



# Seller protect

Policy document

United States

## PREAMBLE

**IMPORTANT:** It is important for **you** to review this Policy in its entirety carefully, including **CONDITION 1**. This Policy is a contract of insurance between **you** and **us**. **Your** Policy contains all the details of the cover that **we** provide. This Policy consists of and must be read together with the Declarations page, any Endorsements, and any annexures that are attached.

Where **loss** resulting from a **breach** that arises out of a **cyber event** or **technology error** is otherwise covered under this Policy, then the **loss** will be payable, subject to all other terms, conditions and exclusions of this Policy.

The Sections of this Policy are identified by the blue lines across the page with white upper-case print, these are for information purposes only and do not form part of the cover given by this Policy. Terms in bold upper-case print are references to specific Insuring Clauses, Sections, or Conditions. Other terms in bold lower-case print are defined terms and have a special meaning as set forth in the Definitions section and elsewhere. Words stated in the singular will include the plural and vice versa.

In consideration of the **premium** and in reliance upon the information that **you** provided to **us** prior to the commencement of this insurance, **we** agree to provide the cover as set out below.

## INSURING CLAUSE

**We** agree to pay on **your** behalf all **loss** which **you** become legally or contractually obliged to pay as a result of a **claim** first made against **you** by the **buyer** during the **period of the policy** arising out of an actual or alleged **breach**.

**We** will also pay **costs and expenses** on **your** behalf.

## HOW MUCH WE WILL PAY

The maximum amount payable by **us** will not exceed the **aggregate limit of liability**.

The amount of **loss we** pay will be reduced by any amounts recoverable by **you**, the **target** or the **buyer**, including any tax benefit or any other credit, payment or recourse against any other insurance policy directly relating to the **claim** or **loss**.

**We** may at any time pay to **you** in connection with any **claim** the amount of the **aggregate limit of liability** (after deduction of any amounts already paid). Upon that payment being made **we** will

relinquish the conduct and control of the **claim** and be under no further liability in connection with that **claim**.

## DEFINITIONS

1. **"Acquisition agreement"** means

the acquisition agreement stated in the Declarations page, including all its respective appendices, exhibits, annexes and other attachments.

2. **"Actual knowledge"** means

actual personal knowledge of a particular fact, matter, circumstance, event or condition, including any particular fact, matter, circumstance, event or condition disclosed, defined, referenced or referred to in documentation and information included in the **marketplace sales process** in connection with the transaction that the **acquisition agreement** relates to.

Where any **named insured** or **additional insured** is a corporate entity, corporation, trust or partnership, **"actual knowledge"**, will refer to the actual personal knowledge of a particular fact, matter, circumstance, event or condition of the directors, partners, members or trustee of the relevant **named insured** or **additional insured** (as the case may be).

**"Actual knowledge"** does not include any constructive, implied or imputed knowledge.

3. **"Additional insured"** means

any entity or individual that is named in the **acquisition agreement** as an owner or shareholder of the **target**, to the extent of their interest directly relating to the proceeds that they are entitled to from the sale of the **target** in accordance with the **acquisition agreement**.

4. **"Aggregate limit of liability"** means

the maximum amount payable by **us** as stated in the Declarations page, in respect of all claims under this Policy.

5. **"Breach"** means

any breach of or inaccuracy in, or matter giving rise to a claim under, the **insured obligations**.

6. **"Business days"** means

any day other than a Saturday, Sunday or public holiday in the state of the address of the **named insured** as stated in the Declarations page.

7. **"Buyer"** means

the parties named as the buyer stated in the **acquisition agreement**, including their assigns and successors.

