

attorneys' fees Tech Data and its officers, directors and employees have incurred and are continuing to incur in connection with an investigation conducted by the U.S. Securities and Exchange Commission ("SEC"). The Insurers' denials of coverage violate the express terms of the Policies. Tech Data therefore seeks a declaratory judgment concerning Tech Data's rights and the Insurer's obligations under the Policies, as well as money damages for the Insurers' breaches of the Policies.

ANSWER: Zurich admits that Travelers issued to Tech Data a "Directors, Officers and Organization Liability" Policy No. 105556371, effective from February 1, 2013 to February 1, 2014. Zurich admits that it issued to Tech Data a "Zurich Excess Select Insurance Policy" No. DOC 5964720 05, effective from February 1, 2013 to February 1, 2014. Zurich denies that the limits of liability for the Travelers Primary Policy and Zurich Excess Policy are accurately stated in Paragraph 1. The Travelers Primary Policy provides that its coverage is excess of a Retention of \$2,000,000 for all **Securities Claims** and \$1,000,000 for all other **Claims**. Zurich denies each and every remaining allegation contained in Paragraph 1.

PARTIES

2. Plaintiff Tech Data is a corporation organized and existing under the laws of Florida and having its principal place of business in Florida.

ANSWER: Admitted.

3. Defendant Travelers is a corporation organized and existing under the laws of Connecticut and having its principal place of business in Connecticut.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 2 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

4. Defendant Zurich is a corporation organized and existing under the laws of New York, with its principal place of business in Illinois.

ANSWER: Zurich admits that it is a New York corporation engaged in the insurance business with a statutory home office located at One Liberty Plaza, 165 Broadway, 32nd Floor, New York, New York 10006, and its principal place of business located at 1299 Zurich Way, Schaumburg, Illinois 60196. It is authorized to transact business and has transacted business in Florida. Zurich denies all allegations contained in paragraph 4 of the Complaint not consistent with the foregoing.

JURISDICTION AND VENUE

5. The amount in controversy is in excess of \$75,000 exclusive of interest and costs.

ANSWER: Admitted.

6. By reason of the diversity of citizenship of the parties and the amount in controversy, this Court has jurisdiction of this action pursuant to 28 U.S.C. § 1332. Tech Data further seeks a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

ANSWER: Admitted.

7. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391 because Defendant Zurich is a resident of this Judicial District.

ANSWER: Admitted.

FACTUAL BACKGROUND

A. Tech Data's Insurance Policies

8. In consideration for a premium paid by Tech Data, Travelers issued and delivered the Travelers Primary Policy to Tech Data.

ANSWER: Admitted.

9. In consideration for a premium paid by Tech Data, Zurich issued and delivered the Zurich Excess Policy to Tech Data.

ANSWER: Admitted.

10. The Zurich Excess Policy follows form to the Travelers Primary Policy such that coverage under the Zurich Excess Policy shall “apply in conformance with and subject to the warranties, if permitted, limitation, conditions, provisions, and other terms of the [Travelers Primary Policy]....”

ANSWER: Zurich admits that the quoted language is contained in the Zurich Excess Policy, but denies that such language fully describes the coverage set forth in the Zurich Excess Policy.

11. The Policies cover insured entities and individuals for “Loss” that the insured entity and/or insured individual becomes legally obligated to pay as a result of any “Claim[s]” for a “Wrongful Act” occurring before or during the “Policy Period.”

ANSWER: Zurich denies each and every allegation in Paragraph 11 on the basis that Paragraph 11 inaccurately and incompletely describing the coverage under the Policies.

12. The “Policy Period” for the Policies is February 1, 2013 through February 1, 2014.

ANSWER: Admitted.

