



## AIG Specialty Insurance Company

A capital stock company

### Data Risk Liability Insurance Policy (with Loss Mitigation and Internet Media Liability Coverage)

Please read the entire policy to determine the Insured's rights and duties and what is and what is not covered under this policy. Words and phrases that appear in boldface are defined in Clause II., **DEFINITIONS**.

In consideration of the payment of the premium and in reliance upon the statements in the application and its attachments and the material incorporated therein, and made a part hereof, the Insurer agrees as follows:

#### I. INSURING AGREEMENTS

##### A. Privacy Liability

Insurer shall pay on behalf of an Insured all Loss, in excess of any applicable Retention, that such Insured is legally obligated to pay resulting from a Claim first made against an Insured during the Coverage Period and alleging a Privacy Event first occurring on or after the Retroactive Date and prior to the end of the Coverage Period.

##### B. Internet Media Liability

Insurer shall pay on behalf of an Insured all Loss, in excess of any applicable Retention, an Insured is legally obligated to pay resulting from a Claim first made against an Insured during the Coverage Period and alleging a Wrongful Act first occurring on or after the Retroactive Date and prior to the end of the Coverage Period.

##### C. Defense and Settlement

- (1) **Insurer's Duty to Defend Insureds:** Insurer has the right and the duty to defend a Suit or Regulatory Action arising from a covered Privacy Event, or a Suit arising from a covered Wrongful Act, even if the Suit or Regulatory Action is groundless or fraudulent.
- (2) **Insurer's Right to Settle Claims:** Insurer has the right, but not the duty, to settle any Claim, with the written consent of the Insured.
- (3) **Claim Expenses:** Insurer shall pay for Claim Expenses any Insured incurs with Insurer's prior written consent in the defense of a Suit or Regulatory Action for covered Privacy Events or a Suit for covered Wrongful Acts. Insurer has the right, but not the duty, to investigate any Claim against any Insured. In the event the Insurer investigates any Claim and the Insured incurs Claim Expenses with Insurer's prior written consent as a result of such investigation, Insurer shall pay such Claim Expenses.

(4) *When Insurer's Duty to Defend Ends:* Insurer's duty to defend ends upon the exhaustion of the **Certificate Holder** Limit of Insurance set forth in the Declarations by payment of **Damages** and/or **Claim Expenses**. Insurer's duty to defend also ends if any **Insured** fails or refuses to consent to any settlement **Insurer** recommend and the claimant will accept. The **Insured** must then defend the **Claim** at the **Insured's** own expense. As a consequence of such failure or refusal, **Insurer's** liability for all **Damages** and/or **Claim Expenses** shall not exceed the amount for which **Insurer** could have settled the **Claim** had the **Insured** consented, plus **Claim Expenses** incurred prior to the date of such failure or refusal, plus fifty percent (50%) of the **Claim Expenses** incurred with **Insurer's** consent after the date of such failure or refusal.

#### D. Cyber Extortion Liability

Insurer shall pay on behalf of an **Insured** all **Extortion Loss**, in excess of any applicable Retention, that such **Insured** is legally obligated to pay resulting from an **Cyber Threat** first made against an **Insured** during the **Coverage Period**.

#### E. Privacy Liability Loss Mitigation

Insurer shall pay on behalf of an **Organization** those amounts, in excess of any applicable Retention, an **Organization** is legally obligated to pay as **Privacy Event Expenses** resulting from a **Privacy Event** first occurring on or after the **Retroactive Date** and first discovered by an **Organization** during the **Coverage Period**.

## II. DEFINITIONS

- A. **Certificate** means a valid "Data Risk Liability Certificate of Insurance" issued to a **Certificate Holder** by the **Insureds' Representative**.
- B. **Certificate Holder** means the entity indicated as such in Item 1. of the **Certificate** who has enrolled for coverage with the **Insureds' Representative** and paid the premium for such coverage under this policy, and holds a valid **Certificate**.
- C. **Claim** means:
- (1) a written demand for money, services, non-monetary relief or injunctive relief including, without limitation, a **PCI-DSS Assessment**;
  - (2) a **Suit**; and
  - (3) solely with respect to Insuring Agreement I.A., a **Regulatory Action**.
- D. **Claim Expenses** means the following costs incurred by **Insurer** or by the **Insured** with the **Insurer's** written consent to defend and investigate a **Claim**:
- (1) reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond or to appeal), charged by an attorney and resulting solely from the investigation, adjustment, defense and appeal of any **Claim** against the **Insured**; and
  - (2) reasonable and necessary expenses and costs incurred by an **Organization** within one year of a **Claim** to conduct an investigation (including a forensic investigation) to determine the cause of the **Privacy Event** alleged in such **Claim**.

**Claim Expenses** does not include any compensation or expenses of any **Insured** or the costs of implementing any changes required or consented to in a settlement or for regulatory compliance.

