



In consideration of the premium paid and subject to the Declarations, limitations, conditions, definitions and other provisions of this Coverage Part, including endorsements hereto, the **Insurer** and the **Insureds** agree as follows:

I. INSURING AGREEMENT

The **Insurer** shall pay, on behalf of an **Insured Individual**, **Loss** on account of a **Claim** first made against the **Insured Individuals** for a **Wrongful Act**, or **Preliminary Inquiry** first received by an **Insured Individual**, during the **Policy Period** or the **Extended Reporting Period** (if applicable), except to the extent that such **Loss** is paid by any other **Insurance Program** or as indemnification or advancement from any source. In the event that **Loss** is not paid by such other **Insurance Program** or as indemnification or advancement from any source, this policy shall respond on behalf of the **Insured Individual** as if it were primary, subject to all of its terms, conditions, and limitations, including but not limited to Section IV.A. Limit of Liability, and without prejudice to the **Insurer's** excess position.

II. DEFINITIONS

Change in Control means the:

- A. merger or acquisition of the **Named Insured**, or of all or substantially all of its assets by another entity such that the **Named Insured** is not the surviving entity, or
- B. acquisition by any person, entity, or affiliated group or persons or entities of the right to vote for, select, or appoint more than 50 percent of the directors of the **Named Insured**.

"Claim" means:

- A. a written demand for monetary, non-monetary, injunctive, or equitable relief, or
- B. any civil or criminal judicial proceeding in a court of law or equity, or
- C. a civil, criminal, administrative, or regulatory investigation or proceeding, which is commenced by the filing or notice of charges, a Wells Notice, "target letter", formal investigative order, or any similar document identifying any **Insured Individual** as a person against whom a formal proceeding may be commenced, or
- D. an official request for **Extradition** of an **Insured Individual**, or
- E. an arbitration, mediation, or other alternative dispute resolution proceeding, or
- F. a request to toll or waive a statute of limitations or contractual time-bar, or
- G. a formal or informal investigation involving an **Insured Individual** by any governmental or self-regulatory authority (including the U. S. Securities and Exchange Commission, the U.S. Department of Justice or any state attorney general, or their equivalents in a **Foreign Jurisdiction**), which the **Insured Individual** is advised of in writing by the investigating authority.

Insured Entity means the **Named Insured** and any **Subsidiary** (created or acquired on or before the inception date set forth in Item 2. of the Declarations or during the Policy Period, subject to section VII. B. Changes in Exposure), any foundation, political action committee or charitable trust controlled or sponsored by the **Named Insured** or any **Subsidiary**, and the **Named Insured** or any **Subsidiary** in its capacity as a debtor in possession under United States bankruptcy law.

Defense Costs means that part of **Loss** consisting of:

- A. reasonable costs, charges, fees (including, attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of any **Insured**) incurred in investigating, defending, opposing or appealing any **Claim**; and
- B. the premium for appeal, attachment or similar bonds (but the Insurer shall be under no obligation to furnish any bond).

Defense Costs shall not include the **Insured Entity's** overhead expenses or any salaries, wages, fees, or benefits of its directors, officers, or employees.

Domestic Partner means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Named Insured**.

Enforcement Body means any federal, state, local or foreign enforcement authority or government investigative authority (including, but not limited to, the U.S. Department of Justice, the U.S. Securities and Exchange Commission and the attorney general of any state); or the enforcement arm of any securities or commodities exchange or other self-regulatory agency.

Extradition means any formal process by which an **Insured** located in any country is or is sought to be surrendered to any other country for trial or otherwise to answer any criminal accusation, including the execution of an arrest warrant where such execution is an element of such process.

Foreign Jurisdiction means any jurisdiction, other than the United States or any of its territories or possessions.

Independent Director(s) means any past, present or future director of the **Named Insured** who is not and has never been an officer or employee of any **Insured Entity**, or a holder of an equivalent position in a **Insured Entity** that is chartered in any jurisdiction other than the United States of America.

Insurance Program means any:

- A. existing Management Liability insurance, Directors and Officers Liability insurance, Fiduciary Liability insurance, Employment Practices Liability insurance, or similar insurance, or
- B. other existing insurance under which coverage may be owed.

