



Jefferson County  
Finance Committee Minutes  
March 14, 2013

Committee members: Braughler, James B. (Excused)  
Hanneman, Jennifer  
Jones, Richard C. (Chair)  
Mode, Jim  
Molinaro, John

1. **Call to order** – Richard Jones called the meeting to order at 8:30 a.m.
2. **Roll call (establish a quorum)** – All committee members were present except for James Braughler. Staff in attendance were Gary Petre, Brian Lamers, Tammy Worzalla, Phil Ristow and Bill Kern. Members of the public in attendance was Lydia Statz (Daily Union)
3. **Certification of compliance with the Open Meetings Law** – Gary Petre certified that notice for the meeting complied with the Open Meeting Law.
4. **Review of the agenda**-No changes
5. **Citizen Comments** – None
6. **Approval of Finance Committee minutes for February 26, 2013** – A motion was made Mode/Molinaro to approve the minutes for February 26, 2013 as drafted. The motion passed 3-0. Jennifer Hanneman abstained.
7. **Communications** – None
8. **Discussion and possible action for the Donation Policy for the County.** Motion was made by Molinaro/Hanneman to approve the Donation Policy with wording changes to fundraising to include that if a fundraising event is not part of the budget, it would require the department to get approval by the department’s committee. The revised policy is to be sent to the Administration and Rules Committee. The motion passed 4-0.
9. **Discussion and possible action regarding approval of a BP fuel card in the amount of \$400 for Donna Haugom (Emergency Management).** This card was apparently issued during the floods in 2008, but had not previously gone through the formal approval process. A motion was made by Mode/Hanneman to approve the BP fuel card in the amount of \$400. The motion passed 4-0.
10. **Review and discussion regarding the Purchasing Ordinance wording for RFP’S.** Gary Petre explained his proposal to change the wording to take out in Section 8 the wording “where feasible” and add “if in the County’s best interest”. Discussion took place regarding the wording. Dick Jones recommended Phil Ristow and the Finance Department review the Ordinance. It was also discussed that the Finance Department send the Ordinance to the department heads to review and provide feedback.
11. **Review and discussion regarding the 2014 budget.** Gary Petre explained that the timeline was reviewed. He explained that Human Resources had sent out a letter to the department heads for any position changes and reclassifications for the 2014 budget. Brian Lamers stated that the spreadsheet was sent to the department heads to update the 5-year capital plan for their departments.



12. **Review and discussion regarding the 2013-2015 State budget.** Jim Mode had updated the committee regarding the Human Services department and the potential loss of approximately \$250,000 and also that CCS must deliver the services on a regional level in order to receive additional funding greatly needed for the program. At this time, there really is no clarification as to the meaning of regional level. Brian Lamers explained the shared revenue, general transportation and local road improvement programs will be flat. The Highway routine maintenance agreement will have an increase in funding, however, that is a direct reimbursement from WisDOT.
13. **Discussion of the impact of the Sequester.** A document was handed that tried to state what the impacts would be to Wisconsin. There is an uncertainty on how the sequester will impact the County at this time.
14. **Discussion regarding the County's 5-year plan.** Gary Petre stated that the estimate came back from Ehlers to do a 5-year projection for the county at a cost of \$11,000. Discussion took place on the Finance Department preparing a 5-year projection. It was decided that the Finance Department would put together the projection.
15. **Update on contingency fund balance-**Brian Lamers directed the Finance Committee to the schedule showing the current balance of the 2013 general contingency of \$400,000, the other contingency for wage increases as \$250,000 and the vested benefits of \$265,000.
16. **Set future meeting schedule, next meeting date, and possible agenda items-**The next regular meeting is for April 11, 2013. Agenda items will include an update on the 2014 budget and review of the calendar for future Finance Committee meetings.
17. **Payment of invoices-** After review of the invoices, a motion was made by Hanneman/Molinario to approve the payment of invoices totaling \$402,000.44 and \$2,772.20 for Committee per diems. The motion passed 4-0.
18. **Adjourn-**A motion was made by Hanneman/Mode to adjourn 9:50 a.m. The motion passed 4-0.

Respectfully submitted,

Jennifer Hanneman  
Finance Committee Secretary  
Jefferson County

/bll

YOUR COUNTY GOVERNMENT AT WORK - SCHEDULE OF MEETINGS 2013-2014

COMMITTEE / BOARD	ROOM/TIME	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	
Administration & Rules/ICC Committee 8:30 a.m. / 9:00 a.m.	Administrative & Rules Last Wednesday; 8:30 a.m. Rm 112 ICC 3rd Monday	29 20	26 17	31 15	28 19	25 16	30 21	27 18	25 16	29 20	26 17	26 17	30 21	
Blue Spring Lake Mgmt District	Called by President													
County Board of Health	Bi Monthly 3rd Wed 1:00 p.m. Conf. Rm	8	X	17	X	18	X	20	X	15	X	19	X	
Economic Development Consortium	2nd Wednesday 8:30 a.m. UWX Rm 12	8	12	10	14	11	9	13	11	8	12	12	9	
Fair Park Committee	1st Thursday 8:00 a.m. Conf. Rm	2	6	4	1	5	3	7	5	2	6	6	3	
Farmland Conservation Easement	2nd Monday 12:30 p.m. Rm 203	13	10	8	12	9	14	11	9	13	10	10	14	
Finance Committee	2nd Thursday 8:30 a.m. Rm 112	9	13	11	8	12	10	14	12	9	13	13	10	
Highway Committee	1st Tuesday 8:00 a.m. Hwy Office	7	4	2	6	3	1	5	3	7	4	4	1	
Historic Sites Preservation Commission	4th Thursday 6:30 p.m. UWX	23	27	25	22	26	24	20	26	23	27	27	24	
Home Consortium Board	3rd Thursday 9:00 a.m. Waukesha	16	20	18	15	19	17	21	19	16	20	20	17	
Human Resources Committee	3rd Tuesday 8:30 a.m. Rm 112	21	18	16	20	17	15	19	17	21	18	18	15	
Human Services Board	2nd Tuesday 8:30 a.m. Workforce	14	11	9	13	10	8	12	10	14	11	11	8	
Infrastructure Committee	3rd Wednesday 10:30 a.m. Rm 112	15	19	17	21	18	16	20	18	15	19	19	16	
Jefferson County Library Council	7:00 p.m. TBD													
Lake Ripley Management District	3rd Saturday 9:00 a.m. Oakland	18	15	20	17	21	19	16	21	18	15	15	19	
Land & Water Conservation Committee	3rd Wednesday 8:30 a.m. Rm 202	15	19	17	21	18	16	20	18	15	19	19	16	
Law Enforcement Emergency Mgmt	4th Friday 8:30 a.m. Rm 112	24	28	26	23	27	25	22	27	24	28	28	25	
Mid-WI Federated Library Systems Bd	Last Tuesday 6:00 p.m. Horicon	28	25	30	27	24	29	26	31	28	25	25	29	
Parks Committee	1st Monday 1:00 p.m. Rm 202	6	3	1	5	2	7	4	2	6	3	3	7	
Planning & Zoning Committee	Last Monday 8:30 a.m. Rm 203	TBD	24	29	26	30	28	25	30	27	24	31	28	
Planning & Zoning Public Hearing (PH)	3rd Thursday 7:00 p.m. Rm 205	16	20	18	15	19	17	21	19	16	20	20	17	
Planning & Zoning Board of Adjustment (Site Inspections followed by PH)	2nd Thursday 1:00 p.m. Rm 203/205	9	13	11	8	12	10	14	12	9	13	13	10	
Planning & Zoning Site Inspections	Mon prior to PH 8:00 a.m. Rm 203	13	17	15	12	16	14	18	16	13	17	17	14	
Solid Waste & Air Quality Committee	3rd Friday 8:30 a.m. Rm 203	17	21	19	16	20	18	15	20	17	21	21	18	
University Extension Education Committee	2nd Monday 8:30 a.m. UW Rm 12	13	10	8	12	9	14	11	9	13	10	10	14	
Utility Tax Association	Quarterly	Called by Chair or the Board												
Veterans Service Commission	Annually 2:30 p.m. Rm 112	Called by Chair												
<b>COUNTY BOARD</b>	2nd Tuesday 7:00 p.m. *Monday 7:00 p.m.	14	11	9	13	10	8	12	10	X	11	11	15	
		<b>Budget Public Hearing</b>							22					



NOTE: AGENDAS ARE DUE TO ADMINISTRATOR'S OFFICE BY 10:00 A.M. ON WEDNESDAYS  
Regular Meeting Dates are Subject to change and must be given to the County Administrator's Office

**Elections**  
February 18, 2014  
April 1, 2014

**Board of Canvass**  
February 20, 2014  
February 25, 2014  
April 3, 2014  
April 8, 2014

**Finance Committee**  
**Budget Hearings**  
September 11, 2013  
September 13, 2013  
September 16, 2013  
September 18, 2013

**WI Counties**  
**Annual Conference**  
September 22-24, 2013  
**County Fair**  
July 10-14, 2013

**Clean Sweeps**  
May 18, 2013 Watertown  
September 21, 2013 Fort Atkinson  
October 4, 2013 Whitewater  
April 12, 2014 Fair Park

**HOLIDAY**

## JEFFERSON COUNTY

### Privacy and Network Liability Protection

Insuring Agreements	Limits of Liability	Retention Each Claim	Retroactive Date
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Privacy Liability	\$1,000,000/\$1,000,000	\$25,000	TBD
Data Breach Fund (see Data Breach Team Limits below)	\$250,000	\$NIL	TBD
Network Security Liability	\$1,000,000/\$1,000,000	\$25,000	TBD

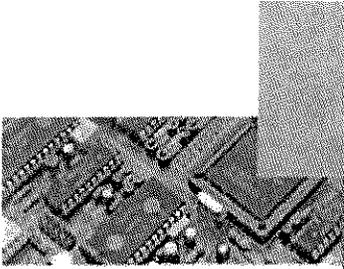
Regulatory Proceeding Sub-Limit of Liability - \$500,000

Maximum Policy Aggregate Limit of Liability - \$1,000,000

	Each Claim	Aggregate
Data Breach Fund		\$500,000
a. Data Breach Expenses – Tier I (subsections H1, H2, H4 and H5)	\$250,000	\$250,000
b. Data Breach Expenses – Tier II (subsections H3, H6, H7 and H8)	\$500,000	\$500,000

**Premium: \$13,478.58 (Includes Surplus Lines Taxes and fees)**

Premium above is an indication only subject to review of the Ace Group application and supplemental Cloud application.



