



## COUNTY COMMISSION REGULAR AGENDA

*Finney County serves the citizens on behalf of its taxpayers*

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### COUNTY ADMINISTRATIVE CENTER

**February 21, 2017**

**8:30 AM**

#### **CALL TO ORDER**

**CHAIRMAN LON PISHNY**

**8:30 AM**

Pledge of Allegiance to the Flag and Invocation

Chair Person Comments

Consent Agenda

Approval of Minutes from 02/06/2017

Approval of Accounts Payable: \$745,396.08 A/P and \$314,980.90 Payroll

Occupational Tax License

Copy Paper Bid

Annual Spring Cleanup

Surplus Items / Purple Wave Auction

Public Comment

Cyber Security Insurance

Shawn Myers, Keller Leopold Insurance

Proposal for the Cyber Security Insurance

Request for Sunday Liquor Sales

Request by J&J Oil Company

Executive Session (9:30 am) - Attorney Client

Tom Burgardt, County Counselor

Executive session permitted by K.S.A. 75-4319 (b.2)

30 minutes

Executive Session - Non Elected Personnel

Randy Partington

Non Elected Personnel Executive Session per KSA 75-4319 (b,1)

15 minutes

Board Governance

Meeting Protocols

Commission Approved Goals Discussion

Mission Statement

Legislative Activity

County Administrator Report

Energy Audit Tax Credit (EPAct 179D)

Appointed Departments Monthly Reports

## County Commissioner Reports

- Commissioner Clifford
- Commissioner Drees
- Commissioner Larry Jones
- Commissioner Dave Jones
- Chairman Pishny

## Adjournment

Next Commission Meetings - Monday, 3/6/2017 and Monday, 3/20/2017; Commission meetings in May and June will be the first 3 Mondays of each month



**MEMORANDUM**

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:**  
**DATE:** February 21, 2017  
**RE:** Approval of Minutes from 02/06/2017

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**DISCUSSION:**

Approve Minutes from the 02/06/2017 meeting

**RECOMMENDATION:**

Approval of Minutes



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:**  
**DATE:** February 21, 2017  
**RE:** Approval of Accounts Payable: \$745,396.08 A/P and \$314,980.90 Payroll

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### **DISCUSSION:**

Approval of Accounts Payable

- \$745,396.08 A/P
- \$314,980.90 Payroll

### **RECOMMENDATION:**

Approve Accounts Payable





**MEMORANDUM**

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:**  
**DATE:** February 21, 2017  
**RE:** Occupational Tax License

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**DISCUSSION:**

Approve and Sign Tax License for El Maguey Club and Restaurant

**RECOMMENDATION:**

Commission Signature



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Cheryl Carroll  
**DATE:** February 21, 2017  
**RE:** Copy Paper Bid

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### **DISCUSSION:**

Sealed bids for the counties supply of copy paper was advertised in the local newspaper and bids were due by noon on Wednesday, February 15, 2017.

### **BACKGROUND:**

### **RECOMMENDATION:**

To accept the low bid from Key Office Equipment in the amount of \$9,900.00.

### **ATTACHMENTS:**

Description  
Board Memo

## **MEMORANDUM**

**TO: BOARD OF COUNTY COMMISSIONERS**  
**FROM: CHERYL CARROLL**  
**DATE: February 15, 2017**  
  
**SUBJ: REVIEW OF BIDS FOR COPY PAPER**

Each year we solicit bids for annual copy paper supply needs. Paper is delivered to the Building Maintenance Department and distributed as needed to the various County departments. The aggregation of paper needs into one bid has been found to yield savings on copy paper costs.

A request for bids was advertised and bids were due Wednesday February 15, 2017. Listed below are the bids submitted.

It is recommended that the bid from Key Office Products be approved, subject to final review of specification compliance.

| <b><u>Bidder</u></b> | <b><u>300 cases 8.5x11</u></b> | <b><u>Total Bid</u></b> |
|----------------------|--------------------------------|-------------------------|
| Office Solutions     | \$36.20/case                   | \$10,860.00             |
| Paper Graphics, Inc. | \$36.10/case                   | \$10,830.00             |
| Key Office Products  | \$33.00/case                   | \$ 9,900.00             |

**MEMORANDUM**

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Road and Bridge  
**DATE:** February 21, 2017  
**RE:** Annual Spring Cleanup

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**DISCUSSION:**

The City of Garden City is planning to hold their Annual Spring Clean Up April 3 - 14 2017. Attached is the letter from the City requesting that the \$2 per ton fee for municipal waste be waived during the Cleanup.

**BACKGROUND:**

We have waived the fee in the past for both fall and spring Clean Up. Public works will coordinate with the landfill should the board grant this request.

The past Clean up days the county has offered residents of various subdivisions and trailer parks to dump Clean Up items and the county work force would be utilized to dispose of these items. If the Commission would like to designate an area or areas, we will make the necessary arrangements with the residents and the landfill to see if they are willing to participate.

**ALTERNATIVES:**

1. Waive the \$2 feed and utilize county work force to pick up garbage at designated sites (2) in the county
2. Deny the request
3. Deny \$2 wiaver

**RECOMMENDATION:**

I recommend waiving the \$2 fee and utilizing county work force to pick up garbage at designated sites (2) in the county.

**FISCAL And/Or POLICY IMPACT:**

Road and Bridge word be responsible for wages and fuel for equipment .

**ATTACHMENTS:**

Description

Garden City Request



CITY ADMINISTRATIVE  
CENTER  
301 N. 8<sup>TH</sup>  
P.O. BOX 998  
GARDEN CITY, KS  
67846  
(620) 276-1260  
FAX: (620) 276-1169  
[www.garden-city.org](http://www.garden-city.org)

February 14, 2017

Finney County Public Works  
ATTN: Mr. Roger Calkins  
101 W. Maple  
Garden City, KS 67846

Dear Mr. Calkins:

The City of Garden City would like to hold our Annual Spring Cleanup, April 3 – 14, 2017. We are asking Finney County to assist in this Program by waiving the \$2.00 per ton municipal waste fee.

If you have any questions, feel free to contact me at (620) 276-1260.

Thank you,

SAM J. CURRAN  
Director of Public Works



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Road and Bridge  
**DATE:** February 21, 2017  
**RE:** Surplus Items / Purple Wave Auction

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### **DISCUSSION:**

Finney County has excess filters , belts and parts from equipment that we no longer own . I would like to auction this off through Purple wave utilizing their platform for reaching possible interested bidders.

### **BACKGROUND:**

Finney County has used Purple Wave in the past with success. This auction will be quite small and revenues will not be very high but I think Purple Wave gives us a better chance to increase what revenue may be there.

### **ALTERNATIVES:**

Local auctioneer.

### **RECOMMENDATION:**

Use Purple Wave and benefit from their extended reach and 0% commission.

### **FISCAL And/Or POLICY IMPACT:**

Very small impact. Expected total revenue is expected to be less than \$1000. Revenues will go into the Special Equipment Fund.

**MEMORANDUM**

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Randy  
**DATE:** February 21, 2017  
**RE:** Cyber Security Insurance

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**DISCUSSION:**

Keller Leopold Insurance current agent on the Property and Casualty Insurance is proposing two options for Cyber/Data/Privacy Liability Insurance. Cyber/Data/Privacy insurance is a newer coverage that has been thrust into the forefront of business owners and municipalities as the advent of technology has become an integral part of day to day life.

**BACKGROUND:**

Security and Privacy breaches have increased exponentially over the last three years. Posing a tremendous and costly threat for Cities and Counties. Cyber Liability insurance is the coverage that would provide for IT Forensics, Legal Defense, Notification Expense, and Restoration Services. The average price per record of lost data averages over \$200.00 per record. Ransomware has become a very potent revenue maker for cyber attackers. This is when a cyber attacker holds hostage your computer system, this results in lost time and productivity. This type of insurance would provide coverage. Keller Leopold Insurance believes there are many areas of the county's day to day business that would be significantly protected through the purchase of this policy.

**ALTERNATIVES:**

Keller Leopold Is Providing two options for Cyber/Data/Privacy Liability Insurance. Those quotes are provided by Beazley and Hiscox. Both Quotes have 1 Million and 2 Million limits of Liability Options. Both also have the same deductible which is \$25,000.00. Hiscox does have broader limits and full prior acts coverage. There are lower sublimits on the Beazely quote. Those can be found on page 5 of the quote. In both contracts defense is within the limit of insurance. All in all, Hiscox is a little more expensive but you get broader coverage and higher sublimits. The pricing is as follows:

**Beazley**

1 Million = \$14,500  
2 Million = \$18,550

**Hiscox**

1 Million = \$13,556  
2 Million = \$21,384

The other alternative is to deny the recommendation by Keller Leopold on purchasing cyber security insurance.

**RECOMMENDATION:**

Staff recommends considering the purchase of cyber security insurance.

**FISCAL And/Or POLICY IMPACT:**

The cost depends on which if any alternative is chosen.

**ATTACHMENTS:**

Description

Beazley Quote

Beazley Insurance Details

Hiscox Quote

Hiscox Insurance Details

Hiscox Insurance Details 2





QUOTE ISSUED: 22-Nov-2016 10:42 AM This quote will remain in effect until 22-Dec-2016

Risk Placement Services - Cambridge, MD  
Nick Carozza  
204 Cedar Street  
Cambridge, MD 21613

QUOTE

Re: Finney County  
INFORMATION SECURITY & PRIVACY INSURANCE WITH ELECTRONIC MEDIA LIABILITY

In accordance with your request for a proposal and based on the information submitted, we are pleased to offer the following quote.

Insurer: Syndicate 2623/623 at Lloyd's. (Non-Admitted)

Product: INFORMATION SECURITY & PRIVACY INSURANCE WITH ELECTRONIC MEDIA  
LIABILITY

Policy Form: F00419SL 052014 ed.

Insured: Finney County

Insured Address: Box M  
Garden City, KS 67846

Policy Period: From: TBD  
To: TBD

Commission: 10.00%

This quote is through a surplus lines carrier on whose behalf we are authorized to act. Compliance with applicable laws including filings and payment of taxes and fees is the responsibility of the insured, the insurance agent or insurance broker. If coverage is bound, please advise the license number of the producer making the filing.

This quote is strictly conditioned upon no material change in risk occurring between the date of this letter and the inception date of the proposed policy (including but not limited to any claim or notice of circumstances which may reasonably be expected to give rise to a claim under any policy of which the policy being proposed by this letter is a renewal or replacement). In the event of such change of risk, the Insurer may in its sole discretion, whether or not this offer has already been accepted by the Insured, modify and/or withdraw this offer.

In order to complete the review process, we require that you send us any additional information requested above. We are not required to bind prior to our receipt and approval of the above information. However, if we do bind coverage prior to such approval, the terms and conditions as indicated could be amended until such receipt and acceptance.

Please be advised that if coverage is bound, premium must be remitted by the due date on the invoice.

Thank you for the opportunity to quote.

Erica Ouellette

INSURED: Finney County

| Quote Option 1   |                 |
|--|-----------------|
| Limits of Liability:   |                 |
| Policy Aggregate Limit:<br>(Aggregate for all coverages combined, including Claim Expenses) but sublimited to:                                       | USD \$1,000,000 |
| Aggregate sublimit of coverage applicable to Insuring Agreement B.<br>(Privacy Notification Costs)   | USD \$1,000,000 |
| Aggregate sublimit of limit of liability applicable to Insuring Agreement C.<br>(Regulatory Defense and Penalties)                                   | USD \$1,000,000 |
| Aggregate sublimit of limit of liability applicable to Insuring Agreement E.<br>(PCI Fines, Expenses and Costs)                                      | N/A             |
| The above sublimits of liability are part of, and not in addition to, the overall Policy Aggregate Limit   |                 |
| Retentions:  |                 |
| Each Claim Retention (including each Claim in the form of a Regulatory Proceeding), includes Claim Expenses  | USD \$25,000    |
| Each incident, event or related incidents or events giving rise to an obligation to pay Privacy Notification Costs pursuant to Insuring Agreement B. | USD \$25,000    |
| Premium: \$14,500 (Plus applicable taxes and fees)   |                 |

INSURED: Finney County

| Quote Option 2   |                 |
|--|-----------------|
| Limits of Liability:   |                 |
| Policy Aggregate Limit:<br>(Aggregate for all coverages combined, including Claim Expenses) but sublimited to:                                       | USD \$2,000,000 |
| Aggregate sublimit of coverage applicable to Insuring Agreement B.<br>(Privacy Notification Costs)   | USD \$1,000,000 |
| Aggregate sublimit of limit of liability applicable to Insuring Agreement C.<br>(Regulatory Defense and Penalties)                                   | USD \$1,000,000 |
| Aggregate sublimit of limit of liability applicable to Insuring Agreement E.<br>(PCI Fines, Expenses and Costs)                                      | N/A             |
| The above sublimits of liability are part of, and not in addition to, the overall Policy Aggregate Limit   |                 |
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| Each incident, event or related incidents or events giving rise to an obligation to pay Privacy Notification Costs pursuant to Insuring Agreement B. | USD \$25,000    |
| Premium: \$18,550 (Plus applicable taxes and fees)   |                 |

INSURED: Finney County

Coverage Terms and Conditions:

|  |   |
|--|---|
| Retroactive Date:                      | Policy Inception                          |
| Continuity Date:                       | Policy Inception                          |
| Optional Extension Period:             | Up to 12 Months                           |
| Premium for Optional Extension Period: | 100% of the premium for the Policy Period |
| Choice of Law:                         | New York                                  |

Endorsements Effective at Inception:

1. SCHEDULE2016 Lloyd's Security Schedule 2016
2. NMA1256 Nuclear Incident Exclusion Clause-Liability-Direct (Broad) (U.S.A.)
3. NMA1477 Radioactive Contamination Exclusion Clause-Liability-Direct (U.S.A.)
4. E02804 032011 ed. Sanction Limitation and Exclusion Clause
5. E05949 032016 ed. Delete PCI Fines and Penalties Coverage
6. E07413 052016 ed. First Party Computer Security Coverage Endorsement
  - Cyber extortion loss sublimit: *To Match Elected Limit*
  - Data protection loss sublimit: *To Match Elected Limit*
  - Business Interruption Loss sublimit: *To Match Elected Limit*
  - Forensic Expenses sublimit: *100,000*
  - Dependent Business Loss sublimit: *100,000*
  - Each Extortion Threat Retention: *25,000*
  - Each Security Breach Retention 1: *25,000*
  - Each Security Breach Retention 2: *25,000*
  - Waiting Period Hours: *10*



QUOTE ISSUED: 22-Nov-2016 10:42 AM This quote will remain in effect until 22-Dec-2016

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Insured Address: Box M  
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Commission: 0.00%

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This quote is strictly conditioned upon no material change in risk occurring between the date of this letter and the inception date of the proposed policy (including but not limited to any claim or notice of circumstances which may reasonably be expected to give rise to a claim under any policy of which the policy being proposed by this letter is a renewal or replacement). In the event of such change of risk, the Insurer may in its sole discretion, whether or not this offer has already been accepted by the Insured, modify and/or withdraw this offer.

In order to complete the review process, we require that you send us any additional information requested above. We are not required to bind prior to our receipt and approval of the above information. However, if we do bind coverage prior to such approval, the terms and conditions as indicated could be amended until such receipt and acceptance.

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| Retentions:  |                 |
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| Each incident, event or related incidents or events giving rise to an obligation to pay Privacy Notification Costs pursuant to Insuring Agreement B. | USD \$25,000    |
| Premium: \$14,500 (Plus applicable taxes and fees)   |                 |

| <b>Quote Option 2</b>  |                 |
|--|-----------------|
| Limits of Liability:   |                 |
| Policy Aggregate Limit:<br>(Aggregate for all coverages combined, including Claim Expenses) but sublimited to:                                       | USD \$2,000,000 |
| Aggregate sublimit of coverage applicable to Insuring Agreement B.<br>(Privacy Notification Costs)   | USD \$1,000,000 |
| Aggregate sublimit of limit of liability applicable to Insuring Agreement C.<br>(Regulatory Defense and Penalties)                                   | USD \$1,000,000 |
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| The above sublimits of liability are part of, and not in addition to, the overall Policy Aggregate Limit   |                 |
| Retentions:  |                 |
| Each Claim Retention (including each Claim in the form of a Regulatory Proceeding), includes Claim Expenses  | USD \$25,000    |
| Each incident, event or related incidents or events giving rise to an obligation to pay Privacy Notification Costs pursuant to Insuring Agreement B. | USD \$25,000    |
| Premium: \$18,550 (Plus applicable taxes and fees)   |                 |

Coverage Terms and Conditions:

|  |   |
|--|---|
| Retroactive Date:                      | Policy Inception                          |
| Continuity Date:                       | Policy Inception                          |
| Optional Extension Period:             | Up to 12 Months                           |
| Premium for Optional Extension Period: | 100% of the premium for the Policy Period |
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  - Each Extortion Threat Retention: *25,000*
  - Each Security Breach Retention 1: *25,000*
  - Each Security Breach Retention 2: *25,000*
  - Waiting Period Hours: *10*



**Effective date of this Endorsement: 22-Nov-2016**

**This Endorsement is attached to and forms a part of Policy Number:**

**Syndicate 2623/623 at Lloyd's. Referred to in this endorsement as either the "Insurer" or the "Underwriters"**

## **LLOYD'S SECURITY SCHEDULE**

Syndicate 2623      82%

Syndicate 623      18%

ALL OTHER TERMS, conditions and limitations of said Certificate shall remain unchanged.

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**Effective date of this Endorsement: 22-Nov-2016**

**This Endorsement is attached to and forms a part of Policy Number:**

**NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-DIRECT (BROAD) (U.S.A.)**

For attachment to insurances of the following classifications in the U.S.A., its Territories and Possessions, Puerto Rico and the Canal Zone:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability),

not being insurances of the classifications to which the Nuclear Incident Exclusion Clause-Liability-Direct (Limited) applies.

This Policy\* does not apply:

- I. Under any Liability Coverage, to injury, sickness, disease, death or destruction:
  - (a) with respect to which an insured under the Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
  - (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:
  - (a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
  - (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
  - (c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or

possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.

IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or by-product material;

"source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"nuclear facility" means:

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

\* NOTE: As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

**Effective date of this Endorsement: 22-Nov-2016**

**This Endorsement is attached to and forms a part of Policy Number:**

**RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE-LIABILITY-DIRECT (U.S.A.)**

For attachment (in addition to the appropriate Nuclear Incident Exclusion Clause-Liability-Direct) to liability insurances affording worldwide coverage.

In relation to liability arising outside the U.S.A., its Territories or Possessions, Puerto Rico or the Canal Zone, this Policy does not cover any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

SPECIMEN

**Effective date of this Endorsement: 22-Nov-2016**

**This Endorsement is attached to and forms a part of Policy Number:**

**Syndicate 2623/623 at Lloyd's. Referred to in this endorsement as either the "Insurer" or the "Underwriters"**

**SANCTION LIMITATION AND EXCLUSION CLAUSE**

This endorsement modifies insurance provided under the following:

**INFORMATION SECURITY & PRIVACY INSURANCE WITH ELECTRONIC MEDIA LIABILITY**

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, law or regulations of the European Union, United Kingdom or United States of America.

All other terms and conditions of this Policy remain unchanged.

  
\_\_\_\_\_  
Authorized Representative

Effective date of this Endorsement: 22-Nov-2016

This Endorsement is attached to and forms a part of Policy Number:

Syndicate 2623/623 at Lloyd's. referred to in this endorsement as either the "Insurer" or the "Underwriters"

**DELETE PCI FINES AND PENALTIES COVERAGE**

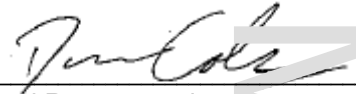
This endorsement modifies insurance provided under the following:

**INFORMATION SECURITY & PRIVACY INSURANCE WITH ELECTRONIC MEDIA LIABILITY COVERAGE**

In consideration of the premium charged for the Policy, it is hereby understood and agreed that:

1. Insuring Agreement E. PCI Fines, Expenses and Costs is deleted in its entirety and all references to "**PCI Fines, Expenses and Costs**" in the Declarations and Policy are deleted.
2. Clause V. Exclusions, paragraph E. is deleted in its entirety and replaced with the following:
  - E. For, arising out of or resulting from any liability or obligation under a **Merchant Services Agreement**;
3. Clause VI. Definitions, paragraphs F.2. and F.3. of "**Computer Expert Services**", and O.3. of "**Legal Services**" are deleted in their entirety.

All other terms and conditions of this Policy remain unchanged.

  
\_\_\_\_\_  
Authorized Representative

**Effective date of this Endorsement: 22-Nov-2016**

**This Endorsement is attached to and forms a part of Policy Number:**

**Syndicate 2623/623 at Lloyd's. referred to in this endorsement as either the "Insurer" or the "Underwriters"**

**FIRST PARTY COMPUTER SECURITY COVERAGE ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**INFORMATION SECURITY & PRIVACY INSURANCE WITH ELECTRONIC MEDIA LIABILITY COVERAGE**

In consideration of the premium charged for this Policy, it is hereby understood and agreed that:

1. Item 3. of the Declarations is amended by the addition of:

|   |                            |
|---|----------------------------|
| FP-1. <b>Cyber Extortion Loss</b> sublimit:       | USD To Match Elected Limit |
| FP-2. <b>Data Protection Loss</b> sublimit:       | USD To Match Elected Limit |
| FP-3. <b>Business Interruption Loss</b> sublimit: | USD To Match Elected Limit |
| (1) <b>Forensic Expenses</b> sublimit:            | USD 100,000                |
| (2) <b>Dependent Business Loss</b> sublimit       | USD 100,000                |

The above sublimits of liability are part of, and not in addition to, the overall **Policy Aggregate Limit of Liability** stated in Item 3.A.

2. Item 4. of the Declarations is amended by the addition of:

|                                    |            |
|------------------------------------|------------|
| FP-1. Each <b>Extortion Threat</b> | USD 25,000 |
| FP-2. Each <b>Security Breach</b>  | USD 25,000 |
| FP-3. Each <b>Security Breach</b>  | USD 25,000 |
| FP-4. <b>Waiting Period</b>        | 10 Hours   |

3. Clause I. Insuring Agreements is amended by the addition of:

**FP-A. Cyber Extortion**

To indemnify the **Named Insured** for **Cyber Extortion Loss**, in excess of the **Retention**, incurred by the **Insured Organization** as a direct result of an **Extortion Threat** first made against the **Insured Organization** during the **Policy Period**.

**FP-B. First Party Data Protection**

To indemnify the **Named Insured** for **Data Protection Loss**, in excess of the **Retention**, incurred by the **Insured Organization** as a direct result of:

1. alteration, corruption, destruction, deletion or damage to a **Data Asset**, or
2. inability to access a **Data Asset**,

that is directly caused by a failure of **Computer Security** to prevent a **Security Breach**; provided that such **Security Breach** must take place on or after the Retroactive Date and before the end of the **Policy Period**.

FP-C. **First Party Network Business Interruption**

To indemnify the **Named Insured** for the actual **Business Interruption Loss**, in excess of the applicable **Retention**, the **Insured Organization** sustains during the **Period of Restoration** as a direct result of an actual and necessary interruption of **Computer Systems** caused directly by a failure of **Computer Security** to prevent a **Security Breach**; provided that such **Security Breach** must first take place on or after the Retroactive Date and before the end of the **Policy Period**.

4. Clause V. Exclusions is amended by the addition of:

FP-A. With respect to Insuring Agreements FP-B. and FP-C., arising out of or resulting from:

1. any failure or malfunction of electrical or telecommunications infrastructure or services, provided that this exclusion shall not apply to any otherwise covered **Claim** or **Loss** arising out of failure of **Computer Security** to prevent a **Security Breach** that was solely caused by a failure or malfunction of telecommunications infrastructure or services under the **Insured Organization's** direct operational control;
2. fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God or other physical event; or
3. any satellite failures;

FP-B. With respect to Insuring Agreement FP-A., arising out of or resulting from:

1. any threat to physically harm or kidnap any person; or
2. any threat to harm, take, or transfer property other than a **Data Asset**, even if such threat is made in conjunction with a threat to **Data Assets**;

FP-C. Arising out of or resulting from any seizure, nationalization, confiscation, or destruction of **Computer Systems** or **Data Assets** by order of any governmental or public authority;

FP-D. With respect to FP-A., arising out of or resulting from an **Extortion Threat** first made against the **Insured Organization** during the **Policy Period** by any of the **Insured Organization's** directors, officers, principals, trustees, governors, **Managers**, members, management committee members, members of the management board, partners, or any person in collusion with any of the foregoing.

5. Clause VI. Definitions, paragraph P. is deleted in its entirety and replaced with the following:

P. **Loss** means **Damages, Claims Expenses, Privacy Notification Costs, PCI Fines, Expenses and Costs, Cyber Extortion Loss, Business Interruption Loss, Data Protection Loss** and **Penalties**.

6. Clause VI. Definitions is amended by the addition of:

FP-A. **Business Interruption Loss** means the actual **Income Loss**, and **Dependent Business Loss** sustained, and **Forensic Expenses** and **Extra Expense** incurred, during the **Period of Restoration**.

**Business Interruption Loss** shall not include:

1. **Loss** arising out of any liability to any third party for whatever reason; legal costs or legal expenses of any type; **Loss** incurred as a result of unfavorable business conditions, loss of market or any other consequential loss; or costs or expenses the



**Insured Organization** incurs to identify or remove software program errors or vulnerabilities; or

2. Expenses incurred by the **Insured** to update, upgrade, enhance or replace **Computer Systems** to a level beyond that which existed prior to the actual and necessary interruption of **Computer Systems**; or the costs and expenses incurred by the **Insured Organization** to restore, reproduce, or regain access to any **Data Asset** that was altered, corrupted, destroyed, deleted, damaged or rendered inaccessible as a result of the failure of **Computer Security** to prevent a **Security Breach**.

FP-B. **Cyber Extortion Loss** means:

1. any **Extortion Payment** that has been made under duress by or on behalf of the **Insured Organization** with the Underwriters' prior written consent, but solely to prevent or terminate an **Extortion Threat**; or
2. reasonable and necessary expenses incurred by the **Insured Organization** with the Underwriters' prior written approval, that directly relate to the **Insured's** efforts to prevent or terminate an **Extortion Threat**.