Insured Individual means:

- A. any past, present, or future director, including an **Independent Director**, or officer, or member of the Board of Managers, or trustee, of an **Insured Entity** and those individuals serving in a functionally equivalent role for the **Named Insured** or any **Subsidiary** operating or incorporated outside the United States of America; or
- B. any past, present and future person in a duly elected or appointed position in an entity organized and operated in a foreign jurisdiction that is comparable to any position listed in A. above; or
- C. the lawful spouse or **Domestic Partner** of any **Insured Individual** for a **Claim** arising solely out of his or her status as the spouse or **Domestic Partner** of an **Insured Individual**, including a **Claim** that seeks damages recoverable from property jointly held by the **Insured Individual** and the spouse or **Domestic Partner**, or property transferred from the **Insured Individual** to the spouse or **Domestic Partner**; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged **Wrongful Act** of the spouse or **Domestic Partner**, but shall apply only to **Claims** arising out of any actual or alleged **Wrongful Act** of an **Insured Individual**, subject to this policy's terms, conditions and exclusions; or
- D. in the event of the death, incapacity or bankruptcy of an **Insured Individual**, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured Individual** shall be deemed to be a **Claim** against such **Insured Individual**; or

E. any past, present, or future General Counsel and Risk Manager (or equivalent position) of an **Insured Entity**.

Insured means any **Insured Entity** or **Insured Individual**.

Insurer means the entity issuing this Policy as designated in the Policy Declarations.

Loss means **Defense Costs, Preliminary Inquiry Costs, Personal Asset Costs, Sox 304/Dodd-Frank 954 Costs**, damages, judgments, settlements or other amounts (including pre-judgment and post-judgment interest, punitive or exemplary damages, or the multiplied portion of any damage award, where insurable by law) and that the **Insured Individual** are obligated to pay. **Loss** shall include fines, penalties or taxes that an **Insured Individual** is obligated to pay if such fines, penalties or taxes are insurable by law and are imposed in connection with such **Insured Individual's** service with respect to an entity included within the definition of an **Insured Entity**. Further, **Loss** shall include taxes paid by an **Insured Individual** in a **Foreign Jurisdiction** in connection with the **Insurer's** payment of **Loss** to the **Insured Individual**.

Loss, other than **Defense Costs**, shall not include matters which are uninsurable under the law pursuant to which this policy is construed.

Notwithstanding the foregoing paragraph, **Loss** shall specifically include (subject to this policy's other terms, conditions and limitations, including but not limited to exclusions relating to profit or advantage, deliberate fraud or deliberate criminal acts) civil penalties assessed against any **Insured Individual** pursuant to Section 2(g) (2)(B) of the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(g)(2)(B).

Further, with respect to coverage for punitive, exemplary or multiplied damages, the law of the applicable jurisdiction most favorable to the insurability of such amounts shall control. With respect to punitive or exemplary damages, or to the multiplied portion of any damage award, the **Insurer** shall not challenge the written legal opinion of independent counsel selected by the **Insured** and consented to by the **Insurer**, such consent not to be unreasonably withheld or delayed, as to the insurability of such matters.

It is agreed that if a **Claim** against the **Insured Individual** alleges violations of Section 11 or 12 or 15 of the Securities Act of 1933, as amended, the **Insurer** shall not assert that any portion of any settlement in such **Claim** constitutes uninsurable loss and shall treat that portion of such settlements and **Defense Costs** as constituting **Loss** under this policy.

Outside Capacity Wrongful Act means:

- A. any actual or alleged act, error, or omission, misstatement, misleading statement, neglect, or breach of duty by any **Insured Individual**, while acting in his or her capacity as a director, officer, trustee, regent, governor, or member of the board of managers of an LLC, or as a fiduciary of any employee benefit plan (or the functional equivalent of any of these if outside the United States of America), of an **Outside Entity**, if serving in such capacity at the specific request of an **Insured Entity**; or
- B. matter asserted against any **Insured Individual** solely by reason of his or her status as director, officer, trustee, regent, governor, or member of the board of managers of an LLC, or as a fiduciary of any employee benefit plan (or the functional equivalent of any of these if outside the United States of America), of an **Outside Entity**, if serving in such capacity at the specific request of an **Insured Entity**.

Outside Entity means any corporation or organization other than an **Insured Entity** of which any **Insured Individual** serves as a director, officer, trustee, regent, governor, or member of the board of managers of an LLC, (or the functional equivalent of any of these if outside the United States of America), but only if such service is at the specific request of the **Insured Entity**.

Named Insured means the entity designated in Item 1. of the Policy Declarations.

