

NOTICE: THIS IS A CLAIMS-MADE POLICY WHICH, SUBJECT TO ITS PROVISIONS, APPLIES ONLY TO ANY **CLAIM** FIRST MADE AGAINST ANY OF THE **INSUREDS** DURING THE **POLICY PERIOD**. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED AS **DEFENSE COSTS**. ANY **DEFENSE COSTS** THAT ARE INCURRED SHALL BE APPLIED AGAINST THE APPLICABLE RETENTION. THIS POLICY DOES NOT PROVIDE FOR ANY DUTY BY THE INSURER TO DEFEND ANY OF THE **INSUREDS**.

In consideration of the payment of premium and in reliance on all statements made and information furnished to the Company shown on the Declarations, hereinafter the Insurer, including the statements made in the **Application** which are deemed a part of this Policy, the Insurer, the **Insured Company**, and the **Directors and Officers** agree as follows:

SECTION I. INSURING AGREEMENTS

Insuring Clause A: Directors and Officers Liability

The Insurer shall pay on behalf of the **Directors and Officers** such **Loss** which the **Directors and Officers** become legally obligated to pay as a result of any **Claim** first made against the **Directors and Officers** during the **Policy Period** or the **Discovery Period**, if purchased, and reported pursuant to Section IX, for a **Wrongful Act**, except and to the extent that the **Insured Company** is required or permitted to indemnify the **Directors and Officers** for such **Loss**.

Insuring Clause B: Company Reimbursement

The Insurer shall pay on behalf of the **Insured Company** such **Loss** which the **Insured Company** is required or permitted to pay as indemnification to the **Directors and Officers** and which the **Directors and Officers** become legally obligated to pay as a result of any **Claim** first made against any of the **Directors and Officers** during the **Policy Period** or the **Discovery Period**, if purchased, and reported pursuant to Section IX, for a **Wrongful Act**.

Insuring Clause C: Company Liability

Unless Item 10 of the Declarations has been completed to make coverage available under Insuring Clause C, no coverage is available thereunder. If Item 10 of the Declarations has not been completed to indicate coverage available under Insuring Clause C, all references in this Policy to Insuring Clause C will be inapplicable.

The Insurer shall pay on behalf of the **Insured Company** such **Loss** which the **Insured Company** becomes legally obligated to pay as a result of any **Claim** first made against the **Insured Company** during the **Policy Period** or the **Discovery Period**, if purchased, and reported pursuant to Section IX, for a **Wrongful Act**.

SECTION II. DEFINITIONS

When used in this Policy:

- A. **Application** means the signed application for this Policy, including any attachments and other materials submitted in conjunction with the signed application (which shall be maintained on file by the Insurer and be deemed attached to this Policy as if physically attached to this Policy), and, in the event that this Policy is a renewal or replacement of a previous continuous policy or policies issued by the Insurer, all such other signed applications which were attached to and became a part of these previous policies which shall also be deemed attached to this Policy as if physically attached thereto.
- B. **Benefits** means perquisites, fringe benefits, payments in connection with any pension, profit sharing, stock incentive, health and welfare or other employee benefit plan or trust, and any other payment, other than salary or wages, to or for the benefit of any employee arising out of the employment relationship.

- C. **Claim** means any written notice received by an **Insured** that any person or entity intends to hold any **Insured** responsible for a **Wrongful Act**. A **Claim** shall be deemed to have been first made against the **Insureds** on the date that such written notice is first received by any **Insured**.
- D. **Defense Costs** means that part of **Loss** consisting of reasonable and necessary costs, charges, fees (including attorneys' fees and experts' fees) and expenses incurred in defending, investigating, monitoring, or appealing **Claims**, including the premium for any appeal bond, attachment bond or similar bond (but the Insurer shall have no obligation to provide such bonds). **Defense Costs** shall not include salaries, wages, fees, overhead or benefit expenses of the **Directors and Officers**, or employees of the **Insured Company**.
- E. **Directors and Officers** means any person or persons who were, now are, or shall become, during the **Policy Period**:
1. Duly elected or appointed directors or officers, management committee members, or members of the Board of Managers of the **Insured Company**;
 2. In the event the **Insured Company** operates outside the United States, duly elected or appointed directors, officers, management committee members or members of the Board of Managers or the equivalent of those titles, positions or capacities in the non-U.S. part of the **Insured Company's** operations; and
 3. **Employees** of the **Insured Company**; provided, however, that **Employees** will be deemed **Directors and Officers** and insured under this Policy only if and to the extent that a **Claim** is made against any of them for **Employment Practices Wrongful Acts**.
- F. **Discovery Period** means that period described in Section III (D) and Item 7 of the Declarations.
- G. **Employee(s)** means:
1. Any past, present or future employee, whether such employee is in a supervisory, co-worker or subordinate position, or otherwise, including any part-time, seasonal and temporary employee in his or her capacity as such;
 2. An individual who is leased to the **Insured Company** shall also be an **Employee**, but only if the **Insured Company** provides indemnification to such leased individual in the same manner as is provided to the **Insured Company's** employees. If such is the case, in the event a **Claim** for an **Employment Practices Wrongful Act** is made against a leased **Employee**, coverage as is afforded by this Policy shall be specifically excess of indemnification provided by such leasing company and any insurance provided to such leasing company; and
 3. An individual who is contracted to perform work for the **Insured Company**, or who is an independent contractor for the **Insured Company**, shall also be an **Employee**, but only if the **Insured Company** provides indemnification to such individual in the same manner as that provided to the **Insured Company's** employees, and such individual is scheduled by written endorsement to this Policy, and the **Insured Company** pays any additional premium required by the Insurer relating to such individual.
- H. **Employment Practices Wrongful Act(s)** means any actual or alleged:
1. Wrongful dismissal, discharge or termination (either actual or constructive) of employment, 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 **Insured Company**;

