



State of Arkansas Participating School District Entities Cyber Liability Insurance Coverage Overview

This Cyber Liability Insurance Coverage Overview document does NOT convey or provide insurance coverage and does not contain all provisions. Refer to the insurance policy for terms and conditions. See the master policy for specific policy limits and sub-limits. Limits and retentions are subject to change upon renewal.

INSURING AGREEMENTS

A. Security & Privacy Liability

The **Insurer** shall pay on behalf of the **Insured** all **Loss**, in excess of the **Retention**, arising from a **Claim** first made during the **Policy Period** (or Discovery Period, if applicable) against such **Insured** for an actual or alleged **Security Failure** or **Privacy Incident**, and duly reported to the **Insurer** in accordance with the insurance policy.

B. Security & Privacy Incident Response Expenses

The **Insurer** shall pay on behalf of the **Company** the **Incident Response Expenses** of the **Company**, in excess of the **Retention**, resulting from an actual or reasonably suspected **Security Failure** or **Privacy Incident** that is first discovered by the **Insured** during the **Policy Period**, and duly reported to the **Insurer** in accordance with the insurance policy.

C. Business Interruption

The **Insurer** shall reimburse the **Insured** any **Business Loss**, in excess of the **Retention** and only after the specified **Waiting Period** has expired resulting from a **Material Interruption** incurred by the **Insured** directly as a result of a **Security Failure** which occurs during the **Policy Period**, and is duly reported to the **Insurer** in accordance with the insurance policy.

D. Data Recovery

The **Insurer** shall reimburse the **Insured** for all **Data Recovery Expenses**, in excess of the **Retention**, the **Insured** incurs due to a **Security Failure** or **Privacy Incident**, provided that such **Security Failure** or **Privacy Incident** occurs during the **Policy Period**, and is duly reported to the **Insurer** in accordance with the insurance policy.

E. Regulatory Proceedings

The **Insurer** shall pay on behalf of the **Insured** all **Defense Costs** and **Penalties**, in excess of the **Retention**, arising from a **Regulatory Proceeding** first made during the **Policy Period** (or Discovery Period, if applicable) against such **Insured**, resulting from an actual or alleged **Security Failure** or **Privacy Incident** by the **Insured** or any entity for whom the **Insured** is legally liable, and duly reported to the Insurer in accordance with the insurance policy.

F. Cyber Extortion

The **Insurer** shall reimburse the **Insured** for all **Extortion Costs**, in excess of the **Retention**, paid by the **Insured** as a result of an **Extortion Demand**, provided that such **Extortion Demand** occurs during the **Policy Period**, and is duly reported to the **Insurer** in accordance with Section 7 of this policy.

DEFINITIONS:

- a) **“Application”** means all signed applications, including any attachments and other materials provided therewith or incorporated therein, submitted in connection with the underwriting of this policy or for any other policy of which this policy is a renewal, replacement or which it succeeds in time.
- b) **“Business Loss”** means:
 - 1. costs that would not have been incurred but for a **Material Interruption**;
 - 2. the sum of all of the following, which shall be calculated on an hourly basis:
 - a. Net Income (Net Profit or Loss before income taxes) that would have been earned; and
 - b. Continuing normal operating expenses incurred, including payroll, sustained by the **Insured** during the **Period of Restoration**, but only after the **Waiting Period** has expired.
- c) **“Claim”** means any:
 - 1. written demand for monetary or non-monetary relief, or injunctive relief or services made against an **Insured**;
 - 2. civil, judicial, administrative, or arbitral or regulatory proceeding for monetary relief commenced against an **Insured**, including any appeal therefrom, which is commenced by:
 - a. service of a complaint or similar pleading;
 - b. demand for or notice of arbitration; or
 - c. receipt or filing of a notice of charges;
 - 3. with respect to coverage provided under Insuring Agreement 1.E. only, institution of a **Regulatory Proceeding** against any **Insured**; or
 - 4. written request to toll or waive the applicable statute of limitations relating to a potential **Claim** against an **Insured**.
- d) **“Cleanup Costs”** means expenses (including but not limited to legal and professional fees) incurred in testing for, monitoring, cleaning up, removing, containing, treating, neutralizing, detoxifying or assessing the effects of **Pollutants**.
- e) **“Company”** means:
 - 1. the **Named Insured**;

2. any **Subsidiary** of the **Named Insured**;
3. the **Named Insured** or any **Subsidiary** as a debtor, a debtor-in-possession or equivalent status.

