

**DECLARATIONS**

Policy Number: [Formatted Policy Number]

**FEDERAL INSURANCE COMPANY**

A stock insurance company, incorporated under the laws of Indiana, herein called the Company

Capital Center, 251 North Illinois, Suite 1100  
Indianapolis, IN 46204-1927

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**THIS POLICY PROVIDES CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD," OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE COSTS," AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE DEDUCTIBLE AMOUNT. IN NO EVENT WILL THE COMPANY BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. READ THE ENTIRE POLICY CAREFULLY.**

Item 1. **Parent Organization:** [Account Name]  
Principal Address: [Account Address including address1 and address2]  
[Account City Name], [Account Domicile State] [Account Zip Code]

Item 2. **Private Fund:** [List of Private Funds-allow for as much room for listing as possible]  
[enter the insured organization]

Item 3. Limits of Liability (inclusive of **Defense Costs**):

(A) Each **Loss** Limit of Liability \$ [Individual Limit]

(B) Aggregate Limit of Liability Each **Policy Period** \$ [Aggregate Limit]

Item 4. Deductible Amount for each **Loss**:

Insuring Clause 1 \$ [Deduct Amount] Management Liability, all **Insured Persons**  
Insuring Clause 2 \$ [Deduct Amount] Management Indemnification  
Insuring Clause 3 \$ [Deduct Amount] Professional Liability  
Insuring Clause 4 \$ [Deduct Amount] Outside Directorship Liability

Item 5. Extended Reporting Period:

(A) Additional Premium: [Enter alternate information if default answer not appropriate] of Annualize  
Premium for the Expiring **Policy Period**

(B) Additional Period: [Enter alternate information if default answer not appropriate]

Item 6. Pending or Prior Date: [Pending or Prior Date]

Item 7. **Policy Period:** From 12:01 A.M. on [Effective Date]  
To 12:01 A.M. on [Expiration Date of the Policy]  
Local time at the address shown in Item 1.

Item 8. Endorsement(s) Effective at Inception:  
[Enter Endorsement Listing, example: 1-9..]

In witness whereof, the Company issuing this Policy has caused this Policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Company.

**FEDERAL INSURANCE COMPANY**

*Secretary*

*President*

**08/25/2004**

*Date*

*Authorized Representative*



## VENTURE CAPITAL ASSET PROTECTION POLICY

THE LIMIT OF LIABILITY TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE COSTS," AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE DEDUCTIBLE AMOUNT. IN NO EVENT WILL THE COMPANY BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY.

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

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### ***Insuring Clause 1 Management Liability Coverage***

1. The Company shall pay, on behalf of each **Insured Person**, **Loss** for which the **Insured Person** is not indemnified by the **Organization** and which the **Insured Person** becomes legally obligated to pay on account of any **Claim** first made against such **Insured Person**, individually or otherwise, during the **Policy Period** or, if exercised, during the Extended Reporting Period, for a **Wrongful Act**, but only if such **Claim** is reported to the Company in writing in the manner and within the time provided in Section 16 of this Policy.

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### ***Insuring Clause 2 Management Indemnification Coverage***

2. The Company shall pay, on behalf of the **Organization**, **Loss** for which the **Organization** grants indemnification to each **Insured Person**, as permitted or required by law, which the **Insured Person** becomes legally obligated to pay on account of any **Claim** first made against such **Insured Person**, individually or otherwise, during the **Policy Period** or, if exercised, during the Extended Reporting Period, for a **Wrongful Act**, but only if such **Claim** is reported to the Company in writing in the manner and within the time provided in Section 16 of this Policy.

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### ***Insuring Clause 3 Professional Liability Coverage***

3. The Company shall pay, on behalf of any **Insured**, **Loss** arising solely from **Private Equity Venture Investing** for which the **Insured** becomes legally obligated to pay on account of any **Claim** first made against such **Insured** during the **Policy Period** or, if exercised, during the Extended Reporting Period, for a **Wrongful Act**, but only if such **Claim** is reported to the Company in writing in the manner and within the time provided in Section 16 of this Policy.

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### ***Insuring Clause 4 Outside Directorship Liability Coverage***

4. The Company shall pay, on behalf of an **Insured Person**, **Loss** for which the **Insured Person** becomes legally obligated to pay on account of any **Claim** first made against such **Insured Person**, individually or otherwise, during the **Policy Period** or, if exercised, during the Extended Reporting Period, for a **Wrongful Act** resulting from his or her **Outside Capacity**, but only if such **Claim** is reported to the Company in writing in the manner and within the time provided in Section 16 of this Policy.

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### ***Outside Directorship Liability Run-off Extension***

5. If an **Insured Person** ceases serving in an **Outside Capacity**, coverage provided under Insuring Clause 4 of this Policy shall continue until the termination of this Policy, but only with respect to **Wrongful Acts** occurring prior to the time the **Insured Person** ceased serving in such **Outside Capacity**.



