



AIG Specialty Insurance Company

A capital stock company

Not-for-Profit Risk Protector®

GENERAL TERMS AND CONDITIONS (Inapplicable to Kidnap and Ransom 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 materials incorporated therein, which form a part of this policy, the **Insurer** agrees as follows:

1. TERMS AND CONDITIONS

These General Terms and Conditions are hereby incorporated by reference into, made a part of, and expressly made applicable to all **Coverage Sections** except (i) the Kidnap & Ransom Coverage Section; or (ii) where explicitly limited to one or more **Coverage Sections**. Any reference in this General Terms and Conditions Section to "all **Coverage Sections**" shall not refer to the Kidnap and Ransom Coverage Section. The terms and conditions set forth in each **Coverage Section** shall only apply to that particular **Coverage Section** and shall in no way be construed to apply to any other **Coverage Section** of this policy.

2. DEFINITIONS

(a) "**Affiliate**" shall mean any not for profit organization, other than a **Subsidiary**, which:

- (1) the **Named Organization** or any **Subsidiary** controls or otherwise has the ability to direct the financial or managerial decisions of such entity, whether through the operation of law, contract or agreement, stock ownership or membership, charter, articles of incorporation, or by-law provisions; or
- (2) is granted by contract the right to control the financial or managerial decisions of the **Named Organization** or any **Subsidiary**;

provided, however, that such coverage as may be provided under this policy for any organization described in subparagraphs (1) and (2) above shall be limited solely to **Wrongful Acts** occurring in the course of the exercise of such control of financial or managerial decisions.

(b) "**Bodily Injury**" means physical injury, sickness or disease (other than emotional distress or mental anguish), including death resulting therefrom.

(c) "**Claim**" means a **Claim**, as that term is defined within each **Coverage Section**.

- (d) **"Continuity Date"** means the date set forth in Item 3 of the Declarations with respect to each Coverage Section.
- (e) **"Coverage Section(s)"** means each Coverage Section that is purchased by the Insured as indicated in Item 3 of the Declarations.
- (f) **"Defense Costs"** means reasonable and necessary fees, costs and expenses consented to by the Insurer (including premiums for any appeal bond, attachment bond or similar bond, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and appeal of a Claim against the Insureds, but excluding compensation of Individual Insureds. Defense Costs shall not include any fees, costs or expenses incurred prior to the time that a Claim is first made against an Insured.
- (g) **"Discovery Period"** means the Discovery Period as that term is defined in each Coverage Section.
- (h) **"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 Named Organization or any Subsidiary.
- (i) **"Employee(s)"** means an Employee as that term is defined within each Coverage Section.
- (j) **"Financial Insolvency"** means: (1) entering into proceedings in bankruptcy; (2) becoming a debtor in possession; or (3) the taking of control, the supervision of or the managing or liquidation of the financial affairs of an entity by a receiver, conservator, liquidator, trustee, rehabilitator or similar official.
- (k) **"Indemnifiable Loss"** means Loss for which the Organization has indemnified or is permitted or required to indemnify any Individual Insureds.
- (l) **"Individual Insured(s)"** means an Individual Insured, as that term is defined within each Coverage Section.
- (m) **"Insurer"** means the entity listed in Item 8 of the Declarations.
- (n) **"Insured(s)"** means an Insured, as that term is defined within each Coverage Section.
- (o) **"Loss"** means Loss, as that term is defined within each Coverage Section.
- (p) **"Named Organization"** means the Organization designated in Item 1 of the Declarations.
- (q) **"Non-Indemnifiable Loss"** means Loss for which an Organization has neither indemnified nor is permitted or required to indemnify an Individual Insured.