13. The Policies cover “Insured Persons” for, among other things, unindemnified “Loss” and/or “Interview Costs” that an “Insured Person” becomes legally obligated to pay as a result of a “Claim” for a “Wrongful Act” and/or an “Interview Request” by a regulatory enforcement agency. As modified by Endorsement PCDO-19018 Ed. 06-12 in the Travelers Policy, Insuring Agreement A provides:

DIRECTORS AND OFFICERS INDIVIDUAL LIABILITY COVERAGE: The Company will pay on behalf of any **Insured Person**, **Loss** that is not indemnified by the **Insured Organization** and that the **Insured Person** becomes legally obligated to pay for any **Claim** first made against the **Insured Person** during the **Policy Period**, or any applicable **Extended Reporting Period**, for a **Wrongful Act** occurring before or during the **Policy Period**.

The Company will pay, on behalf of any **Insured Person**, **Interview Costs** that are not indemnified by the **Insured Organization** and that the **Insured Person** becomes legally obligated to pay for any **Interview Request** first made by an **Enforcement Body** and reported in writing to the Company during the **Policy Period**, or any applicable **Extended Reporting Period**.

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy. Zurich denies each and every remaining allegation contained in Paragraph 13 on the basis that the first sentence of Paragraph 13 inaccurately and incompletely describes the coverage under the Policies.

14. The Policies also cover Tech Data for, among other things, such “Loss” or “Interview Costs” of an “Insured Person” whom Tech Data indemnifies. As modified by Endorsement PCDO-19018 Ed. 06-12 in the Travelers Policies, Insuring Agreement B provides:

ORGANIZATION INDEMNIFICATION LIABILITY COVERAGE: The Company will pay on behalf of any **Insured Organization**, **Loss** of any **Insured Person** that the **Insured Organization** indemnifies, as permitted or required by law, and that the **Insured Person** becomes legally obligated to pay for any **Claim** first made against the **Insured Person** during the **Policy Period**, or any applicable **Extended Reporting Period**, for a **Wrongful Act** occurring before or during the **Policy Period**.

The Company will pay, on behalf of any **Insured Organization**, **Interview Costs** that the **Insured Organization** indemnifies, as permitted or required by law, and that the **Insured Person** becomes legally obligated to pay for any **Interview Request** first made by and **Enforcement Body** and reported in writing to the Company during the **Policy Period**, or any applicable **Extended Reporting Period**.

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy. Zurich denies each and every remaining allegation contained in Paragraph 14 on the basis that the first sentence of Paragraph 14 inaccurately and incompletely describes the coverage under the Policies.

15. In addition, the Policies cover Tech Data for “Securities Claims” against the company itself. Insuring Agreement C provides:

ORGANIZATION SECURITIES CLAIM LIABILITY COVERAGE:
The **Company** will pay on behalf of any **Insured Organization**, **Loss** that such **Insured Organization** becomes legally obligated to pay for any **Securities Claim** first made against the **Insured Organization** during the **Policy Period**, or any applicable **Extended Reporting Period**, for a **Wrongful Act** occurring before or during the **Policy Period**.

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy. Zurich denies each and every remaining allegation contained in Paragraph 15 on the basis that the first sentence of Paragraph 15 inaccurately and incompletely describes the coverage under the Policies.

16. The Policies define “Loss” to include, among other things, “damages, judgments, settlements, pre-judgment and post-judgment interest, and **Defense Expenses**.”

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy. Zurich denies that Paragraph 16 accurately or completely describes the definition of “Loss” in the Travelers Primary Policy.

17. Attorneys’ fees and expenses, including costs associated with the production of documents and the preparation of witnesses in response to a regulatory enforcement investigation, are “Defense Expenses.” The relevant definition states that “Defense Expenses” include among other things:

the reasonable costs, charges, fees (including attorneys', experts', mediators', and arbitrators' fees), and expenses...incurred in defending a **Claim** covered under Insuring Agreement A, B, C....

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy. Zurich denies each and every remaining allegation contained in Paragraph 17.