6. Employment-related libel, slander, humiliation, defamation, invasion of privacy;
7. Wrongful failure to employ or promote;
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. Failure to provide or enforce adequate or consistent corporate policies and procedures relating to any **Employment Practices Wrongful Act**; or
12. Violation of an individual's civil rights relating to any of the above,

but only if the **Employment Practices Wrongful Act** relates to an **Employee(s)**, or applicant for employment with the **Insured Company** or an entity where a **Director and Officer** holds an **Outside Position**, whether direct, indirect intentional or unintentional.

With respect to any customer or client of the **Insured Company**, whether individually or as a class or group, **Employment Practices Wrongful Act** shall mean only any actual or alleged discrimination, sexual harassment or violation of an individual's civil rights relating to such discrimination or sexual harassment, whether direct, indirect, intentional or unintentional.

- I. **Financial Insolvency** means the status of the **Insured Company** resulting from the:
 1. Appointment of any receiver, conservator, liquidator, trustee, rehabilitator or similar official by any state or federal official to take control of, supervise, manage or liquidate the **Insured Company**; or
 2. **Insured Company** becoming a debtor in possession.
- J. **Insured(s)** means the **Directors and Officers** and, with respect to Insuring Clauses B and C only, the **Insured Company**.
- K. **Insured Company** means the company designated in Item 1 of the Declarations and its **Subsidiaries**, whether structured as a corporation, association, limited liability company or other type of business organization.
- L. **Interrelated Wrongful Acts** means **Wrongful Acts** which arise out of, are based upon, or are logically or causally connected by any common fact, circumstance, situation, event or transaction.
- M. **Loss** means the total amount which:
 1. The **Directors and Officers** become legally obligated to pay solely as a result of a **Claim** or **Claims** made against any of the **Directors and Officers**; or
 2. With respect to Insuring Clause C only, the **Insured Company** becomes legally obligated to pay solely as a result of a **Claim** or **Claims** made against the **Insured Company**,

during the **Policy Period**, or **Discovery Period**, if purchased, for **Wrongful Acts** insured by this Policy including, but not limited to, damages, judgments, settlements and **Defense Costs**.

Loss also shall include punitive or exemplary damages or the multiple portion of any multiplied damage award; provided, however, that the **Directors and Officers** or the **Insured Company**, if coverage is provided under Insuring Clause C, are obligated to pay the punitive or exemplary damages or multiple portion of any multiplied damage award as a result of an otherwise covered **Claim**, but in no event will the Insurer be obligated to pay an amount greater than \$250,000 in punitive or exemplary damages or the multiple portion of any multiplied damage award awarded against the **Directors and Officers** or the **Insured Company** as a result of a **Claim**.

It is further understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for punitive, exemplary or multiple damages.

Loss shall not include: (a) **Benefits** of the **Directors and Officers**, (b) any amount not indemnified by the **Insured Company** for which the **Insured** is absolved from payment by reason of any covenant, agreement or court order, (c) any amount allocated to uncovered loss, (d) criminal or civil fines or penalties imposed by law, (e) taxes, (f) or matters uninsurable under the law pursuant to which this Policy is construed.

N. **Outside Position** means the position of director, officer, trustee or other equivalent position held by any of the **Directors and Officers** in any:

1. **Non-Profit Entity**; or
2. Other entity, if such coverage is specifically granted by endorsement to this Policy;

if service in such position is with the knowledge and consent or at the request of the **Insured Company**.

O. **Non-Profit Entity** means any non-profit corporation, community chest, fund or foundation that is not included in the definition of **Insured Company** and is:

1. Exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; or
2. Organized for a religious or charitable purpose under any non-profit corporation act or statute.

P. **Policy Inception Date** means the date specified in Item 2 (a) of the Declarations.

Q. **Policy Termination Date** means the date specified in Item 2 (b) of the Declarations or the date of any cancellation of this Policy or the date of the exhaustion of this Policy's maximum aggregate Limit of Liability set forth in Item 3 of the Declarations, whichever is earliest.

R. **Policy Period** means the period from the **Policy Inception Date** to the **Policy Termination Date**. If the **Discovery Period** is purchased, the **Discovery Period** shall be deemed to be part of the **Policy Period**.

S. **Pollutants** means any solid, liquid, gaseous or thermal irritant, contaminant or toxin, including but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals, metals, silica, lead, lead compounds or materials containing lead, radon, asbestos, electromagnetic radiation, or waste of any like substances. In addition to pollutants to be disposed of, waste also includes materials to be recycled, reconditioned or reclaimed.