Personal Asset Costs means the reasonable fees, costs and expenses arising from a **Claim**, consented to by the **Insurer** and incurred by an **Insured Individual** to oppose any efforts by:

- A. any federal, state, local or foreign law enforcement authority or other governmental investigative authority (including without limitation the U.S. Department of Justice, the U.S. Securities and Exchange Commission and the attorney general of any state); or
- B. the enforcement arm of any securities or commodities exchange or other self-regulatory agency, to seize, attach, or otherwise enjoin the use of the personal assets or real property of an **Insured Individual** or to obtain the discharge or revocation of a court order entered during the **Policy Period** in any way impairing the use thereof. The **Insurer's** maximum aggregate limit of liability for all **Personal Asset Costs** under this policy shall not exceed \$500,000 and is part of and not in addition to the Aggregate Limit of Liability listed in Item 3 of the Declarations ("**Personal Asset Costs Sublimit**").

Policy Period means the period of time from the inception date shown in Item 2. of the Policy Declarations to the earlier of the expiration date shown in Item 2. of the Policy Declarations or the effective date of termination of this Policy; or the ERP, if applicable.

Preliminary Inquiry means a pre-**Claim** request received by an **Insured Individual** for a meeting, interview, deposition, or for production of documents relating to the **Insured Individual's** capacity with the **Insured Entity** by:

- A. an **Enforcement Body**; or
- B. the **Insured Entity**, including the board of directors (or foreign equivalent) or any committee thereof, arising out of:
 1. an inquiry or investigation by an **Enforcement Body** concerning the business of the **Insured Entity** or of the **Insured Individual's** capacity with the **Insured Entity** or;
 2. the investigation or evaluation of a **Shareholder Derivative Investigation**; or
- C. arrest or confinement of an **Insured Individual** to a:
 1. specific residence or;
 2. to a custodial premises operated by an **Enforcement Body** in connection with the business of an **Insured Entity** or the **Insured Individual's** capacity with the **Insured Entity**.

Preliminary Inquiry shall not include any routine or regularly scheduled regulatory inspection, compliance, review, examination, production or audit conducted in an **Enforcement Body's** routine or ordinary review or compliance process.

Preliminary Inquiry Costs means the reasonable and necessary fees, costs and expenses consented to by the **Insurer** and incurred by an **Insured Individual** solely in connection with the **Insured Individual's** preparation and response to a **Preliminary Inquiry**. **Preliminary Inquiry Costs** shall not include the costs of any routine or regularly scheduled regulatory inspection, compliance, review, examination, production or audit conducted in an **Enforcement Body's** routine or ordinary review or compliance process.

Related Claims means all **Claims** based upon, arising out of or resulting from the same or related, or having a common nexus of, facts, circumstances or **Wrongful Acts**.

Securityholder Derivative Investigation means an investigation by an **Insured Entity** to determine whether it is in the best interest of such **Insured Entity** to prosecute the claims alleged in a securityholder derivative demand or lawsuit. Where a **Securityholder Derivative Investigation** is initiated because of a lawsuit rather than a demand, any coverage provided for **Defense Costs** on account of such **Securityholder Derivative Investigation** shall in no way limit the coverage otherwise afforded under this Coverage Part to an Insured for **Loss** on account of a **Claim**.

SOX 304/Dodd-Frank 954 Costs” means the reasonable and necessary fees, costs and expenses (including the premium or origination fee for a bond or a loan) incurred by an **Insured Individual** of the **Named Insured** and consented to by the **Insurer** solely to facilitate the return of amounts required to be repaid by such persons pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002 or Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; provided however, **SOX 304 Costs/Dodd-Frank 954 Costs** shall not include the payment, return, reimbursement, disgorgement or restitution of any amounts requested or required to be repaid by such persons pursuant to either Sarbanes-Oxley or Dodd-Frank.

Subsidiary means:

- A. any entity while more than 50% of the outstanding securities or other equity ownership, representing the present right to vote for election of, or to appoint, directors, **Managers**, or the foreign equivalent of any such directors or **Managers** of such entity, are owned or controlled by the **Named Insured** directly or indirectly through one or more **Subsidiaries**; or
- B. any entity while the **Named Insured** has the right, pursuant to either written contract or the bylaws, charter, operating agreement or similar documents of an **Insured Entity**, to elect or appoint a majority of the Board of Directors of a corporation, **Managers** or equivalent executives of such **Insured Entity**.