18. An SEC investigation can be a "Claim" triggering coverage under the Policies.

The Policies define "Claim" to include, among other things:

1. a written demand...against any **Insured** for monetary damages or non-monetary relief, including injunctive relief;
2. a civil proceeding against any **Insured**, commenced by service of a complaint, arbitration petition, or similar proceeding;
4. a formal civil administrative or formal civil regulatory proceeding or formal civil investigation against any **Insured Person**, commenced by the receipt of:
 - a. notice of filed charges, investigative order or similar document;
 - b. written notice identifying such **Insured Person** as a target of an investigatory authority; or
 - c. Wells Notice from the SEC that it may commence an enforcement action against such **Insured Person**;
5. service of a subpoena on an **Insured Person** identified by name if served upon such person pursuant to an SEC formal investigative order....,

For a **Wrongful Act**, including any appeal therefrom.

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy. Zurich denies each and every remaining allegation contained in Paragraph 18 as stated.

19. If a "Claim" arises out of an investigation by the SEC of potential violations of securities laws, then the "Claim" constitutes a "Securities Claim" under the Policies. The Policies define "Securities Claim" to include, among other things:

any **Claim**, in whole or in part, that is ... based upon or arising out of the purchase or sale of, or offer to purchase or sell, any equity or debt securities of, and issued by, the **Insured Organization**, whether such purchase, sale, or offer involves a transaction with the **Insured Organization** or occurs in the open market, including any such **Claim** brought by the SEC or any other claimant.

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy. Zurich denies each and every remaining allegation contained in Paragraph 19.

20. The Policies define “Wrongful Act” to include, among other things:

any actual or alleged...error, misstatement, misleading statement, act, omission, neglect or breach of duty committed or attempted: a. by any **Insured Person** in their capacity as such...; or b. with respect to Insuring Agreement C, by the **Insured Organization**....

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy.

21. The Policies define “Insured Person” to include, among other individuals, any:

1. natural person who was, is, or becomes a duly elected or appointed director, officer, **Manager**, or in house general counsel of the **Insured Organization**, or any functional equivalent position...
3. other natural person not described in [1] above who:
 - a. with respect to a **Securities Claim**...was, is, or becomes a full or part-time employee of any **Insured Organization**, but only if the **Securities Claim**...is made against such natural person; and
 - b. with respect to any other **Claim**, was, is, or becomes a full or part-time employee of any **Insured Organization**, but only if the **Claim** is initially made against both such natural person and any natural person described in [1] above.

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy.

22. Tech Data is an “Insured Organization” under the Policies because it is an “entity named in ITEM 1 of the Declarations.”

ANSWER: Admitted.

23. “Interview Costs” include attorneys’ fees and other expenses incurred when preparing and defending “Insured Persons” in response to SEC Investigations. Pursuant to Endorsement PCDO-19018 Ed. 06-12, the Policies define “Interview Costs” as follows:

[T]he reasonable costs, charges, fees (including attorneys’ fees) and expenses...incurred by an **Insured Person** in responding to an **Interview Request**....

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy. Zurich denies each and every remaining allegation contained in Paragraph 23.

24. Pursuant to Endorsement PCDO-19018 Ed. 06-12, the Policies define “Interview Request” as follows:

[A] written request by an **Enforcement Body** for an **Insured Person** to appear for an interview or meeting in connection with an investigation against any **Insured Person** or the **Insured Organization**; provided that **Interview Request** does not include any routine or regularly scheduled interview or audit conducted pursuant to the **Enforcement Body’s** or **Insured Organization’s** ordinary compliance procedures.

ANSWER: Zurich admits that the quoted language is contained in the Travelers Primary Policy.

25. The Travelers Primary Policy is subject to a \$2 million retention “for all **Securities Claims**” and a \$1 million retention for “all other **Claims**”.

ANSWER: Admitted.

B. The SEC Investigation

26. On or around March 21, 2013 Tech Data announced that it would restate some or all of its previously issued quarterly and audited financial statements for the fiscal years 2011 and 2012, and for some or all of the quarters of fiscal years 2013.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 26 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

27. The purpose of the restatement was to correct inaccuracies primarily related to vendor accounting within a Tech Data subsidiary in the United Kingdom, Computer 2000 Distribution Ltd.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 27 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

28. On March 22, 2013, the SEC's Division of Enforcement first contacted Tech Data regarding the financial restatement and indicated that the SEC planned to open an investigation into possible accounting irregularities at Tech Data. That same day, Tech Data received SEC Form 1662, "Supplemental Information for Persons Requested to Supply Information Voluntarily or Directed to Supply Information Pursuant to a Commission Subpoena."

