

PRIVACY BREACH COVERAGE

This Endorsement changes the policy. Please read it carefully.

Certain words and phrases in bold font or quotation marks have special meaning as defined in this endorsement or within this policy. For the purpose of this endorsement, the definitions contained in this form prevail over the definitions contained elsewhere within this policy.

Unless otherwise stipulated in this endorsement, this endorsement is subject to the terms, conditions, limitations and exclusions that are applicable to the policy to which this endorsement is attached to and forms part of.

Coverage provided herein shall not apply to any **Claim** arising out of any **Privacy Breach** occurring prior to the effective date of this Endorsement (or of the original Endorsement if this Endorsement forms part of a continuous series of renewals).

Coverage provided by this Endorsement applies within the **Coverage Territory** as defined herein.

NOTIFICATION & BREACH MANAGEMENT EXPENSE COVERAGE

1. The Insurer will reimburse the **Insured** for the following expenses or costs that are incurred by the **Insured** for a **Privacy Breach**:
 - 1.1. **Remediation Expenses;**
 - 1.2. **Legal Consulting Costs.**
2. 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 **Insured** during the time that this Endorsement's coverage is in effect.
3. This NOTIFICATION & BREACH MANAGEMENT EXPENSE COVERAGE is subject to the aggregate limit for each **Policy Period** stated in the Declarations for this coverage and this amount shall apply in excess of the deductible amount stated in the Declarations for this coverage. This limit of liability shall be inclusive of the Aggregate Limit of the Policy stated in the Declarations.
4. This NOTIFICATION & BREACH MANAGEMENT EXPENSE COVERAGE may also be provided elsewhere by other Endorsements issued by the Insurer or a subsidiary of the parent of the Insurer to the **Insured**. In the event of any such coverage duplication or overlap, the sub-limits afforded under the different Endorsements only and issued by the Insurer or a subsidiary of the parent of the Insurer to the **Insured** shall be cumulative, and this, notwithstanding:
 - 4.1. the total aggregate Limits of Liability afforded under such policies as described above; or
 - 4.2. any other provision to the contrary contained elsewhere within this policy or in any other policy issued by the Insurer or a subsidiary of the parent of the Insurer to the **Insured**;

In the event such **Loss** would also be afforded or invoked under any other valid or collectible insurance maintained by the **Insured**, except an insurance policy issued by the Insurer or a subsidiary of the parent of the Insurer, then the "Other Insurance" clause under this policy would prevail.

EXCLUSIONS

For the purposes of this Endorsement, the following exclusions are added:

This Endorsement shall not apply to:

1. 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 **Insured**, except for a **Privacy Breach** in regard to laptop computers, tablets, smart phones or desktop computers that are personally owned by an **Employee**, volunteer or authorized representative of the **Insured Organization** and provided that any such device, at the time of a **Privacy Breach**, is being used with permission of the **Insured Organization** on the **Insured Organization's** premises (including offices in the homes of **Employees** and while in transit to or from such offices and the **Insured Organization's** premises);
2. Unexplained deletion, disappearance or diminution of **Data** or of non-computer data;
3. 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;
4. A **Privacy Breach** (except for theft of non-computer data) arising from failure of the **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 this exclusion, 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 **Insured** as soon as practicable following the **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;
5. Criminal, fraudulent or dishonest acts of any **Insured**, or criminal or penal proceedings against any **Insured**, except for a **Privacy Breach**;
6. Loss, damage, expense or costs (including judgements against the **Insured**) arising out of liability to a third party;
7. Loss, damage, expenses or increased costs due to delay, loss of use, loss of market, or loss of occupancy;
8. Any cost or expenses or **Remediation Expenses** incurred or paid by the **Insured** in establishing the existence of or the amount of **Loss**;
9. Any potential income, including but not limited to interest and dividends, that could in anyway or manner have been realized, or were not realized;

