



FORMS – IMPLEMENTATION

DECEMBER 13, 2019

BUSINESSOWNERS

LI-BP-2019-185

MISSOURI BUSINESSOWNERS FORMS REVISION TO BE IMPLEMENTED

KEY MESSAGE

Forms filing BP-2014-OISFR in Missouri to be implemented.

Filing ID: BP-2014-OISFR

Effective Date: 6/1/2020

BACKGROUND

In circular:

- [LI-BP-2014-093](#), we announced the submission of forms filing BP-2014-OISFR in various jurisdictions, not including Missouri, which introduced optional endorsements for use with the Businessowners Coverage Form, addressing coverage for cyber/data breach liability and related first-party expenses.
- [LI-BP-2014-188](#), we announced the implementation of filing BP-2014-OISFR in various jurisdictions and provided final copies of the multistate endorsements included in filing BP-2014-OISFR.

In addition, we introduced Missouri – Employment-related Practices Liability Endorsement BP 10 73 in filing BP-2007-OEP1 and Missouri – Condominiums, Co-ops, Associations – Directors And Officers Liability Endorsement BP 17 33 in filing BP-2009-OEND1 in response to the Missouri Department of Insurance Bulletin 98-04. On January 12, 2015, the Missouri Department of Insurance issued Insurance Bulletin 15-01, which, in part, withdrew Insurance Bulletin 98-04.

ISO ACTION

Forms filing BP-2014-OISFR introduces the following multistate endorsements in Missouri:

- [BP 15 07 03 15](#) – Information Security Protection Endorsement
- [BP 15 08 03 15](#) – Payment Card Industry (PCI) – Provide Coverage For Defense Expenses And Fines Or Penalties
- [BP 15 10 03 15](#) – Provide Coverage For Dishonest, Malicious Or Fraudulent Acts Committed By Employees

In response to Insurance Bulletin 15-01, we are withdrawing Missouri – Employment-related Practices Liability Endorsement BP 10 73 and Missouri – Condominiums, Co-ops, Associations – Directors And Officers Liability Endorsement BP 17 33 and introducing the corresponding multistate endorsements.

Refer to the attached explanatory material for complete details about the filing.

EFFECTIVE DATE

The ISO revision is subject to the following rule of application:

These changes are applicable to all policies written on or after June 1, 2020.

COMPANY ACTION

If you have authorized us to file on your behalf and decide:

- To use our revision and effective date, you are not required to file anything with the Insurance Department.
- To use our revision with a different effective date, to use our revision with modification, or to not use our revision, you must make an appropriate submission with the Insurance Department.

For guidance on submission requirements, consult the ISO State Filing Handbook.

WE WILL SUBMIT THIS REVISION TO THE INSURANCE DEPARTMENT ON MAY 12, 2020. IF STATE FILING REQUIREMENTS DICTATE THAT YOU MAKE A SUBMISSION WITH THE INSURANCE DEPARTMENT, DO NOT SUBMIT IT PRIOR TO THIS DATE.

In all correspondence with the Insurance Department on this revision, you should refer to ISO Filing Designation Number BP-2014-OISFR, not this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

RATING SOFTWARE IMPACT

New attributes being introduced with this revision:

- Additional information will be required from a policyholder to complete a schedule on a form.
- Forms are being withdrawn.
- New forms are being introduced.

POLICYHOLDER NOTIFICATION

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies, to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2019-057](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

REVISION DISTRIBUTION

We will issue a Notice to Portfolioholders with an edition date of 6-20 (or the earliest possible subsequent date), along with any new and/or revised forms.

RELATED RULES REVISION

We are announcing in a separate circular the implementation of a corresponding rules revision. Please refer to the Reference(s) block for identification of that circular.

RELATED LOSS COSTS REVISION

We are announcing in a separate circular the implementation of a corresponding loss costs revision. Please refer to the Reference(s) block for identification of that circular.

REFERENCE(S)

- [LI-BP-2019-187](#) (12/13/2019) Missouri Businessowners Optional Cyber Insurance Endorsements Multistate Loss Costs To Be Implemented
 - [LI-BP-2019-186](#) (12/13/2019) Missouri Businessowners Manual Rules Revision To Be Implemented
 - [LI-CL-2019-057](#) (12/10/2019) Revised Lead Time Requirements Listing
 - [LI-BP-2014-188](#) (08/29/2014) Introduction Of Businessowners Multistate Optional Cyber Insurance Endorsements (Including State Supplements) To Be Implemented In Various Jurisdictions
 - [LI-BP-2014-093](#) (07/03/2014) Introduction Of Businessowners Multistate Optional Cyber Insurance Endorsements Filed; Implementation Pending
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ATTACHMENT(S)

- Filing [BP-2014-OISFR](#)
 - Status Report
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Missouri Businessowners Forms Revision

About This Filing

This Missouri filing introduces various new endorsements and withdraws existing endorsements. This filing is divided into two sections.

- ◆ **Multistate Information Security Protection Endorsements Introduced**

This section introduces optional endorsements for use with the Businessowners Coverage Form, addressing coverage for cyber/data breach liability and related first party expenses.

- ◆ **Missouri-specific Endorsements Withdrawn In Favor Of Multistate Endorsements**

This section withdraws two Missouri-specific endorsements and introduces two multistate endorsements in response to Missouri Department Of Insurance Bulletin 15-01.

Related Filing(s)

- ◆ BP-2014-OISRU (Rules)
- ◆ BP-2014-RISLC (Loss Costs)

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insurer's determination of coverage for a specific claim. ISO does not intercede in coverage disputes arising from insurance policies. If there is any conflict between a form and any other part of the attached material, the provisions of the form apply.

Information Security Protection Endorsements Introduced

Introduction

Reports of data breaches have become increasingly frequent in recent years. Businesses that suffer data breaches may be liable for damages and fines. They may also incur substantial costs that can include notifying parties affected by the breach, paying for monitoring costs for affected parties and hiring a public relations firm to restore the business's reputation.

Explanation of Changes

Information Security Protection Endorsement BP 15 07

To address first-party and third-party cyber/data breach exposures of Businessowners insureds, we have created endorsement BP 15 07 for use with ISO's Businessowners Program. Below is a general description of the Information Security Protection Endorsement and highlights of its major provisions.

Schedule

The endorsement provides a Schedule for :

- ◆ Indicating which coverage tiers apply;
- ◆ Entering retroactive dates for claims-made coverages, if applicable;
- ◆ Entering the Information Security Protection Aggregate Limit of Insurance;
- ◆ Entering the Information Security Protection Deductible;
- ◆ Indicating whether a waiting period, other than the 24-hour waiting period provided for in the endorsement, applies to Business Income And Extra Expense;
- ◆ Indicating whether the insured has contracted with a company to provide pre- and / or post-security breach services;
- ◆ Indicating whether the Supplemental Extended Reporting Period Applies.

Coverage Tiers And Insuring Agreements

Coverage is available in three tiers. Tier 1 coverage is automatically provided when the endorsement is attached to the policy. When Tier 2 coverage is

provided, Tier 1 coverage must also be provided. When Tier 3 coverage is provided, Tiers 1 and 2 must also be provided. The following is a description of the insuring agreements provided with each coverage tier.

Tier 1 First Party Expense Coverages

◆ Replacement Or Restoration Of Electronic Data

This Insuring Agreement provides coverage to the insured for the costs of replacing or restoring electronic data or computer programs stored within the insured's computer system which is lost or rendered inaccessible as the direct result of an e-commerce incident. An e-commerce incident is defined as a virus, malicious code or a denial of service attack introduced into or enacted upon the computer system or network to which it is connected, that is designed to damage, destroy, delete, corrupt or prevent the use of or access to any part of the computer system or otherwise disrupt its normal operation.

When the endorsement is attached, Additional Coverage A.5.p. Electronic Data of the Businessowners Coverage Form does not apply to destruction or corruption of electronic data resulting directly from an e-commerce incident.

◆ Public Relations Expense

This Insuring Agreement provides coverage for fees and costs of a public relations firm plus reasonable expenses incurred by the insured to protect or restore its reputation in response to negative publicity resulting from an e-commerce incident or security breach.

◆ Security Breach Expense

This Insuring Agreement provides coverage for expenses incurred by the insured as a result of a security breach including, but not limited to, costs to notify all affected parties of the breach, costs to operate a call-center and provide post event monitoring costs for victims of a security breach.

Tier 2 Liability Coverage

◆ Security Breach Liability

Paragraph (1) of this Insuring Agreement applies to the insured's liability arising out of claims by third parties for wrongful acts committed by an insured with respect to its failure to maintain the security of personal information it holds in its computer system or in non-electronic format. Claims must first be made during the policy period or during an applicable extended reporting period. The insurer has the duty to defend the insured against covered claims. Defense expenses are treated as part of the loss and, therefore, will reduce the limit of insurance.

Paragraph (2) of this Insuring Agreement provides coverage for both loss (meaning fines or penalties assessed against the insured to the extent such

fines or penalties are insurable by law) and defense expenses as a result of a claim in the form of a regulatory proceeding first made against the insured during the policy period or during the applicable extended reporting period, conducted in response to a wrongful act or series of related wrongful acts covered under Paragraph (1) of the Insuring Agreement. Regulatory proceeding means an investigation, demand or proceeding 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.

Tier 3 First Party Expense Coverages

◆ Extortion Threats

This Insuring Agreement provides coverage to the insured for extortion expenses incurred and ransom payments made as the direct result of an extortion threat. Extortion expenses include:

- Fees and costs of a person or organization hired to determine the validity and severity of an extortion threat;
- Interest costs for a loan from a financial institution taken to pay a ransom demand;
- Reward money paid to an informant which leads to the arrest and conviction of parties responsible for loss; and
- Any other reasonable expenses incurred by the insured with the insurer's written consent.

Extortion threat is defined to include a threat, or series of related threats, to perpetrate an e-commerce incident; to disseminate, divulge or utilize the insured's proprietary information or weaknesses in its source code; to destroy, corrupt or prevent normal access to the computer system by gaining unauthorized access to the computer system; to inflict ransomware on the computer system or a network to which it is connected; or to publish the insured's client's personal information.

◆ Business Income And Extra Expense

This Insuring Agreement provides coverage to the insured for loss of business income and/ or extra expense incurred by the insured, up to the limit of insurance, as the direct result of an e-commerce incident, which includes a virus, malicious code or a denial of service attack.

When Tier 3 is shown as applicable in the Schedule of the endorsement, Additional Coverage A.5.q. Interruption Of Computer Operations of the Businessowners Coverage Form does not apply to a suspension of operations

caused by an interruption in computer operations due to destruction or corruption of electronic data due to an e-commerce incident.

Tier 3 Liability Coverage

◆ Web Site Publishing Liability

This Insuring Agreement applies to the insured's liability arising out of claims by third parties for wrongful acts committed by an insured with respect to the content an insured posts on its web site. Claims must first be made during the policy period or during an applicable extended reporting period. The insurer has the duty to defend the insured against covered claims. Defense expenses are treated as part of the loss and, therefore, will reduce the limit of insurance.

Defense And Settlement

For the purposes of coverage provided under the Insuring Agreements for Security Breach Liability and Web Site Publishing Liability, the endorsement adds provisions addressing defense and settlement of claims to Section II – Liability of the coverage form. The following are highlights of these provisions:

- ◆ The endorsement provides a duty to defend with regard to these two Insuring Agreements only. However, there is a right but not a duty to defend the insured against a regulatory proceeding covered under the Security Breach Liability insuring agreement or against claims where the Insuring Agreements provide no coverage.
- ◆ A consent to settle provision states that if the insured does not consent to a settlement recommended by the insurer, the insurer will not pay more than the amount for which the claim could have been settled plus defense expenses incurred as of that date on which the insurer tendered the proposal in writing to the insured.

Limits Of Insurance

The following are highlights of the endorsement's Limits of Insurance provisions:

- ◆ The endorsement's coverage is subject to one overall Information Security Protection Aggregate Limit Of Insurance.
- ◆ Defense expenses (available under the Insuring Agreements for Security Breach Liability and Web Site Publishing Liability only) are payable within the Information Security Protection Aggregate Limit Of Insurance.
- ◆ Upon the exhaustion of the Information Security Protection Aggregate Limit Of Insurance, either by payment of loss, claims or as defense expenses, the insurer will have no further obligation or liability of any kind under the endorsement.

- ◆ The options for limits are addressed in companion Businessowners rules filing BP-2014-OISRU.

Deductibles

The following are highlights of the endorsement's Deductibles provisions:

- ◆ The insuring agreements are subject to the Information Security Protection Deductible shown in the Schedule. The insurer will pay for loss and defense expenses in excess of the deductible amount.
- ◆ With respect to coverage for Business Income And Extra Expense, the deductible will be the greater of:
 - The Information Security Protection Deductible shown in the schedule; or
 - The amount of loss during the waiting period of the interruption, which will be the first 24 hours unless a different period is entered in the Schedule.
- ◆ In the event a loss is covered under more than one insuring agreement:
 - If Insuring Agreement f. Business Income And Extra Expense does not apply, the Information Security Protection Deductible will be applied only once per occurrence, wrongful act or interrelated wrongful acts;
 - If Insuring Agreement f. Business Income And Extra Expense does apply, the larger of the:
 - ◇ Information Security Protection Deductible shown in the Schedule; or
 - ◇ Amount of loss incurred during the applicable waiting periodwill be applied only once per occurrence, wrongful act or interrelated wrongful acts.

Exclusions

The endorsement provides exclusions that replace the exclusions of Paragraph B., Section I – Property and Paragraph B. Exclusions, Subparagraph 1.

Applicable To Business Liability Coverage of Section II – Liability. The following are some highlights of these exclusions:

- ◆ Paragraph H. provides that the Businessowners multistate and jurisdiction-specific data breach exclusion endorsements do not apply to the coverage provided by the Information Security Protection Endorsement.
- ◆ Additionally, the following are some highlights of the exclusions under Paragraph I.:
 - Exclusion c. excludes coverage for claims arising out of bodily injury or physical damage to tangible property.

- Exclusion d. excludes coverage for claims arising out of unexplained computer system failure.
- Exclusion e. excludes coverage for claims arising out of an interruption of normal computer function or network service due to insufficient capacity to process transactions or due to an overload of activity. However, this exclusion does not apply to an interruption caused by an e-commerce incident.
- Exclusion f. excludes coverage for claims arising out of complete or substantial failure or shutdown of the Internet or any communications and data network infrastructure for any cause that is not an e-commerce incident.
- Exclusion g. excludes coverage for claims arising out of the failure of, reduction in, or surge of power.
- Exclusion j. excludes coverage for claims arising out of the oral or written publication of material by the insured if done with the knowledge of its falsity.
- Exclusion l. excludes coverage for claims arising out of any actual or alleged violation by the insured of another's trade secret or patent rights.
- Exclusion r. excludes coverage for claims arising out of any dishonest, malicious or fraudulent act or any willful violation of any statute or regulation committed by an insured. However, this endorsement will provide a defense when those acts are alleged until final adjudication is rendered against that insured or until that insured intends to plead guilty or no contest. Final adjudication rendered against one insured shall not be imputed to any other insured.

An exception states that this exclusion shall not apply to dishonest, malicious or fraudulent acts committed by an employee which give rise to a claim or loss covered under Insuring Agreement d. Security Breach Liability.

- Exclusion t. excludes coverage for loss arising out of costs associated with upgrading or improving the insured's computer system.
- Exclusion v. excludes coverage for loss arising out of unintentional errors and omissions in the entry of electronic data into the computer system.
- Exclusion x. excludes coverage for loss or defense expenses arising out of fines, penalties or assessments imposed pursuant to Payment Card Industry agreements.