- (r) "**Organization**" means: (1) the **Named Organization**; (2) any **Subsidiary** thereof; and (3) any **Affiliate** thereof listed by endorsement to this policy, but solely with respect to the **Coverage Sections** indicated on such endorsement.
- (s) "**Outside Entity**" means any not-for-profit organization under section 501(c) of the Internal Revenue Code of 1986 (as amended), other than a **Subsidiary** or listed **Affiliate**.
- (t) "**Outside Entity Executive**" means any director, trustee, trustee emeritus or governor (or equivalent position) of the **Organization** who is or was acting at the specific request or direction of the **Organization** as a director, trustee, trustee emeritus or governor of an **Outside Entity**. It is understood and agreed that, in the event of a disagreement between the **Organization** and an individual as to whether such individual was acting "at the specific request or direction of the **Organization**," this policy shall abide by the determination of the **Organization** on this issue and such determination shall be made by written notice to the **Insurer** within ninety (90) days after the **Claim** is first reported to the **Insurer** pursuant to the terms of the policy. In the event no determination is made within such period, this policy shall apply as if the **Organization** determined that such **Individual Insured** was not acting at the **Organization's** specific request or direction.
- (u) "**Plan**" means **Plan**, as that term is defined within the FLI Coverage Section.
- (v) "**Policy Aggregate Limit of Liability**" means the **Policy Aggregate Limit of Liability** stated in Item 7(a) of the Declarations.
- (w) "**Policy Period**" means the period of time from the inception date shown in Item 2 of the Declarations to the earlier of the expiration date shown in Item 2 of the Declarations or the effective date of cancellation of this policy.
- (x) "**Pollutants**" means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and Waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
- (y) "**Property Damage**" means damage to, or destruction of tangible or intangible property, including the loss of use thereof, or the loss of use of tangible or intangible property which has not been damaged or destroyed.
- (z) "**Related Wrongful Act**" means a **Wrongful Act** which is the same, related or continuous, or **Wrongful Act** which arises from a common nucleus of facts. **Claims** can allege **Related Wrongful Acts** regardless of whether such **Claims** involve the same or different claimants, **Insureds** or legal causes of action.
- (aa) "**Retaliation**" means a retaliatory act of an **Insured** alleged to be in response to any of the following activities: (1) the disclosure or threat of disclosure by an **Employee** to a superior or to any governmental agency of any act by an **Insured** which is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated

thereunder; (2) the actual or attempted exercise by an **Employee** of any right that such **Employee** has under law, including rights under worker's compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights; (3) the filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign "whistle-blower" law; or (4) **Employee** strikes.

(bb) "**Separate Limit of Liability**" means each **Separate Limit of Liability**, if any, stated in Item 3 of the Declarations.

(cc) "**Shared Limit of Liability**" means each **Shared Limit of Liability**, if any, stated in Item 3 of the Declarations, which limit of liability shall be shared between all of the **Coverage Sections** which are listed below such **Shared Limit of Liability** in the Declarations.

(dd) "**Subsidiary**" means:

With respect to all **Coverage Sections** (other than the Crime Coverage Section):

- (i) any organization of which, on or before the inception date of the **Policy Period**, the **Organization** owns more than fifty percent (50%) of the voting interest, either directly, or indirectly through one or more of its **Subsidiaries**, or has, on or before the inception of the **Policy Period**, the right to elect or appoint more than fifty percent (50%) of the voting directors, or trustees, either directly or indirectly through one or more of its **Subsidiaries**;
- (ii) automatically any not-for-profit organization which becomes a **Subsidiary** during the **Policy Period** and of which the book value of such entity's assets determined in accordance with Generally Accepted Accounting Principles ("GAAP") totals less than 30% of the similarly calculated assets of the **Named Organization** as of the inception date of the **Policy Period**;
or
- (iii) any for-profit organization which becomes a **Subsidiary** during the **Policy Period** and of which the book value of such entity's assets determined in accordance with "GAAP" totals less than 20% of the similarly calculated assets of the **Named Organization** as of the inception date of the **Policy Period**.

With regard to subparagraphs (ii) and (iii) above, the **Named Organization** shall provide the **Insurer** with full particulars of the **Subsidiary** before the end of the **Policy Period**.

Any organization which becomes a **Subsidiary** during the **Policy Period**, but which exceeds the asset limitations stated in subparagraphs (ii) or (iii) above, shall be provided coverage under this policy, but only upon the condition that within 90 days after the date of its becoming a **Subsidiary**, the **Named Organization** shall have provided the **Insurer** with full particulars of the new **Subsidiary** and agreed to any additional premium or amendment of the provisions of this policy required by the **Insurer** relating to such new **Subsidiary**. Further, the coverage as shall be afforded to the new **Subsidiary** is conditioned upon the **Named Organization** paying when due any additional premium required by the **Insurer** relating to such new **Subsidiary**.