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### *Spouses, Estates and Legal Representatives*

6. Subject to the limitations, conditions, provisions and other terms of this Policy, coverage shall extend to **Claims** for the **Wrongful Acts** of an **Insured Person** made against:
- the estates, heirs, legal representatives or assigns of such **Insured Person** who is deceased or against the legal representatives or assigns of an **Insured Person** who is incompetent, insolvent or bankrupt, and
  - the lawful spouse or **Domestic Partner** of such **Insured Person** solely by reason of such spouse or **Domestic Partner's** status as a spouse or **Domestic Partner**, or such spouse or **Domestic Partner's** ownership interest in property which the claimant seeks as recovery for an alleged **Wrongful Act** of such **Insured Person**.

All terms and conditions of this Policy, including without limitation the Deductible Amount, applicable to **Loss** incurred by the **Insured Person**, shall also apply to loss incurred by the estates, heirs, legal representatives, assigns, spouses and **Domestic Partners** of such **Insured Person**. The coverage provided under this Section 6 shall not apply with respect to any loss arising from an act or omission by an **Insured Person's** estate, heirs, legal representatives, assigns, spouse or **Domestic Partner**.

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### *Extended Reporting Period*

7. If the Company or the **Parent Organization** terminates or does not renew this Policy, other than termination by the Company for non-payment of premium, then the **Parent Organization** and the **Insured Persons** shall have the right, upon payment of the additional premium set forth in Item 5(A) of the Declarations, to an extension of the coverage granted by this Policy for **Claims** first made during the period set forth in Item 5(B) of the Declarations (the "Extended Reporting Period") following the effective date of termination or non-renewal, but only to the extent such **Claims** are for **Wrongful Acts** occurring before the effective date of termination or non-renewal. The offer of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute refusal to renew. The right to purchase an extension of coverage as described under this Section 7 shall lapse unless written notice of election to purchase the extension, together with payment of the additional premium due, is received by the Company within thirty (30) days after the effective date of termination or non-renewal. Any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding **Policy Period**. The entire additional premium for the Extended Reporting Period shall be deemed fully earned at the inception of such Extended Reporting Period.

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### *Exclusions Applicable to All Insuring Clauses*

8. The Company shall not be liable for **Loss** on account of any **Claim** made against any **Insured**:
- based upon, arising from, or in consequence of any circumstance if written notice of such circumstance has been given, under any policy of which this Policy is a renewal or replacement, and if such prior policy affords coverage (or would afford such coverage except for the exhaustion of its limits of liability) for such **Loss**, in whole or in part, as a result of such notice;



## VENTURE CAPITAL ASSET PROTECTION POLICY

- b. based upon, arising from, or in consequence of any demand, suit or other proceeding pending against, or order, decree or judgment entered for or against any **Insured** on or prior to the Pending or Prior Date set forth in Item 6 of the Declarations, or the same or substantially the same fact, circumstance or situation underlying or alleged therein;
- c. brought or maintained by or on behalf of any **Insured** in any capacity except:
  - i. a **Claim** that is a derivative action brought or maintained on behalf of an **Organization** by one or more persons who are not **Insured Persons** and who bring and maintain the **Claim** without the solicitation, assistance or participation of any **Insured Person**;
  - ii. a **Claim** brought or maintained by a director, officer, general partner or managing member of an **Organization** for the actual or alleged wrongful employment termination of a director, officer, general partner or managing member of such **Organization**;
  - iii. a **Claim** brought or maintained by an **Insured Person** for contribution or indemnity, if the **Claim** directly results from another **Claim** covered under this Policy; or
  - iv. a **Claim** brought or maintained by all natural persons who were, now are, or shall be duly appointed to an **Advisory Board**, while acting in their capacity as a member or limited partner of a **Private Fund**.
- d. for an actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, as amended, or similar provisions of any federal, state or local statutory law or common law anywhere in the world, as respects any pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing benefits to employees of an **Organization**;
- e. for bodily injury, mental anguish or emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property including loss of use thereof. However, this Exclusion shall not apply to any **Claim** for mental anguish or emotional distress brought by an employee of an **Outside Entity** against an **Insured Person** in an **Outside Capacity**;
- f. for defamation, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, assault or battery;
- g. based upon, arising from, or in consequence of:
  - i. any actual, alleged, or threatened exposure to, or generation, storage, transportation, discharge, emission, release, seepage, migration, dispersal, escape, treatment, removal or disposal of any **Pollutants**; or
  - ii. any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**; or
    - (a) any action taken in contemplation or anticipation of any such regulation, order, direction or request; or
    - (b) any voluntary decision to do so,



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including but not limited to any **Claim** for financial loss to the **Organization**, its security holders or its creditors based upon, arising from or in consequence of any matter described in i. or ii. above;

- h. based upon, arising from, or in consequence of:
  - i. the committing in fact of any deliberately fraudulent act or omission or any willful violation of any statute or regulation by such **Insured**, or
  - ii. such **Insured** having gained in fact any profit, remuneration or advantage to which such **Insured** was not legally entitled,

as evidenced by:

