



AIG Executive Liability[®]

Insurance provided by a member of American International Group, Inc.

Specialty Risk ProtectorSM

Media Content Insurance ("MEDIA CONTENT COVERAGE SECTION")

THIS IS A CLAIMS MADE AND REPORTED COVERAGE SECTION AND A THIRD PARTY COVERAGE SECTION

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, which are incorporated by reference into, made a part of and are expressly applicable to this **Media Content Coverage Section**, unless otherwise explicitly stated to the contrary in either the **General Terms and Conditions** or in this **Media Content Coverage Section**.

1. INSURING AGREEMENTS

With respect to the **MEDIA CONTENT INSURING AGREEMENT**, the **DEFENSE** provisions and the **SETTLEMENT** provisions of this Clause 1., solely with respect to **Claims** first made against the **Insured** during the **Policy Period** or **Discovery Period** (if applicable) and reported to the **Insurer** pursuant to the terms of this policy, this **Media Content Coverage Section** affords the following coverage:

MEDIA CONTENT INSURING AGREEMENT

The **Insurer** shall pay on the **Insured's** behalf all **Loss** in excess of the applicable Retention that the **Insured** is legally obligated to pay resulting from a **Claim** alleging the **Insured's Wrongful Acts**.

DEFENSE

- (a) The **Insurer** has the right and duty to defend a **Suit** for the **Insured's Wrongful Acts**, even if the **Suit** is groundless, false or fraudulent.
- (b) The **Insurer** has the right to investigate any **Claim**.
- (c) The **Insurer** shall pay **Defense Costs** in excess of the applicable Retention.
- (d) The **Insurer's** duty to defend ends if the **Insured** refuses to consent to a settlement that the **Insurer** recommends pursuant to the **SETTLEMENT** provision below and that the claimant will accept. The **Insured** must then defend the **Claim** at the **Insured's** own expense. As a consequence of the **Insured's** refusal, the **Insurer's** liability shall not exceed the amount for which the **Insurer** could have settled such **Claim** had the **Insured** consented, plus **Defense Costs** incurred prior to the date of such refusal, plus 50% of **Defense Costs** incurred with the **Insurer's** prior

written consent after the date of such refusal. This Clause shall not apply to: (1) any settlement where the total incurred **Loss** does not exceed the applicable Retention amount; or (2) any **Suit** in which the **Insured** is reasonably and in good faith asserting freedom of speech or press rights under the First Amendment of the United States Constitution or any provision of a State Constitution protecting freedom of speech or press.

SETTLEMENT

- (a) The **Insurer** has the right, with the written consent of the **Insured**, which consent shall not be unreasonably withheld, to settle any **Claim** if the **Insurer** believes that it is proper;
- (b) The **Insured** may settle any **Claim** on behalf of all **Insureds** to which this insurance applies and which are subject to one Retention amount where the total incurred **Loss** does not exceed the Retention amount;

2. DEFINITIONS

- (a) "**Bodily Injury**" means physical injury, sickness or disease, and, if arising out of the foregoing, mental anguish, mental injury, shock, humiliation or death and any time.
- (b) "**Claim**" means:
 - (1) a written demand for money, services, non-monetary relief (including retraction of **Material**) or injunctive relief;
 - (2) a **Suit**; or
 - (3) a subpoena seeking **Material** or the identity of an external source that supplies information or **Material** to the **Insured** in confidence.
- (c) "**Defense Costs**" means all reasonable and necessary fees charged by an attorney appointed pursuant to the terms of this policy in connection with any **Suit** brought against the **Insured** alleging a **Wrongful Act** or any demand for the retraction of **Material**, as well as all other reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond) incurred in the defense or investigation of a **Claim** by the **Insurer** or by the **Insured** with the **Insurer's** written consent. **Defense Costs** shall not include: (i) compensation of any natural person **Insured**; or (ii) any fees, costs or expenses incurred prior to the time that a **Claim** is first made against an **Insured**.
- (d) "**Insured**" means:
 - (1) the **Company**;
 - (2) any past, present or future officer, director, trustee or employee of the **Company** (and in the event that the **Company** is a partnership, limited liability partnership or limited liability company, then any general or managing partner or principal thereof), but only while acting within the scope of his or her duties in connection with the provision of **Material** for the **Company**;

