

## Filing at a Glance

Company: Westchester Fire Insurance Company

Product Name: 06-PR-326(F)

SERFF Tr Num: ACEH-125103631 State: Arkansas

TOI: 17.1 Other Liability - Claims Made Only

SERFF Status: Closed

State Tr Num: AR-PC-07-023049

Sub-TOI: 17.1019 Professional Errors &

Co Tr Num: 06-PR-326(F)

State Status:

Omissions Liability

Filing Type: Form

Co Status:

Reviewer(s): Michelle Fahey, Betty Montesi, Edith Roberts

Authors: Marlene Thomas, Bob

Disposition Date: 07-11-2007

Wolfrom, Sharon Yacuzzo

Date Submitted: 02-09-2007

Disposition Status: Approved

Effective Date Requested (New):

Effective Date (New):

Effective Date Requested (Renewal):

Effective Date (Renewal):

## General Information

Project Name: New Program - Form

Status of Filing in Domicile: Pending

Project Number: 06-PR-326(F)

Domicile Status Comments:

Reference Organization:

Reference Number:

Reference Title:

Advisory Org. Circular:

Filing Status Changed: 07-11-2007

State Status Changed:

Deemer Date:

Corresponding Filing Tracking Number:

Filing Description:

We are filing the new ACE DigiTech Pro program which provides errors and omissions coverage to firms with technology liability exposure and \$15 million or less in gross revenue. It is designed for small companies active in the technology space, with a focus on technology consultants. The program which covers a diverse mix of technology service providers, ranging from low hazard risks such as systems maintenance to higher, more complex risks such as online brokerage firms. Given the competitiveness of this market and the minimal need for a heavily customized product, the coverage grant is limited to professional liability only. See the Explanatory Memorandum for details.

We would like to write this program for new policies effective upon your approval.

## Company and Contact

### Filing Contact Information

Robert Wolfrom, CPCU, Regulatory Specialist robert.wolfrom@ace-ina.com

436 Walnut Street

(215) 640-5123 [Phone]

Philadelphia, PA 19106

(215) 640-4986[FAX]

### Filing Company Information

Created by SERFF on 07-11-2007 10:18 AM

Westchester Fire Insurance Company  
1133 Avenue of the Americas  
New York, NY 10036  
(215) 640-2324 ext. [Phone]

CoCode: 21121  
Group Code: 626  
Group Name:  
FEIN Number: 13-5481330  
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State of Domicile: New York  
Company Type:  
State ID Number:

## Filing Fees

Fee Required? Yes  
Fee Amount: \$50.00  
Retaliatory? No  
Fee Explanation:  
Per Company: No

CHECK NUMBER	CHECK AMOUNT	CHECK DATE
PS 00274119	\$50.00	01-22-2007

## Correspondence Summary

### Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	07-11-2007	07-11-2007

### Objection Letters and Response Letters

Objection Letters				Response Letters		
Status	Created By	Created On	Date Submitted	Responded By	Created On	Date Submitted
Pending Industry Response	Edith Roberts	03-26-2007	03-26-2007	Bob Wolfrom	04-11-2007	04-11-2007
Pending Industry Response	Edith Roberts	02-27-2007	02-27-2007	Bob Wolfrom	03-14-2007	03-14-2007

### Filing Notes

Subject	Note Type	Created By	Created On	Date Submitted
Status Request	Note To Reviewer	Jill Kelly	07-02-2007	07-02-2007
DigiTech Pro Exemption request within limits	Defense Note To Filer	Edith Roberts	04-19-2007	04-19-2007
ACE DigiTech Pro Digital Tech and Prof Liab - Exemption Request	Note To Filer	Edith Roberts	04-11-2007	04-11-2007

## Disposition

Disposition Date: 07-11-2007

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment: Dear Mr. Wolfrom:

AID Order # 2007-033, exempting Technology from defense outside the limits for all risks over \$1,000,000 has now been signed into effect as of 7/09/2007.

Thank you for your assistance and input into this!

Have a great day!

Edith Roberts

Rate data does NOT apply to filing.

Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	No
Supporting Document	Cover Letter	Approved	No
Supporting Document	Filing Memo and Form List	Approved	No
Supporting Document	Exemption Letter	Approved	No
Form <i>(revised)</i>	ACE DigiTech Pro Digital Technology & Professional Liability Application	Approved	No
Form	ACE DigiTech Pro Digital Technology & Professional Liability Application	Approved	No
Form	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Approved	No
Form	ACE DigiTech Pro IT Staffing Supplemental Application	Approved	No
Form	ACE DigiTech Pro Digital Technology & Professional Liability Insurance Policy Declarations	Approved	No
Form	ACE DigiTech Pro Digital Technology & Professional Liability Insurance Policy	Approved	No
Form	Additional Insured (Various Liability)	Approved	No
Form	Additional Insured	Approved	No
Form	Alternative Dispute Resolution Endorsement	Approved	No
Form	Contingent Bodily Injury or Property Damage	Approved	No
Form	Defense and Settlement Endorsement	Approved	No
Form	Endorsement Deletion	Approved	No
Form	Fees, Expenses and Costs Exclusion	Approved	No
Form	Intellectual Property Coverage and Sublimit	Approved	No
Form	Limit of Liability	Approved	No
Form	Medical Malpractice Exclusion	Approved	No
Form	Miscellaneous Professional Services	Approved	No
Form	Named Insured and Address Endorsement	Approved	No
Form	Notice Amended	Approved	No
Form	Notice Revised (Five Officers)	Approved	No
Form	Profit, Remuneration, Financial Advantage Exclusion ("For" Preamble)	Approved	No
Form	Recall Exclusion Amended (Loss of use Carveback)	Approved	No
Form	Retroactive Date	Approved	No

<b>Form</b>	Telecommunications Endorsement	Approved	No
<b>Form</b>	Tie-In of Limits	Approved	No
<b>Form</b>	Waiver of Application	Approved	No
<b>Form</b>	Wrongful Act Amended (Agreement A "For A Fee" Deleted)	Approved	No
<b>Form</b>	Wrongful Act Amended - Specified Contract and Parties	Approved	No
<b>Form</b>	Annual Reinstatement of Limits Endorsement	Approved	No
<b>Form</b>	Confidential Or Proprietary Information (Intentional or Unintention Misuse)	Approved	No
<b>Form</b>	Health Insurance Portability and Accountability Act Exclusion	Approved	No
<b>Form</b>	Insurance Agent/Broker Exclusions	Approved	No
<b>Form</b>	Management Consultants Endorsement with Technology Services Extension	Approved	No
<b>Form</b>	Multiple Insuring Agreement Election Endorsement	Approved	No
<b>Form</b>	Signatures	Approved	No
<b>Form</b>	U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders	Approved	No
<b>Form</b>	Intellectual Property Exclusions Amended (software Code & Design)	Approved	No
<b>Form</b> <i>(revised)</i>	Amendatory Endorsement - Arkansas	Approved	No
<b>Form</b>	Amendatory Endorsement - Arkansas	Approved	No
<b>Form</b>	Amendatory Endorsement - Arkansas	Approved	No
<b>Form</b>	Arkansas Notice to Policyholders	Approved	No

## Objection Letter

Objection Letter Status                      Pending Industry Response  
Objection Letter Date                      03-26-2007  
Submitted Date                              03-26-2007

Dear Robert Wolfrom, CPCU,

This will acknowledge receipt of your response.

Please be advised that AID Order 2000-169 refers to E&O coverage for agents and insurance company E&O only. It would not apply to this coverage.

You are welcome to appeal to our Legal Division for an exemption for this line of coverage if you desire. I do not anticipate that it would be a problem to receive an exemption. If you wish instructions on how to do so, please let me know. I know several other companies that have made similar filings, but so far, none have wished to exercise the request for exemption.

Also, there is only one minor item on Form PF-2100 (03/07), paragraph 3.V.c., the insurer must allow 60 days from date of policy expiration to receive the premium for the optional extended reporting period endorsement pursuant to AR Code 23-79-306 (3).

Please advise if you wish instructions to request exemption.

Please feel free to contact me if you have questions.

Edith Roberts  
Sr. Certified Rate and Form Analyst  
501-371-2808  
Sincerely,  
Edith Roberts

## Response Letter

Response Letter Status                      Submitted to State  
Response Letter Date                      04-11-2007  
Submitted Date                              04-11-2007

Dear Edith Roberts,

Comments:

### Response 1

Comments: In response to your comments:

1. Attached is a copy of the exemption letter we sent to your Legal Div.

2. We have attached a revised PF-2100 (04/07) with revisions.

Supporting Document Schedule Item Changes

Satisfied -Name: Exemption Letter

Comment: Copy of Letter Exemption Letter sent to Legal

Form Schedule Item Changes

Form Name	Form Number	Edition Date	Form Type	Action	Action Specific Data	Readability Score
Amendator	PF-21000	04/07	Endorsement/Amendment/Conditions	New		0

y  
Endorseme  
nt -  
Arkansas

No Rate/Rule Schedule Item Changes

Sincerely,  
Bob Wolfrom, Marlene Thomas, Sharon Yacuzzo

## Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 02-27-2007

Submitted Date 02-27-2007

Dear Robert Wolfrom, CPCU,

This will acknowledge receipt of the captioned filing.

Please be advised that this program contains defense within the limits of liability, which is prohibited by AR Code Anno. 23-79-307 (5) (A).

Also, the Claims-Made Notice and the insuring agreement does not state that a claim may be reported during the the Extended Reporting Periods which are mandated by law (23-79-306 (1-6)).

With reference to Page 11 of Form PF-20636, provision IX, Alternative Dispute Resolution, these procedures must always be voluntary and non-binding and must specifically state so, pursuant to AR Code Anno. 23-79-203 (a).

Please feel free to contact me if you have questions.

Edith Roberts

Sr. Certified Rate and Form Analyst

Sincerely,

Edith Roberts

## Response Letter

Response Letter Status Submitted to State

Response Letter Date 03-14-2007

Submitted Date 03-14-2007

Dear Edith Roberts,

Comments:

### Response 1

Comments: In response to your objections:

1) AID Order # 2000-169 permits defense within limits errors and omissions liability policies within Arkansas provided such policy is issued with liability and defense limits of \$1,000,000 or more. As shown on the Arkansas State Exception Page, we will not offer any limit of liability less than \$1M in Arkansas.

2) An alternate version of the application has been created to satisfy this item. We have removed PF-20631 from the Form Schedule and replaced it with PF-21870. Also, Amendatory Endorsement Arkansas has been revised

accordingly. Please see paragraphs 1 and 2 of PF-21000 (03/07) which addresses these concerns.

3) The Arkansas Amendatory endorsement has been revised to satisfy this item. We have removed the prior edition in the Form Schedule and replaced it with the 03/07 edition. Please see paragraph 5 of PF-21000 (03/07).

No Supporting Documents have changed.

Form Schedule Item Changes

Form Name	Form Number	Form Edition Date	Form Type	Action	Action Specific Data	Readability Score
ACE DigiTech Pro Digital Technology & Professional Liability Application	PF-21870	(03/07)	Application/Binder/Enrollment	New		0
Amendatory Endorsement - Arkansas	PF-21000	(03/07)	Endorsement/Amendment/Conditions	New		0

No Rate/Rule Schedule Item Changes

Sincerely,  
Bob Wolfrom, Marlene Thomas, Sharon Yacuzzo

**Note To Reviewer**

**Created By:**

Jill Kelly on 07-02-2007 09:49 AM

**Subject:**

Status Request

**Comments:**

We are inquiring about the status of above captioned filing. This filing was submitted to your department on February 9, 2007. If you have any questions or need additional information, you may contact Bob Wolfrom at 215-640-5123 or robert.wolfrom@ace-ina.com. We look forward to receiving your approval shortly.

Thank you.

**Note To Filer**

**Created By:**

Edith Roberts on 04-19-2007 02:39 PM

**Subject:**

DigiTech Pro Exemption request Defense within limits

**Comments:**

Dear Mr. Wolfrom:

Below is my recommendation on your behalf to our Legal Division:

..."With reference to the exemption request of ACE Insurance Group Westchester Fire Insurance Company, concerning that Technology Professional Liability Coverage Program be exempt from AR Code Anno. 23-79-307 (5) (A), we give the following opinion in the support of their request.

Historically, the most recent AID Orders exempted only risks with \$1,000,000 limits are greater, and required a signed consent form from the insured, acknowledging that the limits of liability may be reduced or completely exhausted in payment of defense.

The Professional Liability policy is purchased keeping in mind that defense will be provided for insureds errors or omissions while providing a service. The limit for defense is free coverage and unlimited unless a limit equal to the claims limit is set. The limit of liability provides only for payment claims arising out of those acts. However, if an exemption is granted on this or any other professional liability coverage, a greater responsibility rests with the insured to be more conscientious in the services rendered as the defense expense is now limited and may reduce the amount of insurance coverage for the claim.

Based on the above and considering that AID Orders set a minimum limit to which the exemption may apply, and also requiring a consent form execution, we do not have a problem with this exemption request, and consider it beneficial in both promoting insured accountability and more accurate pricing of the product within the industry...."

Will keep you updated as soon as I hear further.

Thanks,  
Edith

**Note To Filer**

**Created By:**

Edith Roberts on 04-11-2007 01:01 PM

**Subject:**

ACE DigiTech Pro Digital Tech and Prof Liab - Exemption Request

**Comments:**

Dear Mr. Wolfrom:

Thank you for your request...I will follow-up with our Legal Division on this and keep you updated.

Sincerely,

Edith Roberts

**Form Schedule**

<b>Review Status</b>	<b>Form Name</b>	<b>Form #</b>	<b>Edition Date</b>	<b>Form Type Action</b>	<b>Action Specific Data</b>	<b>Readability</b>	<b>Attachment</b>
Approved	ACE DigiTech Pro Digital Technology & Professional Liability Application	PF-21870	(03/07)	Application/ New Binder/Enrollment		0.00	Application _Warrants_ Notice Revised_PF 21870.pdf
Approved	ACE DigiTech Pro Digital Technology & Professional Liability Application	PF-20631	(07/06)	Application/ New Binder/Enrollment		0.00	PF20631 DigiTech Pro App (Warrants).pdf
Approved	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	PF-20635	(07/06)	Application/ New Binder/Enrollment		0.00	PF20635 DigiTech Pro IP Suppl App (Warrants).pdf
Approved	ACE DigiTech Pro IT Staffing Supplemental Application	PF-20637	(07/06)	Application/ New Binder/Enrollment		0.00	PF20637 DigiTech Pro Suppl IT Staff App.pdf
Approved	ACE DigiTech Pro Digital Technology & Professional Liability Insurance Policy Declarations	PF-20633	(07/06)	Declaration News/Schedule		0.00	PF20633 Digitech Pro Declarations.pdf
Approved	ACE DigiTech Pro Digital Technology & Professional Liability Insurance Policy	PF-20636	(07/06)	Policy/Coverage New Form		0.00	PF20636 Digitech Pro Policy.pdf
Approved	Additional Insured (Vicarious Liability)	PF-20625	(07/06)	Endorsement/Amendment/Conditions		0.00	PF20625 Additional Insured (Vicarious

					Liability).pdf
Approved	Additional Insured	PF-20626 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20626 Additional Insured.pdf
Approved	Alternative Dispute Resolution Endorsement	PF-20627 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20627 Alternative Dispute Resolution Endt.pdf
Approved	Contingent Bodily Injury or Property Damage	PF-20628 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20628 Contingent Bodily Injury or Property Damage.pdf
Approved	Defense and Settlement Endorsement	PF-20629 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20629 Defense and Settlement Endt.pdf
Approved	Endorsement Deletion	PF-20639 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20639 Endorsement Deletion.pdf
Approved	Fees, Expenses and Costs Exclusion	PF-20640 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20640 Fees, Expenses and Costs Exclusion.pdf
Approved	Intellectual Property Coverage and Sublimit	PF-20641 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20641 Intellectual Property Coverage With Sublimit.pdf
Approved	Limit of Liability	PF-20644 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20644 Limit of Liability.pdf
Approved	Medical Malpractice Exclusion	PF-20645 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20645 Medical Malpractice Exclusion.pdf
Approved	Miscellaneous	PF-20646	Endorsement New	0.00	PF20646