- (a) any written statement or written document by any **Insured**, or
- (b) any judgement or ruling in any judicial, administrative or alternative dispute resolution proceeding;
- i. based upon, arising from, or in consequence of any **Claim** against a limited partner or member, acting in the capacity as a general partner or managing member of a **Private Fund**. However, this Exclusion shall not apply to an **Insured Person** otherwise covered under this Policy;
- j. based upon, arising from, or in consequence of the liability of a party, other than an **Insured**, assumed by such **Insured** pursuant to a contract, except liability for **Loss** that the **Insured** would have had in the absence of such contract;
- k. based upon, arising from or in consequence of any intentional breach of contract, if a judgment or other final adjudication adverse to such **Insured** establishes any intentional breach of contract;
- l. for an accounting of profits made from the purchase or sale by such **Insured** of securities of the **Organization** within the meaning of Section 16 (b) of the Securities Exchange Act of 1934, as amended, or similar provisions of any federal, state or local statutory law or common law; or
- m. made against an organization that is a **Subsidiary** or against an **Insured Person** of such **Subsidiary** for any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted at any time when the organization was not a **Subsidiary**.

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### ***Exclusions Applicable to Insuring Clause 4 Only***

- 9. The Company shall not be liable for **Loss** on account of any **Claim** made against any **Insured Person** in his or her **Outside Capacity**:
  - a. based upon, arising from, or in consequence of any **Wrongful Act** which occurred prior to the date set forth in Item 6, Pending or Prior Date, of the Declarations, or any **Wrongful Act** occurring subsequent to that date which, together with a **Wrongful Act** occurring prior to such date, constitute **Interrelated Wrongful Acts**;



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- b. based upon, arising from, or in consequence of any **Wrongful Act** occurring after the date such **Insured Person** ceases to be a director, officer, general partner, managing general partner, managing member, member of a Board of Managers, governor, **Advisory Board** member or equivalent executive position of an **Organization**;
- c. for any **Claim** brought or maintained by or on behalf of any **Outside Entity** or affiliate of the **Outside Entity**, or one or more directors, officers, trustees, governors, board observers or equivalent executives of any **Outside Entity**, except:
- i. a **Claim** that is brought or maintained by or on behalf of a **Portfolio Company**, or its directors, officers, trustees, governors, board observers or equivalent executives, without the solicitation, aid, assistance, or participation of any **Insured**;
  - ii. a **Claim** that is a derivative action brought or maintained on behalf of an **Outside Entity** by one or more persons who are not:
    - (a) **Insured Persons**; or
    - (b) directors, officers, trustees, governors, board observers or equivalent executives of the **Outside Entity**,and who bring and maintain such **Claim** without the solicitation, assistance or participation of any such person; or
  - iii. a **Claim** brought or maintained by:
    - (a) an **Insured Person**; or
    - (b) a director, officer, trustee, governor, board observer or equivalent executive of the **Outside Entity**,for contribution or indemnification, if such **Claim** results from another **Claim** covered under this Policy; or
- d. based upon, arising from, or in consequence of:
- i. any litigation, arbitration, **Claim**, demand, cause of action, equitable, legal or quasi-legal proceeding, decree or judgment (collectively referred to as litigation) against the **Outside Entity** occurring prior to, or pending as of the date the **Insured Person** first serves in his or her **Outside Capacity**, of which the **Outside Entity** or the director, officer, trustee, governor, board observer or equivalent executive of the **Outside Entity** received notice or otherwise had knowledge as of such date;
  - ii. any subsequent litigation arising from, or based on the same or substantially the same matters alleged in the prior or pending litigation in i. above; or
  - iii. any **Wrongful Act** of the **Outside Entity**, or the director, officer, trustee, governor, board observer, or equivalent executive of the **Outside Entity**, which gave rise to such prior or pending litigation included in i. above.



## VENTURE CAPITAL ASSET PROTECTION POLICY

### *Severability of Exclusions*

10. With respect to the Exclusions herein, in order to determine if coverage is available:
- a. no fact pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person** for the purpose of applying Exclusion 8.h. and 8.i.
  - b. only facts pertaining to or knowledge possessed by any past, present or future chief financial officer, in-house general counsel, president, chief executive officer, chairperson, general partner or managing member of any **Organization** shall be imputed to any **Organization**.

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### *Limit of Liability Deductible*

11. The Company's maximum liability for all **Loss** on account of each **Claim** covered under one or more of the Insuring Clauses shall be the Limit of Liability set forth in Item 3(A) of the Declarations. The Company's maximum aggregate liability for all **Loss** on account of all **Claims** first made during the **Policy Period**, whether covered under one or more Insuring Clauses, shall be the Aggregate Limit of Liability for each **Policy Period** set forth in Item 3(B) of the Declarations.

**Defense Costs** are part of, and not in addition to, the Limits of Liability set forth in Item 3 of the Declarations, and the payment by the Company of **Defense Costs** shall reduce and may exhaust such Limits of Liability.