- f) **“Computer System”** means hardware, software, portable devices, peripheral devices, wireless and mobile devices, data storage, network equipment or electronic backup connected together through a network and under the care, custody or control of the **Insured** or a **Third-Party Computer System Service Provider**.
- g) **“Cyberterrorism”** means the premeditated use of disruptive activities against the **Computer System** by an individual or group of individuals, or the explicit threat by an individual or group of individuals to use such activities, with the intention to cause harm, further social, ideological, religious, political or similar objectives, or to intimidate any person(s) in furtherance of such objectives.

“Cyberterrorism” does not include **Cyberwarfare**. **“Cyberwarfare”** as used herein means actions by a nation-state to penetrate the **Computer System** for the purposes of causing damage or disruption.

- h) **“Data Recovery Expenses”** means the reasonable and necessary fees, costs, charges or expenses, sustained with the prior written consent of the **Insurer**, such consent shall not be unreasonably withheld, resulting from a theft, loss, alteration, damage, deletion, or destruction of any electronic data or software which is under the care, custody or control of an **Insured** or for which an **Insured** is legally liable:
1. incurred to replace, restore, or recollect electronic data or software stored on the **Computer System** from written records or partially or fully matching data or software, including the capacity of the **Computer System** to store, process or transmit information; and
 2. incurred to retain a third-party computer security expert or forensic investigator to determine if electronic data or software can or cannot be replaced, restored or recollected; provided, however, that in the event that electronic data or software cannot be replaced, restored or recollected, **Loss** shall be limited to the reasonable and necessary fees, costs, charges or expenses incurred to reach this determination.

For the purposes of **“Data Recovery Expenses”** electronic data includes **Private Information** in an electronic or digitized format.

“Data Recovery Expenses” shall not include any salary or overhead expenses of the **Insured**.

- i) **“Defense Costs”** means:
1. reasonable and necessary fees, costs, charges or expenses resulting from the investigation, defense or appeal of a **Claim**;
 2. premium for an appeal, attachment or similar bond, but without any obligation to apply for and obtain such bond;
 3. any fees, costs, charges, or expenses incurred by the **Insured** at the specific request of the **Insurer** to assist the **Insurer** in the investigation, defense, or appeal of a **Claim**.

“Defense Costs” does not include:

- (i) amounts incurred prior to the date a **Claim** is first made and reported to the **Insurer**, pursuant to the terms of this policy, or

- (ii) compensation or benefits of any **Insured Person** or any overhead expenses of the **Company**.
- j) **“Executive Officer”** means any person who is or was the Chief Executive Officer, Chief Financial Officer, Chief Security Officer, Chief Technology Officer, Chief Information Officer, Chief Information Security Officer, General Counsel, or Risk Manager of the **Company** or, with respect to a **Subsidiary** incorporated outside of the United States, the functional equivalent of such an officer.
- k) **“Extortion Costs”** means:
 - 1. reasonable and necessary costs sustained by the **Company** with the **Insurer’s** prior written consent, which shall not be unreasonably withheld, to utilize a computer security expert or a forensic investigator to determine who is responsible for an **Extortion Demand**; and
 - 2. money, securities or other tangible or intangible property of value provided by the **Company** with the **Insurer’s** prior written consent, which shall not be unreasonably withheld, to a party responsible for an **Extortion Demand** for the purpose of terminating such **Extortion Demand**.
- l) **“Extortion Demand”** means:
 - 1. **Privacy Extortion Demand**; or
 - 2. **Security Extortion Demand**
- m) **“Incident Response Expenses”** means the reasonable and necessary expenses, sustained with the prior written consent of the **Insurer**, such consent shall not be unreasonably withheld:
 - 1. to retain an attorney to advise the **Company** on minimizing the harm to such **Company**, including:
 - (a) maintaining and restoring public confidence in such **Company**;
 - (b) applicability of and actions necessary by the **Company** to comply with any **Security & Privacy Law** relating to an actual or suspected **Security Failure** or **Privacy Incident**; or
 - (c) to determine whether the **Insured** has a right of indemnification from another party for an otherwise covered **Loss**;
 - 2. to retain a computer security expert or a forensic investigator to determine the existence, cause and extent of any actual or suspected **Security Failure** or **Privacy Incident**;
 - 3. to retain a public relations or crisis management consultant, including costs to provide advertising and public relations media and activities relating to an actual or suspected **Security Failure** or **Privacy Incident**;
 - 4. to notify those whose **Private Information** is connected to an actual or suspected **Security Failure** or **Privacy Incident** and advise of any available remedy in connection with the **Security Failure** or **Privacy Incident**, including, those expenses and costs for advertising, printing and mailing of materials;
 - 5. for identity theft education and assistance including credit freezes, identity theft call center services, credit file or identity monitoring and victim reimbursement insurance made available to those persons notified about a **Security Failure** or **Privacy Incident** pursuant to Subparagraph (4) above; and
 - 6. for any other services approved by the **Insurer** at the **Insurer’s** sole and absolute discretion.