# ACE Privacy Protection\*

## *ACE Privacy Protection\* Privacy and Network Liability*

The ACE Privacy Protection\* Policy approaches traditional network liability coverage with an innovative new alternative. This next generation policy focuses on privacy liability arising out of lost computer equipment, network security breaches and human errors. It even covers companies from mistakes made by third party service providers.

### *Coverage parts include:*

#### **Privacy Liability**

- Covers loss arising out of the organization's failure to protect sensitive personal or corporate information in any format.
- Provides coverage for regulatory proceedings brought by a government agency alleging the violation of any state, federal, or foreign identity theft or privacy protection legislation.

#### **Data Breach Fund**

- It covers expenses to retain a computer forensics firm to determine the scope of a breach, to notify customers or employees whose sensitive personal information has been breached, to provide credit monitoring services to affected individuals, and to obtain legal, public relations or crisis management services to restore the company's reputation.

#### **Network Liability**

- Covers liability of the organization arising out of the failure of network security, including unauthorized access or unauthorized use of corporate systems, a denial of service attack, or transmission of malicious code.

#### **Internet Media Liability**

- Covers infringement of copyright or trademark, invasion of privacy, libel, slander, plagiarism or negligence arising out of the content on the organization's internet website.

#### **Cyber Extortion**

- Covers extortion monies and associated expenses arising out of a criminal threat to release sensitive information or bring down a network unless consideration is made.



### *Key Competitive Advantages*

- Policy is designed for companies of all sizes
- Privacy coverage includes:
  - Personal information in any format
  - Breaches not restricted to a network event
  - Customer and employee information
- Access to the eRisk Hub™ portal, a web-based loss prevention resource containing information and technical resources to help policyholders manage their privacy and network risks
- Consumer Redress Fund applies to full Privacy and Network limits of liability
- Definition of insured includes leased employees, temporary employees and independent contractors

## Typical Client Profile

- Any business managing:
  - Sensitive customer or employee information
  - Third party corporate information
  - A computer network
  - A website
- Targeted classes include Retail, Financial Institutions and Healthcare

## Limits Available

- Up to \$20 million

## Minimums

- No minimum premium or retention

## Three Reasons Every Company Needs ACE Privacy Protection®

**Increasingly stringent laws and regulations** enacted over the past decade have elevated a company's duty of care for how it safeguards personal information. The failure to comply with legal and regulatory obligations places corporate reputations at enormous risk. Given the potential loss in consumer confidence, many companies historically sought to keep security breaches quiet. With state identity theft notification laws making it illegal to sweep privacy breach events under the rug, keeping silent is no longer an option.

**Advances in technology** have made safeguarding client trust and corporate reputations following privacy breaches far more difficult. Technology has made it easier to store, transport, steal and simply lose sensitive information. Today, an employee can store the equivalent of an entire pickup truck of printed social security numbers, credit card numbers, or health records on the USB flash drive in his pocket.

**In an era of global outsourcing** risk managers should recognize that privacy risks do not end at corporate firewalls. Any company that entrusts outside contractors to handle its sensitive data—including employee benefit firms, consultants and customer call centers—ultimately bears the burden of any privacy breach stemming from the outsourced operation. If your customers are affected by a data breach, your company is obligated to respond regardless of who made the error.

## Contacts



Toby Merrill, Assistant Vice President

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*For more information, visit our website at [www.aceprofessionrisk.com](http://www.aceprofessionrisk.com). Product highlights are summaries only; please see actual policy for terms and conditions. Products are subject to risk eligibility requirements and may not be available in all jurisdictions and locations.*

ACE USA is the U.S.-based retail operating division of the ACE Group of Companies, bonded by ACE Limited (NYSE: ACE), and is rated A+ (Superior) by A.M. Best Company and A+ (Strong) by Standard & Poor's (ratings as of March 1, 2009). ACE USA, through its underwriting companies, provides insurance products and services throughout the U.S. Additional information on ACE USA and its products and services can be found at [www.aceusa.com](http://www.aceusa.com). The ACE Group of Companies provides insurance and reinsurance for a diverse group of clients around the world.



ace usa

# ACE Privacy Protection<sup>®</sup>

Privacy and Network Liability

## eRisk Hub<sup>®</sup>

### **eRisk Hub Portal:**

ACE Professional Risk recognizes the complex challenges that companies face staying on top of evolving privacy laws and regulations. In an effort to assist policyholders with these issues, ACE Professional Risk provides access to the eRisk Hub<sup>®</sup>, a web-based loss prevention resource to help policyholders manage cyber risk. Founded and managed by NetDiligence<sup>®</sup>, a leading network security and e-risk assessment services company, the eRisk Hub is a private, web-based portal containing information and technical resources that can assist policyholders in the prevention of network and privacy losses and provide support in the timely reporting and recovery of losses if an incident occurs. The eRisk Hub portal also features news, content and access to leading practitioners in risk management, computer forensics, forensic accounting, crisis communications, legal counsel, and other highly-specialized segments of cyber risk.



***Registration to the site is free for ACE Privacy Protection policyholders.***

### **What services do you have access to?**

- **Data Breach Coach**  
Staffed by legal experts who can provide immediate triage assistance in the event of a breach.
- **Data Breach Team**  
Panel of independent data breach specialists with expertise in providing legal, computer forensic, notification, call center, public relations, crisis communications, fraud consultation, credit monitoring, and identity restoration advice and services - with the benefit of discounted loss control service fees.
- **eRisk Resources Directory**  
Comprehensive directory of external resources with expertise in pre- and post-breach disciplines.
- **News Center**  
Resource for current privacy and network security news, security and compliance blogs, risk management events, and helpful industry links.
- **Learning Center**  
Best-practice articles and white papers written by leading technical and legal experts on compliance, network security, privacy and breach recovery.

**Please note the following:**

1. The eRisk Hub portal is private and secure. Policyholders should not share portal access instructions with anyone outside of the organization. Policyholders are responsible for maintaining the confidentiality of the ACE Access Code we provide.
2. The eRisk Hub portal is for ACE clients only. Up to three individuals may register and use the portal. Ideal candidates include the policyholder's Risk Manager, Compliance Manager, Privacy Officer, IT Operations Manager, or Legal Counsel.
3. The eRisk Hub portal contains a directory of experienced providers of cyber risk management and breach recovery services. ACE does not endorse these companies or their respective services. Before an organization engages any of these companies, we urge it to conduct its own due diligence to ensure the companies and their services meet its needs. Unless otherwise indicated or approved, payment for services provided by these companies is the policyholder's responsibility.
4. Should a policyholder experience a data breach event, it may choose to call the Data Breach Coach Hotline listed in the portal for immediate triage assistance. Please be aware that the hotline service is provided by a third-party law firm. Therefore, calling the hotline does NOT satisfy the claim notification requirements of the policy.



4. to retain the services of:
  - a. a public relations or crisis communications firm; and
  - b. a notification service to voluntarily notify individuals whose **Personal Information** has been wrongfully disclosed or otherwise compromised;
 

solely for the purpose of protecting or restoring the reputation of, or mitigating financial harm to, the **Insured** as a result of a **Wrongful Act**;
5. to retain the services of a law firm solely to determine the **Insured's** indemnification rights under a written agreement with an independent contractor with respect to a **Wrongful Act** expressly covered under Insuring Agreement A of this **Policy** and actually or allegedly committed by such contractor;
6. to retain the services of a licensed investigator or credit specialist to provide up to one year of fraud consultation to the individuals whose **Personal Information** has been wrongfully disclosed or otherwise compromised;
7. with the **Insurer's** prior written consent, for credit monitoring, credit freezing, or fraud alert service expenses for those individuals who accept an offer made by or on behalf of the **Insured** for, and receive, credit monitoring, credit freezing or fraud alert service; and
8. to retain the services of a third party identity restoration service for those individuals who are confirmed by a licensed investigator as victims of identity theft directly resulting from a **Wrongful Act** expressly covered under Insuring Agreement A of this **Policy**;

**Data Breach Expenses** shall not include:

1. costs or expenses incurred to update or otherwise improve privacy or network security controls, policies or procedures to a level beyond that which existed prior to the loss event or to be compliant with **Privacy Regulations**;
  2. taxes, fines, penalties, injunctions, or sanctions; and
  3. regular or overtime wages, salaries, or fees of the **Insured**.
- b. Subsection G, the definition of **Damages** is amended by deleting the phrase "compensatory damages" and inserting the phrase "a direct settlement of a **Regulatory Proceeding** or compensatory damages" in numbered paragraph 7.
  - c. The following definitions are added:
    - **Data Breach Coach** means the law firm within the **Data Breach Team** designated for consultative and pre-litigation services provided to the **Insured**.
    - **Data Breach Team** means a list of approved service providers to provide legal, computer forensic, notification, call center, public relations, crisis communications, fraud consultation, credit monitoring, and identity restoration advice and services. The list of approved service providers is available at the eRisk Hub website to the **Named Insured** via passcode. In the event of a breach, contact the **Data Breach Coach** as indicated on the Declarations.
3. Section VI, Limits of Liability, is amended by deleting Subsection A, numbered paragraph 2 in its entirety and inserting the following:
    2. With respect to Insuring Agreement B:
      - a. The Each **Claim** Limit of Liability as stated in Item 4A2a of the Declarations (as amended by this endorsement) is the **Insurer's** maximum liability under Insuring Agreement B for the sum of those **Data Breach Expenses** set forth in Section II, subsections H1, H2, H4 and H5 of this **Policy** because of each **Claim**, including each **Claim** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
      - b. The Aggregate Limit of Liability stated in Item 4A2a of the Declarations (as amended by this endorsement) is the **Insurer's** maximum liability under Insuring Agreement B for the sum of those **Data Breach Expenses** set forth in Section II, subsections H1, H2, H4 and H5 of this **Policy** because of all **Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.