The Company's liability under the Insuring Clauses shall apply only to that part of each covered **Loss** which is excess of the applicable Deductible Amount set forth in Item 4 of the Declarations. Such Deductible Amount shall be borne by the **Insureds** uninsured and at their own risk.

If different parts of a single **Claim** are subject to different Deductible Amounts, then the applicable Deductible Amount shall be applied separately to each part of such **Claim**, but the sum of such Deductible Amounts shall not exceed the largest applicable Deductible Amount.

All **Related Claims** shall be treated as a single **Claim** first made on the date the earliest of such **Related Claims** was first made, or on the date the earliest of such **Related Claims** is treated as having been made in accordance with Section 16 of this Policy, regardless of whether such date is before or during the **Policy Period**.

The Limit of Liability available during the Extended Reporting Period (if exercised) shall be the remaining portion, if any, of the Company's maximum aggregate liability for all **Loss** on account of all **Claims** made during the immediately preceding **Policy Period**.

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### *Non-Accumulation of Limits*

12. If any **Loss** arising from any **Claim** made against any **Insured**, in the **Insured's** capacity as a director, officer, trustee, board observer or equivalent executive of a **Portfolio Company**, is insured under any other valid policy(ies) issued by a parent, subsidiary or affiliate of the Company, then payment under such policy(ies) on account of a **Claim** also covered under this Policy shall reduce, by the amount of the payment, the Company's Limit of Liability under this Policy with respect to such **Claim**.





## VENTURE CAPITAL ASSET PROTECTION POLICY

### *Presumptive Indemnification*

13. If the **Organization**:

- a. fails or refuses, other than for reason of **Financial Impairment**, to indemnify the **Insured Person** for **Loss**; and
- b. is permitted or required to indemnify the **Insured Person** for such **Loss** pursuant to the fullest extent permitted by law,

then, notwithstanding any other conditions, provisions or terms of this Policy to the contrary, any payment by the Company of such **Loss** shall be subject to:

- i. the applicable Insuring Clause Deductible Amount set forth in Item 4 of the Declarations; and
- ii. all of the Exclusions in this Policy.

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### *Defense and Settlement*

14. It shall be the duty of the **Insured** and not the duty of the Company to defend any **Claim** made against the **Insured**.

The Company may make any investigation it deems necessary and may, with the written consent of the **Parent Organization**, on behalf of the **Insured**, make any settlement of a **Claim** it deems expedient.

The **Insured** 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. The Company shall in no event be liable for any element of **Loss** incurred, for any obligation assumed, or for any admission made, by any **Insured** without the Company's prior written consent. Provided the **Insured** complies with the obligations set forth in the next two paragraphs, the Company shall not unreasonably withhold any such consent.

With respect to any **Claim** that appears reasonably likely to be covered in whole or in part under this Policy, the Company shall have the right and shall be given the opportunity to effectively associate with, and to be consulted in advance by, the **Insured** regarding the investigation, defense and settlement of such **Claim**, including but not limited to selecting appropriate defense counsel and negotiating any settlement.

The **Insured** agrees to provide the Company with all information, assistance and cooperation which the Company reasonably requests and agrees that in the event of a **Claim** the **Insured** shall do nothing that may prejudice the Company's position or its potential or actual rights of recovery.

The Company shall advance **Defense Costs** as provided under Section 15 of this Policy on a current basis. Any advancement of **Defense Costs** shall be repaid to the Company by the **Insured**, severally according to their respective interests, if and to the extent it is determined that such **Defense Costs** are not insured under this Policy.



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### *Allocation*

15. If both **Loss** covered by this Policy and loss not covered by this Policy are incurred, either because a **Claim** against the **Insured** includes both covered and uncovered matters or covered and uncovered parties, then the **Insured** and the Company shall allocate such amount between covered **Loss** and uncovered loss based upon the relative legal and financial exposures of the parties to covered and non-covered matters and, in the event of a settlement in such **Claim**, also based upon the relative benefits to the parties from such settlement. The Company shall not be liable under this Policy for the portion of such amount allocated to non-covered loss.

If the **Insured** and the Company agree on an allocation of **Defense Costs**, the Company shall advance on a current basis **Defense Costs** allocated to covered **Loss**. If the **Insured** and the Company cannot agree on an allocation:

- a. no presumption as to allocation shall exist in any arbitration, suit or other proceeding;
- b. the Company shall advance on a current basis **Defense Costs** which the Company believes to be covered under this Policy until a different allocation is negotiated, arbitrated or judicially determined; and
- c. the Company, if requested by the **Insured**, shall submit the dispute to binding arbitration. The rules of the American Arbitration Association shall apply except with respect to the selection of the arbitration panel, which shall consist of one arbitrator selected by the **Insured**, one arbitrator selected by the Company, and a third independent arbitrator selected by the first two arbitrators.

Any negotiated, arbitrated or judicially determined allocation of **Defense Costs** on account of a **Claim** shall be applied retroactively to all **Defense Costs** on account of such **Claim**, notwithstanding any prior advancement to the contrary. Any allocation or advancement of **Defense Costs** on account of a **Claim** shall not apply to or create any presumption with respect to the allocation of other **Loss** on account of such **Claim**.