“Incident Response Expenses” shall not include any salary or overhead expenses of the **Insured**.

- n) **“Information Handler”** means a third party that
- (i) the **Insured** has provided **Private Information** to;
 - (ii) the **Insured** has given access to **Private Information**; or
 - (iii) has received **Private Information** on behalf of the **Insured**.
- o) **“Insured(s)”** means:
1. the **Company**;
 2. any **Insured Person**;
 3. the estates, heirs, executors, administrators, assigns or legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Insurance;
 4. the lawful spouse or domestic partner (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world or any formal program established by the **Company**) of an **Insured Person**, but only to the extent that such **Insured Person** would otherwise be provided coverage under this Insurance; and
 5. any entity which the **Named Insured** or any **Subsidiary** is required by contract to add as an **Insured** solely under Insuring Agreement A. and E., **Security & Privacy Liability** and **Regulatory Proceedings**, but only for the acts of such **Named Insured** or any **Subsidiary** that result in a **Security Failure** or **Privacy Incident**.
- p) **“Insured Person(s)”** means any person who is or was an **Executive Officer**, director, partner, member of a management committee or employee (including leased and contract employees) of the **Company**, but solely while acting within the scope of his or her employment and related to the conduct of the **Company's** business.
- q) **“Loss”** means:
1. damages, settlements or judgments;
 2. pre-judgment or post-judgment interest;
 3. court costs and attorney fees awarded in favor of a claimant and against the **Insured**;
 4. **Defense Costs**;
 5. **Incident Response Expenses**, solely under Insuring Agreement B.;
 6. **Business Loss**, solely under Insuring Agreement C.;
 7. **Data Recovery Expenses**, solely under Insuring Agreement D.;
 8. **Penalties**, solely under Insuring Agreement E.; and
 9. **Extortion Costs**, solely under Insuring Agreement F.
- r) **“Material Interruption”** means the actual and measurable interruption or suspension of an **Insured's** business directly caused by a **Security Failure**.
- s) **“Named Insured”** means the entity named in Item 1 of the Declarations.
- t) **“Penalties”** means any civil fine or money penalty payable to any federal, state, local or foreign governmental entity that was imposed in a **Regulatory Proceeding** by such governmental entity in its regulatory or official capacity.

The insurability of **Penalties** shall be in accordance with such applicable law that most favors coverage for such **Penalties**.

- u) **“Period of Restoration”** means the period of time beginning immediately after the **Material Interruption** occurs, and continues until the **Computer System** is or could have been repaired or restored, with due diligence and promptness, to the same functionality and level of service that existed prior to the **Material Interruption**, and in no event exceeding one hundred and twenty (120) days.
- v) **“Personally Identifiable Information”** means:
 - 1. information from which an individual may be uniquely and reliably identified or contacted, including, but not limited to, an individual’s name, address, telephone number, social security number, account relationships, account numbers, account balances, account histories or passwords;
 - 2. an individual’s “nonpublic personal information” as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to the Act;
 - 3. an individual’s medical or health care information, including “protected health information” or “electronic protected health information” as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, or the Health Information Technology for Economic and Clinical Health Act (HITECH) and regulations issued pursuant to the Acts, or protected health related information under any similar federal, state, local or foreign law; and
 - 4. an individual’s private personal information as defined under **Security & Privacy Law**.
- w) **“Policy Period”** means the period from the inception date shown in Item 2 of the Declarations to the earlier of the expiration date shown in Item 2 of the Declarations or the effective date of cancellation of this policy.
- x) **“Pollutants”** means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on, any list of hazardous substances issued by the United States Environmental Protection Agency or any foreign, state, county, municipality, or locality counterpart thereof. Such substances shall include, without limitation, nuclear material or waste, any solid, liquid, gaseous or thermal irritant or contaminant, or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odor, wastewater, oil or products containing oil, lead or products containing lead, infectious or medical waste, and any noise.
- y) **“Pollution”** means the actual, alleged or threatened discharge, dispersal, release, escape, seepage, transportation, emission, treatment, removal or disposal of **Pollutants** into or on real or personal property, water or the atmosphere. **Pollution** also means any **Cleanup Costs**.
- z) **“Privacy Extortion Demand”** means any reasonably credible threat or demand or connected series of threats or demands to unlawfully use or disclose **Private Information**. The purpose of the threat or demand is to obtain money, securities or other tangible or intangible property of value from an **Insured**.
- aa) **“Privacy Incident”** means the following:
 - 1. any failure to protect **Private Information** (whether by “phishing,” other social engineering technique or otherwise), including that which could result in an identity theft or other wrongful emulation of the identity of an individual or corporation;
 - 2. any failure to disclose an event referenced in Sub-paragraph (1) above in violation of any **Security & Privacy Law**;