	Professional Services	(07/06)	nt/Amendment/Conditions		Miscellaneous Professional Services.pdf
Approved	Named Insured and Address Endorsement	PF-20647 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20647 Named Insured and Address Endt.pdf
Approved	Notice Amended	PF-20648 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20648 Notice Amended.pdf
Approved	Notice Revised (Five Officers)	PF-20649 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20649 Notice Revised (Five Officers).pdf
Approved	Profit, Remuneration, Financial Advantage Exclusion ("For" Preamble)	PF-20650 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20650 Profit, Remuneration, Financial Advantage Exclusion.pdf
Approved	Recall Exclusion Amended (Loss of use Carveback)	PF-20651 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20651 Recall Exclusion Amended (Loss of Use Carveback).pdf
Approved	Retroactive Date	PF-20652 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20652 Retroactive Date.pdf
Approved	Telecommunications Endorsement	PF-20653 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20653 Telecommunications Endt.pdf
Approved	Tie-In of Limits	PF-20654 (07/06)	Policy/Coverage Form	0.00	PF20654 Tie-In of Limits.pdf
Approved	Waiver of Application	PF-20655 (07/06)	Application/ New Binder/Enro	0.00	PF20655 Waiver of

			llment		Application (Warrants).p df
Approved	Wrongful Act Amended (Agreement A "For A Fee" Deleted)	PF-20656 (07/06)	Application/ New Binder/Enro llment	0.00	PF20656 Wrongful Act Amended (Agreement A For a Fee Deleted).pdf
Approved	Wrongful Act Amended - Specified Contract and Parties	PF-20658 (07/06)	Application/ New Binder/Enro llment	0.00	PF20658 Wrongful Act Amended- Specified Contract and Parties.pdf
Approved	Annual Reinstatement of Limits Endorsement	PF-21293 (07/06)	Endorseme New nt/Amendm ent/Condi tions	0.00	PF21293 Annual Reinstateme nt of Limits.pdf
Approved	Confidential Or Proprietary Information (Intentional or Unintention Misuse)	PF-21294 (11/06)	Endorseme New nt/Amendm ent/Condi tions	0.00	PF21294 Confidential Or Proprietary Info (Intentional or Unintentional Misuse).pdf
Approved	Health Insurance Portability and Accountabilty Act Exclusion	PF-21295 (11/06)	Endorseme New nt/Amendm ent/Condi tions	0.00	PF21295 Health Insurance Portability and Accountabilit y Act Excl.pdf
Approved	Insurance Agent/Broker Exclusions	PF-21296 (11/06)	Endorseme New nt/Amendm ent/Condi tions	0.00	PF21296 Insurance Agent- Broker Excl.pdf
Approved	Management Consultants Endorsement	PF-21297 (11/06)	Endorseme New nt/Amendm ent/Condi	0.00	PF21297 Management Consultants

	with Technology Services Extension		ons		Endorsement with Technology Services Coverage Extension.pdf
Approved	Multiple Insuring Agreement Election Endorsement	PF-21298 (11/06)	Endorsement/Amendment/Conditions	0.00	PF21298 Multiple Insuring Agreement Election Endorsement.pdf
Approved	Signatures	CC-1K11e (02/06)	Endorsement/Amendment/Conditions	0.00	Cc1k11e.pdf
Approved	U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders	PF-17914 (02/05)	Endorsement/Amendment/Conditions	0.00	PF17914 OFAC Notice.pdf
Approved	Intellectual Property Exclusions Amended (software Code & Design)	PF-20642 (07/06)	Endorsement/Amendment/Conditions	0.00	PF20642 Intellectual Property Exclusions Amended.pdf
Approved	Amendatory Endorsement - Arkansas	PF-21000 04/07	Endorsement/Amendment/Conditions	0.00	AR Amendatory _PF21000 0407.pdf
Approved	Amendatory Endorsement - Arkansas	PF-21000(07/06)	Endorsement/Amendment/Conditions	0.00	AR Amendatory _PF21000.pdf
Approved	Amendatory Endorsement - Arkansas	PF-21000(03/07)	Endorsement/Amendment/Conditions	0.00	AR Amendatory _PF21000.pdf
Approved	Arkansas Notice to Policyholders	ALL-2Y31a	Policy/Coverage New Form	0.00	AR Notice to Policyholder

(02/06)

s\_ALL2Y31a  
.pdf





**C. Current Coverage and Loss Information**

If the answer is yes to any of questions 2 – 8, please attach explanations. With respect to claims or litigation, include any pending or prior incident, event or litigation, providing full details of all relevant facts.

1. Does the company currently have General Liability, Errors and Omissions, and/or other similar insurance in force?  Yes  No

If so, please complete the following for each policy:

Coverage Type:		Coverage Type:	
Name of Carrier:		Name of Carrier:	
Limits of Liability:		Limits of Liability:	
Deductible:		Deductible:	
Premium:		Premium:	
Expiry Date:		Expiry Date:	
Current Retroactive Date:		Current Retroactive Date:	

2. Has your company ever been declined for Errors & Omissions, Professional Liability or Media Liability insurance, or had an existing policy cancelled?  Yes  No
3. Is the company or any of its partners, directors or officers aware of, or are there any circumstances that may give, or have given, rise to a claim against the company or against this insurance policy?  Yes  No
4. In the last five years has your company experienced any claims or are you aware of any circumstances that could give rise to a claim that would be covered by this policy?  Yes  No
5. In the past five years, has your company been the subject of any cease and desist orders concerning content or advertising on your website?  Yes  No
6. During the last three years, have you been the subject of an investigation or action by any regulatory or administrative agency for violations arising out of your advertising or sales activities?  Yes  No
7. Within the last three years has a customer claimed that they had a financial loss as a result of an error or omission on your part?  Yes  No
8. Have you, or any of your predecessors in business, subsidiaries or affiliates, or any of the principals, directors, officers, partners, professional employees or independent contractors ever been the subject of a disciplinary action as a result of professional activities?  Yes  No

**II. GENERAL INFORMATION**

**A. Gross Revenues (including licensing fees)**

	<u>Domestic</u>	<u>Foreign</u>	<u>Total</u>
Prior Year:	\$	\$	\$
Current Year (est.):	\$	\$	\$
Next Year (est.):	\$	\$	\$

**B. Products and Services Offered**

Type of Product or Service	% of Revenue		Typical Customer
	Current Yr	Next Year	
Application Service Provider - Bandwidth	%	%	
Application Service Provider - Security	%	%	
Bulletin Board System/Forum Sites	%	%	
Billing Services	%	%	
Computer Aided Design (Structural)	%	%	
Computer Aided Design (Non-Structural)	%	%	
Colocation Facilities	%	%	
Credit Card Processing	%	%	
CRM Consulting	%	%	
Data Entry/Timesharing	%	%	
Data Processing	%	%	
E-commerce Consulting	%	%	
ERP Consulting	%	%	
Graphic Design	%	%	
Hardware Assembly	%	%	
Hardware Manufacturing	%	%	
Healthcare	%	%	
Infrastructure Equipment Mfg.	%	%	
Infrastructure Software	%	%	
Internet Advertising	%	%	
Internet Service Provider	%	%	
Manufacturing (General)	%	%	
Messaging Services	%	%	
Online Banking	%	%	
Online Brokerage	%	%	
Online Exchanges	%	%	
Portals	%	%	
Retail e-commerce	%	%	
Security Consulting	%	%	
Security Software	%	%	
Software Development	%	%	
Software Installation -- Custom	%	%	
Software Installation -- Prepackaged	%	%	
Specialty Programming	%	%	
Systems Analysis	%	%	
Systems Engineering	%	%	
Systems Integration	%	%	
Systems Maintenance	%	%	
Technical Research	%	%	
Technical Support	%	%	
Technical Training	%	%	
Telecommunication	%	%	
Value Added Reselling	%	%	
Video Conferencing Services	%	%	
Web Hosting	%	%	
Web Maintenance Services	%	%	

Type of Product or Service	% of Revenue		Typical Customer
	Current Yr	Next Year	
Website Design	%	%	
WiFi Service Provider	%	%	
Other:	%	%	

Do you place temporary IT personnel at a client's site and under the client's supervision and direction?  Yes  No

**If "YES", please complete the "IT STAFFING SUPPLEMENTAL APPLICATION"**

### III. SALES CONTRACTS, LICENSING CONTRACTS, STATEMENTS OF WORK

#### A. Large Contracts

Please provide details of your company's three largest contracts for ongoing or completed work in the last two years:

Client	Nature of Contract/Service	Contract Value/Duration

Timeframe of average contract: \_\_\_\_\_

Average contract or licensing agreement value: \_\_\_\_\_

#### B. Contractual Content and Procedures:

1. Do you require a written contract or agreement for services with your customers?  Yes  No
2. Is the contracting process standardized and formalized?  Yes  No
3. Are all contracts reviewed by your legal department or a third party law firm?  Yes  No
4. Do revisions and modifications to standard contracts require legal department signoff?  Yes  No
5. Do such contracts or agreements contain (*check all that apply*):
  - specific descriptions of professional services you are to provide?
  - a limitation of liabilities?
  - guarantees or warranties?
  - hold harmless or indemnity agreements inuring to your benefit?
  - hold harmless or indemnity agreements inuring to your client's benefit?
  - formalized change order processes requiring signoff by both parties?
  - conditions of customer acceptance of products/services?
  - acceptance of consequential damages?
  - provisions for liquidated damages?
  - provisions for the ownership of intellectual property?
6. Do you have procedures to ensure compliance with Federal, State and local statutes?  Yes  No
7. Do you have a process in place to handle and resolve client complaints?  Yes  No
8. Do you charge for your network-based services?  Yes  No

9. Do you guarantee systems or website availability?  
*If yes, please describe in an attachment.*  Yes  No
10. Do your customers and/or business partners have written contracts or agreements in place to use your network, website or services?  Yes  No

**C. Vendor Contracts**

1. Do you require written contracts or agreements with all vendors?  Yes  No
2. Is the contracting process standardized and formalized?  Yes  No
3. Are all contracts reviewed by your legal department or a third party law firm?  Yes  No

**D. Independent Contractors, Subcontractors**

1. Do you use independent contractors and/or subcontractors?  Yes  No  
*If yes, please answer the four questions below:*
- a. Do you always use a written contract upon engagement of independent contractors?  Yes  No
- b. Do you require independent contractors to carry professional liability insurance?  Yes  No
- c. What percentage of professional services rendered are contracted out? \_\_\_\_\_%
- d. Do all contracts with independent contractors clearly identify work product as 'work made for hire', or include other provisions for the ownership of intellectual property?  Yes  No

**IV. QUALITY CONTROL**

**A. Quality Control Procedures**

1. Please identify the quality control procedures in place at your company:  
 written quality control programs                       vendor certification guidelines  
 prototype development guidelines                       beta testing
2. Are formal customer acceptance procedures in place?  Yes  No
3. Are formal written system or software development methodologies in place?  Yes  No
4. When interim changes in the contract or statement of work are required, are these documented with signoffs by both you and the customer?  Yes  No
5. Do contracts or statements of work include performance milestones which are acknowledged and accepted with signoffs by both you and customer?  Yes  No
6. Are final acceptance letters or signoffs required from each customer?  Yes  No
7. Do you have an Internal Audit process in place?  Yes  No

**B. Employee/Professional Development**

1. Do you have a formalized Continuing Education program required for all professional employees on annual basis  Yes  No
2. Do you have formalized in-house training procedures for professional employees?  Yes  No

## **ADDITIONAL INFORMATION REQUIRED**

Please submit the following documentation with this application:

1. Copies of your most recent advertising materials and product brochures.
2. Most recent financials.
3. List of any litigation threatened or pending (including plaintiff, cause of action and potential damages detail), which could potentially affect the coverage for which applicant is applying.
4. Loss runs for the last five years.
5. Copies of representative and largest sales, service and/or licensing contracts.

## **V. FRAUD WARNING STATEMENTS**

**NOTICE TO ARKANSAS APPLICANTS:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**NOTICE TO COLORADO APPLICANTS:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

**NOTICE TO DISTRICT OF COLUMBIA APPLICANTS:** WARNING: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

**NOTICE TO LOUISIANA APPLICANTS:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**NOTICE TO NEW JERSEY APPLICANTS:** Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**NOTICE TO NEW MEXICO APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES.

**NOTICE TO NEW YORK APPLICANTS:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

**NOTICE TO OHIO APPLICANTS:** Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

**NOTICE TO OKLAHOMA APPLICANTS:** WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

**NOTICE TO TENNESSEE APPLICANTS:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

**NOTICE TO WASHINGTON APPLICANTS:** It is a crime to knowingly provide false, incomplete, or misleading information to an insurance company for the purposes of defrauding the company. Penalties include imprisonment, fines, and denial of insurance benefits.

**NOTICE TO ALL OTHER APPLICANTS:**

**ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON, FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS INFORMATION FOR THE PURPOSE OF MISLEADING, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND MAY SUBJECT SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.**

**VI. DECLARATION AND CERTIFICATION**

**ALL APPLICANTS MUST COMPLETE THIS SECTION.**

**BY SIGNING THIS APPLICATION, THE APPLICANT WARRANTS TO THE INSURANCE COMPANY THAT ALL STATEMENTS MADE IN THIS APPLICATION INCLUDING ATTACHMENTS, ABOUT THE APPLICANT AND ITS OPERATIONS ARE TRUE AND COMPLETE, AND THAT NO MATERIAL FACTS HAVE BEEN MISSTATED IN THIS APPLICATION OR CONCEALED. COMPLETION OF THIS FORM DOES NOT BIND COVERAGE. THE APPLICANT'S ACCEPTANCE OF THE INSURANCE COMPANY'S QUOTATION IS REQUIRED BEFORE THE APPLICANT MAY BE BOUND AND A POLICY ISSUED.**

**THE APPLICANT AGREES TO COOPERATE WITH THE COMPANY IN IMPLEMENTING AN ONGOING PROGRAM OF LOSS-CONTROL AND WILL ALLOW THE COMPANY TO REVIEW AND MONITOR SUCH PROGRAMS THAT THE APPLICANT UNDERTAKES IN MANAGING ITS TECHNOLOGY EXPOSURES.**

Signature of Authorized Applicant:

Signature of Broker/Agent:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date (Mo./Day/Yr.)  
\_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Date (Mo./Day/Yr.)  
\_\_\_\_/\_\_\_\_/\_\_\_\_

Signed by Licensed Resident Agent

\_\_\_\_\_  
(Where Required By Law)



**ACE DigiTech Pro<sup>SM</sup>**  
**Digital Technology & Professional Liability**  
**Software Intellectual Property Addendum**

**Applicant Information:**

Applicant Name: \_\_\_\_\_

Business Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

1. Is a formal process in place to educate new employees about the importance of copyright law, with clear restrictions against using material developed for previous employers?  Yes  No  
 If YES, are new employees asked to sign an affidavit committing to this?  Yes  No
2. Do all employees formally assign intellectual property rights to any materials developed during their period of employment to the Applicant?  Yes  No
3. Do subcontractors and/or independent contractors formally assign rights to all work made for hire to the Applicant?  Yes  No
4. Is any software code used or incorporated in your products licensed from any third party(ies)?  Yes  No  
 If YES please describe \_\_\_\_\_
5. Is any open source software code incorporated into product, and/or used in the Applicant's network environment?  Yes  No  
 If YES please describe \_\_\_\_\_
6. Are all software products (including packaging) formally reviewed against competitor's offerings by an internal team or third party prior to launch?  Yes  No  
 If YES, are copyright clearance letters obtained?  Yes  No

**NOTICE TO THE APPLICANT – PLEASE READ CAREFULLY**

The undersigned authorized representative of the Applicant, based upon reasonable inquiry, warrants to the best of its knowledge that the statements set forth herein are true and include all material information.

The Applicant further warrants that if the information supplied on this application changes materially between the date of this application and the inception date of the policy, it will immediately notify the insurance company of the changes. Signing of this application does not bind the Company to offer nor the Applicant to accept insurance, but it is agreed that this application shall be a basis of the insurance and it will be attached and made a part of the policy should a policy be issued.

Applicant's Signature: \_\_\_\_\_

\_\_\_\_\_  
 (Must be signed by an Officer of the Applicant)

\_\_\_\_\_  
 Print Name and Title

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
 Date (Mo./Day/Yr.)



**INSTRUCTIONS**

**COMPLETE THIS APPLICATION ONLY IF REQUESTING COVERAGE FOR IT STAFFING RELATED PROFESSIONAL LIABILITY COVERAGE.** Please submit with the ACE DigiTech Pro Digital Technology & Professional Liability Insurance Application. Please complete in ink. A principal must sign both the supplement and the technology professional liability application.

**THIS APPLICATION IS FOR A CLAIMS-MADE INSURANCE POLICY.**

**Instructions to the applicant:**

- Answer **ALL** questions completely, leaving no blanks. If any questions, or part thereof, do not apply, print "N/A" in the space.
- Provide any supporting information on a separate sheet using your letterhead and reference the applicable question number.
- Check Yes or No answers
- This form must be completed, dated and signed by an authorized officer of your firm.

1. Applicant's Name: \_\_\_\_\_

2. Do you provide staffing and placement services in any area other than information technology?  Yes  No

IF YES, Please describe the other industries in which you provide staffing services:

\_\_\_\_\_

3. Please breakdown your staffing exposure into the following categories: (Percentage of placements in each category.):

- i. Principals, partners or officers \_\_\_\_\_%
- ii. Management with oversight responsibilities \_\_\_\_\_%
- iii. Programming and/or technical support staff \_\_\_\_\_%

4. Please describe how you investigate and verify the backgrounds, qualifications and credentials of job candidates:

- i. Prior Employment Verification  Yes  No
- ii. Reference Checking  Yes  No
- iii. Professional Skills Testing  Yes  No
- iv. Criminal Background Check  Yes  No
- v. Other (describe):  Yes  No

5. Do your temporary or permanent placements work with any of the following software applications?

- i. Military/Nuclear Software  Yes  No
- ii. Automated Quality Control  Yes  No
- iii. Robotics or heavy machinery controls  Yes  No

iv. Funds Transfer Software

Yes  No

If you answered yes to any of the above, please provide details including the end client and the functionality of the software application:

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6. Contracts and Agreements:

i. Have you developed a standard staffing and placement contract?

Yes  No

ii. Do you require 100% of clients to sign this contract?