- E. **Cyber Threat** means any threat or connected series of threats to commit an intentional attack against an **Organization's** computer system for the purpose of demanding money, securities or other tangible or intangible property from such **Organization**, including where such attack might involve the unlawful use or public disclosure of **Private Information**.
- F. **Coverage Period** means the period of time from the effective date of the **Insured's** coverage shown in Item 4. of the **Certificate** to the earlier of the expiration date of the **Insured's** coverage as specified in Item 4. of the **Certificate** or the effective date of cancellation of coverage.
- G. **Damages** means any amount that the **Insured** shall be legally required to pay because of civil judgments or arbitration awards rendered against the **Insured**, or for settlements negotiated by **Insurer** or the **Insured** in accordance with Clause II. **DEFENSE**. **Damages** shall also include punitive, exemplary and multiple damages; provided, however, the enforceability of such coverage shall be governed by such applicable law which most favors coverage for punitive, exemplary and multiple damages.
- H. **Extortion Loss** means (1) monies paid by an **Organization**, with the **Insurer's** prior written consent, to terminate or end a **Cyber Threat** that would otherwise result in harm to such **Organization**, and (2) an **Organization's** reasonable costs to conduct an investigation to determine the cause of a **Cyber Threat**.
- I. **Information Holder** means a third party that: (1) an **Organization** has provided **Private Information** to; or (2) has received **Private Information** on behalf of an **Organization**.
- J. **Insured** means each and every (1) **Organization**; (2) any partner, officer, director, trustee or employee of an **Organization**, but only in their capacity as such and with respect to their duties as such; (3) any natural person independent contractor employed by an **Organization**, but only while acting on behalf of and at the direction of an **Organization**; and (4) any entity an **Organization** is required by contract to add as an **Insured**, but only for otherwise covered **Privacy Events** of an **Organization**; provided that no coverage is afforded to such entities for **Privacy Events** involving **Private Information** that is not in the care, custody or control of an **Organization**.
- K. **Insureds' Representative** means the Risk Purchasing Group indicated as such in Item 1. of the Declarations.
- L. **Insurer** means the insurance company issuing this policy.
- M. **Loss** means **Damages** and **Claim Expenses**.
- N. **Material** means electronic, digital or digitized media content displayed on an **Organization's** website or on social media pages controlled by an **Organization**, including advertising, audio, video and written content.
- O. **Organization** means (1) the **Certificate Holder**; and (2) each subsidiary thereof.

- P. **PCI-DSS Assessment** means a written demand from a payment-card association, a payment processor or a bank seeking a monetary assessment (including, without limitation, any contractual fine or penalty) as a result of an **Organization's** failure to comply with the Payment Card Industry Data Security Standards (PCI-DSS).
- Q. **Policy Period** means the period commencing on the effective date specified in Item 2. of the Declarations and ending on the earlier of either the expiration date specified in Item 2. of the Declarations or the effective date of cancellation of this policy.
- R. **Pollutants** means, but are not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, asbestos, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
- S. **Privacy Event** means any failure to protect **Private Information** occurring on or after the **Retroactive Date** and prior to the end of the **Coverage Period**. **Privacy Event** includes any such failure that could result in an identity theft or other wrongful emulation of the identity of an individual including, without limitation, those failures caused by "phishing" and other social engineering techniques. **Privacy Event** also means any violation of a federal, state, foreign or local privacy law alleged in connection with a failure to protect **Private Information** or any failure to disclose such an event as required by any federal, state, foreign or local privacy breach notice law.

All **Claims, Regulatory Actions, Damages, Claim Expenses** and **Privacy Event Expenses** resulting from the same, continuous, related or repeated **Privacy Events** or which arise from the same, related or common nexus of facts will be deemed to arise out of the first such **Privacy Event**.

- T. **Privacy Event Expenses** means the following reasonable and necessary expenses and costs incurred by an **Organization** within one year of the discovery of a **Privacy Event**:
- (1) for a law firm to advise an **Organization** as to (a) the actions necessary to comply with any applicable laws or regulations in connection with such **Privacy Event**, and (b) minimize the likelihood of, and exposure from, a **Claim** resulting from such **Privacy Event**;
  - (2) for a public relations firm or crisis management firm, retained with the consent of the **Insurer**, to advise an **Organization** on minimizing the harm to such **Organization** from such **Privacy Event** including, without limitation, maintaining and restoring public confidence in such **Organization**;
  - (3) for an investigation (including a forensic investigation), performed by a firm retained by or with the consent of the **Insurer**, to determine the cause and scope of a **Privacy Event**;
  - (4) to notify those persons whose **Private Information** is the subject of such **Privacy Event** and to advise such persons of how to protect their identity and the remedies offered to them by such **Organization** to mitigate the damage that may have been caused by such **Privacy Event**; and
  - (5) for identity theft education and assistance, credit file or identity monitoring, and victim reimbursement insurance made available to those persons notified of such **Privacy Event** pursuant to subparagraph (3) above.

All services described in this definition of **Privacy Event Expenses** must be performed by one or more vendors that have been approved by the **Insurer** prior to the



performance of such services. A list of approved vendors is available from the **Insurer** or the **Insureds' Representative**.