Underlying Insurance any insurance policy to which this Policy is written specifically excess of.

Wrongful Act means any:

- A. actual or alleged act, error, or omission, misstatement, misleading statement, neglect, or breach of duty by any **Insured Individual**, while acting in his or her capacity as a director, officer, general counsel, or member of the Board of Managers of an **Insured Entity** or a functionally equivalent role for the **Insured Entity** operating or incorporated outside the United States, or
- B. matter asserted against an **Insured Individual** solely by reason of his or her status as a director, officer, general counsel, or member of the Board of Managers of an **Insured Entity**, or as a fiduciary of any employee benefit plan sponsored by any **Insured Entity** or any matter claimed against such **Insured Individual** solely by reason of his or her status as such, or
- C. **Wrongful Employment Act**, or
- D. **Outside Capacity Wrongful Act**.

Wrongful Employment Act” means any actual or alleged:

- A. discrimination or harassment because of race, color, religion, age, sex, disability, pregnancy, or national origin, sexual orientation, marital status, or any other basis prohibited by law that results in termination of the employment relationship, or demotion or failure or refusal to hire or promote, or failure to accommodate an employee or potential employee, or denial of an employment privilege, or the taking of any adverse or differential employment action, or
- B. sexual harassment including unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature that is made a condition of employment, is used as a basis for employment decisions, or creates an intimidating, hostile or offensive work environment that interferes with work performance, or
- C. termination, constructive discharge, wrongful failure to hire, wrongful demotion, negligent retention, negligent supervision, negligent hiring, retaliation, misrepresentation, infliction of emotional distress, defamation, invasion of privacy, humiliation, wrongful evaluation, or breach of any implied contract or implied agreement relating to employment, whether arising out of any personnel manual, policy statement or oral representation.

III. EXCLUSIONS

A. Conduct

Based upon, arising out of or resulting from any deliberate fraud, deliberate criminal act or deliberate violation of any statute or regulation, or any illegal personal profit or remuneration, by an **Insured**, established by a final, non-appealable adjudication adverse to such **Insured** in any underlying action, and the **Insurer** shall not utilize a declaratory action or proceeding brought by or against the Insurer to establish such final, non-appealable adjudication;

however, this exclusion shall not apply to:

1. any portion of **Loss** in connection with any **Claim** alleging violations of Section 11 or 12 or 15 of the Securities Act of 1933, as amended, or to that portion of any **Loss** attributable to such violations; or
2. an **Independent Director**.

Further, the imposition of criminal fines or penalties pursuant to the law of a **Foreign Jurisdiction** shall not constitute, by itself, proof that an **Insured Individual** has committed a deliberate criminal act.

With respect to the above, no conduct or knowledge of any **Insured** shall be imputed to any other **Insured Individual**

IV. CONDITIONS

A. Limit of Liability

1. The Aggregate Limit of Liability stated in Item 3. of the Declarations is the maximum limit of the **Insurer's** liability for all **Loss** arising out of all **Claims** first made against or **Preliminary Inquiries** first received by the **Insured Individuals** during the **Policy Period** and the Extended Reporting Period (if purchased).
2. All **Loss, inclusive of Defense Costs, Preliminary Inquiry Costs, Personal Asset Costs, and Sox 304/Dodd-Frank 954 Costs**, is part of, and not in addition to, the Aggregate Limit of Liability set forth in Item 3. of the Declarations. Payment by the **Insurer** of **D** The Aggregate Limit of Liability stated in Item 3. of the Declarations is the maximum limit of the **Insurer's** liability for all **Loss** arising out of all **Claims** first made against or **Preliminary Inquiries** first received by the **Insured Individuals** during the **Policy Period** and the Extended Reporting Period **Defense Costs, Preliminary Inquiry Costs, Personal Asset Costs, and Sox 304/Dodd-Frank 954 Costs** shall reduce and may exhaust the Limit of Liability.
3. The **Insured** understand and agree that, other than for insurance that is written to be specifically excess of the insurance afforded by this policy and for personal umbrella policies maintained by the **Insured Individual**, all coverage under this policy shall be specifically excess over, and shall not contribute with:
 - a. all indemnification and advancement to which an **Insured Individual** may be entitled from any source, including but not limited to an **Insured Entity** or any **Outside Entity**, and
 - b. any **Insurance Program** maintained by an **Insured Entity** or any **Outside Entity**, whether such other insurance is stated to be primary, contributing, excess, or otherwise.