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 28 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

29. On April 5, 2013, Tech Data received, through its counsel Cleary Gottlieb Steen & Hamilton LLP ("Cleary Gottlieb"), an Order Directing Private Investigation and Designating Officers to Take Testimony, in the matter before the SEC styled *In the Matter of Tech Data Corp., File NO. HO-12068*, dated March 28, 2013 (the "SEC Order"). The SEC Order alleged that Tech Data and its officers, directors, employees, partners, subsidiaries and/or affiliates may have violated statutes, rules and regulations under the Securities Act of 1933 and the Securities

Exchange Act of 1934. (The SEC Order, the SEC subpoenas issued pursuant to the SEC Order, and related SEC interviews of Tech Data's officers, directors and/or employees are collectively referred to herein as the "SEC Investigation.")

ANSWER: Upon information and belief, Zurich admits that an SEC Order with the referenced file number exists. Said Order speaks for itself, and Zurich denies all allegations set forth in Paragraph 29 of the Complaint that are inconsistent with same. Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the remaining allegations contained in Paragraph 29 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

30. On or around April 10, 2013, Tech Data, through its insurance broker Willis Americas Administration, Inc. ("Willis"), provided notice of the SEC Order to the Insurers.

ANSWER: Zurich admits that it received a copy of the SEC Order on or around April 10, 2013 from Willis. Zurich denies each and every remaining allegation contained in Paragraph 30.

31. On April 10, 2013, the SEC's Division of Enforcement conducted an informal telephone interview of Tech Data's Vice President of Corporate Accounting. Cleary Gottlieb prepared the witness for and represented him in the interview.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 31 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

32. Pursuant to the SEC Order, on May 16, 2013, the SEC Division of Enforcement served a document subpoena on Tech Data requiring, "as part of the investigation," the production of documents related to the accounting of Tech Data's U.K. subsidiary (the "May 16

Subpoena”). Tech Data, through its broker Willis, provided notice of the May 16 Subpoena to the Insurers on or around May 16, 2013. Tech Data, with the assistance of counsel, made numerous productions to the SEC of documents responsive to the May 16 Subpoena, including on May 30 and June 6, 2013.

ANSWER: Zurich admits that it was notified by Willis of the May 16 Subpoena. Said subpoena speaks for itself, and Zurich denies all allegations set forth in Paragraph 32 of the Complaint that are inconsistent with same. Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the remaining allegations contained in Paragraph 32 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

33. Pursuant to the SEC Order, on June 14, 2013, the SEC Division of Enforcement served a second document subpoena on Tech Data requiring, “as part of the investigation,” the production of various budget and forecast reports, as well as two categories of documents related to communications of certain Tech Data officers (the “June 14, Subpoena”). Tech Data, through its broker Willis, provided notice of the June 14 Subpoena to the Insurers on or around June 14, 2013. Tech Data, with the assistance of counsel, made numerous productions to the SEC of documents responsive to the June 14 Subpoena, including on July 3 and 18, and October 8, 2013.

ANSWER: Zurich admits that it was notified by Willis of the June 14 Subpoena. Said subpoena speaks for itself, and Zurich denies all allegations set forth in Paragraph 33 of the Complaint that are inconsistent with same. Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the remaining allegations contained in Paragraph 33 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

34. On February 5, 2014, Tech Data filed its Annual Report on Form 10-K for the fiscal year ended January 31, 2013. This Annual Report restated certain consolidated financial

statements and other financial information for fiscal years ending January 31, 2009, 2010, 2011 and 2012.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 34 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

35. Pursuant to the SEC Order, on June 27, 2014, the SEC Division of Enforcement served a third document subpoena on Tech Data requesting documents on employee communications in both the U.S. and U.K. ("June 27 Subpoena"). Tech Data, through its broker Willis, provided notice of the June 27 Subpoena to the Insurers on or around June 27, 2014. Tech Data, with the assistance of counsel, made numerous productions to the SEC of documents responsive to the June 27 Subpoena.