This Endorsement shall not apply to **Claims Based Upon:**

10. Wear and tear, gradual deterioration, any **Loss**, damage, expenses or increased costs due to electrical disturbance, short circuit, mechanical failure, breakdown, faulty construction, errors in design, hidden or latent defect or any quality in **Data**, interruption of internet service, of electrical power supply or any other malfunction or failure in computer media or in non-computer data that causes it to damage or destroy itself;
11. 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;
12. Any gain, profit, remuneration or advantage to which the **Insured** is not legally entitled;
13. Any cost or expenses incurred to update, upgrade or otherwise improve **Data**, non-computer data, computer media or computer equipment;
14. Payments made by the **Insured** in response to **Cyber Extortion** or otherwise complying with or responding to **Cyber Extortion**. This exclusion does not apply to **Remediation Expenses** due directly to the carrying out of a **Cyber Extortion** threat;
15. Any restitution, reduction in any payment or debt, disgorgement or return of any payment, any charges or fees, and any other consideration paid or owed regarding any of the **Insured's** products, services or goods;
16. Any costs incurred on behalf of any **Insured** or where such costs are incurred to perform any obligation by or on behalf of any **Insured** or with the **Insureds** consent;
17. The providing of or failure to provide, warnings or instructions, or warranties or representations made at any time, with respect to the fitness, quality, durability, performance or use of the **Insured's** products (whether manufactured by the **Insured** or not) or services of the **Insured**, or failure of such products or services to conform to such instructions, representations or warranties;
18. The designing, creating, developing, producing or the maintaining of any content or material of any person's Web site;
19. Any undertaking of the **Insured**, for the benefit of its creditors, the capacity of bailee, receiver, trustee in **Bankruptcy**, conservator or assignee;
20. The actual or alleged violation of applicable law related to the *Competition Act*, to commercial competition or to unfair trade practices.

This Endorsement shall not apply to **Claims:**

21. By or on behalf of any other **Insured**. This exclusion however, shall not apply to **Claims** made by an **Insured** who is a natural person in their capacity as an **Employee** or **Customer** of the **Insured Organization** for a **Privacy Breach**.

ADDITIONAL CONDITIONS

For the purposes of this Endorsement only, and notwithstanding anything to the contrary under this policy, the following conditions are added as additional conditions to this policy:

1. The deductible amounts stated in the Declarations for NOTIFICATION & BREACH MANAGEMENT EXPENSE COVERAGE applies only to the **Insured Organization**.
2. Reporting of **Notification and Breach Management Expenses:**
 - 2.1. the **Insured** shall give the Insurer written notice immediately after discovery and during the **Policy Period** of any **Notification and Breach Management Expenses**;
 - 2.2. file detailed proof of **Loss**, duly sworn to, with the Insurer within six (6) months after the discovery of the **Notification and Breach Management Expenses**;
 - 2.3. this policy affords coverage in favour of the **Insured**. Any action or legal proceeding against the Insurer shall be brought by the **Insured** only.
3. Discovery of **Notification and Breach Management Expenses:**
 - This Endorsement applies to **Loss** discovered by the **Insured** during the **Policy Period**. Discovery occurs at the earliest when the **Insured Organization's** Chief Financial Officer, President, in-house general counsel, Risk Manager, Chief Executive Officer, Chief Information Officer, Chairman or any equivalent positions of the foregoing first become aware of circumstances which could give rise to **Notification and Breach Management Expenses**, regardless of when the act or acts causing or contributing to such expenses occurred, even though the exact amount or details of such expense may not then be known and even if such amounts do not exceed the deductible amount for NOTIFICATION & BREACH MANAGEMENT EXPENSE COVERAGE.

DEFINITIONS

For the purpose of this Endorsement only, the following definitions are added to this policy:

1. **Coverage Territory** means NOTIFICATION & BREACH MANAGEMENT EXPENSE COVERAGE for **Notification and Breach Management Expenses** occurring anywhere in the world:
 - 1.1. if such **Privacy Breach** occurs within Canada; or
 - 1.2. if such **Privacy Breach** arises from the business activities of an **Employee** who is away from Canada for a period not exceeding sixty (60) consecutive days, and with regards to computer equipment owned by the **Organization**.However, coverage provided by this Privacy Breach Coverage does not apply in any country against which the Government of Canada has imposed economic or trade sanctions.
2. **Customer** means any individual or entity that received or will receive, or that purchased or will purchase goods or services produced by the **Insured Organization**. **Customer** also means any member or beneficiary that received or will receive any service offered by the **Insured Organization**.
3. **Cyber Extortion** means a demand (that originates from outside the **Insured Organization**) made to the **Insured Organization** for money or something else of value in exchange for not carrying out a threat to commit harm to the **Insured Organization's** computer equipment 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 network or computer services or resources.
4. **Data** means representations of information or concepts in any form and residing in or on the **Insured's** computer equipment except for and excluding programmable manufacturing machines or programmable controllers for industrial use.

