



Travelers Casualty and Surety Company of America
Hartford, Connecticut 06183

Travelers Casualty and Surety Company of Illinois
Naperville, Illinois 60563

(Stock Insurance Companies, herein called the Company)

THIS IS A CLAIMS MADE POLICY WITH DEFENSE EXPENSES INCLUDED
IN THE LIMIT OF LIABILITY. PLEASE READ IT CAREFULLY.

IN CONSIDERATION of the payment of the premium stated in the Declarations and subject to all of the terms, conditions and limitations of this Policy, the Company agrees as follows:

I. INSURING AGREEMENTS.

A. The Company shall pay on behalf of the **Insured Persons** **Loss** resulting from **Claims** first made during the **Policy Period** against the **Insured Persons** for **Wrongful Acts** except for **Loss** which the **Insured Organization** pays to or on behalf of the **Insured Persons** as indemnification.

B. The Company shall pay on behalf of the **Insured Organization**:

1. **Loss** resulting from **Claims** first made during the **Policy Period** against the **Insured Persons** for **Wrongful Acts** which the **Insured Organization** pays to or on behalf of the **Insured Persons** as indemnification; and

2. **Loss** resulting from **Claims** first made during the **Policy Period** against the **Insured Organization** for **Wrongful Acts**.

II. DEFINITIONS.

Wherever appearing in this Policy, words and phrases appearing in **bold type** shall have the meanings set forth in this provision:

A. **“Claim”** means:

1. a written demand for monetary or non-monetary relief;
2. a civil proceeding commenced by service of a complaint or similar pleading;
3. a criminal proceeding commenced by return of an indictment; or
4. a formal administrative or regulatory proceeding, including but not limited to proceedings brought by or before the Equal Employment Opportunity Commission (“EEOC”) or similar state or local agency, commenced by the filing of a notice of charges, formal investigative order or similar document;

against an **Insured** for a **Wrongful Act**.

A **Claim** shall be deemed to have been made on the date of service upon or receipt of notice by any **Insured** of the written demand or proceeding, whichever occurs earlier.

All **Related Claims** are a single **Claim** for purposes of this Policy, and all **Related Claims** shall be deemed to have been made at the time the first of such **Related Claims** was made.

B. **“Defense Expenses”** means reasonable and necessary legal fees and expenses incurred in the investigation, defense, settlement and appeal of a **Claim**, including the premium for any appeal bond regarding such **Claim**; but **Defense Expenses** shall not include the salaries, wages, benefits or overhead of the **Insured Organization** or any of its directors, officers or **Employees**.

C. **“Discrimination”** means failure or refusal to hire any person, failure or refusal to promote any person, demotion or discharge of any person, employment related defamation, wrongful failure to grant tenure, or limitation, segregation or classification of **Employees** or applicants for employment in any way that would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect his or her status as an **Employee**, because of such person’s race, color, religion, age, sex, national origin, disability, pregnancy, sexual orientation or preference, or other status that is protected pursuant to any applicable federal, state or local statute or ordinance.

D. **“Employee”** means any individual whose labor or service is engaged by and directed by the **Insured Organization** and who is paid through the payroll of the **Insured Organization**, including part-time, seasonal and temporary workers. Leased employees and independent contractors are not **Employees**. The status of an individual as an **Employee** shall be determined as of the date of the alleged **Wrongful Act**.

E. **“Financial Insolvency”** means, with respect to the **Parent Corporation** and each **Subsidiary**, the appointment of a receiver, conservator, liquidator, trustee, or similar official; or the inability of the **Insured Organization** financially or under applicable law to indemnify the **Insured Persons**.

F. **“Insured”** means the **Insured Persons** and the **Insured**

Organization.

G. “**Insured Organization**” means the **Parent Corporation** and any **Subsidiary**.

H. “**Insured Persons**,” either in the singular or the plural, means any one or more past, present or future duly elected or appointed directors or officers, or members of the Board of Managers, of the **Insured Organization**. With respect to **Wrongful Employment Practices, Insured Persons** shall also include any one or more past, present or future **Employees** of the **Insured Organization**.