FP-C. **Data Asset** means any software or electronic data that exists in **Computer Systems** and that is subject to regular back-up procedures

FP-D. **Data Protection Loss** means the reasonable and necessary costs and expenses incurred by the **Insured Organization** to regain access to, replace, restore, re-assemble or recollect any **Data Asset**, or if any **Data Asset** cannot reasonably be accessed, replaced, restored, re-assembled or recollected, then the actual, reasonable and necessary costs and expenses incurred by the **Insured Organization** to reach this determination.

**Data Protection Loss** shall not mean, and there shall be no coverage under Insuring Agreement FP-B. for:

1. costs or expenses incurred by the **Insured Organization** to identify or remediate software program errors or vulnerabilities or update, replace, restore, assemble, reproduce, recollect or enhance a **Data Asset** or **Computer Systems** to a level beyond that which existed prior to the alteration, corruption, destruction, deletion or damage of such **Data Asset**;
2. costs or expenses to research or develop any **Data Asset**, including but not limited to trade secrets or other proprietary information;
3. the monetary value of profits, royalties, or lost market share related to a **Data Asset**, including but not limited to trade secrets or other proprietary information or any other amount pertaining to the value of the **Data Asset**;
4. loss arising out of any liability to any third party for whatever reason; or
5. legal costs or legal expenses of any type.

FP-E. **Dependent Business** means any entity that the **Insured Organization** does not own but which provides necessary products or services to the **Insured Organization** pursuant to a written contract.

FP-F. **Dependent Business Loss** means **Income Loss** and **Extra Expense** incurred by the **Insured Organization** during the **Period of Restoration** as a direct result of an actual

and necessary interruption of the **Insured Organization's Computer Systems** caused by a failure of computer security to prevent a security breach of computer systems operated by a **Dependent Business**.

FP-G. **Digital Currency** means a type of digital currency that:

1. requires cryptographic techniques to regulate the generation of units of currency and verify the transfer thereof;
2. is both stored and transferred electronically; and
3. operates independently of a central bank or other central authority.

FP-H. **Extortion Payment** means cash, **Digital Currency**, marketable goods or services demanded to prevent or terminate an **Extortion Threat**.

FP-I. **Extortion Threat** means a threat to:

1. alter, destroy, damage, delete or corrupt any **Data Asset**;
2. prevent access to **Computer Systems** or a **Data Asset**,
3. perpetrate a theft or misuse of a **Data Asset** on **Computer Systems** through external access;
4. introduce malicious code into **Computer Systems** or to third party computers systems from **Computer Systems**;
5. interrupt or suspend **Computer Systems**; or
6. publicly disclose a **Data Asset**, **Personally Identifiable Information** or **Third Party Information** that is obtained by **Unauthorized Access or Use** to the **Insured Organization's Computer Systems**,

unless an **Extortion Payment** is received from or on behalf of the **Insured Organization**.

FP-J. **Extra Expense** means reasonable and necessary expenses that are incurred by the **Insured Organization** during the **Period of Restoration** to minimize, reduce or avoid **Income Loss**, over and above those expenses the **Insured Organization** would have incurred had no interruption of **Computer Systems** occurred.

FP-K. **Forensic Expenses** means reasonable and necessary expenses incurred by the **Insured Organization** to investigate the source or cause of the failure of **Computer Security** to prevent a **Security Breach**.

FP-L. **Income Loss** means an amount equal to:

1. net profit or loss before interest and tax that the **Insured Organization** would have earned or incurred; and
2. continuing normal operating expenses incurred by the **Insured Organization** (including payroll), but only to the extent that (a) such operating expenses must necessarily continue during the **Period of Restoration**; and (b) such expenses would have been incurred by the **Insured Organization** had such interruption not occurred;

In determining **Income Loss**, due consideration shall be given to:

- a. the prior experience of the **Insured Organization's** business operations before the beginning of the **Period of Restoration**;
- b. the probable business operations the **Insured Organization** could have performed had no actual and necessary interruption occurred as result of a failure of **Computer Security** to prevent a **Security Breach**; and
- c. the **Insured Organization's** ability to reasonably reduce or limit the interruption of **Computer Systems** or conduct its business operations by other means.

FP-M. **Period of Restoration** means the time period that:

1. begins after the expiration of the **Waiting Period** following the actual and necessary interruption of **Computer Systems**; and
2. ends one hundred twenty (120) days after the actual and necessary interruption of **Computer Systems** ends (or would have ended with the exercise of due diligence and dispatch);

provided that in no event shall the **Period of Restoration** mean a period of time greater than one hundred eighty (180) days; and provided further that restoration of **Computer Systems** will not end the **Period of Restoration** if such systems are actually and necessarily interrupted or suspended again within one hour of such restoration due to the same cause as the original interruption or suspension.

FP-N. **Waiting Period** means the period of time beginning when the actual and necessary interruption of **Computer Systems** caused directly by a failure of **Computer Security** to prevent a **Security Breach** begins and expiring after the elapse of the number of hours set forth in Item 4.FP-4. of the Declarations. A **Waiting Period** shall apply to each **Period of Restoration**.

7. Clause VII. Limit of Liability, Paragraph A. is amended by the addition of:

The sublimit of liability stated in Item 3.FP-1. is the aggregate limit of liability payable under this Policy for all **Cyber Extortion Loss** covered under Insuring Agreement FP-A. and is part of and not in addition to the **Policy Aggregate Limit of Liability**. Prior to the payment of any **Extortion Payment**, the **Insured Organization** shall make every reasonable effort to determine that the **Extortion Threat** is not a hoax, or otherwise not credible. The **Insured Organization** shall take all steps reasonable and practical to avoid or limit the payment of an **Extortion Payment**.

The sublimit of liability stated in Item 3.FP-2. is the aggregate limit of liability payable under this Policy for all **Data Protection Loss** under Insuring Agreement FP-B. of this Policy and is part of and not in addition to the **Policy Aggregate Limit of Liability**.

The sublimit of liability stated in Item 3.FP-3. is the aggregate limit of liability payable under this Policy for all **Business Interruption Loss** under Insuring Agreement FP-C. of this Policy and is part of and not in addition to the **Policy Aggregate Limit of Liability**.

The sublimit of liability stated in Item 3.FP-3.(1) is the aggregate limit of liability payable under this Policy for all **Forensic Expenses** under Insuring Agreement FP-C. and shall be part of and not in addition to the **Business Interruption Loss** sublimit stated in Item 3.FP-3.

The sublimit of liability stated in Item 3.FP-3.(2) is the aggregate limit of liability payable under this Policy for all **Dependent Business Loss** under Insuring Agreement FP-C. and shall be part of and not in addition to the **Business Interruption Loss** sublimit stated in Item 3.FP-3.

8. Clause VII. Limit of Liability is amended by the addition of:

FP-A. Multiple related or continuing **Extortion Threats** shall be considered a single **Extortion Threat** for purposes of this Policy and shall be deemed to have occurred at the time of the first such **Extortion Threat**.

A **Data Protection Loss** will be deemed to occur at the time such alteration, corruption, destruction, deletion or damage to or inability to access a **Data Asset** is first discovered by the **Insured**. All **Data Protection Loss** that arises out of the same or a continuing **Security Breach**, from related or repeated **Security Breaches**, or from multiple **Security Breaches** resulting from a failure of **Computer Security** shall be deemed to be a single **Data Protection Loss**.

All **Business Interruption Loss** resulting from multiple covered interruptions of **Computer Systems** that arise out of the same or a continuing **Security Breach**, from related or repeated **Security Breaches**, or from multiple **Security Breaches** resulting from a failure of **Computer Security** shall be deemed to be a single **Business Interruption Loss**; provided, however, that a separate **Waiting Period** shall apply to each **Period of Restoration**.

9. Clause VIII. Retention is amended by the addition of:

FP-A. With respect to Insuring Agreement FP-A., the **Retention** set forth in Item 4.FP-1. of the Declarations applies separately to each **Extortion Threat**. The **Retention** shall be satisfied by monetary payments by the **Named Insured** of covered **Cyber Extortion Loss**.

FP-B. With respect to Insuring Agreement FP-B., the **Retention** amount set forth in Item 4.FP-2. of the Declarations applies separately to each **Security Breach**. The **Retention** shall be satisfied by monetary payments by the **Named Insured** of covered **Data Protection Loss**.

FP-C. With respect to Insuring Agreement FP-C., the **Retention** set forth in Item 4.FP-3. of the Declarations applies separately to each **Security Breach**. The **Retention** shall be satisfied by covered **Business Interruption Loss** retained by the **Insured Organization**.

The **Retention** applicable to Insuring Agreement FP-C. shall be reduced on a dollar-for-dollar basis by the amount of **Income Loss** that was sustained by the **Insured Organization** during the **Waiting Period**.

FP-D. In the event that **Cyber Extortion Loss**, **Data Protection Loss** or **Business Interruption Loss** arising out of a single incident are subject to more than one **Retention**, the applicable **Retention** amounts shall apply to such **Cyber Extortion Loss**, **Data Protection Loss** or **Business Interruption Loss**, provided that the sum of such **Retention** amounts shall not exceed the largest applicable **Retention** amount.

10. Clause X. Notice of Claim, Loss or Circumstance That Might Lead to a Claim is amended by the addition of:

FP-A. In the event of an **Extortion Threat** to which this Policy applies, the **Named Insured** shall notify Underwriters by contacting the persons specified in Item 8.A. of the Declarations by telephone at (646) 943-5900 immediately upon receipt of any **Extortion Threat**, and shall thereafter also provide written notice by telecopy, email or express mail

within five (5) days following the **Extortion Threat**.

FP-B. The **Named Insured** must forward written notice by express mail, email or telecopy to Underwriters through persons named in Item 8.A. of the Declarations immediately upon discovery of alteration, corruption, destruction, deletion or damage to or inability to access a **Data Asset** to which this Insurance applies; provided that all covered **Data Protection Loss** must be discovered and reported (in accordance with Clause FPC-A., Proof of Loss and Appraisal) to Underwriters no later than six (6) months after the end of the **Policy Period**.

FP-C. The **Named Insured** shall forward immediately to Underwriters through persons named in Item 8.A. of the Declarations, written notice of the interruption or suspension of **Computer Systems** to which this Insurance applies in the form of a telecopy, email or express mail. Such notice must be provided during the **Policy Period**, or no later than ten (10) days after the end of the **Policy Period** for interruptions or suspensions occurring within ten (10) days of the end of the **Policy Period**; provided, all covered **Business Interruption Loss** must be reported to Underwriters (in accordance with Clause FPC-A., Proof and Appraisal of Loss) no later than six (6) months after the end of the **Policy Period**.

11. Clause XXV. Valuation and Currency is amended by the addition of:

If any **Extortion Payment** is made by or on behalf of the **Insured Organization** in **Digital Currency**, payment by the Underwriters under this Policy shall be made in United States Dollars equal to the US Dollar-value of the Digital Currency at the time the **Extortion Payment** is made.

For purposes of this paragraph, an **Extortion Payment** using **Digital Currency** shall be considered "made" at the time that such **Digital Currency** is first recorded in a public ledger of transactions for such **Digital Currency** (for example, the time at which **Digital Currency** is included in a block on the blockchain).

12. The following Clauses are added to the Policy:

**FPC-A. PROOF AND APPRAISAL OF LOSS**

1. Before coverage under Insuring Agreements FP-B. and FP-C. will apply, the **Named Insured** must:

- a. prepare and submit to the persons named in Item 8.A. of the Declarations a written and detailed proof of loss sworn by an officer of the **Named Insured** within ninety (90) days after the **Insured** discovers a **Data Protection Loss** or the **Insured Organization** sustains a **Business Interruption Loss** (as applicable), but in no event later than six (6) months following the end of the **Policy Period**. Such proof of loss shall include a narrative with full particulars of such **Business Interruption Loss** or **Data Protection Loss**, including the time, place and cause of the **Business Interruption Loss** or **Data Protection Loss**, a detailed calculation of the **Business Interruption Loss** or **Data Protection Loss**, the Insured Organization's interest and the interest of all others in the property, the sound value thereof, the amount of **Business Interruption Loss** or **Data Protection Loss** or damage thereto, and all other insurance thereon; and
- b. upon Underwriters' request, submit to an examination under oath and provide copies of the underlying documents, data and materials that reasonably relate to or are part of the basis of the claim for such **Data Protection Loss** or **Business Interruption Loss**.

The costs and expenses of preparing and submitting a proof of loss, and establishing or proving **Data Protection Loss**, **Business Interruption Loss** or

any other **Loss** under this Policy shall be the **Insured's** obligation, and are not covered under this Policy.

2. If the **Named Insured** and Underwriters do not agree on the amount of a **Loss**, each party shall select and pay an appraiser or other qualified expert ( "Appraiser") to state the amount of the loss or reasonable expenses, and the Appraisers shall choose an umpire. If the Appraisers cannot agree on an umpire, the **Named Insured** or the Underwriters may request a judge of a court having jurisdiction to make the selection. Each Appraiser shall submit the amount of the **Loss** or reasonable expenses to the umpire, and agreement by the umpire and at least one of the Appraisers as to the amount of a **Loss** shall be binding on all **Insureds** and Underwriters. The **Named Insured** and Underwriters will equally share the costs of the umpire and any other costs other than the cost of the Appraisers. This provision shall govern only the appraisal of the amount of a **Loss**, and shall not control the determination of whether such **Loss** is otherwise covered by the Policy; and compliance with this provision shall have no effect on Underwriters' rights or ability to deny coverage or enforce any obligation under this Policy.

#### FPC-B. **RECOVERED PROPERTY**

If the **Insured** or the Underwriters recover any property, money or **Data Assets** after a loss payment is made, the party making the recovery must give prompt notice of the recovery to the other party. If the recovered property is money or other funds, the recovery shall be applied first to **Loss** payments made by Underwriters, second to any **Retention** payment made by the **Named Insured**, and third to any costs incurred by Underwriters in recovering the property. If property other than money or funds is recovered, the **Named Insured** may (i) keep the recovered property and return the **Loss** payment plus all costs of recovery incurred by Underwriters, or (ii) keep the **Loss** payment less the costs of recovery incurred by Underwriters and transfer all rights in the property to Underwriters.

All other terms and conditions of this Policy remain unchanged.

  
Authorized Representative



## BEAZLEY

### INFORMATION SECURITY & PRIVACY INSURANCE WITH ELECTRONIC MEDIA LIABILITY COVERAGE

NOTICE: INSURING AGREEMENTS A., C., D. AND E. OF THIS POLICY PROVIDE COVERAGE ON A CLAIMS MADE AND REPORTED BASIS AND APPLY ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR THE OPTIONAL EXTENSION PERIOD (IF APPLICABLE) AND REPORTED TO THE UNDERWRITERS DURING THE POLICY PERIOD OR AS OTHERWISE PROVIDED IN CLAUSE X. OF THIS POLICY. AMOUNTS INCURRED AS CLAIMS EXPENSES UNDER THIS POLICY SHALL REDUCE AND MAY EXHAUST THE LIMIT OF LIABILITY AND ARE SUBJECT TO RETENTIONS.

INSURING AGREEMENT B. OF THIS POLICY PROVIDES FIRST PARTY COVERAGE ON AN INCIDENT DISCOVERED AND REPORTED BASIS AND APPLIES ONLY TO INCIDENTS FIRST DISCOVERED BY THE INSURED AND REPORTED TO THE UNDERWRITERS DURING THE POLICY PERIOD.

Please review the coverage afforded under this Insurance Policy carefully and discuss the coverage hereunder with your insurance agent or broker.

The Underwriters agree with the **Named Insured**, set forth in Item 1. of the Declarations made a part hereof, in consideration of the payment of the premium and reliance upon the statements in the **Application** to this Insurance Policy (hereinafter referred to as the "Policy" or "Insurance") and subject to all the provisions, terms and conditions of this Policy:

#### I. INSURING AGREEMENTS

##### A. Information Security & Privacy Liability

To pay on behalf of the **Insured**:

**Damages** and **Claims Expenses**, in excess of the **Retention**, which the **Insured** shall become legally obligated to pay because of any **Claim**, including a **Claim** for violation of a **Privacy Law**, first made against any **Insured** during the **Policy Period** or Optional Extension Period (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause X. of this Policy, for:

1. theft, loss, or **Unauthorized Disclosure** of **Personally Identifiable Information** or **Third Party Information** that is in the care, custody or control of the **Insured Organization**, or a third party for whose theft, loss or **Unauthorized Disclosure** of **Personally Identifiable Information** or **Third Party Information** the **Insured Organization** is legally liable (a third party shall include a Business Associate as defined by the Health Insurance Portability and Accountability Act ("HIPAA")), provided such theft, loss or **Unauthorized Disclosure** first takes place on or after the Retroactive Date and before the end of the **Policy Period**;
2. one or more of the following acts or incidents that directly result from a failure of **Computer Security** to prevent a **Security Breach**, provided that such act or incident first takes place on or after the Retroactive Date and before the end of the **Policy Period**:
  - (a) the alteration, corruption, destruction, deletion, or damage to data stored on **Computer Systems**;
  - (b) the failure to prevent transmission of malicious code from **Computer**

**Systems** to computer or network systems that are not owned, operated or controlled by an **Insured**; or

- (c) the participation by the **Insured Organization's Computer System** in a denial of service attack directed against computer or network systems that are not owned, operated or controlled by an **Insured**;
- 3. the **Insured Organization's** failure to timely disclose an incident described in A.1. or A.2. above in violation of any **Breach Notice Law**; provided such incident giving rise to the **Insured Organization's** obligation under a **Breach Notice Law** must first take place on or after the Retroactive Date and before the end of the **Policy Period**;
- 4. failure by the **Insured** to comply with that part of a **Privacy Policy** that specifically:
  - (a) prohibits or restricts the **Insured Organization's** disclosure, sharing or selling of a person's **Personally Identifiable Information**;
  - (b) requires the **Insured Organization** to provide access to **Personally Identifiable Information** or to correct incomplete or inaccurate **Personally Identifiable Information** after a request is made by a person; or
  - (c) mandates procedures and requirements to prevent the loss of **Personally Identifiable Information**;

provided the acts, errors or omissions that constitute such failure to comply with a **Privacy Policy** must first take place on or after the Retroactive Date and before the end of the **Policy Period**, and the **Insured Organization** must, at the time of such acts, errors or omissions, have in force a **Privacy Policy** that addresses those subsections above that are relevant to such **Claim**; or

- 5. failure by the **Insured** to administer (a) an identity theft prevention program required by regulations and guidelines promulgated pursuant to 15 U.S.C. §1681m(e), as amended, or (b) an information disposal program required by regulations and guidelines promulgated pursuant to 15 U.S.C. §1681W, as amended; provided the acts, errors or omissions that constitute such failure must first take place on or after the Retroactive Date and before the end of the **Policy Period**.

#### B. **Privacy Notification Costs**

To pay the **Named Insured** for:

**Privacy Notification Costs**, in excess of the **Retention** and incurred by the **Insured Organization** with the Underwriters' prior written consent, resulting from the **Insured Organization's** legal obligation to comply with a **Breach Notice Law** because of an incident (or reasonably suspected incident) described in Insuring Agreement A.1. or A.2. that first takes place on or after the Retroactive Date and before the end of the **Policy Period**, is discovered by the **Insured** during the **Policy Period**, and is reported to the Underwriters during the **Policy Period** or as otherwise provided in Clause X. of this Policy.

**Privacy Notification Costs** means the reasonable and necessary costs incurred by the **Insured Organization** for the following services within one (1) year of the reporting of the



incident or suspected incident to the Underwriters:

1. **Computer Expert Services;**
2. **Legal Services;**
3. To provide notification to:
  - (a) individuals who are required to be notified by the **Insured Organization** under the applicable **Breach Notice Law**; or
  - (b) in the Underwriters' discretion, individuals affected by an incident in which their **Personally Identifiable Information** has been subject to theft, loss or **Unauthorized Disclosure** in a manner which compromises the security or privacy of such individual by posing a significant risk of financial, reputational or other harm to the individual;
4. **Call Center Services;**
5. Up to one hundred thousand United States dollars (USD 100,000) for the costs of a public relations consultancy for the purpose of averting or mitigating material damage to the **Insured Organization's** reputation; and
6. costs of a **Credit Monitoring Product** or **Identity Monitoring Product**, to be approved by the Underwriters, provided all such costs payable under this subsection 6. must be incurred within one (1) year of discovery of such theft, loss or **Unauthorized Disclosure** of information and be for the purpose of mitigating potential **Damages** resulting from such theft, loss or **Unauthorized Disclosure** of information.

**Privacy Notification Costs** will only be paid in excess of the applicable **Retention** and shall not include any internal salary or overhead expenses of the **Insured Organization**.

C. **Regulatory Defense and Penalties**

To pay on behalf of the **Insured**:

**Claims Expenses** and **Penalties** in excess of the **Retention**, which the **Insured** shall become legally obligated to pay because of any **Claim** in the form of a **Regulatory Proceeding**, first made against any **Insured** during the **Policy Period** or Optional Extension Period (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause X. of this Policy, for a violation of a **Privacy Law** and caused by an incident described in Insuring Agreements A.1., A.2. or A.3. that first takes place on or after the Retroactive Date and before the end of the **Policy Period**.

D. **Website Media Content Liability**

To pay on behalf of the **Insured**:

**Damages** and **Claims Expenses**, in excess of the **Retention**, which the **Insured** shall become legally obligated to pay resulting from any **Claim** first made against any **Insured** during the **Policy Period** or Optional Extension Period (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause X. of this Policy, for one or more of the following acts first committed on or after the

Retroactive Date and before the end of the **Policy Period** in the course of the **Insured Organization's** display of **Media Material** on its web site or on social media web pages created and maintained by or on behalf of the **Insured Organization**:

1. defamation, libel, slander, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
2. a violation of the rights of privacy of an individual, including false light and public disclosure of private facts;
3. invasion or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice or likeness;
4. plagiarism, piracy, misappropriation of ideas under implied contract;
5. infringement of copyright;
6. infringement of domain name, trademark, trade name, trade dress, logo, title, metatag, or slogan, service mark, or service name; or
7. improper deep-linking or framing within electronic content.

**E. PCI Fines, Expenses and Costs**

To indemnify the **Insured** for **PCI Fines, Expenses and Costs**, in excess of the **Retention**, which the **Insured** shall become legally obligated to pay because of a **Claim** first made against any **Insured** during the **Policy Period** or Optional Extension Period (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause X. of this Policy. Coverage under this Insuring Agreement is sublimited to the amount set forth Item 4.D. of the Declarations, and the Underwriters shall have no duty to defend any **Claim** or pay **Claims Expenses** with respect to any **Claim** under this Insuring Agreement.

**II. DEFENSE AND SETTLEMENT OF CLAIMS**

- A. The Underwriters shall have the right and duty to defend, subject to all the provisions, terms and conditions of this Policy:
1. any **Claim** against the **Insured** seeking **Damages** which are payable under the terms of this Policy, even if any of the allegations of the **Claim** are groundless, false or fraudulent; or
  2. under Insuring Agreement C., any **Claim** in the form of a **Regulatory Proceeding**.

Defense counsel shall be mutually agreed upon between the **Named Insured** and the Underwriters, but in the absence of such agreement, the Underwriters' decision shall be final.

- B. With respect to any **Claim** against the **Insured** seeking **Damages** or **Penalties** which are payable under the terms of this Policy, the Underwriters will pay **Claims Expenses** incurred with their prior written consent. The Limit of Liability available to pay **Damages, Penalties, or Privacy Notification Costs** shall be reduced and may be completely exhausted by payment of **Claims Expenses. Damages, Penalties, and Claims Expenses** shall be applied against the **Retention** payable by the **Insured**.
- C. If the **Insured** shall refuse to consent to any settlement or compromise recommended by the Underwriters and acceptable to the claimant and elects to contest the **Claim**, the

Underwriters' liability for any **Damages, Penalties and Claims Expenses** shall not exceed:

1. the amount for which the **Claim** could have been settled, less the remaining **Retention**, plus the **Claims Expenses** incurred up to the time of such refusal; plus
2. fifty percent (50%) of any **Claims Expenses** incurred after the date such settlement or compromise was recommended to the **Insured** plus fifty percent (50%) of any **Damages** above the amount for which the **Claim** could have been settled. The remaining fifty percent (50%) of such **Claims Expenses** and **Damages** must be borne by the **Insured** at their own risk and uninsured;

or the applicable Limit of Liability, whichever is less, and the Underwriters shall have the right to withdraw from the further defense thereof by tendering control of said defense to the **Insured**. The portion of any proposed settlement or compromise that requires the **Insured** to cease, limit or refrain from actual or alleged infringing or otherwise injurious activity or is attributable to future royalties or other amounts that are not **Damages** (or **Penalties** for **Claims** covered under Insuring Agreement C.) shall not be considered in determining the amount for which a **Claim** could have been settled.

- D. The Underwriters agree that the **Insured** may settle any **Claim** where the **Damages** and **Claims Expenses** do not exceed fifty percent (50%) of the **Retention**, provided that the entire **Claim** is resolved and the **Insured** obtains a full release on behalf of all the **Insureds** from all claimants.

### III. THE INSURED AND THE INSURED ORGANIZATION

As used throughout this Policy, whether expressed in singular or plural, "**Insured**" shall mean:

- A. The Named Insured listed in Item 1. of the Declarations (the "**Named Insured**") and any **Subsidiaries** of the **Named Insured** (together the "**Insured Organization**");
- B. A director, manager of a limited liability company ("**Manager**") or officer of the **Insured Organization**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**;
- C. An employee (including a part time or temporary employee) of the **Insured Organization**, but only for work done while acting within the scope of his or her employment and related to the conduct of the **Insured Organization's** business;
- D. A principal if the **Named Insured** is a sole proprietorship, or a partner if the **Named Insured** is a partnership, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**;
- E. Any person who previously qualified as an **Insured** under III.B., III.C. or III.D. above prior to the termination of the required relationship with the **Insured Organization**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**;
- F. The estate, heirs, executors, administrators, assigns and legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Insurance; and
- G. The lawful spouse, including any natural person qualifying as a domestic partner under the provisions of any applicable federal, state, or local law in the United States, of any

**Insured**, but solely by reason of any act, error or omission of an **Insured** other than such spouse or domestic partner.