An organization becomes a **Subsidiary** when the **Named Organization** owns more than fifty percent (50%) of the voting interest, either directly, or indirectly through one or more of its **Subsidiaries**, or has, on or before the inception date of the **Policy Period**, the right to elect or appoint more than fifty percent (50%) of the voting directors, or trustees, either directly or indirectly through one or more of its **Subsidiaries**.

In all events, such coverage as is afforded under this policy with respect to a **Claim** made against any **Subsidiary**, or any **Individual Insured** of a **Subsidiary**, shall only apply for **Wrongful Acts** committed or allegedly committed after the effective time that such **Subsidiary** became a **Subsidiary** and prior to the time that such **Subsidiary** ceased to be a **Subsidiary**.

(ee) “**Wrongful Act**” means a **Wrongful Act**, as that term is defined within each Coverage Section.

3. EXTENSIONS

Subject otherwise to the terms hereof, this policy shall cover **Loss** arising from any **Claims** made against (i) the estates, heirs or legal representatives of deceased **Individual Insureds**, and the legal representatives of **Individual Insureds** in the event of an **Individual Insured’s** incompetency, insolvency or bankruptcy, who were **Individual Insureds** at the time the **Wrongful Acts** upon which such **Claims** are based were committed; and (ii) the lawful spouse or **Domestic Partner** of an **Individual Insured** for all **Claims** arising solely out of his or her status as the spouse or **Domestic Partner** of an **Individual Insured**, including a **Claim** that seeks damages recoverable from marital community property, property jointly held by the **Individual Insured** and the spouse or **Domestic Partner** or property transferred from the **Individual Insured** to the spouse or **Domestic Partner**; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged **Wrongful Act** of the spouse or **Domestic Partner**, but shall apply only to **Claims** arising out of any actual or alleged **Wrongful Acts** of an **Individual Insured**, subject to the policy's terms, conditions and exclusions.

4. EXCLUSIONS

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

- (a) arising out of, based upon or attributable to the gaining of any profit or advantage to which any final adjudication establishes the **Insured** was not legally entitled;
- (b) alleging, arising out of, based upon or attributable to the facts alleged, or to the same or **Related Wrongful Act** alleged or contained in any **Claim** which has been reported, or in any circumstances of which notice has been given, under any policy of which this policy is a renewal or replacement or which it may succeed in time;
- (c) alleging, arising out of, based upon or attributable to, as of the **Continuity Date**, any pending or prior: (1) litigation; or (2) administrative or regulatory proceeding or investigation; or the alleging of any **Wrongful Act** which is the same or a **Related Wrongful Act** to that alleged in such pending or prior litigation or administrative or regulatory proceeding or investigation;

(d) alleging, arising out of, based upon, attributable to or in any way involving, directly or indirectly, **Bodily Injury or Property Damage**; provided, however, that with respect to the FLI Coverage Section only, this exclusion shall not apply to **Defense Costs** incurred in the defense of a **Claim** alleging a **Breach of Fiduciary Duty**;

(e) alleging, arising out of, based upon, attributable to or in any way involving, directly or indirectly:

- (1) the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**; or
- (2) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**,

including, but not limited to, a **Claim** alleging damage to the **Organization** or its members;

(f) for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar provisions of any federal, state or local statutory law or common law; provided, however, that:

- (1) with respect to the EPL Coverage Section only, this exclusion shall not apply to (i) a **Claim** arising out of a violation of the Equal Pay Act, or (ii) **Loss** arising from a **Claim** for **Retaliation**; or
- (2) with respect to the FLI Coverage Section only, this exclusion shall not apply to a **Claim** arising out of a violation of **Employee Benefit Law**;