In the event of the death, incapacity or bankruptcy of an **Insured Person**, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**.

I. “**Loss**” means **Defense Expenses** and damages (including back pay and front pay, compensatory damages, and punitive damages if insurable under applicable law), pre-judgment interest, post-judgment interest, judgments, settlements or other amounts that an **Insured** is obligated to pay as a result of a **Claim**. **Loss** shall not include civil or criminal fines; sanctions; liquidated damages; payroll or other taxes; penalties; the multiplied portion of any multiplied damage award; or damages or types of relief deemed uninsurable under applicable law.

J. “**Outside Entity**” means a corporation or organization, other than the **Insured Organization**, which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended.

K. “**Outside Position**” means service by an **Insured Person** as a director, officer, trustee or other equivalent position with an **Outside Entity**, but only during such time that such service is with the knowledge and consent and was at the specific written request of the **Insured Organization**.

L. “**Parent Corporation**” means the entity named in Item 1 of the Declarations.

M. “**Policy Period**” means the period from the Inception Date to the Expiration Date in Item 2 of the Declarations or to any earlier effective date of cancellation or termination.

N. “**Related Claims**” means all **Claims** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions, events or **Wrongful Acts**, or the same or related series of facts, circumstances, situations, transactions, events or **Wrongful Acts**.

O. “**Retaliation**” means adverse employment action with regard to an **Employee** on account of such **Employee’s** exercise or attempted exercise of rights protected by law, or

on account of such **Employee** having assisted or testified in or cooperated with a proceeding or investigation regarding alleged violations of law.

P. “**Sexual Harassment**” means unwelcome sexual advances, requests for sexual favors, or other verbal, visual or physical conduct of a sexual nature that:

1. is made as a condition of employment or advancement with the **Insured Organization**;
2. is used as a basis for employment decisions with the **Insured Organization**; or
3. creates a work environment that interferes with job performance, or creates an intimidating, hostile, or offensive working environment.

Q. “**Subsidiary**” means:

1. any corporation in which, on or prior to the Inception Date in Item 2(a) of the Declarations, the **Parent Corporation** owns, directly or through one or more **Subsidiaries**, more than fifty percent (50%) of the outstanding securities representing the right to vote for the election of such corporation’s directors;
2. any limited liability company organized under the laws of any state, in which, on or prior to the Inception Date in ITEM 2(a) of the Declarations, the **Parent Corporation** owns, directly or through one or more **Subsidiaries**, the right to elect, appoint or designate more than fifty percent (50%) of the members of such limited liability company's Board of Managers; or
3. any entity that the **Insured Organization** forms or acquires during the **Policy Period** that qualifies as a **Subsidiary** under the terms and conditions of Section XI.B.

R. “**Workplace Harassment**” means harassment, other than **Sexual Harassment**, which creates a work environment that interferes with job performance, or creates an intimidating, hostile, or offensive working environment.

S. “**Wrongful Act**” means:

1. any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty, including any **Wrongful Employment Practice**, by an **Insured Person** in his or her capacity as a director or officer of the **Insured Organization**;
2. any matter asserted against an **Insured Person** solely by reason of his or her status as a director or officer of the **Insured Organization**;

3. any **Wrongful Employment Practice** by an **Insured Person** in his or her capacity as an **Employee** of the **Insured Organization**;

4. any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty, including any **Wrongful Employment Practice**, by an **Insured Person** in his or her **Outside Position**; or

5. any other actual or alleged act, error, omission, misstatement, misleading statement or breach of duty, including any **Wrongful Employment Practice**, by the **Insured Organization**.

T. "**Wrongful Employment Practice**" means any of the following occurring in the course of and arising out of the claimant's employment or application for employment with the **Insured Organization**: (1) **Discrimination**, (2) **Sexual Harassment**, (3) **Wrongful Termination**, (4) **Retaliation**, (5) **Workplace Harassment**, (6) breach of an implied contract or agreement relating to employment, whether arising out of any personnel manual, policy statement or other representation, (7) negligent evaluation, (8) wrongful discipline, (9) wrongful deprivation of career opportunity, (10) wrongful denial of training, (11) wrongful deprivation or denial of seniority, (12) wrongful evaluation, (13) wrongful failure to grant tenure, (14) wrongful failure to promote, (15) invasion of privacy, (16) employment-related misrepresentation, (17) employment-related defamation, (18) employment-related infliction of emotional distress.

