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In consideration of payment of the premium and subject to the Declarations and the limitations, conditions, provisions and other terms of this Policy, the Company and the Insureds agree as follows:

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## I. INSURING CLAUSES

### (A) Individual Non-Indemnified Liability Coverage

The Company shall pay, on behalf of an **Insured Person**, **Loss** on account of a **Claim** first made against the **Insured Person** during the **Policy Period**, except to the extent that such **Loss** has been paid or indemnified.

### (B) Individual Indemnified Liability Coverage

The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against an **Insured Person** during the **Policy Period**, to the extent the **Organization** pays or indemnifies such **Loss**.

### (C) Entity Securities Coverage

The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Securities Claim** first made against the **Organization** during the **Policy Period**.

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## II. INQUIRY COVERAGES

### (A) Securityholder Derivative Demand Investigation Coverage

The Company shall pay, on behalf of an **Organization**, **Defense Costs** in an amount not to exceed \$500,000 per **Policy Period** on account of all **Securityholder Derivative Demand Investigations** first made during the **Policy Period**, which amount is part of, and not in addition to, the Limit of Liability set forth in Item 3 of the Declarations.

### (B) Interview Coverage

(1) The Company shall pay, on behalf of an **Insured Person**, **Defense Costs** incurred solely by such **Insured Person** on account of an **Interview** first made during the **Policy Period**, except to the extent that such **Defense Costs** have been paid or indemnified.

(2) The Company shall pay, on behalf of an **Organization**, **Defense Costs** incurred solely by an **Insured Person** on account of an **Interview** first made during the **Policy Period**, to the extent the **Organization** pays or indemnifies such **Defense Costs**.

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## III. EXCLUSIONS

The Company shall not be liable for **Loss** on account of any **Claim**:

### (A) Prior Notice

based upon, arising from or in consequence of any fact, circumstance or **Wrongful Act** that was the subject of any notice accepted under any policy of which this Policy is a direct or indirect renewal or replacement;



(B) Pending or Prior Proceedings

based upon, arising from or in consequence of any written demand first received by, or action, proceeding, **Claim** or **Related Claim** commenced against, any **Insured** on or prior to the Pending or Prior Proceedings Date set forth in Item 6 of the Declarations;

(C) Entity v. Insured

(1) brought by, or on behalf of, an **Organization** against another **Organization**; or

(2) brought by, or on behalf of:

(a) an **Organization** against an **Insured Person**; or

(b) an **Outside Entity** against an **Insured Person** serving in his capacity as such for such **Outside Entity**,

provided that Paragraph (C)(2) above shall not apply to a **Claim** brought:

(i) outside the United States of America or Canada;

(ii) while the **Parent Organization** is in **Financial Impairment**;

(iii) against an **Insured Person** serving in his capacity as such for an **Outside Entity** while such **Outside Entity** is in **Financial Impairment**;

(iv) as a securityholder derivative action; or

(v) while such **Insured Person** is no longer serving in his capacity as such;

(D) Bodily Injury/Violation of Right of Privacy/Property Damage

for bodily injury, violation of any right of privacy, mental anguish, humiliation, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property, including loss of use thereof, whether or not it is damaged or destroyed; provided that this Exclusion (D) shall not apply to any invasion of privacy, mental anguish, humiliation or emotional distress for which a claimant seeks compensation in an employment-related claim;

(E) ERISA

for any violation of the responsibilities, obligations or duties imposed by **ERISA**; or

(F) Conduct

based upon, arising from or in consequence of:

(1) any deliberate fraud, any criminal act, or any knowing and willful violation of any statute or regulation, by an **Insured**; or

(2) an **Insured** having gained any profit, remuneration or other advantage to which such **Insured** was not legally entitled,

established by a final, non-appealable adjudication in any underlying action or proceeding (other than a declaratory action or proceeding brought by or against the Company), provided that:

(a) no conduct pertaining to any **Insured Person** shall be imputed to any other **Insured Person**; and

(b) conduct pertaining to any past, present, or future chief financial officer, chief executive officer or chief operating officer (or an equivalent position to any of the foregoing worldwide) of an **Organization** shall be imputed to such **Organization** and its **Subsidiaries**.



