



MULTIPLE INSURING AGREEMENT ELECTION WITH DATA BREACH ENDORSEMENT (STANDARD) - MISSOURI

Named Insured:

Policy Number: **SPECIMEN**

Endorsement Number: **2**

Policy Period: to

Endorsement Effective Date:

Carrier: **ACE American Insurance Company**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

In consideration of an additional premium of \$(included), it is agreed that the **Policy** is amended as follows:

a. The Declarations is amended as follows:

1. The following Item 9 is added to the Declarations:

Item 9. Coverage(s) Purchased ("X"):

- X A. Technology and **Internet** Errors and Omissions Liability
- X B. **Electronic Media Activities** Liability
- X C. **Network Operations Security** Liability (note, the **Unauthorized Access** and **Unauthorized Use** coverage afforded hereunder is limited to the **Insured's Computer System**)
- X D. Data Breach Fund

2. Item 3 is deleted and the following is inserted:

Item 3. Our Limits of Liability under this policy shall be as stated below, subject to all of the terms of this policy having reference thereto.

A. Limit of Liability for Coverage Agreement(s) Purchased (including **Defense Costs**):

	<u>Each Wrongful Act Limit</u>	<u>Aggregate</u>
A. Technology and Internet Errors and Omissions Liability	\$-	\$-
B. Electronic Media Activities Liability		
C. Network Operations Security Liability		
D. Data Breach Fund	250000	250000
B. Regulatory Proceeding Sub-Limit of Liability:	250000	250000
C. Maximum Policy Aggregate Limit of Liability:	\$-	\$-

3. Item 6 is amended to add:

Data Breach Expenses Deductible: \$-0

Each **Wrongful Act** \$-0

SECTION 1. COVERAGE AGREEMENTS

- b. Section 2 - Coverage Agreement is deleted in its entirety and the following is inserted:

SECTION 2 - COVERAGE AGREEMENTS

A. Technology and **Internet** Errors and Omissions Liability

If Coverage Agreement A, Technology and **Internet** Errors and Omissions Liability coverage, is purchased pursuant to Item 9 of the Declarations (as set forth above in this endorsement), **We** will pay on behalf of the **Insured** all sums in excess of the **Deductible** which the **Insured** shall become legally obligated to pay as **Damages** or **Defense Costs** because of a **Wrongful Act** to which this policy applies committed by the **Insured**, or by any person for whose acts the **Insured** is legally responsible but only if the **Wrongful Act** first occurs during the **Coverage Period** and results in a **Claim** for **Damages** which is first made against the **Insured** and reported to **Us** during the **Policy Period** or any applicable **Extended Reporting Period**, pursuant to the terms of this policy.

B. **Electronic Media Activities** Liability

If Coverage Agreement B, **Electronic Media Activities** Liability coverage, is purchased pursuant to Item 8 of the Declarations (as set forth above in this endorsement), **We** will pay on behalf of the **Insured** all sums in excess of the **Deductible** which the **Insured** shall become legally obligated to pay as **Damages** or **Defense Costs** because of a **Wrongful Act** to which this policy applies committed by the **Insured**, or by any person for whose acts the **Insured** is legally responsible but only if the **Wrongful Act** first occurs during the **Coverage Period** and

results in a Claim for Damages which is first made against the Insured and reported to Us during the Policy Period or any applicable Extended Reporting Period, pursuant to the terms of this policy.

C. Network Operations Security Liability

If Coverage Agreement C, Network Operations Security Liability coverage, is purchased pursuant to Item 9 of the Declarations (as set forth above in this endorsement), we will pay on behalf of the Insured all sums in excess of the Deductible which the Insured shall become legally obligated to pay as Damages or Defense Costs because of a Wrongful Act to which this policy applies committed by the Insured, or by any person for whose acts the Insured is legally responsible but only if the Wrongful Act first occurs during the Coverage Period and results in a Claim for Damages which is first made against the Insured and reported to Us during the Policy Period or any applicable Extended Reporting Period, pursuant to the terms of this policy.

D. Data Breach Fund

If Coverage Agreement D, Data Breach Fund coverage, is purchased pursuant to Item 9 of the Declarations (as set forth in this endorsement), we will pay on behalf of the Insured all sums in excess of the Deductible for Data Breach Expenses incurred by the Insured during the Coverage Period by reason of a Claim for any Wrongful Acts taking place during the Policy Period that are reported to the Insurer within 60 days after the date the Data Breach is discovered.

However, no claim will be denied based upon the Insured's failure to provide notice within such specified time, unless this failure operates to prejudice the rights of Insurer.

SECTION 2. DEFINITIONS

- c. Section 1 - Definitions is amended as follows:

1. The following definitions are added:

- **Advertising** means promotional material (including branding, co-branding, sponsorships and/or endorsements), publicly disseminated on any **Internet Website** on behalf of the **Named Insured**.
- **Advertising Services** means promotional material (including branding, co-branding, sponsorship and/or endorsements), publicly disseminated by the **Insured** on the **Named Insured's Internet Website** on behalf of others.
- **Breach of Privacy** means the unauthorized disclosure of sensitive personal or private information stored or otherwise maintained on the **Named Insured's Computer System** onto the **Internet** or otherwise into the public domain.
- **Denial of Service Attack** means an event that is caused by a third party's malicious activity directed at the **Insured** which restricts or prevents access to an **Internet Website** or other network resource by other third parties authorized to gain access to that **Website** or resource.

- **Electronic Content** means any data, text, sounds, images or similar matter disseminated electronically, including but not limited to **Advertising** and **Advertising Services**, and including matter disseminated electronically on the **Insured's Internet Website**. However, **Electronic Content** shall not include data, text, sounds, images or similar matter incorporated into or otherwise a part of **Technology Products**.
- **Electronic Media Activities** means the electronic publishing, dissemination, releasing, gathering, transmission, production, web casting, or other distribution of **Electronic Content** on the **Internet**, on behalf of the **Insured** or by the **Insured** for others.
- **Hacker Attack** means the **Unauthorized Use** of or **Unauthorized Access** to a **Computer System** other than the **Insured's Computer System**.
- **Insured's Computer System** means a **Computer System**:
 1. leased, owned, or operated by the **Insured**; or
 2. operated solely for the benefit of the **Insured** by a third party service provider under written contract with the **Insured**.

- **Network Operations Security** means those activities performed by the **Insured**, or by others on behalf of the **Insured**, to protect against **Unauthorized Access** to and the **Unauthorized Use** of the **Insured's Computer System**, or to protect against a **Denial of Service Attack**.
 - **Malicious Code** means unauthorized and corrupting or harmful software code, including but not limited to computer viruses, Trojan horses, keystroke loggers, cookies, spyware, adware, worms and logic bombs.
 - **Personal Information** means an individual's name in combination with any one or more of the following:
 1. social security number;
 2. medical or healthcare date, or other protected health information;
 3. drivers license number or state identification number;
 4. account number, credit card number or debit card number in combination with any required security code, access code or password that would permit access to that individual's financial account;
 5. other nonpublic **Personal Information** as defined in **Privacy Regulations**.