The term electromagnetic radiation includes but is not limited to magnetic energy, waves, fields or forces generated, produced, distributed, transmitted or maintained by the charges, currents, frequencies, energy or forces of electricity that are generated, flowing or otherwise transmitted through or via the medium, methods and equipment designed to generate, produce, distribute, transport or transmit the electrical charges, currents, frequencies, energy or forces.

T. **Retaliation** means a **Wrongful Act** of an **Insured** relating to or alleged to be in response to any of the following activities:

1. The disclosure or threat of disclosure by an **Employee** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, statutory or common law, or any rule or regulation promulgated thereunder;
2. The actual or attempted exercise by an **Employee** of any right that such **Employee** has under law, including rights under workers' compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights;
3. The filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign "whistle-blower" law; or
4. **Employee** strikes.

- U. **Securities Claim** means a **Claim** (including a civil lawsuit or criminal proceeding brought by the Securities & Exchange Commission) made against an **Insured** anywhere in the world alleging a violation of any law, regulation or rule, whether statutory or common law, which is:
1. Brought by any person or entity based upon, arising out of, or attributable to, in part or in whole, the purchase or sale, or offer or solicitation of an offer to purchase or sell, any securities of the **Insured Company**;
 2. In the form of a securities holder derivative claim brought on behalf of the **Insured Company**; or
 3. Brought by a security holder of the **Insured Company**, with respect to such securities holder's interest in such securities of the **Insured Company**, whether directly or by class action.
- V. **Subsidiary** means an entity of which the **Insured Company** owns on or before the **Policy Inception Date** more than 50% of the issued and outstanding voting stock, either directly or indirectly, through one or more of its **Subsidiaries**.
- W. **Wrongful Act** means any error, misstatement, misleading statement, act, omission, neglect or breach of duty actually or allegedly committed or attempted by:
1. The **Directors and Officers**, individually or collectively, in their respective capacities as such, or any matter claimed against them solely by reason of their status as such; or
 2. With respect to Insuring Clause C only, the **Insured Company**.

Wrongful Act includes **Employment Practices Wrongful Act**.

SECTION III. EXTENSIONS

A. **Estates, Heirs, and Legal Representatives**

In the event of the death, incapacity or bankruptcy of any of the **Directors and Officers**, any **Claim** against his or her estate, heirs, legal representatives or assigns based on actual or alleged **Wrongful Acts** of such **Directors and Officers** shall be deemed to be a **Claim** against such **Directors and Officers** for the purposes of this Policy.

B. **Marital Spousal Liability**

If a claim against the lawful spouse (whether such status is derived by reason of statutory law, common law, or otherwise of any applicable jurisdiction in the world) of any of the **Directors and Officers** is alleged solely as a result of such:

1. Spouse's status as spouse of any of the **Directors and Officers**; or
2. Spouse's ownership interest in property which the claimant seeks as recovery for actual or alleged **Wrongful Acts** of the **Directors and Officers**,

then such claim shall be deemed to be a **Claim** against the **Directors and Officers** for the purposes of this **Policy**; provided, however, that this extension shall not afford coverage for any claim for any actual or alleged wrongful act of the spouse and that this Policy shall only apply to actual or alleged **Wrongful Acts** of the **Directors and Officers** subject to the terms, conditions, limitations, restrictions and exclusions of this Policy.

C. **Outside Position Liability**

Subject to the Policy's terms, conditions, limitations, restrictions and exclusions this **Policy** shall cover **Loss** arising from any **Claim** made against any of the **Directors and Officers** serving in an **Outside Position** provided that any coverage for **Claims** shall be specifically excess of indemnification or insurance available from or provided by the entity in which such **Directors and Officers** serve in the **Outside Position**.

In the event that:

1. A **Claim** is made against any of the **Directors and Officers** serving in an **Outside Position** such that coverage is afforded under this Policy; and
2. The Insurer or any affiliate of the Insurer provides other insurance where payment is made as a result of a **Claim** against any of the **Directors and Officers** in an **Outside Position**,

then the Insurer's Limit of Liability under this Policy shall be reduced by the amount of such payment made under the other insurance provided by the Insurer or any affiliate of the Insurer.

D. **Discovery Period**

1. If the Insurer nonrenews this Policy pursuant to Section XII (A)(4) or the **Insured** cancels or nonrenews this Policy, then the **Insured Company** shall have the right, upon payment of the additional premium specified in Item 7(a) of the Declarations, to an extension of the coverage granted by this Policy for any **Claim** first made against the **Directors and Officers** during the period of time specified in Item 7(b) of the Declarations beginning the effective date of cancellation or nonrenewal, but only with respect to any **Wrongful Act** committed or allegedly committed prior to such effective date of cancellation or nonrenewal and otherwise covered by this Policy.

The period of time specified in Item 7(b) of the Declarations shall be referred to in this Policy as the **Discovery Period**. The right to purchase the **Discovery Period** shall not apply if this Policy is canceled by the Insurer for nonpayment of premium.

2. As a condition precedent to the right to purchase the **Discovery Period**, the total premium for this Policy must have been paid. The right to purchase the **Discovery Period** shall lapse unless a written notice of the election of the **Discovery Period**, together with the full payment of the additional premium for the **Discovery Period**, is received by the Insurer within thirty (30) days after the effective date of cancellation or nonrenewal. In the event that such written notice of election and payment of the additional premium are not received by the Insurer within such thirty (30) day period, there shall be no right to purchase the **Discovery Period** at a later date.
3. If the **Discovery Period** is purchased, the entire premium shall be deemed earned at its commencement without any obligation by the Insurer to later return any portion thereof.
4. There is no separate or additional Limit of Liability for the **Discovery Period** and the purchase of the **Discovery Period** shall in no way increase the maximum aggregate Limit of Liability set forth in Item 3 of the Declarations.