U. "**Wrongful Termination**" means actual or constructive termination of the employment relationship with the **Insured Organization** in a manner or for a reason which is contrary to applicable law or in violation of an implied agreement for continued employment.

III. EXCLUSIONS.

A. This insurance shall not apply to any **Claim**:

1. for damage to, or destruction of, or loss of use of any tangible property; or for or arising out of any actual or alleged libel, slander, oral or written publication of defamatory or disparaging material, bodily injury, sickness, emotional distress, loss of reputation, mental anguish, humiliation, disease or death of any person; provided, however, that this exclusion shall not apply to allegations of libel, slander, oral or written publication of defamatory or disparaging material, emotional distress, loss of reputation, mental anguish, humiliation, if and only to the extent that such allegations are made as part of a **Claim** for a **Wrongful Employment Practice**;

2. based upon, alleging, arising out of, or in any way relating to, directly or indirectly, any actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of, any smoke, vapors,

soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials (including materials which are intended to be or have been recycled, reconditioned or reclaimed) or other irritants, pollutants or contaminants, or any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any of the foregoing, or any action taken in contemplation or anticipation of any such regulation, order, direction or request, including but not limited to any such **Claim** alleging damage to the **Insured Organization** or to its shareholders;

3. based upon, alleging, arising out of, or in any way relating to, directly or indirectly, any fact, circumstance, situation, transaction, event or **Wrongful Act** underlying or alleged in any prior and/or pending civil, criminal, administrative or regulatory proceeding, including but not limited to a proceeding brought by or before the EEOC, as of the Prior and Pending Proceeding Date in Item 8 of the Declarations;

4. based upon, alleging, arising out of, or in any way relating to, directly or indirectly, any fact, circumstance, situation, transaction, event or **Wrongful Act** which, before the Inception Date in Item 2(a) of the Declarations, was the subject of any notice given by or on behalf of any **Insured** under any other policy of insurance;

5. for alleged violation of responsibilities, duties or obligations imposed on an **Insured** under any law concerning workers' compensation, unemployment insurance, Social Security, or disability insurance, or any similar state, federal or local law or regulation, the National Labor Relations Act (NLRA), the Worker Adjustment and Retraining Notification Act (WARN), Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Fair Labor Standards Act (except the Equal Pay Act), Occupational Safety and Health Act (OSHA), or amendments thereto or regulations promulgated thereunder, or any similar or related law; provided, however, that this exclusion shall not apply to **Claims** for alleged **Retaliation** due to a claimant's exercise of rights under such laws;

6. for any actual or alleged violation of responsibilities, duties or obligations under the Employee Retirement Income Security Act of 1974 (ERISA), including amendments thereto and regulations promulgated thereunder, or any similar or related federal, state or local law; or for an **Insured's** failure or refusal to establish, contribute to, pay for, insure, maintain, provide benefits pursuant to, or enroll or maintain the enrollment of an **Employee** or dependent in, any employee benefit plan, fund or program, including contracts or agreements which are not subject to the provisions of ERISA;

7. based upon, alleging, arising out of, or in any way relating to, directly or indirectly, any actual or alleged nuclear reaction, nuclear radiation, radioactive contamination, or

radioactive substance, or the hazardous properties of nuclear material;

8. with respect to Insuring Agreement B.2. only:

(a) for any actual or alleged violation of any law, rule or regulation relating to antitrust, or the prohibition of monopolies, activities in restraint of trade, unfair methods of competition or deceptive acts and practices in trade and commerce, including but not limited to any actual or alleged violation of the Sherman Act, the Clayton Act, the Robinson-Patman Act, The Federal Trade Commission Act, the Hart-Scott-Rodino Antitrust Improvements Act or any regulation or rule promulgated under any such Act; or

(b) for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, service mark, trade name, trade secret or any other intellectual property rights;