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#### IV. LIMIT OF LIABILITY

- (A) The Company's maximum aggregate liability for all **Loss** shall be the Limit of Liability set forth in Item 3 of the Declarations, subject to any sublimits in this Policy.
- (B) **Defense Costs** are part of, and not in addition to, the Limit of Liability set forth in Item 3 of the Declarations.
- (C) The limit of liability available during the Extended Reporting Period, if applicable, shall be part of, and not in addition to, the Limit of Liability set forth in Item 3 of the Declarations.

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#### V. RETENTION

- (A) The Retentions shall apply as set forth in Item 4 of the Declarations and shall only apply to covered **Loss**.
- (B) If different parts of a single **Claim** are subject to different Retentions, then the total amount of **Loss** applied to the applicable Retentions shall not exceed the largest applicable Retention.
- (C) Any payment by an **Organization** of a Retention on account of an **Interview** shall reduce any Retention due from the **Organization** on account of a **Claim** subsequently afforded coverage under Insuring Clause (B), Individual Indemnified Liability Coverage, that is based upon, arising from or in consequence of any fact or circumstance that was the subject of such **Interview**.

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#### VI. REPORTING

- (A) The **Insureds** shall, as a condition precedent to exercising any right to coverage under this Policy, give to the Company written notice of any **Claim** no later than:
  - (1) one hundred and eighty (180) days after this Policy expires and is renewed with the Company; provided, however, if the **Parent Organization** can prove to the Company's satisfaction that it was not reasonably possible for the **Insureds** to give such notice within the one hundred and eighty (180) day time period and that subsequent notice was given as soon as reasonably possible thereafter, the Company shall waive the foregoing time period; or
  - (2) sixty (60) days after: (a) this Policy expires or terminates and is not renewed with the Company; or (b) the expiration date of the Extended Reporting Period, if applicable.
- (B) If during the **Policy Period** an **Insured** gives written notice to the Company of:
  - (1) circumstances which could give rise to a **Claim**;
  - (2) receipt of a written request to toll or waive a statute of limitations applicable to a **Wrongful Act**; or
  - (3) an **Interview** or a **Securityholder Derivative Demand Investigation**,

then any **Claim** subsequently arising from the circumstances, **Wrongful Act**, **Interview** or **Securityholder Derivative Demand Investigation** described in Paragraph (B)(1) or (B)(2) or (B)(3) above shall be deemed to have been first made during the **Policy Period** in which such written notice was first given by an **Insured** to the Company; provided any such subsequent **Claim** is reported to the Company as soon as practicable after the in-house general counsel or risk manager of the **Parent Organization** becomes aware of such **Claim**.



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- (C) The **Insured** shall give to the Company in any written notice described in Subsection (A) or (B) above a description of the **Claim**, circumstances, request to toll or waive a statute of limitations, **Interview** or **Securityholder Derivative Demand Investigation**, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage and the names of all actual or potential defendants.

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## VII. ADVANCEMENT OF DEFENSE COSTS

- (A) The Company shall advance covered **Defense Costs** on account of a **Claim** reported pursuant to Section VI, Reporting, on a current basis after receipt by the Company of bills detailing such **Defense Costs** and all other information requested by the Company with respect to such bills until the applicable Limit of Liability set forth in Item 3 of the Declarations has been satisfied.

Furthermore, if an **Organization** refuses in writing, or fails within sixty (60) days of an **Insured Person's** written request for indemnification, to advance, pay or indemnify an **Insured Person** for **Loss** on account of a **Claim**, then, upon the reporting of the **Claim** pursuant to Section VI, Reporting, the Company shall advance covered **Defense Costs** until such time that the **Organization** accepts the **Insured Person's** request for indemnification or the applicable Limit of Liability set forth in Item 3 of the Declarations has been exhausted, whichever first occurs.

- (B) Any advancement of **Defense Costs** shall be repaid to the Company by the **Insureds**, severally according to their respective interests, if and to the extent it is determined that such **Defense Costs** are not insured under this Policy. However, the Company shall not seek repayment from an **Insured** of advanced **Defense Costs** that are uninsured pursuant to Exclusion III(F), Conduct, unless a final, non-appealable adjudication has occurred.
- (C) Any advancement of **Defense Costs** by the Company shall reduce the Limit of Liability set forth in Item 3 of the Declarations. If the Company recovers any such **Defense Costs** paid, the amount of such **Defense Costs** less all costs incurred by the Company to obtain such recovery shall be reinstated to the Limit of Liability set forth in Item 3 of the Declarations.