Personal Information shall not include information that is lawfully made available to the general public for any reason, including information from federal, state or local government records.
 - **Privacy Regulations** means the following statutes and regulations associated with the control and use of personally identifiable financial, medical or other sensitive information:
 1. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191);
 2. Gramm-Leach-Bliley Act of 1999;
 3. the California Security Breach Notification Act (CA SB 1386); and
 4. other similar state, federal and foreign identity theft and privacy protection legislation that requires commercial entities that collect **Personal Information** to post privacy policies, adopt specific privacy controls, or notify individuals in the event that **Personal Information** has potentially been compromised.
 - **Unauthorized Access** means the gaining of access to a **Computer System** by an unauthorized person or persons.
 - **Unauthorized Use** means the use of a **Computer System** by an unauthorized person or persons.
2. Subsection W, the definition of **Wrongful Act**, is deleted and the following is inserted:

W. **Wrongful Act** means any actual or alleged negligent breach of duty, error, misstatement, misrepresentation, omission, **Personal Injury** or other negligent act done or attempted by an **Insured**, or by any person for whose acts the **Insured** is legally responsible:
1. With respect only to Coverage Agreement A, in the provision of:
 - a. **Technology Services** to others for a fee, or
 - b. **Technology Products**, but only in conjunction with the **Insured's** provision of **Technology Services** to others for a fee.
 2. With respect only to Coverage Agreement B, in the provision of **Electronic Media Activities**, including:
 - a. any form of defamation or other tort related to the disparagement or harm to the reputation or character of any person or organization, including libel, slander, product disparagement, trade libel, infliction of emotional distress, mental anguish, outrage or outrageous conduct;
 - b. invasion, infringement or interference with the right to privacy or publicity, including false light, public disclosure of private facts, or the intrusion and commercial appropriation of a name, persona or likeness;
 - c. plagiarism, piracy, or the misappropriation or unauthorized use of advertising ideas, advertising material, titles, literary or artistic formats, styles or performances;
 - d. the infringement of copyright, domain name, trademark, trade name, trade dress, title or slogan, service mark, or service name; or
 - e. negligence with respect to the **Insured's** creation or dissemination of **Electronic Content**.
 3. With respect only to Coverage Agreement C, in the conduct of **Network Operations Security** that results in:
 - a. the failure to prevent **Unauthorized Access** to or **Unauthorized Use** of the **Insured's Computer System**, that in turn results in:
 - i. the theft, alteration or destruction of data, or
 - ii. **Hacker Attacks** against third parties; or
 - iii. a **Breach of Privacy**;
 - b. the denial of authorized users' access to the **Insured's Computer System**, unless such denial of access is caused by a mechanical or electrical failure;
 - c. the failure to prevent the participation by the **Insured's Computer System** in a **Denial of Service Attack** directed against the **Computer System** of a third party; or
 - d. the failure to prevent the transmission of **Malicious Code** from the **Insured's Computer System** to the **Computer System** of a third party.
 4. With respect to Coverage Agreement D, Data Breach Fund, the failure by the **Insured** or by an independent contractor for which the **Insured** is legally responsible to properly handle, manage, store, destroy or otherwise control **Personal Information**.
 3. Solely with respect to Coverage Agreements C and D the following definitions are added:
 - **Claim** means:
 1. also, with respect to Coverage Agreement C:

a **Regulatory Proceeding** including, where applicable any appeal therefrom.

2. with respect to Coverage Agreement D:

a written report by the **Insured** to the **Insurer** of a failure by the **Insured** or by an independent contractor for which the **Insured** is legally responsible to properly handle, manage, store, destroy or otherwise control **Personal Information**.

- **Data Breach Expenses** means those reasonable and necessary expenses incurred by the **Insured** or which the **Insured** becomes legally obligated to pay:

1. to retain third party computer forensics services to determine the scope of a failure of **Network Operations Security**;
2. to comply with **Privacy Regulations**, including but not limited to the consumer notification provisions of **Privacy Regulations** of the applicable jurisdiction that most favors coverage for such expenses;
3. with the **Insurer's** prior written consent, to voluntarily notify individuals whose **Personal Information** has been wrongfully disclosed;
4. in retaining the services of a public relations firm, crisis management firm or law firm for advertising or related communications solely for the purpose of protecting or restoring the **Insured's** reputation as a result of a **Wrongful Act**;

5. to retain the services of a law firm solely to determine the **Insured's** indemnification rights under a written agreement with an independent contractor with respect to a **Wrongful Act** expressly covered under this **Policy** and actually or allegedly committed by such contractor; and

6. for credit monitoring services, but only if such disclosure of **Personal Information** could result in the opening of an unauthorized line of credit or other financial account.

- **Regulatory Fines** means any civil monetary fine or penalty imposed by a federal, state, local or foreign governmental entity in such entity's regulatory or official capacity pursuant to its order under a **Regulatory Proceeding**. **Regulatory Fines** shall not include any criminal fines, disgorgement of profits, multiple damages or civil monetary fines or penalties that are not insurable by law.
- **Regulatory Proceeding** means a request for information, demand, suit, civil investigation or civil proceeding by or on behalf of a government agency, commenced by a service of a complaint or similar pleading and alleging the violation of **Privacy Regulations** as a result of the **Insured's Wrongful Act**, and which may reasonably be expected to give rise to a covered **Claim**.

SECTION 3. EXCLUSIONS

d. With respect to all Coverage Agreements, Section 6 - Exclusions is amended to add the following exclusion:

- alleging, based upon, arising out of or attributable to any transfer of funds, monies or securities to or from any natural person or entity;

e. Solely with respect to the **Electronic Media Activities** Liability Coverage Agreement afforded by this endorsement, Section 6 – Exclusions is amended as follows:

1. The following exclusions are added:
 - alleging, based upon, arising out of or attributable to the collection of **Personal Information** by the **Insured**, including but not limited to the collection of **Personal Information** using cookies, spyware or other **Malicious Code** or the failure to provide adequate notice that such information is being collected;
 - alleging, based upon, arising out of or attributable to the **Insured's** failure to disclose the loss of **Personal Information** in violation of any law or regulation;

2. Exclusion B is deleted in its entirety and replaced with the following:

- B. alleging, based upon, arising out of, or attributable to the validity, invalidity, infringement, violation or misappropriation of any patent or **Trade Secret**; or plagiarism, piracy or misappropriation of ideas of any third party;

f. Solely with respect to the **Network Operations Security** Liability Coverage Agreement afforded by this endorsement, Section 6 - Exclusions is amended as follows:

1. Exclusion M is deleted in its entirety and the following is inserted:

- M. alleging, based upon, arising out of or attributable to any electrical or mechanical failures or interruption, including but not limited to any electrical disturbance, surge, spike, brownout or blackout, and outages to gas, water, telephone, **Internet**, cable, satellite, telecommunications or other infrastructure; provided however, this exclusion shall not apply to failures, interruptions, disturbances or outages of telephone, **Internet**, cable or telecommunications infrastructure under the **Insured's** operational control which are a result of the **Insured's Wrongful Act** or a **Denial of Service Attack**.

g. Solely with respect to the Data Breach Fund Coverage Agreement afforded by this endorsement, Section 6 - Exclusions is amended by adding the following:

- alleging, based upon, arising out of or attributable to the rendering of or the failure to render professional services by any **Insured** to others.

h. Section 5 - Limitations On **Our** Liability And **Deductible** is amended as follows:

1. Subsection A, numbered paragraphs 1 and 2 are deleted and the following is inserted:

1. Each **Wrongful Act** Limit

With respect to Coverage Agreements A, B, and C, the limit of liability specified in the Declarations (as set forth in this endorsement) as "Each **Wrongful Act**" is the limit of liability for all **Damages** and **Defense Costs** arising out of, or in connection with, the same or **Interrelated Wrongful Acts**, regardless of the number of Coverages purchased (as indicated in Item 9 of the Declarations, added by amendment in this endorsement).

1. With respect to Coverage Agreement C only, and notwithstanding the otherwise applicable Each **Wrongful Act** and Aggregate Limits of Liability stated in Item 3B of the Declarations:

a. the Each **Wrongful Act Regulatory Proceeding** Sub-Limit of Liability stated in Item 3B of the Declarations is the **Insurer's** maximum liability under Coverage Agreement C for the sum of all **Damages** and all **Claims Expenses** incurred because of each **Regulatory Proceeding Claim**, including each **Claim** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.

b. the Aggregate **Regulatory Proceeding** Sub-Limit of Liability stated in Item 3B of the Declarations is the **Insurer's** maximum liability under Coverage Agreement C for the sum of all **Damages** and all **Claims Expenses** incurred because all **Regulatory Proceeding Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.

c. the **Regulatory Proceeding** Sub-Limit of Liability shall be part of and not in addition to the otherwise applicable Each **Wrongful Act** or Aggregate Limits of Liability stated in Item 3A of the Declarations, and will not increase the **Insurer's** Limit of Liability as provided therein.