SECTION IV. EXCLUSIONS

A. **Exclusions Applicable to All Insuring Clauses**

The Insurer shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any of the **Insureds**:

1. Brought about or contributed to by any deliberate dishonest, fraudulent, criminal act or omission or any willful violation of law by any of the **Insureds** provided; however:
 - a. This exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** establishes that dishonest, fraudulent, criminal acts or omissions or any willful violations of law were committed by such **Insureds**;
 - b. This exclusion shall not apply as respects to the coverage provided under Insuring Clause C, if granted, unless such judgment or final adjudication establishes that the chairman, president, chief executive officer, chief financial officer or in-house general counsel of the **Insured Company** committed such dishonest, fraudulent, criminal act or omission or any willful violation of law;

2. Based upon, arising out of or attributable to any of the **Insureds** gaining in fact any personal profit or advantage to which they were not legally entitled;
3. For the return by any of the **Insureds** of any remuneration paid to them without the previous approval of the security holders of the **Insured Company**, which payment, without such previous approval, shall be held to be in violation of law;
4. For an accounting of profits in fact made or losses in fact avoided by the purchase or sale by any of the **Directors and Officers** of securities of the **Insured Company** within the meaning of Section 16 (b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any federal, state or local statutory law or common law;
5. For, based upon or attributable to any **Wrongful Act** which any of the **Directors and Officers** had knowledge of prior to the **Policy Inception Date**, or in the event that this is a renewal or replacement of a previous similar policy issued by the Insurer, then prior to the inception date of such first policy, and that any of the **Directors and Officers** had reason to believe that such known **Wrongful Act** could reasonably be expected to give rise to a **Claim**;
6. For, based upon, arising out of or in any way involving any **Wrongful Act** or any fact, circumstance or situation which has been the subject of any notice given under any other policy prior to the **Policy Inception Date** and of which this Policy is a renewal or replacement;
7. For bodily injury, sickness, disease, emotional distress, mental anguish or death of any person or damage to or destruction of any tangible property, including loss of use thereof; or any invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, malicious use or abuse of process, assault, battery, libel or slander; provided, however, that this exclusion will not apply to allegations of emotional distress, mental anguish, libel or slander made as part of **Claims** alleging **Employment Practices Wrongful Acts**;
8. For, based upon, arising out of, attributable to, directly or indirectly resulting from, in consequence of, or in any way involving:
 - a. The actual, alleged or threatened discharge, release, escape, seepage, dispersal or disposal of or exposure to **Pollutants**; or
 - b. Any request, direction or order that the **Insured Company** and/or any **Directors and Officers** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants** or any voluntary decision to do so,provided, however, that this exclusion shall not apply to **Securities Claims**;
9. For any actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 or amendments thereto or similar provisions of any federal, state or local statutory or common law upon fiduciaries of any pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing benefits to employees of the **Insured Company**; however, this exclusion shall not apply to any actual or alleged **Retaliation**;
10. For, based upon, arising out of, attributable to, resulting from, in consequence of, or in any way involving, directly or indirectly, any **Claim** including, but not limited to, any demand, suit, cause of action, legal or quasi-legal proceeding or administrative proceeding pending, or order, decree or judgment entered against any of the **Directors and Officers** or the **Insured Company** on or prior to the Pending or Prior Litigation Date set forth in Item 6 of the Declarations or the same or substantially the same fact, circumstance or situation underlying or alleged therein;
11. Of any **Subsidiary** based upon, arising out of, or attributable to:
 - a. Any **Wrongful Act** committed or allegedly committed before the date it became a **Subsidiary** or based upon or arising out of any **Wrongful Act** committed or allegedly committed on or after the date it became a **Subsidiary** which, together with a **Wrongful Act** committed or allegedly committed before the date it became a **Subsidiary**, constitute **Interrelated Wrongful Acts**; or

- b. Any **Wrongful Act** committed or allegedly committed after the date it ceased to be a **Subsidiary**;
12. Brought or maintained by or on behalf of any **Directors and Officers** in any capacity or by or on behalf of the **Insured Company**, except where such **Claim** is:
 - a. Brought or maintained by any of the **Directors and Officers** for contribution or indemnity, but only where such **Claim** directly results from another covered **Claim**;
 - b. Brought by any security holder or member of the **Insured Company**, whether directly or derivatively, and where such security holder or member bringing such **Claim** is acting totally without the solicitation, assistance, participation, or intervention of any **Directors and Officers** or the **Insured Company**; or
 - c. Brought or maintained by any of the **Directors and Officers** for any actual or alleged **Employment Practices Wrongful Acts**;
 13. Which is insured in whole or in part by any other valid and collectible policy or policies, except with respect to any excess beyond the amount or amounts of coverage under such other policy or policies and otherwise covered by the terms and conditions of this Policy; or
 14. Based upon, arising out of, attributable to, resulting from, in consequence of, or in any way involving, directly or indirectly, the service of any of the **Directors and Officers** in any position or capacity in any entity other than the **Insured Company**, even if such service is directed or requested by the **Insured Company**, unless such service is in an **Outside Position**.