Yes  No

• Please provide the following documentation, if applicable:

1. Your standard staffing services contract
2. Your standard subcontractor contract (between your firm and the placement candidate)

Signature of Authorized Applicant:

Signature of Broker/Agent:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date (Mo./Day/Yr.)

\_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Date (Mo./Day/Yr.)

\_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Signed by Licensed Resident Agent

\_\_\_\_\_  
(Where Required By Law)



Westchester Fire Insurance Company  
 Illinois Union Insurance Company  
**[LIST ONLY THE COMPANY THAT APPLIES]**

# ACE DigiTech Pro<sup>SM</sup>

## Digital Technology & Professional Liability Insurance Policy Declarations

This Policy is issued by the stock insurance company listed above.

**THIS POLICY IS A CLAIMS MADE AND REPORTED POLICY. EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD AND WHICH ARE THE RESULT OF WRONGFUL ACTS COMMITTED ON OR AFTER THE RETROACTIVE DATE BUT BEFORE THE END OF THE POLICY PERIOD. PLEASE READ THIS POLICY CAREFULLY.**

**THE LIMITS OF LIABILITY AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. FURTHER NOTE THAT AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL BE APPLIED AGAINST THE RETENTION AMOUNT.**

**TERMS THAT APPEAR IN BOLD FACE TYPE HAVE SPECIAL MEANING. PLEASE REFER TO SECTION II, DEFINITIONS.**

<b>Policy No.</b>						
Item 1.	<b>Named Insured:</b> Principal Address:					
Item 2.	<b>Policy Period:</b> From 12:01 a.m. To 12:01 a.m. (Local time at the address shown in Item 1)					
Item 3.	Limit of Liability (including <b>Claims Expenses</b> ):					
	A. Limit of Liability for Coverage(s) Purchased:					
	A. Technology and <b>Internet</b> Errors and Omissions Liability	<table style="display: inline-table; border: none;"> <tr> <td style="text-align: center;"><u>Each Claim</u></td> <td style="text-align: center;"><u>Aggregate</u></td> </tr> <tr> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> </table>	<u>Each Claim</u>	<u>Aggregate</u>	\$	\$
<u>Each Claim</u>	<u>Aggregate</u>					
\$	\$					
Item 4.	Retention: \$ each <b>Claim</b>					
Item 5.	Notice to <b>Insurer</b> :					
	A. Notice of <b>Claim</b> or <b>Wrongful Act</b> :					
	Director of Claims [Company] [Address] [Address]					
	B. All other notices:					
	Chief Underwriting Officer [Company] [Address] [Address]					

Item 6. <b>Policy Premium:</b> \$
Item 7. <b>Additional Technology Services:</b>
Item 8. <b>Optional Extended Reporting Period:</b> 1 Year:            100% of the <b>Policy</b> Premium set forth in Item 6 above; 2 Year:            150% of the <b>Policy</b> Premium set forth in Item 6 above; 3 Year:            200% of the <b>Policy</b> Premium set forth in Item 6 above;
Item 9. <b>Retroactive Date:</b> _____

IN WITNESS WHEREOF, the **Insurer** has caused this **Policy** to be countersigned by a duly authorized representative of the **Insurer**.

DATE: \_\_\_\_\_

\_\_\_\_\_

Authorized Representative



# ACE DigiTech Pro<sup>SM</sup> Digital Technology & Professional Liability Insurance Policy

In consideration of the payment of the premium, in reliance upon the **Application**, and subject to the Declarations and the terms and conditions of this **Policy**, the **Insureds** and the **Insurer** agree as follows:

## I. INSURING AGREEMENT

Technology and **Internet** Errors and Omissions Liability

The **Insurer** will pay **Damages** and **Claims Expenses** of the **Insured** which the **Insured** becomes legally obligated to pay by reason of a **Claim** first made against the **Insured** during the **Policy Period** and reported to the **Insurer** pursuant to Section VIII, Notice, for any **Wrongful Acts** taking place after the **Retroactive Date** and prior to the end of the **Policy Period**.

## II. DEFINITIONS

When used in this **Policy**:

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. **Bodily Injury** means injury to the body, sickness, or disease, and death. **Bodily Injury** also means mental injury, mental anguish, mental tension, emotional distress, pain and suffering, or shock, whether or not resulting from injury to the body, sickness, disease or death of any person.

C. **Claim** means:

- a. a written demand against any **Insured** for monetary or non-monetary damages;
- b. a civil proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief, commenced by the service of a complaint or similar pleading;
- c. an arbitration proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief;

including any appeal therefrom.

D. **Claims Expenses** means:

1. reasonable and necessary attorneys' fees, expert witness fees and other fees and costs incurred by the **Insurer**, or by the **Insured** with the **Insurer's** prior written consent, in the investigation and defense of a covered **Claim**;
2. reasonable and necessary premiums for any appeal bond, attachment bond or similar bond, provided the **Insurer** shall have no obligation to apply for or furnish such bond; and
3. prejudgment and post judgment interest awarded in any **Claim**.

**Claims Expenses** shall not include wages, salaries, fees or costs of directors, officers or employees of the **Insurer** or the **Insured**.

E. **Damages** means compensatory damages, any award of prejudgment or post-judgment interest, and settlements which the **Insured** becomes legally obligated to pay on account of any **Claim** first made against any **Insured** during the **Policy Period** or, if elected, the **Extended Reporting Period**, for **Wrongful Acts** to which this **Policy** applies. **Damages** shall not include:

1. any amount for which the **Insured** is not financially liable or legally obligated to pay;
2. taxes, fines, penalties, or sanctions;
3. matters uninsurable under the laws pursuant to which this **Policy** is construed;

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;
5. loss of fees or profits by the **Insured**, return of fees, commissions or royalties by the **Insured**, or re-performance of services by the **Insured** or under the **Insured's** supervision;
6. disgorgement of any profit, remuneration or financial advantage to which any **Insured** was not legally entitled;
7. penalties of any nature, however denominated, arising by contract; and
8. any amounts other than those intended solely to compensate for a loss caused by a **Wrongful Act**.

**Damages** include punitive and exemplary damages to the extent such damages are insurable under the most favorable internal laws of any jurisdiction which has a substantial relationship to the **Insured**, the **Insurer**, this **Policy** or such **Claim**.

- F. **Domestic Partner** means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Insured**.
- G. **Extended Reporting Period** means the period(s) for the extension of coverage, if applicable, described in Section V, **Extended Reporting Periods**.
- H. **Insured** means:
1. The **Named Insured**;
  2. **Subsidiaries** of the **Named Insured**, but only if they are listed on the **Application** for this **Policy**, or if created or acquired during the **Policy Period** and covered pursuant to section XIA of this **Policy**, and only with respect to **Wrongful Acts** which occur while they are a **Subsidiary**;
  3. any past, present or future principal, partner, officer, director, trustee or employee of the **Named Insured**, but only with respect to the commission of a **Wrongful Act** committed within the scope of such person's duties performed on behalf of the **Named Insured**; and
  4. independent contractors of the **Named Insured** who are natural persons, 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**.
- I. **Insurer** means the insurance company providing this insurance.
- J. **Internet** means the worldwide public network of computers which enables the transmission of electronic data and which includes intranets, extranets and virtual private networks.
- K. **Interrelated Wrongful Acts** means all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes.
- L. **Mediation** means a non-binding process in which a neutral panel or individual assists the parties in reaching a settlement agreement. To be considered **Mediation** under this **Policy**, the process must be as set forth in the Commercial Mediation Rules of the American Arbitration Association, or such other process as the **Insurer** may, at its sole option, approve.
- M. **Named Insured** means the organization or natural person first specified in Item 1 of the Declarations.
- N. **Personal Injury** means injury arising out of one or more of the following offenses:
1. false arrest, detention or imprisonment;
  2. malicious prosecution;
  3. libel, slander, or other defamatory or disparaging material;
  4. publication or an utterance in violation of an individual's right to privacy; and
  5. wrongful entry or eviction, or other invasion of the right to private occupancy.
- O. **Policy** means, collectively, the Declarations, **Application**, this policy form and any endorsements.
- P. **Policy Period** means the period of time specified in Item 2 of the Declarations, subject to prior termination pursuant to Section XIII, Termination of the **Policy**.

- Q. **Pollutants** means any substance exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or any federal, state, county, municipal or local counterpart thereof or any foreign equivalent. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials, including materials to be recycled, reconditioned, or reclaimed. **Pollutants** shall also mean any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, noise, fungus (including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi, but does not include any fungi intended by the **Insured** for consumption) and electric or magnetic or electromagnetic field.
- R. **Property Damage** means:
1. physical injury to, or loss or destruction of, tangible property, including the loss of use thereof; and
  2. loss of use of tangible property which has not been physically injured, lost, damaged or destroyed.
- However, **Property Damage** does not mean physical injury to, loss or destruction of, or loss of use of intangible property, including data.
- S. **Retroactive Date** means the date specified in Item 9 of the Declarations.
- T. **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**.
- U. **Technology Products** means computer or telecommunications hardware, software, or related electronic equipment, including the design, development, manufacturing, assembly, distribution, licensing, leasing, sale, installation, repair or maintenance thereof.
- V. **Technology Services** means:
1. information technology 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; and
  7. other activities specifically identified in Item 7 of the Declarations, Additional **Technology Services**.
- W. **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.
- X. **Website** means the software, content and other materials accessible via the **Internet** at a designated Uniform Resource Locator address.
- Y. **Wrongful Act** means any error, misstatement, misleading statement, act, omission, neglect, breach of duty, or **Personal Injury** offense actually or allegedly committed or attempted by any **Insured** in their capacity as such in:
- a. the **Insured's** rendering or failure to render **Technology Services** to others for a fee, or
  - b. the failure of the **Insured's Technology Products** to perform the function or serve the purpose intended, but only in conjunction with the **Insured's** provision of **Technology Services** to others for a fee.
- Z. **Wrongful Employment Practices** means any actual or alleged:
1. wrongful dismissal or discharge or termination of employment, whether actual or constructive;

2. employment-related misrepresentation;
3. violation of any federal, state, or local laws (whether common or statutory) concerning employment or discrimination in employment;
4. sexual harassment or other unlawful workplace harassment;
5. wrongful deprivation of a career opportunity or failure to employ or promote;
6. wrongful discipline of employees;
7. retaliation against employees for the exercise of any legally protected right or for engaging in any legally protected activity;
8. negligent evaluation of employees;
9. failure to adopt adequate workplace or employment policies and procedures;
10. employment-related libel, slander, or defamation;
11. employment-related invasion of privacy;
12. employment-related wrongful infliction of emotional distress;
13. any actual or alleged discrimination, sexual harassment, or violation of a natural person's civil rights relating to such discrimination or sexual harassment, whether direct, indirect, intentional or unintentional.

The foregoing definitions shall apply equally to the singular and plural forms of the respective words.

### III. EXCLUSIONS

The **Insurer** shall not be liable for **Damages** or **Claims Expenses** on account of any **Claim**:

- A. alleging, based upon, arising out of or attributable to any dishonest, fraudulent, criminal, malicious or intentional act, error or omission, or any intentional or knowing violation of the law by an **Insured**. However, this exclusion shall not apply to **Claims Expenses** 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 **Claims Expenses** paid by the **Insurer**.
- B. alleging, based upon, arising out of or attributable to any **Bodily Injury** or **Property Damage**.
- C. 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. This exclusion will not apply to that part of a **Claim** alleging the unintentional failure to perform **Technology Services** with a reasonable standard of care and consistent with industry standards.
- D. alleging, based upon, arising out of or attributable to the provision of **Technology Services** or **Technology Products** for any entity if at the time these services were performed or products provided:
  1. any **Insured**, or any other natural person or entity for whom or which an **Insured** is legally liable, was a partner, director, officer or employee of such entity; or
  2. any **Insured**, or any other natural person or entity for whom or which an **Insured** is legally liable, owned, directly or indirectly, 10% or more of any such entity if it was a publicly held company, or 30% or more of any such entity if it was a privately held company.
- E. brought or maintained by, on behalf of, or in the right of any **Insured**, or any other natural person or entity for whom or which an **Insured** is legally liable.
- F. alleging, based upon, arising out of or attributable to any:
  1. illegal discrimination of any kind;
  2. humiliation, harassment or misconduct based upon, arising out of or related to any such discrimination;
  3. **Wrongful Employment Practices**.
- G. alleging, based upon, arising out of or attributable to any price fixing, restraint of trade, monopolization, unfair trade practices or other violation of the Federal Trade Commission Act, the Sherman Anti-Trust Act,

the Clayton Act, or any other federal statutory provision involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities, and any amendments thereto or any rules or regulations promulgated thereunder or in connection with such statutes, or any similar provision of any federal, state, or local statutory law or common law anywhere in the world.

- H. alleging, based upon, arising out of or attributable to the violation of:
1. the Employee Retirement Income Security Act of 1974, as amended;
  2. the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisors Act, or any other federal, state or local securities law, or any rules or regulations promulgated thereunder, amendments thereof, or any similar federal, state or common law.
- I. alleging, based upon, arising out of or attributable to the gaining in fact of any profit, remuneration or financial advantage to which any **Insured** was not legally entitled. However, this exclusion shall not apply to **Claims Expenses** 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 **Claims Expenses** paid by the **Insurer**.
- J. alleging, based upon, arising out of or attributable to any fees, expenses, or costs paid to or charged by the **Insured**.
- K. 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**.
- L. 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 earlier of 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**.
- M. 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**.
- N. alleging, based upon, arising out of or attributable to:
1. the actual, alleged or threatened discharge, dispersal, release, escape, seepage, migration or disposal of **Pollutants**; or
  2. any direction or request that any **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so.
- O. 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.
- 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**.
- P. alleging, based upon, arising out of or attributable to the inaccurate, inadequate, or incomplete description of the price of goods, products or services, the disclosure of fees, the failure to meet deadlines, 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, or any guarantee or promise of costs savings, return on investment, or profitability.

- Q. alleging, based upon, arising out of or attributable to war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), strike, lock-out, riot, civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power.
- R. alleging, based upon, arising out of or attributable to the inability to use, or lack of performance of, software programs:
  1. due to the expiration or withdrawal of technical support by the software vendor; or
  2. that are in development, or are in 'beta' or similar testing stage, and/or have not yet been authorized for general commercial release.
- S. 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.
- T. alleging, based upon, arising out of or attributable to the planning, construction, maintenance, operation or use of any nuclear reactor, nuclear waste, storage or disposal site, or any other nuclear facility; the transportation of nuclear material, or any nuclear reaction or radiation, or radioactive contamination, regardless of its cause.
- U. alleging, based upon, arising out of or attributable to false, deceptive or unfair business practices, violation of consumer protection laws, or false or deceptive advertising.
- V. alleging, based upon, arising out of or attributable to any validity, invalidity, infringement, violation or misappropriation of any patent or **Trade Secret**.
- W. alleging, based upon, arising out of or attributable to any validity, invalidity, infringement, violation or misappropriation of any copyright, service mark, trade name, trademark or other intellectual property of any third party, or out of any actual or alleged breach of any confidentiality agreement.
- X. 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 or state anti-spam statutes, and/or any other federal or state statute, law or regulation relating to a person's or entity's right of seclusion.
- Y. 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.
- Z. alleging, based upon, arising out of or attributable to the failure of any digital rights management software or other copy protection mechanism incorporated into the **Insured's Technology Products**.

#### IV. ESTATES, LEGAL REPRESENTATIVES AND SPOUSES

The estates, heirs, legal representatives, assigns, spouses and **Domestic Partners** of **Insureds** who are natural persons shall be considered **Insureds** under this **Policy**, but coverage is afforded to such estates, heirs, legal representatives, assigns, spouses and **Domestic Partners** only for a **Claim** arising solely out of their status as such and, in the case of a spouse or **Domestic Partner**, where the **Claim** seeks damages from marital community property, jointly held property or property transferred from the **Insured** to the spouse or **Domestic Partner**. No coverage is provided for any **Wrongful Act** of an estate, heir, legal representative, assign, spouse or **Domestic Partner**. All of the terms and conditions of this **Policy** including, without limitation, the Retention applicable to **Damages** and **Claims Expenses** incurred by **Insureds** shown in Item 4 of the Declarations, shall also apply to **Damages** and **Claims Expenses** incurred by such estates, heirs, legal representatives, assigns, spouses and **Domestic Partners**.

#### V. EXTENDED REPORTING PERIODS

If the **Insurer** terminates or does not renew this **Policy** (other than for failure to pay a premium when due), or if the **Named Insured** terminates or does not renew this **Policy** and does not obtain replacement coverage as of the effective date of such termination or nonrenewal, the **Named Insured** shall have the right, upon payment of the additional premium described below, to a continuation of the coverage granted by this **Policy** for at least one **Extended Reporting Period** as follows:

A. Automatic **Extended Reporting Period**

The **Named Insured** shall have continued coverage granted by this **Policy** for a period of 60 days following the effective date of such termination or nonrenewal, but only for **Claims** first made during such 60 days and arising from **Wrongful Acts** taking place prior to the effective date of such termination or nonrenewal. This Automatic **Extended Reporting Period** shall immediately expire upon the purchase of replacement coverage by the **Named Insured**.