- U. Private information** means any of the following in the care, custody or control of an **Organization** or **Information Holder**, or for which an **Organization** is legally responsible: (1) information from which an individual may be uniquely and reliably identified or contacted, including without limitation, an individual's name, address, telephone number, social security number, account relationships, account numbers, account histories and passwords; (2) information concerning an individual that would be considered "nonpublic personal information" within the meaning of Title V of the Gramm-Leach Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338) (as amended) and its implementing regulations, or protected personal information under any similar federal, state, local or foreign law; (3) information concerning an individual that would be considered "protected health information" or "electronic protected health information" within the Health Insurance Portability and Accountability Act of 1996 (as amended) (HIPAA) or the Health Information Technology for Economic and Clinical Health Act (HITECH Act), and their implementing regulations, or protected health-related information under any similar federal, state, local or foreign law; (4) information used to authenticate customers for normal business transactions; or (5) any third party's trade secrets, data, designs, interpretations, forecasts, formulas, methods, practices, processes, records, reports or other information belonging to a third party that is not available to the general public.
- V. Regulatory action** means a request for information, civil investigative demand or civil proceeding brought by or on behalf of a government agency, including requests for information related thereto, arising out of or alleging a **Privacy Event** in connection with **Private Information**.
- W. Retroactive Date** means the date set forth as such in Item 10. of the **Certificate**.
- X. Subsidiary** means any entity of which the **Certificate Holder** has management control on or before the inception date of the **Coverage Period** and that has been include in the **Insured's** application for this policy. **Subsidiary** also means any for-profit entity of which the **Certificate Holder** acquires management control during the **Coverage Period**, but only if the gross revenues of such entity for the most recent fiscal year prior to the inception of this policy do not exceed twenty (20%) of the aggregate gross revenues of the **Certificate Holder** for the most recent fiscal year prior to the inception date of the **Certificate Holder's Certificate**. Notwithstanding the foregoing, coverage afforded under this policy shall only apply to **Privacy Events** and **Wrongful Acts** occurring or allegedly occurring after the effective time that the **Certificate Holder** obtained management control of a **subsidiary** and prior to the time that the **Certificate Holder** ceased to have management control of such **Subsidiary**.

For purposes of this definition, "management control" means (i) owning interests representing more than fifty percent (50%) of the voting, appointment or designation power for the selection of a majority of: the board of directors of a corporation, the management committee members of a joint venture or partnership, or the members of the management board of a limited liability company; or (ii) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of a company, to elect, appoint or designate a majority of: the board of directors of a corporation, the management committee of a joint venture or partnership, or the management board of a limited liability company.

- Y. **Suit** means a civil proceeding seeking monetary relief that is commenced by the service of a summons and a complaint or similar pleading. **Suit** shall also include a binding arbitration proceeding in which monetary relief is alleged and to which the **Insured** must submit or does submit with **Insurer's** prior written consent.
- Z. **Wrongful act** means any act, error, omission, negligent supervision of an employee, misstatement or misleading statement by an **Insured** solely in connection with **Material** occurring on or after the **Retroactive Date** and prior to the end of the **Policy Period** that results solely in:
- (1) infringement of copyright, title, slogan, trademark, trade name, trade dress, mark, service mark, service name, infringement of domain name, deep-linking or framing, including, without limitation, unfair competition in connection with such conduct;
  - (2) plagiarism, piracy or misappropriation or theft of ideas under implied contract or other misappropriation or theft of ideas or information; including, without limitation, unfair competition in connection with such conduct;
  - (3) invasion, infringement or interference with rights of privacy or publicity, false light, public disclosure of private facts, intrusion and commercial appropriation of name, persona or likeness; including, without limitation, emotional distress or mental anguish in connection with such conduct; or
  - (4) defamation, libel, slander, product disparagement or trade libel or other tort related to disparagement or harm to character or reputation; including, without limitation, unfair competition, emotional distress or mental anguish in connection with such conduct; or
  - (5) negligent or intentional infliction of emotional distress, outrage or *prima facie* tort in connection with **Material**.

### III. EXCLUSIONS

This policy shall not cover **Loss, Extortion Loss or Privacy Event Expenses** in connection with a **Claim, Cyber Threat or Privacy Event**:

- (a) alleging, arising out of, based upon or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law, if committed by any:
  - (1) past or present director, officer, trustee, general or managing partner or principal (or the equivalent positions) of an **Organization**, whether acting alone or in collusion with other persons; or
  - (2) past or present employee or independent contractor employed by an **Organization** if any person referenced in Sub-paragraph (1) above knew or had reason to know prior to the act of, participated in, approved of or acquiesced to the dishonest, fraudulent, malicious, or criminal act committed by such employee or independent contractor that caused a direct loss to an **Insured** or any other person;

provided, however, the **Insurer** will defend **Suits** that allege any of the foregoing conduct by such person, and that are not otherwise excluded, until there is a final, non-appealable judgment or adjudication as to such conduct in any action or proceeding other than an action or proceeding initiated by the **Insurer** to determine coverage under this policy, at which time the **Insureds** shall reimburse the **Insurer** for **Claim Expenses**.