Provided, however, if **Loss** is not paid by such other insurance or as indemnification or advancement, this policy shall respond on behalf of the **Insured Individual** as if it were primary, subject to all its terms, conditions and limitations and without prejudice to the **Insurer's** excess position.

4. This policy shall not be subject to the terms or conditions of any other insurance. The **Insurer** does not waive, compromise or release any of its rights to recover **Loss** paid under this policy from the issuers of any other insurance under which coverage may be owed, or from any person or entity from which an **Insured Individual** is entitled to indemnification or advancement, including an **Insured Entity** and any **Outside Entity**.

5. If the **Insurer's** Limit of Liability as set forth in Item 3 of the Declarations is exhausted by the payment of **Loss**, the premium as set forth in Item 5. of the Declarations shall be fully earned, all obligations of the **Insurer** under this policy will be completely fulfilled and exhausted, and the **Insurer** shall have no further obligations of any kind whatsoever under this policy.

B. Additional Limit of Liability for Independent Directors

Notwithstanding anything to the contrary in this policy, including without limitation Clauses A and E of this Section IV, solely with respect to any **Claim** made against or **Preliminary Inquiry** received by **Independent Directors** for which coverage is provided by this policy, the **Insurer** shall provide a \$1,000,000 Limit of Liability, which amount shall be separate and in addition to the Aggregate Limit of Liability set forth in Item 3 of the Declarations; provided, however, that in no event shall this separate additional limit exceed \$1,000,000 for the **Policy Period**. This additional limit solely for **Independent Directors** shall be excess of any valid insurance that is specifically excess to this policy and such excess insurance must be completely exhausted by payment of loss, damages or defense or inquiry costs thereunder before the **Insurer** shall have any obligation to make any payment on account of this additional limit of liability solely for **Independent Directors**.

C. Defense, Cooperation and Settlement

1. It shall be the duty of the **Insured Individuals** and not the duty of the **Insurer** to defend **Claims** and to defend, or otherwise prepare for and respond to **Preliminary Inquiries**. No **Insured Individual** may settle, make any offer to settle, assume any obligation, admit any liability, or stipulate to any judgment with respect to any **Claim** without the **Insurer's** consent, such consent not to be unreasonably withheld. No **Insured Individual** can incur any **Preliminary Inquiry Costs** or **SOX 304/Dodd-Frank 954 Costs** without the **Insurer's** consent, such consent not to be unreasonably withheld.
2. Upon written request, the **Insurer** shall pay on a current basis any **Defense Costs** and **Preliminary Inquiry Costs** before the disposition of the **Claim** or **Preliminary Inquiry** for which this policy provides coverage. In the event of such advancement, the **Insured Individuals** agree that they shall repay the **Insurer**, severally according to their interests, any **Loss**, including **Defense Costs** or **Preliminary Inquiry Costs**, paid to or on behalf of the **Insured Individuals** if it is finally determined that the **Loss** incurred is not covered under this policy.
3. The **Insured** agrees to provide the **Insurer** with all information, assistance and cooperation that the **Insurer** may reasonably request, and further agree that they shall do nothing which in any way increases the **Insurer's** exposure under this policy or in any way prejudices the **Insurer's** potential or actual rights of recovery. The failure of any **Insured Individuals** to give the **Insurer** cooperation and information as required herein shall not impair the rights of any other **Insured Individuals** under this policy.

D. Reporting

1. As a condition precedent to the right to any payment under this policy, the **Insured** shall give written notice to the **Insurer** of any **Claim** or **Preliminary Inquiry** as soon as practicable after the General Counsel, Risk Manager or equivalent position of the **Named Insured** first becomes aware of the **Claim** or **Preliminary Inquiry**.
2. If during the **Policy Period** or Extended Reporting Period (if applicable), the **Insured** first becomes aware of a specific **Wrongful Act** or **Preliminary Inquiry**, and, if during the **Policy Period** or **Extended Reporting Period** (if applicable), the **Insured**:
 - a. provide the **Insurer** with written notice of the specific **Wrongful Act** or **Preliminary Inquiry**, the consequences which have resulted or may result therefrom (including but not limited to actual or potential damages), the identities of the potential claimants, and the circumstances by which the **Insured Individual** first became aware of such **Wrongful Act** or **Preliminary Inquiry**, and
 - b. request coverage under this policy for any subsequently resulting **Claim** for such **Wrongful Act** or **Preliminary Inquiry**, then any **Claim** subsequently made arising out of such **Wrongful Act** shall be treated as if it had been first made during the **Policy Period**.

