

**Central West End SouthEast
Special Business District**

c/o Park Central Development Corporation
4512 Manchester Avenue, Suite 100
Saint Louis, Missouri 63110-2100
O: 314.535.5311
cwesoutheastssbd.com

BOARD OF COMMISSIONERS MONTHLY MEETING

TO BE HELD

**January 19th, 2020 at 5:00 p.m.
at 4512 Manchester Ave #100
St. Louis, MO 63110**

Please Note: Due to COVID-19, physical access to the Board of Commissioners meeting will be closed and replaced by Zoom Conference.

Please sign in at <https://zoom.us/j/96368825420> (Meeting ID: 963 6882 5420) or call by phone at 1-312-626-6799.

NOTICE & PROPOSED AGENDA

TAKE NOTICE that on December 15th, 2020 at 5:00 p.m. via Zoom Conference, the Central West End Southeast Special Business District (the "District") will hold its public Monthly Meeting to consider and act upon the matters on the following tentative agenda and such other matters as may be presented at the meeting and determined to be appropriate for discussion at that time.

1. Call to Order
2. Chair's Report & Announcement of the Order of Business
3. Public Comments & Questions (5-minute limit per speaker)
4. Approve Previous Meeting Minutes

5. Public Safety
 - a. Neighborhood Security Initiative, Jim Whyte
 - b. The City's Finest, Rob Betts
6. Neighborhood Improvement
 - a. City of St. Louis, Ron Coleman
7. Project Reports
 - a. Financial Reports
 - b. MOPERM Cyber Coverage
 - c. Pedestrian Lighting
 - i. ABNA Contract Negotiations

8. Other Business

This meeting is open to the public; provided, however, that a portion of the meeting may be closed to discuss legal, real estate and/or personnel matters as provided by Sections 610.021(1), (2) and/or (3), RSMo.

Representatives of the news media may obtain copies of this notice, and persons with disabilities wishing to attend can contact: Park Central Development, 4512 Manchester #100, St. Louis, 63110, (314) 535-5311.

DATE POSTED: 1/15/2021

Time: 5:00 PM

• Central West End Southeast Special Business District •

4512 Manchester #100 Saint Louis, MO 63110 (314) 535-5311

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Central West End Southeast Board of Commissioners Meeting
December 15th, 2020 at 5:00pm
At 4512 Manchester, St. Louis, MO 63110

Board Members in Attendance: Yusef Scoggin, Jeff Miner, Doug Anderson, Marshall Michener

Board members not in Attendance: Rick Kissel

Others in attendance: Alayna Graham (Park Central Development), Ron Coleman (City of St. Louis), Jim Whyte (NSI), Rob Betts (The City's Finest), Frank Eppert (ABNA)

1. **Call to order**
 - a. Y. Scoggin called the meeting to order at 5:05 pm.
2. **Chair's Report & Announcement of the Order of Business:**
3. **Public Comments:** No public comment.
4. **Approval of November Meeting Minutes**
 - a. D. Anderson motioned to approve the November 17th, 2020 meeting minutes. Seconded by M. Michener. All in favor—Motion approved.
5. **Public Safety**
 - a. **NSI Update-** J. Whyte presented the crime report.
 - i. Total crime up 27.98%
 - ii. Person crime up 142.86%
 - iii. Property crime up 17.53%
 - iv. There are challenges with Covid-19 and the criminal justice process.
 - v. J. Whyte has been in contact with Kim Gardner's office to participate in programs to engage criminals in community service or long-term drug treatment instead of jail time.
 - b. **NSI Overview-** J. Whyte presented an overview of the NSI structure
 - i. Y. Scoggin is the representative who sits on the NSI Board for the CWE Southeast SBD.
 - ii. J. Whyte described how the NSI is funded based on the taxing district revenue.
 - iii. The CWE Southeast SBD has increased their revenue over the years, but the NSI did not increase the contribution amount.
 - iv. This year, the NSI was able to get the necessary documents to correctly charge each district.
 - v. J. Whyte presented potential locations for cameras based on police recommendation at Forest Park & Boyle and Lindell & Boyle.
 - c. **TCF Update-** R. Betts presented the patrol budget.
 - i. There is a shortage in patrol shifts due to the pandemic.

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- ii. R. Betts spoke about the transition from more crime in neighborhoods at the beginning of the pandemic to more crime now in the commercial districts.
- iii. J. Whyte requests that the Commissioners contact their elected officials to push for hiring more police officers.

6. Neighborhood Stabilization (Ron Coleman):

- a. **Trailnet parklet-** The property owner has approved the project. The City just needs the signed Maintenance Agreement from Yusef.
- b. **Dog waste-** Is there interest in installing dog waste stations around Sarah and Laclede?
 - i. A. Graham & R. Coleman volunteered to put together a cost for dog waste stations.

7. Project Reports:

- a. **Financial Reports-** A. Graham presented the Financial reports.
 - i. MOPERM insurance is expiring, the SBD needs to renew before the coverage expires.
 - ii. Y. Scoggin asked about reviewing coverage that would cover internet fraud.
 - iii. M. Michener moved to approve the renewal of the MOPERM insurance. J. Miner seconded the motion. All in favor—motion approved.
- b. **Pedestrian Lighting**
 - i. **RFP for engineering-** A. Graham presented the ABNA proposal.
 - 1. Frank Eppert was on the call for questions regarding the proposal.
 - 2. Mr. Eppert left the call so the Commissioners could discuss the other proposal.
 - 3. A. Graham presented the proposal from CBB Traffic.
 - 4. D. Anderson moved to go forward with the ABNA contract. M. Michener seconded the motion. All in favor—motion approved.
 - 5. Y. Scoggin noted that ABNA is within the neighborhood.
 - 6. R. Coleman noted that CBB Traffic could still bid on the construction of the project.
- c. **NSI Contract**
 - i. Y. Scoggin reviewed the proposal and the contribution that was presented by J. Whyte.
 - ii. J. Miner moves to approve the 2021 NSI contract. Y. Scoggin seconds the motion. All in favor—motion approved.

8. Other:

- a. A. Graham informed the Commissioners that she will be taking some days off in between Christmas and New Year.
- b. R. Coleman also will be taking days off during that time.
Meeting adjourned at 6:14 pm.

CWE Southeast SBD
Balance Sheet
As of December 31, 2020

	Dec 31, 20
ASSETS	
Current Assets	
Checking/Savings	
1072-1 · Bill.com Clearing	5,015.63
40900 · Cash	
10150 · Reliance Bank checking #2...	10,006.49
10155 · Reliance MMkt #8362	324,683.77
10160 · GSB - CWESE 8810	250,249.68
Total 40900 · Cash	584,939.94
Total Checking/Savings	589,955.57
Total Current Assets	589,955.57
TOTAL ASSETS	589,955.57
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
20000 · Accounts Payable	5,234.38
Total Accounts Payable	5,234.38
Total Current Liabilities	5,234.38
Total Liabilities	5,234.38
Equity	
Opening Bal Equity	250,000.01
Retained Earnings	191,513.86
Net Income	143,207.32
Total Equity	584,721.19
TOTAL LIABILITIES & EQUITY	589,955.57

CWE Southeast SBD
Profit & Loss Budget Performance
 December 2020

	<u>Dec 20</u>	<u>Jan - Dec 20</u>	<u>YTD Budget</u>
Income			
41000 · Tax Revenue	0.00	599,621.26	537,557.00
42800 · Interest Income	187.94	1,312.45	
Total Income	<u>187.94</u>	<u>600,933.71</u>	<u>537,557.00</u>
Gross Profit	187.94	600,933.71	537,557.00
Expense			
Miscellaneous Expense			
TCF Fraud		9,274.75	
Transfer to Great Southern Bank		250,000.00	
61000 · Administration			
61050 · Annual Award	0.00	0.00	50.00
61100 · Administration (PCDC)	0.00	15,868.00	15,868.00
61200 · Bank Charge	0.00	0.00	40.00
61300 · Insurance, Liability & D&O	0.00	2,576.00	1,300.00
61400 · Legal Fees	0.00	623.00	2,000.00
61600 · Postage and Shipping Expense	0.00	0.00	100.00
61750 · Kindness Meals	0.00	5,070.00	
61800 · Web Site	0.00	161.57	100.00
Total 61000 · Administration	<u>0.00</u>	<u>24,298.57</u>	<u>19,458.00</u>
68000 · Public Safety			
68200 · CWE Neighborhood Safety Ini.	0.00	47,367.00	36,425.00
68400 · National Night Out	0.00	0.00	1,000.00
68500 · Patrol	5,234.38	118,968.82	140,000.00
68600 · Security Camera	0.00	7,842.00	15,540.00
68700 · Security Signs	0.00	0.00	1,400.00
68900 · Lighting	0.00	0.00	323,000.00
Total 68000 · Public Safety	<u>5,234.38</u>	<u>174,177.82</u>	<u>517,365.00</u>
Total Expense	<u>5,234.38</u>	<u>457,751.14</u>	<u>536,823.00</u>
Net Income	<u><u>-5,046.44</u></u>	<u><u>143,182.57</u></u>	<u><u>734.00</u></u>

CWE Southeast SBD
Transaction List by Vendor
December 2020

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Memo</u>	<u>Split</u>	<u>Amount</u>
The City's Finest LLC					
Bill	12/15/2020	2906	Patrols	68500 · Patrol	-5,234.38



MEMBER CERTIFICATE

IMPORTANT NOTICE: THIS MEMBER CERTIFICATE IS SUBJECT TO MASTER POLICY AGGREGATE LIMITS OF INSURANCE. ONCE THE APPLICABLE MASTER POLICY AGGREGATE LIMITS OF INSURANCE ARE EXHAUSTED, THE COMPANY SHALL HAVE NO OBLIGATION TO PAY ANY POLICY PAYMENTS OR DEFEND OR CONTINUE TO DEFEND ANY CLAIMS. PLEASE READ THE POLICY CAREFULLY.

THIS IS A CLAIMS MADE AND REPORTED POLICY. THIS POLICY REQUIRES THAT A CLAIM BE MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE, AND REPORTED TO THE COMPANY IN WRITING DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE, BUT NO LATER THAN 60 DAYS AFTER THE DATE OF EXPIRATION OF THE POLICY PERIOD OR DURING THE EXTENDED REPORTING PERIOD, IF APPLICABLE. PLEASE READ THE POLICY CAREFULLY.

PLEASE NOTE THAT AMOUNTS INCURRED AS CLAIM EXPENSES WILL REDUCE THE LIMIT OF INSURANCE AVAILABLE AND WILL BE FIRST APPLIED AGAINST THE RETENTION AMOUNT.

CERTIFICATE NUMBER: LP-4338-202101

THIS CERTIFICATE REPRESENTS INSURANCE PROVIDED IN ACCORDANCE WITH THE FOLLOWING:

MASTER POLICY NUMBER: MKLV1PCY000002

MASTER POLICY HOLDER: Missouri Public Entity Risk Management Fund

IN RETURN FOR THE PAYMENT OF THE PREMIUM AND SUBJECT TO ALL THE TERMS OF THE POLICY, THE COMPANY AGREES TO PROVIDE THE INSURANCE AS STATED IN THIS CERTIFICATE.

NAMED INSURED (PRIMARY CERTIFICATE HOLDER)
Named Insured's (Primary Certificate Holder) Name and Mailing Address (No., Street, Town or City, County, State, Zip Code):
CWE SOUTHEAST SPECIAL BUSINESS DISTRICT
C/O PARK CENTRAL DEVELOPMENT
4512 MANCHESTER AVE STE 100
ST LOUIS MO 63110
Phone Number:(314) 535-5311
Policy Period Effective Date: January 1, 2021 Expiration Date: January 1, 2022
at 12:01 a.m. Standard Time at the mailing address shown above.

Plan Administered By
MOPERM
P.O. Box 7110
Jefferson City, MO 65109

Contact Information
Name: Brenda Gibson
Email: policyservices@moperm.com

Insurer
Evanston Insurance Company
10275 West Higgins Road, Suite 750
Rosemont, IL 60018

Producer Name And Mailing Address
Victor Insurance Managers Inc.
3100 Wilcrest Drive, Suite 200
Houston, TX 77042

To Report A Claim

By Phone: 800-362-7535 (800) 3MARKEL

By Fax: 855-662-7535 (855) 6MARKEL

By E-mail: newclaims@markel.com

By Mail: Markel Claims
P.O. Box 2009
Glen Allen, VA 23058-2009**Coverage Agreements, Limits Of Insurance, Retentions, And Retroactive Dates**

Coverage Agreement	Coverage Agreement Aggregate Limit Of Insurance	Retention Amount/ Retention Period
Cyber And Privacy Liability	\$100,000	\$2,500 Each Claim
Regulatory Fines	\$100,000	\$2,500 Each Claim
Media Offense Liability	\$100,000	\$2,500 Each Claim
System And Data Rectification Costs And Financial Loss	\$100,000	\$2,500 Each Policy Event
Extortion Loss	\$25,000	\$2,500 Each Policy Event
Security Business Interruption Loss	\$100,000	8 Hours Each Event
Privacy Breach Notification And Mitigation Costs	\$100,000	\$2,500 Each Policy Event
PCI DSS Assessments	\$100,000	\$2,500 Each Policy Event
Social Engineering Loss	\$10,000	\$2,500 Each Policy Event

CERTIFICATE COMBINED AGGREGATE LIMIT OF INSURANCE: \$100,000**Endorsements**Forms and endorsements applying to this Member Certificate are made part of this policy at time of issue:
See **MDIL 1001** Forms Schedule in the Master Policy**This Member Certificate, together with the Declarations, Policy and any Endorsement(s) attached to the Policy, complete the above numbered certificate. Coverage is subject to all terms, conditions, limitations, exclusions, and other provisions contained therein.****To review the Master Policy: Call 888-389-8198 x1127**Countersigned: 1-5-2021
DateBy: 

AUTHORIZED REPRESENTATIVE

Markel public entity cyber claims



Markel public entity cyber claims

Markel's global cyber risk and privacy liability claims team administers data breach and privacy liability matters across all product lines and is the primary point of contact for cyber risk management and breach response on a worldwide basis. The team collaborates with forensic investigators, legal counsel, credit monitoring services, and public relations firms to provide insureds with the tools necessary to rapidly respond to a cyber event such as a data breach, ransomware attack, or social engineering scheme.

Markel cyber support hotline

A live operator will connect you with breach response counsel. Markel claims and breach response counsel can deploy services and resources to rapidly address a policy event.

+1.844.462.7535 | (844) 4MARKEL

Public entity cyber claims contacts

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Executive Claims Examiner, Cyber Claims

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Senior Claims Examiner, Cyber Claims

+1.212.898.6698

mitchell.gootnick@markel.com

Reporting a claim

- We are paperless. New loss reports should be directed to us by e-mail to the following: newclaims@markel.com.
- Please refer to your insurance contract for any specific rules or requirements particular to your account.
- Good communication is essential to a successful partnership. Please provide Markel with a quarterly bordereau report of all cyber matters.
- Losses that are anticipated to meet or exceed 50% of the applicable self-insured retention should be reported to Markel no more than 30 days from the date of identified possible exposure or a reserve is posted.
- All occurrences involving the following events must be reported to Markel at their onset:
 - Ransomware
 - Social engineering
 - DDoS attack
- A sample report is provided for reference based on what other insureds have submitted.

Requested information

- Member name
- Event or claimant name
- Date of occurrence
- Detailed claim description and damages
- Loss/expense reserves
- Current status

Status reports and all other correspondence may be directed to the claims examiner, or to the following e-mail address: markelclaims@markel.com. Please include the designated claim number in the subject line, as communications are directed to the appropriate contact based on the claim number.

