

ASSOCIATION PROFESSIONAL LIABILITY INSURANCE POLICY

(Association Directors' and Officers' and Errors and Omissions Coverage)

NATIONAL ASSOCIATION OF REALTORS®

(A National Professional Trade Association herein called "Named Insured")



REALTOR®

CHUBB®

(Formerly ACE American Insurance Company)

THIS IS A CLAIMS MADE POLICY. PLEASE REVIEW THE POLICY CAREFULLY. THE POLICY IS LIMITED FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD UNLESS, AND TO THE EXTENT, THE EXTENDED REPORTING PERIOD OPTION APPLIES.

Master APLI Policy

Duplicate copy of Master APLI Policy MPB G23658240 010 issued to the **National Association of REALTORS®** in Illinois, the original of which is on file and available for inspection at the headquarters office of the **National Association of REALTORS®**,
430 N. Michigan Avenue, Chicago, Illinois

POLICY EFFECTIVE 12:01 AM JANUARY 1, 2017 – 12:01 AM JANUARY 1, 2018.



ACE Advantage[®] National Association of REALTORS[®] Professional Liability Policy Declarations

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

THIS POLICY IS A CLAIMS MADE POLICY. EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSUREDS DURING 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 ALSO BE APPLIED AGAINST THE DEDUCTIBLE AMOUNT. TERMS THAT APPEAR IN BOLD FACE TYPE HAVE SPECIAL MEANING. PLEASE REFER TO SECTION II, DEFINITIONS.

Policy No. MPB G23658240 010			
Item 1.	Named Insured Principal Address:	National Association of Realtors[®] 430 North Michigan Avenue Chicago, Illinois 60611-4087	
Item 2.	Policy Period:	From 12:01 a.m. January 1, 2017 To 12:01 a.m. January 1, 2018 (Local time at the address shown in Item 1)	
Item 3.	Limit of Liability (including Claims Expense)	<u>Each Claim</u>	<u>Aggregate</u>
	1. Limit of Liability for Insuring Agreements:	\$1,000,000	
	IA. Wrongful Act (including Computer Attack, Privacy Peril, Sexual Harassment Liability, Discrimination Liability), Personal Injury, Publisher's Liability		
	Wrongful Act (solely for Employment Practices Liability), which is a sublimit of liability that is part of, and not in addition to, the otherwise applicable Each Claim and Aggregate Limits of Liability.	\$500,000	
	IB. Lockbox, Antitrust, Trademark and Copyright Infringement of Multiple Listing Services or the REALTOR [®] trademarks, Dispute Resolution System, Breach of Contract, Association Endorsement of Products Or Affinity Programs, Operation of a Legal Hotline	\$1,000,000	
	IC. Association Information Asset Coverage	<u>Each Failure Of Security</u>	\$1,000,000

	<u>Each Loss</u>	<u>Agg. All Losses</u>
ID. Basic Crime Coverage: Each Loss Limit	\$10,000	
Program aggregate Limit for any and all Crime coverages together, for any and all Insureds .		\$250,000
2. Maximum Policy Aggregate Limit of Liability for any and all coverages together		\$10,000,000
3. Crime Coverage Deductible: (all other Applicable deductibles appear in policy section III. D below)	<u>Each Loss</u> \$3,000	

Producer: Aon Risk Services
200 East Randolph 12th Floor
Chicago, Illinois 60601

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



 JOHN J. LUPICA, President



ACE Advantage[®] National Association of REALTORS[®] Professional Liability Policy

I. INSURING CLAUSE

In consideration of the payment of the premium and subject to all of the terms of this Policy, the **Company** agrees with the **Insured** that if during the **Policy Period** any **Claim** or **Claims** are first made against the **Insured**:

A. WRONGFUL ACT (INCLUDING COMPUTER ATTACK, PRIVACY PERIL, EMPLOYMENT PRACTICES LIABILITY, SEXUAL HARASSMENT LIABILITY, DISCRIMINATION LIABILITY), PERSONAL INJURY, PUBLISHER'S LIABILITY

The **Company** will pay on behalf of the **Insured** all **Loss** on account of any covered **Claim** for a **Wrongful Act, Personal Injury** or **Publisher's Liability**, and shall pay all **Claims Expense** resulting therefrom, excess of the applicable deductibles noted in Clause III, up to the Limit of Liability noted on the Declarations page for Insuring Agreement IA. The **Company** shall not be obligated to defend any suit or pay any **Loss** or **Claims Expense** after the applicable limit of the **Company's** liability has been exhausted.

With respect to **Claims** brought within the United States, its territories or Canada, the **Company** shall have the right and duty to defend any covered **Claim** on account of any **Wrongful Act, Personal Injury**, or **Publisher's Liability**.

With respect to **Claims** brought outside the United States, its territories or Canada, the **Company** shall have the right, but not the duty, to defend any covered **Claim** on account of any **Wrongful Act, Personal Injury** or **Publisher's Liability**.

The **Company** shall not be obligated to defend any suit or pay any **Loss** or **Claims Expense** after the applicable limit of the **Company's** liability has been exhausted.

B. LOCKBOX, ANTITRUST, TRADEMARK AND COPYRIGHT INFRINGEMENT OF MULTIPLE LISTING SERVICES OR REALTOR[®] TRADEMARKS, DISPUTE RESOLUTION SYSTEM, BREACH OF CONTRACT, ASSOCIATION ENDORSEMENT OF PRODUCTS OR AFFINITY PROGRAMS, OPERATION OF A LEGAL HOTLINE

The **Company** shall have the right and duty to defend any suit against the **Insured** for any of the coverages enumerated in 1 through 8 of this Insuring Clause IB and pay solely **Claims Expense** resulting from such a suit, excess of the applicable deductibles noted in Clause III Deductibles, up to the Limit of Liability noted on the Declarations Page for Insuring Agreement IB. The IB Limit of Liability is part of and not in addition to the aggregate Limit of Liability noted on the Declarations Page. If more than one of the following enumerated coverages is applicable in a single **Claim**, only one Limit of Liability will apply. If more than one **Insured** is named as a defendant in a single **Claim**, only one Limit of Liability will apply. The amount is listed on the Declarations Page as the IB Limit of Liability.

With respect to **Claims** brought outside the United States, its territories or Canada, the **Company** shall have the right, but not the duty to defend any suit against the **Insured** and pay solely **Claims Expense** resulting from such as suit, excess of the applicable deductibles noted in Clause III, up to the Limit of Liability noted on the Declarations Page for Insuring Agreement IB. The IB Limit of Liability is part of and not in addition to the aggregate Limit of Liability noted on the Declarations Page. If more than one of the following enumerated coverages is applicable in a single **Claim**, only one Limit of Liability will apply. If more than one **Insured** is named as defendant in a single **Claim**, only one Limit of Liability will apply. The amount is listed on the Declarations Page as IB Limit of Liability.

1. LOCKBOX. On account of any **Claim** arising from the distribution, maintenance, operation or use of a lockbox on property not owned or occupied by or leased to the **Insured**.
2. ANTITRUST. On account of any **Claim** based upon or arising from restraint of trade, price-fixing, or violation of any anti-trust law.
3. TRADEMARK AND COPYRIGHT INFRINGEMENT - MULTIPLE LISTING SERVICES. On account of any **Claim** based upon or arising out of trademark or copyright infringement of any Multiple Listing Service System(s), including any **Claim** based upon or arising out of the validity or invalidity of any Multiple Listing Service System(s) trademarks.
4. TRADEMARK AND COPYRIGHT INFRINGEMENT - REALTOR® TRADEMARKS - On account of any **Claim** based upon or arising out of trademark or copyright infringement of the REALTOR® trademarks, including any **Claim** based upon or arising out of the validity or invalidity of the REALTOR® trademarks.
5. DISPUTE RESOLUTION SYSTEM. On account of any **Claim** based upon or arising out of the NAR Dispute Resolution System or the Counselors of Real Estate Dispute Resolution System in the event an **Insured** Board functions as a mediation/arbitration service provider rather than referring cases to third party mediation/arbitration providers.
6. BREACH OF CONTRACT. On account of any **Claim** based upon or arising out of wrongful acts resulting in a breach of contract.
7. **ASSOCIATION** ENDORSEMENT OF PRODUCTS OR AFFINITY PROGRAMS. On account of any **Claim** arising from the **Association's** endorsement of a product or affinity program (except any insurance program referenced in exclusion K as being specifically exempt from such exclusion) that is made available to its members through an exclusive arrangement between the **Association** and a third party provider of such products or affinity programs.
8. OPERATION OF A LEGAL HOTLINE: On account of any **Claim** arising out of a Legal Hotline established solely for the benefit of the **Association's** membership and operated solely by an **Insured** and the **Insured's** in-house counsel that provides legal consulting services to **Association** members. Coverage under this section does not apply to any services rendered pursuant to an attorney-client relationship.

C. ASSOCIATION INFORMATION ASSET COVERAGE (OCCURRENCE & REPORTED)

The **Company** shall pay on behalf of the **Association** the actual **Information Asset Loss** that the **Association** sustains, in excess of the applicable Deductible, resulting directly from **Injury to Information Assets** first occurring during the **Policy Period**. Such **Association Information Asset Loss** must first occur during the **Policy Period** and result from a **Failure of Security** of an **Association's Computer System** that also first occurs during the **Policy Period**.

D. CRIME COVERAGE (LOSS SUSTAINED) – as set forth in separate Crime Coverage Part, where applicable.

PROVIDED ALWAYS THAT THE COVERAGE PROVIDED BY THIS POLICY SHALL ONLY APPLY TO THOSE **INSUREDS** WHICH:

- A. Maintain their **Governing Documents** in full compliance with the:
 1. Constitution and Bylaws of the **Named Insured**;
 2. Policies adopted by the Board of Directors of the **Named Insured**; and
- B. Adhere to and follow in their day-to-day activities the:
 1. Constitution and Bylaws of the **Named Insured**;
 2. Policies adopted by the Board of Directors of the **Named Insured**;
 3. Procedures and requirements of their **Governing Documents**; and

4. Policies of the **Named Insured** enumerated from time to time, including but not limited to:
 - a. The MLS Antitrust Compliance Policy;
 - b. The lock box security requirements; and
 - c. Employer-Employee Guidelines.

II. DEFINITIONS

- A. **Act of Cyber-Terrorism** means any act, including force or violence, or the threat thereof expressly directed against the **Insured's Computer System** by an individual or group(s) of individuals, whether acting alone, on behalf of or in connection with any organization(s) or government(s), to cause unauthorized access to, unauthorized use of, or a targeted denial of service attack or transmission of unauthorized, corrupting or harmful software code to the **Insured's Computer System** for the purpose of furthering social, ideological, religious, economic or political objectives, intimidating or coercing a government or the civilian population thereof, or disrupting any segment of the economy.
- B. **Alliance** means an organization, cooperative, committee, or entity that is controlled by, and organized, established, or formed by, two or more of the following: State Associations, Local Boards, Local Associations, or local chapters of Affiliates of the **Named Insured**, for the purpose of education, political advocacy (including political, legislative, or regulatory action), or for the creation of a **Foundation**.
- C. **Asbestos** shall mean, including but not limited to, asbestos or other mineral wools; asbestos or other mineral wool products, fibers or dust; asbestos or other wools contained in products or materials.
- D. **Association** shall mean:
 1. The **Named Insured**, its Political Action Committee, together with its unincorporated Institutes, Societies and Councils and their respective chapters;
 2. Each separately incorporated Institute, Society or Council of the **Named Insured** (i.e., the Institute of Real Estate Management (IREM), the Council of Residential Specialists (CRS), the Council of Real Estate Brokerage Managers (CRB), the CCIM Institute (CCIM) and its wholly owned subsidiary THE SITE TO DO BUSINESS, the Counselors of Real Estate (CRE), the Society of Industrial and Office REALTORS[®] (SIOR), REALTORS[®] Land Institute (RLI), Women's Council of REALTORS[®] (WCR)), so long as it shall remain affiliated with the **Named Insured** as provided in Article XIII of the **Named Insured's** Constitution; and subsidiaries of the **Named Insured** (i.e., the REALTORS[®] Information Network, Sentrilock Finance Corporation, Center for Specialized Real Estate Education (CSRE), Second Century Ventures, and REALTOR[®] University); however, notwithstanding the foregoing, **Association** shall not include Sentrilock, LLC or Realtors[®] PropertyResource[™].
 3. Each State Association of the **Named Insured**, as defined in Article III, Section 1(B)(2) of the **Named Insured's** Constitution, in combination with its Political Action Committee, its Management Association, its wholly owned subsidiaries, its Multiple Listing Service (whether or not separately incorporated and whether or not owned and operated separately or jointly with one or more other entity included herein), its Real Estate School (whether or not separately incorporated), its Association Store and state chapters of Affiliates;
 4. Each Commercial Overlay Board of the **Named Insured**, in combination with its Political Action Committee and its Multiple Listing Service (whether or not separately incorporated and whether or not owned and operated separately or jointly with one or more other entity included herein);
 5. Each Local Board or Local Association or local chapters/networks of Affiliates of the **Named Insured** as defined in Article III, Section 1(B)(1) of the **Named Insured's** Constitution, in combination with its Political Action Committee, its Management Association, its wholly owned subsidiaries, its Multiple Listing Service (whether or not separately incorporated and whether or not owned and operated separately or jointly with one or more other entity included herein), its Real Estate School (whether or not separately incorporated), and its Association Store;

6. NAR State or Regional entities (which includes NAR and existing State Associations) and Insured **Persons** that provide management and member services directly or in a consulting capacity to Local Boards/ Associations;
7. Each separate multiple listing service wholly owned and operated by two or more entities; provided that each entity is an **Insured** hereunder;
8. Each separate MLS data warehouse aggregator which is wholly owned and operated by two or more entities, provided that such entities otherwise qualify as **Insureds** hereunder.
9. Any entity which formerly qualified in II A. 1 - 8 above, but solely for **Wrongful Acts** (including **Computer Attack, Privacy Peril, Employment Practices Liability, Sexual Harassment Liability, Discrimination Liability**), **Personal Injury** or **Publisher's Liability** which occurred while such entity was affiliated with the **Named Insured** and otherwise covered under this Policy;
10. Any **Foundation** of the entities listed in 1, 2, 3, 5 & 6 above; and
11. Any **Alliance** of the entities listed in paragraphs 3 and 5 above.