Conditions

The endorsement replaces and adds provisions with respect to the Property Loss Conditions of Section I – Property, the Liability And Medical Expense General

Conditions of Section II – Liability and the Common Policy Conditions of Section III. The following are highlights of these provisions:

- ◆ The Duties In The Event Of Loss Or Damage provision of Section I and the Duties In the Event Of Occurrence, Offense, Claim Or Suit provision of Section II are replaced to reference defined terms in the endorsement, and tailor duties to coverages provided in the endorsement.
- ◆ The Extended Reporting Periods condition provides two additional time periods for making claims to the insurer:
 - The Basic Extended Reporting Period (BASIC) condition provides a 30-day reporting period at no additional charge. The BASIC 30-day period starts at the end of the policy period. It does not extend the policy period or expand the coverage provided. It applies only to wrongful acts occurring on or after the Retroactive Date, if any, shown in the Schedule and before the end of the policy period, and reported to the insurer during the BASIC. There is no separate or additional limit of insurance. The limit will be the remaining amount of the Information Security Protection Aggregate Limit of Insurance available at the end of the policy period.
 - The Supplemental Extended Reporting Period (SUPP) must be elected before the BASIC expires and is available for an additional premium. It begins at the end of the BASIC and lasts for one year. Similar to the BASIC, this condition does not extend the policy period or expand the coverage provided. It applies only to wrongful acts occurring on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period, and reported to the insurer during the SUPP. There is no separate or additional limit of insurance. The limit will be the remaining amount of the Information Security Protection Aggregate Limit of Insurance available at the end of the BASIC.

The BASIC and the SUPP will only be available if:

- The endorsement is cancelled or not renewed; or
- The insurer renews or replaces Insuring Agreement d. Security Breach Liability or g. Web Site Publishing Liability with insurance that:
 - ◇ Has a retroactive date later than the date shown in the schedule for that insuring agreement; or
 - ◇ Does not apply to wrongful acts on a claims-made basis for that insuring agreement.

Definitions

The endorsement revises and adds definitions with respect to Sections I and II. The following are some highlights:

- ◆ For the purposes of the coverage provided by the endorsement, the definition of "computer" under Section I does not apply.
- ◆ Under paragraph R., a definition of "electronic data", which conforms to the definition in the ISO e-commerce program, replaces the definition of "electronic data" under Section I and is added to the Definitions of Section II.
- ◆ "Computer program" is defined as a set of related electronic instructions which enables the computer to receive, process, store or send electronic data.
- ◆ "Computer system" includes computer systems owned, leased or operated by the insured and means computers including Personal Digital Assistants (PDA's) and other transportable handheld devices, electronic storage devices and related peripheral components; systems and applications software; and related communication networks; by which electronic data is collected, transmitted, processed, stored or retrieved.
- ◆ "E-commerce activities" is defined as activities conducted by the insured in the normal conduct of the insured's business via the Internet or other computer-based interactive communications network.
- ◆ "E-commerce incident" is defined to include a virus, malicious code or denial of service attack introduced into the insured's computer system that is designed to damage, destroy, delete, corrupt or prevent the use of or access to any part of the computer system or otherwise disrupt its normal operation.
- ◆ Under paragraph U., the definition of "employee" under Section II is revised to include temporary workers.
- ◆ "Interruption" includes an unanticipated cessation or slowdown of the insured's e-commerce activities, or the voluntary suspension of the insured's e-commerce activities to avoid transmitting a virus to another.
- ◆ "Loss" is defined differently depending upon which insuring agreement is involved:
 - For the first-party expense coverages, "loss" includes expenses relevant to the respective coverages.
 - For the third-party liability coverages, "loss" includes compensatory damages, settlement amounts and judgments. For Security Breach Liability, "loss" also includes fines or penalties assessed against the insured to the extent such fines or penalties are insurable by law.
- ◆ "Negative publicity" means information which has been made public that has caused or is reasonably likely to cause a decline or deterioration in the reputation of the named insured or one or more of its products or services.

- ◆ "Personal information" means any information not available to the general public through which an individual may be identified.
- ◆ "Public relations expenses" means fees and costs of a public relations firm and any other reasonable expenses incurred by the insured with the company's consent used to protect or restore the insured's reputation solely in response to negative publicity.
- ◆ "Security breach" means the acquisition of personal information held within the insured's or an authorized third party's computer system or otherwise by a person not authorized to have access to such information; or the acquisition of personal information held within the insured's or an authorized third party's computer system or otherwise by a person authorized to have access to such information but which results in the unauthorized disclosure of such information.
- ◆ "Security breach expenses" defines the expenses covered by the Security Breach Expense Insuring Agreement, which include, in part, costs to establish whether a security breach has occurred or is occurring; costs to investigate the cause and scope of a security breach; costs to determine action necessary to remediate conditions that led to or resulted from a security breach; costs to notify all parties affected by a security breach; fees and costs of a company hired by the insured to operate a call center; and post-event monitoring costs for parties affected by a security breach.
- ◆ "Wrongful act" is defined differently depending upon which liability insuring agreement is involved:
 - With respect to Security Breach Liability, "wrongful act" is defined to include any actual or alleged neglect, breach of duty or omission by the insured that results in a security breach or a computer system transmission of a virus to a third party.
 - With respect to Web Site Publishing Liability, "wrongful act" is defined to include any actual or alleged error, misstatement or misleading statement posted or published by the insured on its web site, that results in an infringement of another's copyright, trademark, trade name, trade dress, title, slogan, service name or service mark. The following offenses have not been addressed by this endorsement because they are addressed in the Businessowners Coverage Form:
 - ◇ Infringing upon another's copyright, trade dress or slogan in the insured's advertisement;
 - ◇ Oral or written publication, in any manner, of material that slanders or libels a person or organization; and

- ◇ Oral or written publication, in any manner, of material that violates a person's right of privacy.

Payment Card Industry (PCI) – Provide Coverage For Defense Expenses And Fines Or Penalties Endorsement BP 15 08

This endorsement provides coverage for both loss (including fines or penalties assessed against the insured to the extent such fines or penalties are insurable by law) and defense expenses as a result of a claim in the form of an action taken by a card company (meaning Visa Inc., MasterCard, American Express, Discover or JCB International Credit Card Co., Ltd. (JCB)) for noncompliance with the Payment Card Industry (PCI) Data Security Standards first made against the insured during the policy period or during the applicable Extended Reporting Period, in response to a wrongful act covered under Paragraph (1) of Insuring Agreement d. Security Breach Liability for up to the Information Security Protection Aggregate Limit of Insurance shown in the Schedule of Endorsement BP 15 07.

Provide Coverage For Dishonest, Malicious Or Fraudulent Acts Committed By Employees Endorsement BP 15 10

This endorsement replaces exclusion r. in Endorsement BP 15 07, thereby providing coverage for dishonest, malicious or fraudulent acts committed by an employee under all Insuring Agreements.

New Forms

We are introducing:

- ◆ BP 15 07 03 15 – Information Security Protection Endorsement
- ◆ BP 15 08 03 15 – Payment Card Industry (PCI) – Provide Coverage For Defense Expenses And Fines Or Penalties
- ◆ BP 15 10 03 15 – Provide Coverage For Dishonest, Malicious Or Fraudulent Acts Committed By Employees

Missouri-specific Endorsements Withdrawn In Favor Of Multistate Endorsements

Background

We introduced Missouri – Employment-Related Practices Liability Endorsement BP 10 73 in filing BP-2007-OEP1 and Missouri – Condominiums, Co-ops, Associations – Directors And Officers Liability Endorsement BP 17 33 in filing BP-2009-OEND1 in response to the Missouri Department of Insurance Bulletin 98-04. On January 12, 2015, the Missouri Department Of Insurance issued Insurance Bulletin 15-01, which, in part, withdrew Insurance Bulletin 98-04.

Explanation of Changes

In response to Insurance Bulletin 15-01, we are withdrawing Missouri – Employment-Related Practices Liability Endorsement BP 10 73 and Missouri – Condominiums, Co-ops, Associations – Directors And Officers Liability Endorsement BP 17 33 and introducing the corresponding multistate endorsements.

New Forms

We are introducing:

- ◆ BP 05 89 01 10 Employment-Related Practices Liability Endorsement
- ◆ BP 17 24 01 10 Condominiums, Co-ops, Associations – Directors And Officers Liability Endorsement

Withdrawn Forms

We are withdrawing the following forms:

- ◆ BP 10 73 01 10 Missouri – Employment-Related Practices Liability Endorsement
- ◆ BP 17 33 01 10 Missouri – Condominiums, Co-ops, Associations – Directors And Officers Liability Endorsement

POLICY NUMBER:

BUSINESSOWNERS
BP 05 89 01 10

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EMPLOYMENT-RELATED PRACTICES
LIABILITY ENDORSEMENT**

THIS ENDORSEMENT PROVIDES CLAIMS-MADE AND REPORTED COVERAGE
PLEASE READ THE ENTIRE FORM CAREFULLY

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Employment-related Practices Liability Annual Aggregate Limit Of Insurance:		\$
Supplemental Limit:		\$
Deductible Amount:		\$
Prior Or Pending Litigation Date:		
<input type="checkbox"/>	Employment-related Malicious Prosecution	
Retroactive Date:		
<input type="checkbox"/>	Extended Reporting Period	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

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For the purposes of the coverage provided by this endorsement, **Section II – Liability** is amended as follows:

A. The following is added to Paragraph **A. Coverages**:

1. Insuring Agreement

- a. We will pay those sums the insured becomes legally obligated to pay as damages resulting from a "wrongful act" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages because of a "wrongful act" to which this insurance does not apply. We may, at our discretion, investigate any incident that may result from a "wrongful act". We may, with your written consent, settle any "claim" that may result. But:

- (1) The amount we will pay for damages and "defense expenses" is limited as described in Paragraph **D.1.** Employment-related Practices Liability Annual Aggregate Limit Of Insurance and Paragraph **D.2.** Deductible of this endorsement; and
- (2) The coverage and duty to defend provided by this endorsement will end when we have used the applicable Limit of Insurance for "defense expenses" or the payment of judgments or settlements.

No other obligation or liability to pay sums, such as civil or criminal fines, imposed on you or any other insured, or to perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "wrongful acts" only if:

- (1) The "wrongful act" takes place in the "coverage territory";
- (2) The "wrongful act" did not commence before the Retroactive Date, if any, shown in the Schedule, or after the end of the policy period; and
- (3) A "claim" against any insured for damages because of the "wrongful act" is first made during the policy period, or an Extended Reporting Period provided under Paragraph **F.** of this endorsement, in accordance with Paragraphs **c.** and **d.** below.

- c. A "claim" will be deemed to have been made at the earlier of the following times:

- (1) When notice of such "claim" after being received by any insured is reported to us in writing; or
- (2) When a "claim" against an insured is made directly to us in writing.

A "claim" received by the insured during the policy period and reported to us within 30 days after the end of the policy period will be considered to have been reported within the policy period. However, this 30-day grace period does not apply to "claims" that are covered under any subsequent insurance you purchase, or that would have been covered but for exhaustion of the amount of insurance applicable to such "claims".

- d. If during the policy period you become aware of a "wrongful act" that may reasonably be expected to give rise to a "claim" against any insured, you must provide notice to us in accordance with the provisions of Paragraph **E.2** Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim. If such notice is provided, then any "claim" subsequently made against any insured arising out of that "wrongful act" shall be deemed under this policy to be a "claim" made during the policy period in which the "wrongful act" was first reported to us.

- e. All "claims" for damages because of a "wrongful act" committed against the same person, including damages claimed by any person for care, loss of services or death resulting at any time from the "wrongful act", will be deemed to have been made at the time the first of such "claims" is made, regardless of the number of "claims" subsequently made.

B. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **B. Exclusions**, Subparagraph 1. **Applicable To Business Liability Coverage**:

This insurance does not apply to:

a. Criminal, Fraudulent Or Malicious Acts

An insured's liability arising out of criminal, fraudulent or malicious acts or omissions by that insured.

This exclusion does not affect our duty to defend, in accordance with Paragraph **A.1.** of this endorsement, an insured prior to determining, through the appropriate legal processes, that that insured is responsible for a criminal, fraudulent or malicious act or omission.

b. Contractual Liability

Any "wrongful act" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

c. Violation Of Laws Applicable To Employers

A violation of your responsibilities or duties required by any other federal, state or local statutes, rules or regulations, and any rules or regulations promulgated therefor or amendments thereto, except for the following, and including amendments thereto: Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act, the Equal Pay Act, the Pregnancy Discrimination Act of 1978, the Immigration Reform Control Act of 1986, the Family and Medical Leave Act of 1993 and the Genetic Information Nondiscrimination Act of 2008 or any other similar state or local statutes, rules or regulations to the extent that they prescribe responsibilities or duties concerning the same acts or omissions.

However, this insurance does not apply to a "wrongful act" arising out of your failure to comply with any of the accommodations for the disabled required of you by, or any expenses incurred as the result of physical modifications made to accommodate any person pursuant to, the Americans With Disabilities Act, or any amendments thereto, or any similar state or local statutes, rules or regulations to the extent that they prescribe responsibilities or duties concerning the same acts or omissions.

This exclusion does not apply to any "claim" for retaliatory treatment by an insured against any person making a "claim" pursuant to such person's rights under any statutes, rules or regulations.

d. Strikes And Lockouts

Any "wrongful act" committed against any striking or locked-out "employee", or to an "employee" who has been temporarily or permanently replaced due to any labor dispute.

e. Prior Or Pending Litigation

Any "claim" or "suit" against any insured which was pending on, or existed prior to, the applicable Pending Or Prior Litigation Date shown in the Schedule, or any "claim" or "suit" 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 "suit".

f. Prior Notice

Any "wrongful act" alleged or contained in any "claim" which has been reported, or for which, in any circumstance, notice has been given, under any other prior insurance policy providing essentially the same type of coverage.

C. For the purposes of the coverage provided by this endorsement, **Section II – Who Is An Insured is amended to include as an insured:**

1. Your "employees", unless otherwise excluded in this endorsement.
2. Your former "employees", unless otherwise excluded in this endorsement, but only with respect to "wrongful acts" committed while in your employ.

D. For the purposes of the coverage provided by this endorsement, Paragraph D. Liability And Medical Expenses Limits Of Insurance is replaced by the following:

1. Employment-related Practices Liability Annual Aggregate Limit Of Insurance

- a.** The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay, regardless of the number of:

- (1) Insureds;
- (2) "Claims" made or "suits" brought; or
- (3) Persons, organizations or government agencies making "claims" or bringing "suits".

- b.** The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay for the sum of:

- (1) All damages; and
- (2) All "defense expenses"

because of all "wrongful acts" to which this insurance applies.

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The Employment-related Practices Liability Annual Aggregate Limit Of Insurance applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

2. Deductible

- a. We will not pay for our share of damages and "defense expenses" until the amount of damages and "defense expenses" exceeds the Deductible shown in the Schedule of this endorsement. We will then pay the amount of damages and "defense expenses" in excess of the Deductible, up to the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

Example No. 1

Deductible: \$5,000

Limit of Insurance: \$100,000

Damages and "Defense Expenses": \$75,000

The Deductible will be subtracted from the amount of damages and "defense expenses" in calculating the amount payable:

$\$75,000 - \$5,000 = \$70,000$ Amount Payable

Example No. 2

Deductible: \$5,000

Limit of Insurance: \$100,000

Damages and "Defense Expenses": \$120,000

The Deductible will be subtracted from the amount of damages and "defense expenses" ($\$120,000 - \$5,000 = \$115,000$). Since the amount of the damages and "defense expenses" minus the Deductible exceeds the Limit of Insurance, the policy will pay the full Limit of Insurance (\$100,000).

- b. The Deductible amount shown in the Schedule applies to all "claims" arising out of:

- (1) The same "wrongful act"; or

- (2) A series of "wrongful acts", circumstances or behaviors which arise from a common cause

regardless of the number of persons, organizations or government agencies making such "claims".

- c. We may pay any part or all of the Deductible amount to effect settlement of any "claim" 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.

- E. For the purposes of the coverage provided by this endorsement, the following are added to Paragraph E. **Liability And Medical Expenses General Conditions:**

1. Consent To Settle

If we recommend a settlement to you which is acceptable to the claimant, but to which you do not consent, the most we will pay as damages in the event of any later settlement or judgment is the amount for which the "claim" could have been settled, to which you did not give consent, less any deductible.

2. Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim

- a. If a "claim" is received by any insured, you must:

- (1) Immediately record the specifics of the "claim" and the date received; and
(2) Notify us, in writing, as soon as practicable.

- b. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
(2) Authorize us to obtain records and other information;
(3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and
(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of a "wrongful act" to which this insurance may also apply.

- c. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our written consent.