8. "**Claim**" means  
a demand or legal action brought against **you** by the **buyer** for money arising out of an actual or alleged **breach**.
9. "**Claims managers**" means  
the claims managers stated in the Declarations page.
10. "**Closing**" means  
the closing of the transaction in accordance with the terms and conditions of the **acquisition agreement**.
11. "**Computer systems**" means  
all electronic computers including operating systems, software, hardware, microcontrollers and all communication and open system networks and any data or websites wheresoever hosted, off-line media libraries and data back-ups and mobile devices including but not limited to smartphones, iPhones, tablets or personal digital assistants.
12. "**Costs and expenses**" means  
reasonable and documented third party legal and professional expenses (including disbursements and applicable sales tax or other similar tax) reasonably incurred by **you** with **our** prior written agreement (which will not be unreasonably withheld, conditioned or delayed) in the investigation, settlement, defense or appeal of any **claim** as a direct result of a **breach**.
13. "**Cyber event**" means  
any actual or suspected unauthorized access to or electronic attack designed to damage, destroy, corrupt, overload, circumvent or otherwise impair the functionality of any **computer systems**, including denial of service attack, cyber terrorism, hacking attack, Trojan horse, phishing attack, man-in-the-middle attack, application-layer attack, compromised key attack, malware infection (including spyware or ransomware) or computer virus.
- "**Cyber event**" does not mean **technology error**.
14. "**Discoverable intellectual property**" means  
any:
- a. patent, trade mark, copyright or mask work used by, licensed to, licensed by, or registered in the name of the **target** or its subsidiaries; or
  - b. pending application or registration of a. above;
- which is:

- a. the subject of or relates to any **insured obligation** or which will be conveyed, transferred, assigned or licensed as a result of the consummation of the transaction contemplated in the **acquisition agreement**; and
- b. disclosed or referenced, as at the **inception date**, on the applicable registry of any patent, trade mark or copyright office.

15. "**Discoverable lien**" means

any lien, including a UCC lien, or security interest disclosed, as at the **inception date**, in the registry of the secretary of state, local filing office, county recorder of deeds' office, clerk of courts office or state tax office, with respect to where the **target**:

- a. was incorporated or registered following a statutory conversion;
- b. has its principal place of business; or
- c. has assets or real property.

For the purposes of this Definition and without prejudice to its generality:

- a. if the **target** is a body corporate or partnership, then "**target**" will refer to the name of the body corporate or partnership, its subsidiaries (if relevant and if transferred or conveyed under the **acquisition agreement**), and any name by which the body corporate or partnership or its subsidiaries were known by in the past 5 years prior to **closing**;
- b. if the **target** is being conveyed pursuant to an asset sale, then "**target**" will refer to the assets being so conveyed;
- c. applicable searches of registries listed in this Definition will be deemed to have been undertaken to include:
  - i. the registered name, trading name or prior name of the **target**;
  - ii. the name of the business being sold or conveyed, if the name is different from i. above;
  - iii. name variations of the search terms used in respect of i. and ii. of this part c., including syntax variables "F/K/A", "D/B/A", "&", "and";
  - iv. the name of the **named insured** and the **additional insureds**, including in respect of searches for any tax liens; and
  - v. the name used by the **target** for the purposes of filing its tax returns.

16. "**Escrow agreement**" means

the agreement between:

- a. **you**;
- b. the **buyer**; and
- c. the entity responsible for managing and regulating in accordance with the agreement, the total amount deposited by **you** in an account held in the entity's name

on **your** behalf, including all interest, dividends, income, capital gains or other amounts earned or derived from the total amount deposited.

17. "**Excluded obligations**" means
- any representation, warranty or indemnity contained in the **acquisition agreement** that is stated as an excluded obligation in the Declarations page;
  - any **forward-looking obligation**; or
  - any representation, warranty or indemnity implied (including under statute) in connection with the transaction(s) contemplated in the **acquisition agreement** or a representation, warranty or indemnity that is not explicitly contained in the **acquisition agreement**.
18. "**Expiry date**" means  
the expiry date stated in the Declarations page.
19. "**Forward-looking obligation**" means  
any statement, representation, warranty, indemnity or guarantee relating to the:
- future performance of the **target**; or
  - outcome of a future event, fact, matter or circumstance;
- including any estimate, projection or earn-out relating to a. or b. above.
20. "**Inception date**" means  
the inception date stated in the Declarations page.
21. "**Insured obligations**" means  
the representations and warranties which are given by **you** or on **your** behalf and contained in the **acquisition agreement** given as at the **inception date**.
- "**Insured obligations**" does not include any **excluded obligations**.
22. "**Loss**" means  
the actual damages **you** are legally or contractually obliged to pay arising from a **claim**.
23. "**Loss payees**" means  
the parties named as the buyer in the **acquisition agreement**.
24. "**Marketplace administrator**" means  
the entity or platform stated as the marketplace administrator in the Declarations page.
25. "**Marketplace sales process**" means  
the exchange of information, materials and documentation between **you** and the **buyer** via the digital platform of the **marketplace administrator** relating to the sale of the **target**.