9. by or on behalf of, or in the name or right of, any **Insured**; provided, however, that this exclusion shall not apply to:

(a) any derivative action by or on behalf of, or in the name or right of, the **Insured Organization** brought by a security holder of the **Insured Organization**, and brought and maintained independently of, and without the assistance, participation or intervention of any **Insured**;

(b) any **Claim** in the form of a crossclaim, third party claim or other claim for contribution or indemnity by an **Insured Person** and which is part of or results directly from a **Claim** which is not otherwise excluded by the terms of this Policy; or

(c) any **Claim** by an **Insured Person** for a **Wrongful Employment Practice**;

10. by or on behalf of, or in the name or right of, any **Outside Entity** against an **Insured Person** for a **Wrongful Act** in his or her **Outside Position** with respect to such **Outside Entity**;

11. with respect to any **Subsidiary**, based upon, alleging, arising out of, or in any way relating to, directly or indirectly, any **Wrongful Act** occurring at any time during which such entity was not a **Subsidiary**, or any **Wrongful Act** occurring at any time during which such entity is a **Subsidiary** which is based upon, arises out of, or in any way relates to, directly or indirectly, the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events occurring at any time during which such entity was not a **Subsidiary**;

12. for or arising out of any actual or alleged liability of the **Insured Organization** under any express contract or agreement; provided, however, that this exclusion will apply
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only to the coverage available to the **Insured Organization** under Insuring Agreement B.2., and that, for the purposes of this exclusion, an “express contract or agreement” is an actual agreement among the contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making; or

13. based upon, alleging, arising out of, or in any way relating to, directly or indirectly:

(a) the public offer, sale, solicitation or distribution of securities issued by the **Insured Organization** or any **Subsidiary**; or

(b) the actual or alleged violation of any federal, state, local or provincial statute relating to securities, including but not limited to the Securities Act of 1933 and the Securities and Exchange Act of 1934, or any rules or regulations promulgated thereunder;

provided, however, that if at least thirty (30) days prior to the transaction described in (a) above, the Company receives notice of the proposed transaction and any additional information requested by the Company, the Company shall offer to the **Insured Organization** a proposal for coverage subject to any additional terms and conditions, and payment of any additional premium, described in such proposal.

14. for a **Wrongful Employment Practice** based upon, alleging, arising out of, or in any way relating to, directly or indirectly, any alleged violation of Executive Order 11246 (Office of Federal Contract Compliance Programs) or the False Claims Act, 31 U.S.C. Sec. 3729 et seq.

B. The Company shall have no duty to pay **Loss**, other than **Defense Expenses**:

1. for any **Claim** based upon, arising out of, or in any way relating to, directly or indirectly, any **Insured** committing in fact any intentional dishonest or fraudulent act or omission or any willful violation of any statute, rule or law, or gaining in fact any profit, remuneration or advantage to which such **Insured** was not legally entitled;

2. which constitute costs and expenses incurred or to be incurred to comply with an order, judgment or award of injunctive or other equitable relief of any kind, or that portion of a settlement encompassing injunctive or other equitable relief, including but not limited to actual or anticipated costs and expenses associated with or arising from an **Insured's** obligation to provide reasonable accommodation under, or otherwise comply with, the Americans With Disabilities Act or the Rehabilitation Act of 1973, including amendments thereto and regulations thereunder, or any related or similar law or regulation;

3. which constitutes employee benefits, except and to the extent that a judgment or settlement of a **Claim**

includes a monetary component measured by the value of employee benefits as consequential damages for a **Wrongful Act** which is the basis for such judgment or settlement;

4. which constitutes future compensation, including salary and benefits, for an individual who has been or will be hired, promoted or reinstated to employment pursuant to a settlement, court order, judgment, award or other resolution of a **Claim**; or that part of any judgment or settlement which constitutes front pay, future monetary losses including but not limited to pension and other benefits, or other future economic relief or the value or equivalent thereof, if the **Insured Organization** has been ordered, or has the option pursuant to a judgment, order or other award or disposition of a **Claim**, to promote, accommodate, reinstate, or hire the claimant to whom such sums are to be paid, but fails to do so.