Association shall not include any entity owned or controlled by an **Insured** that offers a class of membership to licensed real estate professionals that does not include membership in the **Named Insured** and a state association.

E. **Claim** means:

1. a written demand against any **Insured** for monetary damages or non-monetary or injunctive relief;
2. a written demand served upon the board of directors or the management board of the **Association** to bring a civil proceeding against any of the directors and officers on behalf of the **Association**;
3. 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;
4. a criminal proceeding against any **Insured**, commenced by a return of an indictment or similar document, or receipt or filing of a notice of charges;
5. an arbitration proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief;
6. a civil, administrative or regulatory proceeding against any **Insured** commenced by the filing of a notice of charges or similar document;
7. a civil, criminal, administrative, regulatory investigation, or other proceeding requiring a response from an **Insured** (except any of the foregoing initiated by a taxing authority regarding actual or alleged unpaid taxes) commenced by:
 - (i) the service upon or other receipt by any natural person **Insured** of a written notice, investigative order, or subpoena; or
 - (ii) the service upon or other receipt by any **Association** of a written notice or investigative order;
 from the investigating authority identifying such natural person **Insured** as an individual, or such **Association** as an entity, respectively, against whom a proceeding described in paragraphs 3, 4 or 6 immediately above may be commenced; or
8. a written request of the **Insured** to toll or waive a statute of limitations relating to a **Claim** described in paragraphs 1 through 7 immediately above.

F. **Claims Expense** shall mean the expense of investigation and legal defense of a covered **Claim**, including but not limited to **Claims** for injunctive or declaratory relief, federal or state civil investigative demands, agency investigations from local Fair Housing organizations, Attorney General inquiries, State and local Human Rights commissions and the EEOC; **Claims** expense shall include court costs, appeals, and the cost of any necessary appeal bond, attachment bond, or other similar bond, but exclude any salaries or wages of **Insured Persons**.

G. **Company** shall mean the insurance company providing this insurance.

H. **Computer Attack** shall mean **Unauthorized Access, Unauthorized Use**, transmission of a **Malicious**

Code or Denial of Service Attack which:

1. alters, copies, misappropriates, corrupts, destroys, disrupts, deletes, damages or prevents, restricts or hinders access to, a **Computer System**;
2. results in the disclosure of confidential information stored on an **Insured's Computer System**; or
3. results in **Identity Theft** whether any of the foregoing is intentional or unintentional, malicious or accidental, fraudulent or innocent, specifically targeted at an **Insured** or generally distributed, and regardless of whether the perpetrator is motivated for profit

Computer Attack shall also mean an **Act of Cyber-Terrorism**.

- I. **Computer System** shall mean computer hardware, software, firmware, and components thereof, including electronic data stored thereon, which are linked together through a network of two or more computers, including such networks accessible through the **Internet**, intranets, extranets or virtual private networks.
- J. **Confidential Corporate Information** shall mean:
 1. any trade secret, data, design, interpretation, forecast, formula, method, practice, process, record, report or other item of information of a non-insured third party, and which is (i) in an **Insured's** care, custody or control; (ii) not available to the general public, and is: (iii) provided to the **Insured** under a mutually agreed to written confidentiality/non-disclosure agreement; or (iv) marked "confidential" or otherwise specifically designated in writing as "confidential" by such third party; and
 2. any trade secret, data, design, interpretation, forecast, formula, method, practice, process, record, report or other item of information of an **Association**, which is (i) in the **Named Insured's** care, custody or control; (iii) not available to the general public; and is (iii) provided to the **Named Insured** under a mutually agreed to written confidentiality/non-disclosure agreement; or (iv) marked "confidential" or otherwise specifically designated in writing as "confidential" by such **Association**.
- K. **Denial of Service Attack** shall mean an attack launched by a person(s) that sends an excessive volume of electronic data to a **Computer System** in order to deplete such **Computer System's** capacity, and prevents those who are authorized to do so from gaining access to such **Computer System** in a manner in which they are legally entitled.
- L. **Discrimination Liability** means liability of the **Association** or of **Insured Persons**, other than **Employment Practices Liability**, on account of discrimination on the basis of age, sex, race, religion, color, marital status, national origin, sexual preference, handicap or familial status, or any violation of any municipal, State or Federal fair housing or civil rights law, regulation or ordinance (including Title III of the Americans with Disabilities Act) relating thereto by any **Insured**, including **Personal Injury** resulting therefrom.
- M. **Employee** means, solely with respect to Insuring Agreements IA, IB, and IC, any person who was, now is or shall become:
 1. a full-time or part-time employee of the **Association** , including voluntary, seasonal, and temporary employees (whether salaried or not);
 2. any individual who applies for employment with the **Association**, but only as respects Employment Practices Liability Coverage afforded under Insuring Clause I.A. (**Employment Practices Liability**);
 3. any natural person who is a leased employee or is contracted to perform work for the Association, or is an independent contractor for the **Association**, but only to the extent such individual performs work or services for or on behalf of the **Association**.

- N. **Employee Benefit Plan** means any welfare or pension benefit plan which is subject to the Employee Retirement Income Security Act of 1974 (ERISA) and any amendments thereto, or any similar employee benefit law.
- O. **Employment Practices Liability** means any actual or alleged:
1. violation of any common or statutory federal, state, or local law prohibiting any kind of employment related discrimination;
 2. employment-related harassment, including any type of sexual or gender harassment as well as racial, religious, sexual orientation, pregnancy, disability, age, or national origin-based harassment, or unlawful workplace harassment, including workplace harassment by any non-employee;
 3. abusive or hostile work environment;
 4. wrongful discharge or termination of employment, whether actual or constructive;
 5. breach of an actual or implied employment contract;
 6. wrongful deprivation of a career opportunity, wrongful failure or refusal to employ, promote, or grant tenure, or wrongful demotion;
 7. employment-related defamation, libel, slander, disparagement, false imprisonment, misrepresentation, malicious prosecution, or invasion of privacy, or the giving of negative or defamatory statements in connection with an **Employee** reference;
 8. wrongful failure or refusal to adopt or enforce workplace or employment practices, policies or procedures;
 9. wrongful discipline;
 10. employment-related wrongful infliction of emotional distress, mental anguish, or humiliation;
 11. **Retaliation**;
 12. negligent evaluation; or
 13. negligent hiring, supervision, retention or training of others, but only if employment-related and Claimed by or on behalf of any **Employee** and only if committed or allegedly committed by any of the **Insureds** in their capacity as such.
- P. **Failure Of Security** means the actual failure and inability of the security of an **Association's Computer System** to mitigate loss from or prevent a **Computer Attack**, including such failure resulting from the theft of a password or access code by non-electronic means in direct violation of the **Association's** specific written security policies or procedures.
- Q. **Foundation** means a charitable trust or corporation which is a foundation established for charitable, educational, or research purposes that qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code.
- R. **Governing Documents** shall mean the **Insured's** Articles of Incorporation, Bylaws, written Ethics and Arbitration Procedures and related standard forms, MLS Bylaws, Rules and Regulations and all operational policies, practices or procedures adopted by and adhered to by the **Insured**.
- S. **Identity Theft** shall mean the misappropriation of **Private Information** that has resulted in, or could reasonably result in the wrongful or fraudulent use of such information, including without limitation, fraudulently emulating the identity of an individual or corporation.

T. **Information Holder** shall mean a third party that an **Insured** has provided **Personally Identifiable Information** to and with whom the **Insured** has entered into a contract that requires such party to protect such **Personally Identifiable Information**.

U. **Information Asset** means:

1. the software or electronic data, including without limitation, customer lists and information, financial, credit card or competitive information, and confidential or private information, stored electronically on an **Association's Computer System**, which is subject to regular back-up procedures; or
2. the capacity of an **Association's Computer System**, including without limitation, memory, bandwidth, or processor time, use of communication facilities and any other computer-connected equipment.

V. **Information Asset Loss** means:

1. with respect to **Information Assets** as defined in TU of the definition of **Information Asset** that are altered, corrupted, destroyed, disrupted, deleted or damaged, the actual and necessary costs an **Association** incurs to Restore its **Information Assets**; provided, however:
 - a. if an **Insured** cannot **Restore** such **Information Assets**, but can **Recollect** such **Information Assets**, then **Information Asset Loss** shall mean only the actual cost an **Association** incurs to **Recollect** such **Information Assets**; and
 - b. if an **Association** cannot **Restore** or **Recollect** such **Information Assets**, then **Information Asset Loss** shall mean only the actual cost an organization incurs to reach this determination;
2. with respect to **Information Assets** as defined in TU of the definition of **Information Asset** that are copied, misappropriated, or stolen, including without limitation any **Information Assets** that are trade secrets, **Information Asset Loss** means the stated value set forth for each scheduled **Information Asset** as endorsed to this policy (if applicable); or
3. with respect to **Information Assets** as defined in TU of the definition of **Information Asset** that are misappropriated or stolen, the actual cash value an **Association** paid for such lost capacity of an **Association's Computer System** which would not have been paid for by an **Association**, but for such misappropriation or theft.

However, **Information Asset Loss** shall not mean, and there shall be no coverage under this Policy for: (1) loss arising out of any liability to third parties for whatever reason; (2) legal costs or legal expenses of any type; (3) costs or expenses an **Insured** incurs to update, upgrade, enhance or replace an **Association's Information Assets** to a level beyond that which existed prior to sustaining **Information Asset Loss**; (4) loss arising out of any physical damage to or destruction of the computer hardware, firmware or any other property except **Information Assets**; (5) that part of any **Information Asset Loss**, for which the proof as to its existence or amount is solely dependent on: (i) an inventory computation or comparison; or (ii) a profit and loss computation or comparison; provided, however, where the **Insured** establishes wholly apart from such comparison that it has sustained an **Information Asset Loss**, then it may offer its inventory records and actual physical count of inventory in support of the amount of such **Information Asset Loss** Claimed; (6) the cost or expenses an **Association** incurs for researching or developing **Information Assets**, including without limitation trade secrets; provided, however that this subparagraph shall not apply to the stated value of **Information Assets** scheduled by endorsement (if applicable); (7) the economic or market value of, or the monetary value of lost market share, profits, or royalties related to, any **Information Assets**, including without limitation trade secrets; provided, however that this subparagraph shall not apply to the stated value of **Information Assets** scheduled by endorsement (if applicable); (8) costs or expenses an **Association** incurs to identify and remove software program errors or vulnerabilities; (9) the monetary value of any electronic fund transfers or transactions by an **Insured** or on an **Association's** behalf, which is lost, diminished or damaged

during transfer from, into or between an **Association's** accounts; (10) compensation, benefits, overhead, charges or expenses of any **Association** or such **Association's** employees; (11) production costs or the cost of recall, reproduction, reprinting or correction of material by any person or entity; (12) civil or criminal fines or penalties, taxes or any amounts for which an **Association** is not financially liable or which are without legal recourse to an **Association**; (13) the costs and expenses of complying with any injunctive or other form of equitable relief; (14) the monetary value of any electronic fund transfer or transaction by an **Association** or on an **Association's** behalf, which is lost or diminished during transfer into, out of or between an **Association's** accounts; (15) liquidated damages; and (16) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

- W. **Injury** means (1) alteration, corruption, destruction, disruption, deletion or damage; or (2) copying, misappropriation, or theft.
- X. **Insured** means, solely with respect to Insuring Agreements IA, IB, and IC, the **Named Insured**, the **Association**, and **Insured Persons**. **Insured** means, solely with respect to the Crime Coverage Part (if elected), any **Association**.
- Y. **Insured Person** shall mean:
1. Any persons who were, now are, or shall be Directors or Officers of the **Association**, including Executives, Board Members, Committee Members, (whether salaried or not), and trustees, if the **Association** is governed by a Board of Trustees in lieu of a Board of Directors;
 2. The estates, heirs, legal representatives, or assigns of deceased persons who were **Insured Persons** of the **Association**;
 3. The legal representatives or assigns of **Insured Persons** of the **Association** in the event of their incompetency, insolvency, or bankruptcy;
 4. Any other persons acting on behalf of the **Association** at the direction of an Officer or Board of Directors of the **Association** provided such person is not rendering services on a fee basis; and
 5. Any **Employee**;
 6. Mediators, arbitrators, or **Ombudspersons**, including in-house counsel or **Association** members holding a law license (not practicing law), in their capacity solely as a mediator, arbitrator or **Ombudsperson** and acting on behalf of and at the direction of the **Association**.
- Z. **Internet** shall mean the worldwide public network of computers commonly known as the internet, as it currently exists or may be manifested in the future.
- AA. **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.
- BB. **Loss** shall mean any amount which the **Association** or **Insured Persons** are legally obligated by judgment or settlement to pay for **Wrongful Acts**, **Personal Injury** or **Publisher's Liability**, provided always that **Loss** as herein defined shall not include punitive or exemplary damages, two-thirds of any treble damages award, judgment, or settlement or any other non-compensatory portion of any damages award, judgment, or settlement; taxes, fines or penalties; or any amount which may be deemed uninsurable under the law pursuant to which this Policy shall be construed.
- CC. **Malicious Code** shall mean an unauthorized corrupting or harmful piece of code. **Malicious Code** includes, but is not limited to, computer viruses, "Trojan horses," "worms," and "time or logic bombs."
- DD. **Named Insured** shall mean the entity listed in Item 1 of the Declarations Page.