About us

Shekar Adiga | Director, Claims

Shekar Adiga is a director for US professional liability claims overseeing several professional liability claims groups at Markel, including the global cyber risk and privacy liability group, the miscellaneous professional liability and lawyers group, the environmental and energy group, and the carrier alliance teams. Shekar has spoken on a variety of professional liability and management liability topics.

Prior to joining Markel, Shekar practiced law at a mid-sized firm in Chicago and subsequently was a senior claims attorney at another large insurance company handling management liability claims. Shekar received his undergraduate degree from Macalester College and his Juris Doctor from Washington University in St. Louis.

Joe Niemczyk | Senior Counsel

In his role as senior counsel with Markel's global cyber risk and privacy liability unit, Joe is responsible for the administration of cyber risk claims for a wide spectrum of industries and product lines. He is also a point of contact for cyber risk management, breach response, thought leadership, and claim advocacy. Joe has spoken on various topics, including cyber liability claims trends, the impact on third-party relationships following a cyber event, and the psychology behind social engineering schemes.

Prior to joining Markel, Joe practiced law as an insurance defense attorney and subsequently began handling insurance claims, with an emphasis on miscellaneous E&O/professional liability matters, including lawyers and insurance agents and brokers liability. Joe obtained his Juris Doctor from New York Law School and is a member of the New York State Bar.

Lisa Brennan | Executive Claims Examiner

Lisa Fontana Brennan is an executive claims examiner for Markel's global cyber risk and privacy liability unit. She also handles claims in all states for a variety of professional lines. Lisa is a frequent speaker on professional liability topics and is a member of the Professional Liability Underwriting Society (PLUS) and the Defense Research Institute (DRI).

Lisa is a licensed attorney in Illinois, Michigan, and Indiana. She practiced law at an insurance defense firm prior to joining Markel. Lisa is a graduate of Miami University (Ohio) and obtained her Juris Doctor from Loyola University Chicago.

Mitchell Gootnick | Senior Claims Examiner

Mitchell Gootnick is a senior claims examiner for Markel's global cyber risk and privacy liability unit. In his role, Mitchell handles claims arising from various cyber events including ransomware, business e-mail compromise, and social engineering schemes.

Prior to joining Markel, he was a claims analyst with a focus on professional liability claims at another insurance carrier. Mitchell also has experience in the administration and evaluation of auto, construction, and customized travel insurance claims. Mitchell received his undergraduate degree in Legal Studies and Business from Hofstra University.



Sample report

Cyber loss notice

Claims made

Initial report

Subsequent report

Email: newclaims@markel.com

Date of notice to insured:

Date of notice to Markel:

Insured name:

Incident discovery date:

Member name:

Date claim made:

Claimant(s):

Location of incident:

Policy number/period:

Member's policy limits/coverage period:

Description of incident:

Available reserves

Payments

Loss

Loss

Expense

Expense

Legal

Legal

Incurred

Incurred

Investigation:

Damages:

General status:

Action plan – future handling:

Reported by:

Date:

The Markel DataBreachSM policy: Engagement for continuous improvement

Emergency situation



You are currently experiencing a potential policy event and need immediate assistance



Call the hotline **844-4MARKEL** to speak to a live operator. Breach response counsel will respond within two hours.

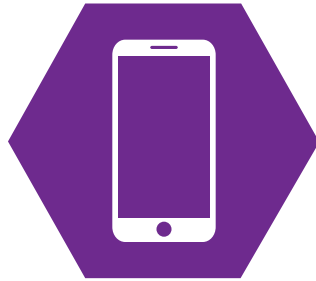


Markel has been notified. Markel claims and breach response counsel can deploy services and resources immediately.



Markel engaged through matter resolution.

Non-emergency situation (still need to report something)



You have experienced a potential policy event but do not require immediate assistance



Contact Markel via **newclaims@markel.com** or by fax at **855-6MARKEL**.



Markel claims will reach out to you in the next business day.



Markel engaged through matter resolution.

General inquiries

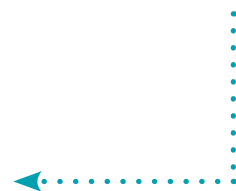


No policy event to report, but you have a general inquiry or are looking to improve your overall cyber hygiene



Markel has a resource to answer your question:

- Visit ERisk Hub – special policyholder benefit. See policy insert for details.
- See the policyholder notice for risk management services. You could qualify for a deductible credit!
- Call your agent or broker.



Continuous improvement



Markel eRisk Hub

Our risk management portal addressing your data privacy and security concerns

We recognize that your data is one of your most valuable assets, and protecting that asset requires ongoing effort. To assist you in managing your data security, we are pleased to provide you with free access to our eRisk Hub. This online portal provides quick and easy access to a wealth of resources for understanding security as well as combating, defending, and recovering from a data breach incident.

This service is provided free of charge with the purchase of your Markel DataBreach policy. We invite you to explore the site and take advantage of the wealth of information it offers.

Key features of our eRisk Hub portal include:

- **News Center** - cyber risk stories, security and compliance blogs, security news, risk management events, and helpful industry links
- **Learning Center** - best practices articles, white papers, and webinars from leading technical and legal practitioners
- **Risk Manager Tools** - assists you in managing your cyber risk, including research tools, what-if calculators, and state breach notification laws
- **Incident Roadmap** - includes suggested steps to take following a network or data breach incident and free consultation with a Breach Coach®
- **eRisk Resources** - a directory to quickly find external resources with expertise in pre- and post-breach disciplines

Register for your free access today!

1. Go to <https://www.eriskhub.com/markel.DhD>
2. Complete the registration form in the center of the page. Your Access Code is 12689.
3. Once you've completed registration, you can log-in immediately with the User ID and password you created during registration.

Privacy Policy

Markel and its US subsidiaries and affiliates (each, “Markel”, “we” or “us”) is committed to safeguarding your privacy. This Privacy Policy sets out Markel’s personal information collection and sharing practices in relation to the personal information that we collect and use for the administration of insurance policies, reinsurance contracts and the provision of services.

This Privacy Policy describes how we handle personal information that we collect from various sources, including:

- information we receive from you on applications, customer feedback and survey responses, or other forms, telephone recordings with our representatives, and call centers
- information about your transactions with us, our affiliates, or others
- information we receive from you when you use our website, social media pages, or apps
- information we receive from other third parties, such as agents, producers, consumer reporting agencies, service providers, inspection agencies, or publicly available information from social media services, or governmental agencies
- information we receive for recruitment purposes, this includes information that you or your recruitment agency supply in relation to your candidacy (e.g. your CV, application form) pre-offer, and background checks (administered by a third party) post-offer

Depending on your relationship with us, you may receive other privacy notices from us providing additional detail about our privacy practices.

Coverage is provided by one or more, Markel Corporation affiliated insurance companies. Services are provided by the underwriting manager. Markel Service Incorporated, national producer number 27585. Markel West, Inc. operates in California as Markel West Insurance Services, a California licensed surplus lines broker, license No. 0D95581. This is provided solely for informational purposes and for the internal use of producers only. It does not constitute an offer to sell or a solicitation or offer to purchase any products or services. Insurance carrier, coverage, dividends, and services availability may vary by state. Markel® is a registered trademark of the Markel Corporation.



Markel eRisk Hub



Welcome to the Markel eRisk Hub!

Our risk management portal addressing your data privacy and security concerns

We recognize that your data is one of your most valuable assets and protecting that asset requires on-going effort. To assist you in managing your data security, we are pleased to provide you with free access to our eRisk Hub. This online portal provides quick and easy access to a wealth of resources for understanding security as well as combating, defending and recovering from a data breach incident.

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features of our eRisk Hub portal include:

News Center – cyber risk stories, security and compliance blogs, security news, risk management events, and helpful industry links

Learning Center – best-practices articles, white papers, and webinars from leading technical and legal practitioners

Risk Manager Tools – assists you in managing your cyber risk, including research tools, what-if calculators, and state breach notification laws

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eRisk Resources – a directory to quickly find external resources with expertise in pre- and post-breach disciplines

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EVANSTON INSURANCE COMPANY

10275 West Higgins Road, Suite 750
Rosemont, IL 60018

INSURANCE POLICY

Coverage afforded by this policy is provided by the Company (Insurer) and named in the Declarations.

In **Witness Whereof**, the company (insurer) has caused this policy to be executed and attested and countersigned by a duly authorized representative of the company (insurer) identified in the Declarations.

Kathleen Anne Sturgeon

Ben W. Sales

Secretary

President



EVANSTON INSURANCE COMPANY

PRIVACY NOTICE

U. S. Consumer Privacy Notice

Rev. 1/1/2020

FACTS	WHAT DOES MARKEL GROUP OF COMPANIES REFERENCED BELOW (INDIVIDUALLY OR COLLECTIVELY REFERRED TO AS "WE", "US", OR "OUR") DO WITH YOUR PERSONAL INFORMATION?
Why?	In the course of Our business relationship with you, We collect information about you that is necessary to provide you with Our products and services. We treat this information as confidential and recognize the importance of protecting it. Federal and state law gives you the right to limit some but not all sharing of your personal information. Federal and state law also requires Us to tell you how We collect, share, and protect your personal information. Please read this notice carefully to understand what We do.
What?	<p>The types of personal information We collect and share depend on the product or service you have with Us. This information can include:</p> <ul style="list-style-type: none"> • your name, mailing and email address(es), telephone number, date of birth, gender, marital or family status, identification numbers issued by government bodies or agencies (i.e.: Social Security number or FEIN, driver's license or other license number), employment, education, occupation, or assets and income from applications and other forms from you, your employer and others; • your policy coverage, claims, premiums, and payment history from your dealings with Us, Our Affiliates, or others; • your financial history from other insurance companies, financial organizations, or consumer reporting agencies, including but not limited to payment card numbers, bank account or other financial account numbers and account details, credit history and credit scores, assets and income and other financial information, or your medical history and records. <p>Personal information does not include:</p> <ul style="list-style-type: none"> • publicly-available information from government records; • de-identified or aggregated consumer information. <p>When you are no longer Our customer, We continue to share your information as described in this Notice as required by law.</p>
How?	All insurance companies need to share customers' personal information to run their everyday business. In the section below, We list the reasons financial companies can share their customers' personal information; the reasons We choose to share; and whether you can limit this sharing. We restrict access to your personal information to those individuals, such as Our employees and agents, who provide you with insurance products and services. We may disclose your personal information to Our Affiliates and Nonaffiliates (1) to process your transaction with Us, for instance, to determine eligibility for coverage, to process claims, or to prevent fraud, or (2) with your written authorization, or (3) otherwise as permitted by law. We do not disclose any of your personal information, as Our customer or former customer, except as described in this Notice.

Reasons We can share your personal information	Do We share?	Can you limit this sharing?
For Our everyday business purposes and as required by law – such as to process your transactions, maintain your account(s), respond to court orders and legal/regulatory investigations, to prevent fraud, or report to credit bureaus	Yes	No
For Our marketing purposes – to offer Our products and services to you	Yes	No
For Joint Marketing with other financial companies	Yes	No
For Our Affiliates' everyday business purposes – information about your transactions and experiences	Yes	No
For Our Affiliates' everyday business purposes – information about your creditworthiness	No	We don't share
For Our Affiliates to market you	No	We don't share
For Nonaffiliates to market you	No	We don't share
Questions? Call (888) 560-4671 or email privacy@markel.com		

Who We are	
Who is providing this Notice?	A list of Our companies is located at the end of this Notice.

What We do	
How do We protect your personal information?	We maintain reasonable physical, electronic, and procedural safeguards to protect your personal information and to comply with applicable regulatory standards. For more information, visit www.markel.com/privacy-policy .
How do We collect your personal information?	We collect your personal information, for example, when you complete an application or other form for insurance perform transactions with Us, Our Affiliates, or others file an insurance claim or provide account information use your credit or debit card We also collect your personal information from others, such as consumer reporting agencies that provide Us with information such as credit information, driving records, and claim histories.
Why can't you limit all sharing of your personal information?	Federal law gives you the right to limit only sharing for Affiliates' everyday business purposes – information about your creditworthiness Affiliates from using your information to market to you sharing for Nonaffiliates to market to you State laws and individual companies may give you additional rights to limit sharing. See the Other Important Information section of this Notice for more on your rights under state law.

Definitions	
Affiliates	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> • Our Affiliates include member companies of Markel Group.
Nonaffiliates	<p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> • Nonaffiliates that We can share with can include financial services companies such as insurance agencies or brokers, claims adjusters, reinsurers, and auditors, state insurance officials, law enforcement, and others as permitted by law.
Joint Marketing	<p>A formal agreement between Nonaffiliated companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> • Our Joint Marketing providers can include entities providing a service or product that could allow Us to provide a broader selection of insurance products to you.

Other Important Information
<p>For Residents of AZ, CT, GA, IL, ME, MA, MN, MT, NV, NJ, NC, OH, OR, and VA: Under state law, under certain circumstances you have the right to access and request correction, amendment or deletion of personal information that We have collected from or about you. To do so, contact your agent, visit www.markel.com/privacy-policy, call (888) 560-4671, or write to Markel Corporation Privacy Office, 4521 Highwoods Parkway, Glen Allen, VA 23060.</p> <p>We may charge a reasonable fee to cover the costs of providing this information. We will let you know what actions We take. If you do not agree with Our actions, you may send Us a statement.</p>
<p>For Residents of CA: You have the right to review, make corrections, or delete your recorded personal information contained in Our files. To do so, contact your agent, visit www.markel.com/privacy-policy, call (888) 560-4671, or write to Markel Corporation Privacy Office, 4521 Highwoods Parkway, Glen Allen, VA 23060. We do not and will not sell your personal information.</p> <p>For the categories of personal information We have collected from consumers within the last 12 months, please visit: www.markel.com/privacy-policy.</p>
<p>For Residents of MA and ME: You may ask, in writing, for specific reason, for an adverse underwriting decision.</p>
<p>Markel Group of Companies Providing This Notice: City National Insurance Company, Essentia Insurance Company, Evanston Insurance Company, FirstComp Insurance Company, Independent Specialty Insurance Company, National Specialty Insurance Company, Markel Bermuda Limited, Markel American Insurance Company, Markel Global Reinsurance Company, Markel Insurance Company, Markel International Insurance Company Limited, Markel Service, Incorporated, Markel West, Inc. (d/b/a in CA as Markel West Insurance Services), Pinnacle National Insurance Company, State National Insurance Company, Inc., Superior Specialty Insurance Company, SureTec Agency Services, Inc. (d/b/a in CA as SureTec Agency Insurance Services), SureTec Indemnity Company, SureTec Insurance Company, United Specialty Insurance Company, Inc.</p>



EVANSTON INSURANCE COMPANY

U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

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

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

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

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

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



EVANSTON INSURANCE COMPANY

NOTICE TO POLICYHOLDERS CLAIM REPORTING

If you purchased DataBreach coverage as a part of this policy with Markel and are experiencing a data breach or believe you have experienced a data breach, please immediately report a new claim under this policy to:

MARKEL CYBER SUPPORT HOTLINE

A live operator will connect you with breach response counsel. Markel claims and breach response counsel can deploy services and resources to rapidly address a policy event.