IV. SEVERABILITY OF EXCLUSIONS.

No conduct of any **Insured Person** shall be imputed to any other **Insured Person** to determine the application of any of the Exclusions set forth in Section III above.

V. RETENTION.

A. The Company shall only be liable for the amount of **Loss** including **Defense Expenses** resulting from a **Claim** which is in excess of the applicable Retention set forth in Item 5 of the Declarations, and such Retention shall be borne by the **Insured** uninsured and at its own risk. The Company shall have no obligation to pay **Loss** including **Defense Expenses** until the Retention amount has been paid by the **Insured**, however the Company may, at its sole discretion, pay all or part of the Retention amount on behalf of any **Insured**, in which event the **Insureds** agree to repay the Company any amounts so paid.

B. If different retentions are applicable to different parts of any **Claim**, the applicable retentions will be applied separately to each part of such **Claim**, but the sum of such retentions will not exceed the largest applicable retention as set forth in Item 5 of the Declarations.

VI. PRESUMPTION OF INDEMNIFICATION.

A. Regardless of whether **Loss** resulting from any **Claim** against **Insured Persons** is actually indemnified, Insuring Agreement B, and the Retention set forth in Item 5.B.1. of the Declarations, shall apply to any **Loss** as to which indemnification by the **Insured Organization** or any **Outside Entity** is legally permissible, whether or not actual indemnification is made, unless such indemnification is not made by the **Insured Organization** or such **Outside Entity** solely by reason of its **Financial Insolvency**.

B. The certificate of incorporation, charter, articles of association or other organizational documents of the **Parent Corporation** and each **Subsidiary**, and each **Outside Entity**, including by-laws and resolutions, will be deemed to have been adopted or amended to provide indemnification to the **Insured Persons** to the fullest extent permitted by law.

VII. LIMIT OF LIABILITY.

Regardless of the number of persons or entities bringing **Claims** or the number of persons or entities who are **Insureds** and regardless of when payment is made by the Company:

A. The Company's maximum aggregate limit of liability for all **Claims**, including **Related Claims**, first made or deemed to have been made during the Policy Period, whether covered under one or more Insuring Agreements, shall not exceed the amount stated in Item 3 of the Declarations.

B. **Defense Expenses** shall be part of, and not in addition to, the Company's limit of liability, and payment of **Defense Expenses** by the Company shall reduce, and may exhaust, such limit of liability.

C. If any **Claim** against the **Insureds** gives rise to coverage both under this Policy and under any other policy or policies of directors and officers liability or similar insurance issued by the Company or any of its affiliates to any **Outside Entity**, the Company's maximum aggregate limit of liability under all such policies for all **Loss**, including **Defense Expenses**, from such **Claim** shall not exceed the largest single available limit of liability under any such policy, including this Policy.

D. The Company will have no obligation to pay **Loss**, including **Defense Expenses**, or to defend or continue to defend any **Claim**, after the Company's maximum aggregate limit of liability, as set forth in Item 3 of the Declarations, has been exhausted by the payment of **Loss**, including **Defense Expenses**. If the Company's limit of liability is exhausted by the payment of **Loss** including **Defense Expenses**, the premium will be fully earned.

VIII. DEFENSE AND SETTLEMENT.

A. The Company shall have the right and duty to defend any **Claim**, even if such **Claim** is groundless, false or

fraudulent; provided, however, that the Company shall not be obligated to defend or to continue to defend any **Claim** after the applicable Limit of Liability under this Policy has been exhausted by payment of **Loss**, including **Defense Expenses**.

B. The Company may, with the written consent of the **Insured**, make such settlement or compromise of any **Claim** as the Company deems expedient, and if the **Insured** shall refuse to consent to the settlement of any **Claim** as recommended by the Company based upon a judgment or a bona fide offer of settlement, then the **Insured** thereafter shall negotiate or defend such **Claim** independently of the Company and on the **Insured's** own behalf and solely at the expense of the **Insured**. In such event, all **Defense Expenses** and other costs and expenses incurred or paid by the **Insured** after the date the **Insured** refused to consent to settlement as recommended by the Company, shall be the sole responsibility of the **Insured** and shall not be recoverable under this Policy, and the **Insured** also shall be solely responsible for all **Loss** in excess of the lower of the amount for which settlement could have been made as recommended by the Company or the remaining portion of the maximum aggregate limit of liability, as set forth in Item 3 of the Declarations.