With respect to Coverage Agreement D, the limit of liability shown in the Declarations (as set forth in this endorsement) as "Each **Wrongful Act**" is the limit of liability for **Data Breach Expenses** arising out of, or in connection with, the same or **Interrelated Wrongful Acts**, regardless of the number of Coverages purchased (as indicated in Item 9 of the Declarations, added by amendment in this endorsement).

2. Policy Aggregate Limit of Liability

With respect to Coverage Agreements A, B, and C, and subject to provision 1 directly above, the limit of liability shown in the Declarations (as set forth in this endorsement) as "Aggregate" is the most **We** will pay for or on behalf of all **Insureds** under this policy for all **Damages** and **Defense Costs** combined for all **Claims** made against the **Insureds** and reported to **Us** during the **Policy Period** or any applicable **Extended Reporting Period**, regardless of the number of Coverages purchased (as indicated in Item 9 of the Declarations, added by amendment in this endorsement).

With respect to Coverage Agreement D, the limit of liability shown in the Declarations (as set forth in this endorsement) as "Aggregate" is the most **We** will pay for or on behalf of all **Insureds** under this policy under Coverage Agreement D for the sum of all **Data Breach Expenses** because of all **Claims** combined in the aggregate.

i. Solely with respect to the Data Breach Fund Coverage Agreement afforded by this endorsement Section 8, General Conditions, is amended to add the following:

The **Insured** will exercise due diligence to avoid and diminish costs for this coverage part. As such, the **Insured** will comport with the appropriate industry standards by providing safeguards for business locations, physical security, computer systems and physical files; uphold the safety of the Internet security; back-up computer files at proper times; safeguard data transactions, such as credit card, debit card, and check payments; and the proper destruction of files containing **Personal Information**, including shredding physical documents and destroying sources that house electronic data.

SPECIMEN

Authorized Representative

Date Issued: 2/27/2018

All other terms and conditions of this **Policy** remain unchanged



COMPUTER & TECHNOLOGY PRODUCTS AND SERVICES
PROFESSIONAL LIABILITY INSURANCE POLICY

IMPORTANT NOTICE

PLEASE READ THIS POLICY IN ITS ENTIRETY. SOME OF THE PROVISIONS CONTAINED IN THIS POLICY RESTRICT COVERAGE, SPECIFY WHAT IS AND IS NOT COVERED AND DESIGNATE RIGHTS AND DUTIES.

Throughout this policy the words “**You**” and “**Your**” refer to the Named Insured indicated by Item 1 of the Declarations. The words “**We**”, “**Us**” and “**Our**” refer to the Company providing the insurance. Other words and phrases that appear in bold print have special meaning. Refer to SECTION 1 -- DEFINITIONS.

THIS POLICY IS WRITTEN ON A “**CLAIMS-MADE-AND-REPORTED**” BASIS AND PROVIDES PROFESSIONAL LIABILITY COVERAGE FOR THOSE **CLAIMS** FIRST MADE AGAINST AN **INSURED** AND REPORTED TO **US** WHILE THIS POLICY IS IN FORCE AND WHICH ARE THE RESULT OF **WRONGFUL ACTS** OCCURRING ON OR AFTER THE **RETROACTIVE DATE** AND PRIOR TO THE END OF THE **POLICY PERIOD** STATED IN THE DECLARATIONS. THIS POLICY INCLUDES COSTS OF DEFENSE WITHIN THE LIMITS OF LIABILITY. THE LIMITS OF LIABILITY AVAILABLE TO PAY JUDGMENTS, AWARDS OR SETTLEMENTS WILL BE REDUCED BY AMOUNTS INCURRED FOR **DEFENSE COSTS** DEFINED IN THE POLICY.

In consideration of the payment of the premium and any **Deductible** amount due on this policy, in reliance upon the information and statements contained in the **Application** for insurance, and subject to all of the terms and conditions of this policy, including, without limitation, the Limits of Liability and Exclusions, **We** agree to provide **You** with the insurance coverage described herein. In return, **You** agree to pay the premium and any **Deductible** payable and each **Insured** agrees: (1) to perform each duty the **Insured** has under this policy; and (2) that this policy contains all agreements relating to this insurance.

SECTION 1. DEFINITIONS

- A. **Application** means all applications, including any attachments thereto, and all other information and materials submitted by or on behalf of the **Insureds** to the **Insurer** in connection with the **Insurer** underwriting this policy or any policy of which this policy is a direct or indirect renewal or replacement. All such **Applications**, attachments, information and materials are deemed attached to and incorporated into this policy.
- B. **Claim** means:
 - 1. any written demand against any **Insured** for monetary damages or non-monetary or injunctive relief;
 - 2. a civil proceeding against the **Insured** seeking monetary damages or non-monetary or injunctive relief, commenced by the service of a complaint or similar pleading;
 - 3. an arbitration proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief;
 - 4. a **Suit**, including any appeal therefrom.
- C. **Computer System** means computer hardware, software, and the data stored thereon, as well as associated input and output devices, data storage devices, networking equipment and electronic backup facilities.
- D. **Computer & Technology Products and Services** means **Technology Products** and/or **Technology Services**.
- E. **Coverage Period** means the period of time beginning with the applicable **Retroactive Date** for the **Insured**, as stated in Item 2B of the Declarations or an endorsement to this policy, and ending with the expiration of the **Policy Period**.
- F. **Damages** means a monetary judgment, award or settlement. **Damages** does not include: (1) civil or criminal fines, sanctions or penalties, whether imposed pursuant to statute or otherwise; (2) punitive, exemplary or multiple damages, including double or treble damages or any **damages** in excess of actual **Damages**; (3) taxes; (4) the cost to comply with any injunctive or other non-monetary or declaratory relief, including specific performance, or any agreement to provide such relief; (4) penalties of any nature, however denominated, arising by contract; (5) the restitution of consideration or expense paid to an **Insured** for **Computer & Technology Products And Services** rendered or which should have been rendered, or re-performance of services by the **Insured** or under the **Insured's** supervision; (6) disputed fees, or any actual or alleged personal profit or advantage to which an **Insured** was not legally entitled; (7) judgments or awards arising from acts or omissions deemed uninsurable by law; and (8) any amounts other than those intended solely to compensate for a loss caused by a **Wrongful Act**.
- G. **Deductible** means the “**Each ‘Wrongful Act’ Deductible**” amount, if any, specified in Item 6 of the Declarations.
- H. **Defense Costs** means the reasonable and necessary costs to investigate, defend or appeal a **Claim** or **Suit** incurred by or by an **Insured** at **Our** request and with **Our** prior written consent. It includes attorneys’ fees, expert fees and all other costs and expenses related to the investigation, settlement, defense or appeal of a **Claim** or **Suit**, including those payments set forth in SECTION 4 - OTHER PAYMENTS, subsection 1, but it does not include the wages or salaries of **Your** employees or officers, except as provided in SECTION 4 - OTHER PAYMENTS, subsection 1.
- I. **Extended Reporting Period** refers to either Basic **Extended Reporting Period** and/or Supplemental **Extended Reporting Period** referred to in SECTION 7 - EXTENDED REPORTING PERIODS.
- J. **Insured** means:
 - 1. Named Insured (“**You**”) or any other person or organization first specified in Item 1A of the Declarations or endorsed to this policy; or
 - 2. **Subsidiaries** of the Named Insured, but only if they are listed on the **Application** for this policy, and only with respect to **Wrongful Acts** which occur while they are a **Subsidiary**;
 - 3. any present, past or future owner, principal, partner, officer, director, manager or member of the board of managers or equivalent executives of a limited liability company, stockholder, trustee or employee, including part-time, seasonal and temporary employees, of the Named Insured, but only with respect to the commission of a **Wrongful Act** committed while providing **Computer & Technology Products and Services** on behalf of the Named Insured.
 - 4. any estate, heirs, executors, administrators or legal representatives of an **Insured** in the event of such **Insured's** death, incapacity, insolvency, or bankruptcy, but only for the **Wrongful Acts** of such **Insured** and only to the extent that such **Insured** would otherwise be provided coverage under the policy.
 - 5. any independent contractor of the Named Insured who is a natural persons and who is engaged by or on behalf of the Named Insured or a **Subsidiary** pursuant to a written contract, but only with respect to the commission of a **Wrongful Act** within the scope of such person's duties performed on behalf of the Named Insured and only to the extent that such person is acting under the direction and control of the Named Insured or a **Subsidiary**.