Phone: 844-462-7535 (844) 4MARKEL

For all other claim reporting that does not require immediate assistance, please report a new claim under this policy to:

newclaims@markelcorp.com

For general claims inquiries after a claim has been reported, please email:

markelclaims@markelcorp.com

In order for us to expedite the handling of your claim and quickly refer it to the appropriate party, please have the following information available:

- Claim number (or report as new)
- Your name, contact information and position with the Named Insured
- Date of loss
- Policy number and insured name
- Details of loss

Our address and additional contact information are as follows:

Markel Claims
P.O. Box 2009
Glen Allen, VA 23058-2009
Phone: 800-362-7535 (800) 3MARKEL
Fax: 855-662-7535 (855) 6MARKEL

Markel understands the importance of having knowledgeable claims professionals prepared to answer your questions with personal attention and expertise. With claims professionals located across four time zones, you are sure to find the claims assistance you need -- when you need it.

**PLEASE REFER TO THE POLICY FOR ANY NOTICE AND REPORTING PROVISIONS
AND DUTIES IN THE EVENT OF LOSS OR DAMAGE TO COVERED PROPERTY.**



EVANSTON INSURANCE COMPANY

IMPORTANT NOTICE TO POLICYHOLDERS REGARDING LIMITS

THIS MEMBER CERTIFICATE IS SUBJECT TO MASTER POLICY AGGREGATE LIMITS OF INSURANCE. ONCE THE APPLICABLE MASTER POLICY AGGREGATE LIMITS OF INSURANCE ARE EXHAUSTED, THE COMPANY SHALL HAVE NO OBLIGATION TO PAY ANY POLICY PAYMENTS OR DEFEND OR CONTINUE TO DEFEND ANY CLAIMS. PLEASE READ THE POLICY CAREFULLY.



MARKEL CYBER 360SM INSURANCE POLICY DECLARATIONS

THIS IS A CLAIMS MADE AND REPORTED POLICY. THIS POLICY REQUIRES THAT A CLAIM BE MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE, AND REPORTED TO THE COMPANY IN WRITING DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE, BUT NO LATER THAN 60 DAYS AFTER THE DATE OF EXPIRATION OF THE POLICY PERIOD OR DURING THE EXTENDED REPORTING PERIOD, IF APPLICABLE. PLEASE READ THE POLICY CAREFULLY.

PLEASE NOTE THAT AMOUNTS INCURRED AS CLAIM EXPENSES WILL REDUCE THE LIMIT OF INSURANCE AVAILABLE AND WILL BE FIRST APPLIED AGAINST THE RETENTION AMOUNT.

POLICY NUMBER: MKLV1PCY000002

RENEWAL OF POLICY: New

Master Policyholder and Mailing Address (No., Street, Town or City, County, State, Zip Code)
Missouri Public Entity Risk Management
3425 Constitution Ct
Jefferson, MO 65109-5856

Master Policy Period: From 01/01/2021 to 01/01/2022
at 12:01 A.M. Standard Time at the mailing address shown above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANY AGREES WITH THE INSUREDS TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

Producer Number, Name and Mailing Address
211097 Victor Insurance Manager Inc. 3100 Wilcrest Drive, Suite 200 Houston, TX 77042

RETROACTIVE DATE: Full Prior Acts

Coverage Agreements, Limits Of Insurance, And Retentions

Coverage Agreement	Coverage Agreement Aggregate Limit Of Insurance	Retention Amount/ Retention Period
Cyber And Privacy Liability	See Member Certificate	See Member Certificate
Regulatory Fines	See Member Certificate	See Member Certificate
Media Offense Liability	See Member Certificate	See Member Certificate
System And Data Rectification Costs And Financial Loss	See Member Certificate	See Member Certificate
Extortion Loss	See Member Certificate	See Member Certificate
Security Business Interruption Loss	See Member Certificate	See Member Certificate
Privacy Breach Notification And Mitigation Costs	See Member Certificate	See Member Certificate
PCI DSS Assessments	See Member Certificate	See Member Certificate
Social Engineering Loss	See Member Certificate	See Member Certificate
MASTER POLICY EXTORTION LOSS AGGREGATE LIMIT OF INSURANCE:		\$5,000,000
MASTER POLICY SOCIAL ENGINEERING LOSS AGGREGATE LIMIT OF INSURANCE:		\$2,500,000
MASTER POLICY COMBINED AGGREGATE LIMIT OF INSURANCE:		\$10,000,000

Extended Reporting Period

Premium Percentage For Extended Reporting Period	Additional Period
100%	12 Months
150%	24 Months
200%	36 Months

Endorsements

Forms and Endorsements applying to this Coverage Part and made a part of this policy at time of issue:

SEE MDIL 1001 ATTACHED

These Declarations, together with the Application, Member Certificates, Policy, and any Endorsement(s), complete the above numbered policy.

Countersigned: _____ 12/01/2020
DATE

By:  _____
AUTHORIZED REPRESENTATIVE



EVANSTON INSURANCE COMPANY

FORMS SCHEDULE

FORM NUMBER

FORM NAME

MEDB 5700 12 18	Markel eRisk Hub
MJIL 1000 08 10	Policy Jacket
MPIL 1007 01 20	Privacy Notice
MPIL 1083 04 15	U.S. Treasury Department's Office Of Foreign Assets Control (OFAC) Advisory Notice To Policyholders
MPIL 1116 02 20	Notice To Policyholders Claim Reporting
MPCY 5002	Important Notice To Policyholders Regarding Your Limit
MDCY 5000-MOPERM 01 21	Markel Cyber 360 Insurance Policy Declarations
MDIL 1001 08 11	Forms Schedule
MECY 0001-MOPERM 01 21	Markel Cyber 360 Insurance Policy
MECY 5221 09 19	Cap On Losses From Certified Acts Of Terrorism
MECY 5306 09 19	Nuclear Energy Liability Exclusion Endorsement (Broad Form)
MEIL 1200 02 20	Service of Suit
MIL 1214 09 17	Trade Or Economic Sanctions
MPL-TERR-1 01 15	Confirmation Of Certified Acts Of Terrorism Coverage - Terrorism Risk Insurance Act



EVANSTON INSURANCE COMPANY

MARKEL CYBER 360SM INSURANCE POLICY

THIS IS A CLAIMS MADE AND REPORTED POLICY. THIS POLICY REQUIRES THAT A CLAIM BE MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE, AND REPORTED TO THE COMPANY IN WRITING DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE, BUT NO LATER THAN 60 DAYS AFTER THE DATE OF EXPIRATION OF THE POLICY PERIOD OR DURING THE EXTENDED REPORTING PERIOD, IF APPLICABLE. PLEASE READ THE POLICY CAREFULLY.

PLEASE NOTE THAT AMOUNTS INCURRED AS CLAIM EXPENSES WILL REDUCE THE LIMIT OF INSURANCE AVAILABLE AND WILL BE FIRST APPLIED AGAINST THE RETENTION AMOUNT.

The Company, relying upon the statements in the **Application** which is deemed incorporated into this Policy and forms a part hereof, and in consideration of the payment of the premium, agrees with the **Named Insured** as follows:

SECTION I – COVERAGE AGREEMENTS

A. Cyber And Privacy Liability

The Company shall pay on behalf of the **Insured** all sums in excess of the Retention Amount shown in the Member Certificate that:

1. The **Insured** becomes legally obligated to pay as **Damages**, and **Claim Expenses** incurred, both of which are a result of a **Claim** first made against the **Insured** during the **Policy Period** or Extended Reporting Period, if applicable, and reported to the Company pursuant to Paragraph **A. Reporting Provision** under Section **VII – Claims, Loss, And Expenses**; and
2. Result directly from an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise** that occurs on or after the Retroactive Date shown in the Declarations and before the end of the **Policy Period**.

B. Regulatory Fines

The Company shall pay on behalf of the **Insured** all sums in excess of the Retention Amount shown in the Member Certificate that:

1. The **Insured** becomes legally obligated to pay as **Regulatory Fines**, and **Claim Expenses** incurred, both of which are a result of a **Claim** first made against the **Insured** during the **Policy Period** or Extended Reporting Period, if applicable, and reported to the Company pursuant to Paragraph **A. Reporting Provision** under Section **VII – Claims, Loss, And Expenses**; and
2. Result directly from a **Policy Event** that occurs on or after the Retroactive Date shown in the Declarations and before the end of the **Policy Period**.

C. Media Offense Liability

The Company shall pay on behalf of the **Insured** all sums in excess of the Retention Amount shown in the Member Certificate that:

1. The **Insured** becomes legally obligated to pay as **Damages**, and **Claim Expenses** incurred, both of which are a result of a **Claim** first made against the **Insured** during the **Policy Period** or Extended Reporting Period, if applicable, and reported to the Company pursuant to Paragraph **A. Reporting Provision** under Section **VII – Claims, Loss, And Expenses**; and
2. Result directly from a **Media Offense** that occurs on or after the Retroactive Date shown in the Declarations and before the end of the **Policy Period**.

D. System And Data Rectification Costs And Financial Loss

The Company shall pay on behalf of the **Named Insured** the amount of **Loss** in excess of the Retention Amount shown in the Member Certificate that results directly from an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise** that:

1. Occurs on or after the Retroactive Date shown in the Declarations and is discovered during the **Policy Period**; and
2. Is reported to the Company pursuant to Paragraph **A. Reporting Provision** under Section **VII – Claims, Loss, And Expenses**.

E. Extortion Loss

The Company shall reimburse the **Named Insured** the amount of **Extortion Loss**, incurred with the prior written consent of the Company, in excess of the Retention Amount shown in the Member Certificate that results directly from an **Extortion Event** that is:

1. Received by the **Insured** during the **Policy Period**; and
2. Reported to the Company pursuant to Paragraph **A. Reporting Provision** under Section **VII – Claims, Loss, And Expenses**.

F. Security Business Interruption Loss

The Company shall reimburse the **Named Insured** the amount of **Business Interruption Loss** that results directly from a **Security Business Interruption Event** that:

1. Occurs on or after the Retroactive Date shown in the Declarations and is discovered during the **Policy Period**; and
2. Is reported to the Company pursuant to Paragraph **A. Reporting Provision** under Section **VII – Claims, Loss, And Expenses**.

G. Privacy Breach Notification And Mitigation Costs

1. The Company shall pay on behalf of the **Named Insured** the amount of **Privacy Breach Notification And Mitigation Costs**, incurred with the prior written consent of the Company, in excess of the Retention Amount shown in the Member Certificate that result directly from an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise** that:

- a. Occurs on or after the Retroactive Date shown in the Declarations and is discovered during the **Policy Period**; and
 - b. Is reported to the Company pursuant to Paragraph **A. Reporting Provision** under Section **VII – Claims, Loss, And Expenses**.
2. With respect to any amount that the Company pays on behalf of the **Named Insured** for expenses actually incurred by the **Named Insured** pursuant to this Privacy Breach Notification And Mitigation Costs Coverage Agreement, if the same **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise** results in a judgment, award, or settlement subject to coverage under the Cyber And Privacy Liability Coverage Agreement, such expenses shall not be subject to payment under this Privacy Breach Notification And Mitigation Costs Coverage Agreement.

H. PCI DSS Assessments

The Company shall pay on behalf of the **Named Insured** the amount of **PCI DSS Assessments** in excess of the Retention Amount shown in the Member Certificate that result directly from a **Payment Card Breach** that:

1. Occurs on or after the Retroactive Date shown in the Declarations and is discovered during the **Policy Period**; and
2. Is reported to the Company pursuant to Paragraph **A. Reporting Provision** under Section **VII – Claims, Loss, And Expenses**.

I. Social Engineering Loss

The Company shall reimburse the **Named Insured** the amount of **Social Engineering Loss** in excess of the Retention Amount shown in the Member Certificate that results directly from a **Social Engineering Incident** that:

1. Occurs on or after the Retroactive Date shown in the Declarations and is discovered during the **Policy Period**; and

2. Is reported to the Company pursuant to Paragraph A. Reporting Provision under Section VII – Claims, Loss, And Expenses.

J. Supplementary Payments

1. Reward Coverage

- a. The Company shall reimburse the **Named Insured** the actual payment of a reward offered for information leading to the arrest and conviction of persons responsible for crimes committed against an **Insured** and related to a covered **Policy Event**.
- b. Reimbursement will be subject to a maximum of 50% of a covered **Policy Payment**, up to a maximum reimbursement of \$25,000 per **Policy Period**.
- c. The **Named Insured** shall give the Company written proof of payment of a reward as soon as practicable, but no later than 60 days after payment of such reward.

2. Loss Of Earnings And Expense Reimbursement

- a. The Company shall compensate the **Named Insured** for loss of earnings and all reasonable and necessary expenses actually incurred for an **Insured** to attend, at the Company's written request, any arbitration, mediation, deposition, hearing, or trial in connection with a **Claim** to which this Policy applies. The **Named Insured** shall give the Company written proof of such loss of earnings and expenses as soon as practicable, but no later than 60 days after incurring such loss of earnings or expenses.
- b. Subject to Paragraph c. below, the maximum the Company shall pay for loss of earnings and expense reimbursement for any one **Claim** to which this Policy applies is \$1,000 per day.
- c. The maximum the Company shall pay for all loss of earnings and expense reimbursement and all attendances at the Company's written request during the **Policy Period** and Extended Reporting Period, if applicable, is \$25,000.

Any payment made under Supplementary Payments shall be in addition to the Master Policy Combined Aggregate Limit Of Insurance shown in the Declarations and the Certificate Combined Aggregate Limit Of Insurance shown in the Member Certificate and shall not be subject to a Retention Amount.

SECTION II – DEFINITIONS

A. Application means all materials, including applications, submitted by the **Master Policyholder** to the Company for the purpose of obtaining coverage under this Policy.

B. Authority means any agency of:

1. A federal, state, or local government of the United States of America, its territories or possessions, or Puerto Rico;
2. A federal, provincial, or local government of the United Kingdom, Canada, or other commonwealth nations; or
3. The government of the European Union (EU) or any member nation;

any of which is charged with the administration or enforcement of laws or regulations relating to the use, transfer, or storage of electronic communications or data storage systems.

C. Business Interruption Loss means those sums established by a loss adjuster to reflect the **Insured's** loss of net revenue, and:

1. The **Insured's** continuing and normal fixed costs and expenses actually incurred, including payroll, not saved as a result of the interruption or shutdown; and
2. Reasonable and necessary additional costs of operating actually incurred by the **Insured**, including but not limited to staff overtime payments;

during a **Period Of Interruption** but after any Retention Period and solely as a result of a **Computer System** being affected by a **Security Business Interruption Event**.

Business Interruption Loss will be reduced by the Company to reflect any loss of net revenue recoverable by the **Insured**. However, if loss of net revenue is not recoverable within the first 60 days after the **Period Of Interruption** ends, the Company will pay recoverable amounts in advance of the **Insured** recovering such amounts, and the **Insured** must promptly reimburse the Company for any amount already paid by the Company but later recovered by the **Insured**.

Business Interruption Loss includes reasonable and necessary **Forensic Expense** actually incurred to conduct an audit of the **Computer System** to ascertain the source, scope, and extent of any **Security Business Interruption Event** leading to a **Business Interruption Loss**.