3. All **Claims** arising from the same **Related Wrongful Acts** shall be deemed to constitute a single **Claim** and shall be deemed to have been made at the earliest time at which the earliest such **Claim** is made or deemed to have been made pursuant to paragraph 1. or 2. above, if applicable.
4. All **Preliminary Inquiries** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any of the same or related, or series of related, facts circumstances, situations, transactions, or events shall be deemed to constitute a single **Preliminary Inquiry** and shall be deemed to have been received at the earliest time at which the earliest such **Preliminary Inquiry** is received.
5. If a **Claim** is first received during the **Policy Period** or the **Extended Reporting Period** (if applicable) and is reported pursuant to paragraph 1. above, then any **Preliminary Inquiry** subsequently received by an **Insured Individual** alleging, arising out of, based upon, attributable to the same or related circumstances or matters as alleged or contained in the **Claim** will be deemed to have been made at the time the **Claim** was first received. If a **Preliminary Inquiry** is first received during the **Policy Period** or the **Extended Reporting Period** (if applicable) and is reported pursuant to paragraph 1. above, then any **Claim** subsequently made against an **Insured Individual** alleging, arising out of, based upon, attributable to the same or related circumstances or matters as alleged or contained in the **Preliminary Inquiry** will be deemed to have been made at the time the **Preliminary Inquiry** was first received.
6. With respect to any **Preliminary Inquiry** subsequently received by an **Insured Individual** alleging, arising out of, based upon, attributable to the same or related circumstances or matters as alleged or contained in a **Claim** made against an **Insured Individual** or which is the subject of another **Preliminary Inquiry** received by an **Insured Individual**, this policy shall not cover **Loss** incurred before such subsequent **Preliminary Inquiry** is actually received by an **Insured Individual**, and with respect to any subsequent **Claim** as described in this Section VI, this policy shall not cover **Loss** incurred before such subsequent **Claim** is actually made against an **Insured Individual**.
7. In addition to furnishing the notice as provided in sections VI. A. and VI. B. above, the **Insured** shall give the **Insurer** such information and cooperation as it may reasonably require and shall, as soon as practicable, furnish the **Insurer** with copies of reports, investigations, pleadings and other papers in connection therewith. The failure of any **Insured Individual** to give the **Insurer** cooperation and information as required in this paragraph VI.D. shall not impair the rights of any other **Insured Individual** under this policy.
8. In the event that written notice of **Claim** or **Preliminary Inquiry** to the **Insurer** is made after the **Policy Period** or **Extended Reporting Period** (if applicable) has expired (hereinafter, "late notice"), the **Insurer** shall, subject to all other terms, conditions, definitions, and exclusions of this policy, be required to accept such "late notice" of **Claim** or **Preliminary Inquiry** under this policy unless the **Insurer** can demonstrate that it was materially prejudiced by such late notice.

E. Termination of Policy

This Policy shall terminate at the earliest of:

1. 20 days after receipt by the **Named Insured** of written notice from the **Insurer** of termination for non-payment of premium;
2. expiration of the **Policy Period**; or
3. surrender of the Policy to the **Insurer** by the **Named Insured** or notice to the **Insurer** by the **Named Insured** stating when such cancellation will take effect, and in either case any returned premium shall be computed on a pro rata basis.

F. Extended Reporting Period

1. If this Policy does not renew, or terminates other than for non-payment of premium, the **Insureds** shall have the right to purchase an ERP for the premium and time period stated in Item 5. of the Declarations.
2. The right to an ERP shall lapse unless written notice of election to purchase such ERP, together with payment of the specified premium, is received by the **Insurer** within 60 days after the effective date of non-renewal

of termination of the Policy. In the event the **Named Insured** elects not to purchase an ERP and an individual **Insured** or group of **Insureds** elects to purchase such ERP, such ERP shall only apply to **Claims** against such **Insured** or group of **Insureds**.

3. The premium for the ERP shall be deemed fully earned at the inception of the ERP.
4. Any ERP purchased shall become part of the **Policy Period**, extending such **Policy Period** to the expiration of the time period stated in Item 5. of the Declarations, but only with respect to **Loss** on account of a **Claim** or **Preliminary Inquiry** for a **Wrongful Act** taking place before the effective date of non-renewal or termination.