K. **Insurer** (as do the terms “**We**”, “**Us**” and “**Our**”) means the insurance company providing this insurance.

L. **Internet** means the worldwide public network of computers which enables the transmission of electronic data and which includes intranets, extranets and virtual private networks.

M. **Interrelated Wrongful Acts** means **Wrongful Acts** which have as a common nexus any fact, circumstance, situation, event, transaction or series of continuous or repeated acts, events, situations, or transactions.

N. **Personal Injury** means injury, other than bodily injury, including mental or emotional distress or humiliation, arising out of one or more of the following offenses:

1. false arrest, detention or imprisonment, or malicious prosecution;
2. the publication or utterance of libel or slander or of other defamatory or disparaging material, or a publication or utterance in violation of an individual’s right to privacy;
3. wrongful entry or eviction, or other invasion of the right of private occupancy.

Personal Injury does not include injury arising out of one or more of the following offenses:

1. harassment;
2. discrimination because of age, color, race, sex, sexual preference, creed, national origin, ancestry, physical or mental handicap, marital status or pregnancy.

O. **Policy Period** means the period of time between the inception date shown in the Declarations of this policy under Item 2A, and the date this policy expires or is canceled; provided, in the case of a particular **Insured**, **Policy Period** means the period of time between the inception of coverage under this policy with respect to that **Insured** and the date this policy expires, is canceled or otherwise terminates with respect to that **Insured**. **Policy Period** does not include any **Extended Reporting Period** or any policy period of which this is a renewal or which may succeed this policy in time.

P. **Retroactive Date** means the date specified in item 2B of the Declarations.

Q. **Subsidiary** means any entity that is not formed as a partnership or joint venture of which the **Named Insured** owns or has the right to vote more than 50% of the outstanding voting securities representing the present right to vote for election of directors, or the managers or members of the board of managers or equivalent executives of a limited liability company, on or before the inception date of the policy, either directly or indirectly, in any combination, by one or more other **Subsidiaries**.

R. **Suit** means a civil legal proceeding, including arbitration, brought against an **Insured** seeking **Damages**. It does not include criminal legal proceedings, legal or administrative proceedings seeking equitable relief (including, without limitation, injunctions or specific performance), or legal proceedings brought by a governmental or regulatory entity including, without limitation, those seeking fines, penalties, taxes or suspension or revocation of license, registration, membership or other operating authority.

S. **Technology Products** means computer, telecommunications or hardware, software, measurement, middleware, network servers, storage and peripherals, tools or related electronic equipment, devices, instruments, integrated circuits, circuit boards, computer chips, central processor units, memory chips and motherboards including the design, development, manufacturing, distribution, licensing, leasing, sale, installation, repair or maintenance thereof.

T. **Technology Services** means:

1. information technology project management and consulting, and information systems or network analysis, design, programming or integration;
2. database design and the caching, collecting, compiling, processing, mining, or recording or analysis of data;
3. information system outsourcing;
4. information technology training and education.
5. **Website** design, programming or maintenance;
6. information system or **Website** hosting;
7. computer or telecommunications network design, maintenance, analysis, security; and
8. computer or telecommunications hardware installation or repair.

U. **Trade Secret** means information, including a formula, pattern, compilation, program, device, method, technique or process, that derives independent economic value, actual or potential, from not being generally known to or readily ascertainable by other persons who can obtain value from its disclosure or use, so long as reasonable efforts have been made to maintain its secrecy.

V. **Website** means the software, content and other materials accessible via the **Internet** at a designated Uniform Resource Locator address.

W. **Wrongful Act** means any actual or alleged negligent breach of duty, error, misstatement, misrepresentation, omission, **Personal Injury** or other negligent act done or attempted by an **Insured**, or by any person for whose acts the **Insured** is legally responsible, in the provision of:

- a. **Technology Services** to others for a fee, or
- b. **Technology Products**, but only in conjunction with the **Insured’s** provision of **Technology Services** to others for a fee.

SECTION 2. COVERAGE AGREEMENT

We will pay on behalf of the **Insured** all sums in excess of the **Deductible** which the **Insured** shall become legally obligated to pay as **Damages** or **Defense Costs** because of a **Wrongful Act** to which this policy applies committed by the **Insured**, or by any person for whose acts the **Insured** is legally responsible, but only if the **Wrongful Act**:

1. first occurs during the **Coverage Period**; and
2. results in a Claim for **Damages** which is first made against the **Insured** and reported to **Us** during the **Policy Period**, or any applicable **Extended Reporting Period**, pursuant to the terms of this policy.

SECTION 3. INVESTIGATION, SETTLEMENT AND DEFENSE

We have the right and duty to defend, as part of the applicable Limits of Liability hereunder, any **Suit** brought against an **Insured** because of a **Wrongful Act** to which this policy applies and which seeks **Damages** which are payable under the terms of this policy, even if any of the allegations of the **Suit** are groundless, false, or fraudulent. We will choose the lawyer to defend any such **Suit**. If an arbitration proceeding is brought with respect to a **Suit**, We will exercise all of the **Insured’s** rights in the choice of arbitrators and the conduct of the proceedings. We will investigate any **Claim** as We feel appropriate. We will not settle any **Claim** without the Named Insured’s consent. If We recommend a settlement to the Named Insured which is acceptable to the claimant and the Named Insured does not agree, **Our** Limit of Liability shall not exceed the total of the amount for which the **Claim** could have been settled plus the amount of **Defense Costs** up to the time We made the recommendation.

Our duty to defend any **Claim** or to pay **Damage** and **Defense Costs** relating thereto, ends after We have paid **Our** applicable Limit of Liability as set forth in SECTION 5 of this policy. If the applicable Limit of Liability is exhausted prior to the final resolution of any pending **Suit** against the **Insured**, We shall have the right to withdraw from any further defense thereof by tendering control of the defense of said **Suit** to the Named Insured.

SECTION 4. OTHER PAYMENTS

1. With respect to such insurance as is afforded by this policy, **We** will pay, as part of the applicable Limits of Liability under SECTION 5 of this policy, the following:
 - a. all reasonable and related costs taxed against the **Insured** in any **Suit** defended by **Us** and all interest required to be paid on the entire amount of any judgment therein which does not exceed the applicable Limits of Liability hereunder and which accrue after judgment is entered in said **Suit** and before **We** have paid or deposited in court such part of such judgment as does not exceed the applicable Limits of Liability hereunder;
 - b. premiums on bonds to release attachments in any such **Suit** but **We** shall have no obligation to apply for or furnish or provide collateral for any such bonds;
 - c. premiums on appeals bonds in any such **Suit** which may be required, in Our sole judgment, but **We** shall have no obligation to apply for or furnish or provide collateral for any such bonds; and
 - d. reasonable expenses, including up to \$250 per day, \$5,000 per Claim for Your loss of earnings or wages, or the loss of earnings or wages of Your employees or officers, incurred by You or Your employees at Our request in assisting Us in the investigation or defense of any Claim or **Suit**.
2. With respect to such insurance as is afforded by this policy, **We** will pay, in addition to the applicable Limits of Liability set forth in SECTION 5 of this policy, all costs and expenses incurred by Us other than Defense Costs or the expenses set forth in SECTION 4 - OTHER PAYMENTS, subsection 1.