Note: No **Wrongful Act** of any of the **Directors and Officers** shall be imputed to any other **Directors and Officers** for the purpose of determining the applicability of Section IV, Exclusions (A) (1), (2), (3), or (4); provided, however, that with respect to any coverage afforded under Insuring Clause C, the **Wrongful Acts** of the **Insured Company's** president, chairman, chief executive officer, chief financial officer or in-house general counsel shall be deemed to be imputed to the **Insured Company**.

B. **Exclusion Applicable Only to Insuring Clause C**

The Insurer shall not be liable to make any payment under Insuring Clause C for **Loss** in connection with any **Claim** made against the **Insured Company** for:

1. Any actual or alleged breach of an express written or oral contract or agreement; however, this exclusion shall not apply to **Claims** alleging **Employment Practices Wrongful Acts** if such liability would have attached to the **Insured Company** in the absence of the express contract in question;
2. An actual or alleged violation of: (a) any law governing workers' compensation, unemployment insurance, social security, disability benefits or similar law, (b) the Employee Retirement Income Security Act of 1974, (c) the Fair Labor Standards Act (except the Equal Pay Act), (d) the National Labor Relations Act, (e) the Worker Adjustment and Retraining Notification Act, (f) the Consolidated Omnibus Budget Reconciliation Act of 1985, (g) the Occupational Safety and Health Act, or (h) rules or regulations promulgated thereunder, amendments thereto or similar provisions of any federal, state or local statutory or common law; provided, however, this exclusion shall not apply to any **Claim** for **Employment Practices Wrongful Acts** alleging **Retaliation**, or
3. That part of **Loss**, other than **Defense Costs**:
 - a. Which constitutes any portion of a **Claim** alleging **Employment Practices Wrongful Acts** involving or directly or indirectly arising out of a demand for relief other than money damages; or
 - b. Which constitutes **Benefits** except for those **Benefits** which are part of compensatory damages.

SECTION V. LIMIT OF LIABILITY, RETENTIONS AND INSURED PERCENTAGE

- A. The amount set forth in Item 3 (a) of the Declarations shall be the maximum aggregate Limit of Liability of the Insurer under the Policy for all covered **Loss** resulting from all **Claims**, whether covered under Insuring Clause A or Insuring Clause B, or both, made against the **Directors and Officers** during the **Policy Period**,

regardless of the time of payment by the Insurer. The amount set forth in Item 3(b) of the Declarations shall be the maximum aggregate Limit of Liability of the Insurer under the Policy for all covered **Loss** resulting from all **Claims** covered under Insuring Clause C made against the **Insured Company** during the **Policy Period**, regardless of the time of payment by the Insurer. The amount set forth in Item 3(c) of the Declarations shall be the maximum aggregate Limit of Liability of the Insurer under the Policy for all covered **Loss** resulting from all **Claims** covered under Insuring Clause A, B or C (if granted) made against the **Insureds** during the **Policy Period**, regardless of the time of payment by the Insurer.

- B. Subject to Section V (A), as respects each **Loss** covered under this Policy, the Insurer shall be liable to pay the percentage of **Loss** set forth in Item 8 of the Declarations which is in excess of the applicable Retention set forth in Item 4 of the Declarations. The **Directors and Officers** or the **Insured Company**, as appropriate, shall bear at their own risk and leave uninsured that remaining percentage of **Loss** set forth in Item 8 of the Declarations.
- C. All **Claims** based upon or arising out of the same **Wrongful Act** or **Interrelated Wrongful Acts** of one or more of the **Insureds** shall be considered a single **Claim** for all purposes, including but not limited to, applying one Retention and one aggregate Limit of Liability toward such single **Claim**; provided, however, that the terms and conditions, including the applicable Retention and aggregate Limit of Liability (which will apply as respects such single **Claim**) shall be determined by the Policy in which such single **Claim** was first reported to the Insurer. Such single **Claim** shall be deemed to fall under the policy in which the first **Claim** arising out of such **Wrongful Act** or **Interrelated Wrongful Acts** was first reported to the Insurer pursuant to Section IX(A) of the Policy or under the Policy under which notice of such **Wrongful Act** or **Interrelated Wrongful Acts** were first reported to the Insurer pursuant to Section IX (B) of the Policy.
- D. If **Loss** resulting from a **Claim** is covered in part under more than one Insuring Clause, the applicable Retention set forth in Item 4 of the Declarations shall be applied separately to that part of **Loss** resulting from the **Claim** covered by each such Insuring Clause, and the sum of the Retentions so applied shall constitute the Retention applicable to all **Loss** resulting from the **Claim**; provided, however, that if the sum of the Retentions is greater than the largest Retention set forth in Item 4 of the Declarations, only the largest Retention shall apply.
- E. **Defense Costs** shall be part of and not in addition to the maximum aggregate Limit of Liability set forth in Item 3 of the Declarations, and **Defense Costs** shall reduce the maximum aggregate Limit of Liability. In addition, **Defense Costs** shall be applied against the Retention.