- d. If you become aware of a "wrongful act" that may reasonably be expected to give rise to a "claim" and for which a "claim" has not yet been received, you must notify us, in writing, as soon as practicable. Such notice must provide:

- (1) A description of the "wrongful act", including all relevant dates;
- (2) The names of the persons involved in the "wrongful act", including names of the potential claimants;
- (3) Particulars as to the reasons why you became aware of and reasonably expect a "claim" which may result from such "wrongful act";
- (4) The nature of the alleged or potential damages arising from such "wrongful act"; and
- (5) The circumstances by which the insured first became aware of the "wrongful act".

3. Representations

By accepting this policy, you agree that:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

4. If You Are Permitted To Select Defense Counsel

If, by mutual agreement or court order, the insured is given the right to select defense counsel and the Limit of Insurance has not been used up, the following provisions apply:

- a. We retain the right, at our discretion, to:
 - (1) Settle, approve or disapprove the settlement of any "claim"; and
 - (2) Appeal any judgment, award or ruling at our expense.
- b. You and any other involved insured must:
 - (1) Continue to comply with Paragraph **E.2. Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim Condition** of this endorsement as well as the other provisions of this policy; and
 - (2) Direct defense counsel of the insured to:
 - (a) Furnish us with the information we request to evaluate those "suits" for coverage under this policy; and

- (b) Cooperate with any counsel we may select to monitor or associate in the defense of those "suits".

- c. If we defend you under a reservation of rights, both your and our counsel will be required to maintain records pertinent to your "defense expenses". These records will be used to determine the allocation of any "defense expenses" for which you may be solely responsible, including defense of an allegation not covered by this insurance.

5. Transfer Of Duties When Limit Of Insurance Is Used Up

- a. If we conclude that, based on "claims" which have been reported to us and to which this insurance may apply, the Employment-related Practices Liability Annual Aggregate Limit Of Insurance is likely to be used up in the payment of judgments or settlements for damages or the payment of "defense expenses", we will notify the first Named Insured, in writing, to that effect.

- b. When the Employment-related Practices Liability Annual Aggregate Limit Of Insurance has actually been used up in the payment of judgments or settlements for damages or the payment of "defense expenses", we will:

- (1) Notify the first Named Insured in writing, as soon as practicable, that such a limit has actually been used up, and that our duty to defend the insured against "suits" seeking damages subject to that limit has also ended;

- (2) Initiate, and cooperate in, the transfer of control, to any appropriate insured, of all "suits" for which the duty to defend has ended for the reason described in preceding Paragraph **5.b.(1)** and which are reported to us before that duty to defend ended; and

- (3) Take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

- c. If the circumstances described in Paragraph **5.b.(1)** have occurred, the first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must:

- (1) Cooperate in the transfer of control of "suits"; and

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- (2) Arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.
- d. We will take no action with respect to defense for any "claim" if such "claim" is reported to us after the Employment-related Practices Liability Annual Aggregate Limit Of Insurance has been used up. It becomes the responsibility of the first Named Insured, and any other insured involved in such a "claim", to arrange defense for such "claim".
- e. The first Named Insured will reimburse us as soon as practicable for expenses we incur in taking those steps we deem appropriate in accordance with Paragraph 5.b.
- f. The exhaustion of the Employment-related Practices Liability Annual Aggregate Limit Of Insurance and the resulting end of our duty to defend will not be affected by our failure to comply with any of the provisions of this Condition.

F. Extended Reporting Period

- 1. For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added:
 - a. You will have the right to purchase an Extended Reporting Period from us if:
 - (1) This endorsement is cancelled or not renewed for any reason; or
 - (2) We renew or replace this endorsement with insurance that:
 - (a) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (b) Does not apply to "wrongful acts" on a claims-made basis.
 - b. An Extended Reporting Period, as specified in Paragraph F.1.a. above, lasts three years and is available only for an additional premium.
 - c. The Extended Reporting Period starts with the end of the policy period. It does not extend the policy period or change the scope of the coverage provided. It applies only to "claims" to which the following applies:
 - (1) The "claim" is first made during the Extended Reporting Period;
 - (2) The "wrongful act" occurs before the end of the policy period; and

(3) The "wrongful act" did not commence before the Retroactive Date.

- d. You must give us a written request for the Extended Reporting Period within 30 days after the end of the policy period or the effective date of cancellation, whichever comes first.
- e. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due and any premium or deductible you owe us for coverage provided under this endorsement. Once in effect, the Extended Reporting Period may not be cancelled.
- f. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - (1) The exposures insured;
 - (2) Previous types and amounts of insurance;
 - (3) Limit of Insurance available under this endorsement for future payment of damages; and
 - (4) Other related factors.

The additional premium will not exceed 200% of the annual premium for this endorsement.

- g. When the Extended Reporting Period is in effect, we will provide a Supplemental Limit of Insurance for any "claim" first made during the Extended Reporting Period.

The Supplemental Limit of Insurance will be equal to the dollar amount shown in the Schedule of this endorsement under the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

Paragraph D.1.b. of this endorsement will be amended accordingly.

- 2. If the Extended Reporting Period is chosen by checking the appropriate box in the Schedule of this endorsement, the provisions of this Paragraph 2. supersede any other provisions of this endorsement to the contrary.
 - a. An Extended Reporting Period is provided, as described in Paragraph F. Extended Reporting Period.
 - b. A Supplemental Limit of Insurance applies, as set forth in Paragraph F.2.c. below, to "claims" first made during the Extended Reporting Period. The limit is equal to the Employment-related Practices Liability Annual Aggregate Limit Of Insurance entered in the Schedule.

- c. Paragraph **D.1.b.** of this endorsement is replaced by the following:
 - b. The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay for the sum of:
 - (1) All damages; and
 - (2) All "defense expenses" because of all "wrongful acts" to which this insurance applies.

However, the Employment-related Practices Liability Annual Aggregate Limit Of Insurance does not apply to "claims" to which the Supplemental Limit Of Insurance applies.
 - d. The following is added to Paragraph **D.1.** of this endorsement:
 - c. The Supplemental Limit Of Insurance is the most we will pay for the sum of:
 - (1) All damages; and
 - (2) All "defense expenses" because of all "wrongful acts" for "claims" first made during the Extended Reporting Period.
 - e. Paragraph **D.1. Employment-related Practices Liability Annual Aggregate Limit Of Insurance**, as amended by Paragraphs **F.2.c.** and **F.2.d.**, is otherwise unchanged and applies in its entirety.
 - f. The Extended Reporting Period will not take effect unless the additional premium for it, as set forth in Paragraph **F.** Extended Reporting Period, is paid when due. If that premium is paid when due, the Extended Reporting Period may not be cancelled.
- G. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **F. Liability And Medical Expenses Definitions** of the policy:
 - 1. "Claim" means a "suit" or demand made by or for a current, former or prospective "employee" for damages because of an alleged "wrongful act".
 - 2. "Defense expenses" means payments allocated to a specific "claim" we investigate, settle or defend, for its investigation, settlement or defense, including:
 - a. Fees and salaries of attorneys and paralegals we retain, including attorneys and paralegals who are our "employees".
 - b. Fees of attorneys the insured retains when, by our mutual agreement or court order (or when required by administrative hearing or proceeding), the insured is given the right to retain defense counsel to defend against a "claim".
 - c. All other litigation or administrative hearing expenses, including fees or expenses of expert witnesses hired either by us or by the defense attorney retained by an insured.
 - d. 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.
 - e. Costs taxed against the insured in a "suit".

"Defense expenses" does not include salaries and expenses of our "employees" or the insured's "employees" (other than those described in Paragraphs **a.** and **d.** of this definition).
 - 3. "Discrimination" means violation of a person's civil rights with respect to such person's race, color, national origin, religion, gender, marital status, age, sexual orientation or preference, physical or mental condition, or any other protected class or characteristic established by any federal, state or local statutes, rules or regulations.
 - 4. "Wrongful act" means one or more of the following offenses, but only when they are employment-related:
 - a. Wrongful demotion or failure to promote, negative evaluation, reassignment, or discipline of your current "employee" or wrongful refusal to employ;
 - b. Wrongful termination, meaning the actual or constructive termination of an "employee":
 - (1) In violation or breach of applicable law or public policy; or
 - (2) Which is determined to be in violation of a contract or agreement, other than an employment contract or agreement, whether written, oral or implied, which stipulates financial consideration if such financial consideration is due as the result of a breach of the contract;
 - c. Wrongful denial of training, wrongful deprivation of career opportunity, or breach of employment contract;
 - d. Negligent hiring or supervision which results in any of the other offenses listed in this definition;

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- e. Retaliatory action against an "employee" because the "employee" has:
 - (1) Declined to perform an illegal or unethical act;
 - (2) Filed a complaint with a governmental authority or a "suit" against you or any other insured in which damages are claimed;
 - (3) Testified against you or any other insured at a legal proceeding; or
 - (4) Notified a proper authority of any aspect of your business operation which is illegal;
- f. Coercing an "employee" to commit an unlawful act or omission within the scope of that person's employment;
- g. Harassment;
- h. Libel, slander, invasion of privacy, defamation or humiliation; or
- i. Verbal, physical, mental or emotional abuse arising from "discrimination".

H. If Employment-related Malicious Prosecution is chosen by checking the appropriate box in the Schedule of this endorsement, then the following provisions apply:

- 1. Paragraph **B.a.** of this endorsement is replaced by the following:

This insurance does not apply to:

a. Criminal, Fraudulent Or Malicious Acts

An insured's liability arising out of criminal, fraudulent or malicious acts or omissions by that insured.

However, this exclusion does not apply to malicious prosecution of "employees" by that insured. This exclusion does not affect our duty to defend, in accordance with Paragraph **A.1.** of this endorsement, an insured prior to determining, through the appropriate legal processes, that that insured is responsible for a criminal, fraudulent or malicious act or omission.

- 2. The following is added to Paragraph **G.4.** of this endorsement:

- j. Malicious prosecution.

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POLICY NUMBER:

BUSINESSOWNERS
BP 10 73 01 10

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**MISSOURI – EMPLOYMENT-RELATED
PRACTICES LIABILITY ENDORSEMENT**

**THIS ENDORSEMENT PROVIDES CLAIMS-MADE AND REPORTED COVERAGE
PLEASE READ THE ENTIRE FORM CAREFULLY**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Employment-related Practices Liability Annual Aggregate Limit Of Insurance:		\$
Supplemental Limit:		\$
Deductible Amount:		\$
Prior Or Pending Litigation Date:		
<input type="checkbox"/>	Employment-related Malicious Prosecution	
Retroactive Date:		
<input type="checkbox"/>	Extended Reporting Period	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

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For the purposes of the coverage provided by this endorsement, **Section II – Liability** is amended as follows:

A. The following is added to Paragraph A. Coverages:

1. Insuring Agreement

- a. We will pay those sums the insured becomes legally obligated to pay as damages resulting from a "wrongful act" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages because of a "wrongful act" to which this insurance does not apply. We may, at our discretion, investigate any incident that may result from a "wrongful act". We may, with your written consent, settle any "claim" that may result. But:

- (1) The amount we will pay for damages and "defense expenses" is limited as described in Paragraph **D.1.** Employment-related Practices Liability Annual Aggregate Limit Of Insurance and Paragraph **D.2.** Deductible of this endorsement; and
- (2) The coverage and duty to defend provided by this endorsement will end when we have used the applicable Limit of Insurance for "defense expenses" or the payment of judgments or settlements.

No other obligation or liability to pay sums, such as civil or criminal fines imposed on you or any other insured, or to perform acts or services, is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "wrongful acts" only if:

- (1) The "wrongful act" takes place in the "coverage territory";
- (2) The "wrongful act" did not commence before the Retroactive Date, if any, shown in the Schedule, or after the end of the policy period; and
- (3) A "claim" against any insured for damages because of the "wrongful act" is first made during the policy period, or an Extended Reporting Period provided under Paragraph **F.** of this endorsement, in accordance with Paragraphs **c.** and **d.** below.

- c. A "claim" will be deemed to have been made at the earlier of the following times:

- (1) When notice of such "claim" after being received by any insured is reported to us in writing; or
- (2) When a "claim" against an insured is made directly to us in writing.

A "claim" received by the insured during the policy period and reported to us within 30 days after the end of the policy period will be considered to have been reported within the policy period. However, this 30-day grace period does not apply to "claims" that are covered under any subsequent insurance you purchase, or that would have been covered but for exhaustion of the amount of insurance applicable to such "claims".

- d. If during the policy period you become aware of a "wrongful act" that may reasonably be expected to give rise to a "claim" against any insured, you must provide notice to us in accordance with the provisions of Paragraph **E.2.** Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim. If such notice is provided, then any "claim" subsequently made against any insured arising out of that "wrongful act" shall be deemed under this policy to be a "claim" made during the policy period in which the "wrongful act" was first reported to us.

- e. All "claims" for damages because of a "wrongful act" committed against the same person, including damages claimed by any person for care, loss of services or death resulting at any time from the "wrongful act", will be deemed to have been made at the time the first of such "claims" is made, regardless of the number of "claims" subsequently made.

- B. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph B. Exclusions, Subparagraph 1. Applicable To Business Liability Coverage:**

This insurance does not apply to:

a. Criminal, Fraudulent Or Malicious Acts

An insured's liability arising out of criminal, fraudulent or malicious acts or omissions by that insured.

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This exclusion does not affect our duty to defend, in accordance with Paragraph **A.1.** of this endorsement, an insured prior to determining, through the appropriate legal processes, that that insured is responsible for a criminal, fraudulent or malicious act or omission.

b. Contractual Liability

Any "wrongful act" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

c. Violation Of Laws Applicable To Employers

A violation of your responsibilities or duties required by any other federal, state or local statutes, rules or regulations, and any rules or regulations promulgated therefor or amendments thereto, except for the following, and including amendments thereto: Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act, the Equal Pay Act, the Pregnancy Discrimination Act of 1978, the Immigration Reform Control Act of 1986, the Family and Medical Leave Act of 1993 and the Genetic Information Nondiscrimination Act of 2008 or any other similar state or local statutes, rules or regulations to the extent that they prescribe responsibilities or duties concerning the same acts or omissions.

However, this insurance does not apply to a "wrongful act" arising out of your failure to comply with any of the accommodations for the disabled required of you by, or any expenses incurred as the result of physical modifications made to accommodate any person pursuant to, the Americans With Disabilities Act, or any amendments thereto, or any similar state or local statutes, rules or regulations to the extent that they prescribe responsibilities or duties concerning the same acts or omissions.

This exclusion does not apply to any "claim" for retaliatory treatment by an insured against any person making a "claim" pursuant to such person's rights under any statutes, rules or regulations.

d. Strikes And Lockouts

Any "wrongful act" committed against any striking or locked-out "employee", or to an "employee" who has been temporarily or permanently replaced due to any labor dispute.

e. Prior Or Pending Litigation

Any "claim" or "suit" against any insured which was pending on, or existed prior to, the applicable Pending Or Prior Litigation Date shown in the Schedule, or any "claim" or "suit" 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 "suit".

f. Prior Notice

Any "wrongful act" alleged or contained in any "claim" which has been reported, or for which, in any circumstance, notice has been given, under any other prior insurance policy providing essentially the same type of coverage.

C. For the purposes of the coverage provided by this endorsement, **Section II – Who Is An Insured** is amended to include as an insured:

1. Your "employees", unless otherwise excluded in this endorsement.
2. Your former "employees", unless otherwise excluded in this endorsement, but only with respect to "wrongful acts" committed while in your employ.

D. For the purposes of the coverage provided by this endorsement, Paragraph **D. Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

1. Employment-related Practices Liability Annual Aggregate Limit Of Insurance

a. The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay, regardless of the number of:

- (1) Insureds;
- (2) "Claims" made or "suits" brought; or
- (3) Persons, organizations or government agencies making "claims" or bringing "suits".

b. The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay for the sum of:

- (1) All damages; and
- (2) All "defense expenses";

because of all "wrongful acts" to which this insurance applies.

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The Employment-related Practices Liability Annual Aggregate Limit Of Insurance applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

2. Deductible

- a. We will not pay for our share of damages and "defense expenses" until the amount of damages and "defense expenses" exceeds the Deductible shown in the Schedule of this endorsement. We will then pay the amount of damages and "defense expenses" in excess of the Deductible, up to the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

Example No. 1

Deductible: \$5,000

Limit of Insurance: \$100,000

Damages and "Defense Expenses": \$75,000

The Deductible will be subtracted from the amount of damages and "defense expenses" in calculating the amount payable:

$\$75,000 - \$5,000 = \$70,000$ Amount Payable

Example No. 2

Deductible: \$5,000

Limit of Insurance: \$100,000

Damages and "Defense Expenses": \$120,000

The Deductible will be subtracted from the amount of damages and "defense expenses" ($\$120,000 - \$5,000 = \$115,000$). Since the amount of the damages and "defense expenses" minus the Deductible exceeds the Limit of Insurance, the policy will pay the full Limit of Insurance (\$100,000).