ANSWER: Zurich admits that it was notified by Willis of the June 27 Subpoena. Said subpoena speaks for itself, and Zurich denies all allegations set forth in Paragraph 35 of the Complaint that are inconsistent with same. Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the remaining allegations contained in Paragraph 35 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

36. The SEC requested additional documents and information concerning Tech Data's U.K. personnel in 2014, 2015 and 2016. With assistance of counsel, Tech Data provided additional documents and information. Counsel also prepared several witnesses for and represented them in additional interviews or testimony in connection with the SEC Investigation.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 36 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

37. In connection with the SEC Investigation, Tech Data and certain past and present officers, directors and/or other “Insured Persons” incurred substantial legal fees. Tech Data paid legal fees on behalf of certain officers, directors and/or “Insured Persons.”

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 37 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

C. The Insurance Coverage Dispute

38. The SEC Investigation constitutes or encompasses “written demands” for “non-monetary relief.”

ANSWER: Zurich denies each and every allegation contained in Paragraph 38.

39. The SEC subpoenas served on Tech Data constitute “written demands” for “non-monetary relief.”

ANSWER: Zurich denies each and every allegation contained in Paragraph 39.

40. The SEC Investigation is a “formal civil investigation” seeking information regarding possible securities law violations by “Tech Data, its officers, directors, employees, partners, subsidiaries, affiliates, and/or other persons or entities.” The SEC Investigation was commenced by the receipt of an investigative order.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 40 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

41. The SEC Investigation is a “Securities Claim” as defined in the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 41.

42. The SEC subpoenas served on Tech Data are “Securities Claims” as defined in the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 42.

43. The Insurers were timely notified of the SEC Investigation, including the SEC subpoenas, in compliance with the terms of the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 43.

44. On or around April 12, 2013, Travelers first acknowledged receipt of notice of the SEC Investigation.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 44 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

45. In a letter dated May 28, 2013, Travelers declined coverage under the Travelers Primary Policy, stating the SEC Investigation “does not appear to satisfy the requirement of the Policy’s insuring agreement” and is not a “Claim” pursuant to the terms and conditions of the Travelers Primary Policy. Travelers also took the position that the SEC Investigation did not constitute an “Interview Request.”

ANSWER: Zurich admits that in a letter dated May 28, 2013, Travelers declined coverage under the Travelers Primary Policy. Zurich admits that Travelers stated that the SEC Investigation “does not appear to satisfy the requirements of the Policy’s insuring agreements.” Zurich admits that Travelers stated that SEC Investigation was not a “Claim”, and thus was not a “Securities Claim,” made against Tech Data. Zurich admits that Travelers stated that the SEC Investigation did not at that time involve an “Interview Request” made to an “Insured Person.”

Zurich denies that Paragraph 45 accurately or completely states or summarizes the contents of the May 28, 2013 letter.

46. In a letter dated to Travelers dated June 24, 2013, Tech Data disagreed with Travelers' conclusions on coverage for the SEC Investigation, advised Travelers that the SEC Investigation is a covered "Securities Claim," and requested that Travelers reconsider its coverage denial.

ANSWER: Admitted.

47. In a letter to Travelers dated August 26, 2013, Tech Data submitted to Travelers copies of paid invoices for legal fees and expenses related to the SEC Investigation and requested that Travelers apply the paid invoices against any applicable retention.

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 47 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

48. In a letter dated September 3, 2013, Tech Data provided Zurich with an update on the status of the SEC Investigation and the correspondence between Tech Data and Travelers.

ANSWER: Admitted.

49. In a letter dated September 20, 2013, Travelers reiterated its denial of coverage for the SEC Investigation, stating that the SEC Investigation is neither a "Claim" nor a "Securities Claim."