- c. The Each **Claim** Limit of Liability as stated in Item 4A2b of the Declarations (as amended by this endorsement) is the **Insurer's** maximum liability under Insuring Agreement B for the sum of all **Data Breach Expenses** set forth in Section II, subsections H3, H6, H7 and H8 of this **Policy** because of each **Claim**, including each **Claim** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
  - d. The Aggregate Limit of Liability stated in Item 4A2b of the Declarations (as amended by this endorsement) is the **Insurer's** maximum liability under Insuring Agreement B for the sum of all **Data Breach Expenses** set forth in Section II, subsections H3, H6, H7 and H8 of this **Policy** because of all **Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
  - e. The Aggregate Limit of Liability stated in Item 4A2 of the Declarations for the Data Breach Fund is the **Insurer's** maximum liability under Insuring Agreement B for the sum of all **Data Breach Expenses** because of all **Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
  - f. Any payment of **Data Breach Expenses** under this **Policy** shall erode the Each **Claim** and Aggregate Limits stated in Item 4A2 of the Declarations as set forth in this endorsement. Any such payment of **Data Breach Expenses** shall also simultaneously erode the Limits of Liability in Item 4A2 and 4C as originally set forth in the **Policy** Declarations. In no event shall the Limits of Liability stated in this endorsement, and the Limits of Liability state in the original **Policy** Declarations be stacked or added together.
  - g. In the event the Aggregate limit as originally set forth in the Declarations under Item 4A2 is exhausted, the **Insurer** shall have no further obligation to pay **Data Breach Expenses**, except to the extent that the **Insured** is in full compliance with the terms of this endorsement, in which case the increased Limits of Liability stated in this endorsement shall apply.
4. Section IX, Defense and Settlement, is amended as follows:
- a. Subsection A3 is amended by deleting the phrase "**Claims Expenses** or **Data Breach Expenses** (as defined in Section II, subsection H3 of this **Policy**)" and inserting the phrase "**Claims Expenses**, or **Data Breach Expenses** (as defined in Section II, subsection H7 of this **Policy**)".
  - b. Subsection F is amended by deleting the phrase "**Data Breach Expenses** set forth in Section II, subsection H3 of this **Policy**" and inserting the phrase "**Data Breach Expenses** set forth in Section II, subsections H7 of this **Policy**".
5. The following new Sections are added to the **Policy**:
- **DATA BREACH TEAM COVERAGE CONDITIONS**
    - A. The **Insurer** may, at its sole discretion as evidenced by the **Insurer's** prior written approval on or before the effective date of this **Policy**, permit the **Insured** to retain alternative service providers to provide services comparable to the services offered by the **Data Breach Team**, provided, however, the maximum rate the **Insurer** will pay for **Data Breach Expenses** shall be no more than the rates outlined in the ACE **Data Breach Team** Panel Guidelines for such services.
    - B. If, during the **Policy Period**, any one of the following occurs:
      - i. any of the **Data Breach Team** service providers is unable to or does not provide the services covered under **Data Breach Expenses**; or
      - ii. there is a change of law or regulation that prevents service providers selected exclusively from the **Data Breach Team** from providing the legal, computer forensic, notification, call center, public relations, crisis communications, fraud consultation, credit monitoring, and identity restoration advice and services sought by the **Insured**;
- the **Insurer** may, at its sole discretion as evidenced by the **Insurer's** prior written approval, permit the **Insured** to retain alternative service providers to provide services comparable to the services offered by the **Data Breach Team**; provided, however, the maximum rate the **Insurer** will pay for **Data Breach Expenses** shall be no more than the rates outlined in the ACE **Data Breach Team** Panel Guidelines for such services.

- **DATA BREACH TEAM COVERAGE DISCLAIMERS**

The **Insured** is under no obligation to contract for services with **Data Breach Team** service providers, in which case, except as stated below, the above-referenced **Policy** terms, as amended by this endorsement, shall not apply.

The **Insurer** shall not be a party to any agreement entered into between any **Data Breach Team** service provider and the **Insured**. It is understood that **Data Breach Team** service providers are independent contractors, and are not agents of the **Insurer**. The **Insured** agrees that the **Insurer** assumes no liability arising out of any services rendered by a **Data Breach Team** service provider. The **Insurer** shall not be entitled to any rights or subject to any obligations or liabilities set forth in any agreement entered into between any **Data Breach Team** service provider and the **Insured**. Any rights and obligations with respect to such agreement, including but limited to billings, fees and services rendered, are solely for the benefit of, and borne solely by such **Data Breach Team** service provider and the **Insured**, and not the **Insurer**.

The **Insurer** has no obligation to provide any of the legal, computer forensic, notification, call center, public relations, crisis communications, fraud consultation, credit monitoring, and identity restoration advice and services provided by the **Data Breach Team**.

The **Insured's** failure to comply with any one or more of the preceding requirements will preclude coverage under this **Data Breach Team** endorsement, and the **Policy** will retain its original terms and conditions as if this **Data Breach Team** endorsement had not been attached to this **Policy**.

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



- ACE American Insurance Company
- Illinois Union Insurance Company
- Westchester Fire Insurance Company
- Westchester Surplus Lines Insurance Company

# ACE Privacy Protection<sup>®</sup> Privacy & Network Liability Insurance Policy Declarations

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

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

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

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

Policy No.		
Item 1. <b>Named Insured:</b> Principal Address:		
Item 2. <b>Policy Period:</b> From 12:01 a.m. To 12:01 a.m. (Local time at the address shown in Item 1)		
Item 3. <b>Insuring Agreements:</b>  A. Privacy Liability B. Data Breach Fund C. <b>Network Security Liability</b>		
Item 4. <b>Limit of Liability (including Claims Expenses):</b>		
A. <b>Limit of Liability for Insuring Agreements:</b>	<u>Each Claim</u>	<u>Aggregate</u>
1. Privacy Liability	\$	\$
2. Data Breach Fund	\$	\$
3. <b>Network Security Liability</b>	\$	\$
B. <b>Regulatory Proceeding Sub-Limit of Liability</b>	\$	\$
C. <b>Maximum Policy Aggregate Limit of Liability:</b>		\$

④

Item 5.	Retention:
	<p>\$ each Claim for Coverages A and C</p> <p>\$ each Claim for Coverage B</p>
Item 6.	Notice to Insurer:
	<p>A. Notice of Claim, Wrongful Act:</p> <p style="padding-left: 40px;">Director of Claims [Company] [Address] [Address]</p> <p>B. All other notices:</p> <p style="padding-left: 40px;">Chief Underwriting Officer [Company] [Address] [Address]</p>
Item 7.	Policy Premium: \$
Item 8.	Optional Extended Reporting Period:
	<p>A. Additional Premium: _____% of Annual Premium</p> <p>B. Additional Period: _____</p>
Item 9.	Retroactive Date:
	<p>A. Privacy Liability _____</p> <p>B. Data Breach Fund _____</p> <p>C. Network Security Liability _____</p>

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

DATE: \_\_\_\_\_  
\_\_\_\_\_  
Authorized Representative



- ACE American Insurance Company
- Illinois Union Insurance Company
- Westchester Fire Insurance Company
- Westchester Surplus Lines Insurance Company

# ACE Privacy Protection® Privacy and Network Liability Insurance Policy

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

**I. INSURING AGREEMENTS**

**A. Privacy Liability**

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

**B. Data Breach Fund**

The **Insurer** will pay **Data Breach Expenses** incurred by the **Insured** during the **Policy Period** by reason of a **Claim** reported to the **Insurer** pursuant to Section VIII, Notice, for any **Wrongful Acts** taking place after the **Retroactive Date** and prior to the end of the **Policy Period**.

**C. Network Security Liability**

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

**II. DEFINITIONS**

When used in this **Policy**:

**A. Application** means all applications, including any attachments thereto, and all other information and materials submitted by or on behalf of the **Insureds** to the **Insurer** in connection with the **Insurer** underwriting this **Policy** or any policy of which this **Policy** is a direct or indirect renewal or replacement. All such applications, attachments, information and materials are deemed attached to and incorporated into this **Policy**.

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

However, **Bodily Injury** does not mean mental injury, mental anguish, mental tension, emotional distress, pain and suffering, or shock resulting from a **Wrongful Act** for which coverage is provided under Section I, Insuring Agreement A.

**C. Claim** means:

1. with respect to Insuring Agreements A and C:
  - a. a written demand against any **Insured** for monetary or non-monetary damages;
  - b. a civil proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief, commenced by the service of a complaint or similar pleading;
  - c. an arbitration proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief; or
  - d. a **Regulatory Proceeding**;
2. with respect to Insuring Agreement B, a written report by the **Insured** to the **Insurer** of a failure by the **Insured** or by an independent contractor for which the **Insured** is legally responsible to properly handle, manage, store, destroy or otherwise control **Personal Information**;

including, where applicable, any appeal therefrom.