D. Claim means:

1. With respect to the Cyber And Privacy Liability and Media Offense Liability Coverage Agreements only, any:
 - a. Written demand against any **Insured** for **Damages** or non-monetary or injunctive relief, commenced by such **Insured's** receipt of such written demand;
 - b. Civil proceeding against any **Insured** seeking **Damages** or non-monetary or injunctive relief, commenced by the service of a complaint or similar pleading upon such **Insured**;
 - c. Arbitration, mediation, or other alternative dispute resolution proceeding against any **Insured** seeking **Damages** or non-monetary or injunctive relief, commenced by such **Insured's** receipt of a written demand or service of a complaint or similar pleading upon such **Insured**; or
 - d. Written request directed at any **Insured** to toll or waive a statute of limitations applicable to a **Claim** referenced in Paragraphs **a.** through **c.** above;all as a result of an **Unauthorized Access, Potential Unauthorized Access, Unintentional Data Compromise, or Media Offense**. However, with respect to this Paragraph **1.**, **Claim** shall not include a **Regulatory Proceeding**.
2. With respect to the Regulatory Fines Coverage Agreement only, a **Regulatory Proceeding**, commenced by the **Insured's** receipt of notice of a charge or similar document.

E. Claim Expenses means reasonable and necessary amounts incurred by the Company, or by the **Insured** with the prior written consent of the Company, in the defense of that portion of any **Claim** for which coverage is afforded under this Policy, including costs of investigation, court costs, costs of bonds to release attachments and similar bonds but without any obligation of the Company to apply for or furnish any such bonds, and costs of appeals; however, **Claim Expenses** shall not include:

1. Salary, wages, overhead, or benefit expenses of or associated with **Employees** or officials of the **Named Insured**, or employees or officials of the Company or **Master Policyholder**; or
2. Salary, wages, administration, overhead, benefit expenses, or charges of any kind attributable to any in-house counsel or outside counsel for the **Named Insured**, Company or **Master Policyholder**.

F. Computer System means:

1. Any computer hardware, firmware, software, or any components thereof; and
2. The data stored thereon, wherever located, associated input and output devices, data storage devices and repositories, networking equipment, backup facilities, and websites;

that are under the ownership, operation, or control of, or that are contracted or leased by, the **Named Insured**.

G. Content means advertising, publicity, press releases, articles, publications, marketing or promotional items, or broadcasts by any medium.

H. Damages means the monetary portion of any judgment, award, or settlement, including punitive or exemplary damages to the extent such punitive or exemplary damages are insurable under the applicable law most favorable to the insurability of such damages. However, **Damages** shall not include:

1. Multiplied portions of damages in excess of actual **Damages**, including trebling of damages;
2. The cost of any modifications or changes to the **Insured's** security measures, procedures, software, or hardware required or agreed to by the **Insured** to satisfy a judgment, award, or settlement;
3. Any cost required to repair, build, or modify property to comply with any award by a court, administrative order, arbitration award, or any similar judgment;
4. Taxes, criminal or civil fines, sanctions, attorneys' fees of a party other than an **Insured**, or other penalties imposed by law;
5. Matters that are uninsurable under the law pursuant to which this Policy shall be construed;
6. The return, withdrawal, reduction, restitution, or payment of any fees, profits, charges for services, consideration, or expenses paid to the **Insured**;

- 7. **Regulatory Fines;**
- 8. **PCI DSS Assessments;** or
- 9. **Social Engineering Loss.**

- I. **Denial Of Service Attack** means any unlawful or unauthorized attempt by a third party to temporarily or indefinitely overload, hinder, interrupt, or suspend service to a **Computer System** via the internet.
- J. **Employee** means any natural person while in the regular service of the **Named Insured** in the ordinary course of the **Named Insured's** operations or services and whom the **Named Insured** compensates by salary or wages, and has the right to govern and direct the performance of such service. **Employee** includes any elected officials, and members of the governing body, and any person officially appointed by the **Named Insured** to any boards or commissions, and **Leased Worker** and **Temporary Worker**, but does not include any volunteers, independent contractors or consultants of the **Named Insured**.
- K. **Extortion Event** means a credible threat by a third party including but not limited to a threat to initiate ransomware or a **Denial Of Service Attack**, threatening or portending:
 - 1. Loss or damage to **Private Data**;
 - 2. Loss or damage to a **Computer System**; or
 - 3. Loss of money, securities, bonds, or any other financial instrument of the **Named Insured**, solely to the extent that record of such is maintained in digital or electronic format on a **Computer System**.
- L. **Extortion Loss** means the reasonable and necessary payment by the **Named Insured** of a ransom or extortion demand, including payments via digital currencies or the fair market value of goods or services demanded in lieu of a ransom, to respond to an **Extortion Event**.
Extortion Loss includes costs to conduct an independent security audit of the **Computer System**.
- M. **Extra Expense** means expenses to continue the conduct of the **Named Insured's** operations or services that would not have been incurred if there had not been an **Unauthorized Access**, **Potential Unauthorized Access**, or **Unintentional Data Compromise**.
- N. **Financial Loss** means the loss of money, securities, bonds, or similar financial instruments with monetary value that is actually incurred by the **Named Insured** and that is proximately caused by an **Unauthorized Access**, **Potential Unauthorized Access**, or **Unintentional Data Compromise** committed by a person or group of persons, none of whom are an **Insured**, having the intent to commit fraud, theft, or other dishonest act.
- O. **Forensic Expense** means costs to engage the services of a third-party computer security expert.
- P. **Insured** means the **Named Insured** and any former or present **Employee** while acting within the scope of their official duties or operations on the **Named Insured's** behalf.
- Q. **Interrelated Policy Event** means more than one **Policy Event** that have as a common connection or nexus any fact, incident, circumstance, situation, event, transaction, or cause including, but not limited to, a computer security incident, intrusion, breach, compromise, theft, loss, or use of a **Computer System**.
- R. **Leased Worker** means any natural person leased to the **Named Insured** by a labor leasing organization, under an agreement between the **Named Insured** and the labor leasing organization, to perform duties related to the conduct of the **Named Insured's** operations or services and at the **Named Insured's** direction.
- S. **Loss** means **System And Data Rectification Costs** and **Financial Loss**.

However, **Loss** shall not include:

- 1. Any cost required to repair, build, or modify tangible property to comply with any award or order by a court, an **Authority**, arbitration, or any similar proceeding;
- 2. Any loss of reputation of the **Named Insured**, loss of confidence in the **Named Insured**, or the value imputed to such loss;
- 3. Expenses incurred by the **Insured** in establishing the amount of any **Loss** covered under this Policy;
- 4. **Business Interruption Loss**;
- 5. **PCI DSS Assessments**; or

6. Social Engineering Loss.

- T. Master Policy Period** means the period from the inception date of this Policy to the Policy expiration date shown in the Declarations, or the effective date of any earlier cancellation or termination of this Policy.
- U. Master Policyholder** means the entity shown as such in the Declarations.
- V. Media Offense** means any of the following acts, errors, or omissions by the **Insured** in its dissemination of **Content** for which the **Named Insured** is legally responsible:
1. Libel, slander, or defamation, or any other form of disparagement;
 2. Invasion or infringement of the right of privacy or the right of publicity;
 3. Improper deep-linking, framing, web harvesting, web scraping, or data extraction;
 4. Infringement of copyright, service mark, service name, trademark, title, trade dress, trade name, or slogan, and unfair competition alleged in connection therewith;
 5. Plagiarism, piracy, or misappropriation of ideas under implied contract; or
 6. Infliction of emotional distress, mental anguish, false arrest, or malicious prosecution.
- W. Named Insured** means the municipal organization, as defined by the **Named Insured's** state and named in the Member Certificate.
- X. Payment Card Breach** means an actual or suspected unintentional disclosure of payment card data stored or processed by the **Named Insured** resulting from an **Unauthorized Access** or **Unintentional Data Compromise**.
- Y. PCI DSS Assessments** means the amount actually incurred by the **Named Insured** as a result of any written demand received by an **Insured** from a card association or acquiring bank for monetary assessments or fines for an actual or alleged violation of the Payment Card Industry Data Security Standard.
- However, **PCI DSS Assessments** shall not include **Privacy Breach Notification And Mitigation Costs**.
- Z. Period Of Interruption** means the shorter of the following:
1. The actual continuous period of time the **Computer System** is affected or interrupted; or
 2. The 120 days immediately following discovery that the **Computer System** has been affected or interrupted.
- AA. Policy Event** means **Unauthorized Access, Potential Unauthorized Access, Media Offense, Unintentional Data Compromise, Security Business Interruption Event, Payment Card Breach, or Social Engineering Incident**, but only to the extent covered under each Coverage Agreement.
- BB. Policy Payment** means **Damages, Regulatory Fines, Claim Expenses, Loss, Extortion Loss, Business Interruption Loss, Privacy Breach Notification And Mitigation Costs, PCI DSS Assessments, or Social Engineering Loss**, but only to the extent covered under each Coverage Agreement.
- CC. Policy Period** means the period from the Effective Date to the Expiration Date shown in the Member Certificate, or the effective date of any earlier cancellation or termination of the Member Certificate.
- DD. Pollutants** means any solid, liquid, gaseous, fuel, lubricant, thermal, acoustic, electrical, or magnetic irritant or contaminant including, but not limited to, smoke, vapor, soot, fumes, fibers, radiation, acid, alkalis, petroleum, chemicals, or waste. Waste includes medical waste and all other materials to be disposed of, recycled, stored, reconditioned, or reclaimed.
- EE. Potential Unauthorized Access** means the credible threat of an **Unauthorized Access** to a **Computer System**.
- However, **Potential Unauthorized Access** shall not mean the threat of a **Social Engineering Incident**.
- FF. Preventative Shutdown** means the reasonable intentional shutdown by an **Insured**, or by a third party on behalf of an **Insured**, of a **Computer System**, but only to the extent that the shutdown is in response to an **Unauthorized Access** or **Potential Unauthorized Access** expressly directed against such **Computer System**; provided that such intentional shutdown serves to mitigate or reduce **Privacy Breach Notification And Mitigation Costs, Loss, PCI DSS Assessments, Damages, Regulatory Fines, or Claim Expenses**, and the **Insured** is able to demonstrate that the **Business Interruption Loss** resulting from such shutdown is less than the amount of **Privacy Breach Notification And Mitigation Costs, Loss, PCI DSS Assessments, Damages, Regulatory Fines, and Claim Expenses** that would have been covered under each of the purchased Coverage Agreements had there not been any intentional shutdown of the **Computer System**.

However, the Company shall not be liable to pay any **Business Interruption Loss** incurred as the result of a **Preventative Shutdown** that exceeds a period of 24 hours unless, prior to the end of the first 24 hour shutdown period, the Company consents in writing to the continuation of the **Preventative Shutdown**.

GG. Privacy Breach Notification And Mitigation Costs means the following reasonable and necessary expenses actually incurred by the **Named Insured** with the prior written consent of the Company:

1. Expenses associated with the services of a public relations professional, or other publicity expenses that are recommended by a public relations professional, to respond to any adverse publicity in the media that are the result of an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise**;
2. Expenses, including, but not limited to, notification and call center costs and related legal fees, that are actually incurred to comply with a **Security Breach Notice Law** and that are the result of an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise**;
3. Expenses associated with voluntarily providing notifications, credit monitoring services, identity restoration services, or credit repair services for a period of 12 months (or longer if required by law or regulation) to individuals affected by an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise**;
4. Expenses associated with the **Named Insured's** contractual obligation to indemnify a payment card processor for amounts included in Paragraphs 1. through 3. above, arising from an **Unintentional Data Compromise**, but only if such obligation was present in a written service agreement executed by the parties prior to the **Unintentional Data Compromise**; and
5. Expenses associated with the services of a data security expert, breach coach, or consultant that are actually incurred in response to an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise**.

However, **Privacy Breach Notification And Mitigation Costs** shall not include **PCI DSS Assessments**.

HH. Private Data means data in the care, custody, and control of an **Insured** or for which the **Named Insured** is legally responsible containing any of the following:

1. An individual's driver license or other state-issued identification number, social security number, unpublished telephone number, or savings account, checking account, credit card, or debit card number;
2. Nonpublic personal information as defined in the Gramm-Leach-Bliley Act of 1999, as amended, and regulations issued pursuant thereto;
3. Medical and healthcare information, including protected healthcare information as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and regulations issued pursuant thereto;
4. Private personal information as defined under a **Security Breach Notice Law**;
5. Private personal information as defined under the law of a country other than the United States, which law is intended to provide for the protection of such private personal information; or
6. Proprietary information of third parties of commercial value which the **Named Insured** is legally responsible to maintain in confidence;

not including any data available to or accessible by the general public.

II. Regulatory Fines means civil fines and penalties assessed against the **Insured** by an **Authority** to the extent such civil fines and penalties are insurable under the applicable law.

JJ. Regulatory Proceeding means a formal hearing, official investigation, examination, inquiry, legal action, or any other similar proceeding initiated by an **Authority** against the **Insured** as a result of a **Policy Event**.

KK. Security Breach Notice Law means any local, state, federal, or foreign identity theft and privacy protection law, statute, or regulation requiring public entities that handle or collect **Private Data** to post privacy policies, adopt specific privacy or security controls and protocols, or notify individuals in the event that **Private Data** has potentially been compromised.

LL. Security Business Interruption Event means the actual interruption to or degradation in the availability of a **Computer System** resulting directly from an **Unauthorized Access, Potential Unauthorized Access, or Preventative Shutdown**.

MM. Social Engineering Incident means any phishing, pretexting, spoofing, or other fraudulent, manipulative, or deceptive communication received by an **Insured** within the normal course of the **Named Insured's** operations or services. However, **Social Engineering Incident** shall not mean **Unauthorized Access**.

NN. Social Engineering Loss means:

1. The loss of money, securities, bonds, or similar financial instruments with monetary value that is incurred by the **Named Insured**;
2. The actual loss of pecuniary value of tangible property that is incurred by the **Named Insured**; or
3. The loss of funds, held in escrow or trust, or controlled or managed, by the **Named Insured**, as the result of theft or misdirection.

OO. System And Data Rectification Costs means:

1. Reasonable and necessary **Forensic Expense** actually incurred to determine the existence and cause of the **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise**;
2. Reasonable and necessary **Extra Expense** actually incurred by the **Named Insured** during the period from the time of the discovery of an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise** to the time a **Computer System** is or can be restored to the condition that existed prior to an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise**;
3. Reasonable and necessary expenses actually incurred by the **Named Insured**, with the prior written approval of the Company, to reduce **System And Data Rectification Costs** after an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise** to the extent that such expenses do not exceed the value of the **System And Data Rectification Costs** that such expenses are incurred to reduce;
4. Reasonable and necessary:
 - a. Costs actually incurred by the **Named Insured** to restore, replace, replicate, or reinstate a **Computer System** (but not including any industrial control system [ICS] or Supervisory Control and Data Acquisition [SCADA] related hardware) after an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise** that has resulted in loss of use or functionality; and
 - b. **Forensic Expense** actually incurred by the **Named Insured**, up to \$50,000 (which is part of, not in addition to, the System And Data Rectification Costs And Financial Loss Limit Of Insurance shown in the Member Certificate), for an audit to be conducted in order to demonstrate the **Insured's** ability to prevent a future **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise** as required by a merchant services agreement; and
5. Reasonable and necessary costs actually incurred by the **Named Insured** to replace or reinstate a more secure and efficient version of the **Computer System** affected by an **Unauthorized Access**, including the cost of:
 - a. Replacing computer hardware (including networking equipment but not including any industrial control system [ICS] or Supervisory Control and Data Acquisition [SCADA] related hardware), but only where it is a more practical and cost effective solution than rebuilding existing hardware;
 - b. Upgrading existing computer software and operating systems with newer versions of the original model or license, but only where the affected systems and software are all within their standard support agreement; and
 - c. Implementing new security technology to protect against the **Unauthorized Access** that gave rise to the **System And Data Rectification Costs**, but only when the use of this technology is deemed by a qualified third-party security expert to be the most viable course of action to defend against that **Unauthorized Access**.