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## VIII. DEFENSE AND SETTLEMENT

- (A) The **Insured**:

- (1) shall have the sole duty to defend **Claims** made against the **Insured**;
- (2) agrees not to settle or offer to settle any **Claim**, incur any **Defense Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the Company's prior written consent, subject to Paragraph (A)(3) below;
- (3) may settle a **Claim** without the Company's prior consent if the **Claim** is reported pursuant to Section VI, Reporting, and the amount of such settlement and **Defense Costs** does not exceed the amount of the applicable Retention; and
- (4) agrees to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agrees that, in the event of a **Claim**, the **Insured** shall not do anything that could prejudice the Company's position or its potential or actual rights of recovery; provided that the failure of any **Insured Person** to give the Company such information, assistance or cooperation shall not impair the rights of any other **Insured Person** under this Policy.



(B) The Company:

- (1) shall have the right and shall be given the opportunity to effectively associate with the **Insured** and shall be consulted in advance by the **Insured**, regarding the investigation, defense and settlement of any **Claim** that appears reasonably likely to be covered in whole or in part under this Policy, including selecting appropriate defense counsel and negotiating any settlement;
- (2) shall not be liable for any element of **Loss** incurred in excess of the amount of the applicable Retention, for any obligation assumed, or for any admission made, by any **Insured** without the Company's prior written consent, which the Company shall not unreasonably withhold; and
- (3) may, in its sole discretion, waive the consent requirement in Paragraph (B)(2) above with respect to **Defense Costs** incurred within ninety (90) days prior to the reporting of a **Claim** pursuant to Section VI, Reporting.

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**IX. RELATED CLAIMS**

All **Related Claims** shall be deemed a single **Claim** made in the **Policy Period** in which the earliest of such **Related Claims** was either first made or deemed to have been made in accordance with Section VI(B), Reporting.

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**X. ALLOCATION**

The **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and **Loss**, or any other amount, that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters.

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**XI. PRIORITY OF PAYMENTS**

- (A) It is understood and agreed that any coverage provided under this Policy is principally intended to protect and benefit the **Insured Persons**. Accordingly, in the event that: (1) **Loss** for which an **Insured Person** has not been paid or indemnified; and (2) any other **Loss**, are concurrently due under this Policy, then the **Loss** described in (1) above shall be paid first.
- (B) Except as otherwise provided in Subsection (A) above, the Company may pay covered **Loss** as it becomes due under this Policy without regard to the potential for other future payment obligations under this Policy.

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**XII. OTHER INSURANCE AND INDEMNITY**

- (A) If any **Loss** covered under this Policy is insured under any other valid and collectible insurance policy (other than an insurance policy that is issued specifically as excess over the Limits of Liability provided by this Policy or a personal umbrella policy or personal directorship liability policy purchased by an **Insured Person**), then this Policy shall cover such **Loss**, subject to its terms and conditions, only to the extent that the amount of such **Loss** is in excess of the applicable retention or deductible and limit of liability under such other insurance, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.



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- (B) This Policy shall be specifically excess of, and shall not contribute with, any insurance policy for: third party liability coverage for environmental exposures, employment practices liability or professional liability.
- (C) Any payment by an **Insured** of a retention or deductible under any other insurance policy described in Subsection (A) or (B) above shall reduce the applicable Retention under this Policy by the amount of such payment which would otherwise have been covered **Loss** under this Policy.
- (D) Any coverage afforded under this Policy for a **Claim** in connection with an **Insured Person** serving in his capacity as such for an **Outside Entity** shall be specifically excess of any indemnity and insurance available to such **Insured Person** by, or on behalf of, such **Outside Entity**. Notwithstanding the foregoing, if the Company or any subsidiary or affiliate of The Chubb Corporation makes payment under another policy on account of such **Claim**, the Limit of Liability for this Policy with respect to such **Claim** shall be reduced by the amount of such payment.

