss that exceeds the Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not. Our payment for loss is subject to the terms and conditions of this insurance.
- (2) However, if loss covered under this insurance is subject to a Deductible, we will reduce the Deductible Amount shown in the Crime Coverage Part Declarations, by the sum total of all such other insurance plus any Deductible Amount applicable to that other insurance.

## 12. Ownership of Property; Interests Covered

The property covered under this insurance is limited to property:

- a. That you own or lease; or
- b. That you hold for others whether or not you are legally liable for the loss of such property.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization. Any claim for loss that is covered under this insurance must be presented by you.

## 13. Policy Bridge - Discovery Replacing Loss Sustained

a. If this insurance replaces insurance that provided you with an extended period of time after cancellation in which to discover loss and which did not terminate at the time this insurance became effective:

- (1) We will not pay for any loss that occurred during the Policy Period of that prior insurance which is **discovered** by you during the extended period to **discover** loss, unless the amount of loss exceeds the Limit of Insurance and Deductible Amount of that prior insurance. In that case, we will pay for the excess loss subject to the terms and conditions of this policy.
- (2) However, any payment we make for the excess loss will not be greater than the difference between the Limit of Insurance and Deductible Amount of that prior insurance and the Limit

of Insurance shown in the Crime Coverage Part Declarations. We will not apply the Deductible Amount shown in the Crime Coverage Part Declarations to this excess loss.

b. The Other Insurance Condition **A.11.** does not apply to this Condition.

**14. Records**

You must keep records of all property covered under this insurance so we can verify the amount of any loss.

**15. Recoveries**

a. Any recoveries, whether effected before or after any payment under this insurance, whether made by us or you, shall be applied net of the expense of such recovery:

- (1) First, to you in satisfaction of your covered loss in excess of the amount paid under this insurance;
- (2) Second, to us in satisfaction of amounts paid in settlement of your claim;
- (3) Third, to you in satisfaction of any Deductible Amount; and
- (4) Fourth, to you in satisfaction of any loss not covered under this insurance.

b. Recoveries do not include any recovery:

- (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
- (2) Of original **securities** after duplicates of them have been issued.

**16. Territory**

This insurance covers loss that you sustain resulting directly from an **occurrence** taking place within the United States of America (including its territories and possessions), Puerto Rico and Canada.

**17. Transfer of Your Rights of Recovery Against Others to Us**

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

**18. Valuation - Settlement**

a. The value of any loss for purposes of coverage under this policy shall be determined as follows:

- (1) Loss of **money** but only up to and including its face value. We will, at your option, pay for loss of **money** issued by any country other than the United States of America:
  - (a) At face value in the **money** issued by that country; or
  - (b) In the United States of America dollar equivalent determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was **discovered**.
- (2) Loss of **securities** but only up to and including their value at the close of business on the day the loss was **discovered**. We may, at our option:
  - (a) Pay the market value of such **securities** or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those **securities**; or
  - (b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the **securities**. However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
    - 1) Market value of the **securities** at the close of business on the day the loss was **discovered**; or
    - 2) The Limit of Insurance applicable to the **securities**.
- (3) Loss of or damage to **other property** or loss from damage to the **premises** or its exterior for the replacement cost of the property without deduction for depreciation. However, we will not pay more than the least of the following:

- (a) The cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose;
- (b) The amount you actually spend that is necessary to repair or replace the lost or damaged property; or
- (c) The Limit of Insurance applicable to the lost or damaged property.

With regard to Paragraphs **18.a.(3)(a)** through **18.a.(3)(c)**, we will not pay on a replacement cost basis for any loss or damage:

- 1) Until the lost or damaged property is actually repaired or replaced; and
- 2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

If the lost or damaged property is not repaired or replaced, we will pay on an actual cash value basis.

b. We will, at your option, settle loss or damage to property other than **money**:

- (1) In the **money** of the country in which the loss or damage occurred; or
- (2) In the United States of America dollar equivalent of the **money** of the country in which the loss or damage occurred determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was **discovered**.

c. Any property that we pay for or replace becomes our property.

#### 19. Changes in This Coverage Part

No change or modification of, or assignment of interest under this Coverage Part shall be effective except when made by us through a written endorsement to this policy.

### B. CONDITIONS APPLICABLE TO INSURING AGREEMENT A.

#### 1. Termination as to Any Employee

This Insuring Agreement terminates as to any **employee**:

a. As soon as:

- (1) You; or
- (2) Any of your partners, **members**, **managers**, officers, directors or trustees not in collusion with the **employee**;

learn of **theft** or any other dishonest act committed by the **employee** whether before or after becoming employed by you.

b. On the date specified in a notice mailed to the first Named Insured. That date will be at least 30 days after the date of mailing.

We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice.