Data does not include:

 - 4.1. money, currency, funds, bonds or instruments of debt, credit or equity;
 - 4.2. 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;
 - 4.3. such property already sold or that is held for sale or for distribution;
5. **Legal Consulting Costs** means the costs (resulting directly from a **Privacy Breach**) incurred by the **Insured** to retain, with the prior approval of the Insurer, a lawyer to:
 - 5.1. determine the notification obligations under the applicable laws;
 - 5.2. respond to regulatory and law enforcement authorities or to investigators;
 - 5.3. provide legal advice in connection with management of the privacy breach and associated disclosures.

Legal Consulting Costs shall not include costs to defend a third party **Claim**.
6. **Notification and Breach Management Expenses** means **Remediation Expenses** or **Legal Consulting Costs**.

7. **Privacy Breach** means failure to prevent unauthorized use of or unauthorized access to **Data** that are possessed, managed, entrusted to, or held by the **Insured** and that are non-public and personal information as established by law. **Privacy Breach** also means theft of non-computer data that are possessed, managed, entrusted to, or held by the **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.
8. **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 **Insured** and provided that the need for such services arises directly from a **Privacy Breach** for:
- 8.1. notification to existing, prospective or former **Customers**, or existing or former **Employees** or members of the **Insured**;
 - 8.2. changing the account numbers, other identification numbers and security codes of the existing, prospective or former **Customers**, or existing or former **Employees** or members of the **Insured**;
 - 8.3. computer forensic services, provided that such services are retained;
 - 8.4. public relations services, provided that such services are retained.
- Remediation Expenses** also means, with respect to a **Privacy Breach**, the **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 **Insured**, such individuals notified in accordance with item 8.1. above, for a period not exceeding fifty-two (52) consecutive weeks from the date that the actual **Privacy Breach** is first discovered.

MODIFICATIONS TO THE BASIC FORM

1. For the purpose of this Endorsement only, exclusion 1. **PRIOR NOTICE** contained under **PART 4 – EXCLUSIONS**, is deleted and replaced as follows:
This Endorsement shall not apply to **Claims Based Upon**:
2. any circumstance or event which may subsequently lead to a **Claim** if written notice has been given under any policy of which this policy is a renewal or replacement and if such prior policy affords coverage (or would afford such coverage except for the exhaustion of its Limits of Liability) for such **Loss** in whole or in part, as a result of such notice;
2. For the purpose of this Endorsement only, clause 7. **CONTRACT** contained under **PART 4 – EXCLUSIONS**, does not apply.
3. For the purpose of this Endorsement only, paragraph 27.9 of definition 27. **Loss** contained under **PART 9 – DEFINITIONS**, is deleted and replaced as follows:
27.9 any costs or any **Notification and Breach Management Expenses** incurred or paid by the **Insured** to comply with any order for or grant of or agreement to provide injunctive or non-pecuniary relief.
4. For the purpose of this Endorsement only and notwithstanding anything to the contrary under this policy or any Endorsement attached and forming part of this policy, paragraph 7. **Claim** contained under **PART 9 – DEFINITIONS**, is amended as follows:
7. **Claim**, means a demand by the **Insured** for recovery of **Notification and Breach Management Expenses**.
5. For the purpose of this Endorsement only and notwithstanding anything to the contrary under this policy or any Endorsement attached and forming part of this policy, paragraph 27. **Loss** contained under **PART 9 – DEFINITIONS**, is deleted and replaced by the following:
27. **Loss**, means **Notification and Breach Management Expenses** incurred by the **Insured** for a **Privacy Breach**.
6. For the purposes of this Endorsement only, the following parts and paragraphs of the policy are amended as follows:
The phrase **Wrongful Act** is replaced by **Wrongful Act** or **Privacy Breach** wherever appearing in the following sections:
- 6.1. PART 3 – EXTENDED REPORTING PERIOD;
 - 6.2. PART 8 – GENERAL CONDITIONS – section 5. **CHANGE OF CONTROL**.

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