- (3) any independent contractors, agents, third-party distributors, licensees and sub-licensees, but only:
 - (i) with respect to **Material** that they provide to the **Company**; and
 - (ii) when the **Company** has, prior to the commission of a **Wrongful Act** expressly agreed in writing to indemnify and defend such party of and from liability arising out of **Wrongful Act**;
- (4) any person or entity that the **Company** has expressly agreed in writing, prior to the commission of a **Wrongful Act**, to add as an **Insured** under this policy, but only for the **Wrongful Acts** of the **Company**; and
- (5) any other person or entity listed as **Insured** by endorsement to this policy, but only for the **Wrongful Acts** of the **Company**.

(e) **“Loss”** means compensatory damages, judgments, settlements, pre-judgment and post-judgment interest and **Defense Costs**, including punitive, exemplary and multiple damages where insurable by the applicable law which most favors coverage for such punitive, exemplary and multiple damages.

(f) **“Material”** means media content in any form, including, without limitation, advertising and written, printed, video, electronic, digital or digitized content, of:

- (1) broadcasts, including without limitation, broadcasts via television, motion picture, cable, satellite television, radio, wireless devices or the Internet; or
- (2) publications, including without limitation, publications via newspaper, newsletter, magazine, book and other literary, monograph, brochure, directory, screen play, film script, playwright and video publications.

(g) **“Pollutants”** means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. **“Waste”** includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

(h) **“Property Damage”** means damage to, loss of use of or destruction of any tangible property. For purposes of this definition, **“tangible property”** shall not include electronic data.

(i) **“Suit”** means a civil proceeding for monetary, non-monetary or injunctive relief, which is commenced by service of a complaint or similar pleading. **Suit** includes a binding arbitration proceeding to which the **Insured** must submit or does submit with the **Insurer’s** consent.

(j) **“Wrongful Act(s)”** means any act, error, omission, negligent supervision of an employee, misstatement or misleading statement by the **Insured** in connection with **Material** occurring on or after the **Retroactive Date** and prior to the end of the **Policy Period** (including without limitation, any of the foregoing conduct in the gathering, collection, broadcast, creation, distribution, exhibition, performance, preparation, printing, production, publication, release, display, research, or serialization of **Material** by the **Insured**) that results solely in:

- (1) infringement of copyright, title, slogan, trademark, trade name, trade dress, mark, service mark, service name, infringement of domain name, deep-linking or framing, including,

- without limitation, unfair competition in connection with such conduct;
- (2) plagiarism, piracy or misappropriation or theft of ideas under implied contract or other misappropriation or theft of ideas or information; including, without limitation, unfair competition in connection with such conduct;
 - (3) invasion, infringement or interference with rights of privacy or publicity, false light, public disclosure of private facts, intrusion and commercial appropriation of name, persona or likeness; including, without limitation, emotional distress or mental anguish in connection with such conduct;
 - (4) defamation, libel, slander, product disparagement or trade libel or other tort related to disparagement or harm to character or reputation); including, without limitation, unfair competition, emotional distress or mental anguish in connection with such conduct;
 - (5) wrongful entry or eviction, trespass, eavesdropping or other invasion of the right to private occupancy, or false arrest, detention or imprisonment or malicious prosecution; including, without limitation, any emotional distress or mental anguish in connection with such conduct;
 - (6) negligent or intentional infliction of emotional distress, outrage or *prima facie* tort in connection with **Material**;
 - (7) breach of agreement, implied or otherwise, arising from the failure to maintain the confidentiality of an external source that supplies information or **Material** to an **Insured** in confidence; and
 - (8) **Loss** because a third party, which has no ownership relationship with the **Insured**, acts upon or makes a decision or decisions based on the content of the material disseminated by the **Insured** or with the **Insured's** permission.