G. Change in Exposure

1. **Subsidiaries**

This Policy's treatment of **Subsidiaries** shall be as stated below and as supplemented by any individual Coverage Part.

Any **Insured** of a **Subsidiary**:

- a. acquired before or during the **Policy Period** is eligible for coverage, but only for **Loss** on account of a **Claim** for a **Wrongful Act** which occurs after the date of such acquisition; and
- b. ceasing to be a **Subsidiary** before or during the **Policy Period** is eligible for coverage, but only for **Loss** on account of a **Claim** for a **Wrongful Act** which occurs while such entity was a **Subsidiary**; and

2. Acquisition of the **Named Insured**

In the event of a **Change in Control** of the **Named Insured** during the **Policy Period**:

- i. shall remain in force until the expiration of the **Policy Period**, but only for any **Claim** for a **Wrongful Act** which occurs prior to such acquisition;
- ii. the entire premium for this **Policy** shall be deemed fully earned as of the effective date of such **Change in Control**; and
- iii. the **Named Insured** shall be entitled to receive a quote for an extension ("Run-Off Coverage") solely for **Claims** for **Wrongful Acts** which occurred prior to a **Change in Control**. Coverage offered pursuant to such quote shall be subject to additional or different terms and conditions and payment of additional premium. Any Run-Off Coverage purchased shall replace any extended reporting period provided under Section IV. F. Extended Reporting Period.

H. Rescindability

The **Insurer** shall not be entitled under any circumstances to void or rescind this Policy with respect to any **Insured**.

I. Representations and Severability

1. No application shall be required for this policy.
2. No knowledge possessed, or **Wrongful Act** committed by any **Insured Individual** shall be imputed to any other **Insured Individual** for the purpose of determining the availability of coverage with respect to any **Claim** made against such other **Insured Individual**.

J. Action Against the Insurer

No action may be taken against the **Insurer** unless there has been full compliance with all of the terms and conditions of this policy, and the amount of the obligation of the **Insured Individual** has been finally determined either by judgment against the **Insured Individual** after actual trial, or by written agreement of the **Insured Individual**, the claimant and the **Insurer**.

Nothing contained herein shall give any person or entity any right to join the **Insurer** as a party to any **Claim** or **Preliminary Inquiry** against the **Insured Individual** to determine their liability, nor may the **Insured**

Individual implead the **Insurer** in any **Claim** or **Preliminary Inquiry**. Assignment of interest under this policy shall not bind the **Insurer** unless its consent is endorsed hereon.

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the **Insurer** shall not cause a waiver or change in any part of this policy or prevent the **Insurer** from asserting any right under the terms, conditions and limitations of this policy. The terms, conditions and limitations of this policy may only be waived or changed by written endorsement signed by the **Insurer**.

K. Subrogation

1. In the event of any payment under this Policy, the **Insurer** shall be subrogated to the extent of such payment to all of the **Insureds'** rights of recovery, and the **Insureds** shall take all reasonable actions to secure and preserve the **Insurer's** subrogation rights.
2. In no event shall the **Insurer** exercise any subrogation right against an **Insured Individual**. In any subrogation action against an **Insured Entity**, it is agreed that each **Insured Entity** agrees to fulfill any indemnification obligations to the fullest extent permitted by law and any contract or agreement providing an indemnification obligation exceeding any such law.
3. If the **Insurer** recovers, either through subrogation or recoupment, any portion of an amount paid under this Policy, the **Insurer** shall reinstate the applicable limit of liability with any amounts recovered up to such amount paid, less any costs incurred by the **Insurer** in its recovery efforts.

L. Bankruptcy

In the event that a liquidation or reorganization proceeding is commenced by or against any **Insured** pursuant to the United States Bankruptcy Code, as amended, or any similar state or local law, the **Insured Individuals** and the **Insured Entity** hereby:

1. waive and release any automatic stay or injunction which may apply in such proceeding in connection with this policy or its proceeds under such Bankruptcy Code or law; and
2. agree not to oppose or object to any efforts by the **Insurer** or any **Insured** to obtain relief from any such stay or injunction.