- (b) alleging, arising out of, based upon or attributable to any infringement of patent, or any misappropriation of a trade secret by any **Insured**, or any infringement of copyright related to software, source code or software license.
- (c) alleging, arising out of, based upon or attributable to any (1) presence of **Pollutants**, (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**, or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.
- (d) alleging, arising out of, based upon or attributable to any:
- (1) physical injury, sickness or disease, or, if arising out of the foregoing, mental anguish, mental injury, shock, humiliation or death at any time; or
  - (2) damage to, loss of use of or destruction of any tangible property (not including electronic data);
- (e) alleging, arising out of, based upon or attributable to any:
- (1) fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event, however caused;
  - (2) strikes or similar labor action, war, invasion, military action (whether war is declared or not), civil war, mutiny, popular or military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against any of these events;
  - (3) electrical or mechanical failures of infrastructure not under the control of an **Insured**, including any electrical power interruption, surge, brownout or blackout; or
  - (4) failure of telephone lines, data transmission lines or other telecommunications or networking infrastructure not under the control of an **Insured**.
- (f) alleging, arising out of, based upon or attributable to any:
- (1) purchase, sale, or offer or solicitation of an offer to purchase or sell securities;
  - (2) violation of any securities law, including the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or any regulation promulgated under the foregoing statutes, or any federal, state or local laws similar to the foregoing statutes (including “Blue Sky” laws), whether such law is statutory, regulatory or common law; or
  - (3) violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act, or “RICO”), as amended, or any regulation promulgated thereunder or any federal, state or local law similar to the foregoing, whether such law is statutory, regulatory or common law.
- (g) alleging, arising out of, based upon or attributable to an **Insured’s** employment of any individual or any of an **Insured’s** employment practices (including, without limitation, wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim); provided, however, this exclusion shall not apply to any **Claim** by an individual to the extent such individual is alleging (1) a **Privacy Event** in connection with such individual’s employment or application for employment with an **Organization**, or (2) a failure to disclose a **Privacy Event** in violation of an applicable privacy breach notice law.

(h) alleging, arising out of, based upon or attributable to antitrust, unfair competition, deceptive business practices, or restraint of trade, including, without limitation, violations of any local, state or federal law regulating such conduct, or that is brought by or on behalf of the Federal Trade Commission (“FTC”) or any other federal, state or local government agency, or foreign government agency; provided, however, solely with respect to unfair competition and deceptive business practices, this Paragraph (h) shall not apply to any otherwise covered **Loss** arising out of a covered **Regulatory Action**.

(i) brought by or on behalf of:

(1) any **Insured**;

(2) any business entity that is controlled, managed or operated, directly or indirectly, in whole or in part, by an **Insured**; or

(3) any parent company, **Subsidiary**, successor or assignee of an **Insured**, or any person or entity affiliated with an **Insured** or such business entity through common management control;

provided, however, this exclusion shall not apply to (i) an **Insured** as described in Sub-paragraph (3) of the definition of **Insured**; or (ii) an **Insured** as described in Sub-paragraph (2) of the definition of **Insured** but only to the extent such **Insured** is alleging a **Privacy Event** or a failure to disclose a **Privacy Event** in violation of an applicable privacy breach notice law.

(j) for any of the following:

(1) the return of an **Insured’s** fees or compensation;

(2) any profit or advantage to which an **Insured** is not legally entitled;

(3) an **Insured’s** expenses or charges, including employee compensation and benefits, overhead, over-charges or cost over-runs;

(4) an **Insured’s** cost of providing, correcting, re-performing or completing any services;

(5) civil or criminal fines or penalties imposed by law against an **Insured** and any matters deemed uninsurable under the law pursuant to which this policy shall be construed; provided, however, this Sub-paragraph (5) shall not apply to (a) any monetary amounts an **Insured** is required by law or has agreed to by settlement to deposit into a consumer redress fund, or (b) any civil fine or penalty imposed by a governmental agency arising from a **Regulatory Action**, unless the civil fine or penalty imposed is uninsurable under the law of the jurisdiction imposing such fine or penalty;

(6) an **Insured’s** costs and expenses of complying with any injunctive or other form of equitable relief;

(7) taxes incurred by an **Insured**;

(8) the amounts for which an **Insureds** is not financially liable or which are without legal recourse to any **Insured**;

(9) amounts an **Insured** agrees to pay pursuant to a contract, including without limitation, liquidated damages, setoffs or penalties; provided, however, this exclusion shall not apply to any **PCI-DSS Assessment**.