IX. CLAIMS MADE EXTENSION CLAUSE.

If, during the **Policy Period**, the **Insured** shall first become aware of any **Wrongful Act** which may subsequently give rise to a **Claim** and shall, during such **Policy Period**, give written notice thereof as set forth herein to the Company, then any **Claim** which subsequently is made against the **Insured** with regard to such **Wrongful Act** shall be deemed to have been first made during the **Policy Period**. The written notice shall include the particulars of such **Wrongful Act**, including all facts constituting the alleged **Wrongful Act**, the identity of each person allegedly involved in or affected by the **Wrongful Act**, and the date(s) of the alleged events, all of which shall be provided as soon as practicable, but in any event prior to the end of such **Policy Period**.

If an actual **Claim** is subsequently made with respect to such **Wrongful Act**, written notice concerning all particulars of such **Claim**, including all facts constituting the alleged **Wrongful Act**, the identity of each person allegedly involved in or affected by such **Wrongful Act**, and the date(s) of the alleged events, shall be provided to the Company as soon as practicable by certified mail or prepaid overnight mail to the address set forth in Item 7 of the Declarations.

X. CANCELLATION.

A. The Company may not cancel this Policy except for failure to pay a premium when due, in which case twenty (20) days written notice will be given. The Company shall have the right to the premium amount for the portion of the **Policy Period** during which the Policy was in effect.

B. The **Parent Corporation** may cancel this Policy by mailing to the Company written notice stating when, not later than the Expiration date set forth in Item 2(b) of the Declarations, such cancellation will be effective. In such event, the earned premium will be computed in accordance with the customary short rate table and procedure. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

C. The Company will not be required to renew this Policy upon its expiration. If the Company elects not to renew this Policy, it will deliver or mail to the **Parent Corporation** written notice to that effect at least (60) days before the Expiration Date set forth in Item 2(b) of the Declarations.

XI. CHANGES IN EXPOSURE.

A. If, during the Policy Period, any of the following events occurs:

1. the acquisition of the **Parent Corporation**, or of all or substantially all of its assets, by another entity, or the merger or consolidation of the **Parent Corporation** into or with another entity such that the **Parent Corporation** is not the surviving entity;
2. the appointment of a receiver, conservator, trustee, liquidator or rehabilitator, or any similar official, for or with respect to the **Parent Corporation**; or
3. the obtaining by any person, entity or affiliated group of persons or entities of the right to elect, appoint or designate at least fifty percent (50%) of the directors of the **Parent Corporation**;

coverage under this Policy shall continue in full force and effect with respect to **Claims** for **Wrongful Acts** committed before such event, but coverage will cease with respect to **Claims** for **Wrongful Acts** committed after such event. After any such event, the Policy may not be canceled, regardless of Section X, and the entire premium for the Policy will be deemed fully earned.

B. If, during the **Policy Period**, the **Insured Organization** forms or acquires any other entity, such entity will be included within the term "**Subsidiary**" and this Policy will provide coverage to that extent, but only for **Claims** for **Wrongful Acts** which occur wholly during the time that the **Insured Organization** owns more than fifty percent (50%) of such entity, provided written notice of such formation or acquisition has been given to the Company, and specific application has been submitted on the Company's form in use at the time, together with such documentation and information as the Company's underwriters may require, all within ninety (90) days after the effective date of such

formation or acquisition. The Policy shall not afford any coverage with respect to such entity following such 90-day period unless the Company has agreed to provide such coverage, subject to any additional terms and conditions as the Company may require, and the **Parent Corporation** has paid the Company any additional premium as may be required by the Company.

The 90-day notice requirement shall not apply, however, if the total assets of the formed or acquired entity, as of the effective date of such formation or acquisition, do not exceed twenty-five percent (25%) of the total assets of the **Insured Organization** as reflected in the **Insured Organization's** most recent audited consolidated financial statements, or such formation or acquisition occurs less than ninety (90) days prior to the end of the Policy Period.