(g) alleging, arising out of, based upon, attributable to or in any way involving, directly or indirectly, the refusal, failure or inability of any **Insured(s)** to pay wages or overtime pay for services rendered (hereinafter, "Earned Wages") (as opposed to tort-based back pay or front pay damages) or for improper payroll deductions taken by any **Insured(s)** from any **Employee(s)** or purported **Employee(s)**, including, but not limited to, (i) any unfair business practice claim alleged because of the failure to pay Earned Wages, or (ii) any **Claim** seeking Earned Wages because any **Employee(s)** or purported **Employee(s)** was improperly classified or mislabeled as "exempt";

(h) alleging, arising out of, based upon or attributable to any obligation pursuant to any workers' compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar benefits; provided, however, that this exclusion shall not apply:

- (1) with respect to the EPL Coverage Section only, to **Loss** arising from a **Claim** for **Retaliation**;
or
- (2) to the extent coverage is afforded pursuant to FLI Coverage Section only;

For the purpose of determining the applicability of the Exclusions 4(a), 4(d), 4(e), 4(f), 4(g) and 4(h) above: (1) the facts pertaining to and knowledge possessed by any **Insured** shall not be imputed to any other **Individual Insured**; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer (or equivalent positions) of the **Organization** shall be imputed to the **Organization**.

This Clause 4. **EXCLUSIONS** shall not be applicable to **Crisis Management Loss** (as such term is defined in the D&O Coverage Section).

5. LIMIT OF LIABILITY

(a) With respect to all **Coverage Sections**, other than the **Crime Coverage**, the following shall apply:

POLICY AGGREGATE LIMIT OF LIABILITY (FOR ALL LOSS UNDER THIS POLICY COMBINED - INCLUDING DEFENSE COSTS)

The **Policy Aggregate Limit of Liability** stated in Item 7(a) of the **Declarations** is the maximum limit of the **Insurer's** liability for all **Loss** under all **Coverage Sections** combined, arising out of all **Claims** first made against the **Insureds** during the **Policy Period** or the **Discovery Period** (if applicable); however, the **Policy Aggregate Limit of Liability** for the **Discovery Period** shall be part of, and not in addition to, the **Policy Aggregate Limit of Liability** for the **Policy Period**. Further, a **Claim** which is made subsequent to the **Policy Period** or **Discovery Period** (if applicable), which pursuant to Clause 7(b) or 7(c) is considered made during the **Policy Period** or **Discovery Period**, shall also be subject to the **Policy Aggregate Limit of Liability** stated in Item 7(a) of the **Declarations** and subject to the applicable **Separate Limit of Liability**, if any.

If **Separate Limits of Liability** are stated in Item 3 of the **Declarations**, then each such **Separate Limit of Liability** shall be the maximum limit of the **Insurer's** liability for all **Loss** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** or the **Discovery Period** (if applicable) with respect to the applicable **Coverage Section** as stated on the **Declarations**; provided, however, the **Separate Limit of Liability** for the **Discovery Period** shall be part of, and not in addition to, the **Separate Limit of Liability** for the **Policy Period**. The **Separate Limits of Liability** shall be part of and not in addition to the **Policy Aggregate Limit of Liability** for all **Loss** under this policy as stated in Item 7(a) of the **Declarations** and shall in no way serve to increase the **Insurer's Limit of Liability** as therein stated.

If **Shared Limits of Liability** are stated in Item 3 of the **Declarations**, then each such **Shared Limit of Liability** shall be the maximum limit of the **Insurer's** liability for all **Loss** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** or the **Discovery Period** (if applicable) with respect to all **Coverage Sections** for which such **Shared Limit of Liability** is applicable, as indicated on the **Declarations**; provided, however, with respect to all **Coverage Sections** that have a **Shared Limit of Liability**, the **Shared Limit of Liability** for the **Discovery Period** shall be part of, and not in addition to, the **Shared Limit of Liability** for the **Policy Period**. Any **Shared Limit of Liability** shall be part of, and not in addition to, the **Policy Aggregate Limit of Liability** for all **Loss** under this

policy as stated in Item 7(a) of the Declarations and shall in no way serve to increase the **Policy Aggregate Limit of Liability** as therein stated.