#### 2. Territory

We will pay for loss caused by any **employee** while temporarily outside the territory specified in the Territory Condition **A.16**. for a period of not more than 90 consecutive days.

### C. CONDITIONS APPLICABLE TO INSURING AGREEMENT B.

#### 1. Deductible Amount

The Deductible Amount does not apply to legal expenses paid under Insuring Agreement **B**.

#### 2. Electronic and Mechanical Signatures

We will treat signatures that are produced or reproduced electronically, mechanically or by other means the same as handwritten signatures.

3. Proof of Loss

You must include with your proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.

4. Territory

We will cover loss that you sustain resulting directly from an **occurrence** taking place anywhere in the world. Territory Condition **A.16.** does not apply to Insuring Agreement **B.**

**D. CONDITIONS APPLICABLE TO INSURING AGREEMENT C. and D.**

1. Armored Motor Vehicle Companies

Under Insuring Agreement **D.**, we will only pay for the amount of loss you cannot recover:

- a. Under your contract with the armored motor vehicle company; and
- b. From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

2. Special Limit of Insurance for Specified Property

We will only pay up to \$5,000 for any one **occurrence** of loss of or damage to:

- a. Precious metals (other than bullion), precious or semi-precious stones, pearls, furs, or completed or partially completed articles made of or containing such materials that constitute the principal value of such articles; or
- b. Manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.

**E. CONDITIONS APPLICABLE TO INSURING AGREEMENT E.**

1. Special Limit of Insurance for Specified Property

We will only pay up to \$5,000 for any one **occurrence** of loss of or damage to manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.

2. Territory

We will cover loss that you sustain resulting directly from an **occurrence** taking place anywhere in the world. Territory Condition **A.16.** does not apply to Insuring Agreement **E.**

**F. CONDITIONS APPLICABLE TO INSURING AGREEMENT H.**

1. Ownership of Property; Interests Covered

The property covered under this Insuring Agreement is limited to property:

- a. That your **client** owns or leases; or
- b. That your **client** holds for others whether or not your **client** is legally liable for the loss of such property.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization including your **client**. Any claim for loss that is covered under this Insuring Agreement must be presented by you. Ownership of Property; Interests Covered Condition **A.12.** does not apply to Insuring Agreement **H.**

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **CHANGE IN CONTROL OF THE INSURED - NOTICE TO THE COMPANY**

This endorsement modifies insurance provided under the following:

### **CRIME COVERAGE**

1. The following Condition is added to **SECTION VI – CONDITIONS:**

Change In Control - Notice To Us

- a. When you learn of a change in control, you shall give us written notice as soon as possible, but not to exceed 60 days from the date of such change in control.
- b. As used in this Condition, control means the power to determine the management or policy of the Insured or of a controlling holding company by virtue of voting stock ownership. A change in ownership of voting stock which results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of more than 10% of such stock shall be presumed to result in a change of control for the purpose of the required notice.
- c. Failure to give the required notice shall result in cancellation of coverage for any loss involving a transferee, to be effective upon the date of the stock transfer.
- d. A change in ownership which results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of more than 50% of the voting stock of the first Named Insured shall cause this coverage form to be cancelled as set forth in Paragraphs **2** and **3**.

2. The following Condition is added to **SECTION VI – CONDITIONS:**

Cancellation of Coverage

This coverage form is cancelled immediately upon the effective date of the first Named Insured being acquired by another entity. Acquired means a change in control where the power to determine the management or policy of the first Named Insured has changed by virtue of a change of ownership which results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of more than 50% of its voting stock, regardless as to the changes to the core functions of the acquired entity.

3. Paragraph **a.** of the Joint Insured Condition is replaced by the following:

- a. If more than one Insured is named in the Declarations, the first Named Insured will act for itself and for every other Insured for all purposes of this coverage form.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADD CREDIT, DEBIT OR CHARGE CARD FORGERY**

This endorsement modifies insurance provided under the following:

**CRIME COVERAGE**

and applies to the Forgery or Alteration Insuring Agreement:

**SCHEDULE**

Limit of Insurance	Covered Instruments
\$75,000	<input type="checkbox"/> Includes written instruments required in conjunction with any credit, debit or charge card issued to you or any <b>employee</b> for business purposes.
	<input checked="" type="checkbox"/> Limited to written instruments required in conjunction with any credit, debit or charge card issued to you or any <b>employee</b> for business purposes.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

1. Covered Instruments either includes or is limited to, whichever is indicated as applicable in the Schedule, written instruments required in conjunction with any credit, debit or charge card issued to you or any **employee** for business purposes.
2. The most we will pay in any one **occurrence** is the Limit of Insurance shown in the Schedule.
3. The following exclusion is added to **SECTION III - EXCLUSIONS**:

Non-Compliance With Credit, Debit or Charge Card Issuer's Requirements

The Forgery or Alteration Insuring Agreement does not apply to Loss arising from any credit, debit or charge card if you have not complied fully with the provisions, conditions or other terms under which the card was issued.