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### XIII. INDEMNIFICATION AND SUBROGATION

- (A) This Policy has been issued to the **Parent Organization** with the understanding and agreement that each **Organization** agrees to fulfill its indemnification obligations to each **Insured Person** to the fullest extent permitted by: (1) any United States law; and (2) any contract or agreement providing an indemnification obligation exceeding any such law. If the Company pays as **Loss** any indemnification owed to any **Insured Person** by any **Organization**, the Company does not waive or compromise any of its rights to recover such **Loss** from such **Organization**.
- (B) In the event of any payment of **Loss** under this Policy, the Company shall be subrogated to the extent of such payment of **Loss** to all of the **Insureds'** rights of recovery, including any such right to indemnification from any **Organization, Outside Entity**, other insurer or other source. The **Insureds** shall take all reasonable actions to secure and preserve the Company's rights, including any action against any **Organization** for indemnification.

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### XIV. EXTENDED REPORTING PERIOD

- (A) If this Policy does not renew or otherwise terminates for a reason other than for non-payment of premium (each a "Termination of Coverage"), then an **Insured** shall have the right to purchase the Extended Reporting Period for the Additional Period and Additional Premium set forth in Item 5 of the Declarations and the Extended Reporting Period shall become part of the **Policy Period**.
- (B) The right to purchase the Extended Reporting Period shall lapse unless written notice of election to purchase the Extended Reporting Period, together with payment of the Additional Premium, is received by the Company within sixty (60) days after the effective date of a Termination of Coverage.
- (C) If the Extended Reporting Period is purchased, then coverage otherwise afforded by this Policy shall be extended to apply to **Claims** that are:
- (1) first made during the Extended Reporting Period;
  - (2) reported to the Company in accordance with Section VI, Reporting; and
  - (3) for **Wrongful Acts** before the effective date of a Termination of Coverage or the date of any conversion of coverage described in Section XVI, Acquisition of the Parent Organization, whichever first occurs.



- (D) The Additional Premium for the Extended Reporting Period shall be deemed fully earned at the inception of the Extended Reporting Period.
- (E) No coverage shall be available under this Section XIV for that portion of any **Claim, Securityholder Derivative Demand Investigation or Interview** covered under insurance purchased subsequent to the effective date of a Termination of Coverage.

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## XV. ACQUISITION OR CESSATION OF SUBSIDIARIES

### (A) Acquisition of a Subsidiary

- (1) If before or during the **Policy Period** an **Organization** acquires voting rights in another entity, such that the acquired entity becomes a **Subsidiary**, then such **Subsidiary** and the **Insured Persons** thereof, shall be **Insureds** only with respect to **Wrongful Acts** after such acquisition.
- (2) If a **Subsidiary** is acquired during the **Policy Period** pursuant to Paragraph (1) above and the total assets of such **Subsidiary** exceed fifteen percent (15%) of the total assets of the **Parent Organization** (as reflected in the most recent audited consolidated financial statements of such **Subsidiary** and the **Parent Organization**, respectively, as of the date of such acquisition), the **Parent Organization** shall, no later than sixty (60) days after the date of such acquisition, give written notice of such acquisition to the Company together with all information the Company may require. Coverage for any such acquired **Subsidiary** and its **Insured Persons** shall be subject to additional or different terms and conditions and payment of additional premium.

If the **Parent Organization** fails to give such notice and information in accordance with the foregoing, coverage for such acquired **Subsidiary** and its **Insured Persons** shall terminate with respect to **Claims** first made more than sixty (60) days after such acquisition.

### (B) Cessation of a Subsidiary

If before or during the **Policy Period** an **Organization** ceases to be a **Subsidiary**, then with respect to such **Subsidiary** and its **Insured Persons** coverage shall continue for **Claims** for **Wrongful Acts** while such **Organization** was a **Subsidiary** in accordance with either Section XVI, Acquisition of the Parent Organization, or Section XIX, Termination of Policy, whichever first occurs.