- EE. **Ombudsperson** means an individual designated by an **Insured** to which members of that **Insured's** association may consult, solely (with respect to insurance coverage afforded hereunder) about the **Insured's** ethics hearing, arbitration, and the NAR Dispute Resolution System processes.
- FF. **Personal Injury** shall mean injury sustained by any person or organization arising out of one or more of the following offenses committed by the **Association** or by **Insured Persons** in the discharge of their duties:
1. Slander, excepting utterances in the course of, or related to, advertising, broadcasting, or telecasting activities conducted by or on behalf of the **Association**;
 2. False arrest, wrongful detention or imprisonment, or malicious prosecution;
 3. Wrongful entry or eviction, or other invasion of the right of private occupancy.
- GG. **Personally Identifiable Information** shall mean any of the following in the care, custody or control of an **Insured**:
1. Information from which an individual may be uniquely and reliably identified or contacted, including without limitation, an individual's name, address, telephone number, facsimile numbers, email address, social security number, account relationships, account numbers, account balances, account histories and passwords;
 2. Information concerning an individual that would be considered "nonpublic personal information" within the meaning of Title V of the Gramm-Leach Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338) (as amended) and its implementing regulations; and
 3. information concerning an individual that would be considered "protected health information" within Health Insurance Portability and Accountability Act of 1996 (as amended) and its implementing regulations.
- HH. **Policy Period** shall mean that period from the effective date of this Policy to the expiration date as set forth in Item 2 of the Declarations, or its earlier termination, if any.
- II. **Premises** means the interior of that portion of any building the Insured occupies in conducting the **Insured's** business.
- JJ. **Privacy Peril** shall mean any actual or alleged:
1. unauthorized disclosure by an Insured of **Private Information** or failure by an **Insured** to protect **Private Information** from misappropriation, including, without limitation, any unintentional violation of an **Insured's Privacy Policy** or misappropriation that results in **Identity Theft**;
 2. failure by an **Information Holder** to protect **Personally Identifiable Information** from misappropriation, provided that any failure to protect such information shall not include any intentional, dishonest, fraudulent, criminal or malicious act, error or omission if committed by:
 - (i) the **Information Holder**;
 - (ii) any elected or appointed officer, or director of the **Information Holder**; or,
 - (iii) any employee or independent contractors employed by an **Information Holder** if any elected or appointed officer of an **Information Holder** possessed, at any time, knowledge of the intentional, dishonest, fraudulent, criminal or malicious act committed by such employee or independent contractor that caused a direct loss to an **Insured** or any other person.
 3. failure by an **Insured** to disclose or warn of an actual or potential **Identity Theft**, but only if such **Identity Theft** resulted directly from JJ.1 or JJ.2 above;

4. violation of any federal, state, foreign or local privacy statute alleged in connection with a covered **Claim** for loss from JJ.1, JJ.2, or JJ.3. above.
- KK. **Privacy Policy** shall mean the **Association's** policies and practices intended to protect the confidentiality of **Private Information**, including without limitation, statements in written or electronic form regarding the collection, dissemination or treatment of **Personally Identifiable Information**.
- LL. **Private Information** shall mean **Personally Identifiable Information** or **Confidential Corporate Information**.
- MM. **Property Damage** means: (1) physical injury to or loss or destruction of tangible property including the resulting loss of use thereof, and/or (2) loss of use of tangible property which has not been physically injured or destroyed provided, however, for the purpose of this definition, "tangible property" shall not include electronic data.
- NN. **Publisher's Liability** shall mean liability of the **Association** or of **Insured Persons** on account of any publication, dissemination, or utterance constituting the offenses of libel, defamation, disparagement, invasion of privacy, plagiarism, piracy, trademark infringement or copyright infringement, including but not limited to publications, disseminations or utterances in the course of, or related to, advertising, broadcasting, web log, social networking or telecasting activities conducted by or on behalf of the **Association**.
- OO. **Recollect** means costs or expenses to: (1) recollect the information making up the **Information Asset**, including without limitation, information from non-electronic sources; and (2) organize and transcribe such information into the same or substantially similar form as the original **Information Asset**.
- PP. **Restore** means costs or expenses to restore **Information Assets** from any collection of partially or fully matching electronic data or software, or through electronic data or disaster recovery methods.
- QQ. **Retaliation** means retaliatory treatment on account of:
1. the actual or attempted exercise by an **Employee** of any rights of such an **Employee** under law, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
 2. the filing of any **Claim** under any statute, rule or regulation to protect an employee from discrimination by his or her employer if such employee discloses or threatens to disclose to a superior or a governmental agency, or if such employee gives testimony relating to, any activity within such employer's operations which may be in violation of a statute, rule or regulation or any professional codes of ethics, including the Federal False **Claims Act**;
 3. the disclosure or threat of disclosure by an **Employee** of the **Association** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder;
 4. an **Employee** assisting, cooperating or testifying in any proceeding or investigation into whether an **Insured** violated any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder; or
 5. any strike of any **Employee** of the **Association**.
- RR. **Sexual Harassment Liability** shall mean liability of the **Association** or of **Insured Persons**, other than **Employment Practices Liability**, on account of:
1. Sexual harassment by an **Insured** or any employee of the **Insured**, or any volunteer or other person performing services for any **Insured**, whether such sexual harassment is committed intentionally, negligently, inadvertently, or with the belief by such **Insured**, employee, volunteer or other person, erroneous or otherwise, that the victim is consenting to sexual activity and has the legal and mental capacity to consent thereto;

2. The employment or supervision of any person who engages in such sexual harassment; or
3. The failure to protect any person from such sexual harassment.

- SS. **Unauthorized Access** shall mean the gaining of access to a **Computer System** by an unauthorized person or persons.
- TT. **Unauthorized Use** shall mean the use of a **Computer System** by an unauthorized person or persons or an authorized person or persons in an unauthorized manner.
- UU. **Web Log** shall mean any diary, commentary or observation published on an **Internet** site.
- WV. **Wrongful Act** shall mean any negligent act, error, omission, misstatement, misleading statement or breach of fiduciary duty by the **Association** or **Insured Persons** in the discharge of their duties, including, but not limited to, the services by an **Insured** on or in connection with any Professional Standards Committee, Arbitration Panel or Grievance Committee or other committee or activity of the **Insured**, including without limitation: (1) the providing of multiple listing services, information dissemination services and political and/or legislative action services; and (2) actions by an **Insured** on behalf of the **Association** for or in connection with the providing of membership services or for or in connection with the screening of new members or the maintenance or discipline of existing membership and / or termination of membership. **Wrongful Act** shall also include any negligent act, error, omission, misstatements, misleading statement or breach of fiduciary duty as described above, which results in a **Computer Attack**, a **Privacy Peril**, **Employment Practices Liability**, **Sexual Harassment Liability**, or **Discrimination Liability**.

III. DEDUCTIBLE AND LIMITS OF LIABILITY

Solely with respect to Insuring Agreements IA, IB, and IC:

- A. The **Company** shall pay one hundred percent (100%) of any **Loss**, **Claims Expense**, or **Information Asset Loss** in excess of the deductible stated in Item III.D., below, up to the applicable Limit of Liability stated in Item 3 of the Declarations. Both **Loss**, **Claims Expense**, and **Information Asset Loss** are to be used to satisfy the deductible. A separate deductible must be satisfied for each **Claim**.
- B. The **Company's** maximum aggregate liability for the **Policy Period** shall be the Limit of Liability stated in Item 3.2 of the Declarations. **Loss** and **Claims Expense** and **Information Asset Loss**, including such loss and expense arising from **Interrelated Wrongful Acts**, shall apply against such Limit of Liability. Such maximum or aggregate liability shall be with respect to all **Claims** made or **Failures of Security** in: (1) the **Policy Period**; and (2) the Discovery Period of Section VII.I., if applicable. Such extension of insurance by a Discovery Period shall be included within and subject to the Limit of Liability provided by the **Policy Period**; it shall not increase the available Limit of Liability, if any. In no event shall the **Company** be obligated to pay the sum of **Loss**, **Claim Expense**, **Information Asset Loss** (in any combination thereof) exceeding the Maximum Policy Aggregate Limit of Liability stated in Item 3.2 of the Declarations, irrespective of the number of **Claims**, claimants, suits, **Insureds**, or allegations of **Wrongful Acts**, **Personal Injury**, **Publisher's Liability**, **Failures of Security**, errors, omissions, or losses. For purposes of this Section III.B., a **Claim** shall be deemed made at the date that notice is given to the **Company**. Further, all **Claims** arising out of the same **Wrongful Act** (including **Computer Attack**, **Privacy Peril**, **Employment Practices Liability**, **Sexual Harassment Liability**, and **Discrimination Liability**), **Personal Injury**, or **Publisher's Liability** and all **Interrelated Wrongful Acts**, or similar, interrelated or a series of similar or related **Personal Injury** or **Publisher's Liability** 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.
- C. Subject to Section III.B. above, the **Company's** maximum liability for each **Claim** under Insuring Clause IA shall be the "Each **Claim**" Limit of Liability stated in item 3.1,IA. of the Declarations. Both **Loss** and **Claims Expense**, including **Loss** and **Claims Expense** arising from **Interrelated Wrongful Acts**, shall apply against such Limit of Liability. Further, coverage for **Employment Practices Liability** is

subject to the sublimit of liability stated in item 3.1,IA of the Declarations, which is part of, and not in addition to, the otherwise applicable Each **Claim** and Aggregate Limits of Liability.

Subject to Section III.B. above, the **Company's** maximum liability for each **Claim** under Insuring Clause IB. shall be the "Each **Claim**" Limit of Liability stated in Item 3.1,IB. of the Declarations. **Claims Expense** shall apply against such Limit of Liability. If more than one coverage is applicable in a single **Claim**, only one Limit of Liability will apply. If more than one **Insured** is named as a defendant in a single **Claim**, only one Limit of Liability will apply.

Subject to Section III.B. above, the **Company's** maximum liability for each **Claim** under Insuring Clause IC. shall be the "Each **Failure of Security**" Limit of Liability stated in Item 3.1,IC. of the Declarations. All **Information Asset Loss** shall apply against such Limit of Liability. If more than one coverage is applicable in a single **Claim**, only one Limit of Liability will apply.

All **Claims** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts of the Insureds** shall be deemed one **Claim** which is deemed 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**.

D. Deductible Provision: For **Claims** covered under the Insuring Clauses A, B and C:

<u>Type of Association</u> (including any Foundation thereof)	<u>Deductible per Claim per Association</u> (also applicable to any Foundation thereof)
1. The Named Insured and its unincorporated Institutes, Societies and Councils, including any entity defined under Clause II. Definitions, C.1 and C.8.:	\$20,000
2. Separately incorporated Institutes, Societies and Councils of the Named Insured as defined under Clause II. Definitions, C.2 and C.8:	\$20,000
3. ASSOCIATIONS, and multiple listing services with total membership/subscribers over 10,000 members:	\$8,000
4. ASSOCIATIONS, and multiple listing services with total membership/subscribers from 3001 to 10,000 members:	\$5,000
5. ASSOCIATIONS as defined in numbered paragraph 6 above of the definition of the term ASSOCIATION	\$3,000
6. Alliance as defined in Clause II. Definitions, D.11	See Note Below
7. All other ASSOCIATIONS and multiple listing services:	\$3,000

Note: In no event shall the combined Aggregate Deductible applicable for any one **Claim** exceed \$100,000. Deductibles for Associations are calculated by the membership count in NRDS as of March 31st of the prior year. The multiple listing service deductible will be calculated by the number of participants and subscribers for the applicable **Policy Period** provided by the multiple listing service to the **Named Insured**. The Deductible for an **Alliance** shall be \$8,000 or \$5,000 or \$3,000 and will be calculated from the deductible schedule above based on the membership size of the largest Association in the **Alliance**.