ANSWER: Zurich does not have sufficient knowledge or information to ascertain the truth or falsity of the allegations contained in Paragraph 47 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

50. In a letter to Travelers dated October 18, 2013, Tech Data submitted to Travelers copies of additional paid invoices for legal fees and expenses related to the SEC Investigation and requested that Travelers apply the paid invoices against any applicable retention and reimburse amounts in excess of any applicable retention.

ANSWER: Admitted.

51. In a letter dated November 22, 2013, Travelers refused to reimburse Tech Data for any of the invoices submitted to date. Travelers stated that “the SEC Investigation does not at this point satisfy the requirement of the Policy’s Insuring Agreements because it does not at this time constitute a **Claim** or involve an **Interview Request**.”

ANSWER: Admitted.

52. In a letter dated April 4, 2014, Zurich informed Tech Data that Zurich adopts and incorporates the coverage positions and denial of coverage set forth in Travelers’ correspondence.

ANSWER: Admitted.

53. Between November 2013 through April 2016, Tech Data continued to correspond with the Insurers to, among other things: (1) provide periodic updates regarding the status of the SEC Investigation and notify the Insurers of additional requests for documents and information by the SEC; (2) inform the Insurers that certain Tech Data executives had retained independent counsel for their personal defense of the SEC Investigation and notify the Insurers that Tech Data had indemnified the executives for their attorneys’ fees and costs; (3) submit additional invoices to the Insurers for reimbursement; and (4) request that the Insurers reconsider their coverage positions.

ANSWER: Admitted.

54. As of November 2016, Tech Data had submitted invoices to the Insurers documenting millions of dollars in legal fees and expenses related to the SEC Investigation. Tech Data has paid those invoices and has not been reimbursed by the Insurers. The amounts sought by Tech Data, if paid by the Insurers, would exhaust the Travelers Primary Policy and erode a portion of the limit of the Zurich Excess Policy.

ANSWER: Zurich admits that it received certain invoices charging fees and expenses in connection with the SEC Investigation and admits that it has not reimbursed Tech Data for such fees and expenses. Zurich denies each and every remaining allegation contained in Paragraph 54.

55. The Insurers continue to deny coverage for the SEC Investigation.

ANSWER: Admitted.

COUNT I
(DECLARATORY JUDGMENT)

56. Tech Data adopts and incorporates by reference the allegations set forth in paragraphs 1 through 55 of the Complaint as if fully set forth herein.

ANSWER: Zurich adopts and incorporates by reference its answers set forth in paragraphs 1 through 55 of this Answer as if fully set forth herein.

57. Tech Data entered into contracts with the Insurers whereby Tech Data would pay insurance premiums in consideration for insurance coverage.

ANSWER: Zurich denies the allegations of Paragraph 57 as stated. Zurich further answers that Tech Data entered into contracts with the Insurers whereby Tech Data would pay insurance premiums in consideration for insurance coverage pursuant to the terms and conditions set forth therein.

58. Each of the Policies is a valid and enforceable contract.

ANSWER: Paragraph 58 contains solely legal conclusions to which no answer is required and none is given.

59. At all relevant times, Tech Data was covered by the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 59 as stated.

60. The Policies require the Insurers to, among other things, reimburse defense costs incurred as a result of the SEC Investigation.

ANSWER: Zurich denies each and every allegation contained in Paragraph 60.

61. Tech Data has fully complied with all terms and conditions of the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 61.

62. In breach of the Policies, the Insurers have refused to pay the defense costs incurred by Tech Data in connection with the SEC Investigation.

ANSWER: Zurich admits that the Insurers have refused to pay the defense costs incurred by Tech Data in connection with the SEC Investigation. Zurich denies each and every remaining allegation contained in Paragraph 62.

63. An actual controversy has arisen and now exists between Tech Data and the Insurers concerning the amount of coverage available to Tech Data under the Policies for the SEC Investigation.

ANSWER: Admitted.

64. Tech Data is entitled to a declaration that the SEC Investigation is a "Claim" under the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 64.