- (k) alleging, arising out of, based upon or attributable to any obligation an **Insured** has under contract; provided, however, this exclusion shall not apply to:
- (1) the obligation to prevent a **Privacy Event**, including without limitation, whether same is in violation of an implied or statutory standard of care;
  - (2) liability an **Insured** would have in the absence of such contract; or
  - (3) the obligation to comply with PCI Data Security Standards alleged in connection with a **PCI-DSS Assessment**.
- (l) alleging, arising out of, based upon or attributable to any **Privacy Event** or **Wrongful Act** alleged or contained in any **Claim** which has been reported, or in a **Privacy Event** or circumstance of which notice has been given, under any policy of which this policy is a renewal or replacement or which it may succeed in time.
- (m) alleging, arising out of, based upon or attributable to any **Privacy Event**, **Cyber Threat** or **Wrongful Act** first occurring prior to the **Retroactive Date**.
- (n) alleging, arising out of, based upon or attributable to any **Privacy Event**, **Wrongful Act** or **Cyber Threat** first occurring prior to the inception date of the **Coverage Period** if, as of the inception date of the **Coverage Period**, any **Insured** knew or could have reasonably foreseen that such **Privacy Event**, **Wrongful Act** or **Cyber Threat** did or would result in a **Claim** against an **Insured**, **Privacy Event Expenses** or **Extortion Loss**.
- (o) alleging, arising out of, based upon or attributable to any seizure, confiscation, nationalization, or destruction of any computer system by order of any governmental or public authority.
- (p) for (1) the theft of money or securities from an **Insured**; or (2) the transfer or loss of money or securities from or to an **Insured's** accounts or accounts under an **Insured's** control, including customer accounts. For purposes of this Sub-paragraph (p), the term "accounts" includes, but is not limited to, deposit, credit, debit, prepaid and securities brokerage accounts.
- (q) alleging, arising out of, based upon or attributable to (1) false advertising or misrepresentation in advertising of an **Insured's** products or services, (2) any failure of goods, products or services to conform with an advertised quality or performance, or (3) any infringement of trademark or trade dress by any goods, products or services displayed or contained in any **Material**.
- (r) alleging, arising out of, based upon or attributable to:
- (1) any unfair or deceptive business practices, including the violation of any local, state or federal consumer protection laws, in connection with broadcast, publication or distribution of **Material**;
  - (2) any accounting or recovery of profits, royalties, fees or other monies claimed to be due from an **Insured** in connection with **Material**, including any **Claim** alleging excessive or unwarranted fees, compensation or charges; or
  - (3) any licensing fees or royalties order, directed or agreed to be paid by an **Insured** for the use of any copyright, title, slogan, trademark, trade name, trade dress, service mark, service name or other intellectual property right, including but not limited to any **Claim** brought by or on behalf of ASCAP, SESAC, BMI, RIAA or other intellectual property licensing organization.
- (s) alleging, arising out of, based upon or attributable to: (1) corporate financial data of an **Organization**; (2) infringement of copyright, trademark, trade dress or other intellectual property right by an **Organization's** name or by a product manufactured

or sold by an **Organization**; or (3) **Material** posted on an **Organization's** internal system or intranet.

This policy shall not cover any **Privacy Event Expenses**, **Cyber Threat** or **Extortion Loss** arising out of based upon or attributable to the seizure, confiscation, nationalization or destruction of an **Organization's** computer system or **Private Information** by order of any government or public authority, or any **Cyber Threat** made by any government or public authority.

#### IV. LIMITS OF INSURANCE

- A. The **Certificate Holder** Limit of Insurance indicated in Item 7. of the **Certificate** will be the most the **Insurer** shall pay for all coverages combined, regardless of the number of **Privacy Events**, **Wrongful Acts**, persons, entities, **Claims** or **Cyber Threats** covered by this policy, and regardless of the total of all **Damages**, **Claim Expenses**, **Privacy Event Expenses** and **Extortion Loss** resulting from all **Claims** and **Cyber Threats** first made and **Privacy Events** discovered during the **Coverage Period**.
- B. All **Claims**, **Regulatory Actions**, **Loss** and **Privacy Event Expenses** resulting from the same, continuous, related or repeated **Privacy Event** shall be subject to the terms, conditions, exclusions and **Certificate Holder** Limit of Insurance issued to the **Certificate Holder** in effect at the time the first such **Privacy Event** is first discovered by an **Insured**.
- C. The most the **Insurer** shall pay for all **Privacy Event Expenses** during the **Coverage Period** is the amount indicated in Item 7 of the **Certificate**, but in no event shall the **Insurer** be liable for **Privacy Event Expenses** in excess of fifty percent (50%) of the **Certificate Holder** Limit of Insurance indicated in Item 7 of the **Certificate**. Such amount shall be part of and not in addition to the **Certificate Holder's** Limit of Insurance.
- D. The most the **Insurer** shall pay for all **Loss** arising out of a **PCI-DSS Assessment** is the amount set forth in the **Certificate** as the "PCI-DSS Assessment Limit." Such amount is part of and not in addition to the **Certificate Holder's** Limit of Insurance.
- E. **Insurer** shall also pay all interest on that amount of any judgment for a covered **Privacy Event** or **Wrongful Act** that is within the **Certificate Holder** Limit of Insurance:
- (1) which accrues after entry of judgment; and
  - (2) before **Insurer** has paid, offered to pay, or deposited in court that part of the judgment within **Insurer's** applicable Limit of Insurance.
- Any such payment shall be part of, and not in addition to, the **Certificate Holder** Limit of Insurance.
- F. If a **Certificate Holder** has insurance coverage for a **Claim**, **Privacy Event** or **Cyber Threat** under this policy and one or more other insurance policies issued by **Insurer** or one of **Insurer's** insurance company affiliates, **Insurer** shall not be liable under all policies for any amount in excess of the highest applicable limit of liability among all such policies. Where there is more than one policy, **Insurer** shall not be liable under this policy for an amount greater than the proportion of **Loss**, **Privacy Event Expenses** and **Extortion Loss** that this policy's applicable limit of liability bears to the total applicable limit of liability under all such policies.

## V. RETENTION

The **Insured** shall be responsible for the Retention set forth in the Declarations and such Retention amount must remain uninsured. The Retention applies to each **Claim, Privacy Event** and **Cyber Threat**. In **Insurer's** sole and absolute discretion without prior notice to the **Insured**, **Insurer** may advance all or part of the Retention in which case the **Insured** agrees to repay **Insurer** promptly after **Insurer** notify the **Insured** of that payment.