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D. **Claims Expenses** means:

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

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

E. **Computer System** means computer hardware, software, firmware, and the data stored thereon, as well as associated input and output devices, data storage devices, networking equipment and Storage Area Network or other electronic data backup facilities.

F. **Consumer Redress Fund** means a sum of money which the **Insured** is legally obligated to deposit in a fund as equitable relief for the payment of consumer claims due to an adverse judgment or settlement of a **Regulatory Proceeding**. **Consumer Redress Fund** shall not include any sums paid which constitute taxes, fines, penalties, injunctions or sanctions.

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

1. any amount for which the **Insured** is not financially liable or legally obligated to pay;
2. taxes, fines (except **Regulatory Fines** as noted below), penalties, or sanctions imposed against the **Insured**;
3. matters uninsurable under the laws pursuant to which this **Policy** is construed;
4. the cost to comply with any injunctive or other non-monetary or declaratory relief, including specific performance, or any agreement to provide such relief;
5. loss of fees or profits by the **Insured**, return of fees, commissions or royalties by the **Insured**, or re-performance of services by the **Insured** or under the **Insured's** supervision;
6. disgorgement of any profit, remuneration or financial advantage to which any **Insured** was not legally entitled;
7. **Data Breach Expenses** or any other forensic, notification, crisis management or credit monitoring expenses, unless such expenses constitute compensatory damages of a direct settlement with the injured natural persons of a **Claim** for a **Wrongful Act** as defined in subparagraph 1.a.i of the definition of **Wrongful Act**;
8. liquidated damages pursuant to a contract, unless, even in the absence of such contract, the **Insured** would be liable for such damages as result of a **Wrongful Act**;
9. penalties of any nature, however denominated, arising by contract; and
10. any amounts other than those which compensate solely for a loss caused by a **Wrongful Act**.

**Damages** includes punitive and exemplary damages to the extent such damages are insurable under the internal laws of the applicable jurisdiction that most favors coverage for such **Damages**.

With respect to Insuring Agreements A and C, **Damages** shall also include a **Consumer Redress Fund** and **Regulatory Fines**.

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

1. to retain third party computer forensics services to determine the scope of a failure of **Network Security**;
2. to comply with **Privacy Regulations**, including but not limited to the consumer notification provisions of **Privacy Regulations** of the applicable jurisdiction that most favors coverage for such expenses;
3. with the **Insurer's** prior written consent, to voluntarily notify individuals whose **Personal Information** has been wrongfully disclosed;

4. in retaining the services of a public relations firm, crisis management firm or law firm for advertising or related communications solely for the purpose of protecting or restoring the **Insured's** reputation as a result of a **Wrongful Act**;
  5. to retain the services of a law firm solely to determine the **Insured's** indemnification rights under a written agreement with an independent contractor with respect to a **Wrongful Act** expressly covered under Insuring Agreement A of this **Policy** and actually or allegedly committed by such contractor; and
  6. for credit monitoring services, but only if such disclosure of **Personal Information** could result in the opening of an unauthorized line of credit or other financial account.
- I. **Domestic Partner** means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Insured**.
- J. **Extended Reporting Period** means the period(s) for the extension of coverage, if applicable, described in Section V, **Extended Reporting Periods**.
- K. **Insured** means:
1. The **Named Insured**;
  2. **Subsidiaries** of the **Named Insured**, but only with respect to **Wrongful Acts** which occur while they are a **Subsidiary**;
  3. any past, present or future principal, partner, officer, director, trustee, employee, leased employee, or temporary employee of the **Named Insured** or a **Subsidiary**, but only with respect to the commission of a **Wrongful Act** committed within the scope of such person's duties performed on behalf of the **Named Insured** or such **Subsidiary**; and
  4. independent contractors of the **Named Insured** or of a **Subsidiary** who are natural persons, but only with respect to the commission of a **Wrongful Act** within the scope of such person's duties performed on behalf of the **Named Insured** or such **Subsidiary**.
- L. **Insured's Computer System** means a **Computer System**:
1. leased, owned, or operated by the **Insured**; or
  2. operated for the benefit of the **Insured** by a third party service provider under written contract with the **Insured**.
- M. **Insurer** means the insurance company providing this insurance.
- N. **Internet** means the worldwide public network of computers which enables the transmission of electronic data and which includes intranets, extranets and virtual private networks.
- O. **Interrelated Wrongful Acts** means all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes.
- P. **Mediation** means a non-binding process in which a neutral panel or individual assists the parties in reaching a settlement agreement. To be considered **Mediation** under this **Policy**, the process must be as set forth in the Commercial Mediation Rules of the American Arbitration Association, or such other process as the **Insurer** may, at its sole option, approve.
- Q. **Named Insured** means the organization or natural person first specified in Item 1 of the Declarations.
- R. **Network Security** means those activities performed by the **Insured**, or by others on behalf of the **Insured**, to protect against unauthorized access to, unauthorized use of, a denial of service attack by a third party directed against, or transmission of unauthorized, corrupting or harmful software code to, the **Insured's Computer System**.
- S. **Personal Information** means:
1. an individual's name, social security number, medical or healthcare data, other protected health information, drivers license number, state identification number, credit card number, debit card number, address, telephone number, account number, account histories, or passwords; and
  2. other nonpublic personal information as defined in **Privacy Regulations**;

in any format. **Personal Information** shall not include information that is lawfully made available to the general public for any reason, including but not limited to information from federal, state or local government records.

- T. **Personal Injury** means injury arising out of one or more of the following offenses:
1. false arrest, detention or imprisonment;
  2. malicious prosecution;
  3. libel, slander, or other defamatory or disparaging material;
  4. publication or an utterance in violation of an individual's right to privacy; and
  5. wrongful entry or eviction, or other invasion of the right to private occupancy.
- U. **Policy** means, collectively, the Declarations, **Application**, this policy form and any endorsements.
- V. **Policy Period** means the period of time specified in Item 2 of the Declarations, subject to any applicable prior termination pursuant to Section XIV, Termination of the **Policy**.
- W. **Privacy Regulations** means the following statutes and regulations associated with the care, custody, control or use of personally identifiable financial, medical or other sensitive information:
1. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and Health Information Technology for Economic and Clinical Health Act;
  2. Gramm-Leach-Bliley Act of 1999;
  3. the California Security Breach Notification Act (CA SB 1386) and Massachusetts 201 CMR 17;
  4. Identity Theft Red Flags under the Fair and Accurate Credit Transactions Act of 2003;
  5. Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), but solely for alleged violations of unfair or deceptive acts or practices in or affecting commerce, and
  6. other similar state, federal, and foreign identity theft and privacy protection legislation that requires commercial entities that collect **Personal Information** to post privacy policies, adopt specific privacy or security controls, or notify individuals in the event that **Personal Information** has potentially been compromised.
- X. **Property Damage** means:
1. physical injury to, or loss or destruction of, tangible property, including the loss of use thereof; and
  2. loss of use of tangible property which has not been physically injured, lost, damaged or destroyed.
- However, **Property Damage** does not mean physical injury to, loss or destruction of, or loss of use of intangible property, including data.
- Y. **Regulatory Fines** means any civil monetary fine or penalty imposed by a federal, state, local or foreign governmental entity in such entity's regulatory or official capacity pursuant to its order under a **Regulatory Proceeding**. **Regulatory Fines** shall not include any civil monetary fines or penalties that are not insurable by law, criminal fines, disgorgement of profits or multiple damages.
- Z. **Regulatory Proceeding** means a request for information, demand, suit, civil investigation or civil proceeding by or on behalf of a government agency, commenced by a service of a complaint or similar pleading alleging the violation of **Privacy Regulations** as a result of the **Insured's Wrongful Act**, and which may reasonably be expected to give rise to a covered **Claim** under Insuring Agreements A or C of this **Policy**.
- AA. **Retroactive Date** means the date specified in Item 9 of the Declarations for the applicable Insuring Agreement.
- BB. **Subsidiary** means any entity that is not formed as a partnership or joint venture of which the **Named Insured** owns or has the right to vote more than 50% of the outstanding voting securities representing the present right to vote for election of directors, or the managers or members of the board of managers or equivalent executives of a limited liability company, on or before the inception date of the **Policy**, either directly or indirectly, in any combination, by one or more other **Subsidiaries**.
- CC. **Trade Secret** means information, including a formula, pattern, compilation, program, device, method, technique or process, that derives independent economic value, actual or potential, from not being generally known to or readily ascertainable by other persons who can obtain value from its disclosure or use, so long as reasonable efforts have been made to maintain its secrecy.

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

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

1. With respect only to Insuring Agreement A:
  - a. the failure by the **Insured** or by an independent contractor for which the **Insured** is legally responsible to properly handle, manage, store, destroy or otherwise control:
    - i. **Personal Information**; or
    - ii. third party corporate information in any format provided to the **Insured** and specifically identified as confidential and protected under a nondisclosure agreement or similar contract with the **Named Insured** or **Subsidiary**; or
  - b. an unintentional violation of the **Insured's** privacy policy that results in the violation of any **Privacy Regulation**.
2. With respect only to Insuring Agreement B, in the failure by the **Insured** or by an independent contractor for which the **Insured** is legally responsible to properly handle, manage, store, destroy or otherwise control **Personal Information**.
3. With respect only to Insuring Agreement C, resulting in a failure of **Network Security**.