	<u>Each Loss</u>
Crime Coverage Deductible	\$ 3,000

IV. EXCLUSIONS

Solely with respect to Insuring Agreements IA, IB, and IC, this Policy does not apply to:

- A. **Claims** arising from any **Wrongful Act, Personal Injury** and/or **Publisher's Liability** by **Insured Persons** while acting in any capacity outside the scope of their duties on behalf of the **Association**;
- B. Any criminal proceeding; however, the **Association** and **Insured Persons** shall be reimbursed for all **Claims Expense** if they are subsequently found not guilty;
- C. Any **Claim** of fraud or dishonesty by the **Association** or by **Insured Persons**; however, notwithstanding the foregoing exclusion, the **Insured** shall be protected under the terms of this Policy as to any **Claim** upon which suit may be brought against him, for any such alleged behavior by an **Insured** unless a judgment or final adjudication adverse to the Insured shall establish that such behavior occurred as an element of the cause of action so adjudicated. The **Company** shall not be required to appeal a judgment or final adjudication adverse to the **Insured**;
- D. Any **Claim**:
 - 1. with respect solely to Insuring Clauses A and B, for bodily injury, sickness, disease, death, or for the loss of society, consortium, or services of any person resulting therefrom, or any **Claim** for damage to, destruction of, or loss of use of tangible property; except with respect to that portion of any **Claim** alleging emotional distress to the extent covered as **Employment Practices Liability, Sexual Harassment Liability, and Discrimination Liability**, or as part of a covered defamation **Claim** under **Personal Injury** and **Publisher's Liability**; and
 - 2. with respect solely to Insuring Clause C, alleging, arising out of or resulting, directly or indirectly, from any **Property Damage**;
- E. Any **Claim** based on any Worker's Compensation Law, Unemployment Compensation Law, Employers Liability Law, Disability Benefits Law, or any similar Federal, State, or Local law; except as provided under the coverage for **Employment Practices Liability, Sexual Harassment Liability, and Discrimination Liability**;
- F. Any **Claim** alleging that **Insured Persons** gained personal profit or advantage to which they were not legally entitled; however, notwithstanding the foregoing exclusion, the **Insured** shall be protected under the terms of this Policy as to any **Claim** upon which suit may be brought against him, for any such alleged behavior by an **Insured** unless a judgment or final adjudication adverse to the **Insured** shall establish that such behavior occurred as an element of the cause of action so adjudicated. The **Company** shall not be required to appeal a judgment or final adjudication adverse to the **Insured**;
- G. Any **Claim** based upon or attributable to the administration of, participation in, contributions to, or payments from any pension or benefits plan or trust fund, including but not limited to any **Claim** based upon the Employee Retirement Income Security Act of 1974, Public Law 93-406, commonly referred to as Pension Reform Act of 1974, and amendments thereto, or similar provisions of any Federal, State, or Local statutory law or common law;
- H. **Claims** for wages, salaries, commissions, fees, bonuses, promotions, profit sharing, pensions or other employee benefits earned in the normal course of employment;
- I. **Claims** when:
 - 1. On or prior to the effective date of coverage, one or more **Insured Persons**, with authority to act on behalf of the **Association** in the particular subject area, had knowledge of the **Wrongful Act** and its consequences, the **Personal Injury**, or the injury relating to **Publisher's Liability** or had reason to believe that a **Claim** may be made; or
 - 2. Any part of either the **Wrongful Act** or the offense giving rise to **Personal Injury** or **Publisher's Liability** occurred prior to the effective date of coverage and there is other insurance available to the **Association** or to **Insured Persons**;

- J. **Claims** for Breach of Contract, oral or written, expressed or implied, except that **Claims Expense** shall be covered hereunder; however, this exclusion does not apply to **Claims Expense** incurred by the **Insured** as a result of and to the limits specified in Section I.B.6; provided further, however, that solely with respect to **Wrongful Acts** resulting in a **Privacy Peril**, this exclusion shall not apply to any liability or obligation under a confidentiality or non-disclosure agreement;
- K. Any **Claim** based on or attributable to any failure or omission on the part of the **Association** or any **Insured Persons** to effect and maintain insurance or a bond on their behalf or on the behalf of any other person or entity, or to the endorsement, sponsorship, approval or ratification of any program of professional liability, medical, life or any other insurance by the **Insured**;

However, this exclusion shall not apply to the endorsement, sponsorship, approval or ratification of any program of professional liability, medical, life or any other insurance by the **Named Insured** or by any other **Insured**:

1. if such endorsement, sponsorship, approval or ratification is made pursuant to guidelines established by the **Named Insured**, the National Association's Home Seller/Home Buyer Dispute Resolution System or the Counselors of Real Estate Dispute Resolution System, or
 2. the following criteria with respect to such program have been met:
 - a. The sponsored program is fully insured, and not self-funded, in whole or in part, by the endorsing Board or **Association**.
 - b. The insurer of such program: (a) is rated "A" or better by A.M. Best Company; and (b) provides the endorsing Board or **Association** with a written indemnification agreement, agreeing to indemnify and hold the sponsoring Board or **Association** harmless from and against any and all loss, cost or expense, including but not limited to liability and reasonable attorney fees incurred as a result of **Claims** based upon or resulting from Board or **Association** endorsements of such sponsored program. If the plan is organized as a managed care organization, it must carry a positive evaluation from Dun & Bradstreet.
 - c. The members who participate in the sponsored program: (a) do so voluntarily; and (b) are advised that the Board or **Association** has no control over coverage or premium.
 - d. The terms and conditions of the Board or **Association** endorsements are set forth in a written agreement to which such insurer is bound as a party, and which has a term of five (5) years or less, and a ninety (90) day or less cancellation provision.
- L. Any **Claim** based upon or arising from restraint of trade, price-fixing, or violation of any anti-trust law, however, this exclusion does not apply to **Claims Expense** incurred by the **Insured** as a result of and to the limits specified in Section I.B.2.;
- M. Any **Claim** arising out of discrimination on the basis of age, sex, race, color, religion, marital status, national origin, sexual preference, handicap or familial status, or any violation of any municipal, State or Federal fair housing or civil rights law, regulation or ordinance, relating thereto, by any **Insured**, including **Personal Injury** resulting therefrom, however, this exclusion does not apply to **Employment Practices Liability**, **Sexual Harassment Liability**, and **Discrimination Liability**;
- N. **Claims** based on or arising out of:
1. Sexual activity, molestation, assault, harassment, or abuse by an Insured or any employee of any Insured, or any volunteer or other person performing services for any Insured, whether such sexual activity, molestation, assault, harassment or abuse is committed intentionally, negligently, inadvertently, or with the belief by such Insured, employee, volunteer or other person, erroneous or otherwise, that the victim is consenting to sexual activity and has the legal and mental capacity to consent thereto; or

2. The employment or supervision of any person who engages in such sexual activity, molestation, assault, harassment or abuse; or
3. The failure to protect any person from such sexual activity, molestation, assault, harassment or abuse.

However, the foregoing exclusions (N 1-3) do not apply to **Sexual Harassment Liability**;

- O. Any **Claim** based upon or arising from Trademark or Copyright Infringement of a Multiple Listing Service (MLS) System or the REALTOR® trademarks, however, this exclusion does not apply to **Claims Expenses** incurred by the trademarks, however, this exclusion does not apply to **Claims Expenses** incurred by the Insured as a result of and to the limits specified in Section IB. 3 and IB. 4.
- P. **Claims** arising out of providing legal advice, counsel or legal opinions; provided, however, that this exclusion shall not apply to **Claims** arising out of: 1) the provision of legal consulting services as provided under Insuring Clause I.B.8, or 2) an **Insured's** in-house counsel providing legal advice to the **Insured** by whom she is employed;
- Q. Any **Claim** arising out of the pollution, seepage, contamination, environmental impairment, discharge, dispersal, disposal, threat of release, release, or escape of noise, smoke, vapors, radiation, soot, fumes, radon gas, acids, alkalis, toxic chemicals, toxic matter, waste materials, other irritant, oil or other petroleum substance or derivative (including any oil refuse or oil mixed with waste), contaminants, pollutants, hazardous wastes, or hazardous substances directly or indirectly into or upon the land, the environment, the atmosphere or any water course or body of water or underground water or water table supplies;
- R. Any **Claim** based upon, arising out of, in consequence of, or in any way involving:
 1. Any prior and/or pending litigation as of the inception of this insurance, or the effective date of the earliest Policy issued by the **Company** of which this Policy is a renewal, whichever is earlier; or
 2. Any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** which has been the subject of such prior or pending litigation, would constitute **Interrelated Wrongful Acts**;
- S. Any **Claim** for loss, under any circumstances, due to contamination, nuclear reaction, or radiation regardless of cause;
- T. Any **Claim** resulting from:
 1. Injury, disease or illness (including death at any time resulting therefrom);
 2. Damage to or reduction in financial value of any property; or
 3. Other **Loss** or **Claims Expense**; arising in whole or in part, out of or in any way related to **Asbestos**;
- U. Any **Claim** brought by one **Insured** under the policy against another **Insured** under the policy provided, however, this exclusion shall not apply to any otherwise covered **Claim**:
 1. made by any past, present or future employee of the **Named Insured** or **Association** for a **Wrongful Act** resulting in **Privacy Peril**, but only if such employee did not commit, participate in or contribute to such **Wrongful Act** or **Privacy Peril**; or
 2. brought by one **Insured** against another **Insured** alleging **Employment Practices Liability**;
 3. brought by one **Insured** against the **Named Insured**.
- V. Any **Claim** alleging, or arising out of, or resulting, directly or indirectly, from:

1. solely with respect to Insuring Clauses A and B, any violation or infringement of any patent or trade secret(s);
2. solely with respect to Insuring Clause C, any misappropriation of any trade secret by, or with active cooperation, participation, or assistance of, any **Insured**, any **Insured's** former employees, subsidiaries, directors, officers, partners, trustees, or any **Insured's** successors or assignees;

W. Any **Claim**, arising out of or resulting, directly or indirectly from any professional certification and/or designation not specifically endorsed by the **Named Insured**;

NOTE: It is agreed that except with respect to Insuring Clause C, any fact pertaining to any **Association** or any **Insured Person** shall not be imputed to any other **Insured** for the purpose of determining the application of the above exclusions.

The following additional exclusions apply solely to Insuring Clause C, **Association Information Asset Coverage (Occurrence & Reported)**:

- X. Any **Claim** alleging, arising out of or resulting, directly or indirectly, from fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused;
- Y. Any **Claim** alleging, arising out of or resulting, directly or indirectly, from strikes or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, committed by a person or persons whether acting on their own behalf or on behalf of or in connection with any organization, or any action taken to hinder or defend against these actions; provided, however, this exclusion shall not apply to an **Act of Cyber-Terrorism** that results in a **Claim**;
- Z. Any **Claim** arising out of or resulting, directly or indirectly, from any failure of telephone lines, data transmission lines or other infrastructure comprising or supporting the **Internet**, unless such lines or infrastructure were under an Insured's operational control;
- AA. Any **Claim** alleging, arising out of or resulting, directly or indirectly, from any of the following:
1. any shortcoming in security that an **Insured** knew about prior to the inception of this policy;
 2. an **Insured's** failure to take reasonable steps, to use, design, maintain and upgrade the **Insured's** security; or
 3. the inability to use, or lack of performance of, software: (a) due to expiration, cancellation, or withdrawal of such software; (b) that has not yet been released from its development stage; or (c) that has not passed all test runs or proven successful in applicable daily operations.
- BB. Any **Claim** arising out of or resulting, directly or indirectly, from any **Failure of Security**, circumstance or occurrence that has been reported to an insurer on, or is covered under, any other policy of insurance effective prior to the inception date of this Policy; or alleging or arising out of the same **Failure of Security** or series of continuous, repeated or related **Failures of Security** or alleging the same or similar facts, alleged or contained in any **Claim** that has been reported, or any **Failure of Security** of which notice has been given, under any policy of which this Policy is a replacement or succeeds in time;
- CC. Any **Claim** arising out of or resulting, directly or indirectly, from any seizure, confiscation, nationalization, or destruction of an **Association's Computer System** or **Information Assets** by order of any governmental or public authority;
- DD. Any **Claim** arising out of or resulting, directly or indirectly, from any wear and tear or gradual deterioration of an Association's Computer System or Information Assets;

EE. Any **Claim** arising out of any electrical or mechanical failures, including any electrical power interruption, surge, brownout or blackout; a failure of telephone lines, data transmission lines, satellites or other infrastructure comprising or supporting the Internet, unless such lines or infrastructure were under the Insured's operational control;

Solely with respect to Insuring Agreements IA, IB, and IC, this Policy also does not apply to:

FF. Any **Claim** alleging or arising out of **Wrongful Acts** committed by paid mediators, arbitrators, or **Ombudspersons**: 1) who are licensed attorneys; or 2) that does not involve an **Insured's** ethics hearing, arbitration, or the DRS process.