## VI. NOTICE OF A CLAIM, PRIVACY EVENT OR CYBER THREAT

- A. As a condition precedent to the obligations of **Insurer** under this policy, the **Insureds** shall give written notice to the **Insurer** of (1) any **Claim** first made against an **Insured** as soon as practicable after such **Claim** is made, but in all events no later than forty-five (45) days after the end of the **Coverage Period**, and (2) any **Privacy Event** or **Cyber Threat** as soon as possible after such **Privacy Event** or **Cyber Threat** is discovered or made.
- B. If written notice of a **Claim, Privacy Event** or **Cyber Threat** has been given to **Insurer** pursuant to Paragraph A above, then any subsequent **Claim** made against any **Insured** or any subsequent **Privacy Event** or **Cyber Threat** arising out of, based upon or attributable to the facts giving rise to such **Claim, Privacy Event** or **Cyber Threat** for which such notice has been given, shall be considered made at the time such first notice was give.

## VII. INSURED'S OBLIGATIONS

- A. The **Insured** shall immediately record the specifics of each **Claim, Privacy Event** and **Cyber Threat** and the date such **Insured** first received such **Claim** or **Cyber Threat** or discovered such **Privacy Event**.
- B. Each **Insured** shall cooperate with and help the **Insurer** and/or any counsel appointed pursuant to the terms of this policy including, without limitation:
  - (1) Immediately sending **Insurer** copies of all demands, notices or other legal documents received in connection with a **Claim**, and any invoices for **Claim Expenses** received by such **Insured**, as soon as practicable;
  - (2) Authorizing **Insurer** to obtain records and other information and execute and document that **Insurer** deems necessary to secure its rights under this policy; and
  - (3) assisting **Insurer** or such counsel in:
    - (i) any investigation of a **Claim, Privacy Event** or **Cyber Threat**, or other matter relating to the coverage afforded under this policy (including submission to an examination by **Insurer** or **Insurer's** designee, under oath if required by **Insurer**);
    - (ii) making settlements;
    - (iii) enforcing any legal rights the **Insured** or **Insurer** may have against any person or entity who may be liable to the **Insured**;
    - (iv) attending depositions, hearings and trials;
    - (v) securing and giving evidence, and obtaining the attendance of witnesses; and
    - (vi) taking such actions that are necessary and practicable to prevent or limit any liability of **Insurer** arising from a **Claim, Privacy Event** or **Cyber Threat**.

- C. Before coverage will apply for any **Privacy Event Expenses** or **Extortion Loss**, an **Organization** must also complete and sign a written, detailed and affirmed proof of loss within thirty (30) days after any **Privacy Event Expenses** or **Extortion Loss** is incurred (unless such period has been extended by the **Insurer** in writing). Such proof of loss shall include, along with any other pertinent information: a full description of such **Privacy Event Expenses** or **Extortion Loss**, the circumstances surrounding the underlying **Privacy Event** or **Cyber Threat**, a detailed calculation of such **Privacy Event Expenses** or **Extortion Loss**, and all underlying documents and materials that reasonably relate to and form any part of the proof of such **Privacy Event Expenses** or **Extortion Loss**, including providing a copy of any forensic reports relating to the underlying **Privacy Event** or **Cyber Threat**.
- D. Under all circumstances, no **Insured** shall admit any liability, assume any financial obligation, pay any money, or incur any expense in connection with a **Claim**, **Privacy Event** or **Cyber Threat** without **Insurer's** prior written consent. If any **Insured** does, it will be at such **Insured's** own expense.
- E. In all events, no **Insured** shall take any action, or fail to take any action, without **Insurer's** prior written consent, which prejudices **Insurer's** rights under this policy.
- F. Each **Certificate Holder** shall pay all premium under this policy when due.

## VIII. OTHER PROVISIONS AFFECTING COVERAGE

### A. Coverage Territory

Subject to its terms, conditions and exclusions, this policy applies to **Privacy Events**, **Wrongful Acts** and **Cyber Threats** occurring anywhere in the world, but **Insurer** shall only pay for **Damages**, **Claim Expenses**, **Privacy Event Expenses** and **Extortion Loss** incurred in the United States of America, its territories and possessions, or Canada.

### B. Legal Action Against Us

No person or organization has a right under this policy:

- (1) to join **Insurer** as a party or otherwise bring **Insurer** into a **Suit** asking for **Damages** from an **Insured**; or
- (2) to sue **Insurer** on this policy unless all of its terms have been fully complied with.

A person or organization may sue **Insurer** to recover on an agreed settlement or on a final judgment against an **Insured** obtained after an actual trial; but **Insurer** will not be liable for **Damages** that are not payable under the terms of this policy or that are in excess of the **Certificate Holder** Limit of Insurance. An agreed settlement means a settlement and release of liability signed by **Insurer**, the **Insured** and the claimant or the claimant's legal representative.

### C. Subrogation

In the event of any payment under this policy, **Insurer** shall be subrogated to the extent of such payment, to all rights of recovery of all **Insureds** arising out of a covered **Privacy Event**, **Cyber Threat** or **Wrongful Act**. Each **Insured** shall do



whatever is necessary, including signing documents, to help **Insurer** obtain that recovery.

