



AMERICAN INTERNATIONAL COMPANIES®

**AIG PRIVATE COLLECTION®**

**EMPLOYMENT PRACTICES LIABILITY  
COVERAGE SECTION TWO**

In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer by application, including its attachments and the material incorporated therein, which form a part of this policy, the Insurer agrees as follows:

**1. INSURING AGREEMENT**

This policy shall pay the Loss of each and every Insured arising from a Claim first made against such Insured during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any actual or alleged Wrongful Act against an Employee(s) of the Company. The Insurer shall, in accordance with Clause 8 of the General Terms and Conditions advance Defense Costs of such Claim prior to its final disposition.

**2. DEFINITIONS**

(a) "Claim" means:

- (1) a written demand for monetary relief; or
- (2) a civil, administrative, regulatory or arbitration proceeding for monetary relief, which is commenced by:
  - (i) service of a complaint or similar pleading; or
  - (ii) receipt or filing of a notice of charges.

The term Claim shall include an Equal Employment Opportunity Commission ("EEOC"), Department of Labor ("DOL") or Office of Federal Contract Compliance Program ("OFCCP") (or similar federal, state or local agency) proceeding or investigation commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to the Insured.

However, in no event, shall the term Claim include any labor or grievance proceeding, which is subject to a collective bargaining agreement.

- (b) "Class Action Suit" means any suit seeking certification or that is certified as a class action by a federal or state court.
- (c) "Individual Insured(s)" means any Director, Officer or Employee of the Company.
- (d) "Insured(s)" means:
  - (1) an Individual Insured; and
  - (2) the Company.
- (e) "Loss" means damages (including front pay and back pay), judgments, settlements, pre-judgment and post-judgment interest on that part of any judgment paid under this Coverage Section, statutory attorneys fees and Defense Costs; however, Loss shall not include: (1) civil or criminal fines or penalties imposed by law; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes; (5) any amount for which the Insureds are not financially liable or which are without legal recourse to the Insureds; (6) employment-related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation; or (7) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.
- (f) "Retaliation" means a Wrongful Act of an Insured alleged to be in response to, the actual or attempted exercise by an Employee of any right that such Employee has under the law. Provided, however, Retaliation shall not include the Wrongful Act of an Insured alleged to be in response to the threat of or the actual filing of any claim or litigation under the Federal False Claims Act or any other federal state, local or foreign Whistleblower Law.
- (g) "Whistleblower Law" means a statute, rule or regulation, which protects an employee against discrimination from his or her employer, if the employee discloses or threatens to disclose to a superior or any governmental agency, or who gives testimony relating to, any action with respect to the employer's operations, which may be a violation of public policy as reflected in legislation, administrative rules, regulations or decisions, judicial decisions and professional codes of ethics.
- (h) "Wrongful Act(s)" means any actual or alleged:

1. wrongful dismissal, discharge or termination (either actual or constructive), including breach of an implied contract;
2. harassment (including sexual harassment, whether "quid pro quo", hostile work environment or otherwise);
3. discrimination (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy, or disability);
4. Retaliation (including lockouts);
5. employment-related misrepresentation(s) to an Employee or applicant for employment with the Company;
6. wrongful failure to employ or promote;
7. employment-related libel, slander, humiliation, defamation or invasion of privacy;
8. wrongful deprivation of career opportunity, wrongful demotion or negligent Employee evaluation, including the giving of negative or defamatory statements in connection with an Employee reference;
9. wrongful discipline;
10. failure to grant tenure;
11. With respect to any of the foregoing items (1) through (10) of this definition: negligent hiring, retention, training or supervision, infliction of emotional distress, mental anguish, failure to provide or enforce adequate or consistent corporate policies and procedures, or violation of an individual's civil rights.

### **3. EXCLUSIONS**

The Insurer shall not be liable to make any payment for Loss in connection with a Claim made against an Insured:

- (a) arising out of, based upon or attributable to the committing in fact of any dishonest, fraudulent, criminal, or malicious act;
- (b) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of any Insured under any express contract or agreement. This exclusion, however, shall not apply to:

- (i) the extent any liability does not arise under such express contract or agreement;
- (ii) Loss constituting Defense Costs;
- (c) which is brought by any Insured. This exclusion, however, shall not apply to a Claim brought by an Employee of the Company, other than an Employee who is or was a Director of the Company;
- (d) seeking any non-monetary relief, including but not limited to: (1) injunctive relief; (2) declaratory relief; (3) disgorgement; (4) job reinstatement; (5) costs or expenses incurred in accommodating any disabled person, pursuant to the Americans with Disabilities Act of 1990 (ADA), including amendments to that law or similar federal, state or local statutory or common law; (6) any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar relating to a Claim alleging a Wrongful Act(s); and (7) other equitable remedies, including as to all of the above, the cost of compliance therewith; provided, however, if such request for non-monetary relief is part of an otherwise covered Claim, the Insurer will not seek to allocate Defense Costs for the portion of the Claim seeking non-monetary relief;
- (e) alleging, arising out of, based upon or attributable to any actual or alleged act or omission of an Insured serving in any capacity, other than as a Director, Officer or Employee of the Company;
- (f) alleging, arising out of, based upon or attributable to any offering of securities or alleging a purchase or sale of such securities subsequent to such offering.

For the purpose of determining the applicability of the foregoing Exclusions, other than exclusion (c): (1) the facts pertaining to and knowledge possessed by any Insured shall not be imputed to any other Individual Insured; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer (or equivalent positions) of the Company shall be imputed to the Company.