V. NOTICE OF **CLAIM** OR SUIT

Solely with respect to Insuring Agreements IA, IB, and IC,

- A. If during the **Policy Period** or Discovery Period, the **Association** or the **Insured Persons** shall receive written or oral notice from any party of a **Claim** that it is the intention of such party to hold the **Association** or the **Insured Persons** responsible for a **Wrongful Act, Personal Injury, Publisher's Liability**, Anti-Trust, Lockbox, Trademark And Copyright Infringement of a Multiple Listing Service (MLS) System or the REALTOR[®] trademarks, Dispute Resolution System, **Association** Endorsement Of Products Or Affinity Programs, or Operation of a Legal Hotline, an **Insured** must notify the **Company** in writing of such **Claim** as soon as practicable before coverage will apply under this policy.
- B. If during the **Policy Period** or Discovery Period, the **Association** or the **Insured Persons** shall become aware of any fact, circumstance, or situation which may subsequently give rise to a **Claim** being made against the **Association** or the **Insured Persons**, for a **Wrongful Act, Personal Injury, Publisher's Liability**, Anti-Trust, Lockbox, Trademark or Copyright Infringement of a Multiple Listing Service (MLS) System or the REALTOR[®] trademarks, Dispute Resolution System, **Association** Endorsement Of Products Or Affinity Programs, or Operation of a Legal Hotline; and shall in either case during such period give written notice as soon as practicable to the **Company** of the receipt of such written or oral notice under Clause (1) or such fact, circumstance, or situation under Clause (2), then any **Claim** which may subsequently be made against the **Association** or the **Insured Persons**, arising out of such causes of action shall, for the purpose of this Policy, be treated as a **Claim** made during the **Policy Period** in which such notice was given, or, if given during the Discovery Period, as a **Claim** during the preceding **Policy Period**.
- C. Notice to the **Company** provided for in this Paragraph V shall be given to ACE American Insurance Company, Director of **Claims**, 140 Broadway, New York, New York 10005 and the Legal Affairs Department, NATIONAL ASSOCIATION OF REALTORS[®], 430 N. Michigan Avenue, Chicago, Illinois 60611-4087.
- D. **Information Asset** Coverage. Solely with respect to coverage under Insuring Clause 3, the **Insured** must notify the **Company** in writing at the address listed in VC above of the **Insured's Information Asset Loss** as soon as practicable, but in all events either within the **Policy Period** or the Discovery Period (if applicable).

Solely with respect to Insuring Agreement ID, Crime Coverage (if elected):

After the **Insured Discovers** a loss or a situation that may result in loss of or damage to **Money, Securities** or **Other Property** the **Insured** must:

- A. Notify the **Company** as soon as possible. If the **Insured** has reason to believe that any loss (except for loss covered under Crime Coverage (Loss Sustained) Insuring Clauses 1, **Employee** Theft, or 2, **Forgery** Or Alteration) involves a violation of law, the **Insured** must also notify the local law enforcement authorities.

- B. Submit to examination under oath at the **Company's** request and give the **Company** a signed statement of the **Insured's** answers.
- C. Produce for the **Company's** examination all pertinent records.
- D. Give the **Company** a detailed, sworn proof of loss within 120 days.
- E. Cooperate with the **Company** in the investigation and settlement of any **Claim**.

VI. DEFENSE AND SETTLEMENT

A. Choice Of Counsel

With respect to the defense of any **Claim**, the **Named Insured or Association**, at the **Named Insured's** option, and in coordination with the **Company**, shall select and assign defense counsel.

B. Defense and Settlement

Except with respect to **Claims** brought outside the United States, its territories or Canada, the **Company** shall have the right and duty to defend any claim. With respect to **Claims** brought outside the United States, its territories or Canada, the **Company** shall have the right, but not the duty, to defend any **Claim**. In the event the **Company** does not assume the defense of the **Insured**, the **Company** shall, nevertheless, have the right to effectively associate with the **Insured** in the investigation, defense and settlement of any claim that appears likely to involve the **Company**, including but not limited to effectively associating in the negotiation of a settlement.

The **Company** shall not commit the **Association**, or any of the **Insured Persons** to any settlement without their consent or the consent of the **Named Insured**. If the **Association** or any **Insured Persons** refuse to consent to any settlement recommended in writing by the **Company** and elect to contest the **Claim** or continue any legal proceedings in connection with such **Claim**, then the **Company** shall be relieved of any further duty to defend the **Claim**, and the liability of the **Company** for **Loss** shall not exceed the amount for which the **Claim** could have been settled and the **Claims Expense** incurred by the **Company** with the **Company's** consent up to the date of such refusal. Further, the **Association, Insured Persons** shall cooperate with the **Company** and, upon the **Company's** request, assist in making settlements and in the conduct of suits. Furthermore, the **Association, Insured Persons** shall not assume any obligations, incur any costs, charges, or expenses or enter into any settlement without the **Company's** written consent.

If a judgment or settlement is rendered in a foreign currency the amount paid shall be in the equivalent amount of United States Dollars at the prevailing exchange rate on the date the settlement is signed or judgment entered.

VII. GENERAL CONDITIONS

- A. **ASSOCIATION AUTHORIZATION.** By acceptance of this Policy, the **Named Insured** listed in Item 1. of the Declarations Page agrees to act on behalf of all other **Insureds** with respect to the giving and receiving of all notices to the **Company** required herein, and the receiving of any return premiums that may become due under this Policy and the **Insureds** agree that the **Named Insured** shall act on their behalf.
- B. **POLICY CHANGES.** The terms of the Policy shall not be waived or changed by any means other than by endorsement issued to form a part of this Policy.
- C. **LIBERALIZATION OF POLICY TERMS.** Notwithstanding Condition B., if during the period that this insurance is in force, excepting any Discovery Period, the **Company** introduces any changes in the form of the Policy which would broaden or extend coverage without an increased premium, then such broadened or extended coverage shall inure to the benefit of the **Association and Insured Persons** without any increase in premium.

D. TERRITORIAL CLAUSE. Solely with respect to Insuring Agreements IA, IB, and IC, this Policy shall apply to **Claims** arising from any **Wrongful Act** (including **Computer Attack, Privacy Peril, Employment Practices Liability, Sexual Harassment Liability, Discrimination Liability**), **Personal Injury, Publisher's Liability**, Anti-Trust, Lockbox, Trademark or Copyright Infringement of a Multiple Listing Service (MLS) System or the REALTOR[®] trademarks, Dispute Resolution System, **Association Endorsement of Products Or Affinity Programs**, or Operation of a Legal Hotline, wherever occurring. Solely with respect to the Crime Coverage Part (if elected), this Policy covers loss that the **Insured** sustains resulting directly from an **Occurrence** taking place within the United States of America (including its territories and possessions), Puerto Rico and Canada.

E. ACTION AGAINST THE **COMPANY**.

Solely with respect to Insuring Agreements IA, IB, and IC, the following provisions apply. No action shall lie against the **Company** unless, as a condition precedent thereto, the **Association** and **Insured Persons** shall have complied fully with all terms of this Policy, and until the amount they shall be obligated to pay shall have been finally determined either by final judgment against them after actual trial and all appeals, if any, or by written agreement of the **Association** and **Insured Persons**, the claimant and the **Company**.

Any person, organization, or the legal representative thereof who has secured such judgment or written agreement, shall thereafter be entitled to recovery under this Policy in the same manner and to the same extent as the **Association** and **Insured Persons**. Nothing contained in this Policy shall give any person or organization any right to join the **Company** as a co-defendant in any action against the **Association** or any **Insured Persons** to determine the liability of the **Association** and any **Insured Persons**. Bankruptcy or insolvency of the **Association** or any **Insured Persons**, or of their estates, shall not relieve the **Company** of any of its obligations under this Policy.

Solely with respect to the Crime Coverage part (if elected), the **Insured** may not bring any legal action against the **Company** involving loss:

1. Unless the **Insured** has complied with all the terms of this insurance; and
2. Until 90 days after the **Insured** has filed proof of loss with the **Company**; and
3. Unless brought within 2 years from the date the **Insured Discovered** the loss. But the **Company** will extend this 2-year period by the number of days between the date proof of loss is filed and the date the **Claim** is denied in whole or in part.

F. SUBROGATION. Solely with respect to Insuring Agreements IA, IB, and IC, in the event of any payment under this Policy, the **Company** shall be subrogated to the extent of such payment to all rights of recovery therefore, and the **Insureds** shall execute all papers required and shall do everything that may be necessary to secure such rights including the execution of such documents necessary to enable the **Company** effectively to bring suit in the name of the **Association** or any **Insured Persons**.

Solely with respect to the Crime Coverage part (if elected), the **Insured** must transfer to the **Company** all the **Insured's** rights of recovery against any person or organization for any loss the **Insured** sustained and for which the **Company** has paid or settled. The **Insured** must also do everything necessary to secure those rights and do nothing after loss to impair them.

G. OTHER INSURANCE. Solely with respect to Insuring Agreements IA, IB, and IC, subject to Section IV, Exclusions, part I.2., if there is other valid insurance (whether primary, excess, or contingent, including any extended reporting or discovery period coverage from previous insurance) against a **Claim** covered by this Policy, the insurance provided hereunder shall be deemed excess insurance over and above the applicable limit of all other insurance. When this insurance is excess, the **Company** shall have no duty under this Policy to defend any **Claim** that any other insurer has a duty to defend. If such other insurer refuses to defend, the **Company** shall be entitled to the **Insured's** rights against all other insurers for any **Claims Expense** incurred by the **Company**, should the **Company** agree to provide a defense.

When both this insurance and other insurance apply to the **Claim** on the same basis, whether primary, excess or contingent, the **Company** shall not be liable under the Policy for a greater proportion of the **Loss**

and/or **Claims Expense** than the applicable Limit of Liability under this Policy for which such payments bear to the total applicable Limit of Liability of all valid and collectible insurance against such **Claims**.

Solely with respect to the Crime Coverage part (if elected), if other valid and collectible insurance is available to the **Insured** for loss covered under this Policy, and:

1. Such other insurance is subject to the same terms and conditions as this Policy, the **Company** will pay the **Company's** share of the covered loss. The **Company's** share is the proportion that the applicable Limit of Insurance shown in the Declarations bears to the total limit of all insurance covering the same loss.
2. Such other insurance covers the same loss other than that described in Paragraph 1, the Company will only pay for the amount of loss that exceeds:
 - a. The Limit of Insurance and Deductible Amount of that other insurance, whether the **Insured** can collect on it or not; or
 - b. The Deductible Amount shown in the Declarations;

whichever is greater. The **Company's** payment for loss is subject to the terms and conditions of this Policy.

H. CANCELLATION. This Policy may be cancelled by the **Named Insured** listed in Item I. of the Declarations Page by surrender thereof to the **Company** or any of its authorized agents, or by mailing to the **Company** written notice stating when thereafter the cancellation shall be effective. This Policy may be cancelled by the **Company** by mailing to the **Named Insured**, at the last mailing address known to the **Company**, written notice stating when, not less than ninety (90) days thereafter, or ten (10) days with respect to cancellation for non-payment of premium, such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of the surrender or the effective date and hour of cancellation stated in the notice shall become the end of the **Policy Period**. If the **Named Insured** cancels, the earned premium shall be computed in accordance with the customary short rate tables and procedure. If the **Company** cancels, the earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation becomes effective. The **Company's** check or the check of its representative mailed or delivered as aforesaid shall be sufficient tender of any refund or premium due to the **Named Insured**.