#### **D. Other Insurance**

This policy shall be primary with respect to any other valid and collectible insurance available to any **Insured**, unless such other valid and collectible insurance is also stated to be primary. In that case, **Insurer** will share with all other insurance by the method described below:

- (1) If all of the other insurance permits contribution by equal shares, **Insurer** will follow this method also. Under this approach, each insurer shall contribute equal amounts in excess of the applicable Retention until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.
- (2) If any of the other insurance does not permit contribution by equal shares, **Insurer** will contribute by limits. Under this method, each insurer's share shall be based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

#### **E. Extension**

Subject otherwise to the terms hereof, this policy shall cover **Damages** and **Claim Expenses** arising from any **Claim** against (i) the estates, heirs or legal representatives of deceased natural person **Insureds**, and the legal representatives of natural person **Insureds** in the event of incompetency, insolvency or bankruptcy, who were **Insureds** at the time of the **Privacy Event** or **Wrongful Act** upon which such **Claim** is based occurred; or (ii) the lawful spouse or domestic partner of a natural person **Insured** for all **Claims** arising solely out of his or her status as the spouse or domestic partner of such natural person **Insured**, including a **Claim** that seeks damages recoverable marital, community property, or property jointly held or property transferred from the natural person **Insured** to the spouse or domestic partner; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged **Privacy Event** involving or **Wrongful Act** committed by or directly involving the spouse or domestic partner, but shall apply only to **Claims** arising out of any actual or alleged **Privacy Event** involving or **Wrongful Act** committed by or directly involving a natural person **Insured**, subject to the policy's terms, conditions and exclusions.

#### **F. Assignment**

This policy and any rights provided by this insurance are not assignable without **Insurer's** written consent.

#### **G. Changes**

Changes to the provisions of this policy shall be made only by written endorsement issued by **Insurer** and made a part of this policy.

#### **H. Reimbursement**

Payments made under this policy to or on behalf of any **Insureds** shall be repaid to **Insurer** by such **Insureds**, severally according to their respective interests, in the event and to the extent that such **Insureds** shall not be entitled to such payment.

## I. Alternative Dispute Resolution

It is hereby understood and agreed that all disputes or differences which may arise under or in connection with this policy, whether arising before or after termination of this policy, including any determination of the amount of **Damages** and **Claim Expenses** must first be submitted to the non-binding mediation process as set forth in this clause.

The non-binding mediation will be administered by any mediation facility to which **Insurer** and the **Certificate Holder** mutually agree, in which all implicated **Insureds** and **Insurer** shall try in good faith to settle the dispute by mediation in accordance with the American Arbitration Association's ("AAA") then-prevailing Commercial Mediation Rules. The parties shall mutually agree on the selection of a mediator. The mediator shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. The mediator shall also give due consideration to the general principles of the law of the state where the **Certificate Holder** is incorporated in the construction or interpretation of the provisions of this policy. In the event that such non-binding mediation does not result in a settlement of the subject dispute or difference:

- (1) either party shall have the right to commence a judicial proceeding; or
- (2) either party shall have the right, with all other parties consent, to commence an arbitration proceeding with the AAA that will be submitted to an arbitration panel of three (3) arbitrators as follows: (a) the **Certificate Holder** shall select one (1) arbitrator; (b) **Insurer** shall select one (1) arbitrator; and (c) said arbitrators shall mutually agree upon the selection of the third arbitrator. The arbitration shall be conducted in accordance with the AAA's then prevailing Commercial Arbitration Rules.

Provided, however, that no such judicial or arbitration proceeding shall be commenced until at least ninety (90) days after the date the non-binding mediation shall be deemed concluded or terminated. Each party shall share equally the expenses of the non-binding mediation.

The non-binding mediation may be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state indicated in Item 1. of the Declarations as the mailing address for the **Certificate Holder**. The **Certificate Holder** shall act on behalf of each and every **Insured** in connection with any non-binding mediation under this clause, the selection of arbitration or judicial proceeding and/or the selection of mediators or arbitrators.

## J. Headings

The titles and headings of the various clauses and paragraphs of this policy are solely for convenience or reference and are form no part of the terms and conditions of coverage.

## K. Cancellation and Effective Dates

This policy is effective during the **Policy Period** as set forth in Item 2. of the Declarations, except that such insurance which is in force for a **Certificate Holder** shall continue in force, subject to the terms of this policy, until the natural expiration

of the **Coverage Period** or until the policy is cancelled with respect to such **Certificate Holder**.

This policy may be cancelled by the **Insureds' Representative** by surrender of this policy to **Insurer** or by giving written notice to **Insurer** stating when thereafter such cancellation shall be effective.