- b. The Deductible amount shown in the Schedule applies to all "claims" arising out of:

- (1) The same "wrongful act"; or

- (2) A series of "wrongful acts", circumstances or behaviors which arise from a common cause;

regardless of the number of persons, organizations or government agencies making such "claims".

- c. We may pay any part or all of the Deductible amount to effect settlement of any "claim" 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.

- E. For the purposes of the coverage provided by this endorsement, the following are added to Paragraph E. **Liability And Medical Expenses General Conditions:**

1. Consent To Settle

If we recommend a settlement to you which is acceptable to the claimant, but to which you do not consent, the most we will pay as damages in the event of any later settlement or judgment is the amount for which the "claim" could have been settled, to which you did not give consent, less any deductible.

2. Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim

- a. If a "claim" is received by any insured, you must:

- (1) Immediately record the specifics of the "claim" and the date received; and
(2) Notify us, in writing, as soon as practicable.

- b. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
(2) Authorize us to obtain records and other information;
(3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and
(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of a "wrongful act" to which this insurance may also apply.

- c. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our written consent.

- d. If you become aware of a "wrongful act" that may reasonably be expected to give rise to a "claim" and for which a "claim" has not yet been received, you must notify us, in writing, as soon as practicable. Such notice must provide:

- (1) A description of the "wrongful act", including all relevant dates;
- (2) The names of the persons involved in the "wrongful act", including names of the potential claimants;
- (3) Particulars as to the reasons why you became aware of and reasonably expect a "claim" which may result from such "wrongful act";
- (4) The nature of the alleged or potential damages arising from such "wrongful act"; and
- (5) The circumstances by which the insured first became aware of the "wrongful act".

3. Representations

By accepting this policy, you agree that:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

4. If You Are Permitted To Select Defense Counsel

If, by mutual agreement or court order, the insured is given the right to select defense counsel and the Limit of Insurance has not been used up, the following provisions apply:

- a. We retain the right, at our discretion, to:
 - (1) Settle, approve or disapprove the settlement of any "claim"; and
 - (2) Appeal any judgment, award or ruling at our expense.
- b. You and any other involved insured must:
 - (1) Continue to comply with Paragraph **E.2. Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim Condition** of this endorsement as well as the other provisions of this policy; and
 - (2) Direct defense counsel of the insured to:
 - (a) Furnish us with the information we request to evaluate those "suits" for coverage under this policy; and

- (b) Cooperate with any counsel we may select to monitor or associate in the defense of those "suits".

- c. If we defend you under a reservation of rights, both your and our counsel will be required to maintain records pertinent to your "defense expenses". These records will be used to determine the allocation of any "defense expenses" for which you may be solely responsible, including defense of an allegation not covered by this insurance.

5. Transfer Of Duties When Limit Of Insurance Is Used Up

- a. If we conclude that, based on "claims" which have been reported to us and to which this insurance may apply, the Employment-related Practices Liability Annual Aggregate Limit Of Insurance is likely to be used up in the payment of judgments or settlements for damages or the payment of "defense expenses", we will notify the first Named Insured, in writing, to that effect.

- b. When the Employment-related Practices Liability Annual Aggregate Limit Of Insurance has actually been used up in the payment of judgments or settlements for damages or the payment of "defense expenses", we will:

- (1) Notify the first Named Insured in writing, as soon as practicable, that such a limit has actually been used up, and that our duty to defend the insured against "suits" seeking damages subject to that limit has also ended;

- (2) Initiate, and cooperate in, the transfer of control, to any appropriate insured, of all "suits" for which the duty to defend has ended for the reason described in preceding Paragraph **5.b.(1)** and which are reported to us before that duty to defend ended; and

- (3) Take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

- c. If the circumstances described in Paragraph **5.b.(1)** have occurred, the first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must:

- (1) Cooperate in the transfer of control of "suits"; and

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- (2) Arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.
- d. We will take no action with respect to defense for any "claim" if such "claim" is reported to us after the Employment-related Practices Liability Annual Aggregate Limit Of Insurance has been used up. It becomes the responsibility of the first Named Insured, and any other insured involved in such a "claim", to arrange defense for such "claim".
- e. The first Named Insured will reimburse us as soon as practicable for expenses we incur in taking those steps we deem appropriate in accordance with Paragraph 5.b.
- f. The exhaustion of the Employment-related Practices Liability Annual Aggregate Limit Of Insurance and the resulting end of our duty to defend will not be affected by our failure to comply with any of the provisions of this Condition.

F. Extended Reporting Period

1. For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added:
 - a. You will have the right to purchase an Extended Reporting Period from us if:
 - (1) This endorsement is cancelled or not renewed for any reason; or
 - (2) We renew or replace this endorsement with insurance that:
 - (a) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (b) Does not apply to "wrongful acts" on a claims-made basis.
 - b. An Extended Reporting Period, as specified in Paragraph F.1.a. above, lasts three years and is available only for an additional premium.
 - c. The Extended Reporting Period starts with the end of the policy period. It does not extend the policy period or change the scope of the coverage provided. It applies only to "claims" to which the following applies:
 - (1) The "claim" is first made during the Extended Reporting Period;
 - (2) The "wrongful act" occurs before the end of the policy period; and

(3) The "wrongful act" did not commence before the Retroactive Date.

- d. You must give us a written request for the Extended Reporting Period within 30 days after the end of the policy period or the effective date of cancellation, whichever comes first.
- e. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due and any premium or deductible you owe us for coverage provided under this endorsement. Once in effect, the Extended Reporting Period may not be cancelled.
- f. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - (1) The exposures insured;
 - (2) Previous types and amounts of insurance;
 - (3) Limit of Insurance available under this endorsement for future payment of damages; and
 - (4) Other related factors.

The additional premium will not exceed 200% of the annual premium for this endorsement.

- g. When the Extended Reporting Period is in effect, we will provide a Supplemental Limit of Insurance for any "claim" first made during the Extended Reporting Period.

The Supplemental Limit of Insurance will be equal to the dollar amount shown in the Schedule of this endorsement under the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

Paragraph D.1.b. of this endorsement will be amended accordingly.

2. If the Extended Reporting Period is chosen by checking the appropriate box in the Schedule of this endorsement, the provisions of this Paragraph 2. supersede any other provisions of this endorsement to the contrary.
 - a. An Extended Reporting Period is provided, as described in Paragraph F. Extended Reporting Period.
 - b. A Supplemental Limit of Insurance applies, as set forth in Paragraph F.2.c. below, to "claims" first made during the Extended Reporting Period. The limit is equal to the Employment-related Practices Liability Annual Aggregate Limit Of Insurance entered in the Schedule.

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- c. Paragraph **D.1.b.** of this endorsement is replaced by the following:
- b. The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay for the sum of:
- (1) All damages; and
 - (2) All "defense expenses";
- because of all "wrongful acts" to which this insurance applies.
- However, the Employment-related Practices Liability Annual Aggregate Limit Of Insurance does not apply to "claims" to which the Supplemental Limit Of Insurance applies.
- d. The following is added to Paragraph **D.1.** of this endorsement:
- c. The Supplemental Limit Of Insurance is the most we will pay for the sum of:
- (1) All damages; and
 - (2) All "defense expenses";
- because of all "wrongful acts" for "claims" first made during the Extended Reporting Period.
- e. Paragraph **D.1. Employment-related Practices Liability Annual Aggregate Limit Of Insurance**, as amended by Paragraphs **F.2.c.** and **F.2.d.**, is otherwise unchanged and applies in its entirety.
- f. The Extended Reporting Period will not take effect unless the additional premium for it, as set forth in Paragraph **F.** Extended Reporting Period, is paid when due. If that premium is paid when due, the Extended Reporting Period may not be cancelled.
- G.** For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **F. Liability And Medical Expenses Definitions** of the policy:
1. "Claim" means a "suit" or demand made by or for a current, former or prospective "employee" for damages because of an alleged "wrongful act".
 2. "Defense expenses" means payments allocated to a specific "claim" we investigate, settle or defend, for its investigation, settlement or defense, including:
 - a. Fees and salaries of attorneys and paralegals we retain.
 - b. Fees of attorneys the insured retains when, by our mutual agreement or court order (or when required by administrative hearing or proceeding), the insured is given the right to retain defense counsel to defend against a "claim".
 - c. All other litigation or administrative hearing expenses, including fees or expenses of expert witnesses hired either by us or by the defense attorney retained by an insured.
 - d. 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.
 - e. Costs taxed against the insured in a "suit".

"Defense expenses" does not include salaries and expenses of our "employees" or the insured's "employees" (other than those described in Paragraph **d.** of this definition).
 3. "Discrimination" means violation of a person's civil rights with respect to such person's race, color, national origin, religion, gender, marital status, age, sexual orientation or preference, physical or mental condition, or any other protected class or characteristic established by any federal, state or local statutes, rules or regulations.
 4. "Wrongful act" means one or more of the following offenses, but only when they are employment-related:
 - a. Wrongful demotion or failure to promote, negative evaluation, reassignment or discipline of your current "employee" or wrongful refusal to employ;
 - b. Wrongful termination, meaning the actual or constructive termination of an "employee";
 - (1) In violation or breach of applicable law or public policy; or
 - (2) Which is determined to be in violation of a contract or agreement, other than an employment contract or agreement, whether written, oral or implied, which stipulates financial consideration if such financial consideration is due as the result of a breach of the contract.
 - c. Wrongful denial of training, wrongful deprivation of career opportunity or breach of employment contract;

- d. Negligent hiring or supervision which results in any of the other offenses listed in this definition;
- e. Retaliatory action against an "employee" because the "employee" has:
 - (1) Declined to perform an illegal or unethical act;
 - (2) Filed a complaint with a governmental authority or a "suit" against you or any other insured in which damages are claimed;
 - (3) Testified against you or any other insured at a legal proceeding; or
 - (4) Notified a proper authority of any aspect of your business operation which is illegal;
- f. Coercing an "employee" to commit an unlawful act or omission within the scope of that person's employment;
- g. Harassment;
- h. Libel, slander, invasion of privacy, defamation or humiliation; or
- i. Verbal, physical, mental or emotional abuse arising from "discrimination".

H. If Employment-related Malicious Prosecution is chosen by checking the appropriate box in the Schedule of this endorsement, then the following provisions apply:

1. Paragraph **B.a.** of this endorsement is replaced by the following:

This insurance does not apply to:

a. Criminal, Fraudulent Or Malicious Acts

An insured's liability arising out of criminal, fraudulent or malicious acts or omissions by that insured.

However, this exclusion does not apply to malicious prosecution of "employees" by that insured. This exclusion does not affect our duty to defend, in accordance with Paragraph **A.1.** of this endorsement, an insured prior to determining, through the appropriate legal processes, that that insured is responsible for a criminal, fraudulent or malicious act or omission.

2. The following is added to Paragraph **G.4.** of this endorsement:

- j. Malicious prosecution.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INFORMATION SECURITY PROTECTION ENDORSEMENT

INSURING AGREEMENTS d. AND g. OF THIS ENDORSEMENT PROVIDE CLAIMS-MADE COVERAGE. DEFENSE EXPENSES ARE PAYABLE WITHIN, AND NOT IN ADDITION TO, THE LIMIT OF INSURANCE. PAYMENT OF DEFENSE EXPENSES UNDER THIS ENDORSEMENT WILL REDUCE THE LIMIT OF INSURANCE.

PLEASE READ THE ENTIRE FORM CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Coverage Tier 1 (Provided automatically if this Endorsement is attached to the Policy)	
Insuring Agreement a. Replacement Or Restoration Of Electronic Data Insuring Agreement b. Public Relations Expense Insuring Agreement c. Security Breach Expense	
Coverage Tier 2 (Applicable only if an "X" is shown in the box below)	
<input type="checkbox"/> Insuring Agreement d. Security Breach Liability (claims-made coverage)	
Coverage Tier 3 (Applicable only if an "X" is shown in the box above for Tier 2 and in the box below)	
<input type="checkbox"/> Insuring Agreement e. Extortion Threats <input type="checkbox"/> Insuring Agreement f. Business Income And Extra Expense <input type="checkbox"/> Insuring Agreement g. Web Site Publishing Liability (claims-made coverage)	
Claims-made Coverage	Retroactive Date (Enter date or "none" if no Retroactive Date applies.):
Insuring Agreement d. Security Breach Liability	
Insuring Agreement g. Web Site Publishing Liability	
Aggregate Limit Of Insurance And Deductibles	
Information Security Protection Aggregate Limit Of Insurance:	\$
Information Security Protection Deductible:	\$
Business Income And Extra Expense Waiting Period Hours:	24 hours (unless a different waiting period is indicated below)
	<input type="checkbox"/> hours

Contracted Security Breach Services	
Pre-security Breach Services:	<input type="checkbox"/> IDT911 (a/k/a IDentity Theft 911) <input type="checkbox"/> Other: <input type="checkbox"/> Other:
Post-security Breach Services:	<input type="checkbox"/> IDT911 (a/k/a IDentity Theft 911) <input type="checkbox"/> Other: <input type="checkbox"/> Other:
<input type="checkbox"/> Supplemental Extended Reporting Period	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Tier 1 First-party Expense Coverages

For the purposes of the coverage provided by this Endorsement, the following is added to Paragraph

A.5. Additional Coverages of Section I – Property:

Insuring Agreements

Coverage is provided under the following Insuring Agreements:

a. Replacement Or Restoration Of Electronic Data

We will pay for "loss" of "electronic data" (as defined in Paragraph **R.** of this Endorsement) or "computer programs" stored within the "computer system" resulting directly from an "e-commerce incident" sustained during the "policy period".

b. Public Relations Expense

We will pay for "loss" due to "negative publicity" resulting directly from an "e-commerce incident" or a "security breach" sustained during the "policy period".

c. Security Breach Expense

We will pay for "loss" resulting directly from a "security breach" sustained during the "policy period".

B. Tier 2 Liability Coverage

If Tier 2 is shown as applicable in the Schedule above, for the purposes of the coverage provided by this Endorsement, the following is added to Paragraph **A. Coverages of Section II – Liability:**

Insuring Agreement

Coverage is provided under the following Insuring Agreement:

d. Security Breach Liability

- (1) We will pay for both "loss" that the insured becomes legally obligated to pay and "defense expenses" as a result of a "claim" first made against the insured during the "policy period" or during the applicable Extended Reporting Period, for a "wrongful act" or a series of "interrelated wrongful acts" taking place on or after the Retroactive Date, if any, shown in the Schedule and before the end of the "policy period".
- (2) We will pay for both "loss" and "defense expenses" as a result of a "claim" in the form of a "regulatory proceeding" first made against the insured during the "policy period" or during the applicable Extended Reporting Period, in response to a "wrongful act" or a series of "interrelated wrongful acts" covered under Paragraph **d.(1)**.

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C. Tier 3 Coverages

1. Tier 3 First-party Expense Coverages

If Tiers 2 and 3 are shown as applicable in the Schedule above, for the purposes of the coverage provided by this Endorsement, the following is added to Paragraph **A.5. Additional Coverages of Section I – Property:**

Insuring Agreements

Coverage is provided under the following Insuring Agreements:

e. Extortion Threats

We will pay for "loss" resulting directly from an "extortion threat" communicated to you during the "policy period".

However, we will not pay for "extortion expenses" or "ransom payments" which are part of a series of related threats that began prior to the "policy period".

f. Business Income And Extra Expense

We will pay for "loss" due to an "interruption" resulting directly from an "e-commerce incident" sustained during the "policy period" or an "extortion threat" communicated to you during the "policy period".

2. Tier 3 Liability Coverage

If Tiers 2 and 3 are shown as applicable in the Schedule above, for the purposes of the coverage provided by this Endorsement, the following is added to Paragraph **A. Coverages of Section II – Liability:**

Insuring Agreement

Coverage is provided under the following Insuring Agreement:

g. Web Site Publishing Liability

We will pay for both "loss" that the insured becomes legally obligated to pay and "defense expenses" as a result of a "claim" first made against the insured during the "policy period" or during the applicable Extended Reporting Period, for a "wrongful act" or a series of "interrelated wrongful acts" taking place on or after the Retroactive Date, if any, shown in the Schedule and before the end of the "policy period".