B. Optional **Extended Reporting Period**

The **Named Insured** shall have the right, upon payment of the additional premium set forth in Item 8 of the Declarations, to an Optional **Extended Reporting Period**, for the period set forth in Item 8 of the Declarations following the effective date of such termination or nonrenewal, but only for **Claims** first made during such Optional **Extended Reporting Period** and arising from **Wrongful Acts** taking place prior to the effective date of such termination or nonrenewal.

This right to continue coverage shall lapse unless written notice of such election is given by the **Named Insured** to the **Insurer**, and the **Insurer** receives payment of the additional premium within 60 days following the effective date of termination or nonrenewal.

The first 60 days of the Optional **Extended Reporting Period**, if it becomes effective, shall run concurrently with the Automatic **Extended Reporting Period**.

C. The **Insurer** shall give the **Named Insured** notice of the premium due for the Optional **Extended Reporting Period** as soon as practicable following the date the **Named Insured** gives such notice of such election, and such premium shall be paid by the **Named Insured** to the **Insurer** within 10 days following the date of such notice by the **Insurer** of the premium due. The Optional **Extended Reporting Period** is not cancelable and the entire premium for the Optional **Extended Reporting Period** shall be deemed fully earned and non-refundable upon payment.

D. The Automatic and Optional **Extended Reporting Periods** shall be part of and not in addition to the Limit of Liability for the immediately preceding **Policy Period**. The Automatic and Optional **Extended Reporting Periods** shall not increase or reinstate the Limit of Liability, which shall be the maximum liability of the **Insurer** for the **Policy Period** and the Automatic and Optional **Extended Reporting Period**, combined.

E. A change in **Policy** terms, conditions, exclusions and/or premiums shall not be considered a nonrenewal for purposes of triggering the rights to the Automatic or Optional **Extended Reporting Period**.

VI. LIMITS OF LIABILITY

Regardless of the number of Insuring Agreements purchased under this **Policy**, **Insureds** against whom **Claims** are brought, **Claims** made or persons or entities making **Claims**:

A. Limit of Liability for Insuring Agreement(s) Purchased

1. The Each **Claim** Limit of Liability stated in Item 3 of the Declarations is the **Insurer's** maximum liability under that Insuring Agreement for the sum of all **Damages** and all **Claims Expenses** because of each **Claim**, including each **Claim** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
2. The Aggregate Limit of Liability stated in Item 3 of the Declarations is the **Insurer's** maximum liability under that Insuring Agreement for the sum of all **Damages** and all **Claims Expenses** because of all **Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
3. All **Claims** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts** of the **Insureds** shall be deemed to be one **Claim**, and such **Claim** shall be deemed to be first made on the date the earliest of such **Claims** is first made, regardless of whether such date is before or during the **Policy Period**.
4. **Claims Expenses** shall be part of and not in addition to the applicable Aggregate Limit of Liability stated in Item 3 of the Declarations, and shall reduce such Aggregate Limit of Liability. If the applicable Limit of Liability is exhausted by payment of **Damages** or **Claims Expenses**, the obligations of the **Insurer** under this **Policy** shall be completely fulfilled and extinguished. The **Insurer** is entitled to pay **Damages** and **Claims Expenses** as they become due and payable by the **Insureds**, without consideration of other future payment obligations.

- B. All **Claims** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts** of the **Insureds** shall be deemed to be one **Claim**, and such **Claim** shall be deemed to be first made on the date the earliest of such **Claims** is first made, regardless of whether such date is before or during the **Policy Period**. All **Damages** and all **Claims Expenses** resulting from a single **Claim** shall be deemed a single **Damage** and **Claims Expense**.

#### VII. RETENTION

- A. The liability of the **Insurer** shall apply only to that part of **Damages** and **Claims Expenses** which are in excess of the applicable Retention amount shown in Item 4 of the Declarations. Such Retention shall be borne uninsured by the **Named Insured** and at the risk of all **Insureds**.
- B. A single Retention amount shall apply to **Damages** and **Claims Expenses** arising from all **Claims** alleging **Interrelated Wrongful Acts**.

#### VIII. NOTICE

- A. The **Insured** shall, as a condition precedent to their rights under this **Policy**, give to the **Insurer** written notice of any **Claim** as soon as practicable, but in no event later than 30 days after the later of the end of the **Policy Period**, the **Automatic Extended Reporting Period**, or, if elected, the **Optional Extended Reporting Period**.

- B. 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 **Optional 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**.

- C. All notices under any provision of this **Policy** shall be in writing and given by prepaid express courier or certified mail properly addressed to the appropriate party. Notice to the **Insureds** may be given to the **Named Insured** at the address shown in Item 1 of the Declarations. Notice to the **Insurer** of any **Claim** or **Wrongful Act** shall be given to the **Insurer** at the address set forth in Item 5A of the Declarations. All other notices to the **Insurer** under this **Policy** shall be given to the **Insurer** at the address set forth in Item 5B of the Declarations. Notice given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee, or one day following the date such notice is sent, whichever is earlier.

- D. No notice that may be given during the **Policy Period** under section VIII, Notice, at subsection B may be given during the **Extended Reporting Periods**, if elected.

#### IX. DEFENSE AND SETTLEMENT

- A. The **Insurer** shall have the right and duty to defend any covered **Claim** brought against the **Insured** even if such **Claim** is groundless, false or fraudulent. The **Insured** shall not admit or assume liability or settle or negotiate to settle any **Claim** or incur any **Claims Expenses** without the prior written consent of the **Insurer**, and the **Insurer** shall have the right to appoint counsel and to make such investigation and defense of a covered **Claim** as it deems necessary.

- B. The **Insurer** shall not settle any **Claim** without the written consent of the **Named Insured**. If the **Named Insured** refuses to consent to a settlement or a compromise recommended by the **Insurer** and acceptable to the claimant, then the **Insurer's** Limit of Liability under this **Policy** with respect to such **Claim** shall be reduced to the amount of **Damages** for which the **Claim** could have been settled plus all **Claims Expenses** incurred up to the time the **Insurer** made its recommendation to the **Named Insured**,

which amount shall not exceed that portion of any applicable Aggregate Limit of Liability that remains unexhausted by payment of **Damages** and **Claims Expenses**, or by any combination thereof.

- C. The **Insurer** shall not be obligated to investigate, defend, pay or settle, or continue to investigate, defend, pay or settle any **Claim** after any applicable Limit of Liability specified in Item 3 of the Declarations has been exhausted by payment of **Damages** and **Claims Expenses**, or by any combination thereof, or after the **Insurer** has deposited the remainder of any unexhausted applicable Limit of Liability into a court of competent jurisdiction. In either such case, the **Insurer** shall have the right to withdraw from the further investigation, defense, payment or settlement of such **Claim** by tendering control of such **Claim** to the **Insured**.
- D. The **Insured** shall cooperate with the **Insurer**, and provide to the **Insurer** all information and assistance which the **Insurer** reasonably requests including but not limited to attending hearings, depositions and trials and assistance in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and conducting the defense of any **Claim** covered by this **Policy**. The **Insured** shall do nothing that may prejudice the **Insurer's** position. The **Insureds** shall immediately forward to the **Insurer**, at the address indicated in Item 5A of the Declarations, every demand, notice, summons, or other process or pleading received by the **Insured** or its representatives.

#### X. OTHER INSURANCE

If any **Damages** or **Claims Expenses** covered under this **Policy** are covered under any other valid and collectible insurance, then this **Policy** shall cover such **Damages** or **Claims Expenses**, subject to its terms and conditions, only to the extent that the amount of such **Damages** or **Claims Expenses** is in excess of the amount of such other insurance whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided by this **Policy**.

#### XI. MATERIAL CHANGES IN CONDITIONS

##### A. Acquisition or Creation of Another Organization

If, during the **Policy Period**, the **Named Insured**:

1. acquires voting securities in another organization or creates another organization, which as a result of such acquisition or creation becomes a **Subsidiary**; or
2. acquires any organization by merger into or consolidation with the **Named Insured**;

then, subject to the terms and conditions of this **Policy**, such organization shall be covered under this **Policy** only with respect to **Claims** for **Wrongful Acts** taking place after such acquisition or creation, provided that, as a condition precedent to such coverage, the **Insureds**, shall, no later than 60 days after the effective date of such acquisition or creation:

1. give written notice of such acquisition or creation to the **Insurer**;
2. pay any additional premium required by the **Insurer**; and
3. agree to any additional terms and conditions of this **Policy** as required by the **Insurer**.

##### B. Acquisition of the **Named Insured**

If, during the **Policy Period**, any of the following events occurs:

1. the acquisition of the **Named Insured**, or of all or substantially all of its assets, by another entity, or the merger or consolidation of the **Named Insured** into or with another entity such that the **Named Insured** is not the surviving entity; or
2. the obtaining by any person, entity or affiliated group of persons or entities of the right to elect, appoint or designate at least 50% of the directors of the **Named Insured**;

then coverage under this **Policy** will continue in full force and effect until termination of this **Policy**, but only with respect to **Claims** for **Wrongful Acts** taking place before such event. Coverage under this **Policy** will cease as of the effective date of such event with respect to **Claims** for **Wrongful Acts** taking place after such event. This **Policy** may not be cancelled after the effective time of the event, and the entire premium for this **Policy** shall be deemed earned as of such time.

C. Termination of a **Subsidiary**

If before or during the **Policy Period** an organization ceases to be a **Subsidiary**, coverage with respect to the **Subsidiary** and its **Insured Persons** shall continue until termination of this **Policy**. Such coverage continuation shall apply only with respect to **Claims** for **Wrongful Acts** taking place prior to the date such organization ceased to be a **Subsidiary**.

XII. REPRESENTATIONS

A. The **Insureds** represent and acknowledge that the statements and information contained in the **Application** are true and accurate and:

1. are the basis of this **Policy** and are to be considered as incorporated into and constituting a part of this **Policy**; and
2. shall be deemed material to the acceptance of this risk or the hazard assumed by the **Insurer** under this **Policy**.

B. It is understood and agreed that:

1. this **Policy** is issued in reliance upon the truth and accuracy of such representations;
2. the **Insureds** have and will provide accurate information with regard to loss control audits and network security assessments as required by the **Insurer**; and
3. if such representations or such information are not true, accurate and complete, this **Policy** shall be null and void in its entirety and the **Insurer** shall have no liability hereunder.

XIII. TERMINATION OF THE **POLICY**

A. This **Policy** shall terminate at the earliest of the following times:

1. the effective date of termination specified in a prior written notice by the **Named Insured** to the **Insurer**;
2. 30 days after receipt by the **Named Insured** of a written notice of termination from the **Insurer**;
3. 10 days after receipt by the **Named Insured** of a written notice of termination from the **Insurer** for failure to pay a premium when due, unless the premium is paid within such 10 day period;
4. upon expiration of the **Policy Period** as set forth in Item 2 of the Declarations; or
5. at such other time as may be agreed upon by the **Insurer** and the **Named Insured**.

B. If the **Policy** is terminated by the **Named Insured**, the **Insurer** shall refund the unearned premium computed at the customary short rate. If the **Policy** is terminated by the **Insurer**, the **Insurer** shall refund the unearned premium computed *pro rata*. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable.

XIV. TERRITORY AND VALUATION

A. All premiums, limits, retentions, **Damages, Claims Expenses**, and other amounts under this **Policy** are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of loss under this **Policy** is stated in a currency other than United States of America dollars, payment under this **Policy** shall be made in United States dollars at the applicable rate of exchange as published in *The Wall Street Journal* as of the date the final judgment is reached, the amount of the settlement is agreed upon or the other element of loss is due, respectively, or, if not published on such date, the next date of publication of *The Wall Street Journal*.

B. Coverage provided under this **Policy** shall extend to **Wrongful Acts** and **Claims** taking place, brought or maintained anywhere in the world, where legally permissible, provided that the **Insured's** legal obligation to pay **Damages** is determined on the merits within the jurisdiction of and subject to the laws of the United States of America, Canada, or their respective territories or possessions.

XV. SUBROGATION

In the event of any payment under this **Policy**, the **Insurer** shall be subrogated to the extent of such payment to all the rights of recovery of the **Insureds**. The **Insureds** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the **Insurer** effectively to bring suit or otherwise pursue subrogation rights in the name of the **Insureds**.

XVI. ACTION AGAINST THE **INSURER** AND BANKRUPTCY

Except as provided in Section XIX, Alternative Dispute Resolution, no action shall lie against the **Insurer**. No person or organization shall have any right under this **Policy** to join the **Insurer** as a party to any action against any **Insured** to determine the liability of the **Insured** nor shall the **Insurer** be impleaded by any **Insured** or its legal representatives. Bankruptcy or insolvency of any **Insured** or of the estate of any **Insured** shall not relieve the **Insurer** of its obligations nor deprive the **Insurer** of its rights or defenses under this **Policy**.

XVII. AUTHORIZATION CLAUSE

By acceptance of this **Policy**, the **Named Insured** agrees to act on behalf of all **Insureds** with respect to the giving of notice of **Claim**, the giving or receiving of notice of termination or non renewal, the payment of premiums, the receiving of any premiums that may become due under this **Policy**, the agreement to and acceptance of endorsements, consenting to any settlement, exercising the right to the **Extended Reporting Period**, and the giving or receiving of any other notice provided for in this **Policy**, and all **Insureds** agree that the **Named Insured** shall so act on their behalf.

XVIII. ALTERATION, ASSIGNMENT AND HEADINGS

- A. Notice to any agent or knowledge possessed by any agent or by any other person shall not affect a waiver or a change in any part of this **Policy** nor prevent the **Insurer** from asserting any right under the terms of this **Policy**.
- B. No change in, modification of, or assignment of interest under this **Policy** shall be effective except when made by a written endorsement to this **Policy** which is signed by an authorized representative of the **Insurer**.
- C. The titles and headings to the various parts, sections, subsections and endorsements of the **Policy** are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions of such parts, sections, subsections or endorsements.

XIX. ALTERNATIVE DISPUTE RESOLUTION

The **Insureds** and the **Insurer** shall submit any dispute or controversy arising out of or relating to this **Policy** or the breach, termination or invalidity thereof to the alternative dispute resolution ("ADR") process set forth in this Section.

Either an **Insured** or the **Insurer** may elect the type of ADR process discussed below; provided, however, that the **Insured** shall have the right to reject the choice by the **Insurer** of the type of ADR process at any time prior to its commencement, in which case the choice by the **Insured** of ADR process shall control.

There shall be two choices of ADR process: (1) non-binding **Mediation** administered by any **Mediation** facility to which the **Insurer** and the **Insured** mutually agree, in which the **Insured** and the **Insurer** shall try in good faith to settle the dispute by **Mediation** in accordance with the then-prevailing commercial **Mediation** rules of the **Mediation** facility; or (2) arbitration submitted to any arbitration facility to which the **Insured** and the **Insurer** mutually agree, in which the arbitration panel shall consist of three disinterested individuals. In either **Mediation** or arbitration, the mediator or arbitrators shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. In the event of arbitration, the decision of the arbitrators shall be final and binding and provided to both parties, and the award of the arbitrators shall not include attorneys' fees or other costs. In the event of **Mediation**, either party shall have the right to commence a judicial proceeding provided, however, that no such judicial proceeding shall be commenced until at least 60 days after the date the **Mediation** shall be deemed concluded or terminated. In all events, each party shall share equally the expenses of the ADR process.

Either ADR process may be commenced in New York, New York or in the state indicated in Item 1 of the Declarations as the principal address of the **Named Insured**. The **Named Insured** shall act on behalf of each and every **Insured** in connection with any ADR process under this Section.

XX. INTERPRETATION

The terms and conditions of this **Policy** shall be interpreted and construed in an evenhanded fashion as between the parties. If the language of this **Policy** is deemed to be ambiguous or otherwise unclear, the issue shall be resolved in the manner most consistent with the relevant terms and conditions, without regard to authorship of the language, without any presumption or arbitrary interpretation or construction in favor of either the **Insureds** or the **Insurer** and without reference to the reasonable expectations of either the **Insureds** or the **Insurer**.

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Additional Insured (Vicarious Liability)**

It is agreed that Section II, Definitions, subsection H, the definition of **Insured**, is amended by adding the following:

**Insured** also means the following entity or individual listed below, but only with respect to **Wrongful Acts** committed or allegedly committed by the **Named Insured**. The **Policy** will not provide coverage for any **Wrongful Act**, error or omission committed by such Additional **Insured** itself:

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Additional **Insured**

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Additional Insured**

It is agreed that Section II, Definitions, subsection H, the definition of **Insured**, is amended by adding the following:

**Insured** also means the following entity or individual listed below:

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Additional **Insured**

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Alternative Dispute Resolution Endorsement**

It is agreed that Section XIX, Alternative Dispute Resolution, is amended at the third paragraph by deleting the next-to-last sentence in its entirety and inserting the following:

In the event of **Mediation**, either party shall have the right to commence litigation, provided that no such litigation shall be commenced until at least 60 days after the date the **Mediation** shall be deemed concluded or terminated, or 120 days after the request for **Mediation** has been made if such **Mediation** has not been commenced or concluded, whichever is earlier.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Contingent Bodily Injury or Property Damage**

It is agreed that Section III, Exclusions, subsection B, is deleted in its entirety and the following is inserted:

- B. alleging, based upon, arising out of or attributable to any **Bodily Injury** or **Property Damage**. However, this exclusion does not apply where such **Claim** results from a **Wrongful Act** committed by the **Insured** provided that:
- 1) such **Wrongful Act** was not the proximate cause of such **Claim**; and
  - 2) there is no other insurance policy issued by any insurer applicable to such **Claim**.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Defense and Settlement Endorsement**

It is agreed that Section IX, Defense and Settlement, is amended at subsection B by inserting the phrase "in excess of the applicable Retention" immediately after the phrase "consent to a settlement or a compromise".