#### IV. **TERRITORY**

This Insurance applies to **Claims** made, and acts, errors or omissions committed, or **Loss** occurring anywhere in the world.

#### V. **EXCLUSIONS**

The coverage under this Insurance does not apply to any **Claim** or **Loss**:

- A. For, arising out of or resulting from:
  - 1. physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting from such physical injury, sickness, disease or death; or
  - 2. physical injury to or destruction of any tangible property, including the loss of use thereof; provided that electronic data shall not be considered tangible property for purposes of this exclusion;
- B. For, arising out of or resulting from any employer-employee relations, policies, practices, acts or omissions, or any actual or alleged refusal to employ any person, or misconduct with respect to employees, whether such **Claim** is brought by an employee, former employee, applicant for employment, or relative or domestic partner of such person; provided, that this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreements A.1., A.2., or A.3. by a current or former employee of the **Insured Organization**; or to the payment of **Privacy Notification Costs** involving current or former employees of the **Insured Organization**;
- C. For, arising out of or resulting from any actual or alleged act, error or omission or breach of duty by any director, officer or **Manager** in the discharge of their duty if the **Claim** is brought by or on behalf of the **Named Insured**, a **Subsidiary**, or any principals, directors, officers, **Managers**, stockholders, members or employees of the **Named Insured** or a **Subsidiary** in his or her capacity as such;

- D. For, arising out of or resulting from any contractual liability or obligation, or arising out of or resulting from breach of contract or agreement either oral or written, provided, that this exclusion will not apply:
1. only with respect to the coverage provided pursuant to Insuring Agreement A.1., to any obligation of the **Insured Organization** to maintain the confidentiality or security of **Personally Identifiable Information** or of **Third Party Information** ;
  2. only with respect to Insuring Agreement D.4., for misappropriation of ideas under implied contract; or
  3. to the extent the **Insured** would have been liable in the absence of such contract or agreement;
- E. For, arising out of or resulting from any liability or obligation under a **Merchant Services Agreement** except this exclusion does not apply to **PCI Fines, Expenses and Costs** covered under Insuring Agreement E., or to **Computer Expert Services** or **Legal Services** covered under Insuring Agreement B.;
- F. For, arising out of or resulting from any actual or alleged antitrust violation, restraint of trade, unfair competition, or false or deceptive or misleading advertising or violation of the Sherman Antitrust Act, the Clayton Act, or the Robinson-Patman Act, as amended;
- G. For, arising out of or resulting from any actual or alleged false, deceptive or unfair trade practices; however this exclusion does not apply to:
1. **Claims** covered under Insuring Agreements A.1., A.2., A.3. or C.; or
  2. **Privacy Notification Costs** covered under Insuring Agreement B.
- that result from a theft, loss or **Unauthorized Disclosure of Personally Identifiable Information**, provided that no member of the **Control Group** participated or is alleged to have participated or colluded in such theft, loss or **Unauthorized Disclosure**;
- H. For, arising out of or resulting from:
1. the actual or alleged unlawful collection, acquisition or retention of **Personally Identifiable Information** (except as otherwise covered under Insuring Agreement A.5.) or other personal information by, on behalf of, or with the consent or cooperation of the **Insured Organization**; or the failure to comply with a legal requirement to provide individuals with the ability to assent to or withhold assent (e.g. opt-in or opt-out) from the collection, disclosure or use of **Personally Identifiable Information**; provided, that this exclusion shall not apply to the actual or alleged unlawful collection or acquisition or retention of **Personally Identifiable Information** by a person or entity that is not a **Related Party** and without the knowledge of the **Insured Organization**; or
  2. the distribution of unsolicited email, direct mail, text messages or facsimiles, wire tapping, eavesdropping, audio or video recording, or telemarketing, if such distribution, wire tapping or recording is done by or on behalf of the **Insured Organization**;
- I. For, arising out of or resulting from any act, error, omission, incident, failure of **Computer Security**, or **Security Breach** committed or occurring prior to the inception date of this Policy:
1. if any member of the **Control Group** on or before the **Continuity Date** knew or could have reasonably foreseen that such act, error, omission, incident, failure of **Computer Security**, or **Security Breach** might be expected to be the basis of a

**Claim or Loss;** or

2. in respect of which any **Insured** has given notice of a circumstance, which might lead to a **Claim or Loss**, to the insurer of any other policy in force prior to the inception date of this Policy;
- J. For, arising out of or resulting from any related or continuing acts, errors, omissions, incidents or events where the first such act, error, omission, incident or event was committed or occurred prior to the Retroactive Date;
- K. For, arising out of or resulting from any of the following:
1. any actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced and Corrupt Organizations Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal law or legislation, or law or legislation of any state, province or other jurisdiction similar to the foregoing, whether such law is statutory, regulatory or common law;
  2. any actual or alleged violation of any securities law, regulation or legislation, including but not limited to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Act of 1940, any state or provincial blue sky or securities law, any other federal securities law or legislation, or any other similar law or legislation of any state, province or other jurisdiction, or any amendment to the above laws, or any violation of any order, ruling or regulation issued pursuant to the above laws;
  3. any actual or alleged violation of the Fair Labor Standards Act of 1938, the National Labor Relations Act, the Worker Adjustment and Retraining Act of 1988, the Certified Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act of 1970, any similar law or legislation of any state, province or other jurisdiction, or any amendment to the above law or legislation, or any violation of any order, ruling or regulation issued pursuant to the above laws or legislation; or
  4. any actual or alleged discrimination of any kind including but not limited to age, color, race, sex, creed, national origin, marital status, sexual preference, disability or pregnancy;

However, this exclusion does not apply to any otherwise covered **Claim** under Insuring Agreements A.1, A.2, or A.3, or to paying **Privacy Notification Costs** covered under Insuring Agreement B., that results from a theft, loss or **Unauthorized Disclosure of Personally Identifiable Information**, provided that no member of the **Control Group** participated, or is alleged to have participated or colluded, in such theft, loss or **Unauthorized Disclosure**;

- L. For, arising out of or resulting from any actual or alleged acts, errors, or omissions related to any of the **Insured Organization's** pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts, including any violation of any provision of the Employee Retirement Income Security Act of 1974 (ERISA) or any similar federal law or legislation, or similar law or legislation of any state, province or other jurisdiction, or any amendment to ERISA or any violation of any regulation, ruling or order issued pursuant to ERISA or such similar laws or legislation; however this exclusion does not apply to any otherwise covered **Claim** under Insuring Agreements A.1, A.2, or A.3, or to paying **Privacy Notification Costs** covered under Insuring Agreement B., that results from a theft, loss or **Unauthorized Disclosure of Personally Identifiable Information**, provided that no member of the **Control Group** participated, or is alleged to have participated or colluded, in such theft, loss or **Unauthorized Disclosure**;

- M. Arising out of or resulting from any criminal, dishonest, fraudulent, or malicious act, error or omission, any intentional **Security Breach**, intentional violation of a **Privacy Policy**, or intentional or knowing violation of the law, if committed by such **Insured**, or by others if the **Insured** colluded or participated in any such conduct or activity; provided, this Policy shall apply to **Claims Expenses** incurred in defending any such **Claim** alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction against the **Insured**, or written admission by the **Insured**, establishing such conduct, or a plea of *nolo contendere* or no contest regarding such conduct, at which time the **Named Insured** shall reimburse the Underwriters for all **Claims Expenses** incurred defending the **Claim** and the Underwriters shall have no further liability for **Claims Expenses**;
- provided further, that this exclusion shall not apply with respect to a **Claim** or **Loss** against a specific **Insured** if (i) such **Insured** did not personally commit, participate in or know about any act, error, omission, incident or event giving rise to such **Claim** or **Loss**, and (ii) no act, error, omission, incident or event giving rise to such **Claim** or **Loss** was known to any present or former member of the **Control Group** at the time of or prior to its commission or occurrence;
- N. For, arising out of or resulting from any actual or alleged:
1. infringement of patent or patent rights or misuse or abuse of patent;
  2. infringement of copyright arising from or related to software code or software products other than infringement resulting from a theft or **Unauthorized Access or Use** of software code by a person who is not a **Related Party**;
  3. use or misappropriation of any ideas, trade secrets or **Third Party Information** (i) by, or on behalf of, the **Insured Organization**, or (ii) by any other person or entity if such use or misappropriation is done with the knowledge, consent or acquiescence of a member of the **Control Group**;
  4. disclosure, misuse or misappropriation of any ideas, trade secrets or confidential information that came into the possession of any person or entity prior to the date the person or entity became an employee, officer, director, **Manager**, principal, partner or **Subsidiary** of the **Insured Organization**; or
  5. under Insuring Agreement A.2., theft of or **Unauthorized Disclosure** of data;
- O. For, in connection with or resulting from a **Claim** brought by or on behalf of the Federal Trade Commission, the Federal Communications Commission, or any other state, federal, local or foreign governmental entity, in such entity's regulatory or official capacity; provided, this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreement C., or to paying **Privacy Notification Costs** covered under Insuring Agreement B. to the extent such **Privacy Notification Costs** are incurred to provide services that are legally required to comply with a **Breach Notice Law**;
- P. For, arising out of or resulting from a **Claim** by or on behalf of one or more **Insureds** under this Insurance against any other **Insured** or **Insureds** under this Insurance; provided, this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreements A.1., A.2., or A.3. made by a current or former employee of the **Insured Organization**;
- Q. For, arising out of or resulting from:
1. any **Claim** made by any business enterprise in which any **Insured** has greater than a fifteen percent (15%) ownership interest or made by any parent company or other entity which owns more than fifteen percent (15%) of the **Named Insured**; or

2. any **Insured's** activities as a trustee, partner, member, **Manager**, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the **Insured Organization**;
- R. For, arising out of or resulting from any of the following: (1) trading losses, trading liabilities or change in value of accounts; (2) any loss, transfer or theft of monies, securities or tangible property of others in the care, custody or control of the **Insured Organization**; (3) the monetary value of any transactions or electronic fund transfers by or on behalf of the **Insured** which is lost, diminished, or damaged during transfer from, into or between accounts; or (4) the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount;
- S. For, arising out of or resulting from:
1. the actual or alleged obligation to make licensing fee or royalty payments, including but limited to the amount or timeliness of such payments;
  2. any costs or expenses incurred or to be incurred by the **Insured** or others for the reprinting, reposting, recall, removal or disposal of any **Media Material** or any other information, content or media, including any media or products containing such **Media Material**, information, content or media;
  3. any **Claim** brought by or on behalf of any intellectual property licensing bodies or organizations, including but not limited to, the American Society of Composers, Authors and Publishers, the Society of European Stage Authors and Composers or Broadcast Music, Inc;
  4. the actual or alleged inaccurate, inadequate or incomplete description of the price of goods, products or services, cost guarantees, cost representations, or contract price estimates, the authenticity of any goods, products or services, or the failure of any goods or services to conform with any represented quality or performance;
  5. any actual or alleged gambling, contest, lottery, promotional game or other game of chance; or
  6. any **Claim** made by or on behalf of any independent contractor, joint venturer or venture partner arising out of or resulting from disputes over ownership of rights in **Media Material** or services provided by such independent contractor, joint venturer or venture partner;
- T. Arising out of or resulting from, directly or indirectly occasioned by, happening through or in consequence of: war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority;
- U. Either in whole or in part, directly or indirectly, arising out of or resulting from or in consequence of, or in any way involving:
1. asbestos, or any materials containing asbestos in whatever form or quantity;
  2. the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind; any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins; and any governmental or regulatory order, requirement, directive,



mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins;

The Underwriters will have no duty or obligation to defend any **Insured** with respect to any **Claim** or governmental or regulatory order, requirement, directive, mandate or decree which either in whole or in part, directly or indirectly, arises out of or results from or in consequence of, or in any way involves the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind;

3. the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property; or
4. the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants; or any governmental, judicial or regulatory directive or request that the **Insured** or anyone acting under the direction or control of the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including gas, acids, alkalis, chemicals, heat, smoke, vapor, soot, fumes or waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.

## VI. DEFINITIONS

- A. **Application** means all applications, including any attachments thereto, and all other information and materials submitted by or on behalf of the **Insured** to the Underwriters in connection with the underwriting of this Policy, or prior policies of which this Policy is a renewal thereof.
- B. **Breach Notice Law** means:
  1. any United States federal, state, or territory statute or regulation that requires notice to persons whose **Personally Identifiable Information** was accessed or reasonably may have been accessed by an unauthorized person;
  2. any Canadian national, provincial, or territory statute or regulation that requires notice to persons whose **Personally Identifiable Information** was accessed or reasonably may have been accessed by an unauthorized person; and
  3. a foreign statute or regulation that requires notice to persons whose **Personally Identifiable Information** was accessed or reasonably may have been accessed by an unauthorized person.
- C. **Call Center Services** means the provision of a call center to answer calls, from individuals to whom notice of an incident is provided pursuant to Insuring Agreement B.3., during standard business hours for a period of up to ninety (90) days following notification (or longer if required by applicable law or regulation) of such incident.
- D. **Claim** means:
  1. a written demand received by any **Insured** for money or services, including the service of a suit or institution of regulatory or arbitration proceedings;
  2. with respect to coverage provided under Insuring Agreement C. only, institution

of a **Regulatory Proceeding** against any **Insured**;

3. a written request or agreement to toll or waive a statute of limitations relating to a potential **Claim** described in paragraph 1. above; and
4. with respect to coverage provided under Insuring Agreement A.1. only, a demand received by any **Insured** to fulfill the **Insured Organization's** contractual obligation to provide notice of an incident (or reasonably suspected incident) described in Insuring Agreement A.1. pursuant to a **Breach Notice Law**;

Multiple **Claims** arising from the same or a series of related or repeated acts, errors, or omissions, or from any continuing acts, errors, omissions, or from multiple **Security Breaches** arising from a failure of **Computer Security**, shall be considered a single **Claim** for the purposes of this Policy, irrespective of the number of claimants or **Insureds** involved in the **Claim**. All such **Claims** shall be deemed to have been made at the time of the first such **Claim**.

E. **Claims Expenses** means:

1. reasonable and necessary fees charged by an attorney designated pursuant to Clause II., Defense and Settlement of Claims, paragraph A.;
2. all other legal costs and expenses resulting from the investigation, adjustment, defense and appeal of a **Claim**, suit, or proceeding arising in connection therewith, or circumstance which might lead to a **Claim**, if incurred by the Underwriters, or by the **Insured** with the prior written consent of the Underwriters; and
3. the premium cost for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required in any **Claim** against an **Insured**; provided the Underwriters shall have no obligation to appeal or to obtain bonds.

**Claims Expenses** do not include any salary, overhead, or other charges by the **Insured** for any time spent in cooperating in the defense and investigation of any **Claim** or circumstance that might lead to a **Claim** notified under this Policy, or costs to comply with any regulatory orders, settlements or judgments.

F. **Computer Expert Services** means costs for:

1. a computer security expert to determine the existence and cause of an actual or suspected electronic data breach which may require the **Insured Organization** to comply with a **Breach Notice Law** and to determine the extent to which such information was accessed by an unauthorized person or persons; and
2. a PCI Forensic Investigator that is approved by the PCI Security Standards Council and is retained by the **Insured Organization** in order to comply with the terms of a **Merchant Services Agreement** to investigate the existence and extent of an actual or suspected compromise of credit card data; and in the Underwriters' discretion, where a computer security expert described in 1. above has not been retained, for a computer security expert to provide advice and oversight in connection with the investigation conducted by the PCI Forensic Investigator; and
3. a computer security expert, up to USD 50,000 (which amount is part of and not in addition to the sublimit of coverage stated in Item 3.B. of the Declarations), to demonstrate the **Insured's** ability to prevent a future electronic data breach as required by a **Merchant Services Agreement**.

G. **Computer Security** means software, computer or network hardware devices, as well as

the **Insured Organization's** written information security policies and procedures, the function or purpose of which is to prevent **Unauthorized Access or Use**, a denial of service attack against **Computer Systems**, infection of **Computer Systems** by malicious code or transmission of malicious code from **Computer Systems**. **Computer Security** includes anti-virus and intrusion detection software, firewalls and electronic systems that provide access control to **Computer Systems** through the use of passwords, biometric or similar identification of authorized users.

- H. **Computer Systems** means computers and associated input and output devices, data storage devices, networking equipment, and back up facilities:
1. operated by and either owned by or leased to the **Insured Organization**; or
  2. systems operated by a third party service provider and used for the purpose of providing hosted computer application services to the **Insured Organization** or for processing, maintaining, hosting or storing the **Insured Organization's** electronic data, pursuant to written contract with the **Insured Organization** for such services.
- I. **Continuity Date** means (i) the date stated in Item 6.B. of the Declarations with respect to the **Named Insured** and any **Subsidiaries** acquired before the date stated in Item 6.B. of the Declarations; or (ii) with respect to any **Subsidiaries** acquired after the date stated in Item 6.B. of the Declarations, the date the **Named Insured** acquired such **Subsidiary**.
- J. **Control Group** means the individuals holding the following positions in the **Insured Organization**: President; members of the Board of Directors; executive officers, including the Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer; General Counsel, staff attorneys employed by the **Insured Organization**; Chief Information Officer; Chief Security Officer; Chief Privacy Officer; **Manager**; and any individual in a substantially similar position as those referenced above, or with substantially similar responsibilities as those referenced above, irrespective of the exact title of such individual, and any individual who previously held any of the above referenced positions.
- K. **Covered Media Activities** means the display of **Media Material** on the **Insured Organization's** web site.
- L. **Credit Monitoring Product** means a product, to be approved by the Underwriters, that provides one (1) year of credit file monitoring, plus mailing and other reasonable third party administrative costs associated with offering such product to individuals whose **Personally Identifiable Information** was compromised or reasonably believed to be compromised as a result of a theft, loss or **Unauthorized Disclosure** in an incident that gives rise to notification of such individual pursuant to Insuring Agreement B.3.
- M. **Damages** means a monetary judgment, award or settlement; provided that the term **Damages** shall not include or mean:
1. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**, or the costs of complying with orders granting injunctive or equitable relief;
  2. return or offset of fees, charges, or commissions charged by or owed to an **Insured** for goods or services already provided or contracted to be provided;
  3. any damages which are a multiple of compensatory damages, fines, taxes or loss of tax benefits, sanctions or penalties;
  4. punitive or exemplary damages, unless insurable by law in any applicable venue that most favors coverage for such punitive or exemplary damages;
  5. discounts, coupons, prizes, awards or other incentives offered to the **Insured's**

- customers or clients;
6. liquidated damages to the extent that such damages exceed the amount for which the **Insured** would have been liable in the absence of such liquidated damages agreement;
  7. fines, costs or other amounts an **Insured** is responsible to pay under a **Merchant Services Agreement**; or
  8. any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**.
- N. **Identity Monitoring Product** means the offering of a product or service, to be approved by the Underwriters, that monitors the internet for the possible presence of an individual's **Personally Identifiable Information** that was compromised or reasonably believed to be compromised as a result of theft, loss or **Unauthorized Disclosure** in the incident giving rise to notification of such individual pursuant to Insuring Agreement B.3.
- O. **Legal Services** means fees charged by an attorney:
1. to determine the applicability of and actions necessary for the **Insured Organization** to comply with **Breach Notice Laws** due to an actual or reasonably suspected theft, loss or **Unauthorized Disclosure** of **Personally Identifiable Information**;
  2. to provide necessary legal advice to the **Insured Organization** in responding to actual or suspected theft, loss or **Unauthorized Disclosure** of **Personally Identifiable Information**; and
  3. to advise the **Insured Organization** in responding to credit card system operating regulation requirements for any actual or suspected compromise of credit card data that is required to be reported to the **Insured Organization's** merchant bank under the terms of a **Merchant Services Agreement**, but **Legal Services** does not include fees incurred in any actual or threatened legal proceeding, arbitration or mediation, or any advice in responding to credit card system operating regulations in connection with an assessment of **PCI Fines, Expenses and Costs**.
- P. **Loss** means **Damages, Claims Expenses, Privacy Notification Costs, Penalties and PCI Fines, Expenses and Costs**.
- Q. **Management Control** means:
1. owning, directly or indirectly, more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of an entity's directors (in the case of a corporation), members of the board of managers (in the case of a limited liability company), management committee members (in the case of a joint venture or partnership) or persons serving in a functionally equivalent role for such an entity operating or organized outside of the United States; or
  2. having the right, pursuant to a written contract or the bylaws, charter, operating agreement or similar documents of an entity to elect, appoint or designate a majority of: the board of directors of a corporation; the management committee of a joint venture or partnership; the management board of a limited liability company; or persons serving in a functionally equivalent role for such an entity operating or organized outside of the United States.
- R. **Media Material** means any information in electronic form, including words, sounds, numbers, images, or graphics and shall include advertising, video, streaming content, web-casting, online forum, bulletin board and chat room content, but does not mean computer software or the actual goods, products or services described, illustrated or

displayed in such **Media Material**.

S. **Merchant Services Agreement** means any agreement between an **Insured** and a financial institution, credit/debit card company, credit/debit card processor or independent service operator enabling an **Insured** to accept credit card, debit card, prepaid card, or other payment cards for payments or donations.

T. **PCI Fines, Expenses and Costs** means the direct monetary fines, penalties, reimbursements, fraud recoveries or assessments owed by the **Insured Organization** under the terms of a **Merchant Services Agreement**, but only where such fines, penalties, reimbursements, fraud recoveries or assessments result both from the **Insured Organization's** actual or alleged noncompliance with published PCI Data Security Standards and from a data breach caused by an incident (or reasonably suspected incident) described in Insuring Agreement A.1. or A.2.; provided, that the term **PCI Fines, Expenses and Costs** shall not include or mean any charge backs, interchange fees, discount fees or prospective service fees.

U. **Penalties** means:

1. any civil fine or money penalty payable to a governmental entity that was imposed in a **Regulatory Proceeding** by the Federal Trade Commission, Federal Communications Commission, or any other federal, state, local or foreign governmental entity, in such entity's regulatory or official capacity; the insurability of **Penalties** shall be in accordance with the law in the applicable venue that most favors coverage for such **Penalties**; and
2. amounts which the **Insured** is legally obligated to deposit in a fund as equitable relief for the payment of consumer claims due to an adverse judgment or settlement of a **Regulatory Proceeding** (including such amounts required to be paid into a "Consumer Redress Fund"); but and shall not include payments to charitable organizations or disposition of such funds other than for payment of consumer claims for losses caused by an event covered pursuant to Insuring Agreements A.1., A.2. or A.3.;

but shall not mean (a) costs to remediate or improve **Computer Systems**, (b) costs to establish, implement, maintain, improve or remediate security or privacy practices, procedures, programs or policies, (c) audit, assessment, compliance or reporting costs, or (d) costs to protect the confidentiality, integrity and/or security of **Personally Identifiable Information** from theft, loss or disclosure, even if it is in response to a regulatory proceeding or investigation.

V. **Personally Identifiable Information** means:

1. information concerning the individual that constitutes "nonpublic personal information" as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to the Act;
2. medical or health care information concerning the individual, including "protected health information" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations issued pursuant to the Act;
3. information concerning the individual that is defined as private personal information under statutes enacted to protect such information in foreign countries, for **Claims** subject to the law of such jurisdiction;
4. information concerning the individual that is defined as private personal information under a **Breach Notice Law**; or
5. education records as defined by the Family Educational Rights and Privacy Act

(FERPA), which are directly related to an individual's attendance as a student;

6. the individual's drivers license or state identification number; social security number; unpublished telephone number; and credit, debit or other financial account numbers in combination with associated security codes, access codes, passwords or pins if such information allows an individual to be uniquely and reliably identified or contacted or allows access to the individual's financial account or medical record information.

**Personally Identifiable Information** does not include publicly available information that is lawfully made available to the general public from government records.

- W. **Policy Period** means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of this Insurance and specifically excludes any Optional Extension Period or any prior policy period or renewal period.
- X. **Privacy Law** means a federal, state or foreign statute or regulation requiring the **Insured Organization** to protect the confidentiality and/or security of **Personally Identifiable Information**.
- Y. **Privacy Policy** means the **Insured Organization's** public declaration of its policy for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to, **Personally Identifiable Information**.
- Z. **Property Damage** means physical injury to or destruction of any tangible property, including the loss of use thereof.
- AA. **Regulatory Proceeding** means a request for information, civil investigative demand, or civil proceeding commenced by service of a complaint or similar proceeding brought by or on behalf of the Federal Trade Commission, Federal Communications Commission, or any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity in connection with such proceeding.
- BB. **Retention** means the applicable retention for each **Claim** or incident as specified in Item 4. of the Declarations.
- CC. **Related Party** means the **Insured Organization** and any past, present or future employees, directors, officers, **Managers**, partners or natural person independent contractors of the **Insured Organization**.
- DD. **Security Breach** means:
1. **Unauthorized Access or Use of Computer Systems**, including **Unauthorized Access or Use** resulting from the theft of a password from a **Computer System** or from any **Insured**;
  2. a denial of service attack against **Computer Systems** or computer systems that are owned, operated or controlled by an **Insured**; or
  3. infection of **Computer Systems** by malicious code or transmission of malicious code from **Computer Systems**,

whether any of the foregoing is a specifically targeted attack or a generally distributed attack.

A series of continuing **Security Breaches**, related or repeated **Security Breaches**, or multiple **Security Breaches** resulting from a continuing failure of **Computer Security** shall be considered a single **Security Breach** and be deemed to have occurred at the time of the first such **Security Breach**.

EE. **Subsidiary** means any corporation, limited liability company, joint venture or partnership while the **Named Insured** has **Management Control** over such entity, if the **Named Insured**:

1. had **Management Control** over such entity on the inception date of this Policy or such entity was an insured under a policy issued by the Underwriters of which this Policy is a renewal;
2. acquires **Management Control** after the inception date of this Policy, provided the revenues of the entity do not exceed ten percent (10%) of the **Named Insured's** annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**; or
3. acquires **Management Control** after the inception date of this Policy, provided that if the revenues of the entity exceed ten percent (10%) of the **Named Insured's** annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**, the provisions of Clause XVI., Mergers and Acquisitions, must be fulfilled;

provided, that this Policy only provides coverage for acts, errors, omissions, incidents or events that take place while the **Named Insured** has **Management Control** over such entity.