Defense Costs are not payable by the Insurer in addition to the **Policy Aggregate Limit of Liability** or any **Separate Limit of Liability** or **Shared Limit of Liability**. Defense Costs are part of Loss and as such are subject to the **Policy Aggregate Limit of Liability** for Loss and any applicable **Separate Limit of Liability** or **Shared Limit of Liability**. Amounts incurred for Defense Costs shall be applied against the Retention amount.

(b) Solely with respect to the Crime Coverage Section, the following shall apply:

The most the **Insurer** will pay for loss in any one **Occurrence**, as defined within the Crime Coverage Section, is the applicable **Per Occurrence Limit of Liability** shown in Item 5 of the Declarations.

6. RETENTION/DEDUCTIBLE CLAUSE

(a) With respect to all Coverage Sections other than the Crime Coverage Section, the following shall apply:

The **Insurer** shall only be liable for the amount of **Loss** arising from a **Claim** which is in excess of the applicable Retention amount stated in Item 3 of the Declarations, such Retention amount to be borne by the **Organization** and/or the **Insureds** and shall remain uninsured, with regard to: (i) all **Indemnifiable Loss**; and (ii) **Loss** of the **Organization**. A single Retention amount shall apply to **Loss** arising from all **Claims** alleging the same **Wrongful Act** or **Related Wrongful Acts**. In the event a **Claim** triggers more than one amount stated in Item 3 of the Declarations, only the highest such amount shall apply, which amount shall apply to all **Loss** under such **Claim**.

Notwithstanding the foregoing, with respect to any **Crisis Management Event** (as defined in the D&O Coverage Section), the **Insurer** shall only be liable for the amount of **Crisis Management Loss** (as defined in the D&O Coverage Section) arising from a **Crisis Management Event** (as defined in the D&O Coverage Section) which is in excess of the applicable Retention stated in Item 3 of the Declarations, such Retention amount to be borne by the **Organization** and shall remain uninsured, with regard to all **Crisis Management Loss** (as defined in the D&O Coverage Section).

In the event an **Organization** refuses to pay an applicable Retention due to **Financial Insolvency**, then the **Insurer** shall commence advancing **Loss** within the Retention, subject to the other terms, conditions and exclusions of this policy, provided that (i) the **Insurer** shall be entitled to recover the amount of **Loss** advanced within the Retention from the **Organization** pursuant to Clause 10. SUBROGATION, of this General Terms and Conditions; and (ii) the **Organization** hereby agrees to indemnify the **Insureds** to the fullest extent permitted by law taking all steps necessary in furtherance thereto, including the making in good faith of any required application for court approval and the passing of any required corporate resolution or the execution of any contract. The **Named Organization** and all **Subsidiaries** and **Affiliates** will be conclusively deemed to have indemnified the **Individual Insureds** to the extent that the **Organization** is permitted or required to

indemnify them pursuant to law, common or statutory, or contract, or the charter or by-laws of the Organization.

(b) Solely with respect to the Crime Coverage Section, the following shall apply:

The Insurer will not pay for loss in any one Occurrence, as defined within the Crime Coverage Section, unless the amount of loss exceeds the applicable Deductible Amount shown in Item 5 of the Declarations. The Insurer will then pay the amount of loss in excess of the Deductible Amount, up to the applicable Per Occurrence Limit of Liability. In the event more than one Deductible Amount could apply to the same loss, only the highest Deductible Amount may be applied.

7. NOTICE/CLAIM REPORTING PROVISIONS

Notice hereunder shall be given in writing to AIG Property Casualty, Financial Lines Claims, P.O. Box 25947, Shawnee Mission, KS 66225. Notice shall include and reference this policy number as indicated in the Declarations, as well as the Coverage Section(s) under which the Claim is being noticed. If mailed, the date of mailing shall constitute the date that such notice was given and proof of mailing shall be sufficient proof of notice.

1. With respect to all Coverage Sections, other than the Crime Coverage Section, the following shall apply:

(a) The Insureds shall, as a condition precedent to the obligations of the Insurer under this policy, give written notice to the Insurer of any Claim made against an Insured or any Crisis Management Event (as defined in the D&O Coverage Section) as soon as practicable and either:

- (1) anytime during the Policy Period or during the Discovery Period (if applicable); or
- (2) within 30 days after the end of the Policy Period or the Discovery Period (if applicable), as long as such Claim is reported no later than 30 days after the date such Claim was first made against an Insured.