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## XVI. ACQUISITION OF THE PARENT ORGANIZATION

- (A) If during the **Policy Period** the **Parent Organization** is acquired such that another entity, person or group of entities or persons acting in concert, acquires more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of directors or **LLC Managers** of the surviving entity, then:
- (1) coverage under this Policy shall continue until the expiration of the current **Policy Period**, solely for **Claims** for **Wrongful Acts** prior to such acquisition; and
- (2) the entire premium for this Policy shall be deemed fully earned as of the effective date of such acquisition.
- (B) If the **Parent Organization** gives the Company written notice of an acquisition described in Subsection (A) above at least thirty (30) days prior to the date of such acquisition together with all information that the Company may require, the Company shall provide the **Parent Organization** with



a quote for up to a six (6) year extension of coverage solely for **Claims** for **Wrongful Acts** prior to such acquisition (the "Run-Off Quote"). Coverage offered pursuant to the Run-Off Quote shall be subject to additional or different terms and conditions and payment of additional premium. If the **Parent Organization** accepts the Run-Off Quote, the extension of coverage provided pursuant to the Run-Off Quote shall replace any extension of coverage that would otherwise be available to the **Insureds** pursuant to Section XIV, Extended Reporting Period.

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## **XVII. SPOUSES, DOMESTIC PARTNERS, ESTATES AND LEGAL REPRESENTATIVES**

Coverage under this Policy shall extend to **Claims** for **Wrongful Acts** of an **Insured Person** made against:

- (A) the estate, heirs, legal representatives or assigns of such **Insured Person** if such **Insured Person** is deceased or the legal representatives or the assigns of such **Insured Person** if such **Insured Person** is legally incompetent, insolvent or bankrupt; or
- (B) the lawful spouse or domestic partner of such **Insured Person** solely by reason of such spouse's or domestic partner's: (1) status as a spouse or domestic partner; or (2) ownership interest in property which the claimant seeks as recovery for an alleged **Wrongful Act** of such **Insured Person**,

provided that, no coverage provided by this Section XVII shall apply with respect to loss arising from an act, error or omission by an **Insured Person's** estate, heirs, legal representatives, assigns, spouse or domestic partner.

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## **XVIII. NOTICE**

- (A) All notices to the Company under this Policy of a **Claim**, circumstances which could give rise to a **Claim**, a written request to toll or waive a statute of limitations, a **Securityholder Derivative Demand Investigation** or an **Interview** shall be given in writing to one of the following addresses:

- (1) specialtyclaims@chubb.com;
- (2) Attn: Claims Department  
Chubb Group of Insurance Companies  
82 Hopmeadow St.- P.O. Box 2002  
Simsbury, CT 06070-7683; or
- (3) Attn: Claims Department  
Chubb Group of Insurance Companies  
82 Hopmeadow St.  
Simsbury, CT 06089.

- (B) All other notices to the Company under this Policy shall be given in writing addressed to:

Attn: Chubb Specialty Insurance Underwriting Department  
Chubb Group of Insurance Companies  
15 Mountain View Road  
Warren, New Jersey 07059.

- (C) Any notice described in Subsection (A) or (B) above shall be effective on the date of receipt by the Company.





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## XIX. TERMINATION OF POLICY

This Policy shall terminate at the earliest of the following times:

- (A) ten (10) days after receipt by the **Parent Organization** of written notice of termination from the Company for non-payment of premium;
- (B) upon expiration of the **Policy Period**; or
- (C) at such other time as may be agreed upon by the Company and the **Parent Organization**, in which case any returned premium shall be computed on a pro rata basis.

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## XX. BANKRUPTCY

- (A) Bankruptcy or insolvency of any **Insured** shall not relieve the Company of its obligations nor deprive the Company of its rights or defenses under this Policy.
- (B) In the event a liquidation or reorganization proceeding is commenced by or against an **Organization** under United States bankruptcy law, the **Organization** and the **Insured Persons** hereby agree not to oppose or object to any efforts by the Company, the **Organization** or an **Insured Person** to obtain relief from any stay or injunction.