FF. **Third Party Information** means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not insured under this Policy which is not available to the general public and is provided to the **Insured** subject to a mutually executed written confidentiality agreement or which the **Insured Organization** is legally required to maintain in confidence; however, **Third Party Information** shall not include **Personally Identifiable Information**.

GG. **Unauthorized Access or Use** means the gaining of access to or use of **Computer Systems** by an unauthorized person or persons or the use of **Computer Systems** in an unauthorized manner.

HH. **Unauthorized Disclosure** means the disclosure of (including disclosure resulting from phishing) or access to information in a manner that is not authorized by the **Insured Organization** and is without knowledge of, consent, or acquiescence of any member of the **Control Group**.

## VII. **LIMIT OF LIABILITY**

A. The **Policy Aggregate Limit of Liability** set forth in Item 3.A. of the Declarations (the "**Policy Aggregate Limit of Liability**") is the Underwriters' combined total limit of liability for all **Loss** payable under this Policy.

The sublimit stated in Item 3.B. of the Declarations is aggregate sublimit payable under this Policy for all **Privacy Notification Costs** covered under Insuring Agreement B. and is part of, and not in addition to, the **Policy Aggregate Limit of Liability**.

The sublimit of liability stated in Item 3.C. of the Declarations is the aggregate sublimit of liability payable under this Policy for all **Claims Expenses** and **Penalties** covered under Insuring Agreement C. and is part of, and not in addition to, the **Policy Aggregate Limit of Liability**.

The sublimit of liability stated in Item 3.D. of the Declarations is the aggregate sublimit of

liability payable under this Policy for all **PCI Fines, Expenses and Costs** covered under Insuring Agreement E. and is part of, and not in addition to, the **Policy Aggregate Limit of Liability**.

Neither the inclusion of more than one **Insured** under this Policy, nor the making of **Claims** by more than one person or entity shall increase the Limit of Liability.

- B. The Limit of Liability for the Optional Extension Period shall be part of and not in addition to the **Policy Aggregate Limit of Liability**.
- C. The Underwriters shall not be obligated to pay any **Loss**, or to undertake or continue defense of any suit or proceeding, after the **Policy Aggregate Limit of Liability** or any other applicable limit of liability set forth in the Declarations has been exhausted by payment of **Loss**, or after deposit of the **Policy Aggregate Limit of Liability** or any other applicable limit of liability in a court of competent jurisdiction. Upon such payment, the Underwriters shall have the right to withdraw from the further defense of any **Claim** under this Policy by tendering control of said defense to the **Insured**.

#### VIII. RETENTION

- A. The **Retention** amount set forth in Item 4.A. of the Declarations applies separately to each incident, event, or related incidents or events, giving rise to a **Claim**. The **Retention** shall be satisfied by monetary payments by the **Named Insured** of **Damages, Claims Expenses, Penalties** or **PCI Fines, Expenses and Costs**.
- B. The **Retention** amount set forth in Item 4.B. of the Declarations applies separately to each incident, event, or related incidents or events, giving rise to an obligation to pay **Privacy Notification Costs**. The **Retention** shall be satisfied by monetary payments by the **Named Insured** of **Privacy Notification Costs**.
- C. In the event that **Damages, Claims Expenses, Penalties** or **PCI Fines, Expenses and Costs** arising out of a **Claim** are subject to more than one **Retention**, the applicable **Retention** amounts shall apply to such **Damages, Claims Expenses, Penalties** or **PCI Fines, Expenses and Costs**, provided that the sum of such **Retention** amounts shall not exceed the largest applicable **Retention** amount.
- D. Satisfaction of the applicable **Retention** is a condition precedent to the payment by the Underwriters of any amounts hereunder, and the Underwriters shall be liable only for the amounts in excess of such **Retention** subject to the Underwriters' total liability not exceeding the **Policy Aggregate Limit of Liability** or any applicable sublimits. The **Named Insured** shall make direct payments within the **Retention** to appropriate other parties designated by the Underwriters.

#### IX. OPTIONAL EXTENSION PERIOD

- A. In the event of the termination of this Insurance for any reason except the non-payment of premium, the **Named Insured** designated in Item 1. of the Declarations shall have the right, upon payment in full and not proportionally or otherwise in part of the percentage shown in Item 7.A. of the Declarations of the full premium set forth in Item 5. of the Declarations, to have issued an endorsement providing an Optional Extension Period for the period of time set forth in Item 7.B. of the Declarations for **Claims** first made against any **Insured** and reported to the Underwriters during the Optional Extension Period, and arising out of any act, error or omission committed on or after the Retroactive Date and before the end of the **Policy Period**, subject to the conditions set forth herein. In order for the **Named Insured** to invoke the Optional Extension Period option, the payment of the additional premium for the Optional Extension Period must be paid to the Underwriters within thirty (30) days of the termination of this Insurance. If notice of



election of the Optional Extension Period and full premium payment is not given to the Underwriters within such thirty (30) day period, there shall be no right to purchase the Optional Extension Period.

- B. The Limit of Liability for the Optional Extension Period shall be part of, and not in addition to, the **Policy Aggregate Limit of Liability** and the exercise of the Optional Extension Period shall not in any way increase the **Policy Aggregate Limit of Liability** or any sublimit of liability. The Optional Extension Period does not apply to Insuring Agreement B.
- C. The right to the Optional Extension Period shall not be available to the **Named Insured** where the Policy premium has not been paid in full, or where cancellation or non-renewal by the Underwriters is due to non-payment of premium or failure of an **Insured** to pay such amounts in excess of the applicable limit of liability or within the amount of the applicable **Retention**.
- D. All notices and premium payments with respect to the Optional Extension Period option shall be directed to the Underwriters through the entity named in Item 8.B. of the Declarations.
- E. At the commencement of the Optional Extension Period the entire premium shall be deemed earned, and in the event the **Named Insured** terminates the Optional Extension Period for any reason prior to its natural expiration, the Underwriters will not be liable to return any premium paid for the Optional Extension Period.

X. **NOTICE OF CLAIM, LOSS OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM**

- A. If any **Claim** is made against the **Insured**, the **Insured** shall forward as soon as practicable to the Underwriters through persons named in Item 8.A. of the Declarations written notice of such **Claim** in the form of a telecopy, email, or express or certified mail together with every demand, notice, summons or other process received by the **Insured** or the **Insured's** representative. In no event shall the Underwriters be given notice of a **Claim** later than the end of the **Policy Period**, the end of the Optional Extension Period (if applicable), or thirty (30) days after the expiration date of the **Policy Period** in the case of **Claims** first made against the **Insured** during the last thirty (30) days of the **Policy Period**.
- B. With respect to Insuring Agreement B. for a legal obligation to comply with a **Breach Notice Law** because of an incident (or reasonably suspected incident) described in Insuring Agreement A.1. or A.2., such incident or reasonably suspected incident must be reported to the Underwriters through persons named in Item 8.A. of the Declarations as soon as practicable during the **Policy Period** after discovery by the **Insured**; provided, that unless the **Insured** cancels the Policy, or the Underwriters cancel for non-payment of premium, incidents discovered by the **Insured** within sixty (60) days prior to expiration of the Policy shall be reported as soon as practicable, but in no event later than sixty (60) days after the end the **Policy Period**; provided further, that if this Policy is renewed by the Underwriters and covered **Privacy Notification Costs** are incurred because of such incident or suspected incident that was discovered by the **Insured** within sixty (60) days prior to the expiration of the Policy, and first reported during the sixty (60) day post **Policy Period** reporting period, then any subsequent **Claim** arising out of such incident or suspected incident is deemed to have been made during the **Policy Period**.

Notwithstanding the foregoing, if the **Named Insured** reasonably believes that the **Privacy Notification Costs** provided as a result of such incident or suspected incident are not likely to meet or exceed the **Retention**, then such incident or suspected incident may be reported at the **Named Insured's** option, but unless such incident or suspected incident is reported in accordance with the first paragraph of this Clause X.B., there shall be no coverage for **Privacy Notification Costs** in connection with such incident or

suspected incident.

- C. If during the **Policy Period**, the **Insured** becomes aware of any circumstance that could reasonably be the basis for a **Claim** it may give written notice to the Underwriters in the form of a telecopy, email or express or certified mail through persons named in Item 8.A. of the Declarations as soon as practicable during the **Policy Period**. Such notice must include:
1. the specific details of the act, error, omission, or **Security Breach** that could reasonably be the basis for a **Claim**;
  2. the injury or damage which may result or has resulted from the circumstance; and
  3. the facts by which the **Insured** first became aware of the act, error, or omission or **Security Breach**.

Any subsequent **Claim** made against the **Insured** arising out of such circumstance which is the subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to the Underwriters.

An incident or reasonably suspected incident reported to Underwriters during the **Policy Period** and in conformance with Clause X.B shall also constitute notice of a circumstance under this Clause X.C.

- D. A **Claim** or legal obligation under paragraph A. or B. above shall be considered to be reported to the Underwriters when written notice is first received by the Underwriters in the form of a telecopy, email or express or certified mail or email through persons named in Item 8.A. of the Declarations of the **Claim** or legal obligation, or of an act, error, or omission, which could reasonably be expected to give rise to a **Claim** if provided in compliance with paragraph C. above.

## XI. **ASSISTANCE AND COOPERATION**

- A. The Underwriters shall have the right to make any investigation they deem necessary, and the **Insured** shall cooperate with the Underwriters in all investigations, including investigations regarding the **Application** for and coverage under this Policy. The **Insured** shall execute or cause to be executed all papers and render all assistance as is requested by the Underwriters. The **Insured** agrees not to take any action which in any way increases the Underwriters' exposure under this Policy.
- B. Upon the Underwriters' request, the **Insured** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of acts, errors or omissions, incidents or events with respect to which insurance is afforded under this Policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
- C. The **Insured** shall not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any **Claim** without the written consent of the Underwriters, except as specifically provided in Clause II., Defense and Settlement of Claims, paragraph D.

Compliance with a **Breach Notice Law** will not be considered an admission of liability for purposes of this Clause XI.C.

- D. Expenses incurred by the **Insured** in assisting and cooperating with the Underwriters do not constitute **Claims Expenses** under the Policy.

## XII. **SUBROGATION**

If any payment is made under this Policy and there is available to the Underwriters any of the **Insured's** rights of recovery against any other party, then the Underwriters shall maintain all such rights of recovery. The **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing after an incident or event giving rise to a **Claim** or **Loss** to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to **Loss** paid by the Underwriters, and lastly to the **Retention**. Any additional amounts recovered shall be paid to the **Named Insured**.

### XIII. **OTHER INSURANCE**

The insurance under this Policy shall apply in excess of any other valid and collectible insurance available to any **Insured**, including any self-insured retention or deductible portion thereof unless such other insurance is written only as specific excess insurance over the **Policy Aggregate Limit of Liability** or any other applicable Limit of Liability of this Policy.

### XIV. **ACTION AGAINST THE UNDERWRITERS**

No action shall lie against the Underwriters or the Underwriters' representatives unless and until, as a condition precedent thereto, the **Insured** shall have fully complied with all provisions, terms and conditions of this Insurance, and the amount of the **Insured's** obligation to pay shall have been finally determined either by judgment or award against the **Insured** after trial, regulatory proceeding, arbitration or by written agreement of the **Insured**, the claimant, and the Underwriters. No person or organization shall have the right under this Policy to join the Underwriters as a party to an action or other proceeding against the **Insured** to determine the **Insured's** liability, nor shall the Underwriters be impleaded by the **Insured** or the **Insured's** legal representative.

The **Insured's** bankruptcy or insolvency or of the **Insured's** estate shall not relieve the Underwriters of their obligations hereunder.

### XV. **ENTIRE AGREEMENT**

By acceptance of the Policy, all **Insureds** agree that this Policy embodies all agreements between the Underwriters and the **Insured** relating to this Policy. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or stop the Underwriters from asserting any right under the terms of this Insurance; nor shall the terms of this Insurance be waived or changed, except by endorsement issued to form a part of this Policy signed by the Underwriters.

### XVI. **MERGERS AND ACQUISITIONS**

#### A. **Newly Acquired Subsidiaries**

During the **Policy Period**, if the **Named Insured** or any **Subsidiary** acquires another entity whose annual revenues are more than ten percent (10%) of the **Named Insured's** total annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**, such acquired entity shall not be a **Subsidiary**, and no **Insured** shall have coverage under this Policy for any **Claim** or **Loss** that arises out of any act, error, omission, incident or event whether committed before or after such acquisition:

1. by or on behalf of the acquired entity or any person employed by the acquired entity;
2. involving or relating to the assets, liabilities, media activities or policies or procedures of the acquired entity or to data, information, computers, or networks, security systems, of or under the care, custody or control of the acquired entity, a Business Associate of the acquired entity, or a third party on behalf of the acquired entity; or
3. by any person or independent contractor holding, processing or transferring

information or operating **Computer Systems** on behalf of the acquired entity;

unless the **Named Insured** gives the Underwriters written notice prior to the acquisition, obtains the Underwriters' written consent to extend coverage to such additional entities, assets, exposures, or **Computer Systems**, and agrees to pay any additional premium required by the Underwriters.

If during the **Policy Period** the **Named Insured** or any **Subsidiary** acquires an entity whose annual revenues are more than ten percent (10%) of the **Named Insured's** total annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**, then, subject to the **Policy Period** and all other terms and conditions of this Policy, coverage under this Policy shall be afforded for a period of sixty (60) days, but only for any **Claim** that arises out of any act, error or omission first committed or incident or event first occurring after the entity becomes so owned. Coverage beyond such sixty (60) day period shall only be available if the **Named Insured** gives the Underwriters written notice of the acquisition, obtains the written consent of the Underwriters to extend coverage beyond such sixty (60) day period to the entity and agrees to pay any additional premium required by the Underwriters.

**B. Mergers or Consolidations**

If during the **Policy Period** the **Named Insured** consolidates or merges with or is acquired by another entity, or sells substantially all of its assets to any other entity, then this Policy shall remain in full force and effect, but only with respect to a **Security Breach**, or other act or incidents that occur prior to the date of the consolidation, merger or acquisition. There shall be no coverage provided by this Policy for any other **Claim** or **Loss** unless the **Named Insured** provides written notice to the Underwriters prior to such consolidation, merger or acquisition, the **Named Insured** has agreed to any additional premium and terms of coverage required by the Underwriters and the Underwriters have issued an endorsement extending coverage under this Policy.

- C. All notices and premium payments made under this Clause XVI. shall be directed to the Underwriters through the entity named in Item 8.B. of the Declarations.

**XVII. ASSIGNMENT**

The interest hereunder of any **Insured** is not assignable. If the **Insured** shall die or be adjudged incompetent, such insurance shall cover the **Insured's** legal representative as the **Insured** as would be permitted under this Policy.

**XVIII. CANCELLATION**

- A. This Policy may be cancelled by the **Named Insured**, by surrender thereof to the Underwriters or by mailing or delivering to the Underwriters through the entity named in Item 8.B. of the Declarations, written notice stating when the cancellation shall be effective.
- B. This Policy may be cancelled by the Underwriters by mailing or delivering to the **Named Insured** at the address shown in the Declarations written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. However, if the Underwriters cancel this Insurance because the **Insured** has failed to pay a premium when due, this Policy may be cancelled by the Underwriters by mailing a written notice of cancellation to the **Named Insured** at the address shown in the Declarations stating when, not less than ten (10) days thereafter, such cancellation shall be effective. Mailing of notice shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery (where permitted by law) of such written notice either by the **Named Insured** or by the Underwriters shall be equivalent of mailing.

- C. If the **Named Insured** cancels this Policy, the earned premium shall be computed in accordance with the customary short rate portion of the full premium set forth in Item 5. of the Declarations.
- D. If the Underwriters cancel this Policy prior to any **Claim** being reported or **Loss** incurred under this Policy, earned premium shall be computed pro rata.
- E. The premium shall be deemed fully earned if any **Claim**, or any circumstance that could reasonably be the basis for a **Claim** or **Loss**, is reported to the Underwriters on or before the date of cancellation.
- F. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

**XIX. SINGULAR FORM OF A WORD**

Whenever the singular form of a word is used herein, the same shall include the plural when required by context.

**XX. HEADINGS**

The titles of paragraphs, sections, provisions or endorsements of or to this Policy are intended solely for convenience and reference, and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the Policy.

**XXI. WARRANTY BY THE INSURED**

By acceptance of this Policy, all **Insureds** agree that the statements contained in the **Application** are their agreements and representations and that the Underwriters issue this Policy, and assume the risks hereunder, in reliance upon the truth thereof.

**XXII. NAMED INSURED AS AGENT**

The **Named Insured** shall be considered the agent of all **Insureds**, and shall act on behalf of all **Insureds** with respect to the giving of or receipt of all notices pertaining to this Policy, the acceptance of any endorsements to this Policy, and the **Named Insured** shall be responsible for the payment of all premiums and **Retentions**.

**XXIII. SERVICE OF SUIT CLAUSE (U.S.A.)**

- A. It is agreed that in the event of the Underwriters' failure to pay any amount claimed to be due under this Insurance, the Underwriters will, at the **Insured's** request, submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this clause constitutes or should be understood to constitute a waiver of the Underwriters' rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or seek a transfer of a case to another court as permitted by the laws of the United States or any state in the United States. It is further agreed that service of process in such suit may be made upon the Underwriters' representative designated in Item 9. of the Declarations, and that in any suit instituted against any one of them upon this Policy, the Underwriters will abide by the final decision of such court or of any appellate court in the event of an appeal.
- B. The Underwriters' representative designated in Item 9. of the Declarations is authorized and directed to accept service of process on the Underwriters' behalf in any such suit and/or upon the **Insured's** request to give a written undertaking to the **Insured** that they will enter a general appearance upon the Underwriters' behalf in the event such a suit shall be instituted.
- C. Pursuant to any statute of any state, territory or district of the United States which makes

provision therefor, the Underwriters hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on the **Insured's** behalf or any beneficiary hereunder arising out of this Policy, and hereby designate the Underwriters' representative designated in Item 9. of the Declarations as the person to whom said officer is authorized to mail such process or a true copy thereof.

**XXIV. CHOICE OF LAW**

Any disputes involving this Policy shall be resolved by applying the law of the state designated in Item 10. of the Declarations.

**XXV. VALUATION AND CURRENCY**

All premiums, limits, retentions, **Damages** and other amounts under this Policy are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of **Damages** under this Policy is stated in a currency other than United States dollars or if **Claims Expenses** are paid in a currency other than United States dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final or payment of the settlement or other element of **Damages** is due or the date such **Claims Expenses** are paid.

**XXVI. AUTHORIZATION**

By acceptance of this Policy, the Insureds agree that the Named Insured will act on their behalf with respect to the giving and receiving of any notice provided for in this Policy, the payment of premiums and the receipt of any return premiums that may become due under this Policy, and the agreement to and acceptance of endorsements.

November 22, 2016

Nick Carozza  
Risk Placement Services (RPS - Maryland)  
204 Cedar St  
Cambridge, MD, 21613-2312  
Quote No.: MPL1859722

Re: Finney County  
Coverages: Cyber, Data Risk & Media

Dear Nick,

In accordance with your request for a proposal, and based upon the information submitted, I am pleased to offer the following quotation subject to receipt, review and acceptance of:

1. Newly signed and dated Main Form Application if not bound by 01/09/17.

This quotation is subject to the above captioned coverages and is inclusive of the following:

2. One (1) year policy period
3. Written through Hiscox's wholly-owned syndicate at Lloyd's of London, which is rated A by A.M. Best. Financial Size Category is Class XV
4. Hiscox CyberClear form no. TPCCYB P0001 CW (05-16)
5. Attached endorsements apply:
  - E6015.4 - Lloyd's Syndicate
  - E6016.1 - Service of Suit
  - E6018.2 - Applicable Law Endorsement
  - E8088.1 - War and Civil War Exclusion Endorsement
  - E8089.1 - Nuclear Incident Exclusion Clause-Liability-Direct (Broad) Endorsement
  - E6085.1 - Full Prior Acts Endorsement
  - E9996.2 - Policyholder Disclosure Notice of Terrorism Insurance Coverage
  - E8023.1 - Cyber Deception Endorsement

|   | Option 1   | Option 2   |
|---|--|--|
| <b>Policy Limit of Liability</b>            | \$ 1,000,000 Each Claim or Event<br>\$ 1,000,000 Aggregate | \$ 2,000,000 Each Claim or Event<br>\$ 2,000,000 Aggregate |
| <b>Retention</b>                            | \$ 25,000  | \$ 25,000  |
| <b>Total Premium</b>                        | \$ 13,556  | \$ 21,384  |
| <b>Portion of premium allocated to TRIA</b> | \$ 127   | \$ 199   |
| <b>Administrative Fee</b>                   | \$ 100   | \$ 100   |

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### Specified Terms for Cyber Insuring Agreement

The Policy Limit of Liability includes Damages, Claim Expenses, and the following Loss Amounts:

- Breach Costs (includes Computer Forensics, Notification, Call Center, Identity Protection Services, and Crisis Management and Public Relations)
- Penalties (includes all amounts awarded in a Regulatory Proceeding)
- PCI Fines and Assessments
- Cyber Extortion Costs
- Business Interruption Costs
- Data Recovery Costs

Retroactive date: Full Prior Acts

Waiting Period: 10 hours

Cyber Deception Limit: \$ 100,000

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### Specified Terms for Media Liability Insuring Agreement

Covered Professional Services: Municipality

Retroactive date: Full Prior Acts

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This Quotation will expire in 30 days.

The commission payable is 10.00%.

It is your responsibility to handle all E&S filings as well as collect and pay the E&S taxes if the above coverage is secured. Thank you for the opportunity to offer a proposal. Please give me a call if you have any questions.

Sincerely,



Matthew Slowey  
Underwriter, US Technology and Privacy





Administered by Hiscox Inc.  
520 Madison Avenue 32nd Floor, New York, NY 10022  
(646) 452-2353

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**Endorsement 1**

APPLICANT NAME: Finney County

**E6015.4 Lloyd's Syndicate Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

The Underwriters referred to in the Declarations are identified as follows:

Proportion Percent: 100%

Syndicate: 3624

Contract #: B1234HisInc2016

Registration Date: December 22, 2005



Administered by Hiscox Inc.  
520 Madison Avenue 32nd Floor, New York, NY 10022  
(646) 452-2353

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## **Endorsement 2**

APPLICANT NAME: Finney County

### **E6016.1 Service of Suit Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

In the event **we** fail to pay any amount claimed to be due under this policy, **we** agree to submit to the jurisdiction of a Court of competent jurisdiction within the United States at **your** request. Nothing in this clause is intended to constitute a waiver of **our** right to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any state in the United States.

Service of process in any suit against **us** may be made on:

Hiscox Inc.  
520 Madison Ave. - 32nd Floor  
New York, NY 10022  
Attn: Head of Claims

In any suit instituted against **us**, **we** agree to abide by the final decision of such Court, or in the event of an appeal, of any Appellate Court.

The above named are authorized to accept service of process on **our** behalf in any such suit and will enter a general appearance on **our** behalf in the event such suit is instituted.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, **we** designate the Superintendent, Commissioner, or Director of Insurance, or other officer specified for that purpose in the statute, as **our** agent for service of process in any action, suit, or proceeding instituted by **you** or on **your** behalf, or any other beneficiary under this policy, and designate the above named as the person to whom such agent is authorized to mail process.



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**Endorsement 3**

APPLICANT NAME: Finney County

**E6018.2 Applicable Law Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

This policy is subject to the applicable state law to be determined by the court of competent jurisdiction as determined by the provisions of the Service of Suit Endorsement to this policy.



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#### **Endorsement 4**

APPLICANT NAME: Finney County

#### **E8088.1 War and Civil War Exclusion Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

This policy does not apply to and **we** will have no obligation to pay any **loss, damages, claim expenses**, or any other amounts for any **claim** or **event** directly or indirectly occasioned by, happening through, or in consequence of:

1. war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military, or usurped power; or
2. confiscation, nationalization, requisition, destruction of, or damage to property by or under the order of any government, public, or local authority.

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**Endorsement 5**

APPLICANT NAME: Finney County

**E8089.1 Nuclear Incident Exclusion Clause-Liability-Direct (Broad) Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

**We** will have no obligation to pay any sums under this policy, including any **loss, damages, claim expenses**, or any other amounts for any **claim** or **event**:

- A. Under any liability coverage, for injury, sickness, disease, death, or destruction:
1. for which **you** are also insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be insured under any such policy but for exhaustion of its limit of liability; or
  2. resulting from the **hazardous properties of nuclear material** and with respect to which:
    - a. any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, as amended; or
    - b. **you** are, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- B. Under any Medical Payments coverage, or under any Supplementary Payments provision relating to immediate medical or surgical relief, for expenses incurred with respect to bodily injury, sickness, disease, or death resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.
- C. Under any liability coverage, for injury, sickness, disease, death, or destruction resulting from the **hazardous properties of nuclear material**, if:
1. the **nuclear material** is at any **nuclear facility** owned or operated by **you** or on **your** behalf, or has been discharged or dispersed from such a facility;
  2. the **nuclear material** is contained in spent fuel or **waste** which is or was at any time possessed, handled, used, processed, stored, transported, or disposed of by **you** or on **your** behalf; or
  3. the injury, sickness, disease, death, or destruction arises out of the furnishing by **you** of services, materials, parts, or equipment in connection with the planning, construction, maintenance, operation, or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions, or Canada, this exclusion (3) applies only to injury to or destruction of property at such **nuclear facility**.

As used in this endorsement:

**Hazardous properties** includes radioactive, toxic, or explosive properties;

**Nuclear material** means **source material**, **special nuclear material**, or **byproduct material**;

**Source material**, **special nuclear material**, and **byproduct material** have the meanings given them in the Atomic Energy Act of 1954, as amended;

**Spent fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

**Waste** means any waste material:

1. containing **byproduct material**; and

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**Endorsement 5**

APPLICANT NAME: Finney County

2. resulting from the operation by any person or organization of any **nuclear facility** included in paragraph 1 or 2 of the definition of **nuclear facility**;

**Nuclear facility** means:

1. any any **nuclear reactor**;
2. any any equipment or device designed or used for:
  - a. separating the isotopes of uranium or plutonium;
  - b. processing or utilizing spent fuel; or
  - c. handling, processing, or packaging **waste**;
3. any equipment or device used for the processing, fabricating, or alloying of **special nuclear material**, if at any time the total amount of such material in **your** custody at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or
4. any structure, basin, excavation, premises, or place prepared or used for the storage or disposal of **waste**.