SECTION 5. LIMITATIONS ON OUR LIABILITY AND DEDUCTIBLE

- A. **Limits of Liability**

Regardless of the number of **Insureds** under this policy, the number of **Wrongful Acts**, the number of claimants or **Claims** presented to **Us** or **Suits** brought, or the amount of **Defense Costs** incurred, the most **We** will pay under this policy is as follows:

 1. **Each Wrongful Act Limit**

The limit of liability specified in the Declarations as “Each **Wrongful Act**” is the limit of liability for all **Damages** and **Defense Costs** arising out of, or in connection with, the same or **Interrelated Wrongful Acts**.
 2. **Policy Aggregate Limit**

Subject to provision 1 directly above, the limit of liability shown in the Declarations a “Policy Aggregate” is the most **We** will pay for or on behalf of all **Insureds** under this policy for all **Damages** and **Defense Costs** combined for all **Claims** made against the **Insureds** and reported to **Us** during the **Policy Period** or any applicable **Extended Reporting Period**
- B. **Damages and Defense Costs Included in Limits of Liability**

All amounts paid with respect to a **Wrongful Act**, including amounts paid as **Damages** and amounts paid as **Defense Costs**, are subject to the applicable Limits of Liability. All **Defense Costs** with respect to a **Claim** or **Suit** shall be paid and deducted from the applicable Limits of Liability, and the difference between such Limits of Liability and the **Defense Costs**, if any, shall be the amount available to pay **Damages** incurred in connection with such **Claim** or **Suit**.
- C. **Deductible**

The Limit of Liability stated in the Declarations as applying to “Each **Wrongful Act**” is in excess of the “Each **Wrongful Act Deductible**” amount, if any, stated in Item 6 of the Declarations. **You** shall pay all **Damages** and **Defense Costs**, up to the amount of the **Deductible**, with respect to **Claims** arising out of each **Wrongful Act** or **Interrelated Wrongful Acts**. The **Deductible** amount shall first be applied to the payment of **Defense Costs**. If **We** so request, **You** shall make direct payment within the **Deductible** amount to appropriate other parties. **We** will only be liable for and will only pay **Damages** and **Defense Costs** with respect to each **Wrongful Act** which exceeds the **Deductible**.
- D. **Interrelated Wrongful Acts**

All **Claims** for **Damages** and related **Defense Costs** which arise out of a single **Wrongful Act**, together with any **Interrelated Wrongful Acts**, will be considered to have arisen out of a single **Wrongful Act** and such **Claims** will be subject to the Each **Wrongful Act** Limit of Liability and **Deductible** as set forth in the Declarations. Such **Wrongful Act**, together with any **Interrelated Wrongful Acts**, will be deemed to have occurred on the date on which the earliest of such **Wrongful Acts** commences. If a **Wrongful Act** commences, or **Interrelated Wrongful Acts** commence, prior to the applicable **Retroactive Date**, there shall be no coverage under this policy for the **Insured** for any of such **Wrongful Acts** or **Interrelated Wrongful Acts**, even if some of those **Wrongful Acts** or **Interrelated Wrongful Acts** occur after the **Retroactive Date** and before the end of the **Policy Period**.

SECTION 6. EXCLUSIONS

- The **Insurer** shall not be liable for **Damages** or **Defense Costs** on account of, and the insurance afforded by this policy shall not apply to, any **Claim**:
- A. alleging, based upon, arising out of, or attributable to:
 1. bodily injury to or sickness, disease, mental illness or death of any person;
 2. physical damage to, loss or destruction of, or loss of use of tangible property;
 - B. alleging, based upon, arising out of, or attributable to:
 1. the validity, invalidity, infringement, violation or misappropriation of any patent, copyright, domain name, trademark, trade name, trade dress, **Trade Secret**, service mark, service name, title, slogan or other intellectual property of any third party; or plagiarism, piracy or misappropriation of ideas of any third party;
 2. any actual or alleged breach of any confidentiality agreement;
 - C. alleging, based upon, arising out of, or attributable to fraud or dishonesty, or criminal or malicious **Wrongful Acts**; provided, however, this exclusion shall not apply to **Defense Costs** or the **Insurer’s** duty to defend any such **Claim** until there is a judgment against, binding arbitration against, adverse admission by, finding of fact against, or plea of nolo contendere or no contest by the **Insured**, at which time the **Insured** shall reimburse the **Insurer** for any **Defense Costs** paid by the **Insurer**;
 - D. brought or maintained by, on behalf of, or in the right of any **Insured**, or any person or entity for whom or which an **Insured** is legally responsible;
 - E. alleging, based upon, arising out of, or attributable to any liability an **Insured** assumes under any contract or agreement, whether written or oral; but this does not apply to liability the **Insured** would have even in the absence of such contract or agreement;

- F. alleging, based upon, arising out of, or attributable to the performance or failure to perform services for any person or entity;
1. which is owned or controlled by an **Insured**; or
 2. which owns or controls any **Insured**; or
 3. which is affiliated with an **Insured** through any common ownership or control; or
 4. in which any **Insured** is a director, officer, partner or principal stockholder;
- G. alleging, based upon, arising out of, or attributable to any violation of the Securities Act of 1933 as amended; the Securities Exchange Act of 1934 as amended; the Investment Company Act of 1940; the Investment Advisors Act; the Employee Retirement Income Security Act of 1974 as amended; any State Blue Sky Securities Law, or any similar federal, state or foreign law, or any regulation or order issued pursuant thereto;
- H. alleging, based upon, arising out of, or attributable to the insolvency or bankruptcy of any **Insured**;
- I. alleging, based upon, arising out of, or attributable to pollution, however caused. Pollution includes the actual, alleged or potential presence in or introduction into the environment of any substance if such substance has or is alleged to have, the effect of making the environment impure, harmful, or dangerous. Environment includes any air, land, structure or the air therein, watercourse or water, including underground water. **We** shall have no duty to defend any **Suit** arising out of or in any way related to pollution;
- J. alleging, based upon, arising out of, or attributable to asbestos or asbestos-containing materials;
- K. alleging, based upon, arising out of, or attributable to any costs or expenses incurred by any **Insured** or others to recall, repair, replace, upgrade, supplement or remove the **Insured's** products, including products which incorporate the **Insured's** products or services, from the marketplace;
- L. alleging, based upon, arising out of, or attributable to any guarantee of or the exceeding of cost estimates or estimates of probable cost;
- M. alleging, based upon, arising out of, or attributable to any electrical or mechanical failures or interruption, including but not limited to any electrical disturbance, surge, spike, brownout or blackout, and outages to gas, water, telephone, **Internet**, cable, satellite, telecommunications or other infrastructure; provided however, this exclusion shall not apply to failures, interruptions, disturbances or outages of telephone, **Internet**, cable or telecommunications infrastructure under the **Insured's** operational control which are a result of the **Insured's Wrongful Act**;
- N. alleging, based upon, arising out of, or attributable to wear, tear or gradual deterioration of any product or component part sold by an **Insured** or on an **Insured's** behalf;
- O. alleging, based upon, arising out of, or attributable to:
1. the violation of any antitrust statute or law;
 2. restraint of trade;
 3. unfair or deceptive business practices; or
 4. unfair competition;
- P. alleging, based upon, arising out of, or attributable to any unsolicited electronic dissemination of faxes, e-mails or other communications to multiple actual or prospective customers of the **Insured**, any **Subsidiary**, or any other third party, including but not limited to actions brought under the Telephone Consumer Protection Act, any federal, state or foreign anti-spam statutes, and/or any other federal, state or foreign statute, law or regulation relating to a person's or entity's right of seclusion;
- Q. alleging, based upon, arising out of, or attributable to any discrimination on any basis, including, but not limited to, race, creed, color, religion, ethnic background, national origin, age, handicap, disability, gender, sexual orientation or pregnancy;
- R. alleging, based upon, arising out of, or attributable to an **Insured's** advice concerning and/or relating to, and/or selection of, an investment manager, investment advisor and/or custodial firm;
- S. alleging, based upon, arising out of, or attributable to the failure of any real or personal property or investment to achieve a desired rate of return;
- T. alleging, based upon, arising out of, or attributable to the failure of any property to achieve or maintain an estimated, projected or warranted value;
- U. alleging, based upon, arising out of, or attributable to:
1. any prior or pending litigation, **Claims**, demands, arbitration, administrative or regulatory proceeding or investigation filed or commenced on or before the inception date of this policy or any other policy of which this is a renewal, replacement or succeeds in time, or alleging or derived from the same or substantially the same fact, circumstance or situation underlying or alleged therein; or
 2. any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** underlying or alleged therein would constitute **Interrelated Wrongful Acts**;
- V. alleging, based upon, arising out of, or attributable to:
1. any **Wrongful Act**, fact, circumstance or situation which has been the subject of any written notice given under any other policy before the effective date of this policy; or
 2. any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** which has been the subject of such notice, would constitute **Interrelated Wrongful Acts**;
- W. alleging, based upon, arising out of or attributable to a **Wrongful Act** actually or allegedly committed prior to the beginning of the **Policy Period** if, on or before the earlier of the effective date of this policy or the effective date of any policy issued by the **Insurer** of which this policy is a continuous renewal or a replacement, the **Insured** knew or reasonably could have foreseen that the **Wrongful Act** did or could lead to a **Claim**;
- X. alleging, based upon, arising out of, or attributable to any actual or alleged breach or violation of any oral, written, express, implied or constructive contract or agreement between any **Insured** and any staffing agency(ies) or employment agency(ies), provided however that this exclusion shall not apply to any **Claims** alleging, based upon, arising out of, or attributable to any **Wrongful Act** done or attempted by any **Insured** in the provision of **Computer & Technology Products and Services** to any staffing agency(ies) or employment agency(ies);
- Y. brought by any person or entity alleging, based upon, arising out of, or attributable to any **Wrongful Act** in the event such **Wrongful Act** does not involve the provision of **Computer & Technology Products and Services** to such person or entity.