(b) If written notice of a Claim has been given to the Insurer pursuant to Clause 7(a) above, then any Claim which is subsequently made against the Insureds and reported to the Insurer alleging, arising out of, based upon or attributable to the facts alleged in the Claim for which such notice has been given, or alleging any Wrongful Act which is the same as or is a Related Wrongful Act to that alleged in the Claim of which such notice has been given, shall be considered made at the time such notice was given.

(c) If during the Policy Period or during the Discovery Period (if applicable) the Insureds shall become aware of any circumstances which may reasonably be expected to give rise to a Claim being made against the Insureds and shall give written notice to the Insurer of the circumstances and the reasons for anticipating such a Claim, with full particulars as to dates, persons and entities involved, then any Claim which is subsequently made against the Insureds and reported to the Insurer alleging, arising out of, based upon or attributable to

such circumstances or alleging any **Wrongful Act** which is the same as or is a **Related Wrongful Act** to that alleged or contained in such circumstances, shall be considered made at the time such notice of such circumstances was given.

2. Solely with respect to the Crime Coverage Section, the following shall apply:

(a) Duties in The Event of Loss:

After any **Insured** discovers a loss or a situation that may result in loss of or damages to **Money, Securities or Other Property**, the **Insured** must:

- (1) Notify the **Insurer** as soon as possible, but no later than 60 days after discovery of a loss or a situation that may result in loss of or damages to **Money, Securities or Other Property**. If the **Insured** has reason to believe that any loss (except for loss covered under Insuring Agreements A or B of the Crime Coverage Section) involves a violation of law, the **Insured** must also notify the local law enforcement authorities.
- (2) Submit to an examination under oath at the **Insurer's** request and provide the **Insurer** with a signed statement of the **Insured's** answers.
- (3) Give the **Insurer** a detailed, sworn proof of loss within 120 days of the discovery of a loss or a situation that may result in loss of or damages to **Money, Securities or Other Property**, provided, however, that such proof of loss shall not be required solely in the event the **Insured** elects to have an independent Investigative Specialist investigate the facts and determine the quantum of loss pursuant to Clause 4.A.4 of the Crime Coverage Section and such report is issued pursuant to the terms and conditions of that Clause.
- (4) Cooperate with the **Insurer** in the investigation and settlement of any loss.

8. CANCELLATION CLAUSE

This policy may be canceled by the **Named Organization** at any time only by mailing written prior notice to the **Insurer** or by surrender of this policy to the **Insurer** or its authorized agent. If this policy is canceled by the **Named Organization**, the **Insurer** shall retain the customary short rate proportion of the premium herein.

This policy may be canceled by or on the behalf of the **Insurer** only in the event of nonpayment of premium by the **Named Organization**. In the event of nonpayment of premium by the **Named Organization**, the **Insurer** may cancel this policy by delivering to the **Named Organization** or by mailing to the **Named Organization**, by registered, certified or other first class mail, at the **Named Organization's** address as shown in Item 1 of the Declarations, written notice stating when, not less than thirty (30) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice. The **Policy Period** terminates at the date and hour specified in such notice, or at the date and time of surrender. The **Insurer** shall have the right to the premium amount for the portion of the **Policy Period** during which the policy was in effect.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

9. CHANGE IN CONTROL OF NAMED ORGANIZATION

With respect to all Coverage Sections, other than the Crime Coverage Section, the following shall apply:

If during the Policy Period:

- a. the **Named Organization** shall consolidate with or merge into, or sell all or substantially all of its assets to, any other person or entity, or group of persons or entities acting in concert;
- b. any person or entity, or group of persons or entities, acting in concert shall acquire an amount of the voting interest representing more than fifty percent (50%) of the voting power for the election or appointment of directors, trustees or members of the board of managers of the **Named Organization**, or acquires the voting rights of such an amount of such interest; or
- c. the **Named Organization** shall change from not-for-profit to for-profit status,

(any of the above events herein referred to as the "**Transaction**")

then this policy shall continue in full force and effect as to **Wrongful Acts** occurring prior to the effective time of the **Transaction**, but there shall be no coverage afforded by any provision of this policy for any actual or alleged **Wrongful Act** occurring after the effective time of the **Transaction**. This policy may not be canceled after the effective time of the **Transaction** and the entire premium for this policy shall be deemed earned as of such time. The **Named Organization** shall also have the right to an offer by the Insurer of a **Discovery Period** described in the Clause in each applicable Coverage Section entitled "Discovery Clause."

