

CYBER EXPENSE ENDORSEMENT - INSURING AGREEMENT A: PRIVACY BREACH EXPENSES & INSURING AGREEMENT B: BUSINESS INTERRUPTION

This Endorsement Changes the Policy. Please Read it Carefully.

Certain words and phrases in bold font have special meaning as defined in this endorsement.

This endorsement applies to all locations insured under the property section of the policy and is subject to the terms, conditions, limitations and exclusions that are applicable to the commercial property insurance form to which this endorsement is attached.

Coverage as extended by each Insuring Agreement of this Endorsement may also be provided elsewhere in the Policy or by another Policy issued by the Insurer. In the event of any such coverage duplication or overlap, only the coverage as extended by this Endorsement will apply.

Coverage as extended by each Insuring Agreement of this Endorsement applies only in Canada.

This Endorsement applies regardless of anything contained to the contrary in a policy Data Exclusion. Except to the extent of coverage under this Endorsement, the terms of such Data Exclusion remain in full force and effect.

Limits of Insurance:

The Insurer's maximum and aggregate limits of liability for coverage as extended by this Endorsement under Insuring Agreements A and B are specified in the Declaration Page(s).

The aggregate limit is the Insurer's maximum limit of liability in any one policy period, regardless of the number of occurrences or claims, the number of breaches or the number of **Named Insureds**.

Multiple claims that arise from the same **privacy breach** will be regarded as one claim provided that occurrences giving rise to such multiple claims are discovered at the same time. An occurrence(s) giving rise to a claim and discovered at a later time within the policy period of this Endorsement, whether arising from the same cause or not, will be considered a separate claim.

Deductible – Insuring Agreement A:

Each claim shall be adjusted separately and the deductible amount shown in the Declaration Page(s) shall be deducted from the amount of each such adjusted claim.

Waiting Period Deductible – Insuring Agreement B: The forty-eight (48) hour waiting period specified for **business interruption loss** (if any such insured loss occurs) shall apply with respect to each **privacy breach**. Each such claim for **business interruption loss** shall be adjusted separately.

Insuring Agreement A: PRIVACY BREACH EXPENSES COVERAGE

The Insurer will reimburse the **Named Insured** for **remediation expenses** that are incurred by the **Named Insured** in relation to the **Named Insured's** business activities in Canada. The amount of coverage for such expenses is included within (and is not in addition to) the Limit of Insurance that is specified in the Declaration Page(s).

A **privacy breach** must first take place (or must first be activated) during the time that this Endorsement's coverage is in effect and must first be discovered by the **Named Insured** during the time that this Endorsement's coverage is in effect.

Insuring Agreement B: BUSINESS INTERRUPTION COVERAGE

Coverage under this Endorsement applies (subject to Additional Condition B) to **business interruption loss** that is:

- A. related directly to and caused by a **privacy breach** to which coverage under Insuring Agreement A applies; and
- B. incurred no sooner than forty-eight (48) consecutive hours after such a **privacy breach** is first discovered.

Business interruption loss means actual loss sustained of net income (before taxes, excluding interest and after depreciation) from the **Named Insured's** declared business operations in Canada provided that such loss would not have been incurred had no **privacy breach** taken place.

Business interruption loss also means, without increasing the limit of liability for Insuring Agreement B, necessary extra expenses (excluding **remediation expenses** other than computer forensic services) for which the Insurer shall reimburse the **Named Insured** and that are required for the reduction of actual loss of net income when such extra expenses:

- i. are in excess of the **Named Insured's** normal operating expenses; and
- ii. would not have been required had no **privacy breach** occurred; and
- iii. are not otherwise excluded under this Endorsement.

The Insurer's liability for such necessary extra expenses shall not exceed the amount of said reduction. Such necessary extra expenses are not subject to the waiting period deductible that is specified above for Insuring Agreement B provided that such actual loss sustained of net income exceeds the specified forty-eight (48) hour waiting period.

The duration of coverage for **business interruption loss** ends at the earliest of the following times:

- a) After thirty (30) consecutive days beginning on the day that a **privacy breach** to which coverage under Insuring Agreement A applies is first discovered; or
- b) At the time that the **Named Insured's** declared business operations in Canada are returned to the same state or the same level of operation that existed immediately before the **privacy breach**.

The **Named Insured** shall with due diligence do (and shall agree to do and give permission to do) all things that are reasonably practicable to minimize or check any interruption of or interference with the business or to avoid or diminish the loss.