XII. EXTENSIONS.

A. Spouses of Insured Persons.

1. The coverage afforded under this Policy will, subject to all of its terms, conditions, limitations and exclusions, be extended to apply to **Loss** resulting from a **Claim** made against a person who, at the time the **Claim** is made, is a lawful spouse of an **Insured Person**, but only if:

(a) the **Claim** against such spouse results from a **Wrongful Act** actually or allegedly committed by the **Insured Person**, to whom the spouse is married, and

(b) such **Insured Person** and his or her spouse are represented by the same counsel in connection with such **Claim**.

2. No spouse of an **Insured Person** will, by reason of this subsection XII.A. have any greater right to coverage under this Policy than the **Insured Person** to whom such spouse is married.

3. The Company shall not be liable under this subsection XII.A. to make any payment of **Loss** in connection with any **Claim** against a spouse of an **Insured Person** for any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by such spouse.

B. Extended Reporting Period. If the Company or the **Parent Corporation** fails or refuses to renew this Policy or if the **Parent Corporation** cancels this Policy, the **Parent Corporation** shall have the right, upon payment of the additional premium as calculated pursuant to Item 6 of the Declarations, to the period of time set forth in Item 6 of the Declarations, but in no event less than 12 months, following the effective date of such nonrenewal or termination (“the Extended Reporting Period”) in which to give the Company written notice of **Claims** first made during the Extended

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Reporting Period against persons or entities who at the effective date of nonrenewal or cancellation were **Insureds**, but only for **Wrongful Acts** occurring wholly prior to the effective date of the nonrenewal or cancellation and which otherwise would be covered by this Policy, subject to the following conditions:

1. The Extended Reporting Period shall not provide a new, additional or renewed limit of liability. The Company's total liability for all **Claims** made during the Extended Reporting Period shall be limited to the remaining portion of the maximum aggregate limit of liability set forth in Item 3 of the Declarations as of the effective date of the nonrenewal or cancellation;

2. The entire premium for the Extended Reporting Period, if purchased, shall be deemed to have been fully earned at the commencement of such Extended Reporting Period;

3. Section IX. (“Claims Made Extension Clause”) does not apply and may not be invoked during the Extended Reporting Period; and

4. The right to elect the Extended Reporting Period under this subsection XII.B. shall terminate unless written notice of such election, together with payment of the additional premium due, is received by the Company within thirty (30) days of the effective date of the nonrenewal or cancellation.

XIII. CONDITIONS.

A. Insured's Duties In Event of Claims. It is a condition precedent to all insurance afforded by this Policy that:

1. In the event of a **Claim** made against any **Insured**, written notice concerning all particulars of such **Claim**, including all facts constituting the alleged **Wrongful Act**, the identity of each person allegedly involved in or affected by such **Wrongful Act**, and the date(s) of the alleged events, shall be provided to the Company as soon as practicable but in no event later than sixty (60) days after the expiration of the **Policy Period** or, if purchased, the Extended Reporting Period;

2. All notices under this subsection XIII.A. must be sent by certified mail or prepaid overnight mail to the address set forth in Item 7 of the Declarations; and

3. The **Insured** shall cooperate with the Company and, upon the Company's request, assist in making settlements of **Claims** and in defense of **Claims** and in enforcing rights of contribution or indemnity against any person or entity which may be liable to the **Insured** because of an act or omission insured under this Policy, shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The

Insureds shall provide the Company with all information, assistance and cooperation that it reasonably requests. The **Insured** shall not voluntarily settle any claim, make a settlement offer, assume or admit any liability nor, except at the **Insured's** own cost, voluntarily make any payment, pay or incur any **Defense Expenses**, or assume any obligation or incur any other expense, without the Company's prior written consent, such consent not to be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Expenses**, assumed obligation or admission to which it has not consented.