3. EXCLUSIONS

This policy shall not cover **Loss** in connection with a **Claim** made against an **Insured**:

- (a) alleging, arising out of, based upon or attributable to a dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law; provided, however, the **Insurer** will defend **Suits** that allege any of the foregoing conduct, and that are not otherwise excluded, until there is a final judgment against, final adjudication against, adverse finding of fact against in a binding arbitration proceeding or plea of guilty or no contest by an **Insured** as to such conduct, at which time the **Insured** shall reimburse the **Insurer** for **Defense Costs**.

This exclusion shall not apply to **Claims**:

- (1) where prior to such conduct, the **Insured** had received written authorization from legal counsel based upon a reasonable and good faith conclusion that such conduct was protected by the First Amendment of the United States Constitution or any relevant provision of a State constitution protecting freedom of speech or freedom of the press; or
 - (2) alleging the actual malice standard of the First Amendment, but only if such **Claim** arises out of the defamation, libel or slander of a public person.
- (b) alleging, arising out of, based upon or attributable to any (1) presence of **Pollutants**, (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**, or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way

respond to or assess the effects of **Pollutants**.

(c) alleging, arising out of, based upon or attributable to any **Bodily Injury** or **Property Damage**.

(d) alleging, arising out of, based upon or attributable to any:

- (1) fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event, however caused;
- (2) strikes or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions;
- (3) electrical or mechanical failures of infrastructure not under the control of an **Insured**, including any electrical power interruption, surge, brownout or blackout;
- (4) failure of telephone lines, data transmission lines or other telecommunications or networking infrastructure not under the control of an **Insured**; or
- (5) satellite failure.

(e) alleging, arising out of, based upon or attributable to any:

- (1) purchase, sale, or offer or solicitation of an offer to purchase or sell securities;
- (2) violation of any securities law, including the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or any regulation promulgated under the foregoing statutes, or any federal, state or local laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law;
- (3) violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act, or "RICO"), as amended, or any regulation promulgated thereunder or any federal, state or local law similar to the foregoing, whether such law is statutory, regulatory or common law;
- (4) antitrust violations, restraint of trade, unfair competition, or violations of the Sherman Act, Clayton Act or the Robinson-Patman Act, as amended; provided, however, that this exclusion shall not apply to unfair competition as referenced in sub-paragraphs (1), (2) and (4) of the definition of **Wrongful Act**; or
- (5) violation of the Telephone Consumer Protection Act of 1991, as amended.

(f) alleging, arising out of, based upon or attributable to any breach of fiduciary duty, responsibility, or obligation in connection with any employee benefit or pension plan, including violations of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, or similar statutory or common law of the United States of America or any state or jurisdiction therein.

(g) alleging, arising out of, based upon or attributable to the **Insured's** employment of any individual or any of the **Insured's** employment practices (including, without limitation, wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim).