65. Tech Data is entitled to a declaration that the SEC subpoenas are “Claims” under the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 65.

66. Tech Data is entitled to a declaration that the SEC Investigation is a “Securities Claim” under the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 66.

67. Tech Data is entitled to a declaration that the SEC subpoenas are “Securities Claims” under the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 67.

68. Tech Data is entitled to a declaration that, subject to the Policies’ applicable retention provisions and limits, the Insurers are obligated to pay costs, including attorneys’ fees and other expenses, that Tech Data has incurred or incurs in the future relating to the SEC Investigation, including attorneys’ fees and other expenses, that Tech Data has incurred or incurs in the future relating to the SEC Investigation, including the SEC subpoenas.

ANSWER: Zurich denies each and every allegation contained in Paragraph 68.

69. Tech Data is entitled to a declaration that, subject to the Policies’ applicable retention provisions and limits, the Insurers are obligated to pay amounts that Tech Data becomes legally obligated to pay, through judgment, settlement or otherwise, with respect to the SEC Investigation, including the SEC subpoenas.

ANSWER: Zurich denies each and every allegation contained in Paragraph 69.

70. The issuance of the requested declaratory relief by this Court will terminate some or all of the existing controversies among the parties.

ANSWER: Zurich denies each and every allegation contained in Paragraph 70.

COUNT II
(BREACH OF CONTRACT)

71. Tech Data adopts and incorporates by reference the allegations set forth in paragraphs 1 through 70 of the Complaint as if fully set forth herein.

ANSWER: Zurich adopts and incorporates by reference its answers set forth in paragraphs 1 through 70 of this Answer as if fully set forth herein.

72. Tech Data entered into contracts with the Insurers whereby Tech Data would pay insurance premiums in consideration for insurance coverage.

ANSWER: Zurich denies the allegations of Paragraph 72 as stated. Zurich further answers that Tech Data entered into contracts with the Insurers whereby Tech Data would pay insurance premiums in consideration for insurance coverage pursuant to the terms and conditions set forth therein.

73. Each of the Policies is a valid and enforceable contract.

ANSWER: Paragraph 73 contains solely legal conclusions to which no answer is required and none is given.

74. Tech Data has fully complied with all terms and conditions of the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 74.

75. Tech Data has indemnified and continues to indemnify certain Tech Data directors, officers and/or other Insured Persons for losses incurred as a result of the SEC Investigation.

ANSWER: Zurich lacks sufficient knowledge and information to ascertain the truth or falsity of the allegations contained in Paragraph 75 and, therefore, neither admits nor denies the same, but demands strict proof thereof.

76. Tech Data has incurred and continues to incur substantial covered losses as a result of the SEC Investigation.

ANSWER: Zurich denies each and every allegation contained in Paragraph 76.

77. The Insurers have breached their respective contracts by denying coverage and/or failing to make required payments with respect to the SEC Investigation, including with respect to the SEC subpoenas.

ANSWER: Zurich denies each and every allegation contained in Paragraph 77.

78. As a direct and proximate result of the Insurers' actions, Tech Data has incurred damages (and will continue to incur damages) to the extent that the Insurers have failed to pay (and continue to fail to pay in the future) all or a portion of the defense costs and/or liability that the Insurers are obligated to pay to or on behalf of Tech Data or any other Insured Person under the Policies.

ANSWER: Zurich denies each and every allegation contained in Paragraph 78.

79. Tech Data's damages total millions of dollars. The full extent of Tech Data's damages will be determined according to proof at trial.

ANSWER: Zurich denies each and every allegation contained in Paragraph 79.

AFFIRMATIVE DEFENSE

1. The Travelers Primary Policy contains, in Endorsement PCDO-19018 Ed. 06-12 the following "Notice" provisions:

1. **Notice of Claim**

As a condition precedent to exercising rights under this **Policy**, the **Insured** must give the **Company** written notice of any **Claim** made against any Insured as soon as practicable after the chief executive officers, chief financial officer, in-house general counsel, or risk manager of the **Insured Organization**, or any functional equivalent position, first becomes aware of such **Claim**.