# The Cincinnati Insurance Company

A Stock Insurance Company

## CRIME XC+<sup>®</sup> (EXPANDED COVERAGE PLUS) COVERAGE PART DECLARATIONS

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Policy Number: **EMN 046 61 26**

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Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

Insuring Agreements	Limit of Insurance	Deductible Amount
Employee Theft	\$25,000	\$500
Forgery or Alteration	\$25,000	\$500
Inside the Premises - Theft of Money and Securities	\$25,000	\$500
Outside the Premises - Theft of Money and Securities	\$5,000	\$500
Money Orders and Counterfeit Money	\$25,000	\$500

Forms and endorsements applicable to this coverage part:

**ML117 01/16 CRIME EXPANDED COVERAGE (XCc)**



# CRIME EXPANDED COVERAGE (XC<sup>®</sup>)

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# CRIME EXPANDED COVERAGE (XC<sup>®</sup>)

Throughout this Coverage Part the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

## SECTION I - INSURING AGREEMENTS

Coverage is provided under the following Insuring Agreements for which a Limit of Insurance is shown in the Declarations and applies to loss that you sustain resulting directly from an **occurrence** taking place at any time which is **discovered** by you during the Policy Period shown in the Common Policy Declarations or during the period of time provided in the Extended Period to Discover Loss Condition **VI.A.7.:**

### A. Employee Theft

We will pay for loss of or damage to **money, securities and other property** resulting directly from **theft** committed by an **employee**, whether identified or not, acting alone or in collusion with other persons.

For the purposes of this Insuring Agreement, **theft** shall also include forgery.

### B. Forgery or Alteration

1. We will pay for loss resulting directly from **forgery** or alteration of checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in **money** that are:

- a. Made or drawn by or drawn upon you; or
- b. Made or drawn by one acting as your agent;

or that are purported to have been so made or drawn.

For the purposes of this Insuring Agreement, a substitute check as defined in the Check Clearing for the 21st Century Act shall be treated the same as the original it replaced.

2. If you are sued for refusing to pay any instrument covered in Paragraph **B.1.**, on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur and pay in that defense. The amount that we will pay is in addition to the Limit of Insurance applicable to this Insuring Agreement.

### C. Inside the Premises - Theft of Money and Securities

1. We will pay for loss of **money** and **securities** inside the **premises** or **banking premises**:
  - a. Resulting directly from **theft** committed by a person present inside such **premises** or **banking premises**; or
  - b. Resulting directly from disappearance or destruction.
2. We will pay for loss from damage to the **premises** or its exterior resulting directly from an actual or attempted **theft** of **money** and **securities**, if you are the owner of the **premises** or are liable for damage to it.
3. We will pay for loss of or damage to a locked safe, vault, cash register, cash box or cash drawer located inside the **premises** resulting directly from an actual or attempted **theft** of or unlawful entry into those containers.

### D. Outside the Premises - Theft of Money and Securities

We will pay for loss of **money** and **securities** outside the **premises** in the care and custody of a **messenger** or an armored motor vehicle company resulting directly from **theft**, disappearance or destruction.

### E. Money Orders and Counterfeit Money

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, **money** or services:

1. Money orders issued by any post office, express company or bank that are not paid upon presentation; or

2. **Counterfeit money** that is acquired during the regular course of business.

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**SECTION II - DEFINITIONS**

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

- A. Banking premises** means the interior of that portion of any building occupied by a banking institution or similar safe depository.
- B. Counterfeit money** means an imitation of **money** that is intended to deceive and to be taken as genuine.
- C. Discover** or **discovered** means the time when you first become aware of facts which would cause a reasonable person to assume that a loss of a type covered by this insurance has been or will be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details of loss may not then be known.

**Discover** or **discovered** also means the time when you first receive notice of an actual or potential claim in which it is alleged that you are liable to a third party under circumstances which, if true, would constitute a loss under this insurance.