In the event the **Insured** becomes a debtor in possession or an equivalent status under the United States Bankruptcy Code or the equivalent law of any other country and the aggregate **Loss** due under this policy exceeds the remaining available **Limit of Liability**, the **Insurer** shall:

1. first pay such **Loss** allocable to **Wrongful Acts** that are actually or allegedly caused, committed, or attempted prior to the **Insured** becoming a debtor in possession or such equivalent status, then
2. with respect to whatever remaining amount of the **Limit of Liability** is available after payment under (a) above, pay such **Loss** allocable to **Wrongful Acts** that are actually or alleged caused, committed, or attempted after the **Insured** became a debtor in possession or such equivalent status.

M. Valuation and Foreign Currency

All premiums, limits, retentions, **Loss** and other amounts under this Policy are expressed and payable in the currency of the United States of America. If any element of **Loss** under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States of America dollars at the exchange rate published in The Wall Street Journal on the date the element of **Loss** is due.

N. Modification, Assignment and Headings

1. Any change in or modification of this Policy or assignment of interest under this Policy must be agreed to in writing by the **Insurer**.
2. The descriptions and headings and sub-headings of this Policy are solely for convenience, and form no part of the terms, conditions and limitations of coverage.

O. Role of Named Insured

The **Named Insured** shall act on behalf of each **Insured** with respect to paying premiums, receiving any return premiums, agreeing to endorsements to this Policy and the giving or receiving of any notice provided for in this Policy (except notices of a **Claim** or circumstance which could give rise to a **Claim** or notice to apply for an ERP).

P. Coverage Territory

This Policy shall apply anywhere in the world, and any reference to laws, however described, shall include all U.S. federal, state and local statutory laws, all amendments to and rules and regulations promulgated under any such laws, common law, and any equivalent body of law anywhere in the world, unless specifically stated to the contrary.

Q. Severability of Insured Entity's Obligations

The failure of an **Insured Entity** to perform any of its obligations under this policy shall not impair the rights of any **Insured Individual** under this policy.

R. Advancement

This policy shall drop down and advance the covered **Loss** of any **Insured Individual** for any **Wrongful Act** in the place and to the extent of any:

1. failed or refused indemnification from the **Insured Entity**; and
2. failed or denied insurance coverage in the directors and officers liability insurance program underlying this policy. Insurance coverage is deemed "denied" if the **Underlying Insurance** give a written notice of the denial to the **Insured Individual**. Indemnification is deemed "refused" if an **Insured Entity** gives a written notice of the refusal to the **Insured Individual**. Indemnification or insurance coverage is deemed "failed" if it has been requested by any **Insured Individual** in writing and has not been provided by, agreed to be provided by or acknowledged as an obligation of such **Insured Entity** or **Underlying Insurance**, as the case may be, to such **Insured Individual** within 60 days of his or her request. In any such case, such indemnification or insurance coverage shall only be deemed "failed" or "refused" while and to the extent such indemnification is not provided, or agreed to be provided or acknowledged by and collectible from the **Insured Entity**, **Underlying Insurance** or other source. Advances by the **Insurer** under this paragraph R. are without prejudice to the **Insurer's** excess position established by **Section I. Insuring Agreement**, and subject to the **Aggregate Limit of Liability**, inclusive of **Defense Costs**, stated in Item 3. of the Declarations to this policy.

S. Liberalization to Underlying

If the terms and conditions of the **Underlying Insurance**, as they relate solely to any coverage provided for **Loss**, are broader than any like terms and conditions in this Policy, then in accordance with paragraph N. Modification, Assignment and Headings, this Policy shall be amended to follow such broader terms and conditions, except with respect to limits of liability, **Policy Period** and any coverage for, or payment to, an **Insured Entity**.

T. Recognition of Erosion of Attachment Point

Subject to this policy's terms, conditions and exclusions, in the event of reduction or exhaustion of the limit(s) of any **Underlying Insurance** this policy by reason of the insurers of the **Underlying Insurance** or the **Insured Individual(s)**, or any other party on behalf of the **Insured Individual(s)**, paying **Loss** covered thereunder, this policy shall:

1. in the event of reduction, pay excess of the reduced **Underlying Insurance**, and
2. in the event of exhaustion, continue in force as primary insurance.

U. State Inconsistency

In the event of any inconsistency between a state amendatory endorsement attached to this Policy and any other term or condition of this Policy, then where permitted by law, the **Insurer** shall apply those terms and conditions of either the state amendatory endorsement or the Policy, whichever are more favorable to the **Insured**.