2. **Notice of Interview Request**

As a condition precedent to exercising rights under this **Policy**, the **Insured** must give the **Company** written notice of any **Interview Request** made to any **Insured** as soon as practicable after such **Insured** first becomes aware of such **Interview Request**, but in no event later than: (i) the Expiration Date of the **Policy Period**, as set forth in ITEM 2 of the Declarations; or (ii) the Expiration date of the applicable **Extended Reporting Period**, as set forth in ITEM 7 of the Declarations, if the Named Insured elects such **Extended Reporting Period**, pursuant to section V.C. of this **Policy**.

3. **Notice of Circumstances**

If, during the **Policy Period**, or any applicable **Extended Reporting Period**, an **Insured**:

1. becomes aware of any circumstances that could give rise to a **Claim** for a **Wrongful Act** occurring before or during the **Policy Period**; and
2. gives written notice of such circumstance, and the other information referenced below in this **NOTICE** section, to the **Company** during the **Policy Period** or any **Extended Reporting Period**.

then any **Claim** subsequently arising from such circumstance will be deemed made during the **Policy Period**.

4. **Notice Requirements**

a. **Notice of Claims or Circumstances**

As a condition precedent to exercising rights under this **Policy** with respect to any **Claim** or circumstance, the **Insured** must:

- (i) include within any notice of **Claim** or circumstance a description of the **Claim** or circumstance, the nature of the **Wrongful Act**, the nature of the alleged or potential damage, the names of actual or potential claimants and **Insured Persons** involved, and a description of how the **Insured** first became aware of such **Claim** or circumstance; and

- (ii) give to the **Company** such other information and cooperation as the **Company** may reasonably request.

b. **Notice of Interview Requests**

As a condition precedent to exercising rights under this **Policy** with respect to any **Interview Request**, the **Insured** must:

- (i) include with any notice of an **Interview Request** the name of the **Enforcement Body** making the request and, to the best of the **Insured's** knowledge, a description of the nature and subject matter identified by the **Enforcement Body** in its **Interview Request**; and
- (ii) give to the **Company** such other information and cooperation as the **Company** may reasonably request, including additional information about the subject matter and nature of the **Interview Request** as it is learned.

All notices under this **NOTICE** section must be sent or delivered to the **Company**, at the address set forth in ITEM 3 of the Declarations, and will be deemed received and effective upon the earliest of actual receipt by the addressee, or one day following the date such notice is sent.

2. The Zurich Excess Policy contains the following provisions regarding reporting and notice:

Reporting and Notice – As a condition precedent to exercising any rights under this policy, the **Policyholder** shall give the Underwriter written notice of any claim or any potential claim under this policy or any **Underlying Insurance** in the same manner required by the terms and conditions in the **Followed Policy**. Notwithstanding the foregoing, notice to the insurer(s) of the **Followed Policy** or other **Underlying Insurance** does not constitute notice to the Underwriter. Written notice of any claim or potential claim shall be provided to the Underwriter at the address set forth in Item 5.A. of the Declarations.

The Underwriter shall be given notice in writing to the address set forth in Item 5.B. of the Declarations as soon as practicable in the event of (1) termination of any **Underlying Insurance**, (2) any additional or return

premiums charged or allowed in connection with any **Underlying Insurance**, or (3) any change to any of the **Underlying Insurance**.

3. Tech Data has not given notice to Zurich in the manner required by the Policies as soon as practicable.

4. As a result of Tech Data's breach of the notice provisions in the Policies, Zurich has no duty to pay or reimburse any amounts sought by Tech Data in connection with the SEC Investigation, even if those amounts were otherwise covered, which is denied.

WHEREFORE, Defendant, ZURICH AMERICAN INSURANCE COMPANY, respectfully requests that judgment be entered in its favor and against Plaintiff.

Respectfully submitted,

ZURICH AMERICAN INSURANCE
COMPANY

/s/ Perry M. Shorris
One of Defendant's Attorneys

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