**D. Employee:**

**1. Employee** means:

**a.** Any natural person:

- (1)** While in your service and for the first 30 days immediately after termination of service, unless such termination is due to **theft** or any other dishonest act committed by the **employee**;
- (2)** Who you compensate directly by salary, wages or commissions; and
- (3)** Who you have the right to direct and control while performing services for you;

**b.** Any natural person who is furnished temporarily to you:

- (1)** To substitute for a permanent **employee** as defined in Paragraph **1.a.**, who is on leave; or
- (2)** To meet seasonal or short-term work load conditions;

while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the **premises**;

**c.** Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph **1.b.**;

**d.** Any natural person who is:

- (1)** A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any **employee benefit plan**; and
- (2)** A director or trustee of yours while that person is engaged in handling **funds** or **other property** of any **employee benefit plan**;

**e.** Any natural person who is a former **employee**, partner, **member**, **manager**, director or trustee retained as a consultant while performing services for you;

**f.** Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the **premises**;

**g.** Any **employee** of an entity merged or consolidated with you prior to the effective date of this insurance; or

**h.** Any of your **managers**, directors or trustees while:

- (1)** Performing acts within the scope of the usual duties of an **employee**; or

- (2) Acting as a member of any committee duly elected or appointed by resolution of your board of directors or board of trustees to perform specific, as distinguished from general, directorial acts on your behalf.
2. **Employee** does not mean any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in Paragraph **D.1**.
- E. **Employee benefit plan** means any welfare or pension benefit plan that you sponsor and which is subject to the Employee Retirement Income Security Act of 1974 (ERISA) and any amendments thereto.
- F. **Forgery** means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.
- G. **Funds** means **money** and **securities**.
- H. **Manager** means a person serving in a directorial capacity for a limited liability company.
- I. **Member** means an owner of a limited liability company represented by its membership interest, who also may serve as a **manager**.
- J. **Messenger** means you, or a relative of yours, or any of your partners or **members**, or any **employee** while having care and custody of property outside the **premises**.
- K. **Money** means:
1. Currency, coins and bank notes in current use and having a face value; and
  2. Travelers checks, register checks and money orders held for sale to the public.
- L. **Occurrence** means:
1. Under Insuring Agreement **A.**:
    - a. An individual act;
    - b. The combined total of all separate acts whether or not related; or
    - c. A series of acts whether or not related;
 committed by an **employee** acting alone or in collusion with other persons, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.
  2. Under Insuring Agreement **B.**:
    - a. An individual act;
    - b. The combined total of all separate acts whether or not related; or
    - c. A series of acts whether or not related;
 committed by a person acting alone or in collusion with other persons, involving one or more instruments, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.
  3. Under All Other Insuring Agreements:
    - a. An individual act or event;
    - b. The combined total of all separate acts or events whether or not related; or
    - c. A series of acts or events whether or not related;
 committed by a person acting alone or in collusion with other persons, or not committed by any person, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.
- M. **Other property** means any tangible property other than **money** and **securities** that has intrinsic value. **Other property** does not include computer programs, electronic data or any property specifically excluded under this insurance.
- N. **Policy year** means the period within the Policy Period from the inception date as set forth in the Common Policy Declarations to the succeeding anniversary date exactly 1 year later at 12:01 AM standard time, and

**policy year** means any subsequent annual period between anniversary dates at 12:01 AM standard time thereafter. In the event of a Policy Period less than 1 year, the **policy year** will be the same as the Policy Period.

In the event of an odd term Policy Period longer than 1 year, the **policy year** is the period from the inception date to the next chronological date which precedes the expiration date by exactly 1 or more years at 12:01 AM standard time. If there are subsequent annual periods remaining in the Policy Period after that date at 12:01 AM standard time, such annual periods will each be a **policy year**.

However, if after the issuance of this Coverage Part, any **policy year** is extended for an additional period of less than 12 months, that additional period of time will be deemed to be part of the last preceding **policy year**.

- O. Premises** means the interior of that portion of any building you occupy in conducting your business.
- P. Securities** means negotiable and nonnegotiable instruments or contracts representing either **money** or property and includes:
1. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
  2. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you; but does not include **money**.
- Q. Theft** means the unlawful taking of property to the deprivation of the Insured.
- R. Watchperson** means any person you retain specifically to have care and custody of property inside the **premises** and who has no other duties.

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### SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

**A. Acts Committed by You, Your Partners or Your Members**

This insurance does not cover loss resulting from **theft** or any other dishonest act committed by:

1. You; or
2. Any of your partners or **members**;

whether acting alone or in collusion with other persons.

**B. Acts of Employees Learned of by You Prior to the Policy Period**

This insurance does not cover loss caused by an **employee** if the **employee** had also committed **theft** or any other dishonest act prior to the effective date of this insurance and you or any of your partners, **members, managers, officers, directors or trustees**, not in collusion with the **employee**, learned of that **theft** or dishonest act prior to the Policy Period shown in the Common Policy Declarations.

**C. Acts of Employees, Managers, Directors, Trustees or Representatives**

This insurance does not cover loss resulting from **theft** or any other dishonest act committed by any of your **employees, managers, directors, trustees or authorized representatives**:

1. Whether acting alone or in collusion with other persons; or
2. While performing services for you or otherwise;

except when covered under Insuring Agreement **A**.