FF. **Wrongful Employment Practices** means any actual or alleged:

1. wrongful dismissal or discharge or termination of employment, whether actual or constructive;
2. employment-related misrepresentation;
3. violation of any federal, state, or local laws (whether common or statutory) concerning employment or discrimination in employment;
4. sexual harassment or other unlawful workplace harassment;
5. wrongful deprivation of a career opportunity or failure to employ or promote;
6. wrongful discipline of employees;
7. retaliation against employees for the exercise of any legally protected right or for engaging in any legally protected activity;
8. negligent evaluation of employees;
9. failure to adopt adequate workplace or employment policies and procedures;
10. employment-related libel, slander, or defamation;
11. employment-related invasion of privacy, except with respect to that part of any **Claim** arising out of the loss of **Personal Information** which is otherwise covered under Insuring Agreement A of this **Policy**;
12. employment-related wrongful infliction of emotional distress, except with respect to that part of any **Claim** arising out of the loss of **Personal Information** which is otherwise covered under Insuring Agreement A of this **Policy**; and
13. any actual or alleged discrimination, sexual harassment, or violation of a natural person's civil rights relating to such discrimination or sexual harassment, whether direct, indirect, intentional or unintentional.

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

### III. EXCLUSIONS

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

- A. alleging, based upon, arising out of or attributable to any dishonest, fraudulent, criminal, or malicious act, error or omission, or any intentional or knowing violation of the law by an **Insured**. However, this exclusion shall not apply to **Claims Expenses** or the **Insurer's** duty to defend any such **Claim** until there is a judgment against, binding arbitration against, adverse admission by, finding of fact against, or plea of *nolo contendere* or no contest by the **Insured**, at which time the **Insured** shall reimburse the **Insurer** for

any **Claims Expenses** paid by the **Insurer**. Solely with respect to the applicability of this exclusion under Insuring Agreements A and C, only facts pertaining to and knowledge possessed by any principal, partner, officer or director of an **Insured** shall be imputed to other **Insureds**.

- B. alleging, based upon, arising out of or attributable to any **Bodily Injury** or **Property Damage**.
- C. for breach of any express, implied, actual or constructive contract, warranty, guarantee, or promise, including any actual or alleged liability assumed by the **Insured**, unless such liability would have attached to the **Insured** even in the absence of such contract, warranty, guarantee, or promise.
- D. brought or maintained by, on behalf of, or in the right of any **Insured**, or any other natural person or entity for whom or which an **Insured** is legally liable. However, this exclusion shall not apply to **Wrongful Acts** expressly covered under Section I, Insuring Agreement A.
- E. alleging, based upon, arising out of or attributable to any:
  - 1. illegal discrimination of any kind;
  - 2. humiliation, harassment or misconduct based upon, arising out of or related to any such discrimination;
  - 3. **Wrongful Employment Practices**.
- F. alleging, based upon, arising out of or attributable to any price fixing, restraint of trade, monopolization, unfair trade practices or other violation of the Federal Trade Commission Act, the Sherman Anti-Trust Act, the Clayton Act, or any other federal statutory provision involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities, and any amendments thereto or any rules or regulations promulgated thereunder or in connection with such statutes, or any similar provision of any federal, state, or local statutory law or common law anywhere in the world. However, with respect to a **Wrongful Act** expressly covered under Insuring Agreements A or C, this exclusion shall not apply to a **Regulatory Proceeding** or **Consumer Redress Fund** for that portion of **Damages** or **Claims Expenses** allocated to numbered paragraph 5 of **Privacy Regulations**.
- G. alleging, based upon, arising out of or attributable to any violation of the Employee Retirement Income Security Act of 1974, any rules or regulations promulgated thereunder, amendments thereto, or any similar federal, state or common law.
- H. alleging, based upon, arising out of or attributable to the gaining in fact of any profit, remuneration or financial advantage to which any **Insured** was not legally entitled. However, this exclusion shall not apply to **Claims Expenses** or the **Insurer's** duty to defend any such **Claim** until there is a judgment against, binding arbitration against, adverse admission by, finding of fact against, or plea of *nolo contendere* or no contest by the **Insured**, at which time the **Insured** shall reimburse the **Insurer** for any **Claims Expenses** paid by the **Insurer**. Solely with respect to the applicability of this exclusion under Insuring Agreements A and C, only facts pertaining to and knowledge possessed by any principal, partner, officer or director of an **Insured** shall be imputed to other **Insureds**.
- I. alleging, based upon, arising out of or attributable to any fees, expenses, or costs paid to or charged by the **Insured**.
- J. alleging, based upon, arising out of or attributable to a **Wrongful Act** actually or allegedly committed prior to the beginning of the **Policy Period** if, on or before the earlier of the effective date of this **Policy** or the effective date of any **Policy** issued by the **Insurer** of which this **Policy** is a continuous renewal or a replacement, any principal, partner, officer, director or organizational equivalent of the **Insured** knew or reasonably could have foreseen that the **Wrongful Act** did or could lead to a **Claim**.
- K. alleging, based upon, arising out of, or attributable to:
  - 1. any prior or pending litigation, **Claims**, demands, arbitration, administrative or regulatory proceeding or investigation which was filed or commenced against an **Insured**, and of which an **Insured** had notice, on or before the earlier of the effective date of this **Policy** or the effective date of any policy issued by the **Insurer** of which this **Policy** is a continuous renewal or a replacement, or alleging or derived from the same or substantially the same fact, circumstance or situation underlying or alleged therein; or
  - 2. any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** underlying or alleged therein would constitute **Interrelated Wrongful Acts**.
- L. alleging, based upon, arising out of, or attributable to:

1. any **Wrongful Act**, fact, circumstance or situation which has been the subject of any written notice given under any other policy before the effective date of this **Policy**; or
  2. any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** which has been the subject of such notice, would constitute **Interrelated Wrongful Acts**.
- M. alleging, based upon, arising out of or attributable to any electrical or mechanical failures or interruption, including but not limited to any electrical disturbance, surge, spike, brownout or blackout, and outages to gas, water, telephone, cable, satellite, telecommunications or other infrastructure. However, this exclusion shall not apply to failures, interruptions, disturbances or outages of telephone, cable or telecommunications infrastructure under the **Insured's** operational control which are a result of the **Insured's Wrongful Act**.
- N. alleging, based upon, arising out of or attributable to any failure, interruption, or outage to **Internet** access service provided by the **Internet** service provider that hosts the **Insured's Website**, unless such infrastructure is under the **Insured's** operational control.
- O. alleging, based upon, arising out of or attributable to fire, smoke, explosion, lightning, wind, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event, however caused.
- P. alleging, based upon, arising out of or attributable to war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), strike, lock-out, riot, civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power.
- Q. alleging, based upon, arising out of or attributable to false, deceptive or unfair business practices, violation of consumer protection laws, or false or deceptive advertising. However, with respect to a **Wrongful Act** expressly covered under Insuring Agreements A or C, this exclusion shall not apply to a **Regulatory Proceeding** or **Consumer Redress Fund** for that portion of **Damages** or **Claims Expenses** allocated to numbered paragraph 4 of **Privacy Regulations**.
- R. alleging, based upon, arising out of or attributable to any validity, invalidity, infringement, violation or misappropriation of any patent or **Trade Secret** by or on behalf of the **Insured**.
- S. alleging, based upon, arising out of or attributable to any validity, invalidity, infringement, violation or misappropriation of any copyright, service mark, trade name, trademark or other intellectual property of any third party.
- T. alleging, based upon, arising out of or attributable to any unsolicited electronic dissemination of faxes, e-mails or other communications by or on behalf of the **Insured** to multiple actual or prospective customers of the **Insured** or any other third party, including but not limited to actions brought under the Telephone Consumer Protection Act, any federal or state anti-spam statutes, and/or any other federal or state statute, law or regulation relating to a person's or entity's right of seclusion. However, with respect to a **Wrongful Act** expressly covered under Insuring Agreement C, this exclusion shall not apply.
- U. alleging, based upon, arising out of or attributable to the unauthorized or surreptitious collection of **Personal Information** by the **Insured** or the failure to provide adequate notice that such information is being collected. Solely with respect to the applicability of this exclusion under Insuring Agreements A and C, only facts pertaining to and knowledge possessed by any principal, partner, officer or director of an **Insured** shall be imputed to other **Insureds**.
- V. alleging, based upon, arising out of or attributable to the **Insured's** intentional failure to disclose the loss of **Personal Information** in violation of any law or regulation. Solely with respect to the applicability of this exclusion under Insuring Agreements A and C, only facts pertaining to and knowledge possessed by any principal, partner, officer or director of an **Insured** shall be imputed to other **Insureds**.
- W. alleging, based upon, arising out of or attributable to sections 605 and 616 of the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or any other similar federal or statutory provisions.
- X. alleging, based upon, arising out of or attributable to the rendering of or the failure to render professional services by any **Insured** to others.

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

The estates, heirs, legal representatives, assigns, spouses and **Domestic Partners** of **Insureds** shall be considered **Insureds** under this **Policy**, but coverage is afforded to such estates, heirs, legal representatives,

assigns, spouses and **Domestic Partners** only for a **Claim** arising solely out of their status as such and, in the case of a spouse or **Domestic Partner**, where the **Claim** seeks damages from marital community property, jointly held property or property transferred from the **Insured** to the spouse or **Domestic Partner**. No coverage is provided for any **Wrongful Act** of an estate, heir, legal representative, assign, spouse or **Domestic Partner**. All of the terms and conditions of this **Policy** including, without limitation, the Retention shown in Item 5 of the Declarations applicable to **Damages, Claims Expenses, or Data Breach Expenses** incurred by **Insureds**, shall also apply to **Damages, Claims Expenses, or Data Breach Expenses** incurred by such estates, heirs, legal representatives, assigns, spouses and **Domestic Partners**.