D. Additional Coverages A.5.p. And A.5.q.

1. Additional Coverage p. Electronic Data

Additional Coverage **p. Electronic Data** of **Section I – Property** does not apply to destruction or corruption of "electronic data" resulting directly from an "e-commerce incident".

2. Additional Coverage q. Interruption Of Computer Operations

If Tiers 2 and 3 are shown as applicable in the Schedule of this Endorsement, Additional Coverage **q. Interruption Of Computer Operations** of **Section I – Property** does not apply to a suspension of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to an "e-commerce incident".

E. For the purposes of the coverage provided by this Endorsement under Insuring Agreements **d. Security Breach Liability** and **g. Web Site Publishing Liability**, the following is added to Paragraph **A. Coverages of Section II – Liability:**

Defense And Settlement

1. We shall have the right and duty to select counsel and defend the insured against any "claim" covered under Insuring Agreements **d. Security Breach Liability** and **g. Web Site Publishing Liability**, even if the allegations of such "claim" are groundless, false or fraudulent. However, we shall have the right but not the duty to defend the insured against a "claim" covered under Paragraph **(2)** of Insuring Agreement **d. Security Breach Liability**, and we shall have no duty to defend the insured against any "claim" which is not covered under either of these Insuring Agreements.

2. We may, upon the written consent of the insured, make any settlement of a "claim" which we deem reasonable. If the insured withholds 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 expenses" incurred, as of the date we proposed such settlement in writing to the insured. Upon refusing to consent to a settlement we deem reasonable, the insured shall, at its sole expense, assume all further responsibility for its defense including all additional costs associated with the investigation, defense and/or settlement of such "claim".

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F. For the purposes of the coverage provided by this Endorsement, "electronic data" is deleted from Paragraph **A.2. Property Not Covered of Section I – Property**.

G. For the purposes of the coverage provided by this Endorsement, the limitations in Paragraphs **A.4.a.(3) and (4) of Section I – Property**, which relate to missing property and property transferred outside the described premises on the basis of unauthorized instructions, do not apply.

H. For the purposes of the coverage provided by this Endorsement, if any of the following endorsements, or any equivalent jurisdiction-specific endorsement, are attached to the Policy, the provisions of that endorsement do not apply:

1. Exclusion – Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability – With Limited Bodily Injury Exception Endorsement;
2. Exclusion – Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability – Limited Bodily Injury Exception Not Included Endorsement;
3. Exclusion – Access Or Disclosure Of Confidential Or Personal Information (Personal And Advertising Injury Only) Endorsement; or
4. Electronic Data Liability – Limited Coverage Endorsement.

I. For the purposes of the coverage provided by this Endorsement, Paragraph **B. Exclusions of Section I – Property** and Paragraph **B.1. Applicable To Business Liability Coverage of Section II – Liability** are replaced by the following:

We will not be liable for "loss" or "defense expenses":

- a. Based upon, attributable to or arising out of lightning, earthquake, hail, volcanic action or any other act of nature.
- b. Based upon, attributable to or arising out of:
 - (1) War, including undeclared or civil war or civil unrest;
 - (2) Warlike action by military force, including action 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 government authority in hindering or defending against any of these.

c. Based upon, attributable to or arising out of bodily injury or physical damage to or destruction of tangible property, including loss of use thereof.

Bodily injury means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

d. Based upon, attributable to or arising out of any unexplained or indeterminable failure, malfunction or slowdown of the "computer system", including "electronic data" and the inability to access or properly manipulate the "electronic data".

e. Based upon, attributable to or arising out of any "interruption" in normal computer function or network service or function due to insufficient capacity to process transactions or due to an overload of activity on the "computer system" or network. However, this exclusion shall not apply if such "interruption" is caused by an "e-commerce incident".

f. Based upon, attributable to or arising out of a complete or substantial failure, disablement or shutdown of the Internet or any communications and data network infrastructure, for any cause that is not an "e-commerce incident".

g. Based upon, attributable to or arising out of any failure of, reduction in or surge of power.

h. Based upon, attributable to or arising out of any actual or alleged violation of the Racketeer Influenced and Corrupt Organizations Act (RICO) and its amendments, or similar provisions of any federal, state or local statutory or common law.

i. Based upon, attributable to or arising out of any malfunction or failure of any satellite.

j. Based upon, attributable to or arising out of any oral or written publication of material, if done by an insured or at an insured's direction with knowledge of its falsity.

k. 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.

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w. Based upon, attributable to or arising out of infringing upon another's copyright, trade dress or slogan in your "advertisement".

x. Based upon, attributable to or arising out of fines, penalties or assessments imposed pursuant to contract or agreement, whether oral or written, including, but not limited to, Payment Card Industry (PCI) fines, penalties or assessments.

J. For the purposes of the coverage provided by this Endorsement, the following is added to Paragraph **B. Exclusions of Section I – Property:**

Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

K. For the purposes of the coverage provided by this Endorsement, Paragraph **C. Limits Of Insurance of Section I – Property** and Paragraph **D. Liability And Medical Expenses Limits Of Insurance of Section II – Liability** are replaced by the following:

Limits Of Insurance

Information Security Protection Aggregate Limit Of Insurance

The most we will pay for all "loss" and "defense expenses", if covered, under this Endorsement is the Information Security Protection Aggregate Limit Of Insurance shown in the Schedule. The Information Security Protection Aggregate Limit of Insurance shall be reduced by the amount of any payment made under the terms of this Endorsement. Upon exhaustion of the Information Security Protection Aggregate Limit of Insurance by such payments, we will have no further obligations or liability of any kind under this Endorsement.

L. For the purposes of the coverage provided by this Endorsement, the following replaces Paragraph **D. Deductibles of Section I – Property** and is added to **Section II – Liability:**

Information Security Protection Deductible

1. Subject to **Limits Of Insurance** under Paragraph **K.** of this Endorsement:

a. Under Insuring Agreements **d. Security Breach Liability** and **g. Web Site Publishing Liability:**

We will pay only the amount of "loss" and "defense expenses" which are in excess of the Deductible Amount shown in the Schedule resulting from the same "wrongful act" or "interrelated wrongful acts". Such Deductible Amount will be borne by you, self-insured, and at your own risk.

b. Under Insuring Agreements **a. Replacement Or Restoration Of Electronic Data**, **b. Public Relations Expense**, **c. Security Breach Expense** and **e. Extortion Threats:**

We will pay only the amount of "loss" which is in excess of the Deductible Amount shown in the Schedule.

c. Under Insuring Agreement **f. Business Income And Extra Expense:**

We will pay only the amount of "loss" which exceeds the greater of:

(1) The Deductible Amount shown in the Schedule; or

(2) The amount of "loss" incurred during:

(a) The first 24 hours from the beginning of the "interruption" if no other waiting period is designated in the Schedule; or

(b) The number of hours waiting period designated in the Schedule from the beginning of the "interruption".

2. In the event a "loss" is covered under more than one Insuring Agreement:

a. If Insuring Agreement **f. Business Income And Extra Expense** does not apply, the Information Security Protection Deductible shown in the Schedule will be applied only once per occurrence, "wrongful act" or "interrelated wrongful acts"; or

b. If Insuring Agreement **f. Business Income And Extra Expense** does apply, the larger of the:

(1) Information Security Protection Deductible shown in the Schedule; or

(2) Amount of loss incurred during the applicable waiting period;

will be applied only once per occurrence, "wrongful act" or "interrelated wrongful acts".

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- M.** For the purposes of the coverage provided by this Endorsement, Paragraph **E.3. Duties In The Event Of Loss Or Damage of Section I – Property** and Paragraph **E.2. Duties In The Event Of Occurrence, Offense, Claim Or Suit of Section II – Liability** are replaced by the following:

Duties In The Event Of Claim Or Loss

In the event of either an occurrence or offense that may result in a "claim" against an insured or a "loss" or situation that may result in a "loss" covered under this Endorsement, you must notify us in writing as soon as practicable, but not to exceed 30 days, and cooperate with us in the investigation and settlement of the "claim" or "loss". Additionally:

- a.** Under Insuring Agreements **d.** Security Breach Liability and **g.** Web Site Publishing Liability, you must:

- (1) Immediately record the specifics of the "claim" and the date received;
- (2) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
- (3) Authorize us to obtain records and other information; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of an occurrence or offense to which this Endorsement may also apply.

You will not, except at your own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

A "claim" brought by a person or organization seeking damages will be deemed to have been made when the "claim" is received by an insured.

- b.** Under Insuring Agreement **a.** Replacement Or Restoration Of Electronic Data and Insuring Agreement **e.** Extortion Threats, you must:

- (1) Notify local law enforcement officials;
- (2) Submit to examination under oath at our request and give us a signed statement of your answers; and
- (3) Give us a detailed, sworn proof of loss within 120 days.

- (4) In addition, under Insuring Agreement **e.** Extortion Threats, you must:

- (a) Determine that the "extortion threat" has actually occurred;
- (b) Make every reasonable effort to immediately notify an associate and the security firm, if any, before making any "ransom payment" based upon the "extortion threat";
- (c) With respect to "ransomware", make a reasonable effort to access your "electronic data" from backup; and
- (d) Approve any "ransom payment" based upon the "extortion threat".

N. Extended Reporting Periods

For the purposes of the coverage provided by this Endorsement under Insuring Agreements **d.** Security Breach Liability and **g.** Web Site Publishing Liability, the following are added to Paragraph **E. Liability And Medical Expenses General Conditions of Section II – Liability**:

1. Basic Extended Reporting Period

- a.** A Basic Extended Reporting Period is automatically provided without additional charge if:

- (1) This Endorsement is cancelled or not renewed for any reason; or
- (2) We renew or replace this Endorsement with insurance that:

- (a) Has a Retroactive Date later than the date shown in the Schedule of this Endorsement for either Insuring Agreement **d.** Security Breach Liability or **g.** Web Site Publishing Liability. However, the Basic Extended Reporting Period will only be provided for the insuring agreement for which our renewal or replacement endorsement has a Retroactive Date later than the date shown in the Schedule of this Endorsement; or

- (b) Does not apply to "wrongful acts" on a claims-made basis for either Insuring Agreement **d.** Security Breach Liability or **g.** Web Site Publishing Liability. However, the Basic Extended Reporting Period will only be provided for the insuring agreement for which our renewal or replacement endorsement does not apply to "wrongful acts" on a claims-made basis.

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- b. The Basic Extended Reporting Period starts with the end of the "policy period" and lasts for 30 days. A "claim" first made and reported by the insured during this 30-day period will be considered to have been received within the "policy period". However, the 30-day Basic Extended Reporting Period does not apply to "claims" that are covered under any subsequent insurance purchased by the insured, or that would be covered but for exhaustion of the Aggregate Limit of Insurance applicable to such "claims".
- c. The Basic Extended Reporting Period does not extend the "policy period" or change the scope of coverage provided. It applies only to "claims" to which the following applies:
 - (1) The "claim" is first made and reported to us during the Basic Extended Reporting Period; and
 - (2) The "claim" arose out of either a "wrongful act" or the first of a series of "interrelated wrongful acts" which occurred on or after the Retroactive Date, if any, shown in the Schedule and before the end of the "policy period".

2. Supplemental Extended Reporting Period

- a. You will have the right to purchase a Supplemental Extended Reporting Period from us if:
 - (1) This Endorsement is cancelled or not renewed; or
 - (2) We renew or replace this Endorsement with insurance that:
 - (a) Has a Retroactive Date later than the date shown in the Schedule of this Endorsement for either Insuring Agreement **d.** Security Breach Liability or **g.** Web Site Publishing Liability. However, the Supplemental Extended Reporting Period will only be provided for the insuring agreement for which our renewal or replacement endorsement has a Retroactive Date later than the date shown in the Schedule of this Endorsement; or
 - (b) Does not apply to "wrongful acts" on a claims-made basis for either Insuring Agreement **d.** Security Breach Liability or **g.** Web Site Publishing Liability. However, the Supplemental Extended Reporting Period will only be provided for the insuring agreement for which our renewal or replacement endorsement does not apply to "wrongful acts" on a claims-made basis.
- b. The Supplemental Extended Reporting Period will not be available if:
 - (1) We cancel this Endorsement for nonpayment of premium; or
 - (2) You fail to pay any amounts owed us.
- c. A Supplemental Extended Reporting Period, as specified in Paragraph **a.**, lasts one year and is available only for an additional premium.
- d. The Supplemental Extended Reporting Period starts with the end of the Basic Extended Reporting Period set forth in Paragraph **1.** It does not extend the policy period or change the scope of the coverage provided. It applies only to "claims" to which the following applies:
 - (1) The "claim" is first made and reported to us during the Supplemental Extended Reporting Period; and
 - (2) The "claim" arose out of either a "wrongful act" or the first of a series of "interrelated wrongful acts" which occurred on or after the Retroactive Date, if any, shown in the Schedule and before the end of the "policy period".
- e. You must give us a written request for the Supplemental Extended Reporting Period within 30 days after the end of the "policy period" or the effective date of cancellation, whichever comes first.
- f. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium in full along with any premium or deductible you owe us for coverage provided under this Endorsement within 30 days after the end of the "policy period" or the effective date of cancellation, whichever comes first. Once in effect, the Supplemental Extended Reporting Period may not be cancelled.

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- g. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- (1) The exposures insured;
- (2) Previous types and amounts of insurance;
- (3) Limit of Insurance available under this Endorsement for future payment of damages; and
- (4) Other related factors.

The additional premium may not exceed 100% of the annual premium for this Endorsement. The premium for the Supplemental Extended Reporting Period will be deemed fully earned as of the date it is purchased.

3. Basic And Supplemental Extended Reporting Period Limits

a. Basic Extended Reporting Period Limit

There is no separate or additional Aggregate Limit of Insurance for the Basic Extended Reporting Period. The Limit of Insurance available during the Basic Extended Reporting Period shall be the remaining amount, if any, of the Information Security Protection Aggregate Limit of Insurance available at the end of the "policy period".

b. Supplemental Extended Reporting Period Limit

There is no separate or additional Aggregate Limit of Insurance for the Supplemental Extended Reporting Period. The Limit of Insurance available during the Supplemental Extended Reporting Period, if purchased, shall be the remaining amount, if any, of the Information Security Protection Aggregate Limit of Insurance available at the end of the Basic Extended Reporting Period.

- O. For the purposes of the coverage provided by this Endorsement, Paragraph H. **Other Insurance** of **Section III – Common Policy Conditions** is replaced by the following:

H. Other Insurance

1. If any covered "claim" or "loss" is insured by any other valid policy, then this Endorsement shall apply only in excess of the amount of any deductible, retention and Limit of Insurance under such other policy, whether such other policy is stated to be primary, contributory, excess, contingent or otherwise.

2. When this Endorsement is excess, we shall have no duty under Insuring Agreement d. Security Breach Liability or g. Web Site Publishing Liability to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- P. For the purposes of the coverage provided by this Endorsement, the following is added to **Section III – Common Policy Conditions**:

A. Valuation – Settlement

1. All premiums, Aggregate Limits of Insurance, Deductible Amounts, "loss" and any other monetary amounts under this Endorsement 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 Endorsement is expressed in any currency other than United States of America dollars, payment under this Endorsement 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.
2. With respect to "loss" covered under Insuring Agreement f. Business Income And Extra Expense:
 - a. The amount of "business income" will be determined based on consideration of:
 - (1) The net income generated from your "e-commerce activities" before the "interruption" occurred;
 - (2) The likely net income generated by your "e-commerce activities" if no "interruption" had occurred, but not including any net income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the "e-commerce incident" on customers or on other businesses;
 - (3) The operating expenses, including payroll, necessary to resume your "e-commerce activities" with the same quality of service that existed before the "interruption"; and

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- (4) Other relevant sources of information, including your financial records and accounting procedures, bills, invoices and other vouchers, and debts, liens and contracts.

However, the amount of "business income" will be reduced to the extent that the reduction in the volume of business from the affected "e-commerce activities" is offset by an increase in the volume of business from other channels of commerce such as via telephone, mail or other sources.