**D. Confidential Information**

This insurance does not cover loss resulting from:

1. The unauthorized disclosure of your confidential information including, but not limited to, patents, trade secrets, processing methods or customer lists; or

2. The unauthorized use or disclosure of confidential information of another person or entity which is held by you including, but not limited to, financial information, personal information, credit card information or similar non-public information.

**E. Governmental Action**

This insurance does not cover loss resulting from seizure or destruction of property by order of governmental authority.

**F. Indirect Loss**

This insurance does not cover loss that is an indirect result of an **occurrence** covered by this insurance including, but not limited to, loss resulting from:

1. Your inability to realize income that you would have realized had there been no loss of or damage to **money, securities or other property**.
2. Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.
3. Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.

**G. Legal Fees, Costs and Expenses**

This insurance does not cover fees, costs and expenses incurred by you which are related to any legal action, except when covered under Insuring Agreement **B**.

**H. Nuclear Hazard**

This insurance does not cover loss or damage resulting from nuclear reaction or radiation or radioactive contamination, however caused.

**I. Pollutants**

This insurance does not cover loss or damage caused by or resulting from pollutants. Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, petroleum and petroleum by-products, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. Pollutants include but are not limited to substances which are generally recognized in industry or government to be harmful or toxic to persons, property, or the environment regardless of whether injury or damage is caused directly or indirectly by the pollutants and whether:

1. You are regularly or otherwise engaged in activities which taint or degrade the environment; or
2. You use, generate or produce the pollutant.

**J. War and Military Action**

This insurance does not cover loss or damage resulting from:

1. War, including undeclared or civil war;
2. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
3. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**K. Inventory Shortages**

Insuring Agreement **A** does not cover loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

1. An inventory computation; or
2. A profit and loss computation.

However, where you establish wholly apart from such computations that you have sustained a loss, then you may offer your inventory records and actual physical count of inventory in support of the amount of loss claimed.

**L. Trading**

Insuring Agreement **A.** does not cover loss resulting from trading, whether in your name or in a genuine or fictitious account.

**M. Warehouse Receipts**

Insuring Agreement **A.** does not cover loss resulting from the fraudulent or dishonest signing, issuing, cancelling or failing to cancel, a warehouse receipt or any papers connected with it.

**N. Accounting or Arithmetical Errors or Omissions**

Insuring Agreements **C.** and **D.** do not cover loss resulting from accounting or arithmetical errors or omissions.

**O. Exchanges or Purchases**

Insuring Agreements **C.** and **D.** do not cover loss resulting from the giving or surrendering of property in any exchange or purchase.

**P. Fire**

Insuring Agreements **C.** and **D.** do not cover loss or damage resulting from fire, however caused, except:

1. Loss of or damage to **money** and **securities**; and
2. Loss from damage to a safe or vault.

**Q. Money Operated Devices**

Insuring Agreements **C.** and **D.** do not cover loss of property contained in any money operated device unless the amount of **money** deposited in it is recorded by a continuous recording instrument in the device.

**R. Motor Vehicles or Equipment and Accessories**

Insuring Agreements **C.** and **D.** do not cover loss of or damage to motor vehicles, trailers or semi-trailers or equipment and accessories attached to them.

**S. Transfer or Surrender of Property**

1. Insuring Agreements **C.** and **D.** do not cover loss of or damage to property after it has been transferred or surrendered to a person or place outside the **premises** or **banking premises**:
  - a. On the basis of unauthorized instructions;
  - b. As a result of a threat to do bodily harm to any person;
  - c. As a result of a threat to do damage to any property;
  - d. As a result of a threat to introduce a denial of service attack into your computer system;
  - e. As a result of a threat to introduce a virus or other malicious instruction into your computer system which is designed to damage, destroy or corrupt data or computer programs stored within your computer system;
  - f. As a result of a threat to contaminate, pollute or render substandard your products or goods; or
  - g. As a result of a threat to disseminate, divulge or utilize:
    - (1) Your confidential information; or
    - (2) Weaknesses in the source code within your computer system.
2. But, this Exclusion does not apply under Insuring Agreement **D.** to loss of **money, securities** or **other property** while outside the **premises** in the care and custody of a **messenger** if you:
  - a. Had no knowledge of any threat at the time the conveyance began; or
  - b. Had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

**T. Vandalism**

Insuring Agreements **C.** and **D.** do not cover loss from damage to the **premises** or its exterior, or to any safe, vault, cash register, cash box, cash drawer or **other property** by vandalism or malicious mischief.

**U. Voluntary Parting of Title to or Possession of Property**

Insuring Agreements **C.** and **D.** do not cover loss resulting from your, or anyone acting on your express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.