SECTION VI. PRESUMPTIVE INDEMNIFICATION

If the **Insured Company** is legally permitted or required to indemnify the **Directors and Officers** for a **Claim**, then the Retention applicable to Insuring Clause B shall apply to **Loss** resulting from such **Claim**, whether or not actual indemnification by the **Insured Company** is made, except where such indemnification is not made by the **Insured Company** solely by reason of its **Financial Insolvency**.

For the purposes of the foregoing, the articles of incorporation or by-laws of the **Insured Company** shall be deemed to provide indemnification for such **Loss** to the fullest extent permitted or required by the law of the state in which the **Insured Company** is incorporated.

SECTION VII. DEFENSE COSTS AND SETTLEMENTS

- A. It shall be the duty of the **Insureds** and not the duty of the Insurer to defend **Claims** made against the **Insureds**.
- B. The **Insureds** agree not to incur any **Defense Costs**, enter into or negotiate any settlements or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the Insurer's written consent, which consent shall not be unreasonably withheld. The Insurer shall not be liable for any **Defense Costs**, settlements, assumed obligation or admission to which it has not consented.
- C. The Insurer shall have the right and shall be given the opportunity to effectively associate with the **Insureds** in the investigation, defense and settlement of any **Claim**, including but not limited to, the negotiation of a settlement to which this Policy may apply.

- D. The **Insureds** agree to provide the Insurer with all information, assistance and cooperation reasonably requested by the Insurer and that in the event of a **Claim** the **Insureds** shall do nothing to prejudice the Insurer's position or its potential or actual rights of recovery.
- E. The Insurer and the **Insureds** agree that there shall be coverage for otherwise covered **Loss** in the form of punitive or exemplary damages or the multiple portion of any multiplied damage award in the manner provided in Section II (M), but only where insurable, and only up to a maximum of \$250,000 in connection with any **Claim**, and that such amount shall be part of and not in addition to the maximum aggregate Limit of Liability set forth in Item 3 of the Declarations.

SECTION VIII. ALLOCATION

- A. In the event that a **Claim** is made against any of the **Insureds** resulting in **Loss** covered by this Policy and loss not covered by this Policy (1) because of covered and uncovered matters and/or (2) because a **Claim** (other than a **Claim** under Insuring Clause C) is made against both (a) any of the **Directors and Officers** and (b) other uninsured parties, including but not limited to the **Insured Company**, then the Insurer and the **Insureds** shall use all reasonable efforts to agree upon a fair and proper allocation of such amount between covered **Loss** and uncovered loss. As a guideline in determining a fair and proper allocation between covered **Loss** and uncovered loss, the relative liability of all persons or entities who caused or contributed to the damages incurred by the claimant, relative damages exposures, and the relative benefits obtained by the **Directors and Officers** and the **Insured Company** shall be taken into account. The existence of any allegations excluded from or otherwise outside the scope of the Policy's coverage shall further be taken into account in determining a fair and proper allocation.
- B. In the event the Insurer consents to **Defense Costs** being incurred by the **Insureds** for a **Claim** made against any of the **Insureds** pursuant to Section VII and in the event the Insurer and the **Insureds** agree on an allocation of **Defense Costs**, the Insurer shall advance on a current basis **Defense Costs** allocated to covered **Loss**.
- C. If the Insurer and the **Insureds** cannot agree on an allocation of **Loss**:
 - 1. The Insurer shall advance on a current basis the portion of **Defense Costs** which the Insurer in its discretion reasonably believes to be covered under this Policy until a different allocation is negotiated, arbitrated or judicially determined;
 - 2. In any arbitration, suit or other proceeding no presumption shall exist concerning what is a fair and proper allocation for **Defense Costs** or other portion of **Loss**;

Any negotiated, arbitrated or judicially determined allocation of **Defense Costs** on account of a **Claim** shall be applied retroactively to all **Defense Costs** on account of such **Claim**, notwithstanding any prior advancement to the contrary.

- D. As respects any advancement of **Defense Costs**, in the event of a final adjudication which establishes that the Insurer has no liability for such **Defense Costs** under the terms, conditions, limitations, restrictions and exclusions of this Policy, the **Insureds** agree to repay the Insurer, upon demand, all monies advanced to the **Insureds**.
- E. Any allocation or advancement of **Defense Costs** on account of a **Claim** shall not apply to or create any presumption with respect to allocation of other **Loss** on account of such **Claim**.
- F. In the event that a **Claim** is made against the **Insureds** such that **Loss** resulting therefrom is covered in full by this Policy, or conversely, the loss resulting therefrom is completely uncovered by this Policy, then such **Claim** and all resulting **Loss** (or loss) shall not be subject to allocation.

SECTION IX. REPORTING AND NOTICE OF CLAIM

- A. If during the **Policy Period** or **Discovery Period**, if purchased, any **Claim** is first made against any of the **Insureds**, the **Insureds**, as a condition precedent to their right to coverage under this Policy, shall give written notice to the Insurer of any such **Claim** as soon as practicable but in no event later than sixty (60) days after the end of the **Policy Period**.