I. DISCOVERY PERIOD.

Discovery Period Applicable To Insuring Clauses A & B:

Solely with respect to Insuring Clauses A & B, If the **Company** shall cancel or refuse to renew this Policy other than for non-payment of premium, the **Named Insured** listed in Item I. of the Declarations Page shall have the right, upon payment of an additional premium (as specified below), to an extension of the coverage granted by this Policy, subject otherwise to all of its terms, limits, exclusions and conditions, to apply to any **Claim** or **Claims** made against the **Association** or **Insured Persons** during the period (as specified) after the effective date of such cancellation or non-renewal, herein called the Discovery Period, but only in respect of any **Wrongful Act** (including **Computer Attack, Privacy Peril, Employment Practices Liability, Sexual Harassment Liability, Discrimination Liability, Personal Injury, Publisher's Liability, Anti-Trust, Lockbox, Trademark or Copyright Infringement of a Multiple Listing Service (MLS) System or the REALTOR® trademarks, Dispute Resolution System, Association Endorsement of Products Or Affinity Programs, and Operation of a Legal Hotline**) committed or alleged to have been committed before the effective date of such cancellation or nonrenewal and otherwise covered by the Policy. This right shall terminate, however, unless written notice of such election together with payment of the additional premium is received by the **Company** within thirty (30) days after the effective date of cancellation or non-renewal. The Discovery Period options, subject to all stated terms and conditions, are as follows:

1. Ninety (90) day extension for the additional premium of 50% of the annual premium; or

2. Twelve (12) month extension for the additional premium of 90% of the annual premium; or
3. Twenty-four (24) month extension for the additional premium of 180% of the annual premium. At the commencement of the Discovery Period, the entire premium therefore shall be deemed earned, and in the event the **Insured** terminated the Discovery Period before its term for any reason, the **Company** shall not be liable to return to the **Insured** any portion of the premium for the Discovery Period. The fact that the period during which **Claims** must be first made against the **Insured** under this Policy is extended by virtue of the Discovery Period shall not in any way increase the Limit of Liability of this Policy.

The Limit of Liability available under any Discovery Period shall be part of, and not in addition to, the Limit of Liability available under the last Policy issued to the **Insured**.

Discovery Period Applicable To Insuring Clause C:

Solely with respect to Insuring Clause C, if the **Company** or the **Named Insured** shall cancel this Policy or refuse to replace this Policy, the **Insured** shall have up to one (1) year following the effective date of such cancellation or refusal to replace and report any covered **Information Assets Loss**.

Discovery Period Applicable To The Crime Coverage Part (if elected)

The **Company** will pay for loss that the **Insured** sustained prior to the effective date of cancellation of this Policy, which is **Discovered** by the **Insured** no later than 1 year from the date of that cancellation. However, this extended period to **Discover** loss terminates immediately upon the effective date of any other insurance obtained by the **Insured**, whether from the **Company** or another insurer, replacing in whole or in part the coverage afforded under this Policy, whether or not such other insurance provides coverage for loss sustained prior to its effective date

- J. ADDITIONAL CONDITIONS APPLICABLE SOLELY TO INSURING CLAUSE C. Solely with respect to Insuring Clause C, the following additional provisions apply:

What The **Insured** Must Do In the Event of a Claim:

In the event of a **Claim**, the **Insured** shall:

1. immediately record the specifics of any **Failure of Security** and the date the **Insured** first became aware of such **Failure of Security**;
2. take prompt steps to minimize the **Failure of Security** and take reasonable steps to prevent further **Failure of Security**; or
3. at the **Company's** request report such **Failure of Security** to the FBI, CERT, ISAC or any other central reporting or investigative organization that the **Company** may designate.

What The **Insured** Must Do In the Event of **Information Asset Loss**:

In addition to the applicable items in the policy notice and an **Association's** obligations in the event of a **Claim**, with respect to the **Information Asset Loss** Coverage afforded under this Policy and **Information Asset Loss** resulting therefrom, before coverage will apply, the **Association** must:

- 1 complete and sign a written, detailed and sworn proof of loss within ninety (90) days after the discovery of a loss (unless such period has been extended by the **Company's** written agreement) including a full description of such **Information Asset Loss** and the circumstances surrounding such loss, including without limitation, the time, place and cause of the **Information Asset Loss**, a detailed calculation of any **Information Asset Loss**, the **Insured's** interest and the interest of all others in the property, the sound value thereof and the amount of **Information Asset Loss** or damage thereto and all other insurance thereon. Proof of loss shall also include the underlying

documents and materials of whatever media that reasonably relates to or forms a part of the basis of the **Claim** for such **Information Asset Loss**;

- 2 upon the **Company's** request, submit to an examination under oath;
- 3 immediately record the specifics of immediately record the specifics of any **Information Asset Loss** and **Failure of Security** and the date the **Insured** first became aware of such **Information Asset Loss** or **Failure of Security**;
- 4 provide the **Company** with any cooperation and assistance that the **Company** may request, including assisting the **Company** in:
 - a. any investigation of a **Failure of Security, Information Asset Loss** or circumstance making settlements;
 - b. enforcing any legal rights any **Insured** or the **Company** may have against anyone who may be liable to the **Insured**;
 - c. executing any documents that the **Company** may deem are necessary to secure its rights under this policy;
 - d. any inspection or survey conducted by the **Company** pursuant to this endorsement; and
- 5 all adjusted **Claims** shall be due and payable thirty (30) days after the presentation and written acceptance by the **Company** of satisfactory proof of loss to the address shown above. The costs and expenses of establishing or proving the **Insured's Information Asset Loss** for this policy, including without limitation those connected with preparing a proof of loss, shall be the **Insured's** obligation, and are not covered under this Policy.

Expert Assessment Rights:

Solely as respects Insuring Agreement C. **Association Information Assets** Coverage, the **Association** and the **Company** each have the right to demand that the amount of **Information Asset Loss** be determined by an expert. If either the **Insured** or the **Company** makes a written demand for an expert opinion, each will select a competent independent expert and notify the other of the expert's identity within twenty (20) days of the receipt of the written demand by the other party. The two experts will then select a competent, impartial umpire. The experts will then determine and state separately the amount of **Information Asset Loss**. If the experts submit a written report and they agree to use the same amount, the amount agreed upon will be the amount of the loss. If the experts fail to agree within a reasonable time, they will submit only their differences to the umpire. A written agreement so itemized and signed by any two of these three will determine the amount of the **Information Asset Loss**. Each expert will be paid by the party selecting the expert. Other expenses of the expert and the compensation of the umpire will be paid equally by the **Insured** and the **Company**. If such experts are used, the **Company** will still retain our right to deny coverage.

VIII. MATERIAL CHANGES IN CONDITIONS

A. Acquisition or Creation of Another Organization or Other **Association**

1. If, during the **Policy Period**, an **Association** acquires voting securities in, creates, merges, or consolidates with another organization, then, subject to the terms and conditions of this **Policy**, such organization shall be covered under this **Policy** as part of the acquiring **Association** but only with respect to covered **Claims** taking place after such acquisition, creation, merger, or consolidation.
2. If, during the **Policy Period**, an **Association** acquires any other **Association** by merger into or consolidation with such **Association**, then coverage will be provided to the newly formed or expanded entity subject to the terms and conditions of this **Policy**, and subject to consideration of

additional premium in the event that excess coverage was elected by the **Association** for this **Policy Period**.

B. Termination of an **Association**

1. If, before or during the **Policy Period**, an organization ceases to be an **Association**, coverage with respect to the **Association** shall continue until termination of this **Policy** but only with respect to covered **Claims** taking place prior to the date such organization ceased to be an **Association**.
2. If, before or during the **Policy Period**, an **Association** is dissolved through merger or consolidation of assets with any other **Association**, coverage with respect to the dissolved **Association** for covered **Claims** shall continue under the newly formed entity for acts prior to dissolution.

IN WITNESS WHEREOF, the **Company** has caused this Policy to be signed by its President and Secretary, but this Policy shall not be valid unless the declarations are countersigned by a duly authorized representative of the **Company**.



ACE Advantage[®]
National Association of
REALTORS[®]
Crime Coverage Part

The provisions of this Crime Coverage part apply solely to coverage afforded by policy Insuring Agreement ID. In addition, all remaining Policy terms and conditions in the base Policy apply to the Crime Coverage afforded by this coverage part as noted in the Policy.

I. INSURING CLAUSE

D. CRIME COVERAGE (LOSS SUSTAINED)

Coverage is provided under the following Insuring Clauses and applies to loss that the **Insured** sustains resulting directly from an **Occurrence** taking place during the **Policy Period**, except as provided in Section VII, General Conditions, subsection I, Conditions Applicable Only To Insuring Agreement D, Crime Coverage, Conditions 7 and 8 Applicable To Crime Coverage (Loss Sustained), All Insuring Clauses, which is **Discovered** by the **Insured** during the **Policy Period** or during the period of time provided in Section VII, General Conditions, subsection I, Discovery Period, Discovery Period Applicable To Insuring Clause D, Crime Coverage:

1. **Employee Theft**

The **Company** will pay for loss of or damage to **Money, Securities** and **Other Property** resulting directly from **Theft** committed by an **Employee**, whether identified or not, acting alone or in collusion with other persons.

For the purposes of this Insuring Clause, **Theft** shall also include forgery.

2. **Forgery Or Alteration**

a. The **Company** will pay for loss resulting directly from **Forgery** or alteration of checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in **Money** that are:

- i. Made or drawn by or drawn upon the **Insured**; or
- ii. Made or drawn by one acting as the **Insured's** agent;

or that are purported to have been so made or drawn.

For the purposes of this Insuring Clause, a substitute check as defined in the Check Clearing for the 21st Century Act shall be treated the same as the original it replaced.

b. If the **Insured** is sued for refusing to pay any instrument covered in Paragraph 2.a, on the basis that it has been forged or altered, and the **Insured** has the **Company's** written consent to defend against the suit, the **Company** will pay for any reasonable legal expenses that the **Insured** incurs and pays in that defense. The amount that the **Company** will pay is in addition to the Limit of Insurance applicable to this Insuring Clause.

3. Inside The **Premises – Theft Of Money And Securities**

a. The **Company** will pay for loss of **Money** and **Securities** inside the **Premises**:

- i. Resulting directly from **Theft** committed by a person present inside such **Premises**; or
- ii. Resulting directly from disappearance or destruction.

b. The **Company** will pay for loss from damage to the **Premises** or its exterior resulting directly from an actual or attempted **Theft** of **Money** and **Securities**, if the **Insured** is the owner of the **Premises** or is liable for damage to it.

- c. The **Company** will pay for loss of or damage to a locked safe, vault, cash register, cash box or cash drawer located inside the **Premises** resulting directly from an actual or attempted **Theft** of or unlawful entry into those containers.
4. Inside The **Premises – Robbery Or Safe Burglary Of Other Property**
- a. The **Company** will pay for loss of or damage to **Other Property**:
 - i. Inside the **Premises** resulting directly from an actual or attempted **Robbery** of a **Custodian**; or
 - ii. Inside the **Premises** in a safe or vault resulting directly from an actual or attempted **Safe Burglary**.
 - b. The **Company** will pay for loss from damage to the **Premises** or its exterior resulting directly from an actual or attempted **Robbery** or **Safe Burglary** of **Other Property**, if the **Insured** is the owner of the **Premises** or is liable for damage to it.
 - c. The **Company** will pay for loss of or damage to a locked safe or vault located inside the **Premises** resulting directly from an actual or attempted **Robbery** or **Safe Burglary**.
5. Outside The **Premises**
- a. The **Company** will pay for loss of **Money** and **Securities** outside the **Premises** in the care and custody of **Messenger** or an armored motor vehicle company resulting directly from **Theft**, disappearance or destruction.
 - b. The **Company** will pay for loss of or damage to **Other Property** outside the **Premises** in the care and custody of a **Messenger** or an armored motor vehicle company resulting directly from an actual or attempted **Robbery**.
6. Computer Fraud
- The **Company** will pay for loss of or damage to **Money, Securities** and **Other Property** resulting directly from the use of any computer to fraudulently cause a transfer of that property from inside the **Premises**:
- a. To a person (other than a **Messenger**) outside those **Premises**; or
 - b. To a place outside those **Premises**.
7. **Funds** Transfer Fraud
- The **Company** will pay for loss of **Funds** resulting directly from a **Fraudulent Instruction** directing a financial institution to transfer, pay or deliver **Funds** from the **Insured's Transfer Account**.
8. Money Orders And **Counterfeit Money**
- The **Company** will pay for loss resulting directly from the **Insured** having accepted in good faith, in exchange for merchandise, **Money** or services:
- a. Money orders issued by any post office, express company or bank that are not paid upon presentation;
- or
- b. **Counterfeit Money** that is acquired during the regular course of business.

II. DEFINITIONS

- A. **Counterfeit Money** means an imitation of **Money** that is intended to deceive and to be taken as genuine.
- B. **Custodian** means the **Insured** or any **Employee** while having care and custody of property inside the **Premises**, excluding any person while acting as a **Watchperson** or janitor.
- C. Solely with respect to Insuring Agreement 1D, Crime Coverage, **Discover** or **Discovered** means the time when the **Insured** first becomes aware of facts which would cause a reasonable person to assume that a loss of a type covered by this Policy has been or will be incurred, regardless of when the act or acts

causing or contributing to such loss occurred, even though the exact amount or details of loss may not then be known. **Discover** or **Discovered** also means the time when the **Insured** first receives notice of an actual or potential **Claim** in which it is alleged that the **Insured** is liable to a third party under circumstances which, if true, would constitute a loss under this Policy.