The maximum amount the Company shall pay for costs described in Paragraphs 5.a. through 5.c. above is 125% of the cost that would have been incurred to replace or reinstate the **Computer System** in the same or similar configuration as it was prior to the **Unauthorized Access** giving rise to the **System And Data Rectification Costs**, and such costs are part of, not in addition to, the System And Data Rectification Costs And Financial Loss Limit Of Insurance shown in the Member Certificate.

However, **System And Data Rectification Costs** does not include any costs or charges associated with building, modifying, or upgrading the **Computer System**, security measures, or procedures, other than those costs described and limited in Paragraph 5. above.

PP. Temporary Worker means any natural person who is furnished to the **Named Insured** to substitute for a permanent **Employee** on leave or to meet seasonal or short-term work load requirements, who performs duties related to the conduct of the **Named Insured's** operations or services and at the **Named Insured's** direction.

QQ. Unauthorized Access means a breach of a **Computer System**, including:

1. Any intentional violation, interception, use, or misuse of a **Computer System**, whether or not for profit or gain, by any person without the permission, knowledge, or ratification of the **Insured**;
2. Access to a **Computer System** with the **Insured's** permission, where such permission is the result of fraud or deception, including phishing scams;
3. Use of a **Computer System** by a party, including a rogue **Employee**, authorized by the **Insured** to use such system, who does so for an unauthorized purpose;
4. The introduction of viruses, malware, or other programs into a **Computer System** which contain fraudulent or destructive instructions or code, including any inadvertent transmission of such programs to a third party;
5. An **Extortion Event**; or
6. A **Denial Of Service Attack**, or the failure to prevent an unauthorized user or code from launching a **Denial Of Service Attack** on a third party through a **Computer System**.

However, **Unauthorized Access** shall not mean **Social Engineering Incident**.

RR. Unintentional Data Compromise means:

1. Any computer security incident, including by an **Unauthorized Access**, resulting in the intrusion, breach, compromise, theft, loss, or misuse of **Private Data**;
2. The theft or loss of any paper records containing **Private Data**;
3. The failure of any third party to prevent the unauthorized viewing, copying, or distribution of **Private Data** which the **Named Insured** has entrusted to such party under a written contract or agreement that specifically requires such party to protect the confidentiality of the **Private Data** so entrusted; or
4. The unintentional breach of the **Named Insured's** written privacy policy.

SECTION III – EXCLUSIONS

A. With respect to all Coverage Agreements, this Policy does not apply to any **Claim, Policy Event, or Policy Payment**:

1. Bodily Injury

For bodily injury, sickness, or disease sustained by a person, including death resulting from any of these; however, this exclusion shall not apply to **Damages** resulting from humiliation or the infliction of emotional distress arising solely from an **Unauthorized Access, Potential Unauthorized Access, or Media Offense**.

2. Collection Of Data

Based upon or arising out of the collection of information by the **Insured**, or others on the **Insured's** behalf, without the knowledge or permission of the persons to whom such information relates; however, this exclusion shall not apply to **Privacy Breach Notification And Mitigation Costs**.

3. Contractual Liability

Based upon or arising out of:

- a. An **Insured's** actual or alleged liability under a written contract or agreement including, but not limited to, express warranties or guarantees;
- b. A **Insured's** contractual liability involving the ownership of intellectual property with any vendor, customer, subcontractor, or current or former **Employee**; or
- c. Liability of others assumed by an **Insured** under any oral or written contract or agreement.

However, this exclusion shall not apply to:

- (1) Any liability that would have attached to the **Insured** in the absence of such contract, agreement, warranty, or guarantee;
- (2) The **Named Insured's** contractual obligation to indemnify a payment card processor for expenses described in Paragraph 4. of the definition of **Privacy Breach Notification And Mitigation Costs** that arise from an **Unintentional Data Compromise**, but only if such obligation was present in a written service agreement effected by the parties prior to the **Unintentional Data Compromise**;

- (3) An **Insured's** contractual obligation to maintain the confidentiality or security of **Private Data**;
- (4) An unintentional violation by an **Insured** to comply with the **Named Insured's** privacy policy;
- (5) Solely with respect to the Media Offense Liability Coverage Agreement, misappropriation of an idea under implied contract; or
- (6) **PCI DSS Assessments.**

4. **Conversion Or Misappropriation**

Based upon or arising out of any conversion, misappropriation, commingling, or defalcation of funds or property; however, this exclusion shall not apply to **Loss** or **Social Engineering Loss**.

5. **Cost Guarantees**

Based upon or arising out of any inaccurate, inadequate, or incomplete description of the price of goods, products, or services.

6. **Electromagnetic**

Based upon, arising out of, or in any way involving electromagnetic fields, electromagnetic radiation, electromagnetic pulses, electromagnetism, solar flares and storms, or any other type of radiation.

7. **Employment Related Practices**

Brought by or on behalf of any **Employee**, former **Employee**, or prospective **Employee** based upon, arising out of, or in any way involving the employment relationship or the nature, terms, or conditions of employment or any workplace tort; however, this exclusion shall not apply to any **Claim** arising out of an **Unintentional Data Compromise** of the **Private Data** of an **Employee**.

8. **ERISA/RICO/SEC**

Based upon or arising out of any actual or alleged violation of or violation of the responsibilities, obligations, or duties imposed by:

- a. The Employment Retirement Income Security Act of 1974 and any amendments thereto, or any rules or regulations promulgated thereunder;
- b. The Racketeer Influenced and Corrupt Organization Act 18 USC Sections 1961 et seq. and any amendments thereto, or any rules and regulations promulgated thereunder; or
- c. Any of the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, or any similar federal, state, or common law relating thereto.

9. **Fraudulent Or Dishonest Acts**

Based upon, arising out of, or in any way involving the actual or alleged dishonest, fraudulent, criminal, or malicious act or omission of the **Insured** or at the **Insured's** direction; however:

- a. No fact pertaining to, or knowledge possessed by, any **Insured** will be imputed to any other **Insured** to determine if coverage is available; and
- b. This exclusion does not apply to **Claim Expenses** incurred until an allegation is determined through admission by the **Insured** or final and non-appealable adjudication to be a dishonest, fraudulent, criminal, or malicious act or omission.

10. **Governmental Entity**

Caused by access to a **Computer System** that is attributed, by the government of the United States of America, to any government, governmental agency or sub-agency, or any agents thereof while acting on behalf of such entity, other than the **Named Insured**.

11. **Infrastructure**

Based upon, arising out of, or in any way involving:

- a. Fire, smoke, explosion, or any act of nature including, but not limited to, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, or hail, however caused; or

- b. Any failure of satellite, power, utility, mechanical, telecommunications, or networking infrastructure not under the control of the **Named Insured**.

However, this exclusion shall not apply to failures, interruptions, disturbances, or outages of telecommunications systems or networking infrastructure under an **Insured's** operational control which are a result of an **Unauthorized Access**.

12. Known Policy Event

Based upon, arising out of, or in any way involving any **Policy Event** that was first discovered by any **Insured** prior to the inception of the Member Certificate.

13. Insured Versus Insured

Brought by, in the name of, or on behalf of any **Insured**; however, this exclusion shall not apply to any **Claim** arising out of an **Unintentional Data Compromise** of the **Private Data** of an **Employee**.

14. Owned Or Controlled Entities

Brought by any organization that is operated, managed, or owned, in whole or in part, by the **Named Insured** or any affiliated division, agency, sub-agency, or department thereof.

15. Patents Or Trade Secrets

Based upon or arising out of infringement or inducement of infringement of patent or trade secret.

16. Personal Liability

For personal liability of any **Insured** when managing the **Named Insured's** operations or services.

17. Pollution

Based upon, arising out of, or in any way involving any:

- a. Actual, alleged, or threatened discharge, disposal, migration, dispersal, release, or escape of **Pollutants**; or
- b. Direction, order, or request to test for, monitor, remediate, clean up, remove, contain, treat, detoxify, or neutralize **Pollutants**, or to pay for or contribute to the costs of undertaking such actions.

18. Professional Services

For an act, error, or omission in the performance of professional services rendered or that should have been rendered by the **Insured** or by any person or organization for whose acts the **Insured** is legally responsible.

19. Property Damage

For physical damage to tangible property, including all resulting loss of use of that property or loss of use of tangible property that is not physically damaged; however, this exclusion shall not apply to damage to, corruption of, or inability to access data, software, and computer networks arising solely from an **Unauthorized Access**, **Potential Unauthorized Access**, or **Media Offense**.

20. Recalls

Based upon, arising out of, or in any way involving any costs to recall, repair, replace, upgrade, supplement, withdraw, or remove the **Named Insured's** products or services.

21. Trade Practices And Antitrust

Based upon or arising out of any actual or alleged violation of any law, whether statutory, regulatory, or common law, respecting any of the following activities: antitrust, business competition, unfair trade practices, or tortious interference in another's business or contractual relationships; however, this exclusion shall not apply to a **Regulatory Proceeding** resulting directly from an **Unauthorized Access** or **Unintentional Data Compromise**.

22. Unsolicited Communications

Based upon, arising out of, or in any way involving violation of any federal, state, or local statute, law, rule, ordinance, or regulation that addresses, prohibits, or limits the dissemination, interception, receiving, sending, transmitting, communicating, printing, disposal, collecting, recording, or distribution of information or other material including, but not limited to, the:

- a. Telephone Consumer Protection Act of 1991 (TCPA) and amendments thereto or any similar or related federal, state, or local statute, law, rule, ordinance, or regulation;
- b. CAN-SPAM Act of 2003 and amendments thereto or any similar or related federal, state, or local statute, law, rule, ordinance, or regulation; or
- c. Fair Credit Reporting Act (FCRA) and amendments thereto or any similar or related federal, state, or local statute, law, rule, ordinance, or regulation including, but not limited to, the Fair and Accurate Credit Transactions Act of 2003 (FACTA).

23. Virtual Currencies

Based upon, arising out of, or in any way involving any virtual currency, including but not limited to cryptocurrency, including fluctuations in value; however, this exclusion shall not apply to **Extortion Loss** involving ransom payments in the form of bitcoin or other virtual currency.

24. War

Due to acts of foreign enemies, riot, civil commotion, rebellion, revolution, military action, war, warlike operations (whether war is declared or not), civil war, insurrection, or usurped power. However, this exclusion does not apply to an **Unauthorized Access** initiated specifically against the **Insured**.

B. Solely with respect to the Media Offense Liability Coverage Agreement, this Policy does not apply to any **Claim**:

1. Contests Or Games Of Chance

Based upon or arising out of any gambling, contest, lottery, or other game of chance.

2. Failure To Perform

Based upon or arising out of failure of goods, products, or services to conform to any statement of quality or performance.

3. Infringement Of Intellectual Property

Based upon or arising out of infringement of copyright, title, trade dress, slogan, service mark, service name, trademark, trade name, or other intellectual property arising from any tangible goods or products of others displayed on the **Named Insured's** website.

4. Performance Rights Organizations

Brought by, in the name of, or on behalf of any performance rights organization including, but not limited to, ASCAP, BMI, SESAC, SOCAN, or SoundExchange.

C. Solely with respect to the System And Data Rectification Costs And Financial Loss, Security Business Interruption Event, and Privacy Breach Notification And Mitigation Costs Coverage Agreements, this Policy does not apply to:

1. Betterment, Property, And Hardware Costs

- a. Any costs or expenses to restore, replace, replicate, or reinstate the **Computer System** to a level beyond or above that which existed immediately prior to the **Unauthorized Access** or **Potential Unauthorized Access** which gave rise to the **Policy Payment**; or
- b. Any tangible property repair or replacement, including the cost of repairing any hardware or replacing any tangible property or equipment that forms part of a **Computer System**.

However, this exclusion shall not apply to the System And Data Rectification Costs And Financial Loss Coverage Agreement, subject to the maximum liability of the Company as described in and limited by Paragraph 5. of the definition of **System And Data Rectification Costs**.

2. Media Offense

Any **Policy Payments** based upon or arising out of a **Media Offense**.

3. Theft Of Financial Instruments

Any **Policy Payments** based upon or arising out of the actual or alleged theft of money, securities, bonds, or similar financial instruments with monetary value caused, or contributed to, by any fraudulent, dishonest, or criminal act committed by any person who is an **Employee** of an **Insured** at the time of the **Unauthorized Access**, whether acting alone or in collusion with others.

4. Trade Secrets

Any **Policy Payments** based upon or arising out of the reduction in value of trade secrets, confidential processing methods, or other confidential or proprietary information.

SECTION IV – TERRITORY

The insurance afforded by this Policy applies worldwide; however, no coverage will be provided with respect to any **Claim** made, or **Policy Payment** or Supplementary Payment incurred, in any country on which, at the time of the **Policy Event** that resulted in the **Claim, Policy Payment**, or Supplementary Payment, the government of the United States of America had imposed a trade sanction, embargo, or any similar regulation that prohibits the transaction of business with or within such country.

SECTION V – LIMITS OF INSURANCE AND RETENTIONS

A. Limits Of Insurance

1. Coverage Agreement Aggregate Limits Of Insurance

Subject to Paragraphs **A.2.** and **A.3.** below, the total liability of the Company under any one Coverage Agreement shall not exceed the applicable Coverage Agreement Aggregate Limit Of Insurance shown in the Member Certificate for the sum of all **Policy Payments**:

- a. Arising out of all **Claims**, with respect to Coverage Agreement **A., B.,** or **C.**, that are first made against the **Insured** during the **Policy Period** and the Extended Reporting Period, if applicable, and reported to the Company pursuant to Section **VII – Claims, Loss, And Expenses**; or
- b. Resulting directly from all applicable **Policy Events**, with respect to Coverage Agreement **D., E., F., G., H.,** or **I.**, that are reported to the Company pursuant to Section **VII – Claims, Loss, And Expenses**.

2. Certificate Combined Aggregate Limit Of Insurance

Subject to Paragraph **A.3.** below, and regardless of the number of **Insureds** named in the Member Certificate, **Claims** made, persons or organizations making **Claims**, or **Policy Events**, the Certificate Combined Aggregate Limit Of Insurance shown in the Member Certificate shall be the Company's maximum aggregate liability for such Member Certificate for the combined total of all **Policy Payments** under all purchased Coverage Agreements.

3. Master Policy Aggregate Limits Of Insurance

This Policy, including each Member Certificate issued, is subject to the following Master Policy Aggregate Limits Of Insurance:

a. Master Policy Extortion Loss Aggregate Limit Of Insurance

Subject to Paragraph **A.3.c** below, the Master Policy Extortion Loss Aggregate Limit Of Insurance shown in the Declarations is the total liability of the Company for all **Extortion Loss** resulting directly from all **Extortion Events** that are reported to the Company pursuant to Section **VII – Claims, Loss, And Expenses**. This limit applies regardless of the number of Member Certificates issued, **Named Insureds, Insureds,** or **Extortion Events**.

b. Master Policy Social Engineering Loss Aggregate Limit Of Insurance

Subject to Paragraph **A.3.c** below, the Master Policy Social Engineering Loss Aggregate Limit Of Insurance shown in the Declarations is the total liability of the Company for all **Social Engineering Loss** resulting directly from all **Social Engineering Events** that are reported to the Company pursuant to Section **VII – Claims, Loss, And Expenses**. This limit applies regardless of the number of Member Certificates issued, **Named Insureds, Insureds,** or **Social Engineering Events**.

c. Master Policy Combined Aggregate Limit Of Insurance

The Master Policy Combined Aggregate Limit Of Insurance shown in the Declarations is the maximum liability of the Company for all **Policy Payments** under all Coverage Agreements, regardless of the number of **Named Insureds, Insureds, Claims** made, persons or organizations making **Claims**, or **Policy Events**. The Company shall have no obligation to pay any **Policy Payments** or defend or continue to defend any **Claims** after the Master Policy Aggregate Limit Of Insurance shown in the Declarations has been exhausted.

