

**PENSION TRUST LIABILITY INSURANCE  
COVERAGE SECTION THREE  
("PTL COVERAGE SECTION")**

In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer by application, including its attachments and the material incorporated therein, which form a part of this policy, the Insurer agrees as follows:

**1. INSURING AGREEMENTS**

- (a) Solely with respect to Claims first made against an Insured during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy, and subject to the other terms, conditions and limitations of this policy, this policy shall pay the Loss of each and every Insured arising from a Claim first made against an Insured for any Wrongful Act by any such Insured or by any employee for whom such Insured is legally responsible.
- (b) Solely with respect to CAP Penalties and Delinquent Filer Penalties assessed against an Insured, and Voluntary Fiduciary Correction Loss incurred by an Insured, during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer during the Policy Period or the Discovery Period (if applicable) or within thirty (30) days after the end of the Policy Period or the Discovery Period (if applicable), and subject to the other terms, conditions and limitations of this policy, this policy shall:
  - (i) pay the CAP Penalties and Delinquent Filer Penalties; and
  - (ii) reimburse the Voluntary Fiduciary Correction Loss,

of each and every Insured, collectively not to exceed the amount of the Sublimit of Liability for Voluntary Compliance Loss set forth in Item 4(d) of the Declarations; provided that the Insured shall select a Panel Counsel Firm as provided in Clause 5 of this Coverage Section.

The payment of any Voluntary Compliance Loss under this policy shall not waive any of the Insurer's rights under this policy or at law, including in the event that a Voluntary Compliance Loss results in a Claim.

**2. DEFENSE AGREEMENT**

**(a) INSURER'S DUTY TO DEFEND**

Except as hereinafter stated, the Insurer shall have both the right and duty to defend any Claim against an Insured alleging a Wrongful Act, even if such Claim is groundless, false or fraudulent.

The Insured shall have the right to effectively associate with the Insurer in the defense of any Claim, including, but not limited to, negotiating a settlement, subject to the provisions of this clause. However, the Insurer shall not be obligated to defend any Claim after the Policy

Aggregate Limit of Liability or Separate Limit of Liability (if any) has been exhausted, or pursuant to subparagraph (b) below, after the rejection of a settlement offer.

(b) GENERAL PROVISIONS (applicable to (a) above)

The Insurer shall advance Defense Costs prior to the final disposition of a Claim, subject to the other provisions of this policy. Such advance payments by the Insurer shall be repaid to the Insurer by the Insureds, severally according to their respective interests, in the event and to the extent that the Insureds shall not be entitled under the terms and conditions of this policy to payment of such Loss.

The Insured shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any Defense Costs without the prior written consent of the Insurer. Only those settlements, stipulated judgments and Defense Costs which have been consented to by the Insurer shall be recoverable as Loss under the terms of this policy.

The Insureds shall give the Insurer full cooperation and such information as the Insurer may reasonably require. The Insurer may make any settlement of any Claim it deems expedient with respect to any Insured subject to such Insured's written consent. If any Insured withholds consent to such settlement, the Insurer's liability for all Loss on account of such Claim shall not exceed the amount for which the Insurer could have settled such Claim plus Defense Costs incurred as of the date such settlement was proposed in writing by the Insurer. Further, in the event any Insured withholds such consent, the Insurer shall tender the Claim to the Insureds who shall thereafter at their own expense and on their own behalf negotiate and defend such Claim independently of the Insurer.

### 3. DEFINITIONS

- (a) "Administrator" means an Insured with respect to any Wrongful Act described in subparagraph (2) of the Definition of "Wrongful Act" in this Coverage Section.
- (b) "Benefits" means any obligation under a Plan to a participant or beneficiary under a Plan which is a payment of money or property, or the grant of a privilege, right, option or perquisite.
- (c) "Breach of Fiduciary Duty" means a violation of the responsibilities, obligations or duties imposed upon Insureds by ERISA.
- (d) "CAP Penalties" means fines, penalties, sanctions, voluntary correction fees, compliance fees or user fees assessed against or collected from an Insured by the Internal Revenue Service (IRS) pursuant to a written agreement to correct an inadvertent Plan defect under an Employee Plans Compliance Resolution System, provided that such agreement to correct such Plan defect was entered into in writing by the Insured with the IRS during the Policy Period (or during the policy period of a policy issued by the Insurer of which this policy is a continuous renewal).
- (e) "Claim" means:
  - (1) a written demand for monetary, non-monetary or injunctive relief; or