26. **"Named insured"** means  
the entity or individual named as the named insured in the Declarations page.
27. **"Period of the policy"** means  
the period between the **inception date** and the **expiry date**.
28. **"Pollutants"** means  
any solid, liquid, gaseous, radiological or thermal irritant, toxic or hazardous substance, or contaminant including, but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemical, waste materials, any form of asbestos, polychlorinated biphenyls (PCBs) or per- and polyfluoroalkyl substances (PFAS) (by whatever chemical name designated, including materials or products containing these substances), including recycled, reconditioned or reclaimed materials.
29. **"Premium"** means  
the amount stated as the premium in the Declarations page.
30. **"Target"** means  
a. the purchased assets that are the subject of the **acquisition agreement**; and  
b. any entity that is controlled by a. above and which will be transferred to the **buyer** as a result of the transaction contemplated in the **acquisition agreement**.
31. **"Technology error"** means  
any:  
  
a. unintentional human error in entering, processing or amending electronic data within any **computer systems** or in the upgrading, maintenance or configuration of any **computer systems**; or  
b. application bug, internal network failure, external network failure or hardware failure directly impacting any **computer systems** which renders them incapable of supporting their normal business function;  
  
that does not arise directly or indirectly out of any **cyber event**.
32. **"We/our/us"** means  
the underwriters stated in the Declarations page.
33. **"You/your"** means  
the **named insured** and any **additional insured**.

## EXCLUSIONS

We will not make any payment under this Policy:

1. **Accounts receivable**

for any amounts arising out of or resulting from the failure or inability to collect or recover any accounts receivable of the **target**.

2. **Actual knowledge**

arising out of:

- a. a particular fact, matter, circumstance, event or condition of which **you** had **actual knowledge** before the **inception date** ; or
- b. any fact, matter or circumstance that has been disclosed pursuant to or in connection with the **acquisition agreement** or the **marketplace sales process**.

3. **Adjustment provisions**

for any amounts which are adjustable, claimable, claimed, payable or paid in connection with any purchase price adjustment provisions in the **acquisition agreement**.

Without limitation for the purposes of this Exclusion, a “purchase price adjustment” includes adjustments to the **target's** working capital, indebtedness, cash and cash equivalents and transaction expenses for the period up to **closing**.

However, this Exclusion will not apply to purchase price adjustments which are a direct result of a **breach**.

4. **Anti-sandbagging**

for any **breach** that the **buyer**, its respective officers, employees, counsel or other representatives had knowledge of on or before the **inception date** and which the **buyer** would otherwise have been entitled to make a **claim** for under the **acquisition agreement** or applicable state law.

5. **Benefit plans**

arising directly or indirectly out of any material benefit, retirement, employment, consulting, compensation, incentive, bonus, stock option, restricted stock, stock appreciation right, phantom equity, change in control, severance, vacation, paid time off, welfare and fringe-benefit agreement, ESOP (including the Employee Retirement Income Security Act of 1974), plan, policy, and program, whether or not reduced to writing, in effect and covering one or more employees or directors of the **target** or the beneficiaries or dependents of any such persons, and is maintained, sponsored, contributed to, or required to be contributed to by the



**target**, or under which the **target** has any material liability (including ERISA liens) for premiums or benefits, or any of them as the context requires.

#### 6. **Biometric data**

arising directly or indirectly out of any actual or alleged failure to comply with any local, state, provincial, federal or foreign law or regulation relating to or in connection with the collection, use, safeguarding, handling, storage, retention, destruction, disclosure or permission or consent to collect any biometric identifier, biometric data or biometric information, including the retina, iris, scans, fingerprints, voiceprints or hand or face geometry.

#### 7. **Discoverable liens, intellectual property and litigation**

arising out of any **breach** which:

- a. relates to a **discoverable lien**;
- b. is reasonably apparent on the face of any search results in connection with **discoverable intellectual property** immediately prior to the **inception date**;
- c. relates to any action, suit, proceeding or investigation, whether civil, criminal, administrative or regulatory, that has been filed or commenced and is discoverable prior to the **inception date**;
- d. is disclosed or would be reasonably apparent, as at the **inception date**, in:
  - i. the certificate of good standing of the **target**; or
  - ii. an FIRPTA certificate; or
- e. is a consequence of the **target** not having a certificate of good standing or FIRPTA certificate as at the **inception date**.