B. Retentions

1. Retention Amounts

- a. The Company shall not be obligated to make any **Policy Payment** or perform any service until the amount of the **Policy Payment** exceeds the applicable Retention Amount shown in the Member Certificate. The Retention Amount shall apply separately to each **Claim** or **Policy Event** and shall be borne by the **Insureds** and will remain uninsured.
- b. With respect to Coverage Agreements **A.**, **B.**, and **C.**, the Retention Amount shall be applicable to each **Policy Event** and shall apply to **Damages** and **Claim Expenses**, whether or not any **Damages** payments are made. The determination of the Company as to the reasonableness of the **Claim Expenses** shall be conclusive on the **Named Insured**.

2. Retention Periods

The Company shall not be obligated to pay any **Business Interruption Loss** until the **Policy Event** exceeds the applicable Retention Period shown in the Member Certificate. **Business Interruption Loss** incurred prior to the end of the Retention Period shall be borne by the **Insureds** and will remain uninsured.

The applicable Each Event Retention Period shown in the Member Certificate applies separately to each **Security Business Interruption Event**.

C. Multiple Insureds, Policy Events, And Claims

1. The inclusion herein of more than one **Insured** in any **Claim** or **Policy Event**, or the reporting of a **Policy Payment** incurred by more than one person or organization or under more than one purchased Coverage Agreement of this Policy, shall not operate to increase the Limits Of Insurance shown in the Member Certificate and this Policy.
2. All **Interrelated Policy Events** shall be treated as a single **Policy Event** deemed to have been discovered on the date the earliest of such **Policy Events** was first discovered.

However, with respect to the Security Business Interruption Event, for the purpose of applying the Retention Period only, each **Security Business Interruption Event** will be considered a separate event, and a separate Retention Period will apply to each such event.

3. More than one **Claim** arising out of a single **Policy Event** or **Interrelated Policy Events** shall be treated as a single **Claim** and shall be deemed first made on the date the earliest of such **Claims** is first made.
4. It is the intent of the Company that the coverage afforded under the Coverage Agreements be mutually exclusive. If however, it is determined that more than one purchased Coverage Agreement applies to a single **Policy Event** or **Interrelated Policy Events**, then the largest of the applicable Retentions for the purchased Coverage Agreements will apply.

SECTION VI – DEFENSE, CLAIM EXPENSES, AND SETTLEMENTS

A. Defense And Investigation

With respect to Coverage Agreements **A.** Cyber And Privacy Liability, **B.** Regulatory Fines, and **C.** Media Offense Liability, the Company shall have the right and duty to defend the **Insured** and to investigate any **Claim** to which coverage under this Policy applies, pursuant to the following:

1. **Claim Expenses** incurred in defending and investigating such **Claim** shall be a part of, and not in addition to, the applicable Limits Of Insurance shown in the Declarations and Member Certificate. Such **Claim Expenses** shall reduce the applicable Limits Of Insurance and shall be applied against the applicable Retention Amount. The Company shall have no obligation to pay any **Damages** or **Regulatory Fines**, defend or continue to defend any **Claim**, or pay **Claim Expenses** after the applicable Limits Of Insurance shown in the Member Certificate or the Master Policy Aggregate Limit Of Insurance shown in the Declarations have been exhausted by payment of **Damages**, **Regulatory Fines**, or **Claim Expenses**.
2. The Company shall select defense counsel; however, if the law of the state of the **Named Insured's** domicile shown in the Member Certificate allows the **Insured** to control the selection of defense counsel where a conflict of interest has arisen between the **Insured** and the Company, the Company will provide a list of attorneys or law firms from which the **Insured** may designate defense counsel who shall act solely in the interest of the **Insured**, and the **Insured** shall direct such defense counsel to cooperate with the Company. Such cooperation shall include:

- a. Providing, on a regular basis but not less frequently than every 3 months, written reports on claimed **Damages, Regulatory Fines**, potential liability, progress of any litigation, any settlement demands, or any investigation developments that materially affect the **Claim**;
- b. Providing any other reasonable information requested;
- c. Providing fully itemized billing on a periodic basis; and
- d. Cooperating with the Company and the **Insured** in resolving any discrepancies.

The fees and costs incurred by such defense counsel, including those fees and costs generated by cooperation with the Company as set forth above, shall be included as **Claim Expenses**.

B. Consent To Settlement

The Company shall not settle any **Claim** without the prior written consent of the **Named Insured**, but the Company shall have the right to recommend a settlement of any **Claim**. If the **Named Insured** refuses to settle such **Claim** pursuant to the Company's recommendations and acceptable to the claimant, then the Company's liability in regard to such **Claim** shall not exceed the sum of:

1. The amount of **Damages or Regulatory Fines** for which the Company could have settled such **Claim**;
2. **Claim Expenses** incurred as of the date such settlement was proposed in writing by the Company to the **Named Insured**; and
3. 80% of all covered **Damages, Regulatory Fines, and Claim Expenses** incurred thereafter on account of such **Claim**.

Such amounts are subject to the applicable Limits Of Insurance.

- C. The Company may, at its sole discretion, investigate any **Policy Event**. The Company will pay for covered **Damages, Regulatory Fines, Claim Expenses, Loss, Privacy Breach Notification And Mitigation Costs, or PCI DSS Assessments** in excess of the Retention Amount.

The Company will reimburse the **Named Insured** within 60 days after receipt of the sworn proof of **Extortion Loss, Business Interruption Loss, or Social Engineering Loss**, provided:

1. The **Insured** has complied with all the terms of this Policy; and
2. The Company and the **Named Insured** have agreed with the items included within and the amounts documented in the **Named Insured's** sworn proof of **Extortion Loss, Business Interruption Loss, or Social Engineering Loss**.

SECTION VII – CLAIMS, LOSS, AND EXPENSES

A. Reporting Provision

As a condition precedent to coverage afforded by this Policy:

1. The **Insured** shall give to the Company written notice of any **Claim** or **Policy Event** as soon as practicable and in no event later than 60 days after the end of the **Policy Period** or during the Extended Reporting Period, if applicable.
2. The **Insured** shall:
 - a. Notify law enforcement in the event of a theft;
 - b. As soon as practicable, provide a description of how, when, and what elements of the **Computer System** were impacted by the **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise**;
 - c. Take all reasonable steps to protect the **Computer System** from further **Unauthorized Access** or **Unintentional Data Compromise** and to reduce **Policy Payments**;
 - d. As often as may be reasonably required, permit the Company to inspect the **Computer System** and examine the **Insured's** books and records related to the **Claim** or **Policy Event**; and
 - e. Provide, in no event later than 60 days after the Company's request, a sworn proof of **Extortion Loss, Business Interruption Loss, or Social Engineering Loss**, signed by the **Named Insured**, containing the information the Company requests to investigate the **Policy Payment**.

In the event a suit is brought against the **Insured**, a charge against the **Insured** is instituted by any **Authority**, or any administrative action is initiated by an **Authority**, the **Insured** shall immediately forward to the address shown in the Claim Reporting policyholder notice every demand, notice, summons, or other process received by the **Insured** or its representatives.

B. Discovery Clause

1. With respect to Coverage Agreements **A. Cyber And Privacy Liability**, **B. Regulatory Fines**, and **C. Media Offense Liability**, if, during the **Policy Period**, the **Insured** first becomes aware of a specific **Policy Event** which is reasonably expected to result in a **Policy Payment** within the scope of coverage of this Policy, then the **Insured** must provide written notice to the Company containing the information listed in Paragraph **B.2.** below. If such written notice is received by the Company during the **Policy Period**, then any **Claim** subsequently made against the **Insured** arising out of such **Policy Event** shall be deemed for the purpose of this insurance to have been first made on the date on which such written notice is first received by the Company.
2. It is a condition precedent to the coverage afforded by this Discovery Clause that written notice be given to the Company containing the following information:
 - a. The description of the specific **Policy Event**;
 - b. The date on which such **Policy Event** occurred;
 - c. The **Policy Payment** that has resulted or may result from such **Policy Event**; and
 - d. The circumstances by which the **Insured** first became aware of such **Policy Event**.

If, during the **Policy Period**, the **Insured** provides such written notice of a specific **Policy Event** which is reasonably expected to result in a **Policy Payment** within the scope of coverage of this Policy, the Company, at its sole option, may investigate such specific **Policy Event**. Such matter shall be subject to all terms, conditions, and provisions in this Policy as applicable to a **Policy Payment**.

C. Assistance And Cooperation Of The Insured

The **Insured** shall cooperate with the Company and, upon the Company's request, the **Insured** shall:

1. Timely provide all requested documents related to the investigation, evaluation, and defense of any **Claim** or **Policy Event**;
2. Submit to examination and interview by a representative of the Company and while not in the presence of any other **Insured**, under oath if required;
3. Attend hearings, depositions, and trials;
4. Assist in effecting settlement, securing and giving evidence, and obtaining the attendance of witnesses in the conduct of suits; and
5. Give written statements to the Company's representatives and meet with such representatives for the purpose of determining coverage or defending any **Claim**;

all without cost to the Company. The **Insured** shall further cooperate with the Company and do whatever is necessary to secure and effect any right of indemnity, contribution, or apportionment which the **Insured** may have.

The **Insured** shall not, with respect to any **Claim** covered under this Policy, except at their own cost, make any payment, admit any liability, settle any **Claims**, assume any obligation, agree to arbitration or any similar means of resolution of any dispute, waive any rights, or incur **Claim Expenses** without the Company's prior written consent, such consent not to be unreasonably withheld. Any costs and expenses incurred by the **Insured** prior to the **Insured** giving written notice of the **Claim** to the Company shall be borne by the **Insured** and will not constitute satisfaction of the Retention Amount.

D. False Or Fraudulent Claims

If any **Insured** commits fraud in proffering any information related to coverage under this Policy, this insurance shall become void as to such **Insured** from the date such fraud was committed.

SECTION VIII – EXTENDED REPORTING PERIOD

- A.** If the **Master Policyholder** or Company nonrenews or cancels this Policy, pursuant to Paragraph **E. Cancellation** under Section **X – Other Conditions**, for reasons other than nonpayment of premium or Retention Amount or non-compliance with the terms and conditions of this Policy, then the **Master Policyholder** shall have the right, upon payment of an additional premium calculated at the Premium Percentage shown in the Declarations of the annual premium for the

Policy Period, to an Extended Reporting Period for the Additional Period shown in the Declarations, as elected by the **Master Policyholder**. Such Extended Reporting Period shall begin immediately following the effective date of such cancellation or nonrenewal, and shall apply to **Claims** first made against the **Insured**, or **Policy Payments** incurred, during such Extended Reporting Period and reported to the Company pursuant to Section VII – Claims, Loss, And Expenses, but only for any **Policy Event** that occurred on or after the Retroactive Date shown in the Declarations and before the end of the **Policy Period** and which is otherwise covered by this Policy.

If, however, this Policy is immediately succeeded by similar claims-made insurance coverage on which the applicable retroactive date is the same as or earlier than the Retroactive Date shown in the Declarations, the succeeding insurance shall be deemed to be a renewal hereof and, in consequence, the **Master Policyholder** shall have no right to purchase an Extended Reporting Period.

The quotation of a different premium, retention, or limit of insurance for renewal does not constitute a cancellation or refusal to renew for the purpose of this provision.

- B. As a condition precedent to the right to purchase the Extended Reporting Period, the **Master Policyholder** must have paid all premiums due for the **Policy Period**.
- C. The right to purchase the Extended Reporting Period shall terminate unless a written notice of such election for the Extended Reporting Period is received by the Company within 30 days after the effective date of cancellation or nonrenewal together with payment of the additional premium for the Extended Reporting Period. If such written notice of request and payment of additional premium for the Extended Reporting Period are not so received by the Company, there shall be no right to purchase the Extended Reporting Period at a later date.
- D. In the event of the purchase of the Extended Reporting Period, the entire premium therefor shall be fully earned at its commencement.
- E. The Extended Reporting Period shall not in any way increase the Limits Of Insurance shown in the Declarations or Member Certificate.

SECTION IX – INCORPORATIONS

A. Incorporation By The Named Insured

If, before or during the **Policy Period**, the **Named Insured** incorporates an additional municipality, the **Named Insured** must give written notice of such incorporation to the Company and provide the Company with such information in connection therewith as the Company may deem necessary.

B. Incorporation Of The Named Insured

If, during the **Policy Period**, a **Named Insured** is incorporated into another municipality wherein the other municipality gains control of the **Named Insured**, then:

1. The **Named Insured** must give written notice of such incorporation to the Company within 60 days after the effective date of such incorporation and provide the Company with such information in connection therewith as the Company may deem necessary; and
2. This Policy will apply only to those **Policy Events** that occur on or before the effective date of such incorporation.

SECTION X – OTHER CONDITIONS

A. Action Against The Company

No action shall lie against the Company unless, as a condition precedent thereto, the **Insured** has fully complied with all of the terms and conditions of this Policy, nor until the amount of the **Insured's** obligation to pay has been fully and finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the claimant, and the Company.

Nothing contained in this Policy shall give any person or organization any right to join the Company as a co-defendant in any action against the **Insured** to determine the **Insured's** liability.

B. Assignment Of Interest

Assignment of interest under this Policy shall not bind the Company unless the Company's consent is endorsed hereon.

C. Authorization

By acceptance of this Policy, the **Insureds** agree that the **Master Policyholder** shall act on behalf of all **Insureds** with respect to the exercising of the Extended Reporting Period, the cancellation of this Policy, the payment of any Retention Amounts, the payment of premiums when due, and the receiving of any return premiums or reimbursements that may become due under this Policy.

D. Bankruptcy

Bankruptcy or insolvency of the **Master Policyholder** or **Insured**, or of the **Insured's** estate shall not relieve the Company of any of its obligations hereunder.

E. Cancellation

1. Coverage under an individual Member Certificate may be cancelled by the **Master Policyholder** on behalf of the **Named Insured** by mailing to the Company written notice stating when thereafter such cancellation shall be effective. Such notice shall be conclusive on all **Insureds**. The effective date of cancellation stated in the notice will become the end of the **Policy Period**.
2. This Policy may be cancelled by the **Master Policyholder** on behalf of all **Named Insureds** by mailing to the Company written notice stating when thereafter such cancellation shall be effective.
3. This Policy may be cancelled by the Company by mailing to the **Master Policyholder** written notice stating when such cancellation shall be effective, which shall be no less than:
 - a. 10 days prior to cancellation if cancellation is due to nonpayment of premium; or
 - b. 30 days prior to cancellation if cancellation is due to any other reason.
4. The mailing of notice shall be sufficient proof of notice and the effective date of cancellation stated in the notice shall become the end of the **Master Policy Period**. However, cancellation of the Policy will not cut short the **Policy Period** of any Member Certificate as to which premium was paid and accepted by the Company before the end of the **Master Policy Period**. The Member Certificate will remain in effect, subject to all of the terms and conditions of the Policy, until such time as the individual Member Certificate expires or is cancelled in accordance with Paragraph 1. above, but in no case for a period longer than 12 months.
5. If cancelled by the Company, earned premium shall be computed pro rata. If cancelled by the **Master Policyholder**, the earned premium shall be computed at the customary short rate. Premium adjustment may be made at the time cancellation is effected or as soon as practicable thereafter. Payment or tender of unearned premium shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.
6. Delivery of such written notice by the **Master Policyholder** or the Company shall be equivalent to mailing.