As a condition of any payment of **Defense Costs** the Company may, at its sole option, require a written undertaking on terms and conditions satisfactory to the Company guaranteeing the repayment of any **Defense Costs** paid to or on behalf of any **Insured** if it is finally determined that **Loss** incurred by such **Insured** would not be covered.

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### *Reporting and Notice*

16. The **Insured** shall, as a condition precedent to exercising any right to coverage under this Policy, give to the Company written notice of any **Claim** as soon as practicable, but in no event more than sixty (60) days after the earliest of the following dates:
- a. the date on which any **Organization's** chief financial officer, in-house general counsel, president, chief executive officer, chairperson, general partner or managing member first becomes aware that the **Claim** has been made; or
  - b. if this Policy is not renewed by the Company, the termination date of the **Policy Period** or, if exercised, the Extended Reporting Period.



# VENTURE CAPITAL ASSET PROTECTION POLICY

If, during the **Policy Period** an **Insured**:

- i. becomes aware of circumstances which could give rise to a **Claim** and gives written notice of such circumstances to the Company; or
- ii. receives a written request to toll or waive a statute of limitations applicable to **Wrongful Acts** occurring before or during the **Policy Period** and gives written notice of such request and of such alleged **Wrongful Acts** to the Company,

then any **Claim** subsequently arising from the circumstances referred to in i. above or from the **Wrongful Acts** referred to in ii. above, shall be deemed to have been first made during the **Policy Period** in which the written notice described in i. or ii. above was first given by an **Insured** to the Company, provided any such subsequent **Claim** is reported to the Company as set forth under this Section 16. With respect to any such subsequent **Claim**, no coverage under this Policy shall apply to loss incurred prior to the date such subsequent **Claim** is actually made.

The **Insured** shall, as a condition precedent to exercising any right to coverage under this Policy, give to the Company such information and cooperation as the Company may reasonably require, and shall include in any notice under this Section 16 a description of the **Claim**, circumstances, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage, the names of all actual or potential claimants, the names of all actual or potential defendants, and the manner in which such **Insured** first became aware of the **Claim** or circumstances.

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## Notice

17. Notice to the Company under this Policy shall be given in writing addressed to:

- a. for notice of **Claim** or circumstances that could give rise to a **Claim**:

Claims Department, Attention D&O/E&O Claim Manager  
Chubb Group of Insurance Companies  
15 Mountain View Road  
Warren, N.J. 07059

- b. for all other notices:

Department of Financial Institutions  
Chubb Group of Insurance Companies  
15 Mountain View Road  
Warren, N.J. 07059

Such notice shall be effective on the date of receipt by the Company at such address.

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## Other Insurance

18. With respect to coverage provided by Insuring Clause 1, 2 and 3, if any **Loss** under this Policy is insured under any other valid and collectible insurance policy(ies), then this Policy shall cover such **Loss**, subject to its limitations, conditions, provisions and other terms, 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, unless such other



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insurance is written only as specific excess insurance over the Limits of Liability provided in this Policy. Any payment by **Insureds** of a retention or deductible under such other insurance shall deplete, by the amount of such payment, the applicable Deductible Amount under this Policy.

With respect to coverage provided by Insuring Clause 4, this Policy shall be specifically excess of any indemnity (other than the indemnity provided by the **Organization**) and insurance available to such **Insured Person** by reason of serving in an **Outside Capacity**, including any indemnity or insurance available from or provided by the **Outside Entity**.

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### ***Acquisition or Creation of Another Organization***

19. If before or during the **Policy Period** the **Organization**:

- a. acquires securities or voting rights in another organization or creates another organization, which as a result of such acquisition or creation becomes a **Subsidiary** or **Investment Holding Company**; or
- b. acquires another organization by merger into or consolidation with an **Organization**,

then such other organization and its **Insured Persons** shall be **Insureds** under this Policy, but only with respect to **Wrongful Acts** or **Interrelated Wrongful Acts** where all or part of such acts occurred after such acquisition or creation unless the Company agrees, after presentation of a complete application and all other appropriate information, to provide coverage by endorsement for **Wrongful Acts** occurring before such acquisition or creation.

If the fair value of all cash, securities, assumed indebtedness and other consideration paid by the **Organization** for any such acquired organization, new **Subsidiary** or new **Investment Holding Company** exceeds fifteen percent (15%) of the total assets of the **Parent Organization** (as reflected in the most recent audited consolidated financial statements of such organization and the **Parent Organization**, respectively as of the date of such acquisition or creation), then the **Parent Organization** shall give written notice of such acquisition or creation to the Company as soon as practicable, but in no event later than sixty (60) days after the date of such acquisition or creation, together with such information as the Company may require and shall pay any reasonable additional premium required by the Company. If the **Parent Organization** fails to give such notice within the time specified in the preceding sentence, or fails to pay the additional premium required by the Company, then coverage for such acquired or created organization and its **Insured Persons** shall terminate with respect to **Claims** first made more than sixty (60) days after such acquisition or creation.