- b. The amount of "extra expense" will be determined based on:
- (1) Necessary expenses that exceed the normal operating expenses that would have been incurred in the course of your "e-commerce activities" during the period of coverage if no "interruption" had occurred. We will deduct from the total of such expenses the salvage value that remains of any property bought for temporary use during the period of coverage once your "e-commerce activities" are resumed; and
 - (2) Necessary expenses that reduce the "business income" "loss" that otherwise would have been incurred during the period of coverage.

B. Confidentiality

Under Insuring Agreement e. Extortion Threats, the Named Insured and its "employees" must make every reasonable effort not to divulge the existence of this coverage.

- Q. For the purposes of the coverage provided by this Endorsement, the definition of "computer" under Paragraph H. **Property Definitions** of **Section I – Property** does not apply.

- R. For the purposes of the coverage provided by this Endorsement, the following replaces the definition of "electronic data" under Paragraph H. **Property Definitions** of **Section I – Property** and is added to Paragraph F. **Liability And Medical Expenses Definitions** of **Section II – Liability**:

"Electronic data" means digital information, facts, images or sounds stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software) on electronic storage devices including, but not limited to, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment. "Electronic data" is not tangible property.

"Electronic data" does not include your "electronic data" that is licensed, leased, rented or loaned to others.

- S. For the purposes of the coverage provided by this Endorsement, the following replaces the definition of "suit" under Paragraph F. **Liability And Medical Expenses Definitions** of **Section II – Liability** and is added to Paragraph H. **Property Definitions** of **Section I – Property**:

"Suit" means a civil proceeding in which damages to which this Endorsement applies are claimed against the insured. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured submits with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

"Suit" does not include a civil proceeding seeking recognition and/or enforcement of a foreign money judgment.

- T. For the purposes of the coverage provided by this Endorsement, the definition of "coverage territory" under Paragraph F. **Liability And Medical Expenses Definitions** of **Section II – Liability** is replaced by the following:

"Coverage territory" means anywhere in the world. However, "suits" must be brought in the United States of America (including its territories and possessions), Puerto Rico or Canada.

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U. For the purposes of the coverage provided by this Endorsement, the following replaces the definition of "employee" under Paragraph F. Liability And Medical Expenses Definitions of Section II – Liability and is added to Paragraph H. Property Definitions of Section I – Property:

"Employee" means any natural person who was, now is or will be:

- a. Employed on a full- or part-time basis;
- 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.;
- d. An officer;
- e. A director, trustee or manager (if a limited liability company);
- f. A volunteer worker; or
- g. A partner or a member (if a limited liability company);

of the Named Insured, but only while acting within the scope of their duties as determined by the Named Insured.

V. For the purposes of the coverage provided by this Endorsement, the following are added to Paragraph H. Property Definitions of Section I – Property and Paragraph F. Liability And Medical Expenses Definitions of Section II – Liability:

- 1. "Business income" means the:
 - a. Net income (net profit or loss before income taxes) that would have been earned or incurred; and
 - b. Continuing normal operating expenses incurred, including payroll.
- 2. "Claim" means:
 - a. A written demand for monetary or nonmonetary damages, including injunctive relief;
 - b. A civil proceeding commenced by the service of a complaint or similar proceeding; or
 - c. Under Paragraph (2) of Insuring Agreement d. Security Breach Liability, a "regulatory proceeding" commenced by the filing of a notice of charges, formal investigative order, service of summons or similar document;

against any insured for a "wrongful act", including any appeal therefrom.

- 3. "Computer program" means a set of related electronic instructions, which direct the operation and function of a computer or devices connected to it, which enables the computer or devices to receive, process, store or send "electronic data".
- 4. "Computer system" means the following which are owned, leased or operated by you:
 - a. Computers, including Personal Digital Assistants (PDAs) and other transportable or hand-held devices, electronic storage devices and related peripheral components;
 - b. Systems and applications software; and
 - c. Related communications networks;by which "electronic data" is collected, transmitted, processed, stored or retrieved.
- 5. "Defense expenses" means the reasonable and necessary fees (attorneys' and experts' fees) and expenses incurred in the defense or appeal of a "claim", including the cost of appeal, attachment or similar bonds (without any obligation on our part to obtain such bonds) but excluding wages, salaries, benefits or expenses of your "employees".
- 6. "E-commerce activities" means those activities conducted by you in the normal conduct of your business via the Internet or other computer-based interactive communications network.
- 7. "E-commerce incident" means a:
 - a. "Virus";
 - b. Malicious code; or
 - c. Denial of service attack;introduced into or enacted upon the "computer system" (including "electronic data") or a network to which it is connected, that is designed to damage, destroy, delete, corrupt or prevent the use of or access to any part of the "computer system" or otherwise disrupt its normal operation.
Recurrence of the same "virus" after the "computer system" has been restored shall constitute a separate "e-commerce incident".
- 8. "Extortion expenses" means:
 - a. Fees and costs of:
 - (1) A security firm; or
 - (2) A person or organization;hired with our consent to determine the validity and severity of an "extortion threat" made against you;

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- b. Interest costs paid by you for any loan from a financial institution taken by you to pay a ransom demand;
 - c. Reward money paid by you to an "informant" which leads to the arrest and conviction of parties responsible for "loss"; and
 - d. Any other reasonable expenses incurred by you with our written consent, including:
 - (1) Fees and costs of independent negotiators; and
 - (2) Fees and costs of a company hired by you, upon the recommendation of the security firm, to protect your "electronic data" from further threats.
9. "Extortion threat" means a threat or series of related threats:
- a. To perpetrate an "e-commerce incident";
 - b. To disseminate, divulge or utilize:
 - (1) Your proprietary information; or
 - (2) Weaknesses in the source code; within the "computer system" by gaining unauthorized access to the "computer system";
 - c. To destroy, corrupt or prevent normal access to the "computer system" by gaining unauthorized access to the "computer system";
 - d. To inflict "ransomware" on the "computer system" or a network to which it is connected; or
 - e. To publish your client's "personal information".
10. "Extra expense" means necessary expenses you incur:
- a. During an "interruption" that you would not have incurred if there had been no "interruption"; or
 - b. To avoid or minimize the suspension of your "e-commerce activities".
- "Extra expense" does not include any costs or expenses associated with upgrading, maintaining, improving, repairing or remediating any "computer system".
11. "Informant" means a person, other than an "employee", providing information not otherwise obtainable, solely in return for a reward offered by you.
12. "Interrelated wrongful acts" means all "wrongful acts" that have as a common nexus any:
- a. Fact, circumstance, situation, event, transaction or cause; or

- b. Series of causally connected facts, circumstances, situations, events, transactions or causes.

13. "Interruption" means:

- a. With respect to an "e-commerce incident":
 - (1) An unanticipated cessation or slowdown of your "e-commerce activities"; or
 - (2) Your suspension of your "e-commerce activities" for the purpose of avoiding or mitigating the possibility of transmitting a "virus" or malicious code to another person or organization;
 and, with regard to Paragraphs 13.a.(1) and 13.a.(2), shall be deemed to begin when your "e-commerce activities" are interrupted and ends at the earliest of:
 - (a) 90 days after the "interruption" begins;
 - (b) The time when your "e-commerce activities" are resumed; or
 - (c) The time when service is restored to you.

- b. With respect to an "extortion threat", your voluntary suspension of your "e-commerce activities":

- (1) Based upon clear evidence of a credible threat; or
- (2) Based upon the recommendation of a security firm, if any;

and, with regard to Paragraphs 13.b.(1) and 13.b.(2), shall be deemed to begin when your "e-commerce activities" are interrupted and ends at the earliest of:

- (a) 14 days after the "interruption" begins;
- (b) The time when your "e-commerce activities" are resumed; or
- (c) The time when service is restored to you.

14. "Loss" means:

- a. With respect to Insuring Agreement a. Replacement Or Restoration Of Electronic Data:

The cost to replace or restore "electronic data" or "computer programs" as well as the cost of data entry, reprogramming and computer consultation services.

"Loss" does not include the cost to duplicate research that led to the development of your "electronic data" or "computer programs". To the extent that any "electronic data" cannot be replaced or restored, we will pay the cost to replace the media on which the "electronic data" was stored with blank media of substantially identical type.

- b.** With respect to Insuring Agreement **b.** Public Relations Expense:

"Public relations expenses".

- c.** With respect to Insuring Agreement **c.** Security Breach Expense:

"Security breach expenses".

- d.** With respect to Insuring Agreements **d.** Security Breach Liability and **g.** Web Site Publishing Liability:

(1) Compensatory damages, settlement amounts and costs awarded pursuant to judgments or settlements;

(2) Punitive and exemplary damages to the extent such damages are insurable by law; or

(3) Under Paragraph **(2)** of Insuring Agreement **d.** Security Breach Liability, fines or penalties assessed against the insured to the extent such fines or penalties are insurable by law.

With regard to Paragraphs **d.(1)** through **d.(3)**, "loss" does not include:

(a) Civil or criminal fines or penalties imposed by law, except civil fines or penalties as provided under Paragraph **d.(3)**;

(b) The multiplied portion of multiplied damages;

(c) Taxes;

(d) Royalties;

(e) The amount of any disgorged profits; or

(f) Matters that are uninsurable pursuant to law.

- e.** With respect to Insuring Agreement **e.** Extortion Threats:

"Extortion expenses" and "ransom payments".

- f.** With respect to Insuring Agreement **f.** Business Income And Extra Expense:

The actual loss of "business income" you sustain and/or "extra expense" you incur.

15. "Negative publicity" means information which has been made public that has caused, or is reasonably likely to cause, a decline or deterioration in the reputation of the Named Insured or of one or more of its products or services.

16. "Personal information" means any information not available to the general public for any reason through which an individual may be identified, including, but not limited to, an individual's:

a. Social security number, driver's license number or state identification number;

b. Protected health Information;

c. Financial account numbers;

d. Security codes, passwords, PIN numbers associated with credit, debit or charge card numbers which would permit access to financial accounts; or

e. Any other nonpublic information as defined in "privacy regulations".

17. "Policy period" means the period of time from the inception date of this Policy shown in the Declarations to the expiration date shown in the Declarations, or its earlier cancellation or termination date.

18. "Privacy regulations" means any of the following statutes and regulations, and their amendments, associated with the control and use of personally identifiable financial, health or other sensitive information including, but not limited to:

a. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191);

b. The Health Information Technology for Economic and Clinical Health Act (HITECH) (American Recovery and Reinvestment Act of 2009);

c. Gramm-Leach-Bliley Act of 1999;

d. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), but solely for alleged unfair or deceptive acts or practices in or affecting commerce;

e. Identity Theft Red Flags Rules under the Fair and Accurate Credit Transactions Act of 2003; or

f. Any other similar state, federal or foreign identity theft or privacy protection statute or regulation.

19. "Public relations expenses" means:

a. Fees and costs of a public relations firm; and

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- b. Any other reasonable expenses incurred by you with our written consent;
to protect or restore your reputation solely in response to "negative publicity".
- 20. "Ransom payment" means a payment made in the form of cash.
- 21. "Ransomware" means any software that encrypts "electronic data" held within the "computer system" and demands a "ransom payment" in order to decrypt and restore such "electronic data".
- 22. "Regulatory proceeding" means an investigation, demand or proceeding 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.
- 23. "Security breach" means the acquisition of "personal information" held within the "computer system" or in non-electronic format while in the care, custody or control of the insured or authorized "third party" by a person:
 - a. Who is not authorized to have access to such information; or
 - b. Who is authorized to have access to such information but whose access results in the unauthorized disclosure of such information.
- 24. "Security breach expenses" means:
 - a. Costs to establish whether a "security breach" has occurred or is occurring;
 - b. Costs to investigate the cause, scope and extent of a "security breach" and to identify any affected parties;
 - c. Costs to determine any action necessary to correct or remediate the conditions that led to or resulted from a "security breach", including, but not limited to, fees paid for legal and other professional advice on how to respond to the "security breach";
 - d. Costs to notify all parties affected by a "security breach", including, but not limited to, notice to be transmitted through media required by "privacy regulations";
 - e. Overtime salaries paid to "employees" assigned to handle inquiries from the parties affected by a "security breach";

- f. Fees and costs of a company hired by you for the purpose of operating a call center to handle inquiries from the parties affected by a "security breach";
- g. Post-event monitoring costs for the parties affected by a "security breach" for up to one year from the date of notification to those affected parties of such "security breach"; and
- h. Any other reasonable expenses incurred by you with our written consent.

"Security breach expenses" do not include any costs or expenses associated with upgrading, maintaining, improving, repairing or remediating any "computer system" as a result of a "security breach".

- 25. "Third party" means any entity that you engage under the terms of a written contract to perform services for you.
- 26. "Virus" means any kind of malicious code designed to damage or destroy any part of the "computer system" (including "electronic data") or disrupt its normal functioning.
- 27. "Wrongful act" means:

- a. With respect to Insuring Agreement d. Security Breach Liability:

Any actual or alleged neglect, breach of duty or omission by an insured that results in:

- (1) A "security breach"; or
- (2) A "computer system" transmitting, by e-mail or other means, a "virus" to another person or organization.

- b. With respect to Insuring Agreement g. Web Site Publishing Liability:

Any actual or alleged error, misstatement or misleading statement posted or published by an insured on its web site that results in an infringement of another's copyright, trademark, trade name, trade dress, title, slogan, service name or service mark. This does not include infringing upon another's copyright, trade dress or slogan in your "advertisement".

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PAYMENT CARD INDUSTRY (PCI) – PROVIDE COVERAGE FOR DEFENSE EXPENSES AND FINES OR PENALTIES

This endorsement modifies insurance provided under the following:

INFORMATION SECURITY PROTECTION ENDORSEMENT

**A. The following is added to Insuring Agreement d.
Security Breach Liability:**

(3) We will pay for both "loss" and "defense expenses" as a result of a "claim" in the form of an action first made against the insured by a "card company" for non-compliance with the Payment Card Industry (PCI) Data Security Standards during the "policy period" or during the applicable Extended Reporting Period in response to a "wrongful act" or a series of "interrelated wrongful acts" covered under Paragraph **(1)** of this Insuring Agreement.

B. For the purposes of the coverage provided by this Endorsement, Exclusion x. of Paragraph I. does not apply.

C. In Paragraph V.:

1. The following definition is added:

"Card company" means American Express, Discover Financial Services, JCB International, MasterCard Worldwide, Visa Inc. or any other credit card company that requires its merchants to adhere to the Payment Card Industry (PCI) Data Security Standards.

2. The following is added to the definition of "claim":

d. Under Paragraph A.(3) of this Endorsement, an action brought by a "card company" of the Payment Card Industry (PCI);

3. The following is added to the definition of "loss":

With respect to this Endorsement:

Fines or penalties assessed against the insured to the extent such fines or penalties are insurable by law.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PROVIDE COVERAGE FOR DISHONEST, MALICIOUS OR
FRAUDULENT ACTS COMMITTED BY EMPLOYEES**

This endorsement modifies insurance provided under the following:

INFORMATION SECURITY PROTECTION ENDORSEMENT

Exclusion r. is replaced by the following:

- r. Based upon, attributable to or arising out of any criminal, dishonest, malicious or fraudulent act or any willful violation of any statute or regulation committed by an insured, acting alone or in collusion with others. However, this exclusion shall not apply to dishonest, malicious or fraudulent acts committed by an "employee" which give rise to a "claim" or "loss" covered under this Endorsement.

With the exception of "claims" excluded under Exclusion I., we will defend "claims" first made against an insured alleging such acts or violations until final adjudication is rendered against that insured. Final adjudication rendered against one insured shall not be imputed to any other insured.

We will not provide indemnification for any "claim" to which any insured enters a guilty plea or pleads no contest and we will not provide a defense from the time we become aware that any insured intends to so plead.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONDOMINIUMS, CO-OPS, ASSOCIATIONS – DIRECTORS AND OFFICERS LIABILITY ENDORSEMENT

**THIS ENDORSEMENT PROVIDES CLAIMS-MADE COVERAGE
PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Named Association:	
Directors And Officers Liability Annual Aggregate Limit Of Insurance:	\$
Deductible:	\$
Pending Or Prior Litigation Date:	Retroactive Date:
<input type="checkbox"/> Extended Reporting Period	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

For the purposes of the coverage provided by this endorsement, **Section II – Liability** is amended as follows:

A. The following are added to Paragraph A. Coverages:

1. Insuring Agreement – Management Liability

- a.** We will pay on behalf of an "insured person" any "loss" which the "insured person" becomes legally obligated to pay as a result of a "claim" first made against that "insured person" during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph G., except to the extent that the "association" has indemnified the "insured person" for such "loss".