F. Changes

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Company shall not effect a waiver or a change in any part of this Policy and shall not estop the Company from asserting any right under the terms of this Policy. The terms of this Policy shall not be waived or changed, except by written endorsement issued to form a part of this Policy, and this Policy embodies all agreements existing between the **Named Insured**, **Master Policyholder**, and Company or any of its agents relating to this insurance.

G. Choice Of Law

Unless otherwise expressly endorsed in the policy, the laws of the **Master Policyholder's** state of domicile, without giving effect to its conflicts of law principles, govern all matters arising out of or relating to this Policy and all of the transactions it contemplates, including, without limitation, its formation, validity, interpretation, construction, performance, and enforcement.

H. Dispute Resolution

If the Company and the **Named Insured** do not agree whether coverage is provided under this Policy for a **Claim** made against any **Insured**, then either party may make a written demand for arbitration.

When this demand is made, each party will select an arbitrator. The two arbitrators will select a third arbitrator. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party shall:

1. Pay the expenses it incurs; and

2. Bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the jurisdiction in which the **Named Insured's** address shown in the Declarations is located or in a jurisdiction mutually agreed to by the parties. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

I. Entire Agreement

This Policy, the Declarations, Member Certificate, **Application**, and any written endorsements attached hereto shall be deemed to be a single unitary contract.

J. Mitigation

It is a condition precedent to coverage that the **Insured** shall not willfully fail to comply with any **Security Breach Notice Law** to which the **Named Insured** may be subject by reason of an **Unauthorized Access, Potential Unauthorized Access, or Unintentional Data Compromise**.

K. Other Insurance

This insurance shall be excess of any other valid and collectible insurance available to the **Insured**, whether such other insurance is stated to be primary, contributory, excess, contingent, or otherwise.

L. Representations

By acceptance of this Policy, the **Master Policyholder** agrees as follows:

1. That the information and statements contained in the **Application** are the basis of this Policy and are to be considered as incorporated into and constituting a part of this Policy; and
2. That the information and statements contained in the **Application** are their representations, that they shall be deemed material to the acceptance of the risk or hazard assumed by the Company under this Policy, and that this Policy is issued in reliance upon the truth of such representations.

M. Subrogation

In the event of any **Policy Payment** under this Policy, the Company shall be subrogated to the right of recovery of all **Insureds** to the extent of such payment or reimbursement. The **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights.

Any amount so recovered, whether effected by the Company or by the **Insured**, shall be allocated as follows:

1. First, for the repayment of expenses incurred toward subrogation;
2. Second, for any **Policy Payment** incurred by the **Insured** which is in excess of the amount of the applicable limit of insurance under this Policy and which is excess of any amount paid by any insurer under any other policy;
3. Third, for any damages and claim expenses payment or any loss indemnification or payment by any excess carrier on behalf of the **Insured**;
4. Fourth, for any **Policy Payment** or Supplementary Payment made by the Company; and
5. Last, for repayment of the **Insured's** Retention Amount.



EVANSTON INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

MARKEL CYBER 360SM INSURANCE POLICY

In consideration of the premium paid, it is hereby understood and agreed that, with respect to any **Claim** or **Policy Event** otherwise covered hereunder, this Policy shall not exclude any **Claims**, **Policy Events**, **Policy Payments**, or Supplementary Payments arising solely out of a **Certified Act Of Terrorism**.

Certified Act Of Terrorism means an 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 pursuant to the federal Terrorism Risk Insurance Act. The federal Terrorism Risk Insurance Act sets forth the following criteria for a **Certified Act Of Terrorism**:

1. The act resulted in insured losses in excess of \$5 million in the aggregate attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property, or infrastructure and is 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.

If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a Calendar Year and the Company has met the Company's deductible under the Terrorism Risk Insurance Act, the Company shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such cases insured losses up to that amount are subject to pro rata allocation in accordance with the procedures established by the Secretary of the Treasury.

This endorsement does not serve to create coverage for any **Claim**, **Policy Event**, or **Policy Payment** which would otherwise be excluded under this Policy, such as a **Claim**, **Policy Event**, or **Policy Payment** excluded by the Nuclear Hazard Exclusion or the War Exclusion.

All other terms and conditions remain unchanged.



EVANSTON INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (BROAD FORM)

This endorsement modifies insurance provided under the following:

MARKEL CYBER 360SM INSURANCE POLICY

In consideration of the premium paid, it is hereby understood and agreed that the following is added to Paragraph **A.** under Section **IV** – Exclusions:

A. With respect to all Insuring Agreements, this Policy does not apply to any **Claim, Policy Event, or Policy Payment:**

Nuclear Energy Liability

a. Based upon, arising out of, or in any way involving any injury or **Property Damage:**

- (1)** With respect to which an **Insured** under this Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada, or any of their successors, or would be an insured under any such policy but for its termination upon 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, or any law amendatory thereof, or (b) 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.

b. Based upon, arising out of, or in any way involving any injury or **Property Damage** resulting from the **Hazardous Properties of Nuclear Material**, if:

- (1)** The **Nuclear Material** (a) is at any **Nuclear Facility** owned by, or operated by or on behalf of, an **Insured** or (b) has been discharged or dispersed therefrom;
- (2)** 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
- (3)** The injury or **Property Damage** 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 (3) applies only to **Property Damage** to such **Nuclear Facility** and any property thereat.

As used in this endorsement:

Hazardous Properties include radioactive, toxic, or explosive properties.

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; and
- (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 Material means **Source Material**, **Special Nuclear Material**, or **By-Product Material**.

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.

Property Damage includes all forms of radioactive contamination of property.

Source Material, **Special Nuclear Material**, and **By-Product Material** have the meanings given them in the Atomic Energy Act of 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** within the definition of **Nuclear Facility** under paragraph (a) or (b) thereof.

All other terms and conditions remain unchanged.



EVANSTON INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SERVICE OF SUIT

Except with respect to any policy issued in any state in which the Insurer is licensed as an admitted insurer to transact business, it is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the Named Insured, will submit to the jurisdiction of a court of competent jurisdiction within the United States and will comply with all requirements necessary to give such court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such court. Nothing in this clause constitutes or should be understood to constitute a waiver of the Company's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon Secretary, Legal Department, Markel Service, Incorporated, 10275 West Higgins Road, Suite 750, Rosemont, Illinois 60018, and that in any suit instituted against the Company upon this policy, the Company will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, the Company hereby designates the Superintendent, Commissioner or Director of Insurance or other official specified for that purpose in the statute, or his/her successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Named Insured or any beneficiary hereunder arising out of this policy, and hereby designates the above-named as the person to whom the said officer is authorized to mail such process or a true copy thereof.



EVANSTON INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TRADE OR ECONOMIC SANCTIONS

The following is added to this policy:

Trade Or Economic Sanctions

This insurance does not provide any coverage, and we (the Company) shall not make payment of any claim or provide any benefit hereunder, to the extent that the provision of such coverage, payment of such claim or provision of such benefit would expose us (the Company) to a violation of any applicable trade or economic sanctions, laws or regulations, including but not limited to, those administered and enforced by the United States Treasury Department's Office of Foreign Assets Control (OFAC).

All other terms and conditions remain unchanged.



EVANSTON INSURANCE COMPANY

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

CONFIRMATION OF CERTIFIED ACTS OF TERRORISM COVERAGE – TERRORISM RISK INSURANCE ACT

SCHEDULE

Terrorism Premium:	\$0
Federal Share Of Terrorism Losses:	80%

Disclosure Of Premium

We have notified you that under the Terrorism Risk Insurance Act we must make certified acts of terrorism coverage available in the policies we offer.

Certified acts of terrorism coverage has been provided because either you have indicated to us or your agent that certified acts of terrorism coverage is desired or we have provided certified acts of terrorism coverage at no additional charge. If you have chosen to purchase certified acts of terrorism coverage, the premium charge is the amount shown in the Schedule of this notice.

If there is no premium shown above or the premium shown is \$0, there is no separate premium for the coverage during this policy period.

Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals a percentage (as shown in the Schedule of this notice) of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

From: [Klevorn, R. John III](#)
To: [Alayna Graham](#)
Cc: [Sweeney, David W.](#)
Subject: RE: CWE Southeast SBD - ABNA Contract
Date: Tuesday, December 22, 2020 2:40:17 PM
Attachments: [SLDOCS01-#2407050-v2-Letter Agreement \(Park Central ABNA\).DOCX](#)
[SLDOCS01-#2407050-vpdf-Letter Agreement \(Park Central ABNA\).PDF](#)

Hi Alayna,

David Sweeney asked me to review the Professional Services Agreement with ABNA Engineering. The initial draft agreement from ABNA was very ABNA-friendly. I have attached a revised agreement with my recommended changes, which are intended to level the playing field and hold them to account for the services to be provided. In connection with the draft, I have the following comments and/or questions:

- It appears that the “services” that are intended to fall under this agreement are limited to developing the design for the project. Please confirm. Once the project is ready for construction phase, there will be a different set of documents to govern the terms of that engagement.
- The items listed as 1-12 on the first page of the letter agreement include all of the “services” to be provided by ABNA. To the extent that any of these services should be clarified or added to, that would be helpful so that there is a clear understanding of ABNA’s obligations. If there are additional items you are expecting, then that should also be added to the list.
- Does the district own all or some of the property on which the project is to be developed? Is there any on private property? City property? Are you comfortable that the district has the authority to allow ABNA to access the property?
- In general, my suggested changes to the Terms and Conditions are intended to hold ABNA responsible for any problems they cause.

After you have a chance to review the comments, please let me know if you would like to set up a time to review the agreement.

Thank you.

John



R. John Klevorn, III
jklevorn@lewisrice.com
600 Washington Avenue
Suite 2500
St. Louis, Missouri 63101-1311
314.444.7717 (direct)
314.313.2908 (cell)
314.612.7717 (fax)
www.lewisrice.com

From: Sweeney, David W. <DSweeney@lewisrice.com>

Sent: Monday, December 21, 2020 1:50 PM

To: Klevorn, R. John III <jklevorn@lewisrice.com>
Subject: FW: CWE Southeast SBD - ABNA Contract

From: Alayna Graham <Alayna@pcd-stl.org>
Sent: Monday, December 21, 2020 11:30 AM
To: Sweeney, David W. <DSweeney@lewisrice.com>
Subject: [EXTERNAL] CWE Southeast SBD - ABNA Contract

Good morning Mr. Sweeney,

Happy holidays! I'm working with the CWE Southeast Special Business District to do an engineering study and design for a lighting project in their district. Attached is the proposed contract from ABNA and the RFP to which they responded. Could you please review the contract?

Please let me know if you have any questions!

Thank you,
Alayna

Alayna Graham (she/her)
Park Central Development
Project Manager, Special Taxing Districts and Planning
Office: 314-535-5311 | Cell: 217-371-1257

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December 16, 2020

Ms. Alayna Graham
Central West End Southeast Special Business
District c/o Park Central Development Corporation
4512 Manchester Avenue, Suite
100 St. Louis, MO 63110

**SUBJECT: Pedestrian Street Lighting Design
Laclede Avenue between Boyle and Taylor**

PROFESSIONAL SERVICE AGREEMENT

This Agreement is entered into by ABNA Engineering, Inc. (hereinafter, "ABNA") and Central West End Southeast Special Business District (hereinafter, "SBD" or "Client").

ABNA ~~has been engaged to~~shall provide ~~certain~~the professional services. ~~Pursuant to these services, SBD desires ABNA to perform certain services and ABNA desires to perform such services for as set forth in this Agreement, including without limitation,~~ the Preparation of Plans, Specifications, and Construction Cost Estimates for Pedestrian Street Lighting on Laclede Avenue between Boyle and Taylor, all as more particularly described herein. Therefore, in consideration of the mutual promises, covenants, and representations contained herein the parties agree as follows:

SCOPE OF SERVICES

ABNA shall work ~~as an extension of~~with SBD's staff to design and coordinate the construction of this project with the St. Louis Board of Public Service (hereinafter "BPS"). ~~It is understood that once~~Once design is complete ~~that and approved in writing by SBD,~~ ABNA will ~~turn over~~submit the Plans, Specifications, and Construction Cost Estimate to BPS for ~~them~~ABNA to bid and manage the construction of this project. (pursuant to a separate agreement).

More specifically, ABNA will:

1. Meet with SBD to review to the project goals, construction budget and schedule
2. Perform a site investigation to take measurements and photographs
3. Contact the City Lighting Department to coordinate improvements and power source location
4. Perform a topographic survey as necessary to establish existing conditions and the location of existing utilities
5. Acquire location of street right-of-way from City records
6. Prepare Preliminary Plans to show the location of existing and proposed lighting
7. Submit plans to all utility companies having facilities within the project limits if required
8. Submit plans to BPS and meet with City staff as necessary to discuss revisions
9. Prepare Construction Documents incorporating comments from BPS
10. Be available during bidding to answer bidder's questions
11. Be available during construction to review contractor submittals and answer contractor's Requests for Information (RFI)
12. Make periodic site visits to observe the Contractor's progress and quality of work if requested by BPS

PERIOD OF PERFORMANCE

ABNA anticipates work will start 5-business days after receipt of notice to proceed. ABNA shall deliver Preliminary Plans will be ready for submittal 20 days thereafter. Construction Documents will be ready for to SBD 20 days thereafter. ABNA will prepare draft Construction Documents and deliver such draft documents to SBD and BPS within 10 days after submission of the Preliminary Plans, so that the parties have an opportunity

to provide comments to and agree on the final form of Construction Documents for final submittal 20-days after receipt of Preliminary Plan ~~review comments and approval by SBD and BPS.~~

COMPENSATION

For all work described herein, SBD shall pay ABNA a Lump Sum amount of **\$36,133**. Invoices will be submitted monthly based on percent completed in the previous month. [Note to SBD: Are you comfortable with paying monthly based on a percentage completion calculation? Is it understood how such "completion" is determined? It would be helpful to clarify what this means and how it is to be calculated.]

CHANGES

The client may, at any time, by written order, make changes within the general scope of the contract in the services to be performed. If such changes cause an increase, or decrease, in ABNA's cost of, or time required for performance of any services under this contract, an equitable adjustment shall be made as agreed upon in advance by the parties, and the contract shall be modified in writing accordingly. No services for which an additional cost or fee will be charged by ABNA shall be furnished without the prior authorization of the client.

PROJECT CONTACT

SBD's contact shall be Ms. Alayna Graham and she can be reached at 314-535-5311 or email: Alayna@pcd-stl.org.

ABNA's contact shall be Mr. Franklin P. Eppert PE who will be our Project Manager and he can be reached at 314-454-0222 ext. 1148 or email fepperet@abnacorp.com.

ACCEPTANCE BY CONTRACTING PARTIES

Signing of this Agreement indicated understanding and acceptance of the attached terms and conditions herein. This executed agreement will serve as authorization to proceed. Please execute and return one fully executed copy to ABNA either by mail or electronically as a PDF file.

ABNA Engineering, Inc.