#### 8. **Dishonest acts**

arising directly or indirectly out of any of the following as determined by final adjudication, arbitral tribunal, or written admission:

- a. any dishonest or fraudulent act or omission committed by **you**;
- b. any act committed by **you** which employs any device, scheme or artifice to defraud; or
- c. any statement made by **you** which **you** had **actual knowledge** was untrue.

#### 9. **Environmental**

arising directly or indirectly out of any actual or alleged existence of or exposure to any **pollutants**.

#### 10. **Fair wear and tear**

arising directly or indirectly out of any amount attributable to wear and tear of assets, property, plant or equipment.

#### 11. **Non-monetary relief**

for injunctive, equitable or other non-monetary relief.

## 12. Nuclear

arising directly or indirectly from or contributed to by:

- a. ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component.

## 13. Other insurance

for which **you**, the **target** or the **buyer** are entitled to indemnification under any other insurance except for:

- a. any additional sum which is payable over and above the other insurance; or
- b. any contribution that **we** are obliged to make by law and that contribution will be in proportion to the indemnity available under the other insurance policies.

## 14. Small Business Administration loans

arising directly or indirectly out of any actual or alleged non-compliance with or **breach** of any laws, rules and regulations relating to loans advanced and financial assistance rendered under the Paycheck Protection Program, the CARES Act or in connection with a program of the Small Business Administration.

## 15. Uninsurable fines

for fines, penalties, civil or criminal sanctions or multiple, punitive or exemplary damages, unless insurable by law.

## 16. War and terrorism

arising directly or indirectly out of:

- a. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), civil war, rebellion, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b. any act or threat of force or violence by an individual or group, whether acting alone or on behalf of or in connection with any organization or government, committed for political, religious, ideological or similar purposes including the intention to influence any government or to put the public, or any section of the public, in fear; and
- c. any action taken in controlling, preventing, suppressing or in any way relating to a. or b. above.

## CONDITIONS

### 1. What you must do in the event of a claim

If **you** become aware of any **claim**, **you** must:

- a. notify the **claims managers** as soon as is reasonably practicable and follow their directions. This notification must be made no later than the end of any applicable extended reporting period;
- b. not admit liability for or settle or make or promise any payment or incur any **costs and expenses** without **our** prior written agreement (which will not be unreasonably withheld);
- c. provide **us** with all material information relating to the **claim** and **your** good faith estimate of the actual or expected **loss**, and continue to provide **us** with this information until the **claim** is settled. **You** must also permit **us** to attend any meetings between **you** and the **buyer** or, at **our** request, provide **us** with a copy of the subject matter of any meeting between **you** and the **buyer** that **we** do not attend;
- d. permit **us** to review and take copies of **your** records relating to the **claim** and correspond with **your** representatives; and
- e. provide **us** with any other information or assistance that **we** may reasonably request relating to the claim.

### 2. Acquisition agreement

The **acquisition agreement** may not be amended without **our** prior written agreement (which will not be unreasonably withheld, delayed or conditioned).

### 3. Agreement to pay claims (duty to defend)

**We** have the right and duty to take control of and conduct in **your** name the investigation, settlement, or defense of any **claim**. Except as provided for in **CONDITION 4**, **we** will not have any duty to pay **costs and expenses** of any part of a **claim** that is not covered by this Policy.

**We** will endeavor to settle any **claim** through negotiation, mediation, or some other form of alternative dispute resolution.

**We** will not settle any **claim** without **your** consent. If **you** refuse to consent to a settlement that **we** recommend and that the claimant will accept, **you** must then defend, investigate or settle the **claim** at **your** own expense. As a consequence of **your** refusal, **our** liability for any **claim** will not be more than the amount for which the **claim** could have been settled had **you** consented, plus any **costs and expenses** incurred prior to the date of **your** refusal.

#### 4. Allocation

In the event a **claim** includes both allegations, persons or matters that are covered under this Policy and allegations, persons or matters that are not covered under this Policy, then **you** and **we** will determine and agree a fair and reasonable allocation of the amounts payable under the **claim**, including **costs and expenses** and any judgment or settlement amounts.