**Nuclear facility** includes the site on which any of the foregoing is located, all operations conducted on such site, and all premises used for such operations;

With respect to injury to or destruction of property, "injury" or "destruction" includes all forms of radioactive contamination of property.



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#### **Endorsement 6**

APPLICANT NAME: Finney County

#### **E6085.1 Full Prior Acts Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the General Terms and Conditions are amended as follows:

In Section VI. Definitions applicable to all Coverage Parts, the definition of "**Retroactive date**" is deleted in its entirety and replaced with the following:

**Retroactive date** means the date any **named insured, subsidiary, joint venture, or predecessor in business** first began performing **professional services**.

For purposes of this definition, **predecessor in business** means any individual or entity of which the **named insured** has assumed the majority of assets and liabilities, provided that the **named insured** has continued to perform the **professional services** that the individual or entity was performing prior to such transfer of assets and liabilities.



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**Endorsement 7**

APPLICANT NAME: Finney County

**E9996.2 Policyholder Disclosure Notice of Terrorism Insurance Coverage**

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from acts of terrorism, as defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury- in consultation with the Secretary of Homeland Security, and the Attorney General of the United States- to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES CAUSED BY CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GENERALLY REIMBURSES 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019 and 80% beginning on January 1, 2020 OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.

\_\_\_ I hereby elect to purchase Terrorism coverage in consideration of one percent (1%) of the premium (for TRIA-applicable lines of business only) being allocated as "TRIA Premium"

\_\_\_ I hereby decline to purchase terrorism coverage for certified acts of terrorism. I understand that I will have no coverage for losses resulting from certified acts of terrorism.

Policyholder/Applicant's Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Insurance Company: \_\_\_\_\_ Policy No.: \_\_\_\_\_



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**Endorsement 8**

APPLICANT NAME: Finney County

**E8023.1 Cyber Deception Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

- I. For purposes of this Endorsement only, the definition of “**Loss**” in the Cyber Insuring Agreement is deleted in its entirety and replaced with the following:
- Loss** means **money** and/or **securities** transferred, paid, or delivered as a result of a **cyber deception**.
- II. The following is added to the end of Section II. Coverage enhancement(s):
- Cyber deception sublimit      CD-A.      **We** will pay for **loss** up to the Cyber Deception Limit of Liability identified below, provided the **loss** first occurs and is discovered by **you** during the **policy period** and is reported to **us** in accordance with Section VII. Notice.  
Any payment **we** make under this subsection CD-A will be in excess of the Cyber Deception Retention identified below, and such payments will be a part of, and not in addition to, the policy limit stated in Item 4 of the Declarations.
- III. Solely with respect to the coverage provided by this Endorsement, the following is added to the end of Section VII. Notice:
- CD-A.      **You** must promptly notify **us** of any **loss**, or circumstances reasonably likely to lead to a **loss** that in **your** best estimate will exceed 50% of the Cyber Deception Retention identified below, once **you** discover such **loss** or circumstances, but in any event no later than 90 days after **you** discover such **loss** or circumstances.
- IV. Solely with respect to the coverage provided by this Endorsement, the following Section is added to the policy:
- CD-I.      Conditions applicable to cyber deception losses**      The following are conditions precedent to the payment by **us** of any **loss** under this Endorsement:
- CD-1.      **you** must inform, or allow **us** to inform, the appropriate law enforcement authorities if **you** have reason to believe that any **cyber deception** involves a violation of law;
- CD-2.      **you** must give **us** a detailed, sworn proof of **loss** within 120 days of notification to **us** of a **loss**; and
- CD-3.      **we** have the right to examine and audit **your** books and records as they relate to the coverage provided by this Endorsement at any time during the **policy period** and up to three years afterward.
- V. The following exclusions are added to the end of Section V. Exclusions:
- Excluded cyber deception losses CD-1.      with respect to any **cyber deception** only:
- a.      resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value, or other cards or the information contained on such cards;
- b.      that is an indirect result of an occurrence or **event** covered by this policy, including but not limited to **loss** resulting from:
- i.      **your** inability to realize income that **you** would have realized had there been no **loss** covered under this Endorsement;
- ii.      payment of **damages** of any type for which **you** are legally liable; or

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**Endorsement 8**

APPLICANT NAME: Finney County

- iii. payment of costs, fees, or other expenses **you** incur in establishing the existence or the amount of **loss** covered under this Endorsement;
  - c. **claim expenses** incurred by **you** which are related to any legal action resulting from **loss** covered under this Endorsement;
  - d. resulting from seizure or destruction of property by order of governmental authority;
  - e. resulting from any dishonest act committed by **you**, if the **named insured** is an individual, or by any **employee**, or board member, trustee, director, or officer (or equivalent position) of the **insured organization**; or
  - f. resulting from any actual or alleged unauthorized acquisition, access, use, or disclosure of **personally identifiable information** or confidential corporate information that is held or transmitted in any form; however, this exclusion will not apply to a **cyber deception** directly resulting from the use of such **personally identifiable information** or confidential corporate information.
- VI. Solely with respect to the coverage provided by this Endorsement, in Section V. Exclusions, the following is added to the end of the "Fund transfer" exclusion:
- However, this exclusion will not apply to **loss** otherwise covered under this Endorsement.
- VII. The following definitions are added to the end of Section VII. Definitions:
- Cyber deception** means the intentional misleading or deception of an **employee**, board member, trustee, director, or officer (or equivalent position) of the **insured organization**, through social engineering, pretexting, phishing, spear phishing, or any other confidence trick communicated by email, text, instant message, telephone, or other electronic means, by a person falsely purporting to be **your** vendor or **client**, or an **employee**, board member, trustee, director, or officer (or equivalent position) of the **insured organization**, which results in **your** transfer, payment, or delivery of **money** and/or **securities**.
- Money** means:
- 1. currency, coins, and bank notes in current use anywhere in the world and having a face value; or
  - 2. traveler's checks, register checks, and money orders held for sale to the public.
- Securities** means negotiable or nonnegotiable instruments or contracts representing either **money** or property and includes:
- 1. tokens, tickets, revenue, and other stamps (whether represented by actual stamps or unused value in a meter) in current use;
  - 2. casino chips issued by **you**; or
  - 3. evidences of debt issued in connection with credit or charge cards, which cards are not issued by **you**,
- but does not include **money**.

Cyber Deception Limit of Liability: \$100,000  
Cyber Deception Retention: \$25,000

## Cyber, Data Risk, and Media Insurance

Coverage under this policy for **claims** is provided on a claims made and reported basis, and applies to **claims** first made against **you** and reported to **us** during the **policy period**. Coverage under this policy for **breach costs**, **cyber extortion costs**, **business interruption costs**, and **data recovery costs** is provided on an incident discovered and reported basis, and applies to incidents first discovered by **you** and reported to **us** during the **policy period**.

In consideration of the premium charged and in reliance on the statements made and information provided to **us**, including but not limited to the statements made and information provided in and with the application, which is made a part of this policy, as well as subject to the policy limit, the **waiting period**, **retention**, and all of the terms, conditions, limitations, and exclusions of this policy, **we** agree with the **named insured** as follows:

### I. Insuring agreements

Cyber

We will pay on **your** behalf:

- A. **loss** incurred by **you** in excess of the **retention** resulting from a **data breach**, **security failure**, or **extortion threat** that first occurs on or after the **retroactive date** and is discovered by **you** during the **policy period**.

**Loss** means:

1. **breach costs**;
2. **claim expenses**, **damages**, and **PCI fines and assessments** because of a **claim** made against **you**;
3. **claim expenses** and **penalties** because of a **regulatory proceeding** initiated against **you**;
4. **cyber extortion costs**;
5. **business interruption costs**; and
6. **data recovery costs**.

Media liability

- B. **damages** and **claim expenses** in excess of the **retention** if **your advertising of your professional services** on or after the **retroactive date** results in a **claim** first made against **you** during the **policy period** for any actual or alleged:

1. **intellectual property infringement**;
2. unintentional infliction of emotional distress based on harm to the character or reputation of any person or entity;
3. **breach of a license**;
4. **invasion of privacy**;
5. **defamation**;
6. **unfair practices**; or
7. **negligence** or negligent publication, but only when arising from the substance of any communication, including but not limited to language, data, facts, fiction, music, photographs, images, artistic expression, or visual or graphic materials.

### II. Coverage enhancement

Declaratory relief

We will also make the following payments:

1. If a claimant has advised **you**, in writing, that **you** are committing copyright or trademark infringement; and
2. directly in response to that written assertion, **you** file a declaratory relief action and the claimant files a counterclaim against **you** alleging copyright or trademark infringement; and
3. the counterclaim is covered under this policy and pending against **you** while **you** are prosecuting **your** declaratory relief action,

## Cyber, Data Risk, and Media Insurance

then **we** will pay reasonable attorney fees **you** incur in excess of the **retention** to prosecute that declaratory relief action.

Any payment **we** make under this subsection will be a part of, and not in addition to, the policy limit of liability and the applicable Each Claim limit of liability.

### III. Defense and settlement of claims

- A. **We** will have the right and duty to defend any covered **claim** or **regulatory proceeding**, even if such **claim** or **regulatory proceeding** is groundless, false, or fraudulent.
- B. **We** will have the right to appoint defense counsel upon being notified of such **claim**. Defense counsel will be mutually agreed between **you** and **us**, which agreement will not be unreasonably withheld. However, in the absence of such agreement, **our** decision will be final.
- C. Notwithstanding paragraph B., **we** will have no obligation to pay **claim expenses** until **you** have satisfied the applicable **retention**.
- D. **Our** duty to defend will terminate upon the exhaustion of the applicable limit of liability stated in Item 4 of the Declarations.
- E. **We** will have the right to solicit and negotiate settlement of any **claim**. **We** will not, however, enter into a settlement unless **you** and **we** agree, which agreement will not be unreasonably withheld.
- F. **You** must notify **us** immediately of any settlement demands or offers. **We** agree that **you** may settle any **claim** where the total **loss**, **claim expenses**, and **damages** does not exceed the **retention**, provided the entire **claim** is resolved and **you** obtain a full release on behalf of all **insureds**.
- G. If **you** refuse to agree to any settlement recommended by **us** and acceptable to the claimant, then **our** liability for such **claim** will not exceed the sum of:
  1. the amount for which such **claim** could have been settled, less the **retention**, plus **claim expenses** incurred up to the date of such refusal; and
  2. 50% of any **claim expenses** incurred after the date such settlement was refused by **you**, plus 50% of any **damages**, **PCI fines and assessments**, and **penalties** above the amount for which the **claim** could have settled.

### IV. Definitions

#### Advertising

means online, digital, or electronic promotion by broadcast, transmission, dissemination, telecast, cablecast, podcast, streaming, publication, republication, or by use of a website or social media.

#### Breach costs

means the following costs incurred in response to an actual or suspected **data breach**:

1. legal costs:  
reasonable and necessary costs for an attorney to provide advice to the **insured organization** in connection with its investigation of a **data breach**, to assist with the preparation of notifications to the regulators and affected individuals, and to determine and pursue **your** indemnification rights under a written agreement with a third-party;
2. computer forensic costs:  
reasonable and necessary costs for a computer forensic analysis conducted by outside forensic experts to:
  - a. investigate the cause of a **data breach** and determine the information impacted; and
  - b. stop or contain a **data breach**, provided all costs under this paragraph 2. b. will be limited to fees for time incurred by such outside forensic expert;
3. notification costs:  
reasonable and necessary costs to notify individuals, regulators, or others as required by law, and to voluntarily notify individuals affected by a **data breach**;

## Cyber, Data Risk, and Media Insurance

4. call center costs:

reasonable and necessary costs to operate a call center to answer questions from affected individuals;

5. identity protection services:

reasonable costs to provide affected individuals with one year (or more as required by law) of services to monitor, restore, and/or protect an individual's credit or identity; and

6. crisis management and public relations costs:

reasonable costs:

- a. for a public relations or crisis management consultant to assist the **insured organization** in reestablishing its business reputation and to respond to media reports regarding a **data breach**;
- b. for an attorney to advise the **insured organization** on reducing the likelihood of or costs of any **claim** otherwise covered by this policy; and
- c. to issue statements via email or the **insured organization's** website regarding a **data breach** to individuals whose information was not impacted by such **data breach**.

**You** may incur legal costs under paragraph 1. provided by a firm on **our** breach response providers list without **our** prior written consent. All other **breach costs** require **our** prior written consent.

**You** may request in writing the right to retain privacy counsel that is not on the breach response providers list. **We** will only consider such a request if the firm has not yet been retained to perform services in connection with the **data breach**, and whether to grant such request will be at **our** sole discretion.

**Breach costs** will not mean, and **we** will have no obligation to pay, any of **your** own costs, salaries, or overhead expenses.

### Breach of a license

means breach of a license **you** have acquired to use a third-party's trademark and/or copyrighted material, but only to the extent **your** use inadvertently exceeds express limitations in the license regarding the territory, duration, or media in which the material may be used and only if such breach is asserted in conjunction with and based on the same factual allegations as a **claim** for copyright infringement or trademark infringement.

### Business interruption costs

means **income loss** and **extra expense** actually sustained during the **period of restoration** directly due to the total or partial interruption of the **insured organization's** business for a period greater than the **waiting period**.

**Business interruption costs** does not mean:

1. legal costs or expenses;
2. costs to update, upgrade, enhance, or replace any computer system or program to a level beyond that which existed prior to the **event**;
3. any amounts due to unfavorable business conditions; or
4. costs to identify or remove software program errors or vulnerabilities.

### Claim

means:

1. a written assertion of liability or any written demand for financial compensation or injunctive relief;
2. a **regulatory proceeding**;
3. unintentional breach of a written contract asserted by a **client**;
4. **contractual indemnity - breach costs**; or
5. **contractual indemnity - third-party**.

### Claim expenses

means the following that are incurred by **us** or by **you** with **our** prior written consent:

## Cyber, Data Risk, and Media Insurance

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and forensic or other experts) incurred in the investigation, defense, and appeal of a **claim**; and
2. premiums on appeal bonds, attachment bonds, or similar bond. However, **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** will not mean and **we** will not be obligated to pay:

1. overhead costs, general business expenses, salaries, or wages incurred by **you**; or
2. the defense of any criminal investigation, criminal grand jury proceeding, or criminal action.

### Client

means any person or entity with whom **you** have entered into a written contract to provide services or deliverables that expressly fall within **your professional services**.

### Contractual indemnity - breach costs

means any actual or alleged triggering of **your** obligations under a contractual agreement to indemnify **your client**, a merchant bank, or a payment processor for **breach costs** that would be covered by Insuring Agreement A. Cyber if **you** had incurred them, but only to the same extent as though **you** had incurred them.

### Contractual indemnity - third-party

means any actual or alleged triggering of **your** obligations under a contractual agreement to indemnify **your client**, a merchant bank, or a payment processor for **damages** or **claim expenses** that would be covered by Insuring Agreement A. Cyber if they arose from a **claim** against **you**, resulting from **your** actual or alleged:

1. violation of any privacy law or consumer data protection law protecting against disclosure of **personally identifiable information** or confidential corporate information;
2. breach of common law duty relating to **personally identifiable information** or confidential corporate information; or
3. unintentional breach of a written contract or public facing privacy policy relating to **personally identifiable information** or confidential corporate information,

but only to the same extent as though they arose from a **claim** against **you**.

### Cyber extortion costs

means the following costs incurred with **our** prior written consent in response to an **extortion threat**:

1. the ransom paid or, if the demand is for goods or services, the fair market value at the time of surrender; and
2. reasonable and necessary fees and expenses incurred by a representative appointed by **us** to provide **you** with assistance.

### Defamation

means any form of defamation, including but not limited to libel, slander, trade libel, product disparagement, or injurious falsehood.

### Damages

means a monetary judgment or monetary award that **you** are legally obligated to pay (including pre- or post-judgment interest and claimant's attorney fees) or a monetary settlement agreed to by **you** and **us**.

**Damages** will not mean:

1. fines, civil or criminal penalties, taxes, or sanctions;
2. **penalties**;
3. **PCI fines and assessments**;
4. any punitive, exemplary, or multiple damages; however, **we** will pay punitive or exemplary damages to the extent insurable in any applicable jurisdiction that most favors coverage;
5. the return or reduction of fees, commissions, profits, or charges for goods provided or services rendered;
6. restitution, disgorgement of profits, or unjust enrichment;
7. the cost of complying with injunctive relief;

## Cyber, Data Risk, and Media Insurance

8. amounts **you** agree to indemnify; however, **we** will pay such amounts to the extent they are explicitly covered under **contractual indemnity - breach costs** or **contractual indemnity - third party**;
9. any coupons, discounts, prizes, or other incentives, unless agreed in advance by **us** in **our** discretion; provided any such amounts will not include any profits to **you**; or
10. any liquidated damages, but only to the extent such damages exceed the amount for which **you** would have been liable in the absence of the liquidated damages agreement.

|   |   |
|---|---|
| <b>Data asset</b>                         | means any electronic data or software of the <b>insured organization</b> .  |
| <b>Data breach</b>                        | means the acquisition, access, or disclosure of <b>personally identifiable information</b> or confidential corporate information by a person or entity, or in a manner, that is unauthorized by the <b>insured organization</b> .   |
| <b>Data recovery costs</b>                | <p>means reasonable and necessary expenses incurred by <b>you</b> with <b>our</b> prior consent to:</p> <ol style="list-style-type: none"> <li>1. regain access to a <b>data asset</b>; or</li> <li>2. replace, restore, or repair a <b>data asset</b> from back-ups, originals, or other sources.</li> </ol> <p>If a <b>data asset</b> cannot reasonably be accessed, recovered, or repaired, then <b>data recovery costs</b> will not exceed the reasonable and necessary expenses incurred by the <b>insured organization</b> to reach that determination.</p> <p><b>Data recovery costs</b> will not mean:</p> <ol style="list-style-type: none"> <li>1. amounts to identify or remediate software program errors or vulnerabilities;</li> <li>2. the economic value of any <b>data asset</b>, including trade secrets;</li> <li>3. costs to restore, update, or replace any <b>data asset</b> to a level beyond which existed prior to the <b>event</b>; or</li> <li>4. costs to research or develop any <b>data asset</b>.</li> </ol> |
| <b>Event</b>                              | means a <b>data breach</b> , <b>extortion threat</b> , or <b>security failure</b> .   |
| <b>Extortion threat</b>                   | means a threat from a third-party to commit an intentional attack against the <b>insured organization's</b> website or computer systems or publicly disclose confidential corporate information or <b>personally identifiable information</b> misappropriated from the <b>insured organization</b> if money, securities, or other property of value is not paid.  |
| <b>Extra expense</b>                      | means reasonable and necessary costs incurred by the <b>insured organization</b> to minimize the interruption of the <b>insured organization's</b> business that are over and above the cost that the <b>insured organization</b> ordinarily would have incurred to conduct its business had no <b>event</b> occurred.  |
| <b>Income loss</b>                        | <p>means the sum of the following:</p> <ol style="list-style-type: none"> <li>1. Net Income (Net Profit or Loss before income taxes) that would have been earned; and</li> <li>2. continuing normal operating expenses incurred, including payroll.</li> </ol>  |
| <b>Intellectual property infringement</b> | means intellectual property infringement (but not any patent infringement), including but not limited to misappropriation of trade secret, copyright infringement, trademark infringement, trademark dilution, trade dress infringement, publicity rights violations, cybersquatting violations, moral rights violations, any act of passing-off, or any misappropriation of formats, characters, trade names, character names, titles, plots, musical compositions, voices, slogans, graphic material, or artwork.   |
| <b>Invasion of privacy</b>                | means false light, intrusion upon a person's seclusion, or misappropriation of a person's picture, name, or voice for commercial gain.  |
| <b>Merchant services agreement</b>        | means any agreement between the <b>insured organization</b> and a credit or debit card company, credit or debit card processor, financial institution, or independent sales organization allowing the <b>insured organization</b> to accept payment by credit card, debit card, or prepaid card.  |



## Cyber, Data Risk, and Media Insurance

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| <b>Named insured</b>                       | means the entity named in Item 1 of the Declarations.  |
| <b>Negligence</b>                          | means any negligent, act, error, or omission, breach of any duty to use reasonable care, or negligent misrepresentation.   |
| <b>PCI fines and assessments</b>           | <p>means all amounts <b>you</b> are legally obligated to pay under a <b>merchant services agreement</b> following a <b>data breach</b> or <b>security failure</b> impacting credit, debit, or prepaid card information, including:</p> <ol style="list-style-type: none"> <li>1. contractual fines or penalties for non-compliance with the PCI Data Security Standards ("PCI DSS");</li> <li>2. monetary assessments (including for operational expenses, card reissuance fees, and fraud recoveries) and case management fees; and</li> <li>3. fees for a mandatory audit following a <b>data breach</b> to show that the <b>insured organization</b> is PCI DSS compliant.</li> </ol> |
| <b>Penalties</b>                           | means any monetary amounts imposed in a <b>regulatory proceeding</b> to the extent insurable by law; however, <b>penalties</b> will not mean any: costs to comply with injunctive relief; costs to establish or improve security or privacy practices; or audit, reporting, or compliance costs.   |
| <b>Period of restoration</b>               | <p>means the time period that:</p> <ol style="list-style-type: none"> <li>1. begins on the date and time that the interruption of the <b>insured organization's</b> business first occurred; and</li> <li>2. ends on the earlier of the date and time that the interruption of the <b>insured organization's</b> business: (i) ends; or (ii) could have ended had <b>you</b> acted with due diligence and dispatch.</li> </ol> <p>In no event will the <b>period of restoration</b> exceed 60 days.</p>  |
| <b>Personally identifiable information</b> | <p>means the following, in any form:</p> <ol style="list-style-type: none"> <li>1. non-public individually identifiable information as defined in any federal, state, local, or foreign statute, rule, or regulation, including but not limited to protected health information as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and any rule or regulation promulgated thereunder; or</li> <li>2. an individual's: social security number or taxpayer identification number; driver's license number or state identification number; passport number; or financial account number or credit or debit card number.</li> </ol>          |
| <b>Policy period</b>                       | means the period of time stated in Item 2 of the Declarations, including any optional extended reporting period under Section VIII, when purchased.  |
| <b>Pollutants</b>                          | means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.  |
| <b>Professional services</b>               | means only those services identified as Covered Professional Services on the Declarations.   |
| <b>Regulatory proceeding</b>               | means a request for information or assertion of liability by a governmental entity in its official capacity.   |
| <b>Retention</b>                           | <p>means:</p> <ol style="list-style-type: none"> <li>1. with respect to all <b>claims</b> or <b>loss</b> other than <b>business interruption costs</b>, the amount(s) stated in Item 5 of the Declarations.</li> <li>2. with respect to <b>business interruption costs</b>, the greater of: (i) the amount of <b>business interruption costs</b> incurred during the <b>waiting period</b>; or (ii) the <b>retention</b> amount stated in Item 5 of the Declarations.</li> </ol>   |



## Cyber, Data Risk, and Media Insurance

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| <b>Retroactive date</b> | means the date stated in Item 3 of the Declarations. Provided, in the event a <b>subsidiary</b> is acquired during the <b>policy period</b> , the <b>retroactive date</b> for such <b>subsidiary</b> will be the date the <b>named insured</b> acquired effective control of the entity.   |
| <b>Security failure</b> | means any failure by <b>you</b> or by others on <b>your</b> behalf (including the <b>insured organization's</b> subcontractors, outsourcers, or independent contractors) in securing the <b>insured organization's</b> computer system.  |
| <b>Subsidiary</b>       | <p>means:</p> <ol style="list-style-type: none"> <li>1. any entity in which, on or prior to the effective date of the <b>policy period</b>, either directly or indirectly through one or more <b>subsidiaries</b>, the <b>named insured</b> owns more than 50% of the issued and outstanding voting securities or the right to elect or appoint such entity's board of directors or equivalent management structure ("effective control"); and</li> <li>2. any entity of which the <b>named insured</b> acquires effective control during the <b>policy period</b>, and whose revenues: <ol style="list-style-type: none"> <li>a. do not exceed 10% of the current annual revenues of the <b>named insured</b>; or</li> <li>b. exceed 10% of the current annual revenues of the <b>named insured</b>, but only if within 90 days of such acquisition the <b>named insured</b>: <ol style="list-style-type: none"> <li>i. provides <b>us</b> with written notice of such acquisition and any information <b>we</b> require in connection therewith; and</li> <li>ii. pays any additional premium and accepts any special terms, conditions, and exclusions in connection therewith.</li> </ol> </li> </ol> </li> </ol> <p>However, with respect to a <b>subsidiary</b> described in paragraph 2. of this definition, the policy will only cover <b>claims</b> or <b>loss</b> resulting from acts, errors, omissions, incidents, or events occurring while the <b>named insured</b> had effective control of such <b>subsidiary</b>.</p> <p>An entity ceases to be a <b>subsidiary</b> once the <b>named insured</b> no longer has effective control of such entity, either directly or indirectly through one or more <b>subsidiaries</b>, and this policy will not respond to <b>loss</b> incurred by or <b>claims</b> made against such entity after it ceases to be a <b>subsidiary</b>.</p> |
| <b>Unfair practices</b> | means unfair competition, deceptive business practices, or false designation of origin, but only when asserted in conjunction with and based on the same allegations as a <b>claim</b> for <b>intellectual property infringement</b> .   |
| <b>Waiting period</b>   | means the number of hours stated in Item 6 of the Declarations.  |
| <b>We/us/our</b>        | means the Underwriters identified on the Declarations as issuing this policy.  |
| <b>You/your/insured</b> | <p>means:</p> <ol style="list-style-type: none"> <li>1. the <b>named insured</b> and any <b>subsidiaries</b> (together, the "<b>insured organization</b>");</li> <li>2. a board member, trustee, director, or officer (or equivalent position) of the <b>insured organization</b>, but only with respect to the performance of his or her duties as such on behalf of the <b>insured organization</b>;</li> <li>3. an employee of the <b>insured organization</b>, including any part-time, temporary, or leased employee, but only with respect to the performance of his or her duties as such on behalf of the <b>insured organization</b>;</li> <li>4. if the <b>named insured</b> is a partnership, limited liability partnership, or limited liability company, a general or managing partner, principal, or owner, but only with respect to the performance of his or her duties as such on behalf of the <b>named insured</b>;</li> <li>5. any person who previously qualified as an <b>insured</b> under paragraphs 2., 3., or 4. above, but only with respect to the performance of his or her duties as such on behalf of the <b>insured organization</b>;</li> <li>6. the estate, heirs, executors, administrators, assigns, and legal representatives of any <b>insured</b> in the event of such <b>insured's</b> death, incapacity, insolvency, or bankruptcy, but only to the extent that such <b>insured</b> would otherwise be provided coverage under this policy; and</li> </ol>  |

## Cyber, Data Risk, and Media Insurance

7. the spouse or domestic partner of any **insured** identified in paragraphs 2., 3., or 4. above, but solely with respect to any act, error, or omission of an **insured** other than the spouse or domestic partner.