- B. If during the **Policy Period** or **Discovery Period**, if purchased, the **Insureds** become aware of a specific **Wrongful Act** which may reasonably be expected to give rise to a **Claim**, and during the **Policy Period** or the **Discovery Period**, if purchased, the **Insureds** give written notice to the Insurer of:
1. A description of the specific **Wrongful Act**, including all relevant dates;
 2. The names of the persons involved in the specific **Wrongful Act**, including names of the potential claimants;
 3. Particulars as to the reasons for anticipating a **Claim** which may result from such specific **Wrongful Act**;
 4. The nature of the alleged or potential damages arising from such specific **Wrongful Act**; and
 5. The circumstances by which the **Insureds** first became aware of the specific **Wrongful Act**,
- then any **Claim** subsequently made against the **Insureds** arising out of such specific **Wrongful Act** shall be deemed to have been made during the **Policy Period** or the **Discovery Period**, if purchased, in which such specific **Wrongful Act** was first reported to the Insurer.
- C. The **Insureds** shall furnish the Insurer with copies of reports, investigations, pleadings, and all related papers in connection with the subject of the notice, and shall provide other information, assistance, and cooperation as the Insurer may reasonably request.
- D. Notice to the Insurer as provided in Section IX (A) and IX (B) and any information furnished to the Insurer as provided in Section IX (C) shall be sent to the Insurer as directed in Item 9 of the Declarations.

SECTION X. CHANGES IN EXPOSURE

A. Acquisition or Creation of Another Entity

This **Policy** is issued and the premium computed on the basis of the information submitted to the Insurer as part of the **Application**. If, after the **Policy Inception Date**, the **Insured Company** acquires:

1. Substantially all of the assets of another entity;
2. Voting securities in another entity or creates another entity, which as a result of such acquisition or creation becomes a **Subsidiary**; or
3. Another entity by merger such that the **Insured Company** is the surviving entity and the provisions of Section X (B) are not triggered,

then such coverage as is afforded under this **Policy** shall apply to any **Directors and Officers** of the newly created or acquired entity and to the new **Subsidiary**, if Insuring Clause C applies, but only with respect to **Wrongful Acts** occurring or allegedly occurring after such creation or acquisition.

As a condition of the above, if the assets of the created entity, or if the fair value of all cash, securities, assumed indebtedness and other consideration paid by the **Insured Company** for any such acquisition during the **Policy Period** exceeds 25% of the total assets of the **Insured Company** as reflected in the **Insured Company's** most recent audited consolidated financial statements, or if any of the securities of such entity are publicly traded, then coverage for the **Directors and Officers** of the newly created or acquired entity and the new **Subsidiary**, if Insuring Clause C applies, will cease ninety (90) days after the effective date of such creation or acquisition unless, within such ninety (90) day period the:

1. **Insured Company** provides the Insurer with written notice of such creation or acquisition;
2. **Insured Company** provides the Insurer with such information in connection therewith as the Insurer may deem necessary;
3. **Insured Company** accepts any special terms, conditions, exclusions, or additional premium charge as may be required by the Insurer; and

4. Insurer, at its sole discretion, agrees by written endorsement to provide such coverage.

Nothing contained in this Section X (A) shall provide coverage for the **Directors and Officers** of the newly created or acquired entity or to the new **Subsidiary** for **Wrongful Acts** occurring or allegedly occurring prior to the effective date of such creation or acquisition.

B. Merger, Consolidation or Acquisition of the Insured Company

If during the **Policy Period**:

1. The **Insured Company** (as stated in Item I of the Declarations) consolidates with, or merges into another entity, or sells all or substantially all of its assets to, any other person or entity or group of persons and/or entities acting in concert; or
2. Any person or entity or group of persons and/or entities acting in concert shall acquire an amount of the outstanding securities representing more than 50% of the voting power for the election of the directors of the **Insured Company**, or acquires the voting rights of such an amount of such securities,

then there shall be no coverage afforded by any provision of this Policy (including, but not limited to, the **Discovery Period** as stipulated in Section III (D) of the Policy) for any **Wrongful Act** committed or allegedly committed after the effective date of the events identified in Section X (B) (1) or (2).

The **Insured Company** shall give the Insurer written notice of any such event as soon as practicable prior to its effective date.

C. Public Securities Offering

If during the **Policy Period**, the **Insured Company** offers for sale to the public securities issued by the **Insured Company**, the **Insured Company** shall give written notice of such public offering to the Insurer at least thirty (30) days prior to the effective date of such offering. This **Policy** shall not afford any coverage for **Loss** from **Claims** for **Wrongful Acts** in connection with such public offering or any subsequent purchase or sale of securities in connection with such offering or in the after-market unless the **Insureds** give the required written notice to the Insurer and pay any additional premium and accept any additional Policy terms and conditions required by the Insurer.

SECTION XI. REPRESENTATIONS AND COVENANTS

As a condition of the Insurer's obligation hereunder, the **Insureds** represent and agree that:

- A. The particulars and statements made in the **Application** are true and are the basis of this Policy and are to be considered as incorporated into and constituting a part of this Policy;
- B. The statements made in the **Application** are their representations, that they shall be deemed material to the acceptance of the risk or the hazard assumed by the Insurer under the Policy, and that this Policy is issued in reliance upon the truth of such representations; and
- C. In the event that the **Application** contains any misrepresentation made with the intent to deceive, or which materially affects either the acceptance of the risk or the hazard assumed by the Insurer under this Policy, this Policy shall be voided in its entirety and shall be of no effect whatsoever, but only with respect to:
 1. Any of the **Directors and Officers** who had knowledge or information as of the **Policy Inception Date** of the facts that were not truthfully disclosed;
 2. The **Insured Company** under Insuring Clause B to the extent it indemnifies or advances **Loss** incurred by any such **Directors and Officers**; and
 3. The **Insured Company** under Insuring Clause C if the signer of the **Application** had knowledge or information as of the **Policy Inception Date** of the facts that were not truthfully disclosed. Whether any of the **Directors and Officers** had such knowledge or information shall be determined without regard to whether such **Directors and Officers** actually knew the **Application** contained such untrue statement or representation.