- (h) alleging, arising out of, based upon or attributable to any unfair or deceptive business practices, including, without limitation, violations of any local, state or federal consumer protection laws; provided, however, this exclusion shall not apply to **Claims** in connection with the collection of **Material**.
- (i) brought by or on behalf of:
 - (1) any **Insured**;
 - (2) any business entity that is controlled, managed or operated, directly or indirectly, in whole or in part, by an **Insured**; or
 - (3) any parent company, **Subsidiary**, successor or assignee of the **Insured**, or anyone affiliated with the **Insured** or such business entity through common **Management Control**.
- (j) for any of the following:
 - (1) the return of the **Insured's** fees or compensation;
 - (2) for any profit or advantage to which the **Insured** is not legally entitled;
 - (3) the **Insured's** expenses or charges, including compensation, benefits, overhead, over-charges or cost over-runs;
 - (4) civil or criminal fines or penalties imposed against an **Insured** and any matters deemed uninsurable under the law pursuant to which this policy shall be construed;
 - (5) the **Insured's** costs and expenses of complying with any injunctive or other form of equitable relief;
 - (6) taxes incurred by an **Insured**;
 - (7) the amounts for which the **Insureds** are not financially liable or which are without legal recourse to the **Insureds**;
 - (8) production costs or the cost of recall, reproduction, reprinting, return or correction of **Material** by any person or entity; or
 - (9) amounts an **Insured** agrees to pay pursuant to a contract, including without limitation, liquidated damages, setoffs or amounts assumed in the form of a hold harmless or indemnity agreement.
- (k) alleging, arising out of, based upon or attributable to any **Related Acts** alleged or contained in any **Claim** which has been reported, or in any circumstances of which notice has been given, under any policy of which this **Media Content Coverage Section** is a renewal or replacement or which it may succeed in time.
- (l) alleging, arising out of, based upon or attributable to any **Wrongful Act** occurring prior to the **Retroactive Date** or any **Related Act** thereto, regardless of when such **Related Act** occurs.
- (m) alleging, arising out of, based upon or attributable to any **Wrongful Act** occurring prior to the **Continuity Date**, or any **Related Act** thereto (regardless of when such **Related Act** occurs), if, as of the **Continuity Date**, the **Insured** knew or could have reasonably foreseen that such **Wrongful Act** did or would result in a **Claim** against such **Insured**.
- (n) alleging, arising out of, based upon or attributable to any obligation that the **Insured** assumes under a contract other than:

- (1) liability for failure to maintain the confidentiality of an external source that supplies information or **Material** to the **Insured** in confidence; or
 - (2) liability from a **Wrongful Act** where such liability has been assumed by the **Insured** in the form of a written hold harmless or indemnity agreement that predates the first such **Wrongful Act**.
- (o) alleging, arising out of, based upon or attributable to (1) false advertising or misrepresentation in advertising of the **Insured's** products or services, or (2) any failure of goods, products or services to conform with an advertised quality or performance.
- (p) brought by or on behalf of: (i) ASCAP, SESAC, BMI, RIAA or other music licensing organizations; (ii) the Federal Trade Commission; (iii) the Department of Health and Human Services or Office of Civil Rights; (iv) the Federal Communications Commission; or (v) any other federal, state, local or foreign government, agency or office.
- (q) brought by or on behalf of any independent contractor, third-party distributor, licensee, sub-licensee, joint venturer, venture partner, any employee of the foregoing, or any employee or agent of an **Insured** alleging, arising out of or resulting, directly or indirectly, from disputes over the (i) ownership or exercise of rights in **Material**; or (ii) services supplied by such independent contractor, third-party distributor, licensee, sub-licensee, joint venturer, venture partner or employee or agent.
- (r) alleging, arising out of, based upon or attributable to any misappropriation of trade secret or infringement of patent.
- (s) alleging, arising out of, based upon or attributable to any infringement of copyright related to software, source code or software license; provided, however, that this exclusion shall not apply to any otherwise covered **Claim** alleging an infringement of copyright, trademark or servicemark with respect to **Material** generated or displayed in a publication or broadcast by the use of software.
- (t) alleging, arising out of, based upon or attributable to the failure to protect information used for authenticating or identifying the **Insured's** customers, vendors, suppliers, independent contractors in the normal course of the **Insured's** business.
- (u) alleging, arising out of, based upon or attributable to any:
- (1) accounting or recovery of profits, royalties, fees or other monies claimed to be due from the **Insured**, or any **Claim** brought by any such party against an **Insured** claiming excessive or unwarranted fees, compensation or charges of any kind made by an **Insured**; or
 - (2) licensing fees or royalties ordered, directed or agreed to be paid by an **Insured** pursuant to a judgment, arbitration award, settlement agreement or similar order or agreement, for the continued use of a person or entity's copyright, title, slogan, trademark, trade name, trade dress, service mark, service name, or other intellectual property right.

4. CONFIDENTIALITY OF EXTERNAL SOURCES

The **Insured's** rights under this policy shall not be prejudiced by the **Insured's** refusal to reveal the identity of an external source that supplies information or **Material** to the **Insured** in confidence.

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