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "insured person" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

- b.** If a "claim" against an "insured person" includes a "claim" against the "insured person's" spouse (whether such status is derived by reason of statutory or common law, or any other law of any country) solely by reason of:

- (1)** Such spousal status; or
- (2)** Such spouse's ownership interest in property or assets that are sought as recovery for the "wrongful act" committed or allegedly committed by the "insured person";

all "loss" which such spouse becomes legally obligated to pay by reason of such "claim" will be treated for the purposes of this endorsement as "loss" which the "insured person" becomes legally obligated to pay as a result of the "claim" made against such "insured person". Such "loss" to the spouse will be covered under this endorsement only if and to the extent that such "loss" would be covered if incurred by the "insured person".

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However, this Paragraph **b.** does not apply to a "claim" arising out of any "wrongful act" committed or allegedly committed by the "insured person's" spouse.

- c.** This insurance also applies to "claims" arising out of the "wrongful acts" of an "insured person" made against:

- (1) The estate, heirs or legal representatives of a deceased "insured person"; and
- (2) The legal representative of that "insured person" in the event of incompetency, insolvency or bankruptcy.

However, this Paragraph **c.** only applies to "claims" if and to the extent that, in the absence of such death, incompetency, insolvency or bankruptcy of the "insured person", such "claims" would have been covered by this insurance according to all applicable terms, conditions and exclusions.

2. Insuring Agreement – Association Reimbursement

We will pay on behalf of the "association" any "loss" for which the "association" has indemnified an "insured person", as permitted or required by law, and which the "insured person" becomes legally obligated to pay as a result of a "claim" first made against that "insured person" (or an "insured person's" spouse or any other party granted the rights of an "insured person" under Paragraph 1.) during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph **G.**

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "insured person" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

3. Insuring Agreement – Association Liability

We will pay on behalf of the "association" any "loss" which the "association" becomes legally obligated to pay as a result of a "claim" first made against the "association" during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph **G.**

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "association" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

4. Defense And Settlement

We will have the right and duty to defend any "claim" made against the insured under Paragraph **A.** of this endorsement. However, we will have no duty to defend the insured against any "claim" because of a "wrongful act" to which this insurance does not apply. We may, at our discretion, investigate any incident that may result in a "loss". We may, with your written consent, settle any "claim".

All "claims" arising out of the same "wrongful act" or "interrelated wrongful acts" committed by one or more "insured persons" shall be considered a single "claim". Such single "claim" shall be deemed to be first made on the date the initial "claim" arising out of such "wrongful act" or "interrelated wrongful acts" was first made pursuant to Paragraph **E.** or notice of such "wrongful act" or "interrelated wrongful acts" was first reported pursuant to Paragraph **E.**

- B.** For the purposes of the coverage provided by this endorsement, Paragraph **B. Exclusions**, Subparagraph 1. **Applicable To Business Liability Coverage** is replaced by the following:

This insurance does not apply to any "loss" resulting from any "claim":

- a.** Arising out of any dishonest, malicious, fraudulent or deliberately criminal act or any willful violation of any statute or regulation.
- b.** For "bodily injury".
- c.** For mental or emotional distress, except when allegations of mental or emotional distress are made in a "claim" arising from a "wrongful employment practices act".
- d.** For "property damage".
- e.** Arising out of the gaining of any profit, remuneration or advantage to which any insured was not legally entitled.
- f.** Arising out of a "wrongful act" or "interrelated wrongful act" that has occurred before the Retroactive Date, if any, shown in the Schedule.
- g.** Arising out of the same facts, "wrongful acts" or "interrelated wrongful acts", alleged or contained in any "claim" which has been reported, or in any circumstances of which notice has been given:
 - (1) During a prior policy period of this policy; or
 - (2) Under any insurance policy of which this policy is a replacement.

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- h. Arising out of any demand, "suit" or other proceeding against any insured which was pending on or existed prior to the applicable Pending Or Prior Litigation Date shown in the Schedule, or arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such demand, "suit" or other proceeding.
- i. Arising out of any actual or alleged failure or omission on the part of any insured to effect or maintain insurance.
- j. Arising out of any "wrongful act" committed or allegedly committed by any "insured person" serving in any position or capacity in any organization or association other than the "association" even if the "association" directed or requested that "insured person" to serve in such other position or capacity.
- k. Brought by or on behalf of the "association" or any "insured person", in any capacity, except:
 - (1) A "claim" that is a derivative action brought on behalf of the "association" by one or more unit-owners who are not "insured persons" and who bring the "claim" without the solicitation, assistance or participation of any "insured person" or the "association"; or
 - (2) A "claim" arising out of a "wrongful employment practices act".
- l. For an actual or alleged violation of the Employee Retirement Income Security Act of 1974 and its amendments, or similar provisions of any federal, state, local or statutory law or common law.
- m. For liability under or breach of any oral, written or implied contract or agreement, or for liability of others assumed by the "association" under any such contract or agreement, except if:
 - (1) The "association" would have been liable in the absence of such contract or agreement; or
 - (2) Allegations of liability or breach of such contract or agreement are made in a "claim" arising out of a "wrongful employment practices act";
- n. Arising out of "personal and advertising injury".
- o. Arising out of:
 - (1) The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;

(2) Any request, demand, order or statutory or regulatory requirement that any 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) A "claim" made or "suit" brought 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";

including without limitation any "claim" by or on behalf of the "association".

p. Arising out of "wrongful acts" in the selection or direct or indirect supervision of any contractor or subcontractor liable or alleged to be liable for any defect in construction at any premises insured under this policy.

A "wrongful act" committed by any "insured person" shall not be imputed to any other "insured person" for purposes of applying the exclusions set forth in this Paragraph B.

C. For the purposes of the coverage provided by this endorsement, Paragraph C. **Who Is An Insured** is replaced by the following:

- 1. The "association" is an insured.
- 2. "Insured persons" are insureds.

D. For the purposes of the coverage provided by this endorsement, Paragraph D. **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

1. Annual Aggregate Limit Of Insurance

The most we will pay for the sum of all "loss" under Paragraphs A.1., A.2. and A.3. is the aggregate Limit of Insurance shown in the Schedule. This limit applies regardless of the number of:

- a. Insureds;
- b. "Claims" made or "suits" brought; or
- c. Persons, organizations or government agencies making "claims" or bringing "suits".

If the aggregate Limit of Insurance is exhausted by the payment of "loss", we will have no further obligations or liability of any kind under this endorsement.

"Claims expenses" are part of the "loss" and are payable within the Limit of Insurance shown in the Schedule, thereby reducing that Limit.

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2. Deductible

Subject to Paragraph **D.1.** of this endorsement, we will pay only that amount of "loss" which is in excess of the Deductible shown in the Schedule. The Deductible will be borne by the insureds, uninsured and at their own risk. A single deductible will apply to all "loss" resulting from all "claims" alleging the same "wrongful acts" or "interrelated wrongful acts".

If the "association" is permitted or required by law to indemnify an "insured person" for "loss", but fails or refuses, other than for reason of "financial insolvency", then our payment for such "loss" will not be subject to any deductible and the "association" shall be responsible for, and shall hold us harmless from, and shall reimburse us for such "loss" up to the deductible shown in the Schedule.

- E. For the purposes of the coverage provided by this endorsement, the **Duties In The Event Of Occurrence, Offense, Claim Or Suit** condition is replaced by the following:

Duties In The Event Of A Claim Or A Wrongful Act That May Result In A Claim

1. You must see to it that we are notified as soon as practicable of a "wrongful act" which may result in a "claim". To the extent possible, notice should include:
 - a. How, when and where the "wrongful act" took place;
 - b. The names and addresses of any person involved in the specific "wrongful act", including names and addresses of the potential claimants;
 - c. Particulars as to the reasons for anticipating a "claim" which may result from such specific "wrongful act";
 - d. The nature of the alleged or potential damages arising from such specific "wrongful act"; and
 - e. The circumstances by which the insureds first became aware of the specific "wrongful act".
2. If a "claim" is received by any insured, you must:
 - a. Immediately record the specifics of the "claim" and the date received; and
 - b. Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" as soon as practicable.

3. You and any other involved insured must:

- a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
- b. Authorize us to obtain records and other information;
- c. Cooperate with us in the investigation or settlement of the "claim"; and
- d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "wrongful acts" to which this insurance may also apply.

4. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our written consent.

- F. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **E. Liability And Medical Expenses General Conditions:**

Consent To Settle

If we recommend a settlement to the insured which is acceptable to the claimant, but to which the insured does not consent, the most we will pay as damages in the event of any later settlement or judgment is the amount for which the "claim" could have been settled, to which the insured did not give consent, plus "claims expenses" incurred as of the date such settlement was proposed in writing by us to the insured.

G. Extended Reporting Period

For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added:

1. You will have the right to purchase an Extended Reporting Period from us if:
 - a. This endorsement is cancelled or not renewed for any reason; or
 - b. We renew or replace this endorsement with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (2) Does not apply to "wrongful acts" on a claims-made basis.
2. An Extended Reporting Period, as specified in Paragraph **G.1.** of this endorsement, lasts three years and is available only for an additional premium.

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3. The Extended Reporting Period starts with the end of the policy period. It does not extend the policy period or change the scope of the coverage provided. It applies only to "claims" to which the following applies:
 - a. The "claim" is first made during the Extended Reporting Period;
 - b. The "wrongful act" occurs before the end of the policy period; and
 - c. The "wrongful act" did not commence before the Retroactive Date.
 4. You must give us a written request for the Extended Reporting Period within 30 days after the end of the policy period or the effective date of cancellation, whichever comes first.
 5. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due and any premium or deductible you owe us for coverage provided under this endorsement. Once in effect, the Extended Reporting Period may not be cancelled.
 6. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. Limit of Insurance available under this endorsement for future payment of damages; and
 - d. Other related factors.

The additional premium may not exceed 100% of the annual premium for this endorsement. The premium for the Extended Reporting Period will be deemed fully earned as of the date it is purchased.
 7. There is no separate or additional Limit of Insurance for the Extended Reporting Period. The Limit of Insurance available during the Extended Reporting Period, if purchased, shall be the remaining amount, if any, of the aggregate Limit of Insurance available at the time this policy was cancelled or nonrenewed.
- H. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph F. **Liability And Medical Expenses Definitions of Section II** ☐ **Liability:**
1. "Association" means the entity named in the Schedule as the named association.
2. "Claim" means:
 - a. A written demand for monetary damages against any insured;
 - b. A civil proceeding against any insured commenced by the service of a complaint or similar pleading;
 - c. A criminal proceeding against any "insured person" commenced by a return of an indictment; or
 - d. A formal administrative or regulatory proceeding against any insured commenced by the filing of a notice of charges, formal investigative order or similar document;

for a "wrongful act", including any appeal therefrom.
 3. "Claims expenses" means that part of a "loss" consisting of reasonable and necessary fees (including attorneys' and experts' fees), expenses incurred in the defense or appeal of a "claim", and the premium for appeal, attachment or similar bonds (without any obligation on our part to provide such bonds), excluding the wages, salaries, benefits or expenses of any "insured person".
 4. "Financial insolvency" means the status of the "association" resulting from:
 - a. The appointment of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the "association"; or
 - b. The "association" becoming a debtor in possession.
 5. "Insured person" means any former, present or future director, officer, trustee, employee or volunteer of the "association".
 6. "Interrelated wrongful act" means all causally connected "wrongful acts".
 7. "Loss" means "claims expenses", compensatory damages, settlement amounts, legal fees and costs awarded pursuant to judgments. "Loss" does not include civil or criminal fines or penalties imposed by law, punitive or exemplary damages, the multiplied portion of multiplied damages, taxes or matters that are uninsurable pursuant to applicable law.

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8. "Wrongful act" includes a "wrongful employment practices act" and means:

- a. With respect to the "insured person", any actual or alleged error, misstatement, misleading statement, neglect or breach of duty, omission or act by the "insured person" in their insured position or capacity for the "association"; or any matter claimed against them solely by reason of their serving in such insured position or capacity. This does not apply to a position or capacity in any entity other than the "association", even if the "association" directed or requested the "insured person" to serve in such other position or capacity.
- b. With respect to the "association", any actual or alleged error, misstatement, misleading statement, neglect or breach of duty, omission or act by the "association".

9. "Wrongful employment practices act" means any actual or alleged:

- a. Wrongful dismissal, discharge or termination of employment;
- b. Breach of any implied employment contract;
- c. Employment-related misrepresentation;
- d. Violation of any federal, state or local statute, regulation, ordinance or common law concerning employment or discrimination in employment;

e. Sexual harassment (as that term is defined by the Federal Equal Employment Opportunity Commission) or other illegal workplace harassment;

f. Wrongful failure to employ or promote;

g. Wrongful reference, discipline or deprivation of a career opportunity;

h. Failure to adopt adequate workplace or employment policies and procedures; or

i. Illegal retaliatory treatment.

I. For the purposes of the coverage provided by this endorsement, the definition of "suit" in Paragraph **F. Liability And Medical Expenses Definitions** is replaced by the following:

"Suit" means a civil proceeding in which damages because of a "wrongful act" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MISSOURI – CONDOMINIUMS, CO-OPS, ASSOCIATIONS – DIRECTORS AND OFFICERS LIABILITY ENDORSEMENT

**THIS ENDORSEMENT PROVIDES CLAIMS-MADE COVERAGE
PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Named Association:	
Directors And Officers Liability Annual Aggregate Limit Of Insurance:	\$
Deductible:	\$
Pending Or Prior Litigation Date:	Retroactive Date:
<input type="checkbox"/> Extended Reporting Period	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

For the purposes of the coverage provided by this endorsement, **Section II – Liability** is amended as follows:

A. The following are added to Paragraph A. Coverages:

1. Insuring Agreement – Management Liability

- a.** We will pay on behalf of an "insured person" any "loss" which the "insured person" becomes legally obligated to pay as a result of a "claim" first made against that "insured person" during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph G., except to the extent that the "association" has indemnified the "insured person" for such "loss".

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "insured person" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

- b.** If a "claim" against an "insured person" includes a "claim" against the "insured person's" spouse (whether such status is derived by reason of statutory or common law, or any other law of any country) solely by reason of:

- (1)** Such spousal status; or
(2) Such spouse's ownership interest in property or assets that are sought as recovery for the "wrongful act" committed or allegedly committed by the "insured person";

all "loss" which such spouse becomes legally obligated to pay by reason of such "claim" will be treated for the purposes of this endorsement as "loss" which the "insured person" becomes legally obligated to pay as a result of the "claim" made against such "insured person". Such "loss" to the spouse will be covered under this endorsement only if and to the extent that such "loss" would be covered if incurred by the "insured person".

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However, this Paragraph **b.** does not apply to a "claim" arising out of any "wrongful act" committed or allegedly committed by the "insured person's" spouse.

- c.** This insurance also applies to "claims" arising out of the "wrongful acts" of an "insured person" made against:

- (1) The estate, heirs or legal representatives of a deceased "insured person"; and
- (2) The legal representative of that "insured person" in the event of incompetency, insolvency or bankruptcy.

However, this Paragraph **c.** only applies to "claims" if and to the extent that, in the absence of such death, incompetency, insolvency or bankruptcy of the "insured person", such "claims" would have been covered by this insurance according to all applicable terms, conditions and exclusions.

2. Insuring Agreement – Association Reimbursement

We will pay on behalf of the "association" any "loss" for which the "association" has indemnified an "insured person", as permitted or required by law, and which the "insured person" becomes legally obligated to pay as a result of a "claim" first made against that "insured person" (or an "insured person's" spouse or any other party granted the rights of an "insured person" under Paragraph **1.**) during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph **G.**

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "insured person" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

3. Insuring Agreement – Association Liability

We will pay on behalf of the "association" any "loss" which the "association" becomes legally obligated to pay as a result of a "claim" first made against the "association" during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph **G.**

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "association" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

4. Defense And Settlement

We will have the right and duty to defend any "claim" made against the insured under Paragraph **A.** of this endorsement. However, we will have no duty to defend the insured against any "claim" because of a "wrongful act" to which this insurance does not apply. We may, at our discretion, investigate any incident that may result in a "loss". We may, with your written consent, settle any "claim".