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**SECTION IV - LIMIT OF INSURANCE**

- A.** The most we will pay for all loss resulting directly from an **occurrence** is the applicable Limit of Insurance shown in the Declarations.
- B.** If any loss is covered under more than one Insuring Agreement or Coverage, the most we will pay for such loss shall not exceed the largest Limit of Insurance available under any one of those Insuring Agreements or Coverages.
- C.** The Limits of Insurance stated in the Declarations are the most we will pay for all loss under any one Insuring Agreement or Coverage in any one **policy year**, regardless of the number of **occurrences**.

The Limits of Insurance of this Coverage Part apply separately to each **policy year**.

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**SECTION V - DEDUCTIBLE**

- A.** We will not pay for loss resulting directly from an **occurrence** unless the amount of loss exceeds the Deductible Amount shown in the Declarations. We will then pay the amount of loss in excess of the Deductible Amount, up to the Limit of Insurance.
- B.** In the event this insurance applies on an excess basis per Paragraph **b.(3)** in Condition **VI.A.11. Other Insurance**, then only the single highest deductible will apply to the loss.

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**SECTION VI - CONDITIONS**

**A. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS**

**1. Additional Premises or Employees**

If, while this insurance is in force, you establish any additional **premises** or hire additional **employees**, other than through consolidation or merger with, or purchase or acquisition of assets or liabilities of, another entity, such **premises** and **employees** shall automatically be covered under this insurance. Notice to us of an increase in the number of **premises** or **employees** need not be given and no additional premium need be paid for the remainder of the Policy Period shown in the Common Policy Declarations.

**2. Concealment, Misrepresentation or Fraud**

This insurance is void in any case of fraud by you as it relates to this insurance at any time. It is also void if you or any other Insured, at any time, intentionally conceal or misrepresent a material fact concerning:

- a.** This insurance;
- b.** The property covered under this insurance;
- c.** Your interest in the property covered under this insurance; or
- d.** A claim under this insurance.

**3. Consolidation - Merger or Acquisition**

If you consolidate or merge with, or purchase or acquire the assets or liabilities of, another entity:

- a.** You must give us written notice as soon as possible and obtain our written consent to extend the coverage provided by this insurance to such consolidated or merged entity or such purchased or



acquired assets or liabilities. We may condition our consent by requiring payment of an additional premium; but

- b. For the first 90 days after the effective date of such consolidation, merger or purchase or acquisition of assets or liabilities, the coverage provided by this insurance shall apply to such consolidated or merged entity or such purchased or acquired assets or liabilities, provided that all **occurrences** causing or contributing to a loss involving such consolidation, merger or purchase or acquisition of assets or liabilities, must take place after the effective date of such consolidation, merger or purchase or acquisition of assets or liabilities.

#### 4. Cooperation

You must cooperate with us in all matters pertaining to this insurance as stated in its terms and conditions.

#### 5. Duties in the Event of Loss

After you **discover** a loss or a situation that may result in loss of or damage to **money, securities or other property** you must:

- a. Notify us as soon as possible. If you have reason to believe that any loss (except for loss covered under Insuring Agreement **A.** or **B.**) involves a violation of law, you must also notify the local law enforcement authorities.
- b. Submit to examination under oath at our request and give us a signed statement of your answers.
- c. Produce for our examination all pertinent records.
- d. Give us a detailed, sworn proof of loss within 120 days.
- e. Cooperate with us in the investigation and settlement of any claim.

#### 6. Employee Benefit Plans

- a. The **employee benefit plans** (hereafter referred to as Plan) are included as Insureds under Insuring Agreement **A.**
- b. If any Plan is insured jointly with any other entity under this insurance, you or the Plan Administrator must select a Limit of Insurance for Insuring Agreement **A.** that is sufficient to provide a Limit of Insurance for each Plan that is at least equal to that required if each Plan were separately insured.

- c. With respect to loss sustained or **discovered** by any such Plan, Insuring Agreement **A.** is replaced by the following:

We will pay for loss of or damage to **funds** and **other property** resulting directly from fraudulent or dishonest acts committed by an **employee**, whether identified or not, acting alone or in collusion with other persons.

- d. If the first Named Insured is an entity other than a Plan, any payment we make for loss sustained by any Plan will be made to the Plan sustaining the loss.
- e. If two or more Plans are insured under this insurance, any payment we make for loss:
  - (1) Sustained by two or more Plans; or
  - (2) Of commingled **funds** or **other property** of two or more Plans;

resulting directly from an **occurrence** will be made to each Plan sustaining loss in the proportion that the Limit of Insurance required for each Plan bears to the total Limit of Insurance of all Plans sustaining loss.

- f. The Deductible Amount applicable to Insuring Agreement **A.** does not apply to loss sustained by any Plan.