4. The obligations of the **Insureds** under this subsection XIII.A. will survive the Policy.

B. Action Against the Company. No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, nor until the amount of the **Insured's** obligation to pay shall have been finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy, in a court of competent jurisdiction in the United States, its territories or possessions, or Canada, to the extent of the insurance afforded by this Policy. No person or organization shall have any right under this Policy to join the Company as a party to any action against the **Insured** to determine the **Insured's** liability, nor shall the Company be impleaded by the **Insured** or said **Insured's** legal representative. Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate shall not relieve the Company of any of its obligations hereunder.

C. Other Insurance and Indemnification. This Policy shall apply only as excess insurance over, and shall not contribute with: (1) any other insurance (whether collectible or not) available to the **Insured**, unless such insurance is specifically in excess of this Policy, and (2) indemnification to which an **Insured** is entitled from any entity other than the **Insured Organization**. This policy will not be subject to the terms of any other insurance.

D. Subrogation. In the event of payment under this Policy the Company shall be subrogated to all of the **Insured's** rights of recovery against any person or organization to the extent of such payment. The **Insureds** will execute all papers and do everything necessary to secure such rights, including the execution of any documents necessary to enable the Company effectively to bring suit in its name. The **Insured** shall do nothing that may prejudice its position or potential or actual rights of recovery. The obligations of the **Insureds** under this subsection XIII.D. will survive the Policy.

E. Changes. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of the Policy, or estop the Company from asserting any right under the terms, conditions and limitations of this Policy, nor may the terms, conditions and limitations of this Policy be waived or changed, except by a written endorsement issued by the Company to form a part of this Policy.

F. Assignment. Assignment of interest under this Policy shall not bind the Company until its consent is endorsed hereon.

G. Liberalization Clause. If during the period that insurance is in force under this Policy, the Company shall be required, by law or by insurance supervisory authorities of the state in which the Policy was issued, to make any changes in the form of this Policy, by which the insurance afforded by this Policy could be extended or broadened without increased premium charge by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the **Insured** hereunder as though such endorsement or substitution of form had been made.

H. Representations. By acceptance of this Policy, each **Insured** agrees that the statements in the Application, and any materials submitted in connection therewith, all of which are deemed to be attached to, incorporated into, and form a part of, this Policy, are said **Insured's** agreements and representations, that such representations are material to the Company's acceptance of this risk, that this Policy is issued in reliance upon the truth of such representations, and that this Policy embodies all agreements existing between said **Insured** and the Company or any of its agents relating to this insurance. In the event that any statement or representation in the Application, including any materials submitted in connection therewith, is untrue, this Policy shall be void and of no effect whatsoever, but only with respect to:

1. any **Insured** who knew, as of the Policy inception date, that the statement or representation was untrue;
2. the **Insured Organization**, under Insuring Agreement B.1, to the extent that it indemnifies such **Insured Person**; and
3. the **Insured Organization**, under Insuring Agreement B.2., if the person who signed the Application knew that the statement or representation was untrue.

I. Authorization. By acceptance of this Policy, the **Parent Corporation** agrees to act on behalf of all **Insureds** with respect to the payment of premiums, the receiving of any return premiums that may become due under the Policy, and the receiving of notices of cancellation, non-renewal, or change of coverages and the **Insureds** each agree that they have, individually and collectively, delegated such authority

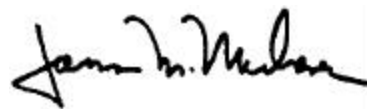
exclusively to the **Parent Corporation**; provided, however, that nothing herein shall relieve the **Insureds**, and each of them, from giving any notice to the Company that is required under Section XIII.A. of this policy.

J. Entire Agreement. The **Insureds** agree that this Policy, including the Application, including any materials submitted in connection therewith, and any endorsements, constitutes the entire agreement between them and the Company or any of its agents relating to this insurance.

IN WITNESS WHEREOF, the Company has caused this Policy to be signed by its authorized officers at Hartford, CT, and signed on the Declarations page by a duly authorized person on behalf of the Company.



Executive Vice President



Corporate Secretary

K. Headings. The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

XIV. TERRITORY.

This insurance applies to a **Claim** with regard to an alleged **Wrongful Act** occurring anywhere in the world, provided that the **Claim** is brought in and under the laws of the United States, its territories or possessions, or Canada.