3. any unintentional failure of an **Insured** to comply with those parts of a **Company's** privacy policy that:
 - (a) prohibit or restrict the disclosure or sale of **Private Information** by an **Insured**, or
 - (b) require an **Insured** to allow an individual to access or correct **Private Information** about such individual; or
 4. any violation of a federal, state, foreign or local privacy statute alleged in connection with a **Claim** for a failure described in Sub-paragraphs (1) or (2) above.
- bb) **"Private Information"** means any of the following in an **Insured's** or **Information Handler's** care, custody, or control or for which an **Insured** or **Information Handler** is legally responsible:
1. **Personally Identifiable Information**; or
 2. **Third Party Corporate Information**
- cc) **"Regulatory Proceeding"** means a request for information, civil investigative demand, or civil proceeding commenced by service of a complaint or similar proceeding brought by or on behalf of any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity in connection with such proceeding alleging a **Security Failure** or **Privacy Incident**.
- dd) **"Retention"** means the applicable retention for each Insuring Agreement as set forth in Item 4. of the Declarations.
- ee) **"Security Extortion Demand"** means any reasonably credible threat or demand or connected series of threats or demands to commit, continue or resume an intentional attack against the **Computer System** where the purpose of the threat or demand is to obtain money, securities or other tangible or intangible property of value from an **Insured**.
- ff) **"Security Failure"** means any:
1. unauthorized access, unauthorized use, denial of service attack or receipt or transmission of a malicious code due to a failure or violation of the security of the **Computer System** or any other failure or violation of the **Computer System**;
 2. failure to disclose an event referenced in Sub-paragraphs (1) above in violation of any **Security & Privacy Law**;
 3. theft of a password or access code from an **Insured's** premises, the **Computer System**, or an **Insured Person** by non-electronic means;
 4. physical theft of hardware controlled by the **Insured** (or components thereof) on which electronic data is stored from a premises occupied and controlled by the **Insured**, including such failure or violation resulting from **Cyberterrorism**.
- gg) **"Security & Privacy Law"** means any federal, state, local or foreign statute or regulation that requires the **Insured**:
1. to have protocols in place to protect the **Computer System**; or
 2. to collect or store **Private Information** or has provided **Private Information** to an **Information Handler**; or
 3. to provide notice of any actual or reasonably suspected **Security Failure** or **Private Incident**, including the statute known as California SB 1386 (CIV §1798.82, et. seq. of the California Civil Code).
- hh) **"Subsidiary"** means any entity, in which more than 50% of the outstanding securities or voting rights representing the present right to vote for the election of directors in such entity is owned or controlled, directly or indirectly, in any combination, by the **Named Insured**.

“Subsidiary” also means any not-for-profit entity, which is under the exclusive control of the **Named Insured**.

With respect to a **Claim, Security Failure, Privacy Incident** or **Extortion Demand** made against any **Subsidiary** or any **Insured Person** thereof, this policy shall only apply after the effective time such entity becomes a **Subsidiary** and prior to the effective time that such entity ceases to be a **Subsidiary**.

- ii) **“Third-Party Computer System Service Provider”** means:
 - 1. a provider of “cloud computing” or other hosted computer resources to an **Insured**; or
 - 2. a provider of information technology services required by an **Insured** to operate the **Computer System**, as provided in a written contract between such third-party and the **Insured**.
- jj) **“Third-Party Corporate Information”** means any trade secret, data, design, interpretation, forecast, formula, method, practice, process, record, report or other item of non-public information of a third-party that is not an **Insured**, and which the **Insured** is legally required to maintain confidential.
- kk) **“Waiting Period”** means the number of hours set forth in Item 4.C. of the Declarations that must elapse once a **Material Interruption** has begun.