D. **Employee** means, solely with respect to Insuring Agreement ID, Crime Coverage (if elected):

1. Any natural person full-time or part-time employee of the **Insured**:
 - a. While in the **Insured's** service and for the first 30 days immediately after termination of service, unless such termination is due to **Theft** or any other dishonest act committed by the **Employee**; Who the **Insured** compensates directly by salary, wages or commissions; and
 - b. Who the **Insured** has the right to direct and control while performing services for the **Insured**; and
 - c. Who the **Insured** has the right to direct and control while performing services for the **Insured**; and
 2. Any natural person who is furnished temporarily to the **Insured**:
 - a. To substitute for a permanent **Employee** as defined in Paragraph 1, who is on leave; or
 - b. To meet seasonal or short-term workload conditions;while that person is subject to the **Insured's** direction and control and performing services for the **Insured**, excluding, however, any such person while having care and custody of property outside the **Premises**;
 3. Any natural person who is leased to the **Insured** under a written agreement between the **Insured** and a labor leasing firm, or contracted to the **Insured**, or is an independent contractor for the **Insured**, but only in the performance of duties related to the conduct of the **Insured's** business, but does not mean a temporary employee as defined in Paragraph 2;
 4. Any natural person who is a former **Employee**, director or trustee retained as a consultant while performing services for the **Insured**;
 5. Any natural person who is a volunteer, guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the **Premises**;
 6. Any **Employee** of an entity merged or consolidated with the **Insured** prior to the effective date of this Policy;
- or
7. Any of the **Insured's** directors or trustees while:
 - a. Performing acts within the scope of the usual duties of an **Employee**; or
 - b. Acting as a member of any committee duly elected or appointed by resolution of the **Insured's** board of directors or board of trustees to perform specific, as distinguished from general, directorial acts on the **Insured's** behalf.

Employee does not mean any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in 1 through 7 of this definition as it pertains to the Crime Coverage Part (if elected).

E. **Forgery** means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.

F. **Fraudulent Instruction** means:

1. An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by the **Insured**, but which was in fact fraudulently transmitted by someone else without the **Insured's** knowledge or consent;

2. A written instruction (other than those described in Crime Coverage (Loss Sustained) Insuring Clause 2, **Forgery Or Alteration**) issued by the **Insured**, which was forged or altered by someone other than the **Insured** without the **Insured's** knowledge or consent, or which purports to have been issued by the **Insured**, but was in fact fraudulently issued without the **Insured's** knowledge or consent; or
 3. An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by the **Insured** which purports to have been transmitted by an **Employee** but which was in fact fraudulently transmitted by someone else without the **Insured's** or the **Employee's** knowledge or consent.
- G. **Funds** means **Money** and **Securities**.
- H. **Messenger** means the **Insured**, or a relative of the **Insured**, or any **Employee** while having care and custody of property outside the **Premises**.
- I. **Money** means:
1. Currency, coins and bank notes in current use and having a face value; and
 2. Travelers checks, register checks and money orders held for sale to the public.
- J. **Occurrence** means:
1. Under Crime Coverage (Loss Sustained) Insuring Clause 1, **Employee Theft**:
 - a. An individual act;
 - b. The combined total of all separate acts whether or not related; or
 - c. A series of acts, whether or not related;
 committed by an **Employee** acting alone or in collusion with other persons, during the **Policy Period**, except as provided under Section VII, General Conditions, subsection I, Conditions Applicable Only To Insuring Agreement D, Crime Coverage, Conditions 7 and 8 Applicable To Crime Coverage (Loss Sustained), All Insuring Clauses.
 2. Under Crime Coverage (Loss Sustained) Insuring Clause 2, **Forgery Or Alteration**:
 - a. An individual act;
 - b. The combined total of all separate acts whether or not related; or
 - c. A series of acts, whether or not related;
 committed by a person acting alone or in collusion with other persons, involving one or more instruments, during the **Policy Period**, except as provided under Section VII, General Conditions, subsection I, Conditions Applicable Only To Insuring Agreement D, Crime Coverage, Conditions 7 and 8 Applicable To Crime Coverage (Loss Sustained), All Insuring Clauses.
 3. Under All Other Crime Coverage (Loss Sustained) Insuring Clauses:
 - a. An individual act or event;
 - b. The combined total of all separate acts or events whether or not related;
 - c. A series of acts or events, whether or not related;
 committed by a person acting alone or in collusion with other persons, or not committed by any person, during the **Policy Period**, except as provided under Section VII, General Conditions, subsection I, Conditions Applicable Only To Insuring Agreement D, Crime Coverage, Conditions 7 and 8 Applicable to Crime Coverage (Loss Sustained), All Insuring Clauses.
- K. **Other Property** means any tangible property other than **Money** and **Securities** that has intrinsic value. **Other Property** does not include computer programs, electronic data or any property specifically excluded under this Policy.

- L. **Robbery** means the unlawful taking of property from the care and custody of a person by one who has:
1. Caused or threatened to cause that person bodily harm; or
 2. Committed an obviously unlawful act witnessed by that person.
- M. **Safe Burglary** means the unlawful taking of:
1. Property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior; or
 2. A safe or vault from inside the **Premises**.
- N. **Securities** means negotiable and nonnegotiable instruments or contracts representing either **Money** or property and includes:
1. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
 2. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by the **Insured**;
- but does not include **Money**.
- O. **Theft** means the unlawful taking of property to the deprivation of the **Insured**.
- P. **Transfer Account** means an account maintained by the **Insured** at a financial institution from which the **Insured** can initiate the transfer, payment or delivery of **Funds**:
1. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or
 2. By means of written instructions (other than those described in Crime Coverage (Loss Sustained) Insuring Clause 2, **Forgery** Or Alteration) establishing the conditions under which such transfers are to be initiated
- by such financial institution through an electronic funds transfer system.
- Q. **Watchperson** means any person the **Insured** retains specifically to have care and custody of property inside the **Premises** and who has no other duties.

III. DEDUCTIBLE AND LIMITS OF LIABILITY

Solely with respect to Insuring Agreement ID, Crime Coverage:

- A. The most the **Company** will pay for all loss resulting directly from an **Occurrence** is the applicable Limit of Insurance shown in the Declarations.
- B. The Limit of Insurance set forth in Item 3.1D of the Declarations is part of, and not in addition to, the \$250,000 program aggregate limit of liability for all Loss, for all Crime Coverages, for all Insureds, set forth in the Declarations.
- C. The Limits of Insurance set forth in the Declarations is part of, and not in addition to, the Aggregate Limit of Liability set forth in Item 3.2 of the Declarations.
- D. The **Company** will not pay for loss resulting directly from an **Occurrence** unless the amount of loss exceeds the Deductible Amount shown in the Declarations. The **Company** will then pay the amount of loss in excess of the Deductible Amount, up to the Limit of Insurance.

IV. EXCLUSIONS

Solely with respect to Insuring Agreement ID, Crime Coverage, this Policy does not cover:

1. Acts Committed By The **Insured**

Loss resulting from **Theft** or any other dishonest act committed by the **Insured**, whether acting alone or in collusion with other persons.

2. Acts Of **Employees** Learned Of By The **Insured** Prior To The **Policy Period**

Loss caused by an **Employee** if the **Employee** had also committed **Theft** or any other dishonest act prior to the effective date of this Policy and the **Insured** or any of the **Insured's** officers, directors or trustees, not in collusion with the **Employee**, learned of that **Theft** or dishonest act prior to the **Policy Period**.

3. Acts Of **Employees**, Directors, Trustees Or Representatives

Loss resulting from **Theft** or any other dishonest act committed by any of the **Insured's Employees**, directors, trustees or authorized representatives:

- a. Whether acting alone or in collusion with other persons; or
- b. While performing services for the **Insured** or otherwise;

except when covered under the Crime Coverage (Loss Sustained) Insuring Clause 1, **Employee Theft**.

4. Confidential Information Loss resulting from:

- a. The unauthorized disclosure of the **Insured's** confidential information including, but not limited to, patents, trade secrets, processing methods or customer lists; or
- b. The unauthorized use or disclosure of confidential information of another person or entity which is held by the **Insured** including, but not limited to, financial information, personal information, credit card information or similar non-public information.

5. **Employee Benefit Plans**

Loss of or damage to any **Employee Benefit Plan**.

6. Governmental Action

Loss resulting from seizure or destruction of property by order of governmental authority.

7. Indirect Loss

Loss that is an indirect result of an **Occurrence** covered by this Policy including, but not limited to, loss resulting from:

- a. The **Insured's** inability to realize income that the **Insured** would have realized had there been no loss of or damage to **Money, Securities or Other Property**.
- b. Payment of damages of any type for which the **Insured** is legally liable. But, the **Company** will pay compensatory damages arising directly from a loss covered under this Policy.
- c. Payment of costs, fees or other expenses the **Insured** incurs in establishing either the existence or the amount of loss under this Policy.

8. Legal Fees, Costs And Expenses

Fees, costs and expenses incurred by the **Insured** which are related to any legal action, except when covered under the Crime Coverage (Loss Sustained) Insuring Clause 2, **Forgery Or Alteration**.

9. Nuclear Hazard

Loss or damage resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

10. Pollution

Loss or damage caused by or resulting from pollution. Pollution means the discharge, dispersal,

seepage, migration, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

11. War And Military Action

Loss or damage resulting from:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

Crime Coverage (Loss Sustained) Insuring Clause 1. **Employee Theft**, does not cover:

1. Inventory Shortages

Loss or that part of any loss, the proof of which as to its existence or amount is dependent upon:

- a. An inventory computation; or
- b. A profit and loss computation.

However, where the **Insured** establishes wholly apart from such computations that the **Insured** has sustained a loss, then the **Insured** may offer the **Insured's** inventory records and actual physical count of inventory in support of the amount of loss claimed.

2. Trading

Loss resulting from trading, whether in the **Insured's** name or in a genuine or fictitious account.

3. Warehouse Receipts

Loss resulting from the fraudulent or dishonest signing, issuing, cancelling or failing to cancel, a warehouse receipt or any papers connected with it.

Crime Coverage (Loss Sustained) Insuring Clauses 3. Inside The **Premises – Theft Of Money And Securities**, 4. Inside The **Premises – Robbery Or Safe Burglary Of Other Property**, and 5. Outside The **Premises**, do not cover:

1. Accounting Or Arithmetical Errors Or Omissions

Loss resulting from accounting or arithmetical errors or omissions.

2. Exchanges Or Purchases

Loss resulting from the giving or surrendering of property in any exchange or purchase.

3. Fire

Loss or damage resulting from fire, however caused, except:

- a. Loss of or damage to **Money** and **Securities**; and
- b. Loss from damage to a safe or vault.

4. Money Operated Devices

Loss of property contained in any money operated device unless the amount of **Money** deposited in it is recorded by a continuous recording instrument in the device.

5. Motor Vehicles Or Equipment And Accessories

Loss of or damage to motor vehicles, trailers or semi-trailers or equipment and accessories attached to them.

6. Transfer Or Surrender Of Property

- a. Loss of or damage to property after it has been transferred or surrendered to a person or place outside the **Premises**:
- i. On the basis of unauthorized instructions;
 - ii. As a result of a threat to do bodily harm to any person;
 - iii. As a result of a threat to do damage to any property;
 - iv. As a result of a threat to introduce a denial of service attack into the **Insured's** computer system;
 - v. As a result of a threat to introduce a virus or other malicious instruction into the **Insured's** computer system which is designed to damage, destroy or corrupt data or computer programs stored within the **Insured's** computer system;
 - vi. As a result of a threat to contaminate, pollute or render substandard the **Insured's** products or goods; or
 - vii. As a result of a threat to disseminate, divulge or utilize:
 - (a) The **Insured's** confidential information; or
 - (b) Weaknesses in the source code within the **Insured's** computer system.
- b. But, this Exclusion does not apply under Crime Coverage (Loss Sustained) Insuring Clause 5, Outside The **Premises**, to loss of **Money, Securities** or **Other Property** while outside the **Premises** in the care and custody of a **Messenger** if the **Insured**:
- i. Had no knowledge of any threat at the time the conveyance began; or
 - ii. Had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

7. Vandalism

Loss from damage to the Premises or its exterior, or to any safe, vault, cash register, cash box, cash drawer or Other Property by vandalism or malicious mischief.

8. Voluntary Parting Of Title To Or Possession Of Property

Loss resulting from the **Insured**, or anyone acting on the **Insured's** express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.

Crime Coverage (Loss Sustained) Insuring Clause 6, Computer Fraud, does not cover:

1. Credit Card Transactions

Loss resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

2. Funds Transfer Fraud

Loss resulting from a **Fraudulent Instruction** directing a financial institution to transfer, pay or deliver **Funds** from the **Insured's Transfer Account**.

3. Inventory Shortages

Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

- a. An inventory computation; or
- b. A profit and loss computation.