If **you** and **we** cannot agree a fair and reasonable allocation an independent expert will be appointed to determine the allocation. The cost of the independent expert will be paid for by **us**. The allocation determined by the independent expert will be based upon written submissions only and will be final and binding. The independent expert will be mutually agreed between **you** and **us** but if **you** and **we** cannot agree on the independent expert then the matter will be referred to mediation or arbitration in accordance with the American Arbitration Association under its Commercial Mediation Procedures or any subsequent amendments to these procedures. The cost of the mediation or arbitration proceeding will be allocated between **you** and **us** by the appointed mediator or arbitrator.

#### 5. Assignment

The assignment of this Policy will not be valid except with **our** prior written agreement (which will not be unreasonably withheld).

However, in respect of **loss** payable by **us** under this Policy to a **loss payee** in accordance with **CONDITION 11**, **we** will consent to assign the right to receive such payment of **loss** to the **loss payee**.

#### 6. Cancellation

This Policy may be canceled by **you** by giving **us** 30 days written notice. If **you** give **us** notice of cancellation, the return **premium** will be in proportion to the number of days that the Policy is in effect. However, if **you** have made a claim under this Policy there will be no return **premium**.

**We** reserve the right to cancel and void this Policy with effect from the **inception date** in the event:

- a. **closing** does not occur; or
- b. the **premium** due to **us** by **you** remains unpaid more than 30 days beyond **closing**.

For the avoidance of doubt, the **premium** is separate and in addition to the closing fee, or other similar service fee, payable by **you** to the **marketplace administrator** in accordance with the terms of use applicable to the transaction of the **target** on the **marketplace administrator** platform.

## 7. Disclosure of the policy to a third party

**You** must not disclose this Policy (or any part thereof) or its existence to any third party without **our** prior written agreement, unless the disclosure is:

- a. required by any legal or regulatory provision; or
- b. to the **marketplace administrator**, **your** professional advisers, the **buyer** or any relevant escrow agent, provided that these parties do not disclose the existence of this Policy to any other third party without **our** prior written agreement, except as required by any legal or regulatory provision.

In the event **you** must disclose this Policy as a part of discovery relating to any litigation of a **claim**, **you** must notify **us** of the disclosure as soon as is reasonably practicable.

However, in respect of **loss** payable by **us** under this Policy to a **loss payee** in accordance with **CONDITION 11**, **we** will consent to disclose this Policy to the **loss payee**.

## 8. Dispute resolution

All disputes or differences between **you** and **us** that are referred to mediation or arbitration will be governed by the laws of the State of the United States of America shown as the choice of law stated in the Declarations page.

In respect of any arbitration proceeding **we** will follow the New York International Arbitration Center (NYIAC) rules, the rules of which are deemed incorporated into this Policy by reference to this Condition. Unless the applicable arbitration association rules state otherwise, a single arbitrator will be appointed who will be mutually agreed between **you** and **us**. If **you** and **we** cannot agree on a suitable appointment then **we** will refer the appointment to the applicable arbitration association.

Nothing in this Condition is intended to remove **your** rights under **CONDITION 18**. However, if a determination is made in any mediation, **CONDITION 18** is intended only as an aid to enforce this determination.

## 9. Escrow claims

In respect of that part of any **loss** resulting from a **claim** that is subject to an **escrow agreement**, it is a condition precedent to **our** liability under this Policy that **you** have available to **you** and maintain, the right to contest, dispute or challenge the **claim**.

## 10. Extended reporting period

An extended reporting period of 15 days following the **expiry date** will be automatically granted at no additional **premium**. This extended reporting period will cover, subject to all other terms, conditions and exclusions of this Policy, any **claim** first made against **you** during the **period of the policy** and reported to **us** during this extended reporting period.

No **claim** will be accepted by **us** in this 15 day extended reporting period if **you** are entitled to indemnity under any other insurance, or would be entitled to indemnity under such insurance if its **aggregate limit of liability** was not exhausted.

#### 11. Loss payees

**We** will pay any and all amounts payable by **us** solely in respect of **loss** to the **loss payee** under this Policy to such account as notified to **us** by the **loss payee** from time to time.

Any **loss** under this Policy will be:

- a. adjusted with the **named insured** or **additional insured**; and
- b. paid to the **loss payee**, to the extent that the **loss** is payable under this Policy.

For the avoidance of doubt:

- a. the **loss payee**:
  - i. is not a **named insured** or **additional insured** under this Policy; and
  - ii. does not have any right to pursue a **claim** directly against **us**; and
- b. **costs and expenses** will not be assigned to the **loss payee** under this Condition nor are they permitted to be assigned to any party, other than in accordance with **CONDITION 5**.