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Endorsement Deletion**

It is agreed that the **Policy** is amended by deleting endorsement number \_\_\_\_ in its entirety.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Fees, Expenses and Costs Exclusion**

It is agreed that Section III, Exclusions, subsection J, is amended by deleting the phrase “alleging, based upon, arising out of or attributable to” and inserting “for”.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Intellectual Property Coverage and Sublimit**

It is agreed that the **Policy** is amended as follows:

1. Section III, Exclusions, subsections V and W, are deleted in their entirety, and the following is inserted:
  - alleging, based upon, arising out of or attributable to the breach of any confidentiality agreement;
2. With respect to any **Claim** alleging, based upon, arising out of or attributable to the validity, invalidity, infringement, violation or misappropriation of any copyright, service mark, trade name, trademark, patent, **Trade Secret**, or any intellectual property of a third party, Item 3, Limit of Liability is deleted and the following is inserted:

Item 3. Limit of Liability (including <b>Claims Expenses</b> ):	<u>Each Claim</u>	<u>Aggregate</u>
	\$	\$

These limits are sublimits which are part of, and not in addition to, the otherwise applicable Limit of Liability set forth in Item 3 of the Declarations, and shall in no way serve to increase such Limits.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Limit of Liability**

It is agreed that Item 3 of the Declarations is deleted in its entirety and the following is inserted:

Item 3. Limit of Liability (including **Claims Expenses**)

A. Limit of Liability for Coverage(s) Purchased:

A. Technology and <b>Internet</b> Errors and Omissions Liability	<u>Each Claim</u> \$	<u>Aggregate</u> \$
------------------------------------------------------------------	-------------------------	------------------------

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Medical Malpractice Exclusion**

It is agreed that Section III, Exclusions, is amended by adding the following exclusion:

- alleging, based upon, arising out of or attributable to medical professional malpractice including, but not limited to, the rendering or failure to render medical professional services.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Miscellaneous Professional Services**

It is agreed that the **Policy** is amended as follows:

1. The Declarations are amended by adding the following:

Item 10. **Professional Services:**\_\_\_\_\_

2. Section II, Definitions, is amended as follows:

A. The following definition is added:

- **Professional Services** means only those services specified in Item 10 of the Declarations performed for others by an **Insured**.

B. Subsection Y, the definition of **Wrongful Act**, is amended by adding the following immediately after lettered paragraph b:

, or

c. the **Insured's** rendering or failure to render **Professional Services** to others for a fee.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Named Insured and Address Endorsement**

It is agreed that Item 1 of the Declarations is deleted in its entirety and the following is inserted:

Item 1. **Named Insured:**

Principal Address:

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Notice Amended**

It is agreed that Section VIII, Notice, subsection A, is deleted in its entirety and the following is inserted:

- A. The **Insured** shall, as a condition precedent to their rights under this **Policy**, give to the **Insurer** immediate written notice of any **Claim** once **Damages** or **Claims Expenses**, or the combined sum of **Damages** and **Claims Expenses**, exceed \$\_\_\_\_\_, or if the **Named Insured's** Risk Manager or General Counsel reasonably believes that **Damages** or **Claims Expenses**, incurred as a result of such **Claim**, either separately or in sum, could exceed the Retention, but in no event shall written notice of any **Claim** be given later than 30 days after the later of the end of the **Policy Period**, the **Automatic Extended Reporting Period**, or, if elected, the Optional **Extended Reporting Period**, whichever is latest.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Notice Revised (Five Officers)**

It is agreed that Section VIII, Notice, is amended by deleting the word "**Insured**" from subsection A, line one and from subsection B, lines one and two, and inserting the following phrase: "**Named Insured's** Chief Executive Officer, Chief Financial Officer, Chief Technology Officer, General Counsel, Risk Manager, and their direct professional reports"

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Profit, Remuneration, Financial Advantage Exclusion (“For” Preamble)**

It is agreed that Section III, Exclusions, is amended at subsection I by deleting the phrase “alleging, based upon, arising out of or attributable to” and inserting “for”.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Recall Exclusion Amended (Loss of Use Carveback)**

It is agreed that Section III, Exclusions, subsection S, is deleted in its entirety and the following is inserted:

- S. 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. However, this exclusion shall not apply to **Claims** for loss of use that arise out of such withdrawal or recall.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Retroactive Date**

It is agreed that Item 9 of the Declarations is deleted in its entirety and replaced with the following, but solely for **Claims** first made on or after the effective date of this endorsement.

Item 9. **Retroactive Date:** \_\_\_\_\_

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Telecommunications Endorsement**

It is agreed that:

1. Section II, Definitions, is amended as follows:

a. Subsection V, the definition of **Technology Services**, is amended by adding the following:

- 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.

2. Section III, 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 unsolicited electronic dissemination of faxes, e-mails, or telephone solicitations 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 or state anti-spam statutes, and/or any other federal or state statute, law or regulation relating to a person's or entity's right of seclusion.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Tie-In of Limits**

It is agreed that Section VI, Limits of Liability, is amended by adding the following:

Notwithstanding anything in this **Policy** to the contrary, in the event any **Claim** is covered, in whole or in part, by this **Policy** and policy number \_\_\_\_\_, the maximum Limit of Liability of the **Insurer** with respect to coverage for such **Claim** under both policies combined shall be the lesser of \_\_\_\_\_, or the total remaining aggregate limit of liability of both policies combined as reduced by payments of other **Claims**.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Waiver of Application**

It is agreed that section XII, Representations, is amended by adding the following:

- The **Insurer** has relied upon the statements and information contained in the application referenced below (including any materials or attachments submitted thereto, and, if such application is a renewal application, all previous policy applications for which this **Policy** is a renewal or succeeds in time, and any materials or attachments submitted thereto) as being accurate and complete. It is agreed that the **Named Insured** and the **Insureds** warrant and represent to the **Insurer** that the statements and information contained in such application and any such submitted materials or attachments were accurate on the date such statements and information were so given and that in connection therewith the **Insureds** hereby reaffirm each and every statement made in the application to the insurance carrier listed below as accurate as of (EFFECTIVE DATE) as if it was made to the **Insurer** on such date. All such statements and representations shall be deemed to be material to the acceptance of the risk or hazard assumed by the **Insurer**, are the basis of this **Policy** and are incorporated into and constituting a part of this **Policy**.

TYPE OF APPLICATION:

INSURANCE CARRIER:

DATE SIGNED:

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Wrongful Act Amended (Agreement A “For A Fee” Deleted)**

It is agreed that Section II, Definitions, subsection Y, the definition of **Wrongful Act**, is amended at paragraph a, by deleting the phrase “for a fee”.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Wrongful Act Amended – Specified Contract and Parties**

It is agreed that Section II, Definitions, Subsection Y, the definition of **Wrongful Act** is amended by inserting the following prior to the phrase “any error, misstatement, misleading statement”:

- ,solely with respect to the \_\_\_\_\_ *(insert exact name and date of the specific contract as well as any contract no. if available and delete this note)* between the **Named Insured** and \_\_\_\_\_ *(insert exact name of entity, including any department or division of that entity if appropriate and delete this note)* ,.

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Annual Reinstatement of Limits Endorsement**

The **Policy** is amended as follows:

1. Section VI, Limits of Liability, and subsection D of Section V, **Extended Reporting Periods**, are amended by deleting the phrase "**Policy Period**" wherever it appears in such section or such subsection, and replacing it with the phrase "**Policy Year**" in such section and such subsection respectively.
2. Section VI, Limits of Liability, subsection B, is amended by inserting the phrase "**Policy Period** or" immediately before the phrase "**Policy Year**"
3. Section II, Definitions, is amended by adding the following:
  - **Policy Year** means the one year period following the inception date of the **Policy Period** set forth in Item 2 of the Declarations, or any subsequent one year anniversary thereof.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Confidential Or Proprietary Information (Intentional or Unintentional Misuse)**

It is agreed that Section III, Exclusions, is amended by adding the following exclusion:

- alleging, based upon, arising out of, or attributable to the misuse of confidential or proprietary information;

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Health Insurance Portability and Accountability Act Exclusion**

It is agreed that Section III, Exclusions, is amended by adding the following exclusion:

- alleging, based upon, arising out of or attributable to any violation of the Health Insurance Portability and Accountability Act ("HIPAA"), any amendments thereto, or any similar state or local laws;

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Insurance Agent/Broker Exclusion**

It is agreed that Section III, Exclusions, is amended by adding the following:

- alleging, based upon, arising out of, or attributable to the rendering of or failure to render services as an insurance agent or broker;

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Management Consultants Endorsement with Technology Services Extension**

It is agreed that the **Policy** is amended as follows:

1. The Declarations is amended at Item 7, Additional **Technology Services**, by adding the following:
  - Management Consulting
2. Section II, Definitions, is amended by adding the following:
  - **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.
  - **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.
  - **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.
  - **Electronic Content** means any data, text, sounds, images or similar matter disseminated electronically, including on the **Insured's Internet Website**. **Electronic Content** does not include any prepackaged software or computer code.
  - **Malicious Code** means unauthorized and corrupting or harmful software code, including but not limited to computer viruses, Trojan horses, worms and logic bombs.
  - **Named Insured's Computer System** means a **Computer System** leased, owned, or operated by the Named Insured, or operated solely for the benefit of the **Named Insured** by a third party service provider under written contract with the **Named Insured**.
  - **Network Operations Security** means those activities performed by the **Named Insured**, or by others on behalf of the **Named Insured**, to protect against **Unauthorized Access** to and the **Unauthorized Use** of the **Named Insured's Computer System**.
  - **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.
3. Section III, 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 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 **Named 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 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, cable, satellite, telecommunications or other infrastructure, including without limitation **Internet** access service provided by the **Internet** service provider that hosts the **Insured's Website**, unless such infrastructure is under the **Insured's** operational control;
- 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;
- 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, or from loss of use by any **Insured** or others that arises out of such withdrawal or recall.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Multiple Insuring Agreement Election Endorsement**

It is agreed that the **Policy** is amended as follows:

a. The Declarations is amended as follows:

1. The following Item 10 is added to the Declarations:

Item 10. Coverage(s) Purchased (

- A. Technology and **Internet** Errors and Omissions Liability
- B. **Electronic Media Activities** Liability
- C. **Network Operations Security** Liability

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

Item 3. Limit of Liability (including **Claims Expenses**):

Limit of Liability for **Claims** (applicable any and all **Claims** regardless of how many Coverage(s) are Purchased):

<u>Each Claim</u>	<u>Aggregate</u>
\$	\$

b. Section I, Insuring Agreement, is deleted in its entirety and the following is inserted:

**INSURING AGREEMENTS**

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

If Insuring Agreement A, Technology and **Internet** Errors and Omissions Liability coverage, is purchased pursuant to Item 10 of the Declarations (as set forth above in this endorsement), the **Insurer** will pay **Damages** and **Claims Expenses** of the **Insured** which the **Insured** becomes legally obligated to pay by reason of a **Claim** first made against the **Insured** during the **Policy Period** and reported to the **Insurer** pursuant to Section VIII, Notice, for any **Wrongful Acts** taking place after the **Retroactive Date** and prior to the end of the **Policy Period**.

B. **Electronic Media Activities** Liability

If Insuring Agreement B, **Electronic Media Activities** Liability coverage, is purchased pursuant to Item 10 of the Declarations (as set forth above in this endorsement), the **Insurer** will pay **Damages** and **Claims Expenses** of the **Insured** which the **Insured** becomes legally obligated to pay by reason of a **Claim** first made against the **Insured** during the **Policy Period** and reported to the **Insurer** pursuant to Section VIII, Notice, for any **Wrongful Acts** taking place after the **Retroactive Date** and prior to the end of the **Policy Period**.

### C. Network Operations Security Liability

If Insuring Agreement C, **Network Operations Security** Liability coverage, is purchased pursuant to Item 10 of the Declarations (as set forth above in this endorsement), the **Insurer** will pay **Damages** and **Claims Expenses** of the **Insured** which the **Insured** becomes legally obligated to pay by reason of a **Claim** first made against the **Insured** during the **Policy Period** and reported to the **Insurer** pursuant to Section VIII, Notice, for any **Wrongful Acts** taking place after the **Retroactive Date** and prior to the end of the **Policy Period**.

c. Section II, 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, sponsorships 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.
- **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.
- **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 data, 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, 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.

2. Subsection Y, the definition of **Wrongful Act**, is deleted and the following is inserted:

Y. **Wrongful Act** means any error, misstatement, misleading statement, act, omission, neglect, breach of duty, or **Personal Injury** offense actually or allegedly committed or attempted by any **Insured** in their capacity as such:

1. With respect only to Insuring Agreement A, in:
  - a. the **Insured's** rendering or failure to render **Technology Services** to others for a fee, or
  - b. the failure of the **Insured's Technology Products** to perform the function or serve the purpose intended.
2. With respect only to Insuring Agreement B, in the course of 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 Insuring 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.
- d. Solely with respect to the **Electronic Media Activities** Liability Insuring Agreement afforded by this endorsement, Section III, 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 W is deleted in its entirety.
  3. Exclusion D is deleted in its entirety and the following is inserted:
    - D. alleging, based upon, arising out of or attributable to the provision of **Technology Services, Electronic Media Activities or Technology Products**, for any entity if at the time these services were performed or products provided:
      1. any **Insured**, or any other natural person or entity for whom or which an **Insured** is legally liable, was a partner, director, officer or employee of such entity;
      2. any **Insured**, or any other natural person or entity for whom or which an **Insured** is legally liable, owned, directly or indirectly, 10% or more of any such entity if it was a publicly held company, or 30% or more of any such entity if it was a privately held company.
- e. Solely with respect to the **Network Operations Security** Liability Insuring Agreement afforded by this endorsement, Section III, Exclusions, is amended as follows:
1. Exclusion A is deleted in its entirety and the following is inserted :
    - A. alleging, based upon, arising out of or attributable to any dishonest, fraudulent, criminal, malicious or intentional act, error or omission, or any intentional or knowing violation of the law by an **Insured**. However, this exclusion shall not apply to **Claims Expenses** 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 **Claims Expenses** paid by the **Insurer**. This exclusion shall not apply to **Wrongful Acts**, if such **Wrongful Acts** were not committed by, or with the knowledge of, any principal, partner, officer or director of the **Insured**.
  2. Exclusion O is deleted in its entirety and the following is inserted:
    - O. 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.

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**.

- f. Section VI, Limits of Liability, is amended as follows:
1. Subsection A, numbered paragraphs 1 and 2 are deleted and the following is inserted:
    - A. Limit of Liability for Insuring Agreement(s) Purchased
      1. With respect to Insuring Agreements A, B, and C:
        - a. the Each **Claim** Limit of Liability stated in Item 3 of the Declarations (as set forth above in this endorsement) is the **Insurer's** maximum liability under that Insuring Agreement for the sum of all **Damages** and all **Claims Expenses** because of each **Claim**, including each **Claim** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**, regardless of the number of Coverages purchased (as indicated in Item 10 of the Declarations).
        - b. the Aggregate Limit of Liability stated in Item 3 of the Declarations (as set forth above in this endorsement) is the **Insurer's** maximum liability under this **Policy** for the sum of all **Damages** and all **Claims Expenses** because of all **Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**, regardless of the number of Coverages purchased (as indicated in Item 10 of the Declarations).

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

## SIGNATURES

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period <b>to</b>	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THE ONLY SIGNATURES APPLICABLE TO THIS POLICY ARE THOSE REPRESENTING THE COMPANY NAMED ON THE FIRST PAGE OF THE DECLARATIONS.

By signing and delivering the policy to you, we state that it is a valid contract.

**INDEMNITY INSURANCE COMPANY OF NORTH AMERICA**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

**BANKERS STANDARD FIRE AND MARINE COMPANY**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

**BANKERS STANDARD INSURANCE COMPANY**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

**ACE INDEMNITY INSURANCE COMPANY**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

**ACE AMERICAN INSURANCE COMPANY**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

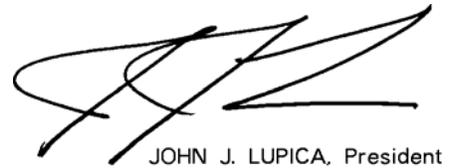
**ACE PROPERTY AND CASUALTY INSURANCE COMPANY**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

**INSURANCE COMPANY OF NORTH AMERICA**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

**PACIFIC EMPLOYERS INSURANCE COMPANY**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

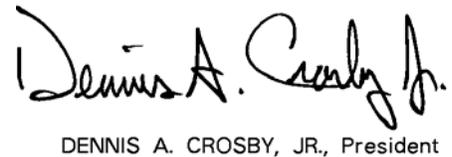
**ACE FIRE UNDERWRITERS INSURANCE COMPANY**  
436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703

  
GEORGE D. MULLIGAN, Secretary

  
JOHN J. LUPICA, President

**WESTCHESTER FIRE INSURANCE COMPANY**  
1133 Avenue of the Americas, 32nd Floor, New York, NY 10036

  
GEORGE D. MULLIGAN, Secretary

  
DENNIS A. CROSBY, JR., President

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Authorized Agent



**ace usa**

## **U.S. Treasury Department's Office Of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders**

This Policyholder Notice shall not be construed as part of your policy and no coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Intellectual Property Exclusions Amended (Software Code & Design)**

It is agreed that Section III, Exclusions, is amended by deleting Exclusions V and W in their entirety and inserting the following:

- AA. alleging, based upon, arising out of or attributable to the validity, invalidity, infringement, violation or misappropriation of any patent, copyright, **Trade Secret**, service mark, trade name, trademark or other intellectual property of any third party, or breach of any confidentiality agreement.