SECTION 7. EXTENDED REPORTING PERIODS

Extended Reporting Periods provide additional time in which to report **Claims** that arise from **Wrongful Acts** which occur subsequent to the **Retroactive Date** as shown in Item 2B of the Declarations, but prior to the effective date of cancellation or nonrenewal of the policy. They do not extend the **Policy Period** or change the scope of coverage provided by the policy. Once in effect, **Extended Reporting Periods** may not be canceled. The **Extended Reporting Periods** shall be part of and not in addition to the Limits of Liability for the immediately preceding **Policy Period**. The **Extended Reporting Periods** shall not increase or reinstate the Limits of Liability, which shall be the maximum liability of the **Insurer** for the **Policy Period** and the **Extended Reporting Periods**, combined.

A. Basic Extended Reporting Period

If this policy is terminated by nonrenewal or cancellation (other than for failure to pay a premium when due), a Basic **Extended Reporting Period** is automatically provided without additional charge. This automatic extension will cover **Claims** first made against the **Insured** and reported to **Us** during the 60 day period immediately following the effective date of nonrenewal or cancellation, arising from **Wrongful Acts** that took place on or after the **Retroactive Date** and prior to the effective date of such nonrenewal or cancellation.

The Basic **Extended Reporting Period** does not apply to **Claims** that are covered under any other insurance the **Insured** purchases to apply subsequent to the effective date of nonrenewal or cancellation or to **Claims** that would be covered but for the exhaustion of any subsequently purchased insurance applicable to such **Claims**.

B. Supplemental Extended Reporting Period

If this policy is terminated by nonrenewal or cancellation (other than for failure to pay a premium when due), **You** have the right to purchase a Supplemental **Extended Reporting Period**. The options for a

Supplemental **Extended Reporting Period** and their respective premiums are specified in this subsection B. below. This supplemental period starts when the Basic **Extended Reporting Period** ends, and covers **Claims** first made against the **Insured** and reported to **Us** during the **Supplemental Reporting Period** arising from **Wrongful Acts** that took place on or after the **Retroactive Date** and prior to the effective date of such nonrenewal or cancellation. **We** will provide **You** with Supplemental **Extended Reporting Period** coverage and issue **You** a Supplemental **Extended Reporting Period** Endorsement:

- (i) if **You** nonrenew or cancel this policy and **You** write to **Us** within 60 days of the effective date of nonrenewal or cancellation telling **Us** that **You** want to purchase Supplemental **Extended Reporting Period** coverage; or
- (ii) if **We** nonrenew or cancel this policy and **You** write to **Us** within 60 days of the effective date of nonrenewal or cancellation telling **Us** that **You** want to purchase Supplemental **Extended Reporting Period** coverage.

You must pay the required premium for the Supplemental **Extended Reporting Period** coverage to **Us** promptly when due.

You may purchase one of the following Supplemental **Extended Reporting Periods**:

1. For 100% of the premium charged for this policy, a 1 year **Supplemental Extended Reporting Period**;
2. For 220% of the premium charged for this policy, a 3 year **Supplemental Extended Reporting Period**;
3. For 250% of the premium charged for this policy, a 5 year **Supplemental Extended Reporting Period**;

SECTION 8. GENERAL CONDITIONS

A. Policy Period

This policy will begin at 12:01 A.M. on the effective date shown in Item 2.A. of the Declarations. The policy will continue to apply until 12:01 A.M. on the expiration date also shown in Item 2.A. of the Declarations unless **We** agree to extend it, subject to prior termination pursuant to Section 8 - GENERAL CONDITIONS, subsection N. Cancellation.

B. Policy Territory

This policy applies to injury arising out of or resulting from **Wrongful Acts** anywhere in the world. Any **Claim** must be brought within the United States of America, its territories or possessions, Puerto Rico or Canada.

C. Insureds' Duties'

If there is a **Claim**, the **Insured** must:

1. Notify **Us** in writing as soon as possible during the **Policy Period**, or any applicable **Extended Reporting Period**.
2. Specify the names and addresses of the claimant(s) and/or any potential claimant(s), and witnesses.
3. Provide **Us** with the information on the time, place and nature of the event that led to the **Claim**.
4. Immediately forward to **Us** all documents which the **Insured** receives in connection with the **Claim**.
5. Fully cooperate with **Us** or **Our** designee in the investigation, settlement, conduct of **Suits** or other proceedings and the enforcing of any right of contribution or indemnity against another who may be liable to the **Insured**. The **Insured** shall, as **We** at our discretion may require, attend hearings and trials, and assist in securing and giving evidence and obtaining the attendance of witnesses.
6. Not, except at the **Insured's** own cost, voluntarily make any payment, assume any obligation or incur any expense at the time of the **Wrongful Act**.

If, during the **Policy Period**, any **Insured** becomes aware of any specific **Wrongful Act** which may reasonably give rise to a future **Claim** covered under this policy, and if the **Insureds** give written notice to the **Insurer** during the **Policy Period**, the Automatic **Extended Reporting Period**, or, if elected, the Supplemental **Extended Reporting Period** of:

1. the identity of the potential claimants;
2. a description of the anticipated **Wrongful Act** allegations;
3. the identity of the **Insureds** allegedly involved;
4. the circumstances by which the **Insureds** first became aware of the **Wrongful Act**;
5. the consequences which have resulted or may result; and
6. the nature of the potential monetary damages;

then any **Claim** which arises out of such **Wrongful Act** shall be deemed to have been first made at the time such written notice was received by the **Insurer**. No coverage is provided for fees, expenses and other costs incurred prior to the time such **Wrongful Act** results in a **Claim**.

D. Other Insurance

If there is other valid and collectible insurance which is applicable to a **Claim**, this policy is excess above such other insurance unless such insurance is stated to apply as excess above this policy.

E. Rights Of Recovery

If **We** make any payment, **We** may be entitled to recover what **We** paid from other parties. Any person to or for whom **We** make payment must transfer to **Us** their rights of recovery against any other party. This person must do everything necessary to secure these rights and must do nothing that would jeopardize them.

F. Legal Action Limitation

No action may be brought against **Us** concerning this policy unless:

1. The **Insured** has fully complied with all the provisions of this policy; and
2. The amount of the **Insured's** obligation to pay has been decided by judgment against the **Insured** after actual trial or by written agreement between the **Insured**, **Us**, and the claimant. Any person, organization or their legal representative who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization has a right under this policy to include **Us** in any action against the **Insured** to determine the **Insured's** liability, nor will **We** be brought into such action by the **Insured** or the **Insured's** representative.