Any payment made by **us** to the **loss payee** will constitute full discharge of **our** obligations solely in respect to that payment, which will be treated as if it was made by **us** to **you** in respect of **your** liability under the **acquisition agreement**.

#### 12. Maintenance of records

**You** must maintain all records relating to this Policy, the transaction stated in the **acquisition agreement** and the **acquisition agreement** itself including related documents uploaded as part of the **marketplace sales process**, for a period of 90 **business days** following the settlement of all claims under this Policy or the resolution of all disputes.

#### 13. Our rights of recovery

If **we** make any payment under this Policy and **you** have any right of recovery against a third party in respect of this payment, then **we** will maintain this right of recovery. **You** will do whatever is reasonably necessary to secure this right and will not do anything after the event which gave rise to the **claim** to prejudice this right.

**We** will not exercise any rights of recovery against any employee of **yours** or the **target**, unless this is in respect of any fraudulent or dishonest acts or omissions as proven by final adjudication, arbitral tribunal or written admission by the employee.

Any recoveries will be applied as follows:

- a. towards any recovery expenses incurred by **us**;
- b. then to **us** up to the amount of **our** payment under this Policy, including **costs and expenses**;
- c. then to **you**.

#### 14. Payment of loss

Subject to **CONDITION 11**, any amounts payable by **us** to **you** will be paid to such account notified to **us** by any **named insured** or **additional insured** from time to time. **You** agree that payment of such amounts due under this Policy to such account will constitute full discharge of **our** obligations solely in respect of and relating to such payment made by **us** to **you**.

#### 15. Sanctions suspension

It is a condition under this Policy that the provision of cover, the payment of any claim and the provision of any benefit will be suspended, to the extent that the provision of the cover, payment of the claim or provision of the benefit would expose **us** to any sanction, prohibition or restriction under the United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, Canada, the European Union, United Kingdom or United States of America. The suspension will continue until such time **we** would no longer be exposed to the sanction, prohibition or restriction.

#### 16. WAIVER OF JURY TRIAL

**YOU AND WE** HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT **YOU AND WE** MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS POLICY, INCLUDING ANY EXHIBITS, SCHEDULES, APPLICATIONS AND APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**YOU AND WE** CERTIFY AND ACKNOWLEDGE THAT:

- a. **YOU OR WE** WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION;
- b. **YOU AND WE** HAVE CONSIDERED THE IMPLICATIONS OF THIS WAIVER;
- c. **YOU AND WE** MAKE THIS WAIVER KNOWINGLY AND VOLUNTARILY; AND
- d. **YOU AND WE** HAVE DECIDED TO ENTER INTO THIS POLICY IN CONSIDERATION OF, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

#### 17. Your disclosures and representations

**You** agree that all information, materials and documentation provided by **you** or on **your** behalf in the **marketplace sales process** constitute representation to **us** and the Policy is issued in reliance upon such information, materials and documentation. The misrepresentation or non-disclosure of any matter by **you** or on **your** behalf will render this Policy null and void and relieve **us** from all liability under this Policy.

#### 18. Choice of law, jurisdiction and service of suit

In the event of a dispute between **you** and **us** regarding this Policy, the dispute will be governed by the laws of the State of the United States of America shown as the choice of law stated in the Declarations page. **We** agree, at **your** request, to submit to the jurisdiction of a court of competent jurisdiction within the United States of America.

Nothing in this Condition constitutes or should be understood to constitute a waiver of **our** rights to commence an action in any court of competent jurisdiction in the United States of America, to move an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States of America or the laws of any State of the United States of America.

It is further agreed that service of process in such suit may be made upon the representative stated in the Declarations page and that in any suit instituted against **us**, **we** will abide by the final decision of such court or of any appellate court in the event of an appeal. The representative stated in the Declarations page is authorized and directed to accept service of process on **our** behalf in any such suit and, at **your** request, to give a written undertaking to **you** that they will enter a general appearance on **our** behalf in the event such suit is instituted.

Additionally, in accordance with the statute of any state, territory or district of the United States which makes such a provision, **we** hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as **our** true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by **you** arising out of this Policy. The representative stated in the Declarations page is hereby designated as the person to whom the above-mentioned officer is authorized to mail such process or a copy thereof.