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## XXI. REPRESENTATIONS AND SEVERABILITY

- (A) The Company, in issuing this Policy, has relied upon the statements, representations and information in the **Application** as being true and accurate. The **Application** is the basis for, and considered incorporated into, this Policy and shall be construed as a separate request for coverage by each **Insured**.
- (B) With respect to any statements, representations and information contained in the **Application**, no knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person**.
- (C) If the **Application** contains any misrepresentations which were made with the actual intent to deceive or which materially affect the Company's acceptance of the risk or the hazard assumed, the Company shall not be liable for **Loss** on account of any **Claim** based upon, arising from, or in consequence of, any such misrepresentations under:
  - (1) Insuring Clause (A), Individual Non-Indemnified Liability Coverage, with respect to any **Insured Person** who had actual knowledge of the matters misrepresented;
  - (2) Insuring Clause (B), Individual Indemnified Liability Coverage, with respect to any **Organization** to the extent such **Organization** indemnifies any **Insured Person** who had actual knowledge of the matters misrepresented; or
  - (3) Insuring Clause (C), Entity Securities Coverage, with respect to any **Organization** if a past or present chief executive officer or chief financial officer of the **Parent Organization** had actual knowledge of the matters misrepresented.
- (D) The Company shall not be entitled under any circumstances to void or rescind this Policy with respect to any **Insured**.



## XXII. VALUATION AND FOREIGN CURRENCY

All premiums, limits, retentions, **Loss** and other amounts under this Policy are expressed and payable in the currency of the United States of America. Except as otherwise provided in this Policy, if a judgment is rendered, a settlement is denominated or any element of **Loss** under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States of America dollars at the rate of exchange published in The Wall Street Journal on the date the judgment becomes final, the amount of the settlement is agreed upon or any element of **Loss** is due, respectively.

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## XXIII. ACTION AGAINST THE COMPANY

No action may be taken against the Company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy. No person or entity shall have any right under this Policy to join the Company as a party to any action against any **Insured** to determine such **Insured's** liability nor shall the Company be impleaded by such **Insured** or legal representatives of such **Insured**.

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## XXIV. ROLE OF PARENT ORGANIZATION

By acceptance of this Policy, the **Parent Organization** agrees that it shall be considered the sole agent of, and shall act on behalf of, each **Insured** with respect to: (A) the payment of premiums and the receiving of return premiums that may become due under this Policy; (B) the negotiation, agreement to and acceptance of endorsements; and (C) the giving or receiving of any notice provided for in this Policy (except the giving of notice of a **Claim**, circumstances which could give rise to a **Claim**, a written request to toll or waive a statute of limitations, a **Securityholder Derivative Demand Investigation** or an **Interview** as provided in Section VI, Reporting, or the giving of notice to apply for an Extended Reporting Period as provided in Section XIV, Extended Reporting Period). Each **Insured** agrees that the **Parent Organization** shall act on its behalf with respect to all such matters.

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## XXV. 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 which is signed by an authorized representative of the Company.

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## XXVI. WORLDWIDE TERRITORY AND APPLICATION OF LAW

- (A) This Policy shall apply anywhere in the world.
- (B) Any reference to United States law shall include:
- (1) United States federal, state and local statutory law and any rule or regulation promulgated thereunder;
  - (2) United States common law; and
  - (3) with respect to Paragraphs (B)(1) and (B)(2) above, any equivalent body of law anywhere in the world.



- (C) If the **Parent Organization** requests directors and officers liability policies for issuance to its foreign **Subsidiaries** in their own countries, the Company or a subsidiary or affiliate of The Chubb Corporation shall provide a quote to the **Parent Organization** for such policies; provided that the Company or a subsidiary or affiliate of The Chubb Corporation can support or facilitate the issuance of the policies to such foreign **Subsidiaries** in their applicable foreign countries. Any coordination of coverage under such policies with coverage under this Policy shall be set forth in an endorsement attached to this Policy.

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## XXVII. 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.

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## XXVIII. COMPLIANCE WITH APPLICABLE TRADE SANCTION LAWS

This insurance does not apply to the extent that any United States trade or economic sanctions law or any other similar United States law prohibits the Company from providing insurance.

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## XXIX. DEFINITIONS

When used in this Policy:

**Application** means:

- (A) any application, including attachments, or any written information or representations, provided to the Company by, or on behalf of, an **Insured** during the negotiation of this Policy or for the purposes of the Company's underwriting of this Policy;
- (B) all publicly available documents filed by an **Organization** with the Securities and Exchange Commission during the twelve (12) months preceding this Policy's inception date; and
- (C) if applicable, any warranty provided to the Company within the past three (3) years in connection with any policy of which this Policy is a renewal or replacement.