- (2) a civil, criminal or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by:
- (i) service of a complaint or similar pleading; or
  - (ii) return of an indictment (in the case of a criminal proceeding); or
  - (iii) receipt or filing of a notice of charges; or
- (3) a formal agency adjudicative proceeding anywhere in the world to which an Insured is subject.
- (f) "Consulting Fees" means fees charged by a third party actuary, benefits consultant or accountant resulting solely from the correction of an actual or potential Breach of Fiduciary Duty, but excluding any fees, costs or expenses associated with: (i) a Plan audit; or (ii) identifying, finding or assessing such Breach of Fiduciary Duty.
- (g) "Defense Expenses" means reasonable and necessary attorney's fees, costs or expenses consented to in writing by the Insurer resulting solely from the correction of an actual or potential Breach of Fiduciary Duty, but excluding any fees, costs and expenses associated with finding or assessing such Breach of Fiduciary Duty and any compensation of Individual Insureds or employees of an Insured.
- (h) "Delinquent Filer Penalties" means penalties assessed by the U.S. Department of Labor or the IRS under a Delinquent Filer Voluntary Compliance Program for inadvertent failure to file Form 5500, provided that the failure to file such Form 5500 occurred during the Policy Period (or during the policy period of a policy issued by the Insurer of which this policy is a continuous renewal).
- (i) "Employee Benefit Law" means ERISA or any similar common or statutory law of the United States of America, Canada or any state or other jurisdiction anywhere in the world to which a Plan is subject. Except to the extent set forth in subparagraph (2) of the Definition of Wrongful Act, Employee Benefit Law shall not include any law concerning workers' compensation, unemployment insurance, Social Security, government-mandated disability benefits or similar law.
- (j) "ESOP" means any employee stock ownership plan as defined in ERISA, or any other Plan under which investments are made primarily in securities of the Company or whose assets at any time within twelve (12) months prior to the inception date of this policy were comprised of twenty percent (20%) or more of securities of the Company.
- (k) "ERISA" means the Employee Retirement Income Security Act of 1974 (including, but not limited to, amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985, the Health Insurance Portability and Accountability Act of 1996, the Newborns' and Mothers' Health Protection Act of 1996, the Mental Health Parity Act of 1996, and the Women's Health and Cancer Rights Act of 1998), and including any amendment or revision thereto.
- (l) "Fiduciary" means a fiduciary as defined in any applicable Employee Benefit Law with respect to a Plan, or a person or entity who exercises discretionary control respecting the management of a Plan or the disposition of its assets.
- (m) "Individual Insured" means any past, present or future natural person director, officer or employee of the Company or, if applicable, of a Plan, and as to all of the above, in his or her capacity as a Fiduciary, Administrator or trustee of a Plan.

(n) "Insured(s)" means:

- (1) any Individual Insured;
- (2) any Plan(s);
- (3) the Company;
- (4) any other person or entity in his, her or its capacity as a Fiduciary, Administrator or trustee of a Plan who is included in the Definition of "Insured" by specific written endorsement attached to this policy.

(o) "Loss" means damages, judgments (including pre and post-judgment interest on that part of any judgment paid under this Coverage Section), settlements and Defense Costs; however, Loss shall not include: (1) civil or criminal fines or penalties imposed by law, except (i) to the extent set forth in Item 4(d) of the Declarations for Voluntary Compliance Loss, (ii) UK Fines and Penalties, (iii) the five percent (5%) or less civil penalty imposed upon an Insured under Section 502(i) of ERISA, and (iv) the twenty percent (20%) or less penalty imposed upon an Insured under Section 502(l) of ERISA, with respect to covered settlements or judgments under this Coverage Section; (2) the multiplied portion of multiplied damages; (3) taxes or tax penalties; (4) any amount for which an Insured is not financially liable or which is without legal recourse to the Insured; (5) Benefits, or that portion of any settlement or award in an amount equal to such Benefits, unless and to the extent that recovery of such Benefits is based upon a covered Wrongful Act and is payable as a personal obligation of an Individual Insured; or (6) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

Where permitted by law, Loss shall include punitive or exemplary damages imposed upon any Insured (subject to the policy's other terms, conditions and exclusions, including but not limited to exclusions relating to profit, deliberate fraud or criminal acts and knowing or willful violation of any statute, rule or law, including but not limited to Employee Benefit Law).

Defense Costs shall be provided for items specifically excluded from Loss pursuant to subparagraphs (1)-(6) above of this Definition, subject to the other terms, conditions and exclusions of this policy.

Loss shall include Voluntary Compliance Loss.

(p) "Non-qualified Plan" means any of the following plans for a select group of management or highly compensated directors, officers and/or employees: deferred compensation plan, supplemental executive retirement plan, top-hat plan or excess benefit plan.