G. Changes

No provision of this policy can be waived, changed, or modified except by written endorsement issued by **Us** to form a part of this policy. Notice to any of **Our** agents or knowledge possessed by any such agent or any other person shall not act as a waiver or change in any part of this policy. Such notice will not prevent **Us** from asserting **Our** rights under the provisions of this policy.

H. Transfer Of Interest

You must first obtain **Our** written consent to transfer or assign **Your** rights under this policy. If **You** die the policy will continue for the remaining part of the **Policy Period**; first for the benefit of **Your** legal representative while acting within his or her duties as such, and second for the benefit of anyone having proper temporary custody of **Your** property until a legal representative is appointed.

I. Representations

By accepting this policy, the **Insureds** agree:

1. The statements and information contained in the **Application** are true and complete.
2. **We** have issued this policy in reliance upon such representations.
3. This policy is null and void in its entirety, if any material fact or circumstance in the **Application** or related to this insurance is intentionally misrepresented or concealed, whether before or after a **Claim** is made against any **Insured**.

J. Bankruptcy

Bankruptcy or insolvency of any **Insured** or any **Insured's** estate will not relieve **Us** of **Our** obligations under this policy.

K. Multiple Insureds

More than one person or organization may be shown under Item I of the Declarations, or included as an **Insured** under other provisions of this policy. The inclusion of multiple **Insureds** under this policy will not affect the rights of any such persons or organizations to be protected by this policy. However, the inclusion of multiple **Insureds** under this policy will not increase **our** liability beyond the Limits of Liability set forth in SECTION 5 - LIMITATIONS ON **OUR** LIABILITY AND **DEDUCTIBLE**, of this policy.

By accepting this policy, the **Insureds** agree that the first Named Insured as indicated in Item 1 of the Declarations, is authorized to act on behalf of all **Insureds** with respect to:

1. giving and receiving notices of cancellation or
2. accepting any endorsement issued to be a part of this policy;
3. paying premiums and **Deductibles**;
4. receiving any return premium which may become due;
5. giving notices to **Insureds** that they have been added to or deleted from this policy;
6. requesting **Extended Reporting Period** endorsements; and
7. keeping **Us** informed of any changes in the organization of the Named Insured.

L. Merger

If, during the **Policy Period**, **You** shall be acquired or merged, consolidated or otherwise combined with another firm, partnership, association, corporation, or any other entity, immediate written notice of that fact must be given to **Us**. There shall be no coverage under this policy with respect to any **Wrongful Acts** committed by any **Insured** subsequent to the date of said acquisition, merger, consolidation or other combination unless this policy is endorsed by **Us** to provide such coverage.

M. Nonrenewal

If **We** decide not to renew this policy, 30 days advance written notice shall be mailed or delivered to **You** at the address shown in the policy. This provision shall not apply in the event of nonpayment of premium, or if **You** have requested or agreed to non-renewal, or have accepted replacement coverage. If notice is mailed, proof of mailing will be sufficient proof of notice.

N. Cancellation

You may cancel this policy at any time. **You** can return the policy to **Us** or any of **Our** authorized agents, or **You** can mail a written notice to **Us** telling when **You** want the cancellation to be effective. **We** must receive the policy or written notice before the cancellation date. Delivery of a written notice is the same as mailing. If **You** cancel the policy, **We** are entitled to an earned premium computed according to **Our** rules and rating plans which apply at the time of cancellation.

We can cancel this policy by delivering or mailing a written notice to **You**. **We** will give **You** this notice at least 30 days before the effective date of cancellation, provided, if **You** fail to pay premium when due or to reimburse **Us** for payment of any portion of a **Deductible** payable by **You**, **We** may cancel this policy at any time by sending to the Named Insured on the Declarations, written notice at least 10 days prior to the date cancellation is to be effective. The date and hour of cancellation will be shown in the notice. In case of cancellation by **Us**, **We** will refund any unearned premium on a pro-rata basis, subject to a "Minimum Earned Premium".

We will make the premium adjustment with **You** at the time that cancellation is effective, or as soon as possible after that time. This premium adjustment is, however, not a condition of cancellation.

Notice of cancellation will only be sent to the Named Insured shown on the policy Declaration and will serve as notice to all **Insureds**.



SAFETYTEK TECHNOLOGY EXPANSION ENDORSEMENT

Named Insured:

Policy Number: **SPECIMEN**

Endorsement Number: **4**

Policy Period: to

Endorsement Effective Date:

Carrier: **ACE American Insurance Company**

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

This policy is amended as follows:

A. COVERED SERVICES

Section 1- Definitions, Subsection T, definition of **Technology Services**, is amended by adding the following at the end thereof:

Technology Services also means:

- **Management Consulting**
- **Telecommunication Services**
- **Information Technology Staffing and Placement**

provided, however, that the coverage afforded pursuant to this Section A shall only be afforded to that portion of any **Claim** which is covered under the Technology and Internet Errors and Omissions Liability insuring Agreement. Such coverage shall not apply to that portion of any **Claim** covered under any other insuring agreement in the event any such other insuring agreement is added by endorsement to this policy.

B. INNOCENT INSURED

Section 6 - Exclusions is amended by deleting subsection C in its entirety and replacing it with the following:

C. alleging, based upon, arising out of, or attributable to fraud or dishonesty, or criminal or malicious **Wrongful Acts**; provided, however, this exclusion shall not apply to **Defense Costs** or the **Insurer's** duty to defend any such **Claim** until there is a judgment against, binding arbitration against, adverse admission by, finding of fact against, or plea of *nolo contendere* or no contest by the **Insured**, at which time the **Insured** shall reimburse the **Insurer** for any **Defense Costs** paid by the **Insurer**; and further provided that this exclusion shall not apply to:

1. any natural person **Insured** unless such **Insured** committed, participated in, or had knowledge of any such fraud dishonesty or criminal or malicious **Wrongful Act**; or
2. the **Named Insured** or a **Subsidiary** unless any principal, partner, officer or director of the **Named Insured** or such **Subsidiary** committed, participated in or had knowledge of any such fraud, dishonesty or criminal or malicious **Wrongful Act**;

C. CONTRACTUAL LIABILITY

Section 6 - Exclusions is amended by deleting subsection E in its entirety and replacing it with the following:

E. for breach of any express, implied, actual or constructive contract, warranty, guarantee, or promise, including any actual or alleged liability assumed by the **Insured**, unless such liability would have attached to the **Insured** even in the absence of such contract, warranty, guarantee, or promise; provided, however, this exclusion shall not apply to that part of a **Claim** alleging the unintentional failure to perform **Technology Services** or provide **Technology Products**;

D. DEFENSE COSTS OUTSIDE THE LIMITS OF LIABILITY.

Section 5 - Limitations On **Our** Liability And **Deductible**, Subsection A, Limits of Liability, and Subsection B, **Damages** and **Defense Costs** Included in Limits of Liability, are deleted in their entirety and replaced with the following:

A. Limits of Liability

Regardless of the number of **Insureds** under this policy, the number of **Wrongful Acts**, the number of claimants or **Claims** presented to **Us** or **Suits** brought, or the amount of **Defense Costs** incurred, the most **We** will pay under this policy is as follows:

1. Each Wrongful Act Limit

The limit of liability specified in the Declarations as "Each **Wrongful Act**" is the limit of liability for all **Damages** arising out of, or in connection with, the same or **Interrelated Wrongful Acts**.

2. Policy Aggregate Limit

Subject to provision 1 directly above, the limit of liability shown in the Declarations as "Policy Aggregate" is the most **We** will pay for or on behalf of all **Insureds** under this policy for all **Damages** combined for all **Claims** made against the **Insureds** and reported to **Us** during the **Policy Period** or any applicable **Extended Reporting Period**.