EXCLUSIONS (applicable to Insuring Agreements A and B unless otherwise specified):

Insurance granted by this Endorsement shall not apply to:

1. expenses or other loss arising from any fact or circumstance known to the **Named Insured** or to any Insured (or about which the **Named Insured** or any Insured should reasonably have known) prior to the effective date of this Endorsement;
2. expenses or other loss arising from unauthorized use of, unauthorized access to, loss of or damage to data or information on a personal mobile device or any other computer equipment owned by an employee, volunteer or authorized representative of the **Named Insured**;
3. unexplained deletion, disappearance or diminution of **data** or of non-computer data;
4. fines, penalties or assessments of any nature including (but not limited to) fines, fees or damages for breach of contract or for late or non-completion of orders or payments, or levies or assessments of any nature including but not limited to levies or assessments that are related to payment cards or to Payment Card Industry Standards;
5. wear and tear, gradual deterioration, hidden or latent defect or any quality in **data**, in computer media or in non-computer data that causes it to damage or destroy itself;
6. a **privacy breach** (except for theft of non-computer data) arising from failure of the **Named Insured** (or of an employee, volunteer or authorized representative of the **Named Insured**) to diligently deploy updated functional security software including but not limited to anti-malware software, security patches and including but not limited to a functional hardware firewall and, for each computer, a functional software firewall, all in accordance with a standard of care that at least meets (at the time of such breach) current standards and best practices for computer security and data security.
For the purposes of the Exclusion 6 above, available security patches (available as patches in response to computer security threats as recognized and specified by any CERT entity, or available otherwise) that are not applied automatically or semi-automatically must be applied by the **Named Insured** as soon as practicable following the **Named Insured's** discovery of a **privacy breach** related to a computer security vulnerability that is addressed by such a patch; and in any event no later than thirty (30) days following a security patch being made available by a software developer, a software supplier or by a computer security specialist;
7. expenses or other loss arising from errors in the programming or configuration of computer equipment or from errors in the configuration of **data** or of computer media;
8. criminal, fraudulent or dishonest acts of any **Named Insured** or criminal or penal proceedings against any **Named Insured** (in any event, including but not limited to any employee, volunteer or authorized representative of the **Named Insured**, whether acting alone or in collusion with others);
9. loss, damage, expense or costs (including judgements against the **Named Insured**) arising out of liability to a third party;
10. legal fees or other defence expenses;
11. any gain, profit, remuneration or advantage to which the **Named Insured** is not legally entitled;
12. liability assumed by the **Named Insured** under any contract or agreement, except to the extent that the **Named Insured** would have been liable in the absence of such a contract or such an agreement;
13. loss, damage, expenses or increased costs due to delay, loss of use, loss of market, loss of occupancy or (except to the extent of coverage under Insuring Agreement B) other interruption of business;
14. loss, damage, expenses or increased costs due to mechanical failure, breakdown, short circuit or other electrical disturbance, or interruption of internet service or of electrical power supply;
15. any cost or expenses incurred to update, upgrade or otherwise improve **data**, non-computer data, computer media or computer equipment;
16. payments made by the **Named Insured** in response to **cyber extortion** or otherwise complying with or responding to **cyber extortion**. This Exclusion 16 does not apply to **remediation expenses** due directly to the carrying out of a **cyber extortion** threat.
17. With respect to Insuring Agreement B (in addition to the exclusions above), insurance granted by this Endorsement shall not apply to:
 - a. **Business interruption loss** arising out of unauthorized use of, unauthorized access to, loss of, or damage to unlicensed software or to copyrighted software that has been copied or that is being used without authorization;
 - b. Payment of **remediation expenses** (other than computer forensic expenses that are necessary extra expenses);
 - c. Payments in response to **cyber extortion** or loss arising from the carrying out of a **cyber extortion** threat.

EXTENSIONS OF COVERAGE (subject to all other terms, conditions, limitations and exclusions of this Endorsement):

The following Extensions of Coverage apply only with respect to a **privacy breach** that arises in regard to business activities of the **Named Insured** or of an employee, volunteer or authorized representative of the **Named Insured**, and that are activities related directly to the **Named Insured's** Canadian business operations.