However, this exclusion shall not apply to that part of any **Claim** for the unintentional infringement of copyright solely with respect to software code and design.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Amendatory Endorsement – Arkansas**

IF THERE IS ANY CONFLICT BETWEEN THE **POLICY**, OTHER ENDORSEMENTS TO THE **POLICY** AND THIS ENDORSEMENT, THE TERMS PROVIDING THE BROADEST COVERAGE INSURABLE UNDER APPLICABLE LAW SHALL PREVAIL.

It is agreed that:

1. The first paragraph of the Declarations is deleted in its entirety and the following is inserted:

**THIS IS A CLAIMS MADE AND REPORTED POLICY. EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS POLICY COVERS ONLY CLAIMS FIRST MADE AND REPORTED DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE, AND WHICH ARE THE RESULT OF WRONGFUL ACTS COMMITTED ON OR AFTER THE RETROACTIVE DATE BUT BEFORE THE END OF THE POLICY PERIOD. PLEASE READ THIS POLICY CAREFULLY.**

2. Section I, Insuring Agreement, is deleted in its entirety and the following is inserted:

I. Insuring Agreement

Technology and **Internet** Errors and Omissions Liability

The **Insurer** will pay **Damages** and **Claims Expenses** of the **Insured** which the **Insured** becomes legally obligated to pay by reason of a **Claim** first made against the **Insured** during the **Policy Period** or **Extended Reporting Period**, if applicable, and reported to the **Insurer** pursuant to Section VIII, Notice, for any **Wrongful Acts** taking place after the **Retroactive Date** and prior to the end of the **Policy Period**.

3. Section V, **Extended Reporting Periods**, is deleted in its entirety and the following is inserted:

V. **EXTENDED REPORTING PERIODS**

If the **Insurer** or the **Named Insured** terminates or does not renew this **Policy**, the **Named Insured** shall have the right to a continuation of the coverage granted by this **Policy** for the Optional **Extended Reporting Period**, if elected, and the Automatic **Extended Reporting Period** as follows:

A. Automatic **Extended Reporting Period**

The **Named Insured** shall have continued coverage granted by this **Policy** for a period of 60 days following the effective date of such termination or nonrenewal, but only for **Claims** first made during such 60 days and arising from **Wrongful Acts** taking place prior to the effective date of such termination or nonrenewal.

B. Optional **Extended Reporting Period**

The **Named Insured** shall have the right, upon payment of the additional premium set forth in Item 8 of the Declarations, to an Optional **Extended Reporting Period**, for the period set forth in Item 8 of the Declarations following the expiration date of the Automatic **Extended Reporting Period**, but only for **Claims** first made during such Optional **Extended Reporting Period** and arising from **Wrongful Acts** taking place prior to the effective date of such termination or nonrenewal.

This right to continue coverage shall lapse unless written notice of such election is given by the **Named Insured** to the **Insurer**, and the **Insurer** receives payment of the additional premium within 60 days following the effective date of termination or nonrenewal.

- C. The **Insurer** shall give the **Named Insured** notice of the premium due for the Optional **Extended Reporting Period** as soon as practicable following the date the **Named Insured** gives such notice of such election, and such premium shall be paid by the **Named Insured** to the **Insurer** within 10 days following the date of such notice by the **Insurer** of the premium due, but not less than 60 days following the effective date of termination or nonrenewal. The Optional **Extended Reporting Period** is not cancelable and the entire premium for the Optional **Extended Reporting Period** shall be deemed fully earned and non-refundable upon payment.
- D. The Limit of Liability applicable to the Automatic **Extended Reporting Period** shall be part of and not in addition to the Limit of Liability shown in Item 3 of the Declarations for the immediately preceding **Policy Period**. The Automatic **Extended Reporting Period** shall not increase or reinstate the Limit of Liability, which shall be the maximum liability of the **Insurer** for the **Policy Period** and the Automatic **Extended Reporting Period**, combined.

The Limit of Liability applicable to the Optional **Extended Reporting Period**, if elected, shall be the greater of the unexhausted Limit of Liability of the immediately preceding **Policy Period** or 50% of the full amount of the Limit of Liability set forth in Item 3 of the Declarations at the inception of the immediately preceding **Policy Period** (hereinafter referred to as "**Optional Extended Reporting Period Limit of Liability**"). The **Optional Extended Reporting Period Limit of Liability** shall only be available to pay **Damages** for **Claims** first made and reported during the Optional **Extended Reporting Period** and arising from **Wrongful Acts** taking place on or subsequent to the **Retroactive Date** and prior to the effective date of termination or nonrenewal (hereinafter referred to as "**Optional Extended Reporting Period Damages**"). The maximum liability for all **Optional Extended Reporting Period Damages** is the **Optional Extended Reporting Period Limit of Liability**.

If any **Claim** is covered, in whole or in part, under both the Automatic **Extended Reporting Period** and the Optional **Extended Reporting Period**, if elected, only the **Optional Extended Reporting Period Limit of Liability** shall apply.

- E. A change in **Policy** terms, conditions, exclusions and/or premiums shall not be considered a nonrenewal for purposes of triggering the rights to the Automatic or Optional **Extended Reporting Period**.
4. Section XIII, Termination of the **Policy**, is amended by adding the following:
- If this **Policy** has been in effect for more than 60 days, or is a renewal of a **Policy** the **Insurer** issued, the **Insurer** may terminate this **Policy** only for one or more of the following reasons:
    1. failure to pay a premium when due;
    2. fraud or material misrepresentation made by or with the knowledge of the **Named Insured** in obtaining the **Policy**, continuing the **Policy**, or in presenting a **Claim** under the **Policy**;
    3. a material change in the risk that substantially increases any hazard insured against after **Policy** issuance;
    4. violation of any local fire, health, safety, building, or construction regulation or ordinances with respect to any insured property or the occupancy of the property that substantially increases any hazard insured against under the **Policy**;
    5. nonpayment of membership dues in those cases in which the **Insurer** issuing the **Policy** require payment as a condition of the issuance and maintenance of the **Policy**; or
    6. a material violation of a material provision of the **Policy**.
  - Notice of termination from the **Insurer** will state the effective date of termination and the reason(s) for termination, and will be mailed by certified mail to the **Named Insured**, and by first-class mail to the agent or broker of record, and to any lienholder or loss payee listed in the **Policy**, at the last mailing addresses known to the **Insurer**. Proof of mailing will be sufficient proof of notice.

5. Section XIX, Alternative Dispute Resolution, is amended as follows:
- a. The first paragraph is deleted in its entirety and the following is inserted:  
The **Insureds** and the **Insurer** may, upon mutual agreement, submit any dispute or controversy arising out of or relating to this **Policy** or the breach, termination or invalidity thereof to the alternative dispute resolution (“ADR”) process set forth in this Section.
  - b. The third paragraph is amended by deleting the phrase “the decision of the arbitrators shall be final and binding” and inserting the phrase “the decision of the arbitrators shall be non-binding”.
6. The following section is added to the **Policy**:
- **NONRENEWAL**  
If the **Insurer** elects not to renew this **Policy**, it will mail written notice of nonrenewal by certified mail to the **Named Insured**, and by first-class mail to the agent or broker of record, at the last mailing addresses known to the **Insurer**. Notice of nonrenewal will be mailed at least 60 days before the end of the **Policy Period**. Proof of mailing will be sufficient proof of notice.

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

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Authorized Representative



## Arkansas Notice to Policyholders

### QUESTIONS ABOUT YOUR INSURANCE?

If You have questions about your insurance, need coverage information, or require assistance in resolving complaints, do not hesitate to contact either your insurance agent, or ACE USA, Customer Service Department, 436 Walnut Street, Philadelphia, PA 19106-3703, telephone 1-800-352-4462.

If you wish to contact the Arkansas Insurance Department, their address and toll-free number are:

Arkansas Insurance Department  
1200 West Third Street  
Little Rock, AR 72201-1904  
1-800-282-9134

## **Rate Information**

Rate data does NOT apply to filing.

## Supporting Document Schedules

**Review Status:**  
**Bypassed -Name:** Uniform Transmittal Document-  
Property & Casualty  
**Review Status:** Approved 07-11-2007  
**Bypass Reason:** According to Serff, this document is no longer necessary since the informatio is already included  
in the General Information Screen.

**Comments:**

**Review Status:**  
**Satisfied -Name:** Cover Letter  
**Review Status:** Approved 07-11-2007  
**Comments:**  
**Attachment:**  
Cover Letter\_F\_.pdf

**Review Status:**  
**Satisfied -Name:** Filing Memo and Form List  
**Review Status:** Approved 07-11-2007  
**Comments:**  
**Attachments:**  
Explanatory Memo-Forms.pdf  
DigiTech Pro\_Forms Lists.pdf

**Review Status:**  
**Satisfied -Name:** Exemption Letter  
**Review Status:** Approved 07-11-2007  
**Comments:**  
Copy of Letter Exemption Letter sent to Legal  
**Attachment:**  
AR DigiTech Ltr 06-PR-326\_F\_.pdf



**ace ina**

ACE INA  
Filing & Regulation  
Routing WB04G  
PO Box 1000  
436 Walnut Street  
Philadelphia, PA 19106

215.640.5123 *tel*  
215.640.4986 *fax*

robert.wolfrom@ace-ina.com  
www.ace-ina.com

**Robert E. Wolfrom, CPCU**  
*Sr. Regulatory Specialist*

January 24, 2007

Department of Insurance

**Re:    Company                    ACE USA # 626                    NAIC #                    FEIN**  
Westchester Fire Insurance Company                    21121                    13-5481330

Other Liability - Professional E & O Liability  
ACE DigiTech Pro Digital Technology & Professional Liability Policy  
Our Filing Number: 06-PR-326(F)

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Dear Commissioner:

We are filing the new ACE DigiTech Pro program which provides errors and omissions coverage to firms with technology liability exposure and \$15 million or less in gross revenue. It is designed for small companies active in the technology space, with a focus on technology consultants. The program which covers a diverse mix of technology service providers, ranging from low hazard risks such as systems maintenance to higher, more complex risks such as online brokerage firms. Given the competitiveness of this market and the minimal need for a heavily customized product, the coverage grant is limited to professional liability only. See the Explanatory Memorandum for details.

We would like to write this program for new policies effective upon your approval.

If you have any issues regarding the subject matter of this filing, please contact:

Sharon Yacuzzo  
Professional Risk Product Manager  
Phone: 215.640.4406  
Email: [sharon.yacuzzo@ace-ina.com](mailto:sharon.yacuzzo@ace-ina.com)

Please contact me regarding the construction of this filing.

Regards,

Bob Wolfrom, CPCU  
Sr. Regulatory Specialist

# ACE GROUP OF INSURANCE COMPANIES

## Westchester Fire Insurance Company ACE DigiTech Pro Digital Technology & Professional Liability Explanatory Memorandum Forms

### Program Background

The ACE DigiTech Pro program provides errors and omissions coverage to firms with technology liability exposure and \$15 million or less in gross revenue. It is designed for small companies active in the technology space, with a focus on technology consultants. Given the competitiveness of this market and the minimal need for a heavily customized product, the coverage grant is limited to professional liability only.

### Coverage Summary

The ACE DigiTech Pro Digital Technology & Professional Liability Insurance Policy provides coverage for any error, misstatement, misleading statement, act, omission, neglect or breach of duty actually or allegedly committed or attempted by any insured in their capacity as such, or by any other insured solely in the performance of duties for the named insured in:

- the insured's rendering or failure to render technology services to others for a fee, or
- the failure of the insured's technology products to perform the function or serve the purpose intended, but only in conjunction with the insured's provision of technology services to others for a fee.

### **A. Forms**

<b>Form #</b>	<b>Edition Date</b>	<b>Title</b>
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See the enclosed list.

### **B. Rules**

See the companion filing 06-PR-326 (R)

**Westchester Fire Insurance Company**  
ACE DigiTech Pro Digital Technology & Professional Liability Policy

Forms List – Countrywide

Form Number/ Edition Date	Form Title	Broaden, Restrict or Clarify	Mandatory or Optional	Rate Impact (Y/N)	Description
	<b>Applications</b>				
PF-20631 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	N/A	N/A	N/A	Application.
PF-20635 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	N/A	N/A	N/A	Supplemental application.
PF-20637 (07/06)	ACE DigiTech Pro IT Staffing Supplemental Application	N/A	N/A	N/A	Supplemental application.
	<b>Policy and Declarations</b>				
PF-20633 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Insurance Policy Declarations	N/A	Mandatory	N/A	Declarations.
PF-20636 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Insurance Policy	N/A	Mandatory	N/A	Provides technology and internet errors and omissions liability coverage on a claims-made basis.
	<b>Optional Endorsements</b>				
PF-20625 (07/06)	Additional Insured (Vicarious Liability)	Broaden	Optional	N	Provides vicarious liability without carve back for claims brought by the additional insured
PF-20626 (07/06)	Additional Insured	Broaden	Optional	N	Amends the definition of insured to include client or customer of insured required to be an additional insured by contract with carve back for claims brought by client or customer.
PF-20627 (07/06)	Alternative Dispute Resolution Endorsement	Broaden	Optional	N	Amends the Alternative Dispute Resolution clause in the policy to define when the insured may commence litigation against the insurer if mediation is not completed.
PF-20628 (07/06)	Contingent Bodily Injury or Property Damage	Broaden	Optional	Y	Provides coverage for professional liability claims that derive from bodily injury or property damage related claims.
PF-20629 (07/06)	Defense and Settlement Endorsement	Broaden	Optional	N	Settlement provision endorsement providing coverage for 50% of claims expenses after Insured refusal to settle.
PF-20639 (07/06)	Endorsement Deletion	Broaden	Optional	N	Deletes endorsement from the boilerplate policy.
PF-20640 (07/06)	Fees, Expenses and Costs Exclusion	Broaden	Optional	N	Exclusion for any fee dispute.
PF-20641 (07/06)	Intellectual Property Coverage and Sublimit	Broaden	Optional	Y	Extends coverage for claims arising out of copyright and/or intellectual property infringement claims, subject to a sub-limit of liability.
PF-20642 (07/06)	Intellectual Property Exclusions Amended (Software Code & Design)	Broaden	Optional	N	Modifies intellectual property exclusion to allow for claims arising from software code and design claims.

**Westchester Fire Insurance Company**  
ACE DigiTech Pro Digital Technology & Professional Liability Policy

Forms List – Countrywide

Form Number/ Edition Date	Form Title	Broaden, Restrict or Clarify	Mandatory or Optional	Rate Impact (Y/N)	Description
PF-20644 (07/06)	Limit of Liability	Clarify	Optional	N	Contract specific limit of liability endorsement
PF-20645 (07/06)	Medical Malpractice Exclusion	Restrict	Optional	N	Excludes medical malpractice claims.
PF-20646 (07/06)	Miscellaneous Professional Services	Broaden	Optional	N	Extends coverage for non-technology related professional services
PF-20647 (07/06)	Named Insured and Address Endorsement	Clarify	Optional	N	Add/modify the named insured's address.
PF-20648 (07/06)	Notice Amended	Broaden	Optional	N	Claim notification amandatory – allows underwriter to endorse an extended reporting window after the end of the policy period.
PF-20649 (07/06)	Notice Revised (Five Officers)	Broaden	Optional	N	Claim notification amandatory – Claims must be noticed to carrier once one of the top 5 officers is aware of it.
PF-20650 (07/06)	Profit, Remuneration, Financial Advantage Exclusion ("For" Preamble)	Broaden	Optional	N	Amends the profit, advantage exclusion from an absolute exclusion to a limited exclusion (applicable only to direct claims for the exposure noted).
PF-20651 (07/06)	Recall Exclusion Amended (Loss of use Carveback)	Broaden	Optional	N	Exclusion for recall or withdrawal of any Insured's electronic products or systems is amended to allow for coverage for loss of use claims.
PF-20652 (07/06)	Retroactive Date	Clarify	Optional	N	Add/modify retroactive date.
PF-20653 (07/06)	Telecommunications Endorsement	Restrict	Optional	N	Excludes telecommunications services.
PF-20654 (07/06)	Tie-In of Limits	Restrict	Optional	N	Ties the aggregate limit between two policies so that only one limit applies to claims reported under either policy.
PF-20655 (07/06)	Waiver of Application	Clarify	Optional	N	Waives the requirement for an ACE application and allows another carrier's application to be accepted.
PF-20656 (07/06)	Wrongful Act Amended (Agreement A "For A Fee" Deleted)	Broaden	Optional	N	Wrongful Act Amended by removing "for a fee"
PF-20658 (07/06)	Wrongful Act Amended – Specified Contract and Parties	Restrict	Optional	N	Amends wrongful act definition to only be applicable to specific contracts and/or parties to the contract.
PF-21293 (07/06)	Annual Reinstatement of Limits Endorsement	Broaden	Optional	N	Provides an annual reinstatement of the policy's aggregate limits for a multi-year policy. This endorsement will be attached to all multi-year policies.
PF-21294 (11/06)	Confidential Or Proprietary Information (Intentional or Unintentional Misuse)	Restrict	Optional	N	Excludes intentional misuse of confidential or proprietary information.
PF-21295 (11/06)	Health Insurance Portability and Accountability Act Exclusion	Restrict	Optional	N	Excludes claims arising out of HIPPA violations.