#### 7. Extended Period to Discover Loss

We will pay for loss that you sustained prior to the effective date of cancellation of this insurance, which is **discovered** by you:

- a. No later than 60 days from the date of that cancellation. However, this extended period to **discover** loss terminates immediately upon the effective date of any other insurance obtained by you, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for loss sustained prior to its effective date.
- b. No later than 1 year from the date of that cancellation with regard to any **employee benefit plans**.

8. Joint Insured

- a. If more than one Insured is named in the Declarations, the first Named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first Named Insured ceases to be covered, then the next Named Insured will become the first Named Insured.
- b. If any Insured, or partner, **member** or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.
- c. An **employee** of any Insured is considered to be an **employee** of every Insured.
- d. If this insurance or any of its coverages is cancelled as to any Insured, loss sustained by that Insured is covered only if it is **discovered** by you:
  - (1) No later than 60 days from the date of that cancellation. However, this extended period to **discover** loss terminates immediately upon the effective date of any other insurance obtained by that Insured, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for loss sustained prior to its effective date.
  - (2) No later than 1 year from the date of that cancellation with regard to any **employee benefit plans**.
- e. We will not pay more for loss sustained by more than one Insured than the amount we would pay if all such loss had been sustained by one Insured.
- f. Payment by us to the first Named Insured for loss sustained by any Insured, other than an **employee benefit plan**, shall fully release us on account of such loss.

9. Legal Action Against Us

You may not bring any legal action against us involving loss:

- a. Unless you have complied with all the terms of this insurance;
- b. Until 90 days after you have filed proof of loss with us; and
- c. Unless brought within 2 years from the date you **discovered** the loss.

If any limitation in this Condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

10. Liberalization

If we adopt any revision that would broaden the coverage under this insurance and would be effective during the Policy Period without additional premium, the broadened coverage will immediately apply to this insurance as of the latter of:

- a. The date we implemented the change in the headquarters state which is the basis upon which the policy was issued; or
- b. The date the applicable Coverage Part became effective.

11. Other Insurance

If other valid and collectible insurance is available to you for loss covered under this insurance, our obligations are limited as follows:

- a. Primary Insurance:

When this insurance is written as primary insurance, and:

- (1) You have other insurance subject to the same terms and conditions as this insurance, issued by an insurer other than us or an insurer affiliated with us, we will pay our share of the covered loss. Our share is the proportion that the applicable Limit of Insurance shown in the Declarations bears to the total limit of all insurance covering the same loss.
- (2) You have other insurance, issued by an insurer other than us or an insurer affiliated with us, covering the same loss other than that described in Paragraph **a.(1)**, we will only pay for the amount of loss that exceeds:
  - (a) The Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not; or
  - (b) The Deductible Amount shown in the Declarations;
 whichever is greater. Our payment for loss is subject to the terms and conditions of this insurance.

**b. Excess Insurance:**

- (1) When this insurance is written excess over other insurance issued by an insurer other than us or an insurer affiliated with us, we will only pay for the amount of loss that exceeds the Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not. Our payment for loss is subject to the terms and conditions of this insurance.
- (2) However, if loss covered under this insurance is subject to a Deductible, we will reduce the Deductible Amount shown in the Declarations, by the sum total of all such other insurance issued by an insurer other than us or an insurer affiliated with us, plus any Deductible Amount applicable to that other insurance.
- (3) This insurance is excess of, and applies in addition to, any similar or identical insurance coverage provided by any other Coverage Part forming a part of the policy of insurance of which this Coverage Part forms a component. However, this insurance will not apply to that part of a loss falling within any deductible amount.

Paragraph **(3)** above supersedes any competing Other Insurance Condition contained in any other Coverage Part issued by us.

**12. Ownership of Property; Interests Covered**

The property covered under this insurance is limited to property:

- a. That you own or lease; or
- b. That you hold for others whether or not you are legally liable for the loss of such property.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization. Any claim for loss that is covered under this insurance must be presented by you.

**13. Policy Bridge - Discovery Replacing Loss Sustained**

- a. If this insurance replaces insurance that provided you with an extended period of time after cancellation in which to discover loss and which did not terminate at the time this insurance became effective:
  - (1) We will not pay for any loss that occurred during the Policy Period of that prior insurance which is **discovered** by you during the extended period to **discover** loss, unless the amount of loss exceeds the Limit of Insurance and Deductible Amount of that prior insurance. In that case, we will pay for the excess loss subject to the terms and conditions of this policy.
  - (2) However, any payment we make for the excess loss will not be greater than the difference between the Limit of Insurance and Deductible Amount of that prior insurance and the Limit of Insurance shown in the Declarations. We will not apply the Deductible Amount shown in the Declarations to this excess loss.
- b. The Other Insurance Condition **VI.A.11.** does not apply to this Condition.