SECTION XII. GENERAL CONDITIONS

A. Cancellation and Nonrenewal

1. As a condition of this Policy, the **Insureds** shall grant the exclusive power and authority to cancel this Policy on their behalf to the **Insured Company**. The **Insured Company** may cancel this Policy by providing written notice to the Insurer stating when thereafter, such cancellation shall be effective. The mailing or delivery of such notice shall be sufficient, and this Policy shall terminate at the date and hour specified in such notice. The **Policy Termination Date** shall become the effective date of the cancellation.
2. This Policy may not be canceled by the Insurer. Notwithstanding the foregoing, in the event the **Insureds** fail to pay a premium when due, this Policy may be canceled by the Insurer by mailing or delivering to the **Insured Company** written notice stating when, not less than ten (10) days thereafter, such cancellation shall be effective.
3. If the **Insured Company** cancels this Policy pursuant to Section XII (A) (1), the Insurer shall retain the customary short rate portion of the premium.

If the Insurer cancels this Policy pursuant to Section XII (A) (2), the Insurer shall retain the pro rata portion of the premium.

Payment or tender of any unearned premium by the Insurer shall not be a condition precedent to the effectiveness of any cancellation, but such payment shall be made as soon as practicable.

4. The Insurer has no obligation to renew this Policy and the Insurer, in its sole discretion, may elect not to renew this Policy. This Policy may be non-renewed by the Insurer by mailing or delivering to the **Insured Company** written notice of such non-renewal at least sixty (60) days prior to the expiration date specified in Item 2(b) of the Declarations of the Policy.
5. If the period of limitation relating to the giving of notice as provided for in Section XII (A) (1) or XII (A) (2) is prohibited or made void by any law controlling the construction thereof; such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

B. Subrogation

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 thereof, and the **Insureds** shall execute all papers required and do everything that may be necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Insurer to effectively bring suit in the Insurer's name.

C. Assistance and Cooperation

The **Insureds** agree to provide the Insurer with all information, assistance and cooperation that the Insurer reasonably requests and agree that in the event of a **Claim** they will do nothing that may prejudice the Insurer's position or its potential or actual rights of recovery.

D. Territory and Valuation

The premium, Limit of Liability, Retentions, **Loss** and any other monetary amounts under this Policy are expressed and payable in the currency of the United States of America, unless otherwise specified by the Insurer. If judgment is rendered, settlement is denominated or another component of **Loss** under this Policy is expressed in any currency other than United States of America dollars, payment under this Policy shall nonetheless be made in United States dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is reached, settlement amount agreed upon or other component of **Loss** is due, respectively.

Coverage under this Policy shall extend anywhere in the world.

E. Authorization and Notices

By acceptance of this Policy, the **Insureds** agree that the **Insured Company** shall act on behalf of the **Insureds** with respect to the giving of all notices to the Insurer as provided herein, the receiving of all notices from the Insurer, the payment of premiums, the receiving of any return premiums that may become due under this Policy, the cancellation of this Policy, and the exercising of the **Discovery Period** option.

F. Action Against Insurer

No action shall be taken against the Insurer unless, as a condition precedent thereto, there shall have been full compliance by the **Insureds** with all of the terms of this Policy; nor shall any such action be taken against the Insurer until the amount of the **Directors' and Officers'** obligation to pay shall have been finally determined either by judgment against the **Directors and Officers** after actual trial or by written agreement of the **Directors and Officers**, the claimant and the Insurer.

No person or organization shall have any right under this Policy to join the Insurer as a party to any **Claim** against any of the **Directors and Officers** nor shall the Insurer be impleaded by the **Insureds** or their legal representatives in any such **Claim**. It is agreed that any action commenced against the Insurer by the **Insureds** shall be brought in the United States.

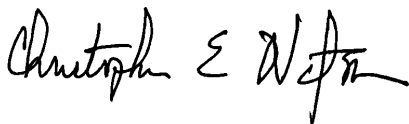
G. Entire Agreement

By acceptance of this Policy, the **Insureds** agree that this Policy, including the Declarations, the **Application** and any written endorsements attached hereto, constitute the entire agreement existing between them and the Insurer relating to this insurance.

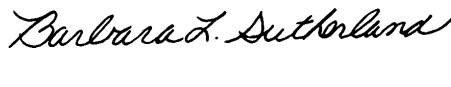
H. Alteration and Assignment

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy signed by an authorized representative of the Insurer.

IN WITNESS WHEREOF, the Insurer has caused this Policy to be signed by its President and Secretary and, if required by state law, this Policy shall not be valid unless countersigned on the Declarations by an authorized representative of the Insurer.



President



Secretary