### V. Exclusions

This policy does not apply to and **we** will have no obligation to pay any **loss, damages, claim expenses**, or other amounts:

Collection of data without knowledge

1. based upon or arising out of any actual or alleged:
  - a. collection of information by **you** (or others on **your** behalf) without the knowledge or permission of the persons to whom such information relates; however, this exclusion will not apply if no board member, trustee, director, or officer (or equivalent position) of the **insured organization** knew or had reason to know of such conduct; or
  - b. use of **personally identifiable information** by **you** (or others on **your** behalf) in violation of law.

Conduct

2. based upon or arising out of any actual or alleged fraud, dishonesty, criminal conduct, or any knowingly wrongful, malicious, or intentional acts or omissions; however **we** will pay **claim expenses** until there is a non-appealable adjudication establishing such conduct.

This exclusion will apply to the **named insured** only if the conduct was committed or allegedly committed by any:

- a. board member, trustee, director, or officer (or equivalent position) of the **named insured**; or
- b. employee of the **named insured** if any board member, trustee, director, or officer (or equivalent position) of the **named insured** knew or had reason to know of such conduct by the employee.

This exclusion will apply separately to each **insured** and will not apply to any **insured** who did not commit, participate in, acquiesce to, or ratify such conduct committed by another **insured**.

Employer liability

3. based upon or arising out of any actual or alleged:
  - a. harassment, wrongful termination, retaliation, or discrimination, including but not limited to adverse or disparate impact; or
  - b. liability or breach of any duty or obligation owed to the **insured organization** and/or its shareholders by any of the **insured organization's** current or former board members, trustees, directors, or officers (or equivalent position), in their capacity as such.

False or misleading advertisement

4. based upon or arising out of any actual or alleged false or misleading advertisement; however, this exclusion will not apply to any **claim**:
  - a. resulting from a **data breach**; or
  - b. otherwise covered under Insuring Agreement B., Media liability and that is based on **your** alleged unauthorized use of another's trademark.

Fund transfer

5. for any actual or alleged loss, theft, or transfer of **your** funds, monies, or securities, or the funds, monies, or securities of others in **your** care, custody, or control, or in the care, custody, or control of any third-party for whom **you** are legally liable, including the value of any funds, monies, or securities transferred by **you** or others on **your** behalf.

Infrastructure interruption

6. based upon or arising out of any actual or alleged failure or interruption of service provided by an internet service provider, telecommunications provider, utility provider, or other infrastructure provider; however, this exclusion will not apply to a **data breach** involving data that was stored in the cloud, on remote servers, or at a co-location or data hosting service.

Insured vs. insured

7. based upon or arising out of any **claim** made by or on behalf of:
  - a. any **insured**;

## Cyber, Data Risk, and Media Insurance

- b. any entity in which **you** directly or indirectly hold more than a 15% ownership interest, or that **you** directly or indirectly manage, control, or operate, in whole or in part; or
- c. any person or entity that directly or indirectly holds more than a 15% ownership interest in the **insured organization**, or that directly or indirectly owns, manages, controls, or operates the **insured organization**, in whole or in part.

However, this exclusion will not apply to a **claim** brought by an employee alleging injury resulting from a **data breach**.

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| Intellectual property                      | 8. based upon or arising out of any actual or alleged infringement, use, misappropriation, or disclosure of any intellectual property, including but not limited to patent, trade secret, copyright, trademark, trade dress, service mark, service name, title, or slogan, or any publicity rights violations, cybersquatting violations, moral rights violations, or any act of passing-off; however, this exclusion will not apply to: <ul style="list-style-type: none"> <li>a. <b>loss</b> resulting from a <b>data breach</b> committed by a third-party;</li> <li>b. <b>loss</b> resulting from a <b>security failure</b>; or</li> <li>c. a <b>claim</b> otherwise covered under Insuring Agreement B., Media liability.</li> </ul>   |
| Ownership of content/<br>material/services | 9. based upon or arising out of any actual or alleged disputes with any of <b>your</b> present or former directors, officers, trustees, partners, joint venturers, employees, agents, or independent contractors concerning ownership of or the exercise of rights relating to information, content, material, or services supplied to <b>you</b> by any of them.   |
| Pending/prior litigation/notice            | 10. based upon or arising out of: <ul style="list-style-type: none"> <li>a. any prior or pending litigation, <b>claim</b>, written demand, arbitration, administrative or regulatory proceeding, or investigation which was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the first date of the <b>policy period</b>;</li> <li>b. any actual or alleged matter that prior to the first date of the <b>policy period</b> <b>you</b> knew or reasonably ought to have known would be likely to lead to a <b>claim</b> or <b>loss</b>; or</li> <li>c. any <b>claim</b>, potential <b>claim</b>, or <b>loss</b> which has been the subject of any written notice given under any other policy before the effective date of this policy.</li> </ul> <p>However, if this policy is a renewal or replacement of a previous policy <b>we</b> issued that provided materially identical coverage, and is part of an unbroken chain of successive policies issued by <b>us</b>, the <b>policy period</b> referred to in paragraphs a. and b., above, will be the policy period of the first such policy <b>we</b> issued.</p> |
| Pollution                                  | 11. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .  |
| Property damage                            | 12. based upon or arising out of any actual or alleged damage to, or destruction or loss of use of, any tangible property; however, this exclusion will not apply to: <ul style="list-style-type: none"> <li>a. damage to data, or destruction or loss of use of data; or</li> <li>b. a <b>data breach</b> or <b>security failure</b> resulting from damage to or destruction of tangible property.</li> </ul>  |
| Racketeering                               | 13. based upon or arising out of any actual or alleged collusion, extortion, threatened violence, or violation of racketeering or conspiracy law, including but not limited to violation of the Racketeer Influenced and Corrupt Organizations (RICO) Act and all amendments to this Act or any rules or regulations promulgated under it; however, this exclusion will not apply to <b>cyber extortion costs</b> .   |
| Related or continuing event                | 14. based upon or arising out of any related or continuing acts, errors, incidents, or <b>events</b> where the first act, error, incident, or <b>event</b> first occurred prior to the <b>retroactive date</b> .  |
| Repair/replace/recall                      | 15. based upon or arising out of any actual or alleged repair, upgrade, correction, recall,   |

## Cyber, Data Risk, and Media Insurance

replacement, withdrawal, removal, or disposal costs incurred by **you** or others; however, this exclusion will not apply to.

- a. **extra expense**; or
- b. **data recovery costs** incurred to repair, restore, or repair a **data asset** from back-ups, originals, or other sources.

Securities/taxation/  
fiduciary

- 16. based upon or arising out of any actual or alleged:
  - a. violation of any federal, state, local, or foreign securities law, including but not limited to the U.S. Securities Act of 1933 and Securities Exchange Act of 1934, both as amended, or any similar law;
  - b. violation of any taxation law or regulation; or
  - c. breach of any fiduciary duty owed by **you**.

However, this exclusion will not apply to an otherwise covered **claim** resulting from a **data breach** involving **personally identifiable information**, provided that no board member, trustee, director, or officer (or equivalent position) of the **insured organization** participated or colluded in such **data breach**.

Spam

- 17. based upon or arising out of any actual or alleged violation of any federal, state, local, or foreign statutes, ordinances, regulations, or other laws regarding or relating to unsolicited telemarketing, solicitations, emails, faxes, text messages, mobile video messages, or any other communications of any type or nature, including but not limited to the Telephone Consumer Protection Act, CAN-SPAM Act, or any anti-spam or do-not-call statutes, ordinances, or regulations.

Surrender of ransom

- 18. with respect to **cyber extortion costs** only, based upon or arising out of:
  - a. the surrender of a ransom at the location where the illegal threat and ransom demand was first made, unless brought to such location after receipt of the ransom demand for the sole purpose of paying such ransom demand; or
  - b. a fraudulent or criminal act committed by or in collusion with a board member, trustee, director, or officer (or equivalent position) of the **insured organization**.

Unfair competition/  
trade practices

- 19. based upon or arising out of any actual or alleged unfair competition, deceptive trade practices, restraint of trade, or antitrust violation; however, this exclusion will not apply to a **claim**:
  - a. resulting from a **data breach** or **security failure**; or
  - b. otherwise covered under Insuring Agreement B., Media liability.

Excluded business interruption  
costs and data recovery costs

- 20. with respect to **business interruptions costs** and **data recovery costs** only, based upon or arising out of:
  - a. any bodily injury, sickness, or disease, including death, humiliation, mental injury, mental anguish, emotional distress, suffering, or shock;
  - b. any seizure, confiscation, nationalization, destruction, or loss of use of computer systems or **data assets** due to any action by a governmental authority;
  - c. the bankruptcy, financial impairment, or insolvency of the **insured organization** or other person or entity;
  - d. ordinary wear and tear or gradual deterioration of the physical components of a computer system;
  - e. physical cause or natural peril, including but not limited to fire, wind, water, flood, subsidence, earthquake, or act of God;
  - f. any liability to third parties or contractual penalties; or
  - g. any **data breach** involving information that is not under the **insured organization's** direct control, or any **security failure** or **extortion threat** against an entity that is not an **insured**.

## Cyber, Data Risk, and Media Insurance

Excluded media liability claims

21. with respect to Insuring Agreement B. Media liability only, based upon or arising out of any:
- a. actual or alleged contractual obligation owed by **you** or any breach of any written, oral, express, or implied contract or warranty; however, this exclusion will not apply to any **claims** arising from **your** agreement to hold harmless or indemnify a party against any liabilities directly resulting from content supplied to them by **you**, but only if such obligation was assumed by **you** prior to any such liability being incurred;
  - b. actual or alleged obligation to pay any licensing fee or royalty;
  - c. actual or alleged liability owed by **you** in connection with software or technology services or products provided by **you** or anyone on **your** behalf;
  - d. actual or alleged infringement, use, misappropriation, or disclosure of a patent or a trade secret;
  - e. actual or alleged governmental investigation or enforcement of any state or federal regulation, including but not limited to any regulation promulgated by the Federal Trade Commission, Federal Communications Commission, or the Securities and Exchange Commission;
  - f. actual or alleged investigation or enforcement by the American Society of Composers, Authors, and Publishers (ASCAP), Broadcast Music Incorporated (BMI), Society of European Stage Authors and Composers (SESAC), or other similar licensing organization;
  - g. actual or alleged chargeback, liability, or fee incurred by **you** or **your client** as a result of a merchant service provider, including any credit card company or bank, wholly or partially reversing or preventing a payment transaction;
  - h. actual or alleged:
    - i. obligation under any workers' compensation, unemployment compensation, employers' liability, fair labor standards, labor relations, wage and hour, or disability benefit law, including any similar provisions of any foreign, federal, state, or local statutory or common law; or
    - ii. liability or breach of any duty or obligation owed by **you** as an employer;
  - i. actual or alleged bodily injury, sickness, or disease, including death, humiliation, mental injury, mental anguish, emotional distress, suffering, or shock; however, this exclusion will not apply to a **claim** for emotional distress otherwise covered under part 2 of Insuring Agreement B. Media liability;
  - j. actual or alleged provision of any sweepstakes, gambling activities, or lotteries; or
  - k. price discounts, prizes, awards, money, or valuable consideration given in excess of a total contracted or expected amount, including but not limited to over redemption or under redemption of coupons, discounts, awards, or prizes.

### VI. Retention and limit of liability

- A. The policy limit of liability stated in Item 4 of the Declarations will be the maximum amount **we** will be liable to pay for all **loss, damages, claim expenses**, or other amounts under the policy, regardless of the number of **claims** or **events**.
- B. The Each Claim or Event limits of liability stated in Item 4 of the Declarations will be the maximum amount **we** will be liable to pay for any single **claim** or **loss** under each Insuring Agreement. If the same **claim** or **loss** triggers more than one Insuring Agreement, **we** will only be liable to pay for such **claim** or **loss** under one Insuring Agreement, which will be the Insuring Agreement that provides the most favorable coverage. The Each Claim or Event limits of liability are a part of, and not in addition to, the policy limit of liability.
- C. **We** will not be responsible for payment of any **loss, damages, or claim expenses** until the **retention** amount(s) stated in Item 5 of the Declarations has been satisfied. Such **retention(s)** must be paid by **you** and cannot be insured.

## Cyber, Data Risk, and Media Insurance

- D. With respect to **business interruption costs**, the **retention** will be the greater of: (i) the amount of **business interruption costs** incurred during the **waiting period**; or (ii) the **retention** amount stated in Item 5 of the Declarations.
- E. **We** may at **our** sole discretion advance payment of **claim expenses, damages, or losses** within the **retention** amount on **your** behalf, but **you** will reimburse **us** for any such amounts as soon as **we** request such reimbursement.

### VII. Notice

- A. **You** must notify **us** of **claims** as soon as practicable once such **claim** is known to any board member, trustee, director, officer, in-house counsel, risk manager, chief technology officer, chief information officer, or chief privacy officer of the **insured organization**, but in any event no later than: (i) the end of the **policy period**; or (ii) 30 days after the end of the **policy period** for **claims** made against **you** in the last 30 days of the **policy period**. Proper notification of **claims** must be sent in accordance with the notification details in Item 7 of the Declarations.
- B. **You** may notify **us** of any matter reasonably likely to lead to a **claim** covered under this policy. Such notification must be provided as soon as practicable and within the **policy period**, and must, to the full extent possible, identify the particulars of the potential **claim**, including identifying the potential claimant(s), the likely basis for alleged liability, the likely demand for relief, and any additional information about the potential **claim** that **we** reasonably request. If such a potential **claim** notification is made to **us**, then **we** will treat any **claim** arising from the same particulars as that notification as if it had first been made against **you** on the date **you** properly notified **us** of the potential **claim**, even if the **claim** is first made against **you** after the **policy period** has expired. Proper notification of potential **claims** must be sent in accordance with the notification details in Item 7 of the Declarations.
- C. **You** must promptly notify **us** of an **event** once such **event** is first discovered by **you**, but in any event no later than: (i) the end of the **policy period**; or (ii) 30 days after the end of the **policy period** for an **event** first discovered by **you** in the last 30 days of the **policy period**. Proper notification of **events** must be sent in accordance with the notification details in Item 7 of the Declarations.

### VIII. Optional extended reporting period

- A. If **we** or the **named insured** cancel or non-renew this policy, then the **named insured** will have the right to purchase for an additional premium an optional extended reporting period. Provided, however, the right to purchase an optional extended reporting period will not apply if:
  1. this policy is canceled by **us** for non-payment of premium;
  2. the total premium for this policy has not been fully paid; or
  3. **you** have purchased replacement coverage.
- B. The optional extended reporting period will apply only to any **claims** that:
  1. are first made against **you** and reported to **us** during such optional extended reporting period; and
  2. result from acts, omissions, or **events** occurring on or after the **retroactive date** but prior to the effective date of cancellation or non-renewal.
- C. The additional premium and effective dates will be stated in the purchased extended reporting period endorsement.
- D. Notice of election and full payment of the additional premium for the optional extended reporting period must be received within 30 days after the effective date of cancellation or non-renewal. In the event the additional premium is not received within the 30 days, any right to purchase the optional extended reporting period will lapse and no further optional extended reporting period will be offered.



## Cyber, Data Risk, and Media Insurance

- E. The limits of liability applicable during any purchased optional extended reporting period will be the remaining available policy limit under the cancelled or non-renewed policy. There will be no separate or additional limit of liability available for any purchased optional extended reporting period and the purchase of any optional extended reporting period will in no way increase the policy limit or any policy sublimit.

### IX. Related claims and losses

For purposes of this policy:

1. all **claims** arising from any common nexus of fact, circumstance, situation, event, transaction, or cause, or series of related facts, circumstances, situations, events, transactions, or causes will be considered a single **claim** made against **you** on the date the first such **claim** was made;
2. all **events** arising from any common nexus of fact, circumstance, situation, event, transaction, or cause, or series of related facts, circumstances, situations, events, transactions, or causes will be considered a single **event** first discovered on the date the first such **event** was discovered by **you**; and
3. all **claims** or **losses** arising from the same or related **events** will be considered a single **claim** or **loss** first made against or incurred by the **insured** on the date the first **event** was discovered by the **insured**.

### X. Conditions applicable to cyber extortion costs

The following are conditions precedent to the payment by **us** of any **cyber extortion costs** under this policy:

1. **you** must inform, or allow **us** to inform, the appropriate law enforcement authorities where the illegal threat and ransom demand was made;
2. **you** must keep **us** fully informed of all developments concerning the **extortion threat** and must obtain **our** agreement regarding the timing and manner of any ransom payment prior to making any ransom payment;
3. **you** must demonstrate to **us** that the ransom has been surrendered under duress and that before agreeing to its payment **you** have taken all reasonable efforts to determine that the threat is genuine and not a hoax; and
4. at least one trustee, director, or officer (or equivalent position) of the **named insured** must agree to the ransom payment.

### XI. Conditions applicable to business interruption costs

The following are conditions precedent to the payment by **us** of any **business interruption costs**:

1. **You** must complete and sign a written, detailed, and affirmed proof of loss within 90 days after **your** discovery of the interruption of the **insured organization's** business (unless such period has been extended by **us** in writing) which will include, at a minimum, the following information:
  - a. a full description of the circumstances surrounding the **business interruption costs**, including, without limitation, the time, place, and cause of the **loss**;
  - b. a detailed calculation of any **business interruption costs**; and
  - c. all underlying documents and materials that reasonably relate to or form part of the basis of the proof of such **business interruption costs**.
2. Any costs incurred by **you** in connection with establishing or proving **business interruption costs**, including but not limited to preparing a proof of loss, will be **your** obligation, and are not covered under this policy.
3. In determining the amount of **income loss** covered under part 5. of Insuring Agreement A. Cyber, due consideration will be given to the prior experience of **your** business, and to the probable business **you** could have performed had no **event** occurred. Provided, such **income loss** will not include income that would likely have been earned as a result of an

## Cyber, Data Risk, and Media Insurance

increase in volume of business due to favorable business conditions caused by the interruption of any other entity's business. **Income loss** will be calculated on a daily basis.

### XII. Cancellation

- A. This policy may be canceled by the **named insured** by giving advance written notice to **us** at the address on the Declarations stating when thereafter such cancellation will be effective.
- B. This policy may be canceled by **us** only if the **insured** fails to pay the premium within 30 days of the inception of the **policy period**. In such cases, **we** will mail to the **named insured** by registered, certified, or other first class-mail, at the **named insured's** address stated in Item 1 of the Declarations, written notice stating when the cancellation will be effective, such date not to be less than ten days thereafter.
- C. The mailing of such notice will be sufficient proof of notice and this policy will terminate at the date and hour specified in such notice.
- D. If this policy is canceled by the **named insured**, **we** will retain the customary short rate portion of the premium.
- E. Payment or tender of any unearned premium by **us** will not be a condition precedent to the effectiveness of the cancellation, but such payment will be made as soon as practicable.

### XIII. Duty to cooperate

- A. **You** must provide **us** with full, timely, and accurate information about all matters, **claims**, and **losses** notified to **us** under this policy. If **you**, or anyone on **your** behalf, tries to deceive **us** by deliberately giving false information in connection with a notification, **we** will immediately be relieved of all obligations under this policy with respect to the notification at issue, including the duty to defend **you**.
- B. If **we** have accepted notice of any matter, **claim**, or **loss** under this policy, then **you** must:
  1. give **us**, or anyone appointed by **us**, at **your** expense, all the assistance, cooperation, and information which **we** reasonably require under this policy, and **you** must do anything **we** reasonably request to avoid, minimize, or resolve any matter, **claim**, or **loss**, including paying the **retention** when requested by **us**; and
  2. notify **us** as soon as practicable of all settlement offers made by a claimant in connection with any **claim** or potential **claim**.
- C. **You** will not make any payment, incur any expense, admit any liability, or assume any obligation without **our** prior consent except as follows:
  1. **extra expenses**;
  2. as provided in Section III. Defense and settlement of claims, F.; or
  3. as provided in the definition of **breach costs**.

### XIV. Change in ownership

**You** must notify **us** as soon as practicable if **you** merge with or are acquired by another business. In that event, coverage under this policy will continue until the end of the **policy period**, but only with respect to **claims** arising from acts, omissions, or **events** occurring prior to such merger or acquisition.

### XV. Appraisal

If **we** and the **named insured** do not agree on the amount of **business interruption costs**, either party may make a written demand for an appraisal of the **business interruption costs**. If such demand is made, each party will select a competent and impartial appraiser. The appraisers will then jointly select an umpire. If the appraisers cannot agree on an umpire, they may request that such selection be made by a judge of a court having jurisdiction. Each appraiser will separately state the amount of **business interruption costs**. If the appraisers do not agree on the amount of the **business interruption costs**, they will submit their differences to the umpire. Agreement by the umpire and at least one of the appraisers regarding the amount of the **business interruption**



## Cyber, Data Risk, and Media Insurance

**costs** will be binding on **you** and **us**. Each party will pay their respective chosen appraiser and will equally share the costs of the umpire.

---

### **XVI. Other insurance**

Any payment due under this policy is specifically excess of and will not contribute with any other valid and collectible insurance unless such other insurance is specifically written as excess insurance over the limit of liability of this policy. However, with respect to **breach costs** only, this policy will be primary.

---

### **XVII. Subrogation**

In the event of any payment by **us** under this policy, **we** will be subrogated to all of **your** rights of recovery to such payment. **You** will do everything that may be necessary to secure and preserve such subrogation rights, including but not limited to the execution of any documents necessary to allow **us** to bring suit in **your** name. **You** will do nothing to prejudice such subrogation rights without first obtaining **our** written consent.

Any recovery will first be paid to **us** up to the amount of any **loss, damages, claim expenses**, or other amounts that **we** have paid. Any remaining amounts will be paid to **you**.

---

### **XVIII. Alteration and assignment**

No change in, modification of, or assignment of any interest under this policy will be effective unless made by written endorsement to this policy signed by **our** authorized representative.

---

### **XIX. Representations**

**You** agree that all representations (whether oral or written) made and all materials submitted in connection with the application for this policy are true, accurate, and not misleading, and were relied upon by **us** and were material to **our** decision to issue this policy. If **we** learn that such representations or submitted materials were untrue, inaccurate, or misleading in any material respect, **we** are entitled to treat this policy as if it had never existed.

---

### **XX. Bankruptcy and insolvency**

**Your** bankruptcy or insolvency will not relieve **us** of **our** obligations under this policy.

---

### **XXI. Sanctions**

This policy will not be deemed to provide coverage and **we** will not be liable to pay any **claim** or **loss** or provide any benefit under the policy to the extent that the provision of such coverage, payment of such **claim** or **loss**, or provision of such benefit would expose **us** to any sanction, prohibition, or restriction under United Nations resolutions or the trade or economic sanctions, laws, or regulations of the European Union, United Kingdom, or United States of America.

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### **XXII. Headings**

The titles of paragraphs, sections, provisions, or endorsements of or to this policy are intended solely for convenience and reference, and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the policy.



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Randy  
**DATE:** February 21, 2017  
**RE:** Request for Sunday Liquor Sales

---

### **DISCUSSION:**

A request to be made for Sunday liquor sales in Finney County's unincorporated areas. The City of Holcomb allows Sunday sales but the City of Garden City does not.

### **BACKGROUND:**

Chandler Brass with J&J Oil Company made the request via telephone. He stated that his company owns a gas station on Jones Avenue west of Garden City that he thought could be remodeled into a travel plaza with a liquor store. By adding the sale of liquor, he was checking to see what is needed to enable the store to have Sunday sales. The requirement for this is the county would have to pass a Charter Resolution that allows for a 60-day public protest period. If there is not a sufficient protest in 60-days following the required publication period, Sunday sales would be allowed in the unincorporated areas.

### **ALTERNATIVES:**

1. Approve request and have the county counselor prepare a Charter Resolution for the Sunday sale of liquor in Finney County's unincorporated areas
2. Deny the request
3. Defer any action to another commission meeting

### **RECOMMENDATION:**

No staff recommendation.

### **ATTACHMENTS:**

Description  
KSA 41-2911

## 2012 Kansas Statutes

**41-2911. Alcoholic liquor and cereal malt beverage, days of sale; local option.** (a) (1) The board of county commissioners of any county may, by resolution:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the unincorporated area of the county on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to allow such sale within the unincorporated area of the county on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the unincorporated area of the county on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to prohibit such sale within the unincorporated area of the county on Sunday, Memorial Day, Independence Day and Labor Day.

Such resolution shall be published once, within two weeks after its adoption, in the official county newspaper. Such resolution shall not become effective earlier than 60 days following the date of its publication or November 15, 2005, whichever is later. If, within 60 days following publication of the resolution, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with subsection (a)(2), such resolution shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (a).

(2) A petition to submit a proposition to the qualified voters of a county pursuant to this subsection (a) shall be filed with the county election officer. The petition shall be signed by qualified voters of the county who reside within the unincorporated area of the county equal in number to not less than 5% of the voters of the county residing within the unincorporated area of the county who voted for the office of president of the United States at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the unincorporated area of \_\_\_\_\_ county."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the unincorporated area of \_\_\_\_\_ county and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day) within the unincorporated area of \_\_\_\_\_ county."