(q) "Plan" means:

- (i) any Non-Qualified Plan; or
- (ii) any payroll deduction IRA (Individual Retirement Account), SEP (Simplified Employee Pension Plan), SARSEP (Salary Reduction Simplified Employee Pension Plan) or SIMPLE IRA (Savings Incentive Match Plan for Employees), established or administered by the Company, solely for the benefit of the employees and/or the Directors or Officers; or

(iii) any qualified plan as defined under Employee Benefit Law, which is:

- (1) a welfare plan, as defined under Employee Benefit Law which was, is now, or hereinafter becomes sponsored solely by the Company, or sponsored jointly by the Company and a labor organization, solely for the benefit of the employees and/or the Director(s) or Officer(s) of the Company;
- (2) a pension plan as defined under Employee Benefit Law (other than an ESOP or stock option plan) which was, on or prior to the inception date of the policy, sponsored solely by the Company, or sponsored jointly by the Company and a labor organization, solely for the benefit of the employees and/or the Director(s) or Officer(s) of the Company, provided that at any time prior to the inception date of this policy such plan has been reported in writing to the Insurer by the Named Entity pursuant to the terms of the application for this policy, or any prior policy or its application issued by the Insurer (or any other member company of American International Group, Inc.) and the Named Entity shall have paid any required premium relating to such plan;
- (3) subject to the requirements of sub-paragraphs (1) and (2) above, any pension or welfare plan that was sold, spun-off or terminated during or prior to the inception date of this policy, but solely with respect to Wrongful Acts that occurred prior to the date of such sale or spin-off, or in the case of a terminated plan, prior to the final date of asset distribution of such plan, provided that notice of such sale, spin-off or termination is provided to the Insurer before the end of the Policy Period;
- (4) a pension plan as defined in Employee Benefit Law (other than an ESOP or stock option plan) which, during the Policy Period, becomes sponsored solely by the Company, or sponsored jointly by the Company and a labor organization, solely for the benefit of the employees and/or the Director(s) or Officer(s) of the Company, but only upon the condition that within ninety (90) days of it becoming so sponsored, the Named Entity shall have provided the Insurer with a completed application for such new plan and agreed to any additional premium or amendment of the provisions of the policy required by the Insurer relating to such new plan;
- (5) a pension plan which, during or prior to the Policy Period of this policy, has been merged into or consolidated with a pension plan for which coverage is afforded under this policy; and
- (6)(i) a plan which is both a welfare plan and a pension plan as defined in Employee Benefit Law (other than an ESOP or stock option plan) subject to the requirements of this Definition (q);

(ii) the following government-mandated programs: unemployment insurance, Social Security or disability benefits, solely with respect to a Wrongful Act defined in subparagraph (2) of the Definition of "Wrongful Act" in this Coverage Section;

(iii) any other plan, fund or program, including an ESOP, which is included in the Definition of "Plan" by specific written endorsement attached to this policy.

Notwithstanding the foregoing, the term "Plan" shall not include any multiemployer plan as defined in ERISA.

- (r) "UK Fines and Penalties" means civil fines and penalties assessed against an Insured by either the Pensions Ombudsman appointed by the Secretary of State for Social Services in the United Kingdom or by the Occupational Pensions Regulatory Authority in the United Kingdom or any successor body thereto, subject to the other terms, conditions and exclusions of the policy.
- (s) "Voluntary Compliance Loss" means CAP Penalties, Delinquent Filer Penalties and Voluntary Fiduciary Correction Loss.
- (t) "Voluntary Fiduciary Correction Loss" means damages, Defense Expenses and Consulting Fees incurred in connection with the U.S. Department of Labor's ("DOL") Voluntary Fiduciary Correction Program as set forth in the Federal Register, resulting from an inadvertent Breach of Fiduciary Duty occurring during the Policy Period (or during the policy period of a policy issued by the Insurer of which this policy is a continuous renewal), provided that such compliance with the DOL's Voluntary Fiduciary Correction Program results in the Insured obtaining a "No Action" letter from the DOL; however, Voluntary Fiduciary Correction Loss shall not include: (1) civil or criminal fines or penalties imposed by law; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes or tax penalties; (5) any amount for which an Insured is not financially liable or which is without legal recourse to the Insured; (6) Benefits, or that portion of damages equal to such Benefits; (7) matters of which the Insured had knowledge prior to the inception date of this policy or the first policy issued by the Insurer to the Named Entity of which this policy is a continuous renewal; or (8) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

(u) "Wrongful Act" means:

- (1) as respects a Fiduciary, the Plan or the Company: a violation of any of the responsibilities, obligations or duties imposed upon Fiduciaries by ERISA; or any matter claimed against an Insured solely by reason of his, her or its status as a Fiduciary, but only with respect to a Plan; and
- (2) as respects an Administrator, any act, error or omission solely in the performance of one or more of the following administrative duties or activities, but only with respect to a Plan:
  - (i) counseling employees with respect to a Plan; or
  - (ii) providing interpretations with respect to a Plan; or
  - (iii) handling of records in connection with a Plan; or
  - (iv) activities effecting enrollment, termination or cancellation of employees under the Plan,or any matter claimed against an Insured solely by reason of his, her or its status as an Administrator, but only with respect to a covered Plan.