Coverage is extended:

1. In regard to computer equipment owned by the **Named Insured**, to:
 - a) the homes of an employee, volunteer or authorized representative of the **Named Insured**; or
 - b) another temporary premises in Canada other than premises stated in the Declaration Page(s), for a period not exceeding thirty (30) consecutive days; and
 - c) transit to or from such homes or premises and the **Named Insured's** business premises; or
 - d) locations in the United States of America, in the European Union or in the European Economic Area, if the **privacy breach** arises from the business activities of an employee, volunteer or authorized representative of the **Named Insured** who is away from Canada on the business of the **Named Insured** for a period not exceeding thirty (30) consecutive days.
2. In regard to laptop computers, tablets or desktop computers that are personally owned by an employee, volunteer or authorized representative of the **Named Insured** and provided that any such device, at the time of a **privacy breach**, is being used with permission of the **Named Insured** on the **Named Insured's** business premises in Canada (including offices in the homes of employees and while in transit to or from such offices and the **Named Insured's** business premises).

ADDITIONAL CONDITIONS:

- A. Notice to Insurer** (applicable to Insuring Agreements A and B): As a condition of insurance under this Endorsement, the **Named Insured** shall give written notice to the Insurer as soon as practicable of a **privacy breach**. Such written notice to the Insurer must be given no later than thirty (30) consecutive days from the **Named Insured's** discovery of a **privacy breach**.
- B. Data Backup Requirement - Reasonable Precautions** (applicable to Insuring Agreement B): As a condition of insurance under this Endorsement's Insuring Agreement B, with respect to insured **business interruption loss**, the **Named Insured** will have diligently instituted and deployed a backup strategy and procedures for the **Named Insured's** business-critical or sensitive **data**. Such strategy and procedures must include (as the minimum requirements) regular backups (daily, weekly or monthly), backup archiving and backup testing. Failure of the **Named Insured** to fulfill this requirement will void coverage under Insuring Agreement B with respect to **business interruption loss** due to a **privacy breach**.
- This condition B does not apply to **remediation expenses**.
This condition B does not apply to the theft of non-computer data.

DEFINITIONS:

For the purpose of this Endorsement:

1. **Cyber extortion** means a demand (that originates from outside the **Named Insured** entity) made to the **Named Insured** for money or something else of value in exchange for not carrying out a threat to commit harm to computers or to **data**. **Cyber extortion** also means a threat to disseminate **data** without authorization, or to deny, to impede, to make unavailable or to otherwise disrupt access to **data** or to network or computer services or resources;
2. **Data** means representations of information or concepts in any form and residing in or on the **Named Insured's** computer equipment except for and excluding programmable manufacturing machines or programmable controllers for industrial use.
Data does not include money, currency, funds, bonds or instruments of debt, credit or equity.
Data does not include deeds, accounts, bills, records, abstracts, manuscripts or other documents except as they have been converted to computer data and then only in that converted form.
Data does not mean such property already sold or that is held for sale or for distribution.
Data does not include data or information stored using the centralized facilities (whether public or private) of a data or information storage provider or other service provider.
3. **Named Insured** means the entity named in the Declaration Page(s);
4. **Privacy breach** means failure to prevent unauthorized use of or unauthorized access to **data** (excluding such unauthorized use, unauthorized collection or unauthorized access by the **Named Insured** or from within the **Named Insured** entity by a person or persons affiliated with the **Named Insured** entity) that are possessed, managed, entrusted to, or held by the **Named Insured** and that are non-public and personal information as established by law. **Privacy breach** also means theft of non-computer data (excluding theft by the **Named Insured** or from within the **Named Insured** entity by a person or persons affiliated with the **Named Insured** entity) that are possessed, managed, entrusted to, or held by the **Named Insured** and that are non-public and personal information as established by law. **Privacy breach** does not include theft of, or failure to prevent unauthorized use of or unauthorized access to, intellectual property or trade secrets of any kind.
5. **Remediation expenses** means reasonable and necessary expenses that are required by law or that have received the Insurer's consent and approval beforehand, incurred by the **Named Insured** for:
 - a) notification to existing, prospective or former customers, or existing or former employees or members of the **Named Insured**, provided that the need for such notification arises directly from a **privacy breach**;
 - b) computer forensic services, provided that such services are retained with the Insurer's consent beforehand and provided that the need for such services arises directly from a **privacy breach**;
 - c) public relations services, provided that such services are retained with the Insurer's consent beforehand and provided that the need for such services arises directly from a **privacy breach**.**Remediation expenses** also means, with respect to a **privacy breach**, the **Named Insured's** expenditures that may be incurred for services for credit monitoring or for fraud monitoring and pertaining directly to existing, prospective or former customers, or existing or former employees or members of the **Named Insured**, such individuals notified in accordance with item 5a) above, for a period not exceeding fifty-two (52) consecutive weeks from the date that the actual **privacy breach** is first discovered.

All terms of this policy shall remain unchanged except as otherwise provided in this Endorsement.