Central West End Southeast Special Business District

By: _____

By: _____

Name: **Abe Adewale PE**

Name: _____

Title: **Principal**

Title: _____

Date: _____

TERMS AND CONDITIONS

To assure an understanding of matters related to our mutual responsibilities, these terms and conditions for professional services are made a part of ~~this agreement for our services~~ the Professional Services Agreement between ABNA Engineering, Inc. (ABNA) and Central West End Southeast Special Business District (SBD or Client) dated _____, 202_____.

This agreement may be amended in writing providing both the Client and ABNA Engineering Inc. (ABNA) agree to such modifications. This contract constitutes the entire agreement between the parties and no oral agreements, statements or representations are a part of this agreement.

COMPENSATION FOR SERVICES

The basis for compensation will be as identified in the agreement. All items not-covered in this agreement and requested by the Client will be performed at an agreed upon fee.

When "Lump Sum" Fee is utilized, it shall include all labor incurred by ABNA and shall not exceed the fixed payment amount without prior authorization of the Client.

All expenses and/or outside services will be billed ~~at direct cost~~ the responsibility of ABNA unless specifically otherwise provided in the Agreement.

INVOICE AND PAYMENT

ABNA may submit monthly statements for services and expenses based upon the proportion of the actual work completed at the time of billing. Unless provided for otherwise, payments for services will be due within 30 days of receipt by Client of such invoice.

If the Client fails to make any payment due ABNA for services and expenses within the period specified, a service charge of ~~1 1/2%~~ per month will be added to the Client's account. This is an annual rate of ~~18%~~ 12%. If Client fails to fully and timely make any payment due to ABNA, ABNA may, without any liability or prior notice to Client, suspend all work under this contract until such payment is made, with interest as provided herein.

The Client shall pay the cost of the employees of ABNA engaged in connection with collection of any delinquent amounts at the rates specified in ABNA's current rate schedule for the time spent.

If legal or collection services are employed to collect any outstanding bills, any expenses and distribution, including reasonable attorneys' fees and court cost shall be paid by Client.

LIMITATION OF LIABILITY

~~The Client agrees to limit ABNA's liability to the Client and to all construction Contractors and subcontractors where applicable, on this work, for damages to them, due to ABNA's negligent acts, errors or omissions, such that the total aggregate liability of ABNA and to all those named shall not exceed the total project fee paid to ABNA.~~

~~Except with respect to a party's indemnification obligations hereunder or a party's gross negligence or willful misconduct, in no event shall either ABNA or Client be liable for any indirect, special or consequential loss or damage of any type whatsoever arising out of the performance of the work on this project including, but not limited to, loss of use, loss of income, or business interruption, whether caused by the negligence of ABNA such party, or otherwise, and Client shall fully indemnify and hold ABNA harmless from any such damages or liability.~~

~~By executing this agreement, the Client assumes full liability for any errors or negligence contained in any documentation or information they furnish.~~

CERTIFICATE OF MERIT

~~In any action, whether it is in Tort, Contract, or Contractor, or otherwise in which the client, owner, contractor or any of their subcontractors, sub-subcontractors agents and employees seek damages for personal injuries, property damage, lost profits or expectancies, business interruptions, death or other monetary loss by reason of alleged professional malpractice, negligence or breach of contract by ABNA, the plaintiff's attorney or the Plaintiff, if the Plaintiff is proceeding pro se, shall, before filing suit in any competent Court or arbitration forum, submit to ABNA an Affidavit declaring that the affiant has consulted and reviewed the facts of the case with an independent architect or engineer who the affiant reasonably believes:~~

- ~~(i) is knowledgeable of the relative issues involved in the particular action;~~
- ~~(ii) practices or has practiced within the last ten years or teaches or has taught within the last ten years in the same area of engineering that is at issue in the particular action; and~~
- ~~(iii) is qualified by experience or demonstrated competence in the subject of the case; that the reviewing architect or engineer has determined in a written report, after a review of relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of such action; and that the affiant has concluded on the basis of the reviewing architect or engineer's review and consultation that there is a reasonable and meritorious cause of filing of such action.~~

~~A copy of the written report, clearly identifying the Plaintiff and the reasons for the reviewing architect or engineer's determination that a reasonable and meritorious cause for the filing of the action exists, must be attached to the Affidavit, but information which would identify the reviewing party may be deleted from the copy attached to the Affidavit.~~

~~If an Affidavit complying with this section is not submitted to ABNA before suit is filed, such suit shall be subject to dismissal by ABNA, without prejudice, with costs and attorney's fees related to the dismissal to be paid by the Plaintiff in favor of ABNA.~~

REUSE OF DOCUMENTS

All documents including drawings and specifications furnished by ABNA pursuant to this Agreement are instruments of service and shall be the property of the Client. They are not intended or represented to be suitable for reuse by Client or others on extensions of this work, or on any other work. Any reuse without specific written consent or adaptation by ABNA will be at Client's sole risk, and without liability to ABNA. The Client shall indemnify and hold harmless ABNA from all claims, damages, losses and expenses including attorney's fees arising out of unauthorized reuse. Any such reuse will entitle ABNA to further compensation at rates to be agreed upon by Client and ABNA.

~~Copies of Documents that may be relied upon by the Client are limited to printed copies (also known as hard copies) that are signed or sealed by ABNA. Files in electronic media format of text, data, or graphics, or of other types that are furnished by ABNA to the Client are only for convenience of the Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.~~

Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. However, if ABNA's electronic files are delivered to the Client for Client's delivery without modification to Owner, the 60 day acceptance period for ABNA's files shall not begin until said files have been delivered to Owner. Any errors detected within the 60 day acceptance period will be corrected by the party delivering the electronic files. ABNA shall not be responsible to maintain documents stored in electronic media format after acceptance by Client.

If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

When transferring documents in electronic media format, neither ABNA nor Client make representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ABNA or the Client, respectively, at the completion of This Part of the Project.

The Client and Owner may make and retain copies of Documents for information and reference in connection with the use and occupancy of This Part of the Project by Owner or Client's related design services. Such Documents are not intended or represented to be suitable for re-use by Client, Client's consultants, Owner,

or others on extensions of This Part of the Project or on any other project. Any such re-use or modification without written verification or adaptation by ABNA as appropriate for the specific purpose intended will be at the re-user's sole risk and without liability or legal exposure to ABNA or ANBA's consultants. The Client shall indemnify and hold harmless ABNA and ABNA's Consultants from all damages, losses and expenses, including attorneys' fee arising out of or resulting therefrom.

Any verification or adaptation of the Documents for extensions of This Part of the Project or for any other project will entitle ABNA to further compensation at rates to be agreed upon by the Client and ABNA.

RIGHT OF ENTRY

~~With at least 48 hours advanced notice by ABNA, the Client will provide right of entry for our staff, subcontractors, and all necessary equipment to complete the work. ABNA will take all reasonable precautions to minimize damage to the property. It is understood by the Client that in the normal course of work some damage may occur, the correction of which is not part of this agreement, and hereby agrees to remediate any and all damage caused by ABNA's or such staff or subcontractors' entry onto the property, and ABNA hereby indemnifies Client for any and all losses, claims, damages, suits, actions, or expenses resulting from such entry onto the property.~~

UTILITIES AND BURIED STRUCTURES

In the prosecution of our work, ABNA will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities. ~~Client agrees to hold ABNA harmless for any damages to subterranean structures and utilities.~~

GOVERNING LAWS

The validity or construction of this Agreement, as well as the rights and duties of the parties herein, shall be governed by the laws of the State of Missouri.

DISPUTES

If litigation occurs in connection with this agreement, ~~and ABNA the party that~~ the party that prevails in such litigation ~~Client shall pay~~ shall be entitled to payment by the non-prevailing party for reimbursement of all costs incurred by ABNA the prevailing party, including staff time, court costs, attorney's fees and other expenses related to the litigation.

STANDARD OF CARE

~~Services performed by ABNA will be conducted with the level of care and skill ordinarily exercised by members of the professions currently practicing under similar conditions. No other warranty, express or implied, is made.~~

REPRESENTATIONS AND WARRANTIES

~~ABNA will employ its best efforts in the performance of this Agreement, and the employment of such efforts shall be consistent with the highest professional and technical standards and practices currently existing in the industry with respect to such services.~~

~~The services provided by ABNA under this Agreement will not infringe any United States or foreign patent, trademark, copyright, trade secret, or other proprietary right of a third party.~~

~~ABNA has the staff, skill and authority to perform the services and other obligations under this Agreement.~~

~~ABNA has obtained all licenses and permits required to observe and perform the terms, covenants, conditions and other provisions to be observed or performed by ABNA under this Agreement. ABNA has obtained all necessary third party consents and will timely make all payments to third parties that may be required to perform the services.~~

~~ABNA shall be solely responsible for all professional quality and technical accuracy and completeness of the services to be provided by ABNA under this Agreement.~~

~~The execution, delivery, and performance by ABNA of and under this Agreement will comply with all applicable federal, state and local laws, codes, ordinances, regulations, and rules, as well as all agreements and contractual obligations, and will not contravene any such law, code, ordinance, regulation or rule applicable to or binding on ABNA, or result in a breach of, or constitute a default under, or contravene any provisions of, any agreement or contractual obligation to which ABNA is a party or by which ABNA is bound, including, without limitation, any organizational document.~~

~~There are no pending or, to the best knowledge of ABNA, threatened claims, investigations, suits or proceedings against it or affecting it or its properties, that, if determined adversely, would adversely affect the ability of ABNA to perform its obligations under this Agreement.~~

RENOVATION/REHABILITATION OF EXISTING STRUCTURES

Where the work involves remodeling and/or rehabilitation of an existing structure, Client agrees that certain assumptions must be made regarding existing conditions and because some of these assumptions may not be verifiable without expending additional sums of money, or destroying otherwise adequate or serviceable portions of the structure. ~~Client agrees that, except for negligence on the part of ABNA, Client will hold harmless, indemnify and defend ABNA from and against any and all claims arising out of the professional services provided under this Agreement.~~

ASBESTOS AND HAZARDOUS WASTES

Where the SCOPE OF SERVICES includes asbestos abatement and/or hazardous waste/remediation, Client agrees that the handling or removal of asbestos, asbestos products, and hazardous wastes involves certain health risks which require specific safety measures. ABNA will be responsible for safety and safety measures of ABNA employees only. The Client is responsible for his own negligence and safety measures for the protection of the Client's employees, contractors, subcontractors and the general public. ~~Client agrees that, except for claims and damages arising from negligent acts, errors or omissions of ABNA, Client will hold harmless, defend and indemnify ABNA from all claims, suits, expenses or damages arising from or alleged to arise from exposure to, contact with or inhalation of asbestos, asbestos fibers, or any other hazardous or toxic substances, wastes or materials as so designated by any federal, state or local governmental entity or agency.~~

When the SCOPE OF WORK does not include asbestos and/or hazardous wastes and if, during the performance of work, the presence of hazardous or toxic materials or substances, which are not being properly or safely handled or disposed of, is discovered or suspected by ABNA, ABNA shall be permitted to immediately cease all work on the project which requires contact with or exposure to such hazardous or toxic materials, until Client has made arrangements satisfactory to ABNA for the removal, disposal or handling of same.

Nothing in this agreement shall impose any responsibility or liability on ABNA for claims, lawsuits, expenses or damages arising from, or in any manner related to, the exposure to, or the handling, manufacture or disposal of asbestos, asbestos products, or any other hazardous waste or toxic substance of any kind, as so designated by federal, state or local governmental entities or agencies.

CONSTRUCTION PHASE

~~ABNA shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work.~~

INSURANCE

~~ABNA represents and warrants that its employees are protected by workers compensation Insurance and that ABNA has such coverage under public liability and property damage insurance policies which it believes to be adequate shall, during the Term of this Agreement, maintain in force the below-discussed insurance coverage at its own cost and expense. Certificates for all such policies of insurance shall be provided to Client, upon request in writing. Within the limits and conditions of such insurance, ABNA agrees to indemnify and save the Client harmless from and against any loss, damage or liability asserted by third parties arising from any negligent acts by ABNA employees, except as otherwise limited by this contract. ABNA shall not, in any way, be responsible or liable for any loss, damage or liability beyond the amounts, limits and conditions of such insurance coverage. ABNA shall not be responsible for any loss, damage or liability arising from any negligent acts by Client, its agents, staff or other consultants.~~

~~Commercial General Liability ("CGL") insurance for property loss or damage and personal or bodily injury or death of any person with a combined single limit of \$1,000,000 per occurrence, and aggregate coverage of \$2,000,000.~~

~~Workers compensation ("WC") insurance for the payment of claims for bodily injuries, including death or disease sustained by employees in the amount of statutory limits under applicable law.~~

~~Automobile insurance for all motor vehicles used in connection with this Agreement with coverage limits not less than \$1,000,000 per accident.~~

~~To the extent the activities under this Agreement can be covered by professional liability insurance, then ABNA shall also maintain professional liability insurance covering all claims, damages, and liabilities for personal injury, death or damage to or loss of property arising from, connected with, or attributable to the acts or omissions of ABNA in the amount of \$2,000,000 per claim and in the aggregate.~~

~~All insurance policies required of ABNA under this Agreement: (a) must be primary and non-contributory, (b) must be issued by a reputable insurance company, and (c) must name Client as an additional insured party, except for the WC coverage.~~

INDEMNIFICATION

~~To the fullest extent permitted by law, Client, each party to this Agreement (the "Indemnifying Party") shall indemnify and hold ABNA the other party to this Agreement (the "Indemnified Party") harmless from and against any and all claims, damages, losses, suits, actions or expenses, including, but not limited to, attorney's fees, in connection with the project, provided that such claims, damages, suits, losses or expenses are attributable to bodily injury, sickness, disease or death, or to injury or destruction of tangible property (including loss of use resulting there from), to the extent caused in whole or in part by negligent errors, acts or omissions of Client, anyone acting directly or indirectly for Client, or anyone for whose acts Client may be liable, regardless of whether or not such claim, damage, suit, action, loss or expense is caused in part by ABNA caused by or arising out of: (a) the negligence or willful misconduct of the Indemnifying Party, its subcontractors, and/or any of their respective employees or agents in connection with this Agreement, (b) any actual alleged violation by the Indemnifying Party, its agents, employees or subcontractors, of any statute, ordinance, rule or regulation, or (c) any misrepresentation, breach of warranty, or breach or non-fulfillment of any obligation or agreement made by the Indemnifying Party under this Agreement. The provisions of this paragraph shall survive the expiration or earlier termination of this Agreement.~~

~~It is agreed that General Contractor is solely responsible for jobsite safety, and that this intent shall be made evident in the Client's Agreement with General Contractor. The Client also agrees to list the General Contractor's general liability insurance policy as being primary, and ABNA shall be made as additional insured under the General Contractor's general liability insurance policy. ABNA shall also be named as an additional insured, with the Client in the contract with the General Contractor, from liability arising from acts of negligence or omissions by the General Contractor.~~

TERMINATION

This agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance to the terms hereof. Such termination shall be not be effective in that substantial failure has been remedied before expiration of the period in written notice. In the event of termination as a result of default by Client, Client will pay ABNA for services performed to the termination notice date plus reasonable termination expenses.

In the event of termination or suspension for more than three (3) months, prior to completion of all work covered by this agreement, ABNA may, in its sole discretion, complete such analysis and other work necessary to complete required files and may also complete a report on the services performed to the notice date of termination or suspension. The expenses of termination or suspension shall include all direct costs of completing such analyses, records and reports billable at ABNA's standard hourly rates. In the event any phase of the project is delayed for reasons beyond ABNA's control, unbilled work will be invoiced at the standard hourly rates for the actual number of hours expended.