The **Named Organization** shall give the Insurer written notice of the **Transaction** as soon as practicable, but not later than thirty (30) days after the effective date of the **Transaction**.

10. SUBROGATION

With respect to all Coverage Sections, other than the Crime Coverage Section, the following paragraph shall apply:

In the event of any payment under this policy, the Insurer shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery thereof, and the **Insureds** shall execute all papers required and shall do everything that may be necessary to secure such rights including the execution of such documents necessary to enable the Insurer to effectively bring suit in the name of any **Insureds**. In no event, however, shall the Insurer exercise its rights of subrogation against an **Individual Insured** under this policy unless such **Individual Insured** has been convicted of a criminal act, or been determined by a final adjudication to have committed a dishonest or fraudulent act or to have obtained any profit or advantage to which such **Individual Insured** was not legally entitled.

Solely with respect to the FLI Coverage Section, in the event this policy has been purchased by an **Insured** other than a **Plan**, the Insurer shall have no right of recourse against an **Insured**.

Notwithstanding the foregoing, the **Insurer** shall have a right of recourse against an **Insured** arising out of a **Claim** by an **Insured** against another **Insured** unless such **Claim** is instigated and continued totally independent of, and totally without the solicitation of, assistance of or active participation by the **Insured** claimed against.

11. OTHER INSURANCE AND INDEMNIFICATION

Solely with respect to the EPL Coverage Section, unless expressly written to be excess over other applicable insurance, it is intended that the insurance provided by the EPL Coverage Section shall be primary.

With respect to all **Coverage Sections** other than the EPL Coverage Section, such insurance as is provided by this policy shall apply only as excess over any valid and collectible insurance, unless such other insurance is written only as specific excess insurance over the **Policy Aggregate Limit of Liability** provided by this policy. This policy shall be specifically excess of any other policy pursuant to which any other insurer has a duty to defend a **Claim** for which this policy may be obligated to pay **Loss**.

In the event of a **Claim** against an **Insured** arising out of his or her service as an **Outside Entity Executive**, or a **Claim** against an **Insured** for the **Insured's** liability with respect to a leased **Employee** as described in the definition of "**Employee**" in the D&O Coverage Section or the EPL Coverage Section, as applicable, coverage as is afforded by the D&O Coverage Section and the EPL Coverage Section shall be specifically excess of indemnification provided by such **Outside Entity** or such leasing company and any insurance provided to such **Outside Entity** or such leasing company.

Further, in the event other insurance is provided to an **Outside Entity** or leasing company referenced in the above paragraph, or is provided under any pension trust or employee benefit plan fiduciary liability insurance policy, and such other insurance is provided by the **Insurer** or any member company of American International Group, Inc. (AIG) (or would be provided but for the application of the retention amount, exhaustion of the **Limit of Liability** or failure to submit a notice of a **Claim**), then the **Insurer's** maximum aggregate **Limit of Liability** for all **Loss** combined in connection with a **Claim** covered, in part or in whole, by this policy and such other insurance policy issued by AIG, shall not exceed the greater of the **Policy Aggregate Limit of Liability** or any applicable **Separate Limit of Liability** or applicable **Shared Limit of Liability** of this policy or the limit of liability of such other AIG insurance policy.

12. NOTICE AND AUTHORITY

It is agreed that the **Named Organization** shall act on behalf of the **Subsidiaries** and all **Insureds** with respect to the giving of notice of **Claim** or giving and receiving notice of cancellation, the payment of premiums and the receiving of any return premiums that may become due under this policy, the receipt and acceptance of any endorsements issued to form a part of this policy, the exercising or declining to tender the defense of a **Claim** to the **Insurer** and the exercising or declining of any right to a **Discovery Period**.