Crime Coverage (Loss Sustained) Insuring Clause 7, **Funds** Transfer Fraud, does not cover:

Loss, resulting from the use of any computer, to fraudulently cause a transfer of **Money, Securities** or **Other Property**.

V. CONDITIONS APPLICABLE ONLY TO INSURING AGREEMENT D, CRIME COVERAGE:

- Conditions Applicable To Crime Coverage (Loss Sustained), All Insuring Clauses:

1. Additional **Premises Or Employees**

If, while this Policy is in force, the **Insured** establishes any additional **Premises** or hires additional **Employees**, other than through consolidation or merger with, or purchase or acquisition of assets or liabilities of, another entity, such **Premises** and **Employees** shall automatically be covered under this Policy. Notice to the **Company** of an increase in the number of **Premises** or **Employees** need not be given and no additional premium need be paid for the remainder of the **Policy Period**.

2. Cooperation

The **Insured** must cooperate with the **Company** in all matters pertaining to this Policy as stated in its terms and conditions.

3. Concealment, Misrepresentation Or Fraud

As to any **Insured**, coverage provided by the Crime Coverage (Loss Sustained) Insuring Clauses are void in any case of fraud by the **Insured** as it relates to this **Policy** at any time. It is also void if the **Insured**, at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This Policy;
- b. The property covered under this Policy;
- c. The **Insured's** interest in the property covered under this Policy; or
- d. A **Claim** under this Policy.

4. Consolidation – Merger Or Acquisition

If the **Insured** consolidates or merges with, or purchases or acquires the assets or liabilities of, another entity, the **Insured** must give the **Company** written notice as soon as possible and obtain the **Company's** written consent to extend the coverage provided by the Crime Coverage (Loss Sustained) Insuring Clauses to such consolidated or merged entity or such purchased or acquired assets or liabilities. The **Company** may condition the **Company's** consent by requiring payment of an additional premium.

5. Examination Of The **Insured's** Books And Records

The **Company** may examine and audit the **Insured's** books and records as they relate to this Policy at any time during the **Policy Period** and up to 3 years afterward.

6. Inspections And Surveys

- a. The **Company** has the right to:
 - i. Make inspections and surveys at any time;
 - ii. Give the **Insured** reports on the conditions the **Company** finds; and
 - iii. Recommend changes.
- b. The **Company** is not obligated to make any inspections, surveys, reports or recommendations and any such actions the **Company** does undertake relates only to insurability and the premiums to be charged. The **Company** does not make safety inspections. The **Company** does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And the **Company** does not warrant that conditions:
 - i. Are safe or healthful; or
 - ii. Comply with laws, regulations, codes or standards.
- c. Paragraphs 6.a and 6.b apply not only to the **Company**, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

7. Loss Sustained During Prior Insurance Issued By The **Company** Or Any Affiliate

a. Loss Sustained Partly During This Policy And Partly During Prior Insurance

If the **Insured Discovers** loss during the **Policy Period**, resulting directly from an **Occurrence** taking place:

- i. Partly during the **Policy Period**; and
- ii. Partly during the policy period(s) of any prior cancelled insurance that the **Company** or any affiliate issued to the **Insured** or any predecessor in interest;

and this Policy became effective at the time of cancellation of the prior insurance, the **Company** will first settle the amount of loss that the **Insured** sustained during this **Policy Period**. The **Company** will then settle the remaining amount of loss that the **Insured** sustained during the policy period(s) of the prior insurance.

b. Loss Sustained Entirely During Prior Insurance

If the **Insured Discovers** loss during the **Policy Period**, resulting directly from an **Occurrence** taking place entirely during the policy period(s) of any prior cancelled insurance that the **Company** or any affiliate issued to the **Insured** or any predecessor in interest, the **Company** will pay for the loss, provided:

- i. This Policy became effective at the time of cancellation of the prior insurance; and
- ii. The loss would have been covered under this Policy had it been in effect at the time of the **Occurrence**.

The **Company** will first settle the amount of loss that the **Insured** sustained during the most recent prior insurance. The **Company** will then settle any remaining amount of loss that the **Insured** sustained during the policy period(s) of any other prior insurance.

c. In settling loss subject to this Condition:

- i. The most the **Company** will pay for the entire loss is the highest single Limit of Insurance applicable during the period of loss, whether such limit was written under this Policy or was written under the prior insurance issued by the **Company**.
- ii. The **Company** will apply the applicable Deductible Amount shown in the Declarations to the amount of loss sustained under this Policy. If no loss was sustained under this Policy, the **Company** will apply the Deductible Amount shown in the Declarations to the amount of loss sustained under the most recent prior insurance.

If the Deductible Amount is larger than the amount of loss sustained under this Policy, or the most recent prior insurance, the **Company** will apply the remaining Deductible Amount to the remaining amount of loss sustained during the prior insurance.

The **Company** will not apply any other Deductible Amount that may have been applicable to the loss.

8. Loss Sustained During Prior Insurance Not Issued By The **Company** Or Any Affiliate

a. If the **Insured Discovers** loss during the **Policy Period**, resulting directly from an **Occurrence** taking place during the policy period of any prior cancelled insurance that was issued to the **Insured** or a predecessor in interest by another company, and the period of time to discover loss under that insurance had expired, the **Company** will pay for the loss under this Policy, provided:

- i. This Policy became effective at the time of cancellation of the prior insurance; and
- ii. The loss would have been covered under this Policy had it been in effect at the time of the **Occurrence**.

b. In settling loss subject to this Condition:

- i. The most the **Company** will pay for the entire loss is the lesser of the Limits of Insurance applicable during the period of loss, whether such limit was written under this Policy or was written under the prior cancelled insurance.

- ii. The **Company** will apply the applicable Deductible Amount shown in the Declarations to the amount of loss sustained under the prior cancelled insurance.
- c. The insurance provided under this Condition is subject to the following:
 - i. If loss covered under this Condition is also partially covered under Condition 7, the amount recoverable under this Condition is part of, not in addition to, the amount recoverable under Condition 7.
 - ii. For loss covered under this Condition that is not subject to Paragraph c.i, the amount recoverable under this Condition is part of, not in addition to, the Limit of Insurance applicable to the loss covered under this Policy and is limited to the lesser of the amount recoverable under:
 - (a) This policy as of its effective date; or
 - (b) The prior cancelled insurance had it remained in effect.

9. Ownership Of Property; Interests Covered

The property covered under this Policy is limited to property:

- a. That the **Insured** owns or leases; or
- b. That the **Insured** holds for others whether or not the **Insured** is legally liable for the loss of such property.

However, this Policy is for the **Insured's** benefit only. It provides no rights or benefits to any other person or organization. Any **Claim** for loss that is covered under this Policy must be presented by the **Insured**.

10. Records

The **Insured** must keep records of all property covered under this Policy so the **Company** can verify the amount of any loss.

11. Recoveries

- a. Any recoveries, whether effected before or after any payment under this Policy, whether made by the **Company** or the **Insured**, shall be applied net of the expense of such recovery:
 - i. First, to the **Insured** in satisfaction of the **Insured's** covered loss in excess of the amount paid under this Policy;
 - ii. Second, to the **Company** in satisfaction of amounts paid in settlement of the **Insured's Claim**;
 - iii. Third, to the **Insured** in satisfaction of any Deductible Amount; and
 - iv. Fourth, to the **Insured** in satisfaction of any loss not covered under this Policy.
- b. Recoveries do not include any recovery:
 - i. From insurance, suretyship, reinsurance, security or indemnity taken for the **Company's** benefit; or
 - ii. Of original **Securities** after duplicates of them have been issued.

12. Transfer Of The **Insured's** Rights And Duties Under This Policy

- a. The **Insured's** rights and duties under the Crime Coverage (Loss Sustained) Insuring Clauses may not be transferred without the **Company's** written consent except in the case of death of an Individual **Named Insured**.
- b. If the **Insured** dies, the **Insured's** rights and duties will be transferred to the **Insured's** legal representative but only while acting within the scope of duties as the **Insured's** legal representative. Until the **Insured's** legal representative is appointed, anyone having temporary custody of the **Insured's** property will have the **Insured's** rights and duties but only with respect to that property.

13. Valuation – Settlement

- a. The value of any loss for purposes of coverage under this Policy shall be determined as follows:
- i. Loss of **Money** but only up to and including its face value. The **Company** will, at the **Insured's** option, pay for loss of **Money** issued by any country other than the United States of America:
 - (a) At face value in the **Money** issued by that country; or
 - (b) In the United States of America dollar equivalent determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was **Discovered**.
 - ii. Loss of **Securities** but only up to and including their value at the close of business on the day the loss was **Discovered**. The **Company** may, at the **Company's** option:
 - (a) Pay the market value of such **Securities** or replace them in kind, in which event the **Insured** must assign to the **Company** all the **Insured's** rights, title and interest in and to those **Securities**; or
 - (b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the **Securities**. However, the **Company** will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
 - (i) Market value of the **Securities** at the close of business on the day the loss was **Discovered**; or
 - (ii) The Limit of Insurance applicable to the **Securities**.
 - iii. Loss of or damage to **Other Property** or loss from damage to the **Premises** or its exterior for the replacement cost of the property without deduction for depreciation. However, the **Company** will not pay more than the least of the following:
 - (a) The cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose;
 - (b) The amount the **Insured** actually spends that is necessary to repair or replace the lost or damaged property; or
 - (c) The Limit of Insurance applicable to the lost or damaged property.With regard to Paragraphs 13.a.iii.(a) through 13.a.iii.(c), the **Company** will not pay on a replacement cost basis for any loss or damage:
 - (i) Until the lost or damaged property is actually repaired or replaced; and
 - (ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.If the lost or damaged property is not repaired or replaced, the **Company** will pay on an actual cash value basis.
- b. The **Company** will, at the **Insured's** option, settle loss or damage to property other than **Money**:
- i. In the **Money** of the country in which the loss or damage occurred; or
 - ii. In the United States of America dollar equivalent of the **Money** of the country in which the loss or damage occurred determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was **Discovered**.
- c. Any property that the **Company** pays for or replaces becomes the **Company's** property.

- Conditions Applicable To Crime Coverage (Loss Sustained) Insuring Clause 1, **Employee** Theft:

1. Termination As To Any **Employee**

This Insuring Clause terminates as to any **Employee**:

- a. As soon as:
 - i. The **Insured**; or
 - ii. Any of the **Insured's** partners, officers, directors, or trustees not in collusion with the **Employee**; learn of **Theft** or any other dishonest act committed by the **Employee** whether before or after becoming employed by the **Insured**.
- b. On the date specified in a notice mailed to the first **Named Insured**. That date will be at least 30 days after the date of mailing.

The **Company** will mail or deliver the **Company's** notice to the first **Named Insured's** last mailing address known to the **Company**. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. Territory

The **Company** will pay for loss caused by any **Employee** while temporarily outside the territory specified in the Territory Crime Coverage Condition D for a period of not more than 90 consecutive days.

- Conditions Applicable To Crime Coverage (Loss Sustained) Insuring Clause 2, **Forgery** Or Alteration:

1. Deductible Amount

The Deductible Amount does not apply to legal expenses paid under Crime Coverage (Loss Sustained) Insuring Clause 2, **Forgery** Or Alteration.

2. Electronic And Mechanical Signatures

The **Company** will treat signatures that are produced or reproduced electronically, mechanically or by other means the same as handwritten signatures.

3. Proof Of Loss

The **Insured** must include with the **Insured's** proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.

4. Territory

The **Company** will cover loss that the **Insured** sustains resulting directly from an **Occurrence** taking place anywhere in the world. Territory Crime Coverage Condition D does not apply to Crime Coverage (Loss Sustained) Insuring Clause 2, **Forgery** Or Alteration.

- Conditions Applicable to Crime Coverage (Loss Sustained) Insuring Clauses 4, Inside The **Premises** – **Robbery** Or **Safe Burglary** Of **Other Property**, and 5, Outside The **Premises**:

1. Armored Motor Vehicle Companies

Under Crime Coverage (Loss Sustained) Insuring Clause 5, Outside The **Premises**, the **Company** will only pay for the amount of loss the **Insured** cannot recover:

- a. Under the **Insured's** contract with the armored motor vehicle company; and
- b. From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

2. Special Limit Of Insurance For Specified Property

The **Company** will only pay up to \$5,000 for any one **Occurrence** of loss of or damage to:

- a. Precious metals, precious or semi-precious stones, pearls, furs, or completed or partially completed articles made of or containing such materials that constitute the principal value of such articles; or
- b. Manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.

- Conditions Applicable To Crime Coverage (Loss Sustained) Insuring Clause 6, Computer Fraud:

1. Special Limit Of Insurance For Specified Property

The **Company** will only pay up to \$5,000 for any one **Occurrence** of loss of or damage to manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.

2. Territory

The **Company** will cover loss that the **Insured** sustains resulting directly from an **Occurrence** taking place anywhere in the world. Territory Crime Coverage Condition D does not apply to Crime Coverage (Loss Sustained) Insuring Clause 6, Computer Fraud.