**Claim** means any:

- (A) written demand (other than a securityholder derivative demand) for:

- (1) monetary or non-monetary (including injunctive) relief; or
- (2) arbitration or mediation,

against an **Insured** for a **Wrongful Act**, commenced by the first receipt of such demand by an **Insured**;

- (B) proceeding, including any appeal therefrom, against an **Insured** for a **Wrongful Act**, commenced by:

- (1) the service of a civil complaint or similar pleading;



- (2) the filing of a notice of charges or the entry of a formal order of investigation in connection with a formal civil administrative or formal civil regulatory proceeding; provided that such proceeding is pending against at least one named **Insured Person**; or
- (3) solely with respect to a criminal proceeding: (a) an arrest; (b) the return of an indictment, information or similar document; or (c) the receipt of an official request for **Extradition**;
- (C) investigation of an **Insured Person** for a **Wrongful Act**, commenced by the **Insured Person's** receipt of a written document from an **Enforcement Unit** identifying such **Insured Person** as the target of an investigation, including a Wells Notice, target letter or search warrant; or
- (D) written request upon an **Insured Person** for witness testimony or document production, commenced by the service of a subpoena or other similar document compelling such testimony or production of documents in connection with any matter described in Subsections (A) through (C) above; provided that in such event the Company shall pay, on behalf of such **Insured Person**, **Defense Costs** incurred solely by such **Insured Person** in responding to such request.

**Defense Costs** means that part of **Loss** consisting of reasonable costs, charges, fees (including, attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of any **Insured Person**) incurred with the Company's prior written consent: (A) in investigating, defending, opposing or appealing any **Claim** and the premium for appeal, attachment or similar bonds; (B) in a **Securityholder Derivative Demand Investigation**; or (C) as a result of an **Interview**.

**Enforcement Unit** means any federal, state, local or provincial law enforcement or governmental regulatory authority worldwide (including the U.S. Department of Justice, the U.S. Securities and Exchange Commission and any attorney general) or the enforcement unit of any securities exchange or similar self-regulatory organization.

**ERISA** means the Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Health Insurance Portability and Accountability Act of 1996), all as amended, or any similar United States law.

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

**Financial Impairment** means the status of an **Organization** resulting from:

- (A) the appointment by a state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate such **Organization**; or
- (B) such **Organization** becoming a debtor in possession under United States bankruptcy law.

**Insured** means any **Organization** and any **Insured Person**.

**Insured Person** means any natural person who was, now is or shall become:

- (A) a duly elected or appointed director, officer, **LLC Manager**, trustee, regent, governor, risk manager or the in-house general counsel of any **Organization** organized in the United States of America;
- (B) a holder of an equivalent position to those described in Subsection (A) above in an **Organization** that is organized in a jurisdiction other than the United States of America;



(C) a holder of an equivalent position to those described in Subsection (A) or (B) above in an **Outside Entity**, but solely while serving at the specific request or direction of the **Organization**; or

(D) solely with respect to **Securities Claims**, any other employee of an **Organization**.

**Interview** means a request for an interview or meeting with, or a sworn statement from, an **Insured Person** by:

(A) an **Enforcement Unit** in connection with: (1) such **Insured Person** acting in his capacity as such; or (2) an **Organization's** business activities; or

(B) an **Organization** in connection with: (1) an inquiry or investigation of the **Organization** by an **Enforcement Unit**; or (2) a securityholder derivative demand, commenced by the first receipt of such request by such **Insured Person**,

provided that **Interview** does not include: (a) any request for document production or discovery; (b) any request by an **Enforcement Unit** that is part of any routine or regularly scheduled **Enforcement Unit** oversight, compliance, audit, inspection or examination; or (c) any request by an **Enforcement Unit** that is part of an employment-related investigation or claim.

**LLC Manager** means any natural person who was, now is or shall become a manager, member of the Board of Managers or equivalent executive of an **Organization** that is a limited liability company.