#### V. EXTENDED REPORTING PERIODS

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

##### A. Automatic Extended Reporting Period

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

##### B. Optional Extended Reporting Period

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

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

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

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

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

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

#### VI. LIMITS OF LIABILITY

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

##### A. Limit of Liability for Insuring Agreements

###### 1. With respect to Insuring Agreements A and C:

- a. the Each **Claim** **Limit of Liability** stated in Item 4A of the Declarations is the **Insurer's** maximum liability under the applicable Insuring Agreement for the sum of all **Damages** and all **Claims**

**Expenses** because of each **Claim**, including each **Claim** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.

- b. the Aggregate Limit of Liability as stated in Item 4A of the Declarations is the **Insurer's** maximum liability under the applicable Insuring Agreement for the sum of all **Damages** and all **Claims Expenses** because of all **Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
  - c. notwithstanding paragraphs a and b of this section above:
    - (1) the Each **Claim Regulatory Proceeding** Sub-Limit of Liability stated in Item 4B of the Declarations is the **Insurer's** maximum liability under Insuring Agreements A and C for the sum of all **Damages** and all **Claims Expenses** incurred because of each **Regulatory Proceeding Claim**, including each **Claim** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
    - (2) the Aggregate **Regulatory Proceeding** Sub-Limit of Liability stated in Item 4B of the Declarations is the **Insurer's** maximum liability under Insuring Agreements A and C for the sum of all **Damages** and all **Claims Expenses** incurred because all **Regulatory Proceeding Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
    - (3) the **Regulatory Proceeding** Sub-Limit of Liability shall be part of and not in addition to the otherwise applicable Each **Claim** and Aggregate Limits of Liability stated in Items 4A or 4C of the Declarations and will not increase the **Insurer's** Limit of Liability as provided therein.
    - (4) the Each **Claim Regulatory Proceeding** Sub-Limit of Liability and Aggregate **Regulatory Proceeding** Sub-Limit of Liability stated in Item 4B of the Declarations shall not apply to that portion of **Damages** which are allocated to the **Consumer Redress Fund**.
2. With respect to Insuring Agreement B:
- a. the Each **Claim** Limit of Liability as stated in Item 4A of the Declarations is the **Insurer's** maximum liability under Insuring Agreement B for the sum of all **Data Breach Expenses** because of each **Claim**, including each **Claim** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
  - b. the Aggregate Limit of Liability stated in Item 4A of the Declarations is the **Insurer's** maximum liability under Insuring Agreement B for the sum of all **Data Breach Expenses** because of all **Claims** combined in the aggregate, including all **Claims** alleging any **Interrelated Wrongful Acts**, first made and reported during the **Policy Period**.
3. All **Claims** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts** of the **Insureds** shall be deemed to be one **Claim**, and such **Claim** shall be deemed to be first made on the date the earliest of such **Claims** is first made, regardless of whether such date is before or during the **Policy Period**.
4. **Claims Expenses** and **Data Breach Expenses** shall be part of and not in addition to the applicable Aggregate Limits of Liability stated in Item 4A or 4C of the Declarations, and shall reduce such Aggregate Limits of Liability. If the applicable Limit of Liability is exhausted by payment of **Damages**, **Claims Expenses**, or **Data Breach Expenses**, the obligations of the **Insurer** under this **Policy** shall be completely fulfilled and extinguished. The **Insurer** is entitled to pay **Damages**, **Claims Expenses**, and **Data Breach Expenses** as they become due and payable by the **Insureds**, without consideration of other future payment obligations.

**B. Maximum Policy Aggregate Limit of Liability**

The Maximum **Policy** Aggregate Limit of Liability stated in Item 4C of the Declarations is the **Insurer's** maximum liability under all Insuring Agreements for the sum of all **Damages**, all **Claims Expenses**, and all **Data Breach Expenses** because of all **Claims** under this **Policy**.

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

- D. **Damages, Claims Expenses, and Data Breach Expenses** shall be part of and not in addition to the applicable Limit(s) of Liability shown in Item 4 of the Declarations, and shall reduce such Limit(s) of Liability. If the Limit(s) of Liability are exhausted by payment of **Damages, Claims Expenses, or Data Breach Expenses**, the obligations of the **Insurer** under this **Policy** shall be completely fulfilled and extinguished.

#### VII. RETENTION

- A. The liability of the **Insurer** shall apply only to that part of **Damages, Claims Expenses, and Data Breach Expenses** which are in excess of the applicable Retention amount shown in Item 5 of the Declarations. Such Retention shall be borne uninsured by the **Named Insured** and at the risk of all **Insureds**.
- B. A single Retention amount shall apply to **Damages, Claims Expenses, and Data Breach Expenses** arising from all **Claims** alleging **Interrelated Wrongful Acts**.
- C. If different parts of a single **Claim** are subject to different Retentions, the applicable Retention shall be applied separately to each part of the **Damages, Claim Expenses, and Data Breach Expenses**, but the sum of such Retentions shall not exceed the largest applicable Retention.

#### VIII. NOTICE

- A. Any principal, partner, officer, director or organizational equivalent of an **Insured** shall, as a condition precedent to their rights under this **Policy**, give to the **Insurer** written notice of any **Claim** as soon as practicable, but in no event later than 30 days after the later of the end of the **Policy Period**, the **Automatic Extended Reporting Period**, or, if elected, the **Optional Extended Reporting Period**.
- B. If, during the **Policy Period**, any principal, partner, officer, director or organizational equivalent of an **Insured** becomes aware of any specific **Wrongful Act** which may reasonably give rise to a future **Claim** covered under this **Policy**, and if the **Insureds** give written notice to the **Insurer** during the **Policy Period**, the **Automatic Extended Reporting Period**, or, if elected, the **Optional Extended Reporting Period** of:
1. the identity of the potential claimants;
  2. a description of the anticipated **Wrongful Act** allegations;
  3. the identity of the **Insureds** allegedly involved;
  4. the circumstances by which the **Insureds** first became aware of the **Wrongful Act**;
  5. the consequences which have resulted or may result; and
  6. the nature of the potential monetary damages;

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

- C. All notices under any provision of this **Policy** shall be in writing and given by prepaid express courier or certified mail properly addressed to the appropriate party. Notice to the **Insureds** may be given to the **Named Insured** at the address shown in Item 1 of the Declarations. Notice to the **Insurer** of any **Claim** or **Wrongful Act** shall be given to the **Insurer** at the address set forth in Item 6A of the Declarations. All other notices to the **Insurer** under this **Policy** shall be given to the **Insurer** at the address set forth in Item 6B of the Declarations. Notice given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee, or one day following the date such notice is sent, whichever is earlier.
- D. No notice that may be given during the **Policy Period** under section VIII, Notice, at subsection B may be given during the **Extended Reporting Periods**, if elected.

#### IX. DEFENSE AND SETTLEMENT

- A. Except as provided in Section IX, subsection B below, the **Insurer** shall have the right and duty to defend any covered **Claim** brought against the **Insured** even if such **Claim** is groundless, false or fraudulent. The **Insured** shall not:
1. admit or assume liability without the prior written consent of the **Insurer**;
  2. settle or negotiate to settle any **Claim** unless such settlement fully resolves such **Claim** within the applicable Retention; or

3. incur any **Claims Expenses** or **Data Breach Expenses** (as defined in Section II, subsection H3 of this **Policy**) without the prior written consent of the **Insurer**, and the **Insurer** shall have the right to appoint counsel and to make such investigation and defense of a covered **Claim** as it deems necessary.
- B. The **Insurer** shall have the right, but not the duty, to defend any **Regulatory Proceeding**. For such **Claims** the **Insured** shall select defense counsel from the **Insurer's** list of approved law firms, and the **Insurer** reserves the right to associate in the defense of such **Claims**.
  - C. The **Insurer** shall not settle any **Claim** without the written consent of the **Named Insured**. If the **Named Insured** refuses to consent to a settlement or a compromise recommended by the **Insurer** and acceptable to the claimant, then the **Insurer's** Limit of Liability under this **Policy** with respect to such **Claim** shall be reduced to the amount of **Damages** for which the **Claim** could have been settled plus all **Claims Expenses** incurred up to the time the **Insurer** made its recommendation to the **Named Insured**, which amount shall not exceed that portion of any applicable Aggregate Limit of Liability that remains unexhausted by payment of **Damages**, **Claims Expenses**, or **Data Breach Expenses** or by any combination thereof.
  - D. The **Insurer** shall not be obligated to investigate, defend, pay or settle, or continue to investigate, defend, pay or settle any **Claim** after any applicable Limit of Liability specified in Item 4 of the Declarations has been exhausted by payment of **Damages**, **Claims Expenses**, or **Data Breach Expenses**, or by any combination thereof, or after the **Insurer** has deposited the remainder of any unexhausted applicable Limit of Liability into a court of competent jurisdiction. In either such case, the **Insurer** shall have the right to withdraw from the further investigation, defense, payment or settlement of such **Claim** by tendering control of such **Claim** to the **Insured**.
  - E. The **Insured** shall cooperate with the **Insurer**, and provide to the **Insurer** all information and assistance which the **Insurer** reasonably requests including but not limited to attending hearings, depositions and trials and assistance in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and conducting the defense of any **Claim** covered by this **Policy**. The **Insured** shall do nothing that may prejudice the **Insurer's** position. The **Insureds** shall immediately forward to the **Insurer**, at the address indicated in Item 6A of the Declarations, every demand, notice, summons, or other process or pleading received by the **Insured** or its representatives.
  - F. It is agreed that, except with respect to that part of **Data Breach Expenses** set forth in Section II, subsection H3 of this **Policy**, the **Insured** has the right to incur **Data Breach Expenses** without the **Insurer's** prior consent, however, the **Insurer** shall, at its sole discretion and in good faith, reimburse the **Insured** only for such expenses that the **Insurer** deems to be reasonable and necessary.