(3) Upon submission of a valid petition calling for an election pursuant to this subsection (a), the county commission shall call a special election to be held not later than 45 days after submission of the petition unless a countywide primary or general election is to be held within 90 days after submission of the petition, in which case the proposition shall be submitted at such countywide election. Thereupon, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the unincorporated area of the county at such election:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area of \_\_\_\_\_ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday)?"

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area of \_\_\_\_\_ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day)?"

(b) (1) The governing body of any city may, by ordinance:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the city on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to allow such sale within the city on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the city on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to prohibit such sale within the city on Sunday, Memorial Day, Independence Day and Labor Day.

Such ordinance shall be published at least once each week for two consecutive weeks in the official city newspaper. Such ordinance shall not become effective earlier than 60 days following the date of its publication or November 15, 2005, whichever is later. If, within 60 days following publication of the ordinance, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with subsection (b)(2), such ordinance shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (b).

(2) A petition to submit a proposition to the qualified voters of a city pursuant to this subsection (b) shall be filed with the county election officer. The petition shall be signed by qualified voters of the city equal in number to not less than 5% of the voters of the city who voted for the office of president of the United States at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the city, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the

original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the city of \_\_\_\_\_."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the city of \_\_\_\_\_ and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day) within the city of \_\_\_\_\_."

(3) Upon submission of a valid petition calling for an election pursuant to this subsection (b), the city governing body shall call a special election to be held not later than 45 days after submission of the petition unless a citywide primary or general election is to be held within 90 days after submission of the petition, in which case the proposition shall be submitted at such citywide election. Thereupon, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the city at such election:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the city, the following proposition shall be placed on the ballot: "Within the city of \_\_\_\_\_ shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday)?"

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the following proposition shall be placed on the ballot: "Within the city of \_\_\_\_\_ shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day)?"

(c) The county election officer shall transmit to the director a copy of the results of an election pursuant to this section.

(d) An election provided for by this section shall be called and held in the manner provided by the general bond law.

**History:** L. 2005, ch. 201, § 9; July 1.



**MEMORANDUM**

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Tom Burgardt  
**DATE:** February 21, 2017  
**RE:** Executive Session (9:30 am) - Attorney Client

---

**DISCUSSION:**

Attorney Client discussion in executive session.

**RECOMMENDATION:**

N/A



## MEMORANDUM

**TO:** County Commission  
**THRU:**  
**FROM:** Randy Partington  
**DATE:** February 21, 2017  
**RE:** Executive Session - Non Elected Personnel

---

### **DISCUSSION:**

Discussion of non elected personnel in an executive session.

### **RECOMMENDATION:**

N/A



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:**  
**DATE:** February 21, 2017  
**RE:** Meeting Protocols

---

### **DISCUSSION:**

The commission meeting guidelines were last updated at the end of 2012. Attached is a draft copy of the guidelines that show changes discussed by County Commission Chair Lon Pishny and County Administrator Randy Partington.

### **BACKGROUND:**

The guidelines are meant to be a protocol for the setting of agendas, date and time of commission meetings, background information required for agenda items, and miscellaneous items.

### **RECOMMENDATION:**

Discussion with options for the commission to consider.

### **ATTACHMENTS:**

Description

Commission Meeting Guidelines

## FINNEY COUNTY BOARD OF COUNTY COMMISSIONERS STATEMENT OF POLICY ON COUNTY COMMISSION MEETINGS

### PURPOSE

This Statement of Policy has been developed to assure that meetings of the Finney County Board of County Commissioners are conducted in compliance with K.S.A. 75-4317 et seq., the Kansas Open Meetings Act (KOMA). This statement outlines Board policy on the schedule of regular and workshop meetings and on the procedure to be followed during scheduled meetings. This Statement of Policy will be reviewed annually ~~in September~~.

### POLICY

#### BUSINESS MEETINGS

~~Effective November 2012, t~~The board of County Commissioners will hold regular business meetings will be dedicated to the transaction of regular governmental business and the conduct of governmental affairs. All business meetings will be convened pursuant to K.S.A. 75-4317 et seq. and an agenda for each business meeting will be prepared. Meetings of the Board of County Commissioners will begin at 8:30 A.M. on the meeting day unless otherwise provided.

#### SECOND AND FIFTH MONDAYS

~~Effective November 2012, the Board of County Commissioners will only hold a meeting on the second and Fifth Monday of each month, if needed. When there is a fifth Monday in any month a regular meeting will be scheduled from 7:00 P.M. to 9:00 P.M. for the purpose of transacting regular business and to obtain citizen input on general matters of interest to the public. The meetings will be announced the week prior to a second and fifth Monday if needed. All second and fifth Monday meetings will be convened pursuant to K.S.A. 75-4317 et seq. and an agenda for such meetings will be prepared.~~

#### SPECIAL MEETINGS

Special meetings may be called by the Chairman of the Board when requested by individual commissioners, administrative staff or of County Commissioners ~~or~~ when required by state statute. When a special meeting is called, the Chairman shall notify the County Clerk who in turn shall notify the other County Commissioners. All special meetings will be convened pursuant to K.S.A. 75-4317 et seq. and an agenda for each special meeting will be prepared.

### PROCEDURE

#### MEETING AGENDA

In accordance with this Statement of Policy and K.S.A. 75-4317 et seq., an agenda for each meeting of the Board of County Commissioners shall be planned by the Board Chair and prepared by the County Administrator and/or County Clerk. Agencies, organizations, county departments and citizens desiring to meet with the Board of County Commissioners may be placed on the agenda by contacting the County Administrator and/or County Clerk. The County Administrator and/or County Clerk will establish an agenda date and time for the requesting party in accordance with this Statement of Policy. The deadline for being placed on a business meeting is 12:00 noon on the Thursday preceding the business meeting.



#### AGENDA BACKGROUND INFORMATION

To facilitate informed discussion and timely action agenda items, the Board of County Commissioners requires adequate background information from the requesting party. Attachments 1 and 2 provides a guideline of the background information that is expected from parties and/or persons who request time on the agenda.

Departments, officers, agencies, organizations and boards which are funded and/or created by or through the Board of County Commissioners will be required to submit background information in the format generally outlined in Attachment 1. The background information can come in the format shown on Attachment 1 or in the form of a memo that includes all information listed in Attachment 1. Digital copies of the background information must be submitted to the County Administrator and County Clerk by the deadline stated above in order for the agenda request to be scheduled.

Any organization, board, agency or citizen defined above will be provided a copy of attachment 21 and will be required to submit the background information requested in order to assist the Board of County Commissioners to respond to the subject of the agenda item. The background information can come in the format shown on Attachment 21 or in the form of a memo that includes all information listed in Attachment 21. Digital copies of the background information must be submitted to the County Administrator and County Clerk by the deadline stated above in order for the agenda request to be scheduled.

#### ~~AGENDA SCHEDULE~~

~~Meetings of the Board of County Commissioners will begin at 8:30 A.M. on the meeting day unless otherwise provided. Business items will be placed on the agenda beginning at 9:00 A.M. to provide commissioners time for review of mail, background information, public comment and the County Administrator report. The County Administrator and County Clerk will maintain a rotating luncheon schedule with county department heads to provide commissioners and department heads the opportunity to meet on a periodic basis. Lunch will be scheduled from 12:00 P.M. to 1:00 P.M. and will be duly noted on the meeting agenda.~~

#### MEETING PROTOCOL

Meetings of the Board of County Commissioners will be convened by the Chairman at the time stated on the meeting agenda. The agenda may be amended at the beginning of each meeting by approval of the Board. Agenda items will be generally reviewed as follows:

- A. Agenda item presented and explained by requesting party.
- B. Commissioner discussion and questions.
- C. Public input.
- D. Final discussion and action by commissioners.

Persons attending meetings of the Board of County Commissioners may be allowed to address the Board on agenda items when they have been recognized by the Chairman. However, no person has a right to be disruptive and such action will not be tolerated. For the Public Comment section, individuals and/or entities may be allowed to address the board for a time of no more than 10 minutes, except under special circumstances.

After discussion of an agenda item the Board of County Commissioners may take action by formal motion. A formal motion must be stated, seconded, and voted on by public vote of each participating commissioner. No secret ballots will be allowed.

#### EXECUTIVE SESSIONS

The Board of County Commissioners may hold executive sessions pursuant to K.S.A. 75-4319. In order to go into executive session the provisions of K.S.A. 75-4319(a) shall be followed.

#### ADJOURNMENT

Meetings of the Board of County Commissioners will be adjourned by the Chairman upon completion of discussion and/or action on agenda items.

Commented [r1]: This attachment no longer used, a new Attachment 1 will be attached.

ATTACHMENT 1

AGENDA ITEM BACKGROUND INFORMATION

**AGENDA SUBJECT:**

**PRESENTED BY:**

**AGENDA DATE:**

**REQUESTED ACTION:**

It is the policy of the Board of County Commissioners that organizations receiving funding from Finney County are required to provide written background information with any request to be placed on the agenda. The submission deadline for this information is 12:00 noon on the Thursday before the scheduled Commission meeting. The information requested may be submitted on this form or in a separate document.

**BACKGROUND INFORMATION:**

**FINANCIAL CONSIDERATIONS:**

**COST: \$** \_\_\_\_\_

**PROPOSED FUNDING SOURCE(S):**

**REQUESTED IMPLEMENTATION DATE:**

**LEGAL CONSIDERATIONS:**  
(IF ANY)

**REVIEW ALTERNATIVES CONSIDERED:**

**FINAL RECOMMENDATION/REQUEST:**

Commented [r2]: No longer use Attachment 2, only the new attachment 1

**ATTACHMENT 2**

**AGENDA ITEM BACKGROUND INFORMATION**

This form is provided to you to confirm your appointment to meet with the  
Finney County Board of County Commissioners at \_\_\_\_\_ on \_\_\_\_\_.  
(TIME) (DATE)

\*\*\*\*\*

Listed below is an outline of background information which, if provided in advance, will assist the Board of County Commissioners to respond to your request in an informed and timely manner. The information requested will be mailed to the Board along with the meeting agenda if it is provided by 12:00 noon on the Thursday before your scheduled meeting date. It is requested that seven (7) copies of the background information be provided. The information requested may be submitted on this form or in a separate document. You are not required to submit written background information. However, submission of written material will assist the Board of County Commissioners in responding to your request.

\*\*\*\*\*

**AGENDA SUBJECT:**

**PRESENTED BY:**

**AGENDA DATE:**

**REQUESTED ACTION:**

**BACKGROUND INFORMATION:**

**FINANCIAL CONSIDERATIONS:**

**COST: \$ \_\_\_\_\_**

**PROPOSED FUNDING SOURCE(S):**

**REQUESTED IMPLEMENTATION DATE:**

**REVIEW ALTERNATIVE CONSIDERED:**

**FINAL RECOMMENDATION/REQUEST:**



**MEMORANDUM**

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:**  
**DATE:** February 21, 2017  
**RE:** Discussion Item

---

**DISCUSSION:**

Sample

**BACKGROUND:**

Sample

**ALTERNATIVES:**

Sample

**RECOMMENDATION:**

Sample

**FISCAL And/Or POLICY IMPACT:**

Sample



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Randy  
**DATE:** February 21, 2017  
**RE:** Commission Approved Goals Discussion

---

### **DISCUSSION:**

This time will be for the commissioners to discuss one of the goals listed on the Finney County Government's approved Mission, Values and Goals.

### **RECOMMENDATION:**

Discussion item

### **ATTACHMENTS:**

Description

Goals Document

# ***Finney County Government***

## **Mission**

***Finney County serves the citizens on behalf of its taxpayers***

## **Vision**

**Finney County seeks to provide essential and relevant services that promote a growing community for residents, businesses and visitors. The county government shall be a convener and assist other government entities and businesses in efforts to enhance the quality of life, providing opportunities for all of its citizens.**

## **Values**

**Integrity** – Be honest and trustworthy. Be transparent to citizens and put the county's interests above personal gain.

**Stewardship** – Make decisions that are in the best interests of the taxpayers' financial investment.

**Customer Service** – Provide good customer service to the public and peers.

**Collaboration** – Understand and practice good teamwork internally and with external partners.

**Resourcefulness** – Provide services in an efficient manner and adjust to changing needs.

## **Goals**

Analyze the relevancy of county services to align the available revenues, while maximizing efficiency and responsiveness in the delivery of services.

Plan for capital improvements that support local commerce, maintain county facilities and public safety.

Improve communication with citizens about county services and initiatives, in an effort to expand citizen engagement.

Expand partnerships with area governmental entities, state agencies and other public/private entities to leverage resources, eliminate service redundancies and maximize influence in state and federal decision making.

Be a positive contributor, particularly as convener when deemed appropriate, to community problem solving and quality of life issues.



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Lon  
**DATE:** February 21, 2017  
**RE:** Mission Statement

---

### **DISCUSSION:**

The county commission will take time to discuss any recommended adjustments to the mission statement.

### **BACKGROUND:**

In 2016, the county commission adopted a mission statement along with values, goals and objectives. This item is a discussion about whether the mission statement needs to be edited.

### **RECOMMENDATION:**

N/A





**MEMORANDUM**

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Lon  
**DATE:** February 21, 2017  
**RE:** Legislative Activity

---

**DISCUSSION:**

Updates and discussion by commissioners of the legislative activity at the State of Kansas.

**RECOMMENDATION:**

Discussion

**MEMORANDUM**

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:**  
**DATE:** February 21, 2017  
**RE:** Energy Audit Tax Credit (EPAAct 179D)

---

**DISCUSSION:**

Discuss the signing of allocation for energy tax deduction from Stewart Nelson at GMCN.

**BACKGROUND:**

At the last commission meeting, a request from Hutton Construction for Finney County to allocate an energy efficient tax deduction (EPAAct 179D) for the new community services center was discussed. The commission directed the county administrator to contact Stewart Nelson (building's architect) to see if they were also planning on seeking the tax credit. It was discovered that Mr. Nelson had already contacted an energy audit firm in preparation for this tax credit. A discussion took place between GMCN and Hutton Construction to determine if both could receive a partial tax credit. It was discovered that GMCN initiated the audit so should get the tax credit.

**ALTERNATIVES:**

1. Approve the tax credit application for GMCN and authorize the county administrator to sign
2. Deny the tax credit

**RECOMMENDATION:**

It is recommended to approve the tax credit allocation for GMCN as they designed the building and have already had an energy audit firm view the building.

**FISCAL And/Or POLICY IMPACT:**

No impact to Finney County

**ATTACHMENTS:**

Description

Energy Audit Tax Credit

## Randall Partington

---

**From:** Stewart Nelson <[snelson@gmcnarchitects.com](mailto:snelson@gmcnarchitects.com)>  
**Sent:** Thursday, February 09, 2017 10:39 AM  
**To:** Randall Partington  
**Subject:** FCCCSC  
**Attachments:** FCCCSC- 179D Contract.pdf

Randy,

Attached is a copy of the Section 179D for the new Finney County Community Corrections Service Center. Look it over and please sign and scan back to me. I have discussed this with Hutton Construction and since we had already sent our contract back to the company that will do the audit GMCN will receive the entire benefit of the audit. Hutton will not be involved with this.

Thanks!!

Stewart Nelson  
[snelson@gmcnarchitects.com](mailto:snelson@gmcnarchitects.com)



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**Section 179D**  
**Energy-Efficient Commercial Buildings Deduction**  
**Government-Owned Buildings Allocation of Deduction to Design Firm**

Pursuant to Section 179D(d)(4) and Notice 2008-40 Section 3, in the case of energy-efficient commercial building property (or partially qualifying commercial building property for which a deduction is allowed under §179D) that is installed on or in property owned by a federal, state or local government or a political subdivision thereof, the owner of the property may allocate the §179D deduction to the person primarily responsible for designing the property (the designer). The deduction will be allowed to the designer for the taxable year that includes the date on which the property is placed in service.

A designer is a person who creates the technical specifications for installation of energy-efficient commercial building property. A designer may include, for example, an architect, engineer, contractor, environmental consultant or energy services provider who creates the technical specifications for a new building or an addition to an existing building that incorporates energy-efficient commercial building property. A person who merely installs, repairs or maintains the property is not a designer.

If more than one designer is responsible for creating the technical specifications for installation of energy-efficient commercial building property on or in a government-owned building, the owner of the building shall: 1) determine which designer is primarily responsible and allocate the full deduction to that designer or 2) at the owner's discretion, allocate the deduction among several designers.

The allocation of the §179D deduction to the designer of a government-owned building must be in writing. The following statement is compliant with Notice 2008-40 Section 3.04.

1. Name, address and telephone number of authorized representative of the owner of the government-owned building:

Randy Partington  
311 North Ninth Street  
Garden City, KS 67846  
(620) 272-3542

2. Name, address and telephone number of authorized representative of the designer receiving the allocation of the §179D deduction:

Gibson, Mancini, Carmichael & Nelson, P.A.  
Attn: Stewart Nelson  
115 East Laurel Street  
Garden City, KS 67846  
(620) 276-7208



3. Name and address of subject government-owned building on or in which the property is installed:

Finney County Community Corrections Service Center  
607 West Santa Fe Street  
Garden City, KS 67846

4. Cost of the qualifying or partially qualifying energy-efficient commercial building property installed is \$6,189,801.61.

5. Date the property is placed in service:

The energy-efficient commercial building property was placed in service on June 20, 2016.

6. The amount of the §179D deduction allocated to the designer:

The amount of the §179D deduction allocated to Gibson, Mancini, Carmichael & Nelson, P.A. is 100% of the total §179D deduction available.

7. Signatures of the authorized representatives of both the owner of the government-owned building and the designer or designer's authorized representative:

\_\_\_\_\_  
Randy Partington  
Authorized Signature

Stewart Nelson  
Gibson, Mancini, Carmichael & Nelson, P.A.  
Authorized Signature

\_\_\_\_\_  
Randy Partington  
Printed Name

\_\_\_\_\_  
Stewart Nelson  
Printed Name

\_\_\_\_\_  
Date

02-09-2017  
Date

8. A declaration, applicable to the allocation and any accompanying documents, signed by the authorized representative of the owner of the government-owned building, in the following form:

"Under penalties of perjury, I declare that I have examined this allocation, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this allocation are true, correct and complete."

\_\_\_\_\_  
Randy Partington  
Authorized Signature

\_\_\_\_\_  
Randy Partington  
Printed Name

\_\_\_\_\_  
Date



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:**  
**DATE:** February 21, 2017  
**RE:** Appointed Departments Monthly Reports

---

### **DISCUSSION:**

Attached are the monthly reports provided by the appointed directors.

### **BACKGROUND:**

The monthly reports are intended to give commissioners and the administrator an understanding of activities provided by the various non-elected departments in Finney County.

### **RECOMMENDATION:**

Reports are for information only.

### **ATTACHMENTS:**

Description

Monthly Reports (January 2017)



**Commercial, Residential, and Ag Real Estate in February:**

Finalizing 2017 values, held 2016 First Half of Payment Under Protest hearings/Double checking Queries from Orion to finalize getting ready to send CVNs.

**Oil & Gas Field Appraiser-** mailing out oil & gas guide to companies. Started CVN checklist from PVD/Finishing Data entry of real estate and hearings

**PP Appraiser:**

Sent/now receiving Assessment forms/ Data entry of changes

Valuing Personal Property/address changes/hearings & tax grievances

Print and mail Mobile Home Park Lists to all Mobile Home parks, record the changes that come in.

**GIS Cartographer:**

Making mapping changes to GIS/Ownership changes/Checking deeds/Answering Taxpayer questions on deeds etc.

**Field Appraiser staff:** Working on Sales, building permits, taxpayer requests, and tax payer questions

**Administration:**

New employee started January 10, 2017/finished paperwork on the final review I did/Help train new employee

Sent Market Study to newspaper to be published Feb. 6, 2017

Signing off on payment under protest hearings held

Working on Capital Requests for 2018

Start working on budget for 2018- review my 2016 final budget numbers

Evaluations on employees need to be done

Feb. 9, 2017 doing building bridges at high school.

Hearing in Topeka on Feb. 15<sup>th</sup>, 2017

Trey Phillips  
GIS Supervisor  
February 1, 2017

# Finney County GIS

## Monthly department report

### **Staffing**

The GIS department is staffed with 2 full time employees.

### **Projects**

The Property Tax App has been completed. Currently waiting on review from upper management to green light the official release.

Next big project is the Cemetery Database. Plans for this include new and improved web functionality with better searching capabilities and real time integration.

### **Financial**

The FAA has changed it's rules and regulations on become a drone pilot. This opens the door for Finney County to look into drone capabilities. The GIS department has transferred \$40,000 to 2017's budget to explore this possibility.

### **Out of Office**

Trey Phillips will be out of the office from July 10th to July 14th for the ESRI User Conference. ESRI is the software provider for the GIS System.



## Human Resource Department

The following is a high level overview of the HR department's activity for the month of January 2017. Day to day tasks are not included in this report.

### PERSONNEL

#### Recruitment

- Vacancies
  - RN-Health Dept.
  - Custodial Staff –Working to hire a seasonal part-time help due to sickness and leave interfering with staffing. (We may look at hiring 2 people)
  - EMS-1 Paramedics
  - Road and Bridge-1 Equipment Operators
  - Jail Deputies-4 positions
  - Corrections-2 case managers
  - Total Vacancies-10
- Terminations
  - Road and Bridge
    - Mechanic
    - Equipment Operator
  - EMS
  - Jail
    - Jail Deputy
  - Treasurer
    - Deputy Treasurer
  - Building Maintenance
    - Custodial (3)

#### Retirement

Kelly is working diligently with several retirees to prepare for March departures.

#### Performance Reviews

All departments have been asked to provide annual evaluations to employees. A form was sent out to all departments. The forms are due back to HR at the end of February.

### FEDERAL COMPLINANCE

#### Work Comp

There continues to be a large amount of the HR's time spent on administration of work comp. The HR Director will discuss this with the Safety Committee on 2/15/17.

- 2 individuals remain on light duty.

## **FMLA**

- Currently, there are 3 people on FMLA. A huge decline from last month.

## **Leadership/Training**

Coordinated efforts for the KLC grant shared with Ellis County. All 20 slots are full.

HR Director will complete WSU's Mini MPA the last week of February. This has been a great learning opportunity and valuable information to pass along to Administrator and department heads.

## **COMMITTEES**

### **Benefits**

Met with benefits committee members to discuss EAP services and if we want to look for other vendors. IMA is getting us quotes

### **Policy**

The policy committee is scheduled to meet on February 13 to begin working on the Employee Handbook.

### **Community Involvement**

Attending Workforce Development meetings to discuss community challenges regarding recruitment and retention

SHRM of SWKS. This year, the HR Director is the VP for the local chapter. There will responsibilities to plan for the annual workshop that SHRM hopes to partner with GC, Dodge and Liberal Chamber of Commerce. The conference will be held in August 10, 2017 at the Clarion Hotel in GC.

## **PAYROLL**

Payroll completed GL adjustments for 2016/2017. There are issues with Treasurer's office staff. The loss of the Deputy Treasurer has caused confusion of responsibilities.

All W-2's were placed online for employees to access on their KRONOS dashboards

January 6<sup>th</sup>, 2017  
To: County Commissioners; Randall Partington  
From: Colleen Drees

### **Updates on Health Department/WIC Jan 2017**

#### **Commissioner Report**

Attached is the Commissioner Report for January. We have a great start to 2017 already and have brought in just under \$45k in Revenue for the month. The clinic has been busy, so we are excited to see what 2017 will bring.

#### **Capital Improvement**

We are still working with a variety of vendors to demo different electronic medical record systems. The job description for the EMR Coordinator is also in the works in collaboration with the new I.T. Director, HR Director and our contact at Kansas Healthcare Collaborative.

We are also still working on the Front Remodel of our office to reconstruct the front desk. New plans are being drafted and then there will be a bidding process to hire the best contractor for the job.

#### **Employee Clinic**

Our Employee Clinic provider has been staying very busy and has been balancing both Employee Clinic and Community Care Clinics well. For the month of January Gretchen did see 191 patients between both clinics. This is 45 more patients this month rather than last month. Due to a variety of illnesses being passed around, her schedule has been completely booked every day the past two weeks. She has also been willing to accommodate more people into her schedule than allotted in order to see urgent needs.

#### **Wellness Committee**

The Wellness Committee met to nominate new members for 2017. Cheryl Carroll will be the President, Shonda Sauseda is Vice-President, Skylar Swords is secretary and I am Treasurer. Get Fit Finney County Kicked off at the end of the month, with a total of 66 participants.

#### **Vacancy**

We currently have an open position for a registered nurse. We have advertised on social media and also on Indeed. We still have only had one applicant. I have now set up an advertisement with the Kansas State Board of Nursing that will reach 19,000 Registered Nurses across the state.

| 2017 Month                               | Employee<br>Clinic Count | Employee<br>Procedures | Count      | Procedures   | Charges            | Adjust/<br>Writeoffs | Accts<br>Receivable<br>Net | Self Pay           | Insurance          | KanCare<br>formerly<br>known as<br>Medicaid | Medicare          | Donations     | Revenue<br>Total   | Employee<br>Clinic<br>Revenue |
|--|--------------------------|------------------------|------------|--------------|--------------------|----------------------|----------------------------|--------------------|--------------------|---|-------------------|---------------|--------------------|-------------------------------|
| January                                  | 103                      | 303                    | 783        | 3,603        | \$51,574.18        | \$12,089.51          | \$39,484.67                | \$11,975.92        | \$21,415.37        | \$8,758.97                                  | \$2,097.17        | \$0.00        | \$44,247.43        | \$123.00                      |
| February                                 |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| March                                    |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| April                                    |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| May                                      |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| June                                     |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| July                                     |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| August                                   |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| September                                |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| October                                  |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| November                                 |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| December                                 |                          |                        |            |              |                    |                      |                            |                    |                    |   |                   |               |                    |                               |
| <b>Total</b>                             | <b>103</b>               | <b>303</b>             | <b>783</b> | <b>3,603</b> | <b>\$51,574.18</b> | <b>\$12,089.51</b>   | <b>\$39,484.67</b>         | <b>\$11,975.92</b> | <b>\$21,415.37</b> | <b>\$8,758.97</b>                           | <b>\$2,097.17</b> | <b>\$0.00</b> | <b>\$44,247.43</b> | <b>\$123.00</b>               |
| <b>Jan - Jan<br/>2016<br/>Comparison</b> | 11                       | (48)                   | 79         | 1,085        | \$3,681            | \$126                | \$3,555                    | \$4,904            | (\$12,782)         | \$1,361                                     | (\$130)           | \$0           | (\$6,647)          | \$63                          |





January 31, 2017

EMS Update

Vehicle Report:

| Unit | Year Purchased | Make and Model        | Current Mileage |
|------|----------------|-----------------------|-----------------|
| 91   | 2009           | Ford F450 Diesel      | 121,371         |
| 92   | 2006           | Ford F450 Diesel      | 149,019         |
| 93   | 2007           | Ford F450 Diesel      | 168,878         |
| 94   | 2015           | Ford E350 Gas         | 30,386          |
| 95   | 2011           | Ford F350 Diesel      | 170,974         |
| 96   | 2009           | Dodge Sprinter Diesel | 138,308         |
| 97   | 2016           | Ford E350 gas         | 7,062           |

In 2016 there was a combined total of 88,575 miles driven. An average of 7,381 miles per month.