**Westchester Fire Insurance Company**  
 ACE DigiTech Pro Digital Technology & Professional Liability Policy

Forms List – Countrywide

Form Number/ Edition Date	Form Title	Broaden, Restrict or Clarify	Mandatory or Optional	Rate Impact (Y/N)	Description
PF-21296 (11/06)	Insurance Agent/Broker Exclusions	Restrict	Optional	N	Excludes the rendering of or failure to render services of an insurance agent or broker.
PF-21297 (11/06)	Management Consultants Endorsement with Technology Services Extension	Restrict	Optional	N	Excludes management consulting exposures.
PF-21298 (11/06)	Multiple Insuring Agreement Election Endorsement	Broaden	Optional	Y	Adds coverage for electronic media liability and/or network security liability.
	<b>Mandatory Endorsements</b>				
CC-1K11e (02/06)	Signatures	Neither	Mandatory	N	Signature page.
PF-17914 (02/05)	U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders	Neither	Mandatory	N	Policyholder notice provides information concerning the possible impact on coverage due to directives issued by OFAC.

**Westchester Fire Insurance Company**  
ACE DigiTech Pro Digital Technology & Professional Liability Policy

Forms List – State Exceptions

State/Form #/ Edition Date	Form Name	Exception Type	Replaced Form
<b>Alabama</b>			
PF-20088 (07/06)	Arbitration Disclosure - Alabama	Add a Form	N/A
PF-20627 (07/06)	Alternative Dispute Resolution Endorsement	Delete a Form	N/A
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21390 (07/06)	Amendatory Endorsement – Alabama	Add a Form	N/A
<b>Alaska</b>			
Non-admitted			
<b>Arkansas</b>			
PF-21000 (07/06)	Amendatory Endorsement – Arkansas	Add a Form	N/A
ALL2Y31a (02-06)	Arkansas Notice to Policyholders	Add a Form	N/A
<b>Arizona</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21001 (07/06)	Amendatory Endorsement – Arizona	Add a Form	N/A
<b>California</b>			
PF-21002 (07/06)	Amendatory Endorsement – California	Add a Form	N/A
<b>Colorado</b>			
PF-21003 (07/06)	Amendatory Endorsement – Colorado	Add a Form	N/A
<b>Connecticut</b>			
PF-21004 (07/06)	Amendatory Endorsement – Connecticut	Add a Form	N/A
<b>Delaware</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21006 (07/06)	Amendatory Endorsement – Delaware	Add a Form	N/A
<b>District of Columbia</b>			
PF-21005 (07/06)	Amendatory Endorsement – District of Columbia	Add a Form	N/A
<b>Florida</b>			
ALL5X45 (11-96)	Questions About Your Insurance?	Add a Form	N/A
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21007 (07/06)	Amendatory Endorsement – Florida	Add a Form	N/A

**Westchester Fire Insurance Company**  
ACE DigiTech Pro Digital Technology & Professional Liability Policy

Forms List – State Exceptions

State/Form #/ Edition Date	Form Name	Exception Type	Replaced Form
<b>Georgia</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21008 (07/06)	Amendatory Endorsement – Georgia	Add a Form	N/A
<b>Hawaii</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21009 (07/06)	Amendatory Endorsement – Hawaii	Add a Form	N/A
<b>Idaho</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21011 (07/06)	Amendatory Endorsement – Idaho	Add a Form	N/A
<b>Illinois</b>			
PF-21012 (07/06)	Amendatory Endorsement – Illinois	Add a Form	N/A
ALL-18653a (02/2006)	Questions About Your Insurance?	Add a Form	N/A
<b>Indiana</b>			
PF-21013 (07/06)	Amendatory Endorsement – Indiana	Add a Form	N/A
ALL2Y81	Indiana Notice to Policyholders	Add a Form	N/A
<b>Iowa</b>			
PF-21010 (07/06)	Amendatory Endorsement – Iowa	Add a Form	N/A
<b>Kansas</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21014 (07/06)	Amendatory Endorsement – Kansas	Add a Form	N/A
<b>Kentucky</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21015 (07/06)	Amendatory Endorsement – Kentucky	Add a Form	N/A
<b>Louisiana</b>			
PF-21016 (07/06)	Amendatory Endorsement – Louisiana	Add a Form	N/A

**Westchester Fire Insurance Company**  
 ACE DigiTech Pro Digital Technology & Professional Liability Policy

Forms List – State Exceptions

State/Form #/ Edition Date	Form Name	Exception Type	Replaced Form
<b>Maine</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21018 (07/06)	Amendatory Endorsement – Maine	Add a Form	N/A
<b>Maryland</b>			
PF-21017 (07/06)	Amendatory Endorsement – Maryland	Add a Form	N/A
<b>Massachusetts</b>			
no state exceptions			
<b>Michigan</b>			
PF-21019 (07/06)	Amendatory Endorsement – Michigan	Add a Form	N/A
<b>Minnesota</b>			
PF-21020 (07/06)	Amendatory Endorsement – Minnesota	Add a Form	N/A
PF-15741a (09/06)	Notice to Our Minnesota Policyholders	Add a Form (not required to be filed)	N/A
<b>Mississippi</b>			
PF-21391 (07/06)	Amendatory Endorsement – Mississippi	Add a Form	N/A
<b>Missouri</b>			
PF-17993a (05/06)	Notice to Policyholders	Add a Form	N/A
PF-18251a (03/06)	Defense Within Limits Disclosure – Missouri	Add a Form	N/A
PF-20632 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application - Missouri	Replace a Form	PF-20631 (07/06)
PF-21021 (07/06)	Amendatory Endorsement – Missouri	Add a Form	N/A
<b>Montana</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21022 (07/06)	Amendatory Endorsement – Montana	Add a Form	N/A
<b>Nebraska</b>			
PF-21025 (07/06)	Amendatory Endorsement – Nebraska	Add a Form	N/A
<b>Nevada</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21028 (07/06)	Amendatory Endorsement – Nevada	Add a Form	N/A
<b>New Hampshire</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21026 (07/06)	Amendatory Endorsement – New Hampshire	Add a Form	N/A

**Westchester Fire Insurance Company**  
ACE DigiTech Pro Digital Technology & Professional Liability Policy

Forms List – State Exceptions

State/Form #/ Edition Date	Form Name	Exception Type	Replaced Form
<b>New Jersey</b>			
PF-21027 (07/06)	Amendatory Endorsement – New Jersey	Add a Form	N/A
<b>New Mexico</b>			
Non-admitted			
<b>New York</b>			
Do not file. State forms are still under development.			
<b>North Carolina</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21023 (07/06)	Amendatory Endorsement – North Carolina	Add a Form	N/A
<b>North Dakota</b>			
PF-21024 (07/06)	Amendatory Endorsement – North Dakota	Add a Form	N/A
<b>Ohio</b>			
PF-21029 (07/06)	Amendatory Endorsement – Ohio	Add a Form	N/A
<b>Oklahoma</b>			
PF-21030 (07/06)	Amendatory Endorsement –Oklahoma	Add a Form	N/A
<b>Oregon</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21031 (07/06)	Amendatory Endorsement – Oregon	Add a Form	N/A
<b>Pennsylvania</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21032 (07/06)	Amendatory Endorsement – Pennsylvania	Add a Form	N/A
<b>Rhode Island</b>			
PF-21033 (07/06)	Amendatory Endorsement –Rhode Island	Add a Form	N/A
<b>South Carolina</b>			
PF-21034 (07/06)	Amendatory Endorsement –South Carolina	Add a Form	N/A
<b>South Dakota</b>			
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21035 (07/06)	Amendatory Endorsement – South Dakota	Add a Form	N/A
<b>Tennessee</b>			
PF-21036 (07/06)	Amendatory Endorsement –Tennessee	Add a Form	N/A
PF-17993a (05/06)	Notice to Policyholders	Add a Form	N/A

**Westchester Fire Insurance Company**  
ACE DigiTech Pro Digital Technology & Professional Liability Policy

Forms List – State Exceptions

State/Form #/ Edition Date	Form Name	Exception Type	Replaced Form
<b>Texas</b>			
PF-21037 (07/06)	Amendatory Endorsement –Texas	Add a Form	N/A
ALL-4Y30b (02/2006)	Information and Complaints	Add a Form	N/A
DCE-19368f (02/06)	Notification To Texas Policyholders Commercial Automobile Liability, General Liability, Professional Liability, And Medical Professional Liability (Other Than Hospitals) Of Accident Prevention Services	Add a Form	N/A
ALL-11559c (02/06)	Risk Control Services For Texas Policyholders	Add a Form	N/A
<b>Utah</b>			
PF-21038 (07/06)	Amendatory Endorsement –Utah	Add a Form	N/A
<b>Vermont</b>			
Non-admitted			
<b>Virginia</b>			
	(Applications are not subject to review or approval per VAC 38.2-317)		
PF-20130 (04/06)	Extended Reporting Period Disclosure – Virginia	Add a Form (not required to be filed)	N/A
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21392 (07/06)	Amendatory Endorsement – Virginia	Add a Form	N/A
<b>Washington</b>			
PF-21039 (07/06)	Amendatory Endorsement –Washington	Add a Form	N/A
<b>West Virginia</b>			
PF-20627 (07/06)	Alternative Dispute Resolution Endorsement	Delete a Form	N/A
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21041 (07/06)	Amendatory Endorsement – West Virginia	Add a Form	N/A
<b>Wisconsin</b>			
PF-21040 (07/06)	Amendatory Endorsement –Wisconsin	Add a Form	N/A
ALL-5X51a (2/06)	Wisconsin Notice to Policyholders	Add a Form	N/A
<b>Wyoming</b>			
PF-20503 (07/06)	Defense Within Limits Disclosure – Wyoming	Add a Form	N/A
PF-20630 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Application	Replace a Form	PF-20631 (07/06)
PF-20634 (07/06)	ACE DigiTech Pro Digital Technology & Professional Liability Software Intellectual Property Addendum	Replace a Form	PF-20635 (07/06)
PF-20693 (07/06)	Waiver of Application	Replace a Form	PF-20655 (07/06)
PF-21393 (07/06)	Amendatory Endorsement – Wyoming	Add a Form	N/A



## Superseded Attachments

Please note that all items on the following pages are items, which have been replaced by a newer version. The newest version is located with the appropriate schedule on previous pages. These items are in date order with most recent first.

<b>Original Date:</b>	<b>Schedule</b>	<b>Document Name</b>	<b>Replaced Date</b>	<b>Attach Document</b>
No original date	Form	ACE DigiTech Pro Digital Technology & Professional Liability Application	02-09-2007	PF20631 DigiTech Pro App (Warrants).pdf
No original date	Form	Amendatory Endorsement - Arkansas	02-09-2007	AR Amendatory_PF2 1000.pdf
No original date	Form	Amendatory Endorsement - Arkansas	03-14-2007	AR Amendatory_PF2 1000.pdf



**C. Current Coverage and Loss Information**

*If the answer is yes to any of questions 2 – 8, please attach explanations. With respect to claims or litigation, include any pending or prior incident, event or litigation, providing full details of all relevant facts.*

1. Does the company currently have General Liability, Errors and Omissions, and/or other similar insurance in force?  Yes  No

*If so, please complete the following for each policy:*

Coverage Type:		Coverage Type:	
Name of Carrier:		Name of Carrier:	
Limits of Liability:		Limits of Liability:	
Deductible:		Deductible:	
Premium:		Premium:	
Expiry Date:		Expiry Date:	
Current Retroactive Date:		Current Retroactive Date:	

2. Has your company ever been declined for Errors & Omissions, Professional Liability or Media Liability insurance, or had an existing policy cancelled?  Yes  No
3. Is the company or any of its partners, directors or officers aware of, or are there any circumstances that may give, or have given, rise to a claim against the company or against this insurance policy?  Yes  No
4. In the last five years has your company experienced any claims or are you aware of any circumstances that could give rise to a claim that would be covered by this policy?  Yes  No
5. In the past five years, has your company been the subject of any cease and desist orders concerning content or advertising on your website?  Yes  No
6. During the last three years, have you been the subject of an investigation or action by any regulatory or administrative agency for violations arising out of your advertising or sales activities?  Yes  No
7. Within the last three years has a customer claimed that they had a financial loss as a result of an error or omission on your part?  Yes  No
8. Have you, or any of your predecessors in business, subsidiaries or affiliates, or any of the principals, directors, officers, partners, professional employees or independent contractors ever been the subject of a disciplinary action as a result of professional activities?  Yes  No

**II. GENERAL INFORMATION**

**A. Gross Revenues (including licensing fees)**

	<u>Domestic</u>	<u>Foreign</u>	<u>Total</u>
Prior Year:	\$	\$	\$
Current Year (est.):	\$	\$	\$
Next Year (est.):	\$	\$	\$

**B. Products and Services Offered**

Type of Product or Service	% of Revenue		Typical Customer
	Current Yr	Next Year	
Application Service Provider - Bandwidth	%	%	
Application Service Provider - Security	%	%	
Bulletin Board System/Forum Sites	%	%	
Billing Services	%	%	
Computer Aided Design (Structural)	%	%	
Computer Aided Design (Non-Structural)	%	%	
Colocation Facilities	%	%	
Credit Card Processing	%	%	
CRM Consulting	%	%	
Data Entry/Timesharing	%	%	
Data Processing	%	%	
E-commerce Consulting	%	%	
ERP Consulting	%	%	
Graphic Design	%	%	
Hardware Assembly	%	%	
Hardware Manufacturing	%	%	
Healthcare	%	%	
Infrastructure Equipment Mfg.	%	%	
Infrastructure Software	%	%	
Internet Advertising	%	%	
Internet Service Provider	%	%	
Manufacturing (General)	%	%	
Messaging Services	%	%	
Online Banking	%	%	
Online Brokerage	%	%	
Online Exchanges	%	%	
Portals	%	%	
Retail e-commerce	%	%	
Security Consulting	%	%	
Security Software	%	%	
Software Development	%	%	
Software Installation -- Custom	%	%	
Software Installation -- Prepackaged	%	%	
Specialty Programming	%	%	
Systems Analysis	%	%	
Systems Engineering	%	%	
Systems Integration	%	%	
Systems Maintenance	%	%	
Technical Research	%	%	
Technical Support	%	%	
Technical Training	%	%	
Telecommunication	%	%	
Value Added Reselling	%	%	
Video Conferencing Services	%	%	
Web Hosting	%	%	
Web Maintenance Services	%	%	

Type of Product or Service	% of Revenue		Typical Customer
	Current Yr	Next Year	
Website Design	%	%	
WiFi Service Provider	%	%	
Other:	%	%	

Do you place temporary IT personnel at a client's site and under the client's supervision and direction?  Yes  No

**If "YES", please complete the "IT STAFFING SUPPLEMENTAL APPLICATION"**

### III. SALES CONTRACTS, LICENSING CONTRACTS, STATEMENTS OF WORK

#### A. Large Contracts

Please provide details of your company's three largest contracts for ongoing or completed work in the last two years:

Client	Nature of Contract/Service	Contract Value/Duration

Timeframe of average contract: \_\_\_\_\_

Average contract or licensing agreement value: \_\_\_\_\_

#### B. Contractual Content and Procedures:

1. Do you require a written contract or agreement for services with your customers?  Yes  No
2. Is the contracting process standardized and formalized?  Yes  No
3. Are all contracts reviewed by your legal department or a third party law firm?  Yes  No
4. Do revisions and modifications to standard contracts require legal department signoff?  Yes  No
5. Do such contracts or agreements contain (*check all that apply*):
  - specific descriptions of professional services you are to provide?
  - a limitation of liabilities?
  - guarantees or warranties?
  - hold harmless or indemnity agreements inuring to your benefit?
  - hold harmless or indemnity agreements inuring to your client's benefit?
  - formalized change order processes requiring signoff by both parties?
  - conditions of customer acceptance of products/services?
  - acceptance of consequential damages?
  - provisions for liquidated damages?
  - provisions for the ownership of intellectual property?
6. Do you have procedures to ensure compliance with Federal, State and local statutes?  Yes  No
7. Do you have a process in place to handle and resolve client complaints?  Yes  No
8. Do you charge for your network-based services?  Yes  No

9. Do you guarantee systems or website availability?  
*If yes, please describe in an attachment.*  Yes  No
10. Do your customers and/or business partners have written contracts or agreements in place to use your network, website or services?  Yes  No

**C. Vendor Contracts**

1. Do you require written contracts or agreements with all vendors?  Yes  No
2. Is the contracting process standardized and formalized?  Yes  No
3. Are all contracts reviewed by your legal department or a third party law firm?  Yes  No

**D. Independent Contractors, Subcontractors**

1. Do you use independent contractors and/or subcontractors?  Yes  No  
*If yes, please answer the four questions below:*
- a. Do you always use a written contract upon engagement of independent contractors?  Yes  No
- b. Do you require independent contractors to carry professional liability insurance?  Yes  No
- c. What percentage of professional services rendered are contracted out? \_\_\_\_\_%
- d. Do all contracts with independent contractors clearly identify work product as 'work made for hire', or include other provisions for the ownership of intellectual property?  Yes  No

**IV. QUALITY CONTROL**

**A. Quality Control Procedures**

1. Please identify the quality control procedures in place at your company:  
 written quality control programs       vendor certification guidelines  
 prototype development guidelines       beta testing
2. Are formal customer acceptance procedures in place?  Yes  No
3. Are formal written system or software development methodologies in place?  Yes  No
4. When interim changes in the contract or statement of work are required, are these documented with signoffs by both you and the customer?  Yes  No
5. Do contracts or statements of work include performance milestones which are acknowledged and accepted with signoffs by both you and customer?  Yes  No
6. Are final acceptance letters or signoffs required from each customer?  Yes  No
7. Do you have an Internal Audit process in place?  Yes  No

**B. Employee/Professional Development**

1. Do you have a formalized Continuing Education program required for all professional employees on annual basis?  Yes  No
2. Do you have formalized in-house training procedures for professional employees?  Yes  No

## ADDITIONAL INFORMATION REQUIRED

Please submit the following documentation with this application:

1. Copies of your most recent advertising materials and product brochures.
2. Most recent financials.
3. List of any litigation threatened or pending (including plaintiff, cause of action and potential damages detail), which could potentially affect the coverage for which applicant is applying.
4. Loss runs for the last five years.
5. Copies of representative and largest sales, service and/or licensing contracts.