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### ***Acquisition of an Organization By Another Organization***

20. If:

- a. the **Parent Organization** or a **Private Fund** merges into or consolidates with another organization;
- b. another organization, person or group of organizations or persons acting in concert acquires securities or voting rights which result in ownership or voting control by the other organization or person of more than 50% of the outstanding securities representing the present right to vote for election of directors or select general partners or managing members of the **Parent Organization** or a **Private Fund**;



## VENTURE CAPITAL ASSET PROTECTION POLICY

- c. the **Parent Organization** completely ceases to actively engage in its primary business ("cessation"); or
- d. **Financial Impairment** occurs,

then coverage under this Policy shall continue until termination of this Policy but only with respect to **Claims** where all or part of the **Wrongful Acts** or **Interrelated Wrongful Acts** occurred prior to such merger, consolidation, acquisition, cessation or **Financial Impairment**. The **Parent Organization** shall give written notice of such merger, consolidation, acquisition, cessation or **Financial Impairment** to the Company as soon as practicable, together with such information as the Company may require. The full annual Premium for the **Policy Period** shall be deemed fully earned immediately upon the occurrence of any event outlined in a. through d. above.

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### ***Cessation of Subsidiaries***

- 21. If an organization ceases to be a **Subsidiary**, then coverage with respect to such **Subsidiary** and its **Insured Persons** shall continue until termination of this Policy, but only with respect to **Wrongful Acts** occurring prior to the date such organization ceased to be a **Subsidiary**.

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### ***Creation of Another Private Fund***

- 22. If during the **Policy Period**, an **Organization** sponsors or creates another private investment fund engaged in substantially similar activities as any **Private Fund** scheduled in Item 2 of the Declarations, then such newly sponsored or created private investment fund and its **Insured Persons** shall be **Insureds** under this Policy for a period of sixty (60) days from the date of sponsorship or creation, but only with respect to **Wrongful Acts** or **Interrelated Wrongful Acts** where all or part of such acts occurred after such sponsorship or creation. The **Parent Organization** shall give written notice of such sponsorship or creation to the Company as soon as practicable, but in no event later than sixty (60) days after the date of such sponsorship or creation, together with such information as the Company may require and shall pay any reasonable additional premium required by the Company. If the **Parent Organization** fails to give such notice within the time specified in the preceding sentence, or fails to pay the additional premium required by the Company, then coverage for such sponsored or created private investment fund and its **Insured Persons** shall terminate with respect to **Claims** first made more than sixty (60) days after such acquisition or creation.

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### ***Representations and Severability***

- 23. In issuing this Policy, the Company has relied upon the statements, representations and information in the **Application** for this Policy. All of the **Insureds** acknowledge and agree that all such statements, representations and information:
  - a. are true and accurate;
  - b. were made or provided in order to induce the Company to issue this Policy; and
  - c. are material to the Company's acceptance of the risk to which this Policy applies.

In the event that any of the statements, representations or information in the **Application** are not true and accurate, this Policy shall be void with respect to:



## VENTURE CAPITAL ASSET PROTECTION POLICY

- i. any **Insured** who knew as of the effective date of the **Application** the facts that were not truthfully and accurately disclosed (whether or not the **Insured** knew of such untruthful disclosure in the **Application**) or to whom knowledge of such facts is imputed; and
- ii. the **Organization** under Insuring Clause 2 to the extent it indemnifies an **Insured Person** who had such actual or imputed knowledge.

For purposes of the preceding paragraph:

- (a) the knowledge of any **Insured Person** who is a past, present or future chief financial officer, in-house general counsel, president, chief executive officer, chairperson, general partner or managing member of any **Organization** shall be imputed to such **Organization** and its **Subsidiaries**;
- (b) the knowledge of the persons who signed the **Application** for this Policy shall be imputed to all of the **Insureds**; and
- (c) except as provided in (a) above, the knowledge of an **Insured Person** who did not sign the **Application** shall not be imputed to any other **Insured**.

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### ***Subrogation***

24. In the event of any payment under this Policy, the Company shall be subrogated, to the extent of such payment, to all the **Insured's** rights of recovery, and the **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit in the name of the **Insured**.

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### ***Action Against the Company***

25. No action shall lie 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 organization shall have any rights under this Policy to join the Company as party to any action against any **Insured** to determine such **Insured's** liability, nor shall the Company be impleaded by such **Insured** or the **Insured's** legal representatives.

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### ***Bankruptcy or Insolvency***

26. Bankruptcy or insolvency of an **Insured** or the estate of an **Insured Person** shall not relieve the Company of its obligations nor deprive the Company its rights under this Policy.

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### ***Authorization Clause***

27. By acceptance of this Policy, the **Parent Organization** agrees to act on behalf of all **Insureds** with respect to giving and receiving of notice of **Claim** or termination, the payment of premiums, and the receiving of return premiums that may become due under this Policy, the negotiation, agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for in this Policy, and each **Insured** agrees that the **Parent Organization** shall act on their behalf.
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### ***Alteration or Assignment***

28. No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to this Policy which is signed by a duly authorized representative of the Company.