#### X. ALLOCATION

- A. If **Damages**, in part, covered by this **Policy** and, in part, not covered by this **Policy**, are incurred on account of a single **Claim** for which the **Insurer** retains the duty to defend, the **Policy** will pay one hundred percent (100%) of reasonable and necessary **Claims Expenses** incurred in the defense of such **Claims**.
- B. **Damages** and **Claims Expenses** incurred by the **Insured** on account of any **Claim** for which the **Insurer** does not retain the duty to defend shall be allocated between covered and uncovered loss based on the relative legal and financial exposures of the parties and loss at issue.

#### XI. OTHER INSURANCE

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

#### XII. MATERIAL CHANGES IN CONDITIONS

- A. Acquisition or Creation of Another Organization

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

1. acquires voting securities in another organization or creates another organization, which as a result of such acquisition or creation becomes a **Subsidiary**; or

2. acquires any organization by merger into or consolidation with the **Named Insured**;

then, subject to the terms and conditions of this **Policy**, such organization shall be covered under this **Policy** but only with respect to **Claims for Wrongful Acts** taking place after such acquisition or creation, unless the **Insurer** agrees to provide coverage by endorsement for **Wrongful Acts** taking place prior to such acquisition or creation.

If the total assets of such acquired organization, as reflected in the then most recent consolidated financial statements of the organization, exceeds 10% of the total assets of the **Named Insured** and the **Subsidiaries** as reflected in the then most recent consolidated financial statements of the **Named Insured**, the **Named Insured**, as a condition precedent to coverage with respect to such **Insureds**, shall, no later than 60 days after the effective date of such acquisition or creation:

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

B. Acquisition of the **Named Insured**

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

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

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

C. Termination of a **Subsidiary**

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

### XIII. REPRESENTATIONS

A. The **Insureds** represent and acknowledge that the statements and information contained in the **Application**, including all information provided concerning network security policies and procedures, information management policies and procedures, and business continuity plans and policies, are true and accurate and:

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

B. It is understood and agreed that:

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

C. Solely with respect to the applicability of Section XIII, Representations of the **Policy**, only facts pertaining to and knowledge possessed by the person(s) who signed the **Application** or any principal, partner, officer, director or organizational equivalent of an **Insured** shall be imputed to other **Insureds**.

### XIV. TERMINATION OF THE POLICY

- A. This **Policy** shall terminate at the earliest of the following times:
1. the effective date of termination specified in a prior written notice by the **Named Insured** to the **Insurer**;
  2. 30 days after receipt by the **Named Insured** of a written notice of termination from the **Insurer**;
  3. 10 days after receipt by the **Named Insured** of a written notice of termination from the **Insurer** for failure to pay a premium when due, unless the premium is paid within such 10 day period;
  4. upon expiration of the **Policy Period** as set forth in Item 2 of the Declarations; or
  5. at such other time as may be agreed upon by the **Insurer** and the **Named Insured**.
- B. If the **Policy** is terminated by the **Named Insured**, the **Insurer** shall refund the unearned premium computed at the customary short rate. If the **Policy** is terminated by the **Insurer**, the **Insurer** shall refund the unearned premium computed *pro rata*. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable.

XV. TERRITORY AND VALUATION

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

XVI. SUBROGATION

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

XVII. ACTION AGAINST THE INSURER AND BANKRUPTCY

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

XVIII. AUTHORIZATION CLAUSE

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

XIX. ALTERATION, ASSIGNMENT AND HEADINGS

- A. Notice to any agent or knowledge possessed by any agent or by any other person shall not affect a waiver or a change in any part of this **Policy** nor prevent the **Insurer** from asserting any right under the terms of this **Policy**.
- B. No change in, modification of, or assignment of interest under this **Policy** shall be effective except when made by a written endorsement to this **Policy** which is signed by an authorized representative of the **Insurer**.

C. The titles and headings to the various parts, sections, subsections and endorsements of the **Policy** are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions of such parts, sections, subsections or endorsements.

XX. ALTERNATIVE DISPUTE RESOLUTION

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

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

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

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

XXI. INTERPRETATION

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

**RESOLUTION NO. 2013-\_\_\_\_\_**

**Accept grant for Blackhawk Island fishing pier**

WHEREAS, the Parks Department has applied for a grant to create a handicapped accessible fishing platform and a parking area on Blackhawk Island, and

WHEREAS, the Department of Natural Resources has approved said grant # F-95-P-46 in the amount of \$49,800 as 80% of the cost of the project, and

WHEREAS, County Board approval is necessary to authorize execution of the grant contract and the expenditure of the funds, and

WHEREAS, the Parks Committee recommends approval of the grant contract,

NOW, THEREFORE, BE IT RESOLVED that Parks Director Joe Nehmer is authorized to execute grant contract # F-95-P-46 with the Department of Natural Resources in the amount of \$49,800 for the construction of a handicapped accessible fishing platform on Blackhawk Island and the related parking facilities.

BE IT FURTHER RESOLVED that the 2013 budget is amended by increasing Account 1801.421099 State Aid Capital, and Account 1801.594829 Capital Improvement Other, by the amount of \$49,800.

*Fiscal Note: The total project cost is expected to be \$62,540. The County's share of \$12,740 shall be provided in kind through existing Parks Department staff and funds. As a budget amendment, this resolution requires twenty (20) affirmative votes for passage.*

AYES \_\_\_\_\_

NOES \_\_\_\_\_

ABSTAIN \_\_\_\_\_

ABSENT \_\_\_\_\_

Requested by  
Parks Committee

04-16-13

Phil Ristow: 03-25-13; 03-26-13



Jefferson County Parks Department  
320 South Main Street, Rm. 204  
Jefferson, WI 53549  
(920) 674-7260

March 18, 2013

Julie Sauer, Administrator  
State of Wisconsin  
Department of Natural Resources  
2300 N. Dr. Martin Luther King Jr. Blvd.  
Milwaukee WI 53212-3128

Dear Ms. Sauer:

Thank you for awarding a Sport Fish Restoration grant, F-95-P-46, for our Blackhawk Island Fishing Pier project. We are excited to be able to provide a quality fishing experience for individuals with special needs within the Jefferson County Parks system.

This letter is to accept the grant award pending formal approval by the Jefferson County Board at their next County Board meeting on Tuesday, April 16. Our county policy requires us to receive County Board approval prior to signing a grant of this dollar amount.

Again, thank you for your award. We look forward to working with you on this project. We anticipate forwarding the signed grant contract on April 17.

Please feel free to contact Kim Buchholz, Program Assistant, at 920-674-7452 or [kimb@jeffersoncountywi.gov](mailto:kimb@jeffersoncountywi.gov) with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Joe Nehmer". The signature is written in a cursive style.

Joe Nehmer  
Director



March 11, 2013

► **REQUIRES IMMEDIATE ACTION** ◀  
**Sport Fish Restoration**  
**Grant# F-95-P-46**  
**Grant Amount: \$49,800.00**

Joseph W. Nehmer, Director  
Jefferson Co. Parks Dept.  
320 S Main St Rm 204  
Jefferson, WI 53549

Dear Mr. Nehmer:

Congratulations! On behalf of the Governor, we are pleased to forward to you a grant agreement for financial assistance for the following project: **Blackhawk Island Fishing Pier**

Please review the agreement and return the original signed by the authorized official **within 30 days of this letter's date** to Kathleen Wolski at the Southeast Region, 2300 N Dr Martin Luther King Jr Dr, Milwaukee, WI 53212. The second copy is for your file. Funds will be encumbered when the signed agreement is returned. Please read the items checked below. They apply to your project and grant award.

- Grant Award Time Period: December 12, 2012 through June 30, 2014.** All project activities must occur within this time period to be eligible costs for reimbursement.
- Reimbursement Check:** Your reimbursement check will be mailed to Jefferson Co. Parks Dept., Joseph W. Nehmer, 320 S Main St Rm 204, Jefferson, WI 53549. This is the check recipient that appears in our records.
- Changes to the approved project scope** may not be made without prior approval from the Department.

Reimbursement claim forms and/or financial administration information can be found by going to: <http://dnr.wi.gov/Aid/forms.html>. Please submit reimbursement claim forms for your project to Kathleen. Feel free to contact Kathleen at 414-263-8670, if you have any questions about your grant award or the reimbursement procedures. You may be contacted by the Office of the Governor or your state Legislator concerning the issuance of a press release to publicize the grant award. We are pleased to have the opportunity to participate with you on this project.

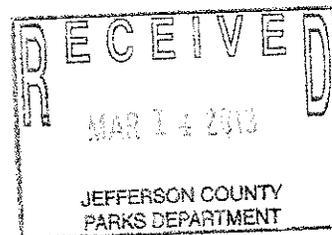
Sincerely,

*Carol Bentzler, Federal Aid Coordinator*

Julie Sauer, Administrator  
Division of Customer and Employee Services

Enclosure(s)

C: Kathleen Wolski – SER  
Cheryl Goodman-FM/4  
Carol Bentzler-MB/8



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Notice: Collection of this information is authorized under ss. 23.09(11), 23.09(26), 350.12(4), 23.33, and 30.92, Wis. Stats., and chs. NR 7, NR 50, NR 51, and NR 64, Wis. Admin. Code. Personally identifiable information collected will be used for program administration and may be made available to requesters as required under Wisconsin's Open Records Law [ss.19.31 - 19.39, Wis. Stats].