## V. FRAUD WARNING STATEMENTS

**NOTICE TO ARKANSAS APPLICANTS:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**NOTICE TO COLORADO APPLICANTS:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

**NOTICE TO DISTRICT OF COLUMBIA APPLICANTS:** WARNING: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

**NOTICE TO LOUISIANA APPLICANTS:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

**NOTICE TO NEW JERSEY APPLICANTS:** Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**NOTICE TO NEW MEXICO APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES.

**NOTICE TO NEW YORK APPLICANTS:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

**NOTICE TO OHIO APPLICANTS:** Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

**NOTICE TO OKLAHOMA APPLICANTS:** WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

**NOTICE TO TENNESSEE APPLICANTS:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

**NOTICE TO WASHINGTON APPLICANTS:** It is a crime to knowingly provide false, incomplete, or misleading information to an insurance company for the purposes of defrauding the company. Penalties include imprisonment, fines, and denial of insurance benefits.

**NOTICE TO ALL OTHER APPLICANTS:**

**ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON, FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS INFORMATION FOR THE PURPOSE OF MISLEADING, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND MAY SUBJECT SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.**

**VI. DECLARATION AND CERTIFICATION**

**ALL APPLICANTS MUST COMPLETE THIS SECTION.**

**BY SIGNING THIS APPLICATION, THE APPLICANT WARRANTS TO THE INSURANCE COMPANY THAT ALL STATEMENTS MADE IN THIS APPLICATION INCLUDING ATTACHMENTS, ABOUT THE APPLICANT AND ITS OPERATIONS ARE TRUE AND COMPLETE, AND THAT NO MATERIAL FACTS HAVE BEEN MISSTATED IN THIS APPLICATION OR CONCEALED. COMPLETION OF THIS FORM DOES NOT BIND COVERAGE. THE APPLICANT'S ACCEPTANCE OF THE INSURANCE COMPANY'S QUOTATION IS REQUIRED BEFORE THE APPLICANT MAY BE BOUND AND A POLICY ISSUED.**

**THE APPLICANT AGREES TO COOPERATE WITH THE COMPANY IN IMPLEMENTING AN ONGOING PROGRAM OF LOSS-CONTROL AND WILL ALLOW THE COMPANY TO REVIEW AND MONITOR SUCH PROGRAMS THAT THE APPLICANT UNDERTAKES IN MANAGING ITS TECHNOLOGY EXPOSURES.**

Signature of Authorized Applicant:

Signature of Broker/Agent:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date (Mo./Day/Yr.)  
\_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Date (Mo./Day/Yr.)  
\_\_\_\_/\_\_\_\_/\_\_\_\_

Signed by Licensed Resident Agent

\_\_\_\_\_  
(Where Required By Law)

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Amendatory Endorsement – Arkansas**

IF THERE IS ANY CONFLICT BETWEEN THE **POLICY**, OTHER ENDORSEMENTS TO THE **POLICY** AND THIS ENDORSEMENT, THE TERMS PROVIDING THE BROADEST COVERAGE INSURABLE UNDER APPLICABLE LAW SHALL PREVAIL.

It is agreed that:

- Section V, **Extended Reporting Periods**, is deleted in its entirety and the following is inserted:

**V. EXTENDED REPORTING PERIODS**

If the **Insurer** or the **Named Insured** terminates or does not renew this **Policy**, the **Named Insured** shall have the right to a continuation of the coverage granted by this **Policy** for the Optional **Extended Reporting Period**, if elected, and the Automatic **Extended Reporting Period** as follows:

**A. Automatic Extended Reporting Period**

The **Named Insured** shall have continued coverage granted by this **Policy** for a period of 60 days following the effective date of such termination or nonrenewal, but only for **Claims** first made during such 60 days and arising from **Wrongful Acts** taking place prior to the effective date of such termination or nonrenewal.

**B. Optional Extended Reporting Period**

The **Named Insured** shall have the right, upon payment of the additional premium set forth in Item 8 of the Declarations, to an Optional **Extended Reporting Period**, for the period set forth in Item 8 of the Declarations following the expiration date of the Automatic **Extended Reporting Period**, but only for **Claims** first made during such Optional **Extended Reporting Period** and arising from **Wrongful Acts** taking place prior to the effective date of such termination or nonrenewal.

This right to continue coverage shall lapse unless written notice of such election is given by the **Named Insured** to the **Insurer**, and the **Insurer** receives payment of the additional premium within 60 days following the effective date of termination or nonrenewal.

- The **Insurer** shall give the **Named Insured** notice of the premium due for the Optional **Extended Reporting Period** as soon as practicable following the date the **Named Insured** gives such notice of such election, and such premium shall be paid by the **Named Insured** to the **Insurer** within 10 days following the date of such notice by the **Insurer** of the premium due. The Optional **Extended Reporting Period** is not cancelable and the entire premium for the Optional **Extended Reporting Period** shall be deemed fully earned and non-refundable upon payment.

- The Limit of Liability applicable to the Automatic **Extended Reporting Period** shall be part of and not in addition to the Limit of Liability shown in Item 3 of the Declarations for the immediately preceding **Policy Period**. The Automatic **Extended Reporting Period** shall not increase or reinstate the Limit of Liability, which shall be the maximum liability of the **Insurer** for the **Policy Period** and the Automatic **Extended Reporting Period**, combined.

The Limit of Liability applicable to the Optional **Extended Reporting Period**, if elected, shall be the greater of the unexhausted Limit of Liability of the immediately preceding **Policy Period** or 50% of the full amount of the Limit of Liability set forth in Item 3 of the Declarations at the inception of the

immediately preceding **Policy Period** (hereinafter referred to as “**Optional Extended Reporting Period Limit of Liability**”). The **Optional Extended Reporting Period Limit of Liability** shall only be available to pay **Damages** for **Claims** first made and reported during the **Optional Extended Reporting Period** and arising from **Wrongful Acts** taking place on or subsequent to the **Retroactive Date** and prior to the effective date of termination or nonrenewal (hereinafter referred to as “**Optional Extended Reporting Period Damages**”). The maximum liability for all **Optional Extended Reporting Period Damages** is the **Optional Extended Reporting Period Limit of Liability**.

If any **Claim** is covered, in whole or in part, under both the Automatic **Extended Reporting Period** and the **Optional Extended Reporting Period**, if elected, only the **Optional Extended Reporting Period Limit of Liability** shall apply.

- E. A change in **Policy** terms, conditions, exclusions and/or premiums shall not be considered a nonrenewal for purposes of triggering the rights to the Automatic or **Optional Extended Reporting Period**.
2. Section XIII, Termination of the **Policy**, is amended by adding the following:
- If this **Policy** has been in effect for more than 60 days, or is a renewal of a **Policy** the **Insurer** issued, the **Insurer** may terminate this **Policy** only for one or more of the following reasons:
    1. failure to pay a premium when due;
    2. fraud or material misrepresentation made by or with the knowledge of the **Named Insured** in obtaining the **Policy**, continuing the **Policy**, or in presenting a **Claim** under the **Policy**;
    3. a material change in the risk that substantially increases any hazard insured against after **Policy** issuance;
    4. violation of any local fire, health, safety, building, or construction regulation or ordinances with respect to any insured property or the occupancy of the property that substantially increases any hazard insured against under the **Policy**;
    5. nonpayment of membership dues in those cases in which the **Insurer** issuing the **Policy** require payment as a condition of the issuance and maintenance of the **Policy**; or
    6. a material violation of a material provision of the **Policy**.
  - Notice of termination from the **Insurer** will state the effective date of termination and the reason(s) for termination, and will be mailed by certified mail to the **Named Insured**, and by first-class mail to the agent or broker of record, and to any lienholder or loss payee listed in the **Policy**, at the last mailing addresses known to the **Insurer**. Proof of mailing will be sufficient proof of notice.
3. Section XIX, Alternative Dispute Resolution, is amended by deleting the first paragraph and inserting the following:
- The **Insureds** and the **Insurer** may, upon mutual agreement, submit any dispute or controversy arising out of or relating to this **Policy** or the breach, termination or invalidity thereof to the alternative dispute resolution (“ADR”) process set forth in this Section.
4. The following section is added to the **Policy**:
- **NONRENEWAL**

If the **Insurer** elects not to renew this **Policy**, it will mail written notice of nonrenewal by certified mail to the **Named Insured**, and by first-class mail to the agent or broker of record, at the last mailing addresses known to the **Insurer**. Notice of nonrenewal will be mailed at least 60 days before the end of the **Policy Period**. Proof of mailing will be sufficient proof of notice.

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

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Authorized Representative

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

Named Insured			Endorsement Number
Policy Symbol	Policy Number	Policy Period to	Effective Date of Endorsement
Issued By (Name of Insurance Company)			

**Amendatory Endorsement – Arkansas**

IF THERE IS ANY CONFLICT BETWEEN THE **POLICY**, OTHER ENDORSEMENTS TO THE **POLICY** AND THIS ENDORSEMENT, THE TERMS PROVIDING THE BROADEST COVERAGE INSURABLE UNDER APPLICABLE LAW SHALL PREVAIL.

It is agreed that:

1. The first paragraph of the Declarations is deleted in its entirety and the following is inserted:

**THIS IS A CLAIMS MADE AND REPORTED POLICY. EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS POLICY COVERS ONLY CLAIMS FIRST MADE AND REPORTED DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF ANY, AND WHICH ARE THE RESULT OF WRONGFUL ACTS COMMITTED ON OR AFTER THE RETROACTIVE DATE BUT BEFORE THE END OF THE POLICY PERIOD. PLEASE READ THIS POLICY CAREFULLY.**

2. Section I, Insuring Agreement, is deleted in its entirety and the following is inserted:

I. Insuring Agreement

Technology and **Internet** Errors and Omissions Liability

The **Insurer** will pay **Damages** and **Claims Expenses** of the **Insured** which the **Insured** becomes legally obligated to pay by reason of a **Claim** first made against the **Insured** during the **Policy Period** or **Extended Reporting Period**, if any, and reported to the **Insurer** pursuant to Section VIII, Notice, for any **Wrongful Acts** taking place after the **Retroactive Date** and prior to the end of the **Policy Period**.

3. Section V, **Extended Reporting Periods**, is deleted in its entirety and the following is inserted:

V. **EXTENDED REPORTING PERIODS**

If the **Insurer** or the **Named Insured** terminates or does not renew this **Policy**, the **Named Insured** shall have the right to a continuation of the coverage granted by this **Policy** for the Optional **Extended Reporting Period**, if elected, and the Automatic **Extended Reporting Period** as follows:

A. Automatic **Extended Reporting Period**

The **Named Insured** shall have continued coverage granted by this **Policy** for a period of 60 days following the effective date of such termination or nonrenewal, but only for **Claims** first made during such 60 days and arising from **Wrongful Acts** taking place prior to the effective date of such termination or nonrenewal.

B. Optional **Extended Reporting Period**

The **Named Insured** shall have the right, upon payment of the additional premium set forth in Item 8 of the Declarations, to an Optional **Extended Reporting Period**, for the period set forth in Item 8 of the Declarations following the expiration date of the Automatic **Extended Reporting Period**, but only for **Claims** first made during such Optional **Extended Reporting Period** and arising from **Wrongful Acts** taking place prior to the effective date of such termination or nonrenewal.

This right to continue coverage shall lapse unless written notice of such election is given by the **Named Insured** to the **Insurer**, and the **Insurer** receives payment of the additional premium within 60 days following the effective date of termination or nonrenewal.

- C. The **Insurer** shall give the **Named Insured** notice of the premium due for the Optional **Extended Reporting Period** as soon as practicable following the date the **Named Insured** gives such notice of such election, and such premium shall be paid by the **Named Insured** to the **Insurer** within 10 days following the date of such notice by the **Insurer** of the premium due. The Optional **Extended Reporting Period** is not cancelable and the entire premium for the Optional **Extended Reporting Period** shall be deemed fully earned and non-refundable upon payment.
- D. The Limit of Liability applicable to the Automatic **Extended Reporting Period** shall be part of and not in addition to the Limit of Liability shown in Item 3 of the Declarations for the immediately preceding **Policy Period**. The Automatic **Extended Reporting Period** shall not increase or reinstate the Limit of Liability, which shall be the maximum liability of the **Insurer** for the **Policy Period** and the Automatic **Extended Reporting Period**, combined.

The Limit of Liability applicable to the Optional **Extended Reporting Period**, if elected, shall be the greater of the unexhausted Limit of Liability of the immediately preceding **Policy Period** or 50% of the full amount of the Limit of Liability set forth in Item 3 of the Declarations at the inception of the immediately preceding **Policy Period** (hereinafter referred to as "**Optional Extended Reporting Period Limit of Liability**"). The **Optional Extended Reporting Period Limit of Liability** shall only be available to pay **Damages** for **Claims** first made and reported during the Optional **Extended Reporting Period** and arising from **Wrongful Acts** taking place on or subsequent to the **Retroactive Date** and prior to the effective date of termination or nonrenewal (hereinafter referred to as "**Optional Extended Reporting Period Damages**"). The maximum liability for all **Optional Extended Reporting Period Damages** is the **Optional Extended Reporting Period Limit of Liability**.

If any **Claim** is covered, in whole or in part, under both the Automatic **Extended Reporting Period** and the Optional **Extended Reporting Period**, if elected, only the **Optional Extended Reporting Period Limit of Liability** shall apply.

- E. A change in **Policy** terms, conditions, exclusions and/or premiums shall not be considered a nonrenewal for purposes of triggering the rights to the Automatic or Optional **Extended Reporting Period**.
4. Section XIII, Termination of the **Policy**, is amended by adding the following:
- If this **Policy** has been in effect for more than 60 days, or is a renewal of a **Policy** the **Insurer** issued, the **Insurer** may terminate this **Policy** only for one or more of the following reasons:
    1. failure to pay a premium when due;
    2. fraud or material misrepresentation made by or with the knowledge of the **Named Insured** in obtaining the **Policy**, continuing the **Policy**, or in presenting a **Claim** under the **Policy**;
    3. a material change in the risk that substantially increases any hazard insured against after **Policy** issuance;
    4. violation of any local fire, health, safety, building, or construction regulation or ordinances with respect to any insured property or the occupancy of the property that substantially increases any hazard insured against under the **Policy**;
    5. nonpayment of membership dues in those cases in which the **Insurer** issuing the **Policy** require payment as a condition of the issuance and maintenance of the **Policy**; or
    6. a material violation of a material provision of the **Policy**.
  - Notice of termination from the **Insurer** will state the effective date of termination and the reason(s) for termination, and will be mailed by certified mail to the **Named Insured**, and by first-class mail to the agent or broker of record, and to any lienholder or loss payee listed in the **Policy**, at the last mailing addresses known to the **Insurer**. Proof of mailing will be sufficient proof of notice.

5. Section XIX, Alternative Dispute Resolution, is amended as follows:
- a. The first paragraph is deleted in its entirety and the following is inserted:  
The **Insureds** and the **Insurer** may, upon mutual agreement, submit any dispute or controversy arising out of or relating to this **Policy** or the breach, termination or invalidity thereof to the alternative dispute resolution (“ADR”) process set forth in this Section.
  - b. The third paragraph is amended by deleting the phrase “the decision of the arbitrators shall be final and binding” and inserting the phrase “the decision of the arbitrators shall be non-binding”.
6. The following section is added to the **Policy**:
- **NONRENEWAL**  
If the **Insurer** elects not to renew this **Policy**, it will mail written notice of nonrenewal by certified mail to the **Named Insured**, and by first-class mail to the agent or broker of record, at the last mailing addresses known to the **Insurer**. Notice of nonrenewal will be mailed at least 60 days before the end of the **Policy Period**. Proof of mailing will be sufficient proof of notice.

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

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Authorized Representative