Units 94 and 97 are the primary units for Garden City Station.

Units 91, 95, and 96 are rotated through Holcomb station. These units are primarily used for out of town transfers

Units 92 and 93 are used as backup when the other units are unavailable. We avoid out of town transfers with these units due to their age and dependability.

As of 1/31/2017 Unit 91 is being repaired at Midwest Ford in Hutchinson, KS. During a transfer on 1/17/2017 this unit lost power and the patient had to be transferred to Reno Count EMS to complete the journey to Via Christi St. Francis in Wichita. Metal shavings were found in the fuel system. Due to the engine being replaced in December of 2014 this repair will most likely be covered by warranty.

Spoke with Holcomb Police Officer Josh Tipton and Police Chief Tony Forsen about installing a natural gas powered generator just east of the Holcomb EMS station. This generator would supply power to the Holcomb City Building, Holcomb Fire Department, and the Finney County Holcomb EMS station in the event of a power outage. The cost of the foundation and the generator will be covered by the City of Holcomb. Finney County will cover the cost of the transfer switch to allow the EMS station to be powered. This is estimated to be a one-time cost of \$1,000 - \$2,000. Additionally, Finney County will cover the cost of the natural gas to power the generator for the weekly test periods. This should amount to an increase of \$1-\$2 in the gas bill per month.

Skylar Swords MICT/RN  
Service Director  
Emergency Medical Services

# FINNEY COUNTY EMS CHARGES

2017 Month End Report

|             | 2011           |              | 2012           |              | 2013           |                | 2014           |                | 2015           |                | 2016           |              | 2017           |             |
|-------------|----------------|--------------|----------------|--------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|--------------|----------------|-------------|
|             | Billable Calls | Charges      | Billable Calls | Charges      | Billable Calls | Charges        | Billable Calls | Charges        | Billable Calls | Charges        | Billable Calls | Charges      | Billable Calls | Charges     |
| January     | 146            | \$68,506.43  | 161            | \$76,063.29  | 147            | \$81,630.10    | 164            | \$97,761.60    | 169            | \$95,742.90    | 142            | \$78,203.50  | 118            | \$91,538.90 |
| February    | 106            | \$53,384.00  | 120            | \$61,042.40  | 130            | \$74,943.00    | 153            | \$92,897.30    | 143            | \$85,258.00    | 122            | \$84,345.50  |                |             |
| March       | 132            | \$80,795.80  | 160            | \$74,866.60  | 153            | \$91,817.20    | 148            | \$84,596.50    | 148            | \$91,488.90    | 167            | \$90,268.20  |                |             |
| April       | 124            | \$63,191.70  | 153            | \$92,669.53  | 144            | \$77,940.50    | 154            | \$96,653.60    | 155            | \$92,759.50    | 167            | \$93,772.50  |                |             |
| May         | 154            | \$77,759.69  | 136            | \$80,975.70  | 154            | \$109,964.50   | 152            | \$94,403.50    | 180            | \$100,708.90   | 134            | \$69,086.20  |                |             |
| June        | 129            | \$70,699.71  | 139            | \$69,981.90  | 143            | \$94,438.70    | 125            | \$80,018.20    | 155            | \$97,703.50    | 156            | \$95,393.60  |                |             |
| July        | 152            | \$79,256.70  | 136            | \$82,050.60  | 160            | \$94,938.20    | 158            | \$109,884.70   | 155            | \$87,355.40    | 133            | \$69,859.30  |                |             |
| August      | 118            | \$58,642.00  | 142            | \$85,057.70  | 156            | \$97,135.30    | 189            | \$110,587.60   | 136            | \$79,514.70    | 156            | \$78,472.70  |                |             |
| September   | 138            | \$69,304.00  | 160            | \$101,635.70 | 167            | \$103,897.90   | 174            | \$100,958.00   | 166            | \$79,721.20    | 171            | \$94,352.60  |                |             |
| October     | 123            | \$51,068.38  | 125            | \$81,079.60  | 150            | \$90,410.70    | 164            | \$85,898.20    | 159            | \$85,937.30    | 129            | \$70,736.00  |                |             |
| November    | 135            | \$61,431.50  | 132            | \$77,240.50  |                | \$58,235.10    | 143            | \$84,152.70    | 181            | \$87,191.30    | 140            | \$76,503.93  |                |             |
| December    | 153            | \$80,260.35  | 147            | \$87,600.30  | 181            | \$112,282.40   | 173            | \$111,241.40   | 139            | \$78,796.14    | 130            | \$82,896.94  |                |             |
| Total       | 1,610          | \$814,300.26 | 1,711          | \$970,263.82 | 1,685          | \$1,087,633.60 | 1,897          | \$1,149,053.30 | 1,886          | \$1,062,177.74 | 1,747          | \$983,890.97 |                | \$91,538.90 |
| Jan Summary | 146            | \$68,506     | 161            | \$76,063     | 147            | \$81,630       | 164            | \$97,762       | 169            | \$95,743       | 142            | \$78,204     | 118            | \$91,538.90 |

## COLLECTIONS

|                            | 2011         |              | 2012         |              | 2013         |              | 2014        |          | 2015     |          | 2016     |          | 2017     |          |
|----------------------------|--------------|--------------|--------------|--------------|--------------|--------------|-------------|----------|----------|----------|----------|----------|----------|----------|
|                            | Receipts     | Receipts     | Receipts     | Receipts     | Receipts     | Receipts     | Receipts    | Receipts | Receipts | Receipts | Receipts | Receipts | Receipts | Receipts |
| January                    | \$56,093.59  | \$41,666.18  | \$63,863.15  | \$17,789.48  | \$14,703.77  | \$92,845.60  | \$42,579.12 |          |          |          |          |          |          |          |
| February                   | \$37,457.29  | \$63,351.94  | \$47,841.75  | \$74,658.94  | \$122,755.34 | \$11,221.56  |             |          |          |          |          |          |          |          |
| March                      | \$51,050.73  | \$50,132.92  | \$60,553.36  | \$74,303.40  | \$52,756.95  | \$55,977.11  |             |          |          |          |          |          |          |          |
| April                      | \$33,279.41  | \$49,348.26  | \$25,107.65  | \$81,325.49  | \$42,894.47  | \$11,394.86  |             |          |          |          |          |          |          |          |
| May                        | \$48,732.36  | \$62,428.62  | \$14,468.00  | \$44,125.06  | \$37,830.35  | \$92,984.55  |             |          |          |          |          |          |          |          |
| June                       | \$41,212.49  | \$27,148.00  | \$86,848.38  | \$56,944.37  | \$61,318.63  | \$65,302.03  |             |          |          |          |          |          |          |          |
| July                       | \$28,389.44  | \$66,859.51  | \$44,953.93  | \$61,296.03  | \$9,457.47   | \$56,964.97  |             |          |          |          |          |          |          |          |
| August                     | \$40,503.74  | \$47,773.33  | \$71,885.25  | \$56,626.13  | \$109,612.69 | \$56,695.25  |             |          |          |          |          |          |          |          |
| September                  | \$31,458.74  | \$31,527.20  | \$43,522.56  | \$61,755.44  | \$46,822.96  | \$45,235.35  |             |          |          |          |          |          |          |          |
| October                    | \$26,029.17  | \$55,157.22  | \$50,707.29  | \$66,202.37  | \$91,474.69  | \$57,251.46  |             |          |          |          |          |          |          |          |
| November                   | \$19,085.35  | \$66,839.43  | \$16,276.68  | \$29,820.79  | \$51,590.37  | \$35,875.85  |             |          |          |          |          |          |          |          |
| December                   | \$59,124.54  | \$23,866.49  | \$26,277.92  | \$88,641.62  | \$32,461.87  | \$22,949.92  |             |          |          |          |          |          |          |          |
| Total                      | \$472,416.85 | \$606,099.10 | \$552,305.92 | \$713,489.12 | \$673,679.56 | \$604,698.51 | \$42,579.12 |          |          |          |          |          |          |          |
| Jan Summary of Collections | \$56,093.59  | \$41,666.18  | \$63,863.15  | \$17,789.48  | \$14,703.77  | \$92,845.60  | \$42,579.12 |          |          |          |          |          |          |          |

## PERCENT REVENUE COLLECTED

|          |        |
|----------|--------|
| 2011     | 58.02% |
| 2012     | 62.47% |
| 2013     | 50.78% |
| 2014     | 62.09% |
| 2015     | 63.42% |
| 2016     | 61.46% |
| 2017 YTD | 46.51% |





## Finney County Emergency Management/Work Safety

304 N Ninth St, Garden City KS 67846

Telephone: 620-272-3746

Gilbert Valerio  
Director  
gvalerio@finneycounty.org

Fax: 620-271-6273

Anthony Cruz  
Deputy Director  
acruz@finneycounty.org

TO: Randy Partington and Skylar Swords  
FROM: Gilbert Valerio  
DATE: January 2, 2017  
SUBJECT: January Overview

**Training:** After running the numbers for CPR/FA and Defensive Driving it was showing that we trained 443 people in 2016. The audience for these two classes came from County and various other Departments in the City and private businesses of Finney County. New Employee Orientation was conducted this month. We had 19 people attend the safety portion which was the second day. It was recommended that Department Heads also send employee's that had been injured to the Safety portion of the training to get a refresher course on being safe at the work place. Two CPR classes were conducted this month, our regular class for County employees and one for the FIT drivers. Two Defensive Driving classes were held this month also.

**Activities:** Much preparation was taken on the forecasted ice storm that was going to hit most of the state of Kansas. There was plenty of lead time on when the storm would actually impact Finney Co, fortunately it did not hit our county to the degree it hit the Southcentral part of Kansas. We did not sustain major damage to the County or the City of Garden City or Holcomb. Various meetings were held prior to the storm arriving and shelters were set up prior in the event we would need to shelter people for a long extended time.

We responded to two HAZMAT calls during the month. A semi overturned by the new milk plant entrance and leaked out about 40 gallons of diesel fuel from the truck. The other call was just outside city limits on south Hwy 83. A truck was transporting a trench digger on trailer. Driver lost control of his vehicle and overturned the trench digger on the west side of the road. Only five gallons of diesel leaked from the trench digger. On both accidents no injuries.

**Planning:** We attended the IWT (Integrated Warning Team) in Lyons. A yearly meeting where Emergency Managers, Media, and the National Weather Service get to gether to discuss how life safety messages are being put out and how to better work together for severe weather. Various topics were discussed with a breakout session in the afternoon. Our quarterly SW KEMA meeting was held this month in Sublette. We were able to tour the new EMS building in Haskell County.

Respectfully,

Gilbert Valerio  
Finney County Emergency Management Coordinator

# Monthly Road and Bridge Report

2-7-17

## Personnel:

Currently Road and Bridge is short One (1) equipment operator and two (2) mechanics. We are advertising for the mechanic position in the Garden City paper, on Finney County web site and on Facebook.

Two of our mechanics, Melvin Wilson and Gilberto Carrillo will be traveling to Topeka February 13 – 17 to take a course in “Electronics Trouble Shooting”.

## Expenditures:

The fuel system at the Bruno needs updated. We will start getting bids within the next 2-3 weeks. This system is running a dos based system and the computer will not take updates. I have allocated \$15,000 in the CIP process for this. This system is responsible for multiple county entities including the Sheriff's office and ambulance service.

## Other:

I am talking with Purple Wave about doing another auction. We have acquired a lot of, now unusable, Caterpillar parts, filters etc.

Melvin and I are reviewing the extended warranty programs offered by Caterpillar. Cost of program vs repair cost.

I will be putting together a property damage report that the County can use to charge people for services we provide when we get called out or to a scene. Historically the County has not charged for these services. I will be charging, mostly insurance companies, for man hours and property damaged i.e. Signs that get knocked down during an accident and the labor hours it takes to install that sign after hours. I will run this by Randy after I get it completed.

Cheryl, IT, GIS and myself met via teleconference with Dude solutions. This is another company that helps with tracking work orders but offers a variety of other services, including maintenance projection and cost related to that maintenance. We are doing a comparison with Track IT (our current company) and the financial benefits between the two companies.

Roger L. Calkins  
Director  
Finney County  
Road and Bridge  
101 West Maple  
Garden City Ks, 67846  
620-272-3564



## Randall Partington

---

**From:** Robert Boyd  
**Sent:** Monday, February 06, 2017 3:59 PM  
**To:** Randall Partington  
**Cc:** Roger Calkins  
**Subject:** Monthly Report

The noxious weed department is currently working on baiting prairie dogs and trimming trees in county right of ways.

Also we are rebuilding # 388 nurse tank which is 23 years old and need some work done to it. Also I would like to see in the near future the grade change from 19 to maybe a herbicide 1 grade 19 and a herbicide 2 grade 20 .

*Robert Boyd*

*Noxious Weed Director*

*Finney County Noxious Weed*

*101 W. Maple St.*

*Garden City, KS 67846*

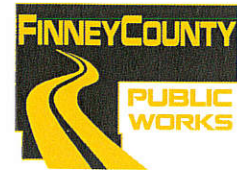
*620-272-3692*

*620-272-3567 FAX*

## Monthly Building Maintenance Report

Law Enforcement Center: We have been dealing with several issues at the LEC.

- Kitchen dishwasher pump not working correctly.
  1. Steps taken ---- We rebuilt the pump
  2. Rebuilt the motor
  3. Checked the impeller
  4. Hats off to Washington, He finally reduced the pipe feeding water to the pump causing more pressure. Not something normally done, but it got them running.
- HVAC systems still giving us a fit there. Flushing units, changing reversing valves and circuit boards.
- Simplex issues again. Have a call in for them to get this fixed. Some of the issues may be operator error in master control.
- Low on custodians, have had 3 custodians cleaning all buildings for a while with the help of a couple of maintenance tech I's and Martha (PT custodian). Getting back up to speed now, will have some training to do for a while.
- Will need to hire someone for seasonal in a couple of weeks to cover 1 custodian going out for surgery for a month recovery.
- Lorraine retired.
- Kristin took another job.
- Continue to have hvac issues at the admin building.
- Working on Fair Board office rebuilding after water line busted and caused major damage.
- Commissioner bookcase is complete.
- Working with John E. on drawings for county health reception surround.
- Working with I.T. to get numbers needed for generator at the admin. Kw's used.
- Dealing with boiler issues at the Library. Sending my guys over to change out a pump gasket. Just needed the time to do it.
- Moving furniture again.
- Chiller pumps at the LEC have been solved. Needed larger fuses and glycol added to system.
- Working with Kurtis at the Court House to get his clerks area moved around and remodeled.
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# Memo

To: Board of County Commissioners  
From: County Engineer  
CC: County Administrator  
Date: February 6, 2017  
Re: Monthly Report

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This month's report engineering has one position open. This position is allocated for the Engineering Tech/Traffic Foreman that we have been waiting to see if and how we want to fill it.

Much of our time has been inspecting the Lake Rd. Bridge Project. Both bridges are complete and the dirt contractor is expected to arrive today to begin backfilling the structures and building the new roadway. The last pay estimate ending January 21, 2017, paid out a total of \$431,395, approximately 70% of the project completed and 55 calendar days remaining. Payments are being split 3 ways with the BRMP, Special Highway and R&B funds.

Sewer district lift station pumps have been giving us problems this last month. One of the smaller lift stations in SD#2 needs a new pump and the control panel rebuilt. The pump has a price tag of \$2,200 paid out of the equipment line item and the control panel, \$1,000 to be paid front the other contractual line.

The 2017 list for chip sealing and asphalt overlay projects are being finalized and will be advertised for bids in the next 2 weeks. Roads on the overlay list were approved with the 2017 CIP program. Pole Line Rd., Towns Rd., Old Post Rd., Rolling Hills Rd. and Weldon Rd. The Pole Line and Towns Rd. will be milled 1" before being overlaid. The roads in the Towns Riverview and Towns Riverview South subdivisions removed from the overlay list and put on the sealing list. Budgeting for the overlay will be split with the Special Highway and BRMP funds. Sealing will come from the R&B other contractual fund.

The commission asked about how the legislation to increase truck weights will affect county roads. When asked I was thinking of last year's legislation that wanted to increase axle weights. This year's legislation is wanting to increase the total truck weight from 90,000 pounds on 6 axles from 85,500 pounds on 5 axles. For trucks to do this they will have to get an annual permit from the state and have the permitted axles. The Kansas County Highway Association elected not to testify for or against the legislation. The increase in weight along with the added axle will actually reduce the stress on the roads. However, the down sides are that the counties will not get any of the permit fees and may have some extra costs if they would have to change the load ratings on the bridges.

We have completed some cost estimates and background work for FCEDC projects and a force main lowering project for TP&L on the Con-Agra site. Progress has been slow on the Jennie Barker project while Farmland Rd plans are expect to be at the 60% complete stage by mid-March.

2/10/2017

## Randall Partington

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**From:** Doug Peters  
**Sent:** Monday, February 06, 2017 8:42 AM  
**To:** Randall Partington  
**Subject:** current projects

Received verbal approval from Kurtis and Susan. Working on a formal position plan.

Met with Public Works regarding new ticketing system. This will be compared to Track-it, and depending on cost and functionality a switch may or may not be made.

Sheriff Office Network renovation project started. This will essentially merge the Sheriff's office onto the Finney County network for ease of access for shared resources across 25<sup>th</sup> Judicial district, SO, and County Attorneys. The Timeline has been projected with a start date of March 1. This will be a 3 phase process consisting of core network, windows domain, extended services. This project will also hopefully eliminate 1 of the 2 AS/400 systems allowing the 1 remaining to host both Finney County and SO services. This should save the county a fair amount of money on support contracts, as well as the other benefits mentioned.

Asked a couple vendors to try and find someone else that can quote some fiber installation services for Finney County.

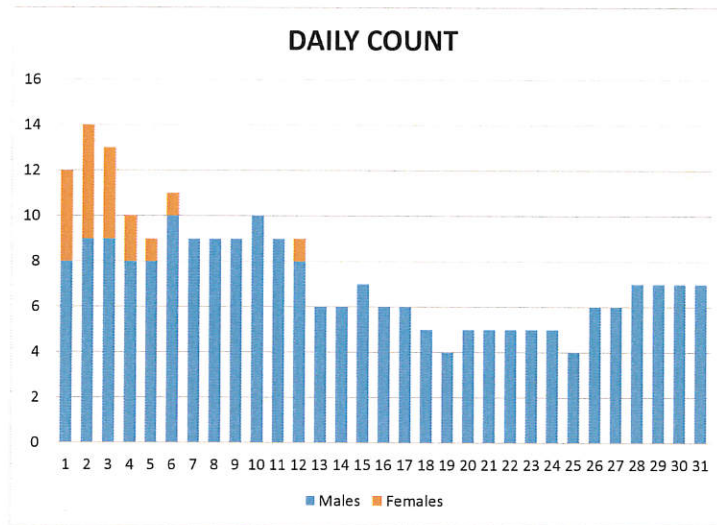
Working to Make some needed small adjustments to the phone system, while waiting on the quote from AOS for the phone system remodel.

Trying to schedule some time with Health Department to discuss their EMR plans further also.

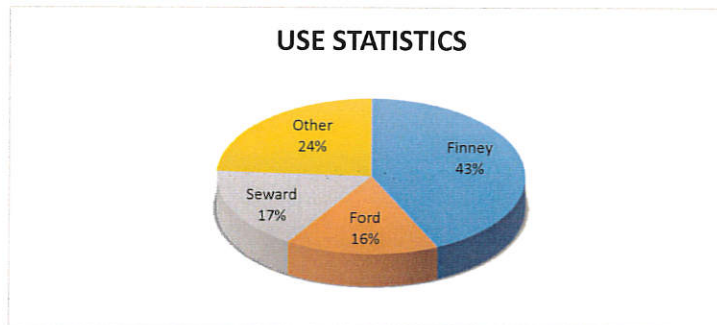


**SOUTHWEST REGIONAL JUVENILE  
DETENTION CENTER  
JANUARY 2017**

|         | 1 | 2 | 3 | 4 | 5 | 6  | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |
|---------|---|---|---|---|---|----|---|---|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Males   | 8 | 9 | 9 | 8 | 8 | 10 | 9 | 9 | 9 | 10 | 9  | 8  | 6  | 6  | 7  | 6  | 6  | 5  | 4  | 5  | 5  | 5  | 5  | 5  | 4  | 6  | 6  | 7  | 7  | 7  | 7  |
| Females | 4 | 5 | 4 | 2 | 1 | 1  | 0 | 0 | 0 | 0  | 0  | 1  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  | 0  |



Finney 43  
Ford 16  
Seward 17  
Other 24



Total service days in January 868  
Bed days utilized 239  
Average daily population 7.71  
Capacity 28%

## Finney County Dept. of Corrections Monthly Report for January 2017

### Community Services Center

Jan 6-attended sentencing commission webinar: 3 staff

Jan 9-attended the Children's Alliance on Key Legislation affecting juveniles meeting

Jan 10 met with Compass on their grant which allows us to have FREE mental health counseling for our clients. This service allows for all clients both adults and juveniles to receive court ordered mental health evaluations and recommended mental health counseling free of charge as we were finding many were not reporting to Compass for the evals and subsequent follow ups. Compass is also now confirming our Drug and Alcohol Departments evaluations and diagnosis which allows us to bill Medicaid or the client's health insurance where in the past we could not.

Jan 10 met with Doug from IT and identified needs for the new building where technology is concerned. Getting some preliminary quotes as to costs so we can complete an RFP

Jan 10-I was asked to be on the board of NAMI which is the National Alliance of Mental Illness which meets monthly at Compass and we discuss issues we are dealing with concerning mentally ill and services they need. This group meets monthly generally at 5:30.

Jan 11 went to Scott City and participated in their Multi-Disciplinary Team meeting which is a requirement of all counties for SB367. 1 and 2 officers from the CSC attended

Jan 12-Participated in the Performance Based Budgeting webinar

Jan 17 went to a meeting in Wichita with Beth, Stephanie, and Jennifer Mata on Functional Family Therapy so we would be able to get it set up in FICO and the 25<sup>th</sup>.

Jan 19<sup>th</sup> attended the Business 2 Business breakfast held at the CSC building

Attended the Special Populations meeting at CSC-myself, Alex Beddow and Devi Bluvin all attended. This group meets monthly at the CSC to discuss any concerns we have for getting services for our clients, any job openings our clients might qualify for etc. Workforce Development spearheads this

Met with Mark Minton from GC Telegram to do a story on Functional Family Therapy

Met with Big Brothers Big Sisters to work on a joint grant that would benefit youth in JDC and DOC custody by providing summer programs at both buildings

Jan 20 met with the attorney hired by the county for an investigation

Jan 24 attended the Appointed Senior Directors meeting

Attended the Live Well Finney County meeting

Jan 25 attended both the Greeley County and Wichita County MDT teams with 2 other staff from Youth Services

Attended Workforce Development meeting

Jan 26 Attended the Housing Authority Board meeting

Jan 27 attended the Intake and Assessment meeting with the CA's office (held at CSC every Friday)

Jan 27 met with Lucas Sullivan from USD 457 to discuss a pilot project for long term suspended youth in which they could attend a few hours of schooling at the CSC building so they can continue with their education instead of roaming the streets getting in to more trouble.

Juvenile Detention Center:

Jan 6 participated in the DOC TAT call which discusses issues with the Juvenile Detention Risk Assessment Tool

Jan 9 attended the Supervisors monthly meeting to discuss issues within the JDC-this includes the education department

Jan 10 met with the 3 shift supervisors and Mary to go over the evaluation process and answer their questions and to discuss how we are going to work on making new staff welcome and valued along with new ways to train them in their job duties. There was some resistance at first but after walking through what their actual duties would be the supervisors have done a much better job at spending time with the new staff in training them

Jan 11 all staff training at the JDC which is held in 2 sessions with one in the morning and one in the afternoon taught by both Mary and I.

Jan 12 Phone call with Com-Tec on the sally port additions security camera's

Jan 18 went to Stanton County to do a training for the Sheriff's Department on the JDC and what to expect in changes for due to SB367

Please note Governor Brownback, Secretary of Corrections Joe Norwood; Deputy Secretary Terri Williams and representatives from EmberHope will be at the CSC building on March 1, 2017 to officially announce the beginning of Functional Family Therapy. They have asked to have it at the CSC building as they recognize our excitement for this new program.



## MEMORANDUM

**TO:** County Commission  
**THRU:** Randy Partington, County Administrator  
**FROM:** Randy  
**DATE:** February 21, 2017  
**RE:** Next Commission Meetings - Monday, 3/6/2017 and Monday, 3/20/2017;  
Commission meetings in May and June will be the first 3 Mondays of each month

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### **DISCUSSION:**

The meetings in March are the 1st Monday and 3rd Monday. For 2018 budget presentations by outside agencies, the meetings will be the first 3 Mondays of May. **May 1st, 8th and 15th**

County departments and District Court will be scheduled for budget presentations on 1 of the first 3 Mondays in June. **June 5th, 12th and 19th**

### **RECOMMENDATION:**

For Your Information