**14. Records**

You must keep records of all property covered under this insurance so we can verify the amount of any loss.

## 15. Recoveries

- a. Any recoveries, whether effected before or after any payment under this insurance, whether made by us or you, shall be applied net of the expense of such recovery:
- (1) First, to you in satisfaction of your covered loss in excess of the amount paid under this insurance;
  - (2) Second, to us in satisfaction of amounts paid in settlement of your claim;
  - (3) Third, to you in satisfaction of any Deductible Amount; and
  - (4) Fourth, to you in satisfaction of any loss not covered under this insurance.
- b. Recoveries do not include any recovery:
- (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
  - (2) Of original **securities** after duplicates of them have been issued.

## 16. Territory

This insurance covers loss that you sustain resulting directly from an **occurrence** taking place within the United States of America (including its territories and possessions), Puerto Rico and Canada.

## 17. Transfer of Your Rights of Recovery Against Others to Us

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

## 18. Valuation - Settlement

- a. The value of any loss for purposes of coverage under this policy shall be determined as follows:
- (1) Loss of **money** but only up to and including its face value. We will, at your option, pay for loss of **money** issued by any country other than the United States of America:
    - (a) At face value in the **money** issued by that country; or
    - (b) In the United States of America dollar equivalent determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was **discovered**.
  - (2) Loss of **securities** but only up to and including their value at the close of business on the day the loss was **discovered**. We may, at our option:
    - (a) Pay the market value of such **securities** or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those **securities**; or
    - (b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the **securities**. However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
      - 1) Market value of the **securities** at the close of business on the day the loss was **discovered**; or
      - 2) The Limit of Insurance applicable to the **securities**.
  - (3) Loss of or damage to **other property** or loss from damage to the **premises** or its exterior for the replacement cost of the property without deduction for depreciation. However, we will not pay more than the least of the following:
    - (a) The cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose;
    - (b) The amount you actually spend that is necessary to repair or replace the lost or damaged property; or
    - (c) The Limit of Insurance applicable to the lost or damaged property.

With regard to Paragraphs **18.a.(3)(a)** through **18.a.(3)(c)**, we will not pay on a replacement cost basis for any loss or damage:

- 1) Until the lost or damaged property is actually repaired or replaced; and
- 2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

If the lost or damaged property is not repaired or replaced, we will pay on an actual cash value basis.

- b. We will, at your option, settle loss or damage to property other than **money**:
  - (1) In the **money** of the country in which the loss or damage occurred; or
  - (2) In the United States of America dollar equivalent of the **money** of the country in which the loss or damage occurred determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was **discovered**.
- c. Any property that we pay for or replace becomes our property.

#### 19. Changes in This Coverage Part

No change or modification of, or assignment of interest under this Coverage Part shall be effective except when made by us through a written endorsement to this policy.

### B. CONDITIONS APPLICABLE TO INSURING AGREEMENT A.

#### 1. Termination as to Any Employee

This Insuring Agreement terminates as to any **employee**:

- a. As soon as:
  - (1) You; or
  - (2) Any of your partners, **members, managers**, officers, directors or trustees not in collusion with the **employee**;  
  
learn of **theft** or any other dishonest act committed by the **employee** whether before or after becoming employed by you.
- b. On the date specified in a notice mailed to the first Named Insured. That date will be at least 30 days after the date of mailing.  
  
We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice.

#### 2. Territory

We will pay for loss caused by any **employee** while temporarily outside the territory specified in the Territory Condition **VI.A.16.** for a period of not more than 90 consecutive days.

### C. CONDITIONS APPLICABLE TO INSURING AGREEMENT B.

#### 1. Deductible Amount

The Deductible Amount does not apply to legal expenses paid under Insuring Agreement **B.**

#### 2. Electronic and Mechanical Signatures

We will treat signatures that are produced or reproduced electronically, mechanically or by other means the same as handwritten signatures.

#### 3. Proof of Loss

You must include with your proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.

#### 4. Territory

We will cover loss that you sustain resulting directly from an **occurrence** taking place anywhere in the world. Territory Condition **VI.A.16.** does not apply to Insuring Agreement **B.**

### D. CONDITIONS APPLICABLE TO INSURING AGREEMENT D.

#### 1. Armored Motor Vehicle Companies

Under Insuring Agreement **D.**, we will only pay for the amount of loss you cannot recover:

- a.** Under your contract with the armored motor vehicle company; and
- b.** From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

**2.** Special Limit of Insurance for Specified Property

We will only pay up to the lesser of \$5,000 or the Limit of insurance for any one **occurrence** of loss of or damage to:

- a.** Precious metals, precious or semi-precious stones, pearls, furs, or completed or partially completed articles made of or containing such materials that constitute the principal value of such articles; or
  - b.** Manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.
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