All "claims" arising out of the same "wrongful act" or "interrelated wrongful acts" committed by one or more "insured persons" shall be considered a single "claim". Such single "claim" shall be deemed to be first made on the date the initial "claim" arising out of such "wrongful act" or "interrelated wrongful acts" was first made pursuant to Paragraph **E.** or notice of such "wrongful act" or "interrelated wrongful acts" was first reported pursuant to Paragraph **E.**

- B.** For the purposes of the coverage provided by this endorsement, Paragraph **B. Exclusions**, Subparagraph **1. Applicable To Business Liability Coverage** is replaced by the following:

This insurance does not apply to any "loss" resulting from any "claim":

- a.** Arising out of any dishonest, malicious, fraudulent or deliberately criminal act or any willful violation of any statute or regulation.
- b.** For "bodily injury".
- c.** For mental or emotional distress, except when allegations of mental or emotional distress are made in a "claim" arising from a "wrongful employment practices act".
- d.** For "property damage".
- e.** Arising out of the gaining of any profit, remuneration or advantage to which any insured was not legally entitled.
- f.** Arising out of a "wrongful act" or "interrelated wrongful act" that has occurred before the Retroactive Date, if any, shown in the Schedule.
- g.** Arising out of the same facts, "wrongful acts" or "interrelated wrongful acts", alleged or contained in any "claim" which has been reported, or in any circumstances of which notice has been given:
 - (1) During a prior policy period of this policy; or
 - (2) Under any insurance policy of which this policy is a replacement.

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- h. Arising out of any demand, "suit" or other proceeding against any insured which was pending on or existed prior to the applicable Pending Or Prior Litigation Date shown in the Schedule, or arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such demand, "suit" or other proceeding.
- i. Arising out of any actual or alleged failure or omission on the part of any insured to effect or maintain insurance.
- j. Arising out of any "wrongful act" committed or allegedly committed by any "insured person" serving in any position or capacity in any organization or association other than the "association" even if the "association" directed or requested that "insured person" to serve in such other position or capacity.
- k. Brought by or on behalf of the "association" or any "insured person", in any capacity, except:
 - (1) A "claim" that is a derivative action brought on behalf of the "association" by one or more unit-owners who are not "insured persons" and who bring the "claim" without the solicitation, assistance or participation of any "insured person" or the "association"; or
 - (2) A "claim" arising out of a "wrongful employment practices act".
- l. For an actual or alleged violation of the Employee Retirement Income Security Act of 1974 and its amendments, or similar provisions of any federal, state, local or statutory law or common law.
- m. For liability under or breach of any oral, written or implied contract or agreement, or for liability of others assumed by the "association" under any such contract or agreement, except if:
 - (1) The "association" would have been liable in the absence of such contract or agreement; or
 - (2) Allegations of liability or breach of such contract or agreement are made in a "claim" arising out of a "wrongful employment practices act";
- n. Arising out of "personal and advertising injury".
- o. Arising out of:
 - (1) The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
 - (2) Any request, demand, order or statutory or regulatory requirement that any 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) A "claim" made or "suit" brought 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"; including without limitation any "claim" by or on behalf of the "association".
- p. Arising out of "wrongful acts" in the selection or direct or indirect supervision of any contractor or subcontractor liable or alleged to be liable for any defect in construction at any premises insured under this policy.

A "wrongful act" committed by any "insured person" shall not be imputed to any other "insured person" for purposes of applying the exclusions set forth in this Paragraph B.
- C. For the purposes of the coverage provided by this endorsement, Paragraph C. **Who Is An Insured** is replaced by the following:
 - 1. The "association" is an insured.
 - 2. "Insured persons" are insureds.
- D. For the purposes of the coverage provided by this endorsement, Paragraph D. **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:
 - 1. **Annual Aggregate Limit Of Insurance**

The most we will pay for the sum of all "loss" under Paragraphs A.1., A.2. and A.3. is the aggregate Limit of Insurance shown in the Schedule. This limit applies regardless of the number of:

 - a. Insureds;
 - b. "Claims" made or "suits" brought; or
 - c. Persons, organizations or government agencies making "claims" or bringing "suits".

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If the aggregate Limit of Insurance is exhausted by the payment of "loss", we will have no further obligations or liability of any kind under this endorsement.

"Claims expenses" are part of the "loss" and are payable within the Limit of Insurance shown in the Schedule, thereby reducing that Limit.

However, the amount of "claims expenses" that we will pay in any "loss" shall not exceed forty percent (40%) of the aggregate Limit of Insurance shown in the Schedule. We will assume applicable "claims expenses" in excess of such offset percentage.

2. Deductible

Subject to Paragraph **D.1.** of this endorsement, we will pay only that amount of "loss" which is in excess of the Deductible shown in the Schedule. The Deductible will be borne by the insureds, uninsured and at their own risk. A single deductible will apply to all "loss" resulting from all "claims" alleging the same "wrongful acts" or "interrelated wrongful acts".

If the "association" is permitted or required by law to indemnify an "insured person" for "loss", but fails or refuses, other than for reason of "financial insolvency", then our payment for such "loss" will not be subject to any deductible and the "association" shall be responsible for, and shall hold us harmless from, and shall reimburse us for such "loss" up to the deductible shown in the Schedule.

- E. For the purposes of the coverage provided by this endorsement, the **Duties In The Event Of Occurrence, Offense, Claim Or Suit** condition is replaced by the following:

Duties In The Event Of A Claim Or A Wrongful Act That May Result In A Claim

1. You must see to it that we are notified as soon as practicable of a "wrongful act" which may result in a "claim". To the extent possible, notice should include:
 - a. How, when and where the "wrongful act" took place;
 - b. The names and addresses of any person involved in the specific "wrongful act", including names and addresses of the potential claimants;
 - c. Particulars as to the reasons for anticipating a "claim" which may result from such specific "wrongful act";
 - d. The nature of the alleged or potential damages arising from such specific "wrongful act"; and

- e. The circumstances by which the insureds first became aware of the specific "wrongful act".

2. If a "claim" is received by any insured, you must:

- a. Immediately record the specifics of the "claim" and the date received; and
 - b. Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" as soon as practicable.

3. You and any other involved insured must:

- a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
 - b. Authorize us to obtain records and other information;
 - c. Cooperate with us in the investigation or settlement of the "claim"; and
 - d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "wrongful acts" to which this insurance may also apply.

4. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our written consent.

- F. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **E. Liability And Medical Expenses General Conditions:**

Consent To Settle

If we recommend a settlement to the insured which is acceptable to the claimant, but to which the insured does not consent, the most we will pay as damages in the event of any later settlement or judgment is the amount for which the "claim" could have been settled, to which the insured did not give consent, plus "claims expenses" incurred as of the date such settlement was proposed in writing by us to the insured.

G. Extended Reporting Period

For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added:

1. You will have the right to purchase an Extended Reporting Period from us if:
 - a. This endorsement is cancelled or not renewed for any reason; or

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- b. We renew or replace this endorsement with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (2) Does not apply to "wrongful acts" on a claims-made basis.
- 2. An Extended Reporting Period, as specified in Paragraph **G.1.** of this endorsement, lasts three years and is available only for an additional premium.
- 3. The Extended Reporting Period starts with the end of the policy period. It does not extend the policy period or change the scope of the coverage provided. It applies only to "claims" to which the following applies:
 - a. The "claim" is first made during the Extended Reporting Period;
 - b. The "wrongful act" occurs before the end of the policy period; and
 - c. The "wrongful act" did not commence before the Retroactive Date.
- 4. You must give us a written request for the Extended Reporting Period within 30 days after the end of the policy period or the effective date of cancellation, whichever comes first.
- 5. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due and any premium or deductible you owe us for coverage provided under this endorsement. Once in effect, the Extended Reporting Period may not be cancelled.
- 6. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. Limit of Insurance available under this endorsement for future payment of damages; and
 - d. Other related factors.

The additional premium may not exceed 100% of the annual premium for this endorsement. The premium for the Extended Reporting Period will be deemed fully earned as of the date it is purchased.

- 7. There is no separate or additional Limit of Insurance for the Extended Reporting Period. The Limit of Insurance available during the Extended Reporting Period, if purchased, shall be the remaining amount, if any, of the aggregate Limit of Insurance available at the time this policy was cancelled or nonrenewed.
- H. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **F. Liability And Medical Expenses Definitions of Section II** ~~≡~~ **Liability**:
 - 1. "Association" means the entity named in the Schedule as the named association.
 - 2. "Claim" means:
 - a. A written demand for monetary damages against any insured;
 - b. A civil proceeding against any insured commenced by the service of a complaint or similar pleading;
 - c. A criminal proceeding against any "insured person" commenced by a return of an indictment; or
 - d. A formal administrative or regulatory proceeding against any insured commenced by the filing of a notice of charges, formal investigative order or similar document;
 for a "wrongful act", including any appeal therefrom.
 - 3. "Claims expenses" means that part of a "loss" consisting of reasonable and necessary fees (including attorneys' and experts' fees), expenses incurred in the defense or appeal of a "claim", and the premium for appeal, attachment or similar bonds (without any obligation on our part to provide such bonds), excluding the wages, salaries, benefits or expenses of any "insured person".

However, "claim expenses" do not include the salaries, wages or benefits of any of our officers or employees.
 - 4. "Financial insolvency" means the status of the "association" resulting from:
 - a. The appointment of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the "association"; or

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- b. The "association" becoming a debtor in possession.
- 5. "Insured person" means any former, present or future director, officer, trustee, employee or volunteer of the "association".
- 6. "Interrelated wrongful act" means all causally connected "wrongful acts".
- 7. "Loss" means "claims expenses", compensatory damages, settlement amounts, legal fees and costs awarded pursuant to judgments. "Loss" does not include civil or criminal fines or penalties imposed by law, punitive or exemplary damages, the multiplied portion of multiplied damages, taxes or matters that are uninsurable pursuant to applicable law.
- 8. "Wrongful act" includes a "wrongful employment practices act" and means:
 - a. With respect to the "insured person", any actual or alleged error, misstatement, misleading statement, neglect or breach of duty, omission or act by the "insured person" in their insured position or capacity for the "association"; or any matter claimed against them solely by reason of their serving in such insured position or capacity. This does not apply to a position or capacity in any entity other than the "association", even if the "association" directed or requested the "insured person" to serve in such other position or capacity.
 - b. With respect to the "association", any actual or alleged error, misstatement, misleading statement, neglect or breach of duty, omission or act by the "association".
- 9. "Wrongful employment practices act" means any actual or alleged:
 - a. Wrongful dismissal, discharge or termination of employment;

- b. Breach of any implied employment contract;
- c. Employment-related misrepresentation;
- d. Violation of any federal, state or local statute, regulation, ordinance or common law concerning employment or discrimination in employment;
- e. Sexual harassment (as that term is defined by the Federal Equal Employment Opportunity Commission) or other illegal workplace harassment;
- f. Wrongful failure to employ or promote;
- g. Wrongful reference, discipline or deprivation of a career opportunity;
- h. Failure to adopt adequate workplace or employment policies and procedures; or
- i. Illegal retaliatory treatment.
- I. For the purposes of the coverage provided by this endorsement, the definition of "suit" in Paragraph **F. Liability And Medical Expenses Definitions** is replaced by the following:

"Suit" means a civil proceeding in which damages because of a "wrongful act" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

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**Businessowners Multistate Optional Cyber Insurance Endorsements
Forms, Rules And Loss Costs Revisions
BP-2014-OISFR, BP-2014-OISRU And BP-2014-RISLC**

STATE	EFFECTIVE OR DISTRIBUTION DATE	IMPLEMENTATION CIRCULARS		
		FORMS	RULES	LOSS COSTS
ALABAMA	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
ALASKA**	MARCH 1, 2015	LI-BP-2014-240	LI-BP-2014-241	LI-BP-2014-242
ARIZONA	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
ARKANSAS#				
CALIFORNIA*+	MARCH 1, 2015	LI-BP-2014-199	LI-BP-2014-200	LI-BP-2014-201
COLORADO*+	MARCH 1, 2015	LI-BP-2014-199	LI-BP-2014-200	LI-BP-2014-201
CONNECTICUT**				
DELAWARE	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
DIST. OF COLUMBIA	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
FLORIDA#				
GEORGIA	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
GUAM*+	MARCH 1, 2015	LI-BP-2014-188	NA	NA
HAWAII**				
IDAHO♦	MARCH 1, 2016	LI-BP-2015-141	LI-BP-2015-142	LI-BP-2015-143
IDAHO***	MARCH 1, 2016		LI-BP-2015-142	
ILLINOIS**+	MAY 1, 2015	LI-BP-2014-258	LI-BP-2014-259	LI-BP-2014-260
INDIANA	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
IOWA	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
KANSAS*+	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
KENTUCKY	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
LOUISIANA#				
MAINE*+	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
MARYLAND	NOVEMBER 1, 2016	LI-BP-2016-086	LI-BP-2016-087	LI-BP-2016-088
MASSACHUSETTS*+	APRIL 1, 2015	LI-BP-2014-249	LI-BP-2014-250	LI-BP-2014-251
MICHIGAN	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
MINNESOTA*+	MARCH 1, 2015	LI-BP-2014-199	LI-BP-2014-202	LI-BP-2014-201
MISSISSIPPI**	AUGUST 1, 2015	LI-BP-2016-067	LI-BP-2016-068	LI-BP-2016-069
MISSOURI	JUNE 1, 2020	LI-BP-2019-185	LI-BP-2019-186	LI-BP-2019-187
MONTANA#				
NEBRASKA*+	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
NEVADA	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
NEW HAMPSHIRE**	APRIL 1, 2015	LI-BP-2014-254	LI-BP-2014-255	LI-BP-2014-256
NEW JERSEY**+	MARCH 1, 2015	LI-BP-2014-243	LI-BP-2014-244	LI-BP-2014-245
NEW MEXICO*	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
NEW YORK#				
NORTH CAROLINA**	MARCH 1, 2015	LI-BP-2014-246	LI-BP-2014-247	LI-BP-2014-248
NORTH DAKOTA	SEPTEMBER 1, 2015	LI-BP-2015-076	LI-BP-2015-077	LI-BP-2015-078
OHIO*+	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
OKLAHOMA*+	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
OREGON*	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
PENNSYLVANIA**+	MARCH 1, 2015	LI-BP-2014-210	LI-BP-2014-211	LI-BP-2014-212
PUERTO RICO**	MARCH 1, 2015	LI-BP-2014-206	LI-BP-2014-207	LI-BP-2014-208
RHODE ISLAND♦♦	JANUARY 8, 2018	LI-BP-2018-003	LI-BP-2018-001	LI-BP-2018-002
SOUTH CAROLINA*+	MARCH 1, 2015	LI-BP-2014-199	LI-BP-2014-200	LI-BP-2014-201
SOUTH DAKOTA#				
TENNESSEE	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
TEXAS	JUNE 1, 2019	LI-BP-2019-015	LI-BP-2019-015	LI-BP-2019-015
U.S. VIRGIN ISLANDS	MARCH 1, 2015	LI-BP-2014-188	NA	NA
UTAH*+	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
VERMONT#				
VIRGINIA	MARCH 1, 2015	LI-BP-2014-199	LI-BP-2014-200	LI-BP-2014-201
WASHINGTON**+	MAY 1, 2015	WSRB CIRC. BP-2014-05	WSRB CIRC. BP-2014-05	WSRB CIRC. BP-2014-05
WEST VIRGINIA*	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190
WISCONSIN	JUNE 1, 2015	LI-BP-2015-007	LI-BP-2015-008	LI-BP-2015-009
WYOMING*	MARCH 1, 2015	LI-BP-2014-188	LI-BP-2014-189	LI-BP-2014-190

* Indicates supplement has been submitted.

** State-specific filings BP-2014-OIFR1, BP-2014-OIRU1 and BP-2014-RILC1.

♦ Submitted under BP-2015-OIFR1, BP-2015-OIRU1 and BP-2015-RILC1.

+ BP 15 09 is available, in lieu of BP 15 08, as this jurisdiction does not permit coverage for fines and penalties.

Will not be filed.

♦♦ Submitted under BP-2017-OFR1, BP-2017-RRU1 and BP-2017-RLC1.