B. **Damages** Included in Limits of Liability, **Defense Costs** Not Included in Limits of Liability

All amounts paid as **Damages** with respect to a **Wrongful Act** are subject to the applicable Limits of Liability. All **Defense Costs** with respect to a **Claim** or **Suit** shall not be paid or deducted from the applicable Limits of Liability, provided, however, that the **Our** duty under this policy to provide or pay for defense of a single **Claim** shall cease when the "Each **Wrongful Act**" Limit of Liability specified in the Declarations is exhausted by the **Our** payment of **Damages** for that **Claim**. Further, **Our** duty under this policy to provide or pay for any defense shall cease entirely when the "Policy Aggregate" Limit of Liability specified in the Declarations is exhausted by **Our** payment of **Damages**.

The Declarations page is amended as follows:

1. By deleting the following phrase from Item 3: (including **Defense Costs**)
2. By deleting the following sentence:

THE LIMITS OF LIABILITY AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR DEFENSE COSTS.

E. **FIRST DOLLAR DEFENSE**

Section 5 - Limitations On **Our** Liability And **Deductible**, subsection C, **Deductible** is amended by adding the following sentence at the end thereof:

The **Deductible** shall not apply to **Defense Costs**.

F. **ADDITIONAL DEFINITIONS**

Section 1 – Definitions is amended by adding the following definitions; in the event there is any inconsistency between any definition below and any definition of the same defined term set forth in any other endorsement to this policy (whether preceding or following this endorsement), the below definition shall govern the terms and conditions of this endorsement and such other definition shall govern the terms and conditions set forth in such other endorsement:

- **Breach of Privacy** means the unauthorized disclosure of sensitive personal or private information stored or otherwise maintained on the **Named Insured's Computer System** onto the **Internet** or otherwise into the public domain.
- **Denial of Service Attack** means an event that is caused by a third party's malicious activity and that restricts or prevents access to an **Internet Website** or other network resource by other third parties authorized to gain access to that **Website** or resource.
- **Information Technology and Staffing and Placement** means the identification, appraisal and placement of personnel into employment roles and consultation concerning such activities. Such consultation and placement will include either temporary or permanent appointments.
- **Malicious Code** means unauthorized and corrupting or harmful software code, including but not limited to computer viruses, Trojan horses, keystroke loggers, cookies, spyware, adware, worms and logic bombs.

- **Management Consulting** means analyzing management and operating problems associated with the goals, objectives, policies, strategies, administrations, organizations and the principal functional or operating areas of a business, and the recommendation and implementation of practical solutions to these problems.
- **Insured's Computer System** means a **Computer System** leased, owned, or operated by the **Insured**, or operated solely for the benefit of the **Insured** by a third party service provider under written contract with the **Insured**.
- **Network Operations Security** means those activities performed by the **Insured**, or by others on behalf of the **Insured**, to protect against **Unauthorized Access** to and the **Unauthorized Use** of the **Insured's Computer System**, or to protect against a **Denial of Service Attack**.
- **Telecommunication Services** means telecommunications services, including switching services, dial tone access, competitive access provider services, cellular and wireless communication services, call center services, telecommunications consulting services, local access telephone services, long-distance telephone services, cable and internet telephone services, broadband services and private line and private network services.
- **Unauthorized Access** means the gaining of access to a **Computer System** by an unauthorized person or persons, or by an authorized person or persons in an unauthorized manner.
- **Unauthorized Use** means the use of a **Computer System** by an unauthorized person or persons or an authorized person in an unauthorized manner.

G. **ADDITIONAL EXCLUSIONS**

Solely with respect to the coverage afforded by this endorsement for **Management Consulting**, Section 6 - Exclusions is amended by adding the following exclusions:

- alleging, based upon, arising out of, or attributable to the guaranteeing of the availability of funds or specified rate of return or interest;
- alleging, based upon, arising out of, or attributable to any **Insured** making warranties or guarantees as to the future value of investments;
- alleging, based upon, arising out of, or attributable to loss alleged to have been sustained through fluctuation in the market value of any security;
- alleging, based upon, arising out of, or attributable to the failure of investments to perform as expected or desired;
- alleging, based upon, arising out of, or attributable to the guarantee or warranty of potential sales, earnings, profitability or economic value;
- alleging, based upon, arising out of, or attributable to the failure to secure financing;
- alleging, based upon, arising out of, or attributable to the preparation of pro-forma statements which are the basis of or are used with third parties for the purpose of securing capital through debt, equity creditor or other means;

- alleging, based upon, arising out of or attributable to the performance of or failure to perform services as an attorney, accountant or actuary;
- alleging, based upon, arising out of, or attributable to a failure of **Network Operations Security, Unauthorized Access to or Unauthorized Use of the Insured's Computer System, a Denial of Service Attack** against any **Computer System**, any **Breach of Privacy**, or any use of or tampering with data on the **Insured's Websites**;
- alleging, based upon, arising out of, or attributable to the introduction of **Malicious Code** to any **Computer System**;
- alleging, based upon, arising out of, or attributable to any policies, procedures, methods, equipment, hardware, firmware, or software for creating, maintaining or managing any secure means for transmitting, receiving or exchanging electronic information using or involving digital certificates, digital signatures, certification authorities, public or private keys or encryption technologies, or any other similar type of technology, however denominated;
- alleging, based upon, arising out of, or attributable to the actual or alleged inaccurate, inadequate, or incomplete description of the price of goods, products or services; or as a result of the **Insured's** cost guarantees, cost representations, contract price, pricing guarantees or estimates of probable costs or cost estimates being exceeded;

Solely with respect to the coverage afforded by this endorsement for **Telecommunication Services**, Section 6 - Exclusions is amended by adding the following exclusions:

- brought or maintained by, on behalf of, or in the right of any federal, state or local government agency, any licensing organization, or any self-regulating organization, provided, however this exclusion shall not apply to **Claims** alleging, based upon, or arising out of or attributable to professional services rendered to such government agency, licensing organization, or any self-regulating organization;
- alleging, based upon, arising out of or attributable to credits, rebates, or refunds issued or paid by any **Insured**;
- alleging, based upon, arising out of or attributable to the provision of 911 or other emergency call center services;
- alleging, based upon, arising out of or attributable to the transfer of funds, money or securities;
- alleging, based upon, arising out of or attributable to any **Insured's** voluntary waiver of a limitation of liability under a tariff;

- alleging, based upon, arising out of or attributable to any action brought by or on behalf of the Federal Trade Commission, the Federal Communications Commission, or any other federal, state, or local government agency or ASCAP, SESAC, BMI or other licensing or rights organizations in such entity's regulatory, quasi-regulatory, or official capacity, function or duty;

Solely with respect to the coverage afforded by this endorsement for **Information Technology Staffing and Placement**, Section 6 - Exclusions is amended by adding the following exclusions:

- alleging, based upon, arising out of or attributable to the use or misuse of confidential or proprietary information;
- alleging, based upon, arising out of or attributable to commingling or improper use of client's funds or the inability or failure to pay, collect or safeguard such funds;
- alleging, based upon, arising out of or attributable to the loss of monies, securities or any negotiable instruments transported or conveyed by any employee in his/her duties to a client;
- alleging, based upon, arising out of or attributable to any obligation pursuant to any worker's compensation, unemployment compensation, unemployment insurance, disability benefits, retirement benefits, or social security benefits law, or any similar law;
- alleging, based upon, arising out of or attributable to any violation of an employee's rights, failure to provide compensation, perquisites, or benefits to an employee, or any other employment practices violation, including without limitation employment-related misrepresentation; any violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, religion, creed, age, sex, disability, marital status, national origin, pregnancy, HIV status, sexual orientation or preference, or military status; sexual or unlawful workplace harassment; wrongful deprivation of a career opportunity or wrongful demotion; failure to employ, place for employment, or promote; wrongful discipline; retaliation; negligent evaluation; employment-related libel, slander, defamation, humiliation, invasion of privacy, or the giving of negative or defamatory statements in connection with an employee reference; and failure to grant tenure;
- alleging, based upon, arising out of or attributable to any leased, supplied, staffed or placed employee's performance or failure to perform services by or on behalf of or at the direction of any client of an **Insured**;
- alleging, based upon, arising out of or attributable to any express warranties or guarantees;

SPECIMEN
 Authorized Representative
 Date Issued: 2/27/2018

All other terms and conditions of this **Policy** remain unchanged