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### ***Termination of Policy***

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

- a. ten (10) days after the receipt by the **Parent Organization** of a written notice of termination from the Company, in the event of non-payment of premium, unless the premium is paid within such 10 day period;
- b. upon receipt by the Company of written notice of termination from the **Parent Organization**;
- c. upon expiration of the **Policy Period** as set forth in Item 7 of the Declarations for this Policy;
- d. sixty (60) days after receipt by the **Parent Organization** of the Company's written notice of non-renewal. Such notice shall be in conformance with applicable state laws and regulations; or
- e. at such other time as may be agreed upon by the Company and the **Parent Organization**.

The Company shall refund the unearned premium computed at the customary short rate if the Policy is terminated by the **Parent Organization**. Under any other circumstances the refund shall be calculated pro rata.

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### ***Valuation and Foreign Currency***

30. All premiums, limits, deductibles, **Loss** and other amounts under this Policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of **Loss** under this Policy is stated in a currency other than United States dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is entered, the amount of the settlement is agreed upon or any part of **Loss** is due.

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### ***Coverage Territory***

31. Coverage shall extend anywhere in the world.

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### ***Definitions***

32. When used in this Policy:

**Advisory Board** means any board or committee formed pursuant to and identified in the partnership agreement or operating agreement of an **Organization**.



## VENTURE CAPITAL ASSET PROTECTION POLICY

**Application** means all signed applications, including attachments and materials incorporated therein, submitted by the **Insured** to the Company for this Policy or any Policy issued by the Company of which this Policy is a direct or indirect renewal or replacement. All such applications, attachments and materials are deemed attached to, incorporated into and made a part of this Policy.

**Claim** means:

- a. a written demand for monetary damages;
- b. a civil proceeding commenced by the filing or service, whichever is earlier, of a complaint or similar pleading;
- c. a criminal proceeding commenced by the return of an indictment; or
- d. a formal administrative proceeding commenced by the filing of a notice of charges, formal investigative order or similar document,

against any **Insured** for a **Wrongful Act**, including any appeal therefrom.

A **Claim** shall be deemed to have been made against an **Insured** on the date such **Insured** first received written demand for monetary damages, the date that notice of a judicial or administrative proceeding is served upon such **Insured** in any state, provincial or federal court or administrative agency, or the date such **Insured** first received written notice regarding the filing of a notice of charges, formal investigative order or similar document from a state, provincial or federal regulatory agency.

**Controlling Shareholder** has the same meaning as the applicable definition or phrase under Section 15 of the Securities Act of 1933 or Section 20(a) of the Securities Exchange Act of 1934, as amended.

**Defense Costs** means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers, general partners, managing general partners, managing members, members of a Board of Managers, governors or employees of the **Organization**) incurred in defending or investigating **Claims** and the premium for appeal, attachment or similar bonds.

**Domestic Partner** means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Organization**.

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

- a. the appointment by any 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 the United States bankruptcy law or an equivalent status under the law of any other country.

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





## VENTURE CAPITAL ASSET PROTECTION POLICY

**Insured Capacity** means the position or capacity described in the definition of “**Insured Person**” held by any **Insured Person** but shall not include any position or capacity in any organization other than the **Organization**, even if the **Organization** directed or requested the **Insured Person** to serve in such other position or capacity.

**Insured Person** means any natural person:

- a. who was, now is, or shall be a member of any **Advisory Board**, provided such member is indemnified by an **Organization**;
- b. who was, now is, or shall be a director, officer, general partner, managing general partner, managing member, member of a Board of Managers, governors or equivalent executive in an **Organization**;
- c. with respect to any **Organization** formed outside the United States of America, any equivalent executive position described in a. and b. above, under applicable law in any country other than the United States of America; or
- d. who was, now is, or shall be an employee of an **Organization**, but solely for coverage provided by Insuring Clause 3, Professional Liability Coverage.

**Interrelated Wrongful Acts** means all **Wrongful Acts** based upon, arising from, or in consequence of the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events.

**Investment Holding Company** means any organization which is created or acquired for the sole purpose of acquiring the securities, debentures or voting rights representing the present right to vote for election of directors or to select managing partners or managing members of a **Portfolio Company** and in which a **Private Fund** owns or controls greater than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors or to select general partners or managing members. **Investment Holding Company** shall not include any **Portfolio Company**.