#### 4. EXCLUSIONS

The Insurer shall not be liable to make any payment for Loss in connection with any Claim made against an Insured:

- (a) arising out of, based upon or attributable to the committing in fact of any criminal or deliberate fraudulent act, or any knowing or willful violation of any statute, rule or law, including, but not limited to, Employee Benefit Law;
- (b) for discrimination in violation of any law, except that this exclusion shall not apply to discrimination in violation of Employee Benefit Law;
- (c) for failure to fund a Plan in accordance with Employee Benefit Law or the Plan instrument or the failure to collect contributions owed to the Plan; except that this exclusion shall not apply to Defense Costs;
- (d) alleging, arising out of, based upon or attributable to any act or omission in his, her or its capacity as a Fiduciary or Administrator of any plan, fund or program, other than a Plan as defined in this policy, or by reason of his, her or its status as a Fiduciary or Administrator of such other plan, fund or program; or
- (e) alleging, arising out of, based upon or attributable to any Wrongful Act as respects the Plan taking place at any time when the Company did not sponsor such Plan or when the Individual Insured was not a Fiduciary, Administrator, trustee, Director(s), Officer(s) or employee of the Company or if applicable, a Plan.

For the purpose of determining the applicability of the foregoing Exclusion 4(a) the facts pertaining to and knowledge possessed by any Insured shall not be imputed to any other Individual Insured.

## **5. PRE-AUTHORIZED DEFENSE ATTORNEYS**

This Clause 5 applies only to: (1) a Claim brought by any government entity; (2) a request for coverage for a Voluntary Compliance Loss; or (3) a Claim brought in the form of a class or representative action.

Affixed as Appendix C hereto and made a part of this policy is a list of Panel Counsel law firms ("Panel Counsel Firm(s)") from which a selection of legal counsel shall be made to conduct the defense of any Claim against an Insured to which this Clause 5 applies and pursuant to the terms set forth below:

The Insurer shall select a Panel Counsel Firm to defend the Insureds. Upon the written request of the Named Entity, the Insurer may consent to a different Panel Counsel Firm selected by the Named Entity to defend the Insureds, which consent shall not be unreasonably withheld.

The selection of a Panel Counsel Firm from the attached list to defend the Claim against the Insureds shall not be restricted to the jurisdiction in which the Claim is brought.

The list of Panel Counsel Firms may be amended from time to time by the Insurer. However, no change shall be made to the specific list attached to this policy during the Policy Period without the consent of the Named Entity. At the request of the Named Entity, the Insurer may in its discretion add one or more law firms to the attached list of Panel Counsel Firms for the purposes of defending the Claim made against the Insureds. The list of Panel Counsel Firms may also be amended to add, at the sole discretion of the Insurer, a non-Panel Counsel Firm for the purpose of acting as "local

counsel” to assist an existing Panel Counsel Firm, which Panel Counsel Firm will act as “lead counsel” in conducting the defense of the Claim, for Claims brought in a jurisdiction in which the chosen Panel Counsel Firm does not maintain an office.

## **6. DISCOVERY CLAUSE**

Except as indicated below, if the Insurer or the Named Entity shall cancel or refuse to renew this Coverage Section, then, solely with respect to this Coverage Section, the Named Entity shall have the right, upon payment of an additional premium of 75% of the “full annual premium,” to a period of one (1) year following the effective date of such cancellation or nonrenewal (herein referred to as the “Discovery Period”) in which to give to the Insurer written notice of Claims first made against the Insureds during said one year period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. As used herein, “full annual premium” means the premium level for this Coverage Section in effect immediately prior to the end of the Policy Period. The rights contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within thirty (30) days of the effective date of cancellation or nonrenewal.

In the event of a Transaction, as defined in Clause 9 of the General Terms and Conditions, the Named Entity shall have the right, within thirty (30) days before the end of the Policy Period, to request an offer from the Insurer of a Discovery Period (with respect to Wrongful Acts occurring prior to the effective time of the Transaction) for a period of no less than three (3) years or for such longer or shorter period as the Named Entity may request. The Insurer shall offer such Discovery Period pursuant to such terms, conditions and premium as the Insurer may reasonably decide. In the event of a Transaction, the right to a Discovery Period shall not otherwise exist except as indicated in this paragraph.

The additional premium for the Discovery Period shall be fully earned at the inception of the Discovery Period. The Discovery Period is not cancelable. This clause and the rights contained herein shall not apply to any cancellation resulting from non-payment of premium.

[The balance of this page is left intentionally blank]