This policy may also be cancelled by **Insurer** with respect to the **Insureds' Representative** by mailing to the **Insureds' representative** by registered, certified, or other first class mail sent to the **Insureds' Representative's** address set forth in Item 1. of the Declarations, or by delivering to the **Insureds' Representative**, written notice, stating when, not less than thirty (30) days thereafter, or ten (10) days thereafter in the event of nonpayment of premium, the cancellation shall be effective. The mailing of such notice, as aforesaid, shall be sufficient proof of notice. This policy shall be deemed cancelled at the date and hour specified in such notice. Cancellation of this policy with respect to the **Insureds' Representative** shall not terminate any insurance which is in force for an **Insured** at the time and date of policy cancellation. Such insurance for the **Insured** shall continue in force subject to the terms of this policy until the termination or natural expiration of the **Coverage Period**, whichever occurs first. If this policy is cancelled with respect to the **Insureds' Representative**, it shall be the responsibility of the **Insureds' Representative** to notify the **Insureds** of the effective date of cancellation.

This policy may also be cancelled by **Insurer** with respect to a **Certificate Holder** by mailing to the **Certificate Holder** by registered, certified, or other first class mail sent to the **Certificate Holder's** address set forth in Item 1. of the **Certificate**, or by delivering to the **Certificate Holder**, written notice, stating when, not less than thirty (30) days thereafter, or ten (10) days thereafter in the event of nonpayment of premium, the cancellation shall be effective. The mailing of such notice, as aforesaid, shall be sufficient proof of notice. This policy shall be deemed cancelled at the date and hour specified in such notice.

If this policy is cancelled by the **Insureds' Representative**, **Insurer** shall retain all premium paid by the **Insureds' Representative** on behalf of **Certificate Holders**. If this policy shall be cancelled by **Insurer** with respect to a **Certificate Holder**, **Insurer** shall retain the pro rata proportion of the premium paid on behalf of such **Certificate Holder**. Payment or tender of the unearned premium by **Insurer** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable. If the period of limitation relating to the giving of notice for cancellation by **Insurer**, as set forth above, is also set forth in any controlling law, the period set forth above shall be deemed to be amended so as to be equal to the minimum period of limitation set forth in such controlling law if it is a longer period.

If this policy is cancelled by or with respect to the **Insured's Representative**, it shall be the responsibility of the **Insureds' Representative** to notify each **Certificate Holder** of such cancellation.

A **Certificate Holder** may terminate its **Certificate** and the coverage provided under this policy by such **Certificate** at any time by providing written notice to **Insurer** and to the **Insured's representative** stating when thereafter such termination shall be effective. If a **Certificate** is terminated by a **Certificate Holder**, **Insurer** shall retain the customary short rate proportion of the premium thereon.

## L. Organizational Changes

If during the Coverage Period:

- (1) any **Certificate Holder** shall consolidate with, merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or
- (2) any person or entity or group of persons or entities acting in concert shall acquire securities or voting rights which result in ownership or voting control by other entities or persons of more than fifty percent (50%) of the outstanding securities representing the rights to vote for the election of any **Certificate Holder's** directors;

(any of such events being a "transaction") then, with respect to such **Certificate Holder**, this policy shall continue in full force and effect only as to those **Privacy Events** and **Wrongful Acts** occurring on or after the Retroactive Date and prior to the effective time of the **transaction**. There shall be no coverage afforded by any provision of this policy for any **Privacy Event** or **Wrongful Act** that occurs, on or after the effective time of the **transaction**, unless (i) within thirty (30) days of such **transaction**, **Insurer** have been provided with full particulars of the **transaction**, the related entities and any other information requested by **us**, and (ii) the **Certificate Holder** or its successor, has agreed to any additional premium and amendments to this policy required by the **Insurer**.

Post-transaction coverage as described above is conditioned upon the **Certificate Holder** or its successor paying when due any additional premium required by **Insurer**. This policy may not be cancelled after the effective time of a **transaction** and the entire premium for this policy shall be deemed earned as of such time.

## M. Service of Suit

Subject to Paragraph I. of this Clause, it is agreed that in the event of **Insurer's** failure to pay any amount claimed to be due hereunder, **Insurer**, at the request of the **Insured**, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of **Insurer's** rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon General Counsel, Legal Department, AIG Specialty Insurance Company, 175 Water Street, New York, NY 10038, or his or her representative, and that in any suit instituted against **Insurer** upon this contract, **Insurer** will abide by the final decision of such court or of any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, **Insurer** hereby designate the Superintendent, Commissioner, or Director of Insurance, other officer specified for that purpose in the statute, or his or her successor or successors in office as **Insurer's** true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the **Insured** or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the above named



counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

**N. Notice and Authority**

It is agreed that the **Insureds' Representative** first named in Item 1. of the Declarations shall act on behalf of all **Insureds** with respect to the payment of premiums and the receiving of any return premiums that may become due under this policy and the receipt and acceptance of any endorsements issued to form a part of this policy.

<End>

SPECIMEN

**INSURED DEFINITION AMENDATORY  
(CHURCH AND OTHER RELIGIOUS ORGANIZATIONS)**

In consideration of the premium charged, it is hereby understood and agreed that, solely with respect to any **organization** that is a church or other religious organization, the phrase “partner, officer, director, trustee or employee of an **organization**” in the definition of “**Insured**” shall include past, present and future directors, officers, trustees, clergy, wardens, deacons, elders, and members of any duly elected, appointed or constituted governing body of an **organization** while acting in their capacity as such and with respect to their duties as such.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

(c) American International Group, Inc. All rights reserved.

SPECIMEN