**Loss** means the amount that any **Insured Person** (for purposes of Insuring Clauses 1, 2 and 4) or the **Organization** (for purposes of Insuring Clause 3) becomes legally obligated to pay on account of any covered **Claim** including, but not limited to, damages, judgments, settlements, pre-judgment and post-judgment interest and **Defense Costs**. **Loss** does not include:

- a. any amount not indemnified by the **Organization** for which the **Insured Person** is absolved from payment by reason of any covenant, agreement or court order;
- b. any amount incurred by the **Organization** (including its board of directors, any committee of the board of directors, or its general partners or managing members) in connection with the investigation or evaluation of any **Claim** or potential **Claim** by or on behalf of the **Organization**;
- c. fines, penalties or taxes imposed by law, including but not limited to punitive or exemplary damages, or the multiple portion of any multiplied damage award;
- d. any amount not insurable under the law pursuant to which this Policy is construed;



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- e. with the exception of **Defense Costs**, the actual principal, interest, or other monies either paid, accrued or due as a result of any loan, lease, extension of credit or equity contribution;
- f. any amount allocated to non-covered loss pursuant to Section 15 of this Policy; or
- g. any amount incurred by an **Insured** in a proceeding or investigation that is not then a **Claim** even if such:
  - i. amount also benefits the defense of a covered **Claim**; or
  - ii. proceeding or investigation subsequently gives rise to a **Claim**.

**Organization** means:

- a. the entity general partner or entity managing general partner of each **Private Fund** that is organized as a limited partnership or limited liability partnership;
- b. the entity managing member of each **Private Fund** that is organized as a limited liability company;
- c. the entity management company identified in the partnership agreement or operating agreement of a **Private Fund**, whether organized as a stock corporation, general partnership, limited liability partnership or limited liability company;
- d. any **Subsidiary** of a. through c. above;
- e. each **Private Fund**; or
- f. any **Investment Holding Company**.

**Outside Capacity** means service by an **Insured Person** as a director, officer, trustee, governor, board observer, or equivalent executive in an **Outside Entity** at the request or direction of an **Organization**.

**Outside Entity** means:

- a. any non-profit corporation, community chest, fund organization or foundation exempt from federal income tax as any organization described in Section 501(c)(3), Internal Revenue Code of 1986, as amended;
- b. a **Portfolio Company** which is not registered or approved, upon notice of issuance, on a national securities exchange, or not authorized or approved for authorization, upon notice of issuance, for quotation in the NASDAQ system;
- c. a **Portfolio Company** which, during the **Policy Period**, is registered or approved, upon notice of issuance, on a national securities exchange, or authorized or approved for authorization, upon notice of issuance, for quotation in the NASDAQ system, provided coverage shall only extend to **Wrongful Acts** occurring within thirty (30) days after the date of registration or approval for quotation; or
- d. a **Portfolio Company** scheduled by endorsement to this Policy.



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**Parent Organization** means the entity named in Item 1 of the Declarations, as legally constituted at the inception of this Policy.

**Policy Period** means the period of time specified in Item 7 of the Declarations, subject to prior termination in accordance with Section 29. If the period is less than or greater than one (1) year, then the Limits of Liability specified in Item 3 of the Declarations shall be the Company's maximum liability under this Policy for the entire period.

**Pollutants** means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, the United States Environmental Protection Agency or any state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products and any noise.

**Portfolio Company** means any organization in which one or more **Private Fund** or **Investment Holding Company**, separately or in combination, previously owned or controlled, currently own or control, or propose to own or control, outstanding securities, debentures or voting rights representing the present right to vote for election of directors or to select managing partners or managing members.

**Private Equity Venture Investing** means:

- a. the formation, capitalization, operation or management of a **Private Fund** by an **Insured**;
- b. any act performed by an **Insured** for a **Portfolio Company** or proposed **Portfolio Company** of a **Private Fund**, arising from the extending or refusal to extend credit or granting or refusal to grant a loan or any transaction in the nature of a loan;
- c. an **Insured's** investment in, formation, capitalization or disposition of, or rendering of management, investment, administrative, economic or financial advice (other than tax or legal services rendered for compensation) to a **Portfolio Company** or proposed **Portfolio Company**; and
- d. an **Insured's** purchase or sale of, or offer to purchase or sell, any securities issued by a **Portfolio Company** of which any **Organization** is deemed to be a **Controlling Shareholder**.

**Private Fund** means any pooled investment vehicle scheduled under Item 2 of the Declarations.

**Related Claims** means all **Claims** for **Wrongful Acts** and **Interrelated Wrongful Acts**.

**Subsidiary** means any organization, at or prior to the inception of this Policy, in which more than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors or to select general partners or managing members is owned or controlled, directly or indirectly, in any combination, by one or more **Organizations**. **Subsidiary** shall not include any **Portfolio Company**.



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**Wrongful Act** means:

- a. for purposes of Insuring Clauses 1 and 2, any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted, before or during the **Policy Period**, by an **Insured Person**, individually or otherwise, in an **Insured Capacity**;
- b. for purposes of Insuring Clause 3, any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted, before or during the **Policy Period**, by an **Organization**, an employee of an **Organization** or an **Insured Person** in an **Insured Capacity**; or
- c. for purposes of Insuring Clause 4, any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted, before or during the **Policy Period**, by an **Insured Person** in an **Outside Capacity**.

For the purposes of the definitions, the singular includes the plural and the plural includes the singular, unless otherwise indicated.

# SPECIMEN