<b>Grantee/Project Sponsor</b>  Jefferson Co. Parks Dept.	<b>Project Number</b>  FHRV								
<b>Project Title</b>  Blackhawk Island Fishing Pier									
<b>Period Covered by This Agreement</b>  December 12, 2012 Through June 30, 2014	<b>Name of Program</b>  Sport Fish Restoration								
<b>Project Scope and Description of Project</b>  This project proposes to construct an accessible 6' x 30' fishing platform along the shore, a 4 stall paved parking lot and 5' x 80' long accessible compacted gravel path from the parking lot to the fishing pier.									
<b>PROJECT FINANCIAL ASSISTANCE SUMMARY:</b>	The following documents are hereby incorporated into and made part of this agreement:								
<table border="0"> <tr> <td><b>Total Project Cost</b></td> <td style="text-align: right;">\$62,540.00</td> </tr> <tr> <td><b>Cost-Share Percentage</b></td> <td style="text-align: right;">80%</td> </tr> <tr> <td><b>State Aid Amount</b></td> <td style="text-align: right;">\$49,800.00</td> </tr> <tr> <td><b>Project Sponsor Share</b></td> <td style="text-align: right;">\$12,740.00</td> </tr> </table>	<b>Total Project Cost</b>	\$62,540.00	<b>Cost-Share Percentage</b>	80%	<b>State Aid Amount</b>	\$49,800.00	<b>Project Sponsor Share</b>	\$12,740.00	<ol style="list-style-type: none"> <li>1. Chapter NR 7, Wisconsin Administrative Code</li> <li>2. Application Dated 02/14/2012</li> </ol>
<b>Total Project Cost</b>	\$62,540.00								
<b>Cost-Share Percentage</b>	80%								
<b>State Aid Amount</b>	\$49,800.00								
<b>Project Sponsor Share</b>	\$12,740.00								

1801. 421099  
 State Aid  
 1801. 594829



## A. General Conditions:

1. The State of Wisconsin Department of Natural Resources (Department) and the Sponsor mutually agree to perform this agreement in accordance with the Sport Fish Restoration and with the project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps and also any assurances attached and made a part of this agreement.
2. This agreement, together with any referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this agreement are superseded. Any revisions, including cost adjustments, must be made by an amendment to this agreement or other written documentation, signed by both parties, prior to the termination date of the agreement. Time extensions and scope changes to the agreement may be granted to the Sponsor by the Department in writing without the requirements of Sponsor signature.
3. Failure by the sponsor to comply with the terms of this agreement shall not cause the suspension of all obligations of the State if, in the judgment of the Secretary of the Department, such failure was due to no fault of the Sponsor. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement, at the Department's discretion.

### The Project Sponsor:

4. Agrees to comply with all applicable Wisconsin Statutes and Wisconsin Administrative codes in fulfilling terms of this agreement. In particular, the Sponsor agrees to comply with the provisions of Chapter NR 00, Wis. Adm. Code, as well as comply with all applicable local and state contract and bidding requirements. The sponsor should consult its legal counsel with questions concerning contracts and bidding.
5. May decline the offer of financial assistance provided through this agreement, in writing, at any time prior to the starting of the project and before expending any funds. After the project has been started or funds expended, this agreement may be rescinded, modified, or amended only by mutual agreement in writing.
6. Agrees, to save, keep harmless, defend and indemnify the Department and all its officers, employees and agents, against any and all liability claims, costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this agreement or omissions of Sponsor's employees, agents or representatives.
7. Agrees to reimburse the Department of any and all funds the Department deems appropriate in the event the Sponsor fails to comply with the conditions of this agreement or project proposal as described, or fails to provide public benefits as indicated in the project application, proposal description or this agreement. In addition, should the Sponsor fail to comply with the conditions of this agreement, fail to progress due to non-appropriation of funds, or fail to progress with or complete the project to the satisfaction of the Department, all obligations of the Department under this agreement may be terminated, including further project cost payment.
8. Agrees, in connection with the performance of work under this agreement, not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Status, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Sponsor further agrees to take affirmative action to ensure equal employment opportunities, as required by law. The Sponsor agrees to post in conspicuous places available, for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

### The Department:

9. Promises, in consideration of the covenants and agreements made by the Sponsor, to obligate for the Sponsor the amount of \$49,800.00, and to tender to the Sponsor that portion of the obligation which is required to pay the Department's share of the costs based upon the state providing 80 percent of eligible project costs. The Sponsor promises, in consideration of the promises made by the Department, to execute the project described in accordance with this agreement.
10. Agrees that the Sponsor shall have sole control of the method, hours worked, and time and manner of any performance under this agreement other than as specifically provided in this document. The Department reserves the right only to inspect the job site or premises for the sole purpose of insuring that the performance is progressing or has been completed in compliance with the agreement. The Department takes no responsibility of supervision or direction of the performance of the agreement to be performed by the Sponsor or the Sponsor's employees or agents. The Sponsor is an Independent Contractor for all purposes, not an employee or agent of the Department. The Department further agrees that it will exercise no control over the selection and dismissal of the Sponsor's employees or agents.

**B. Special Conditions:**

*The following special project terms and conditions were added to this agreement before it was signed by the parties hereto:*

1. The sponsor agrees that if any fees are to be imposed for use of the public access, such fees shall not exceed the fee charged for daily entrance to state parks and forest areas, unless a higher fee is approved by the Department under NR 1.93, Wis. Adm. Code.
2. All regulatory permits and approvals, including water and wetland regulatory permits and approvals, required by federal, state or local agencies must be obtained prior to project construction and complied with fully during project construction.
3. The sponsor agrees to display a sign at the site acknowledging funding through the Federal Aid in Sport Fish Restoration Act and the Wisconsin Department of Natural Resources.
4. All facilities constructed with assistance from this program must be accessible to persons with disabilities. All facilities developed with these grant funds shall be connected by linkage trails to a main walkway and/or parking lot.
5. Prior to construction, the sponsor must provide Wisconsin Department of Natural Resources Bureau of Facilities and Lands' Engineering Section with a copy of the engineering specifications and design drawings stamped by a Wisconsin Registered Professional Engineer for review and approval.
6. The federal funds for this project are part of a Sport Fish Restoration grant, F-95-P-46, awarded to Department of Natural Resources and administered by the U. S. Fish and Wildlife Service. As a subrecipient of these federal funds, the sponsor agrees to comply with the following federal financial administration requirements: 2CFR Part 225 for cost principles, Office Management and Budget (OMB) circulars A-102 for administrative requirements and A-133 for audit requirements, and Federal Rules 50CFR Part 80 and 43 CFR Part 12. The sponsor agrees to have an audit in accordance with OMB Circular A-133 if they expend \$500,000 or more in federal awards during the fiscal year.

*The persons signing for the Sponsor represents both personally and as an agent of his or her principal that he or she is authorized to execute this agreement and bind his or her principal, either by a duly adopted resolution or otherwise.*

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES  
FOR THE SECRETARY

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

By *Carol Bartus, Federal Aid Coordinator*  
\_\_\_\_\_  
*Julie Sauer, Administrator*  
*for Division of Customer and Employee Services*

\_\_\_\_\_  
(Date)



## Brian Lamers

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**From:** Tammie Jaeger  
**Sent:** Wednesday, March 27, 2013 1:48 PM  
**To:** Brian Lamers  
**Cc:** Jeff Parker; Duane Scott  
**Subject:** Lift

Brian,

Please see Chief Parker's email below. Could you please respond to Jeff?

Thanks, Tammie

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**From:** Jeff Parker  
**Sent:** Wednesday, March 27, 2013 1:31 PM  
**To:** Duane Scott; Tammie Jaeger; Mark Miller; Robert Scheinkoenig; Jerry Haferman; Paul Wallace  
**Cc:** Paul Milbrath; Randy Frohmader; Kathi Cauley; John Molinaro; Terry Wyse  
**Subject:** RE: Lift

Good Afternoon,

Thank you for the update.

Sheriff this will be an item that we will need to appear before finance with and ask for contingency funds to repair/replace.

Tammie, when is the next finance committee? We would need an agenda item placed stating "Discussion and possible action on replacing the Sheriff's Office squad maintenance lift that is unoperational/unrepairable using possible contingency funds."

Tammie this is an emergency request, the lift is not safe to use and is needed to work on all of the new squads that have just arrived. If the meeting is several weeks away, we really can't wait that long to address this.

Randy and Mark we need estimates immediately, so if you can make sure we have three written estimates in hand for the finance committee meeting it would greatly be appreciated.

Chief Deputy Parker

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**From:** Duane Scott  
**Sent:** Wednesday, March 27, 2013 9:16 AM  
**To:** Jeff Parker  
**Subject:** Lift

Jeff,

I don't have the actual quotes as they are going to Mark, but the 3 figures I heard range from \$12,000 TO \$25,000. One company says they can't put it in the current bay but the others feel they can. When Mark has the quotes we will have to get it on the Finance committee to request the money unless you feel it can come of the budget somehow.

Captain Duane R. Scott  
Jefferson County Sheriff's Office  
411 S. Center Avenue  
Jefferson, WI 53549

Jefferson County, Wisconsin  
Highway Funding and Estimated Expenditures

Potential Highway Funding Available

BU 53284 (Highway)	Carryover	481,806	
	Budget-Fund Bal	1,543,127	Need Approval by County Board for Budget Transfer (20 votes)
	Total Available	2,024,933	

Items Needing Funding

Arch Design-Satelite Shop		(78,000)	
Countryside Purchase		(150,000)	
Countryside Demo		(800,000)	
Arch Design- New Main Shop		(700,000)	
Construction-Satellite Shop (1)		(1,350,000)	
Total Expense		(3,078,000)	
Total Expense Over Revenue		(1,053,067)	



Jefferson County  
Contingency Fund  
For the Year Ended December 31, 2013

Ledger Date	Description	General (599900)	Other (599908)	Vested Benefits (599909)	Authority	Publish Date
1-Jan-13	Tax Levy	400,000.00	250,000.00	265,000.00		
<b>Total amount available</b>		<b>400,000.00</b>	<b>250,000.00</b>	<b>265,000.00</b>		
<b>Net</b>		<b>400,000.00</b>	<b>250,000.00</b>	<b>265,000.00</b>		