13. ASSIGNMENT

This policy and any and all rights hereunder are not assignable without the written consent of the Insurer, which shall be in the sole and absolute discretion of the Insurer.

14. ACTION AGAINST INSURER

With respect to all Coverage Sections, other than the Crime Coverage, the following shall apply:

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

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Insurer as a party to any action against the Insureds to determine the Insureds' liability, nor shall the Insurer be impleaded by the Insureds or their legal representatives. Bankruptcy or insolvency of the Insureds or of their estates shall not relieve the Insurer of any of its obligations hereunder.

15. REPRESENTATIONS AND SEVERABILITY

Solely with respect to the D&O Coverage Section and the EPL Coverage Section, the following shall apply:

In granting coverage under this policy, it is agreed that the Insurer has relied upon the statements, warranties and representations contained in the application for this policy (including materials submitted thereto and, if this is a renewal application, all such previous policy applications for which this policy is a renewal) as being accurate and complete. All such statements, warranties and representations are the basis for this policy, are material to the risk assumed by the Insurer and are to be considered as incorporated into this policy.

The Insureds agree that in the event that such statements, warranties and representations are not accurate and complete, then the coverage provided by this policy shall be deemed void *ab initio* solely with respect to any of the following Insureds:

- (1) solely with respect to Loss other than **Non-Indemnifiable Loss**, any **Individual Insured** who knew as of the inception date of the **Policy Period** the facts that were not accurately and completely disclosed in the application;
- (2) with respect to the D&O Coverage Section only, any **Organization**, under Clause 1. Insuring Agreements, **COVERAGE B**, to the extent it indemnifies any **Individual Insured** referenced in subparagraph (1) above;
- (3) with respect to the D&O Coverage Section only, any **Organization**, under Clause 1. Insuring Agreement, **COVERAGE C**, if any past or present chief executive officer, chief operating officer or chief financial officer (or any equivalent position) of an **Organization** knew, as of the inception date of the **Policy Period**, the facts that were not accurately and completely disclosed in the application;

- (4) with respect to the EPL Coverage Section only, any **Organization**, to the extent it indemnifies any **Individual Insured** referenced in subparagraph (1) above; and
- (5) with respect to the EPL Coverage Section only, any **Organization**, if any past or present chief executive officer, chief operating officer, chief financial officer or director of human resources (or any equivalent position) of an **Organization** knew, as of the inception date of the **Policy Period**, the facts that were not accurately and completely disclosed in the application,

whether or not such **Individual Insured** knew that such facts were not accurately and completely disclosed in the application.

Except as provided in (1) through (5) above, no **Individual Insured's** knowledge shall be imputed to any other **Insured**.

Solely with respect to any **Non-Indemnifiable Loss** of any **Individual Insured**, under no circumstances shall the coverage provided by this policy be deemed void, whether by rescission or otherwise, but such coverage will be subject to all other terms, conditions and exclusions of the policy.

16. TERRITORY

- (a) With respect to all **Coverage Sections**, other than the Crime Coverage Section, the following shall apply:

WORLDWIDE TERRITORY

Where legally permissible, this policy shall apply to any **Claim** made against any **Insured** anywhere in the world, with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.

- (b) Solely with respect to the Crime Coverage Section, the following shall apply:

TERRITORY

This policy covers acts committed or events occurring within the United States of America (including its territories and possessions) and Puerto Rico.

17. SERVICE OF SUIT

It is agreed that in the event of failure of the **Insurer** to pay any amount claimed to be due hereunder, the **Insurer**, at the request of the **Insured**, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this Clause 17 constitutes, or should be understood to constitute, a waiver of the **Insurer's** rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon General Counsel, Legal Department, AIG Specialty Insurance Company, 175 Water Street New York, NY 10038, or his or her representative, and that in any suit instituted against the **Insurer** upon this contract, the

Insurer will abide by the final decision of such court or of any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, the Insurer hereby designates the Superintendent, Commissioner, or Director of Insurance, or other officer specified for that purpose in the statute, or his or her successor or successors in office as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the Insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above-named General Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

18. HEADINGS

The descriptions in the headings of this policy are solely for convenience and form no part of the terms and conditions of coverage.