**Loss** means the amount which any **Insured** becomes legally obligated to pay as a result of any **Claim, Securityholder Derivative Demand Investigation** or **Interview**, including:

(A) compensatory damages;

(B) punitive, exemplary or multiplied damages, if and to the extent that such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages; provided such jurisdiction has a substantial relationship to the relevant **Insureds**, to the Company, or to the **Claim** giving rise to such damages;

(C) civil fines or penalties assessed against an **Insured Person** for a violation of any United States law, including civil fines or penalties assessed pursuant to 15 U.S.C. §78dd-2(g)(2)(B) (the Foreign Corrupt Practices Act); provided that such violation is neither intentional nor willful and such fines or penalties are insurable under the law pursuant to which this Policy is construed;

(D) judgments, including pre-judgment and post-judgment interest;

(E) settlements; and

(F) **Defense Costs**;

**Loss** does not include any portion of such amount that constitutes any:

(1) cost incurred by the **Organization** to comply with any order for non-monetary (including injunctive) relief, or to comply with an agreement to provide such relief;

(2) amount not insurable under the law pursuant to which this Policy is construed; provided that the Company shall not assert that any amount attributable to violations of Sections 11, 12 or 15 of the Securities Act of 1933, as amended, is subject to this Paragraph (2), unless such amount is determined to be uninsurable in a final, non-appealable adjudication in any action or proceeding (other than a declaratory or equivalent action or proceeding brought by or against the Company);



- (3) amount that represents or is substantially equivalent to an increase in the consideration paid (or proposed to be paid) by an **Organization** in connection with its purchase of any securities or assets;
- (4) tax; except, solely for the purposes of Insuring Clause (A), Individual Non-Indemnified Liability Coverage, any tax imposed upon an **Insured Person** in his capacity as such in connection with any bankruptcy, receivership, conservatorship, or liquidation of an **Organization**, to the extent that such tax is insurable under the law pursuant to which this Policy is construed;
- (5) fine or penalty, except as provided in Subsection (B) or (C) above; or
- (6) cost incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for or monitoring **Pollutants**.

**Organization** means the **Parent Organization** and any **Subsidiary**. **Organization** shall also mean any such entity as a debtor in possession under United States bankruptcy law.

**Outside Entity** means:

- (A) any non-profit corporation, community chest, fund or foundation that is exempt from federal income tax as an entity described in Section 501(c)(3) of the United States Internal Revenue Code, as amended; or
- (B) any other entity specifically added as an **Outside Entity** by written endorsement attached to this Policy,

that is not an **Organization**.

**Parent Organization** means the entity named in Item 1 of the Declarations.

**Policy Period** means the period of time set forth in Item 2 of the Declarations (subject to any termination in accordance with Section XIX, Termination of Policy) and the Extended Reporting Period, if applicable.

**Pollutants** means any solid, liquid, gaseous or thermal irritants or contaminants, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, asbestos, asbestos products or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**Related Claims** means all **Claims** based upon, arising from or in consequence of the same or related facts, circumstances or **Wrongful Acts**.

**Securities Claim** means a **Claim**:

- (A) against an **Insured** for a violation of any United States securities law, but solely in connection with the securities of an **Organization**;
- (B) against an **Insured** for a common law cause of action, pled in tandem with, or in lieu of, any securities law violation described in Subsection (A) above and brought by:
  - (1) a securityholder of an **Organization** with respect to his interest in the securities of such **Organization**; or
  - (2) any person or entity in connection with the purchase, sale or offer to purchase or sell securities of an **Organization**; or



- (C) brought as a derivative action, on behalf of an **Organization** against an **Insured Person**, including an action brought by or on behalf of the **Organization** seeking to dismiss a derivative action that a committee of such **Organization's** Board of Directors has concluded is not in the best interest of the **Organization**.

**Securityholder Derivative Demand Investigation** means an investigation by an **Organization** to determine whether it is in the best interest of such **Organization** to prosecute the claims alleged in a securityholder derivative demand or action, commenced upon:

- (A) receipt of such demand; or  
(B) service of a civil complaint or similar proceeding with respect to such action.

**Subsidiary** means:

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

**Wrongful Act** means:

- (A) any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted by: (1) an **Insured Person** in his capacity as such; or (2) for purposes of any coverage afforded under Insuring Clause (C), Entity Securities Coverage, by the **Organization**; or  
(B) any other matter claimed against an **Insured Person** solely by reason of serving in his capacity as such.