



POLICY DECLARATIONS

PRIVATE COMPANY MANAGEMENT LIABILITY INSURANCE POLICY INCLUDING EMPLOYMENT PRACTICES CLAIMS COVERAGE

THIS POLICY IS A CLAIMS MADE AND REPORTED POLICY WHICH COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY LOSS, INCLUDING JUDGMENTS OR SETTLEMENT AMOUNTS, MAY BE REDUCED BY AMOUNTS INCURRED FOR COSTS OF DEFENSE. FURTHER NOTE THAT AMOUNTS INCURRED FOR COSTS OF DEFENSE MAY BE APPLIED AGAINST THE APPLICABLE RETENTION AMOUNT.

PLEASE READ THIS POLICY CAREFULLY.



Item A

Policy Number:

Renewal of Policy Number:

Item B

Named Insured:

Broker Name:

Mailing Address:

Mailing Address:

Item C

Policy Period:

From DATE to DATE at 12:01 A.M. Standard Time at your mailing address shown above.

Item D

LIMITS OF LIABILITY*	Shared Limit	Separate Limit	Aggregate Limit
Aggregate Limit for all Loss under all Coverages combined:			\$,000,000
Limit for all Loss for all Claims other than Employment Practices Claims and/or Securities Claims	\$,000,000	N/A	
Limit for all Loss for all Claims for Employment Practices Wrongful Acts	\$,000,000	N/A	
Limit for all Loss for all Claims for Third Party Discrimination	\$,000,000		
Limit of Liability for all Loss for all Securities Claims	\$,000,000		
SUBLIMITS OF LIABILITY*			
Sublimit for all Loss for all Derivative Demand Investigation Costs	\$,000		
Sublimit for all Loss for all Crisis Management Expenses	\$,000		

*Includes Costs of Defense

Item E

RETENTION*	
COVERAGE PART	RETENTION
Each Claim	\$,000
Each Claim alleging an Employment Practices Wrongful Act	\$,000
Each Claim alleging Third Party Discrimination	\$,000
Each Securities Claim	\$,000

*Applies to Costs of Defense

Item F

DISCOVERY PERIOD	
Term	Additional Premium
One Year	100%

Item G

PRIOR AND PENDING LITIGATION DATE	
COVERAGE PART	DATE
Securities Claims:	
Employment Practices Claims:	
All other Claims:	

Item H

Notices to:

Notice of Claim or Potential Claim:

Attn: Claims Department

ANV Global Services, Inc.,
101 Hudson Street, Suite 3606
Jersey City, NJ 07302

Email: MGAClaims@anv.us.com

All other notices

PL Underwriting Group

ANV Global Services, Inc.
101 Hudson Street, Suite 3606
Jersey City, NJ 07302

PLUnderwriting@anv.us.com

Item I


Premium: \$,000



IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF THIS POLICY, WE AGREE TO PROVIDE THE INSURED WITH THE INSURANCE AS STATED IN THIS POLICY.

THESE DECLARATIONS, TOGETHER WITH THE COMPLETED AND SIGNED APPLICATION FOR THIS POLICY INCLUDING INFORMATION FURNISHED IN CONNECTION THEREWITH, AND THE COVERAGE FORM AND ANY ENDORSEMENTS ATTACHED HERETO, CONSTITUTE THE ABOVE NUMBERED INSURANCE POLICY.

(Date)



(Authorized Representative)

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THIS IS A CLAIMS MADE AND REPORTED POLICY WITH COSTS OF DEFENSE INCLUDED IN THE LIMIT OF LIABILITY. COVERAGE APPLIES ONLY TO THOSE CLAIMS THAT ARE FIRST MADE AND REPORTED DURING THE POLICY PERIOD OR ANY DISCOVERY PERIOD, IF APPLICABLE. WORDS PRINTED IN BOLD FACE, OTHER THAN CAPTIONS, ARE DEFINED IN THE POLICY. VARIOUS PROVISIONS IN THIS POLICY RESTRICT COVERAGE. PLEASE READ THE ENTIRE POLICY CAREFULLY.

PRIVATE COMPANY MANAGEMENT LIABILITY INSURANCE POLICY
INCLUDING EMPLOYMENT PRACTICES CLAIMS COVERAGE

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the Insurer shown in the Declarations, including those furnished in the Application, and subject to all terms, conditions and limitations of this Policy, it is agreed:

Section I. Insuring Agreements

- A. The Insurer shall pay on behalf of an Insured Person all Loss for which such Insured Person is not indemnified by the Company and which the Insured Person is legally obligated to pay as a result of a Claim for a Wrongful Act first made against the Insured Person during the Policy Period, or the applicable Discovery Period pursuant to Section VIII, and reported to the Insurer in compliance with Section VII.
- B. The Insurer shall pay on behalf of the Company all Loss for which the Company grants indemnification to an Insured Person, and for which the Insured Person has become legally obligated to pay on account of a Claim for a Wrongful Act first made against the Insured Person during the Policy Period, or the applicable Discovery Period pursuant to Section VIII, and reported to the Insurer in compliance with Section VII.
- C. The Insurer shall pay on behalf of the Company all Loss that the Company shall be legally obligated to pay as a result of a Claim for a Wrongful Act first made against the Company during the Policy Period, or the applicable Discovery Period pursuant to Section VIII, and reported to the Insurer in compliance with Section VII.
- D. The Insurer shall pay on behalf of the Company all Derivative Demand Investigation Costs incurred with the Insurer's prior written consent that the Company shall become legally obligated to pay as a result of a Derivative Demand first received by the Company during the Policy Period, or the applicable Discovery Period pursuant to Section VIII, for a Wrongful Act taking place before or during the Policy Period, and reported to the Insurer in compliance with Section VII.

Coverage for all Derivative Demand Investigation Costs shall not exceed the Derivative Demand Investigation Costs Sublimit of Liability set forth in Item D. of the Declarations.

Such Sublimit of Liability shall be the maximum amount that the Insurer shall pay under this Insuring Agreement for all Derivative Demand Investigation Costs covered under this Insuring Agreement. Such Sublimit of Liability shall be subject

to, part of, and not in addition to, the Aggregate Limit of this Policy set forth in the Declarations. No Retention shall apply to this Insuring Agreement D.

- E. The Insurer shall pay on behalf of the Company all Crisis Management Expenses incurred with the Insurer's written consent, which the Company shall become legally obligated to pay as a result of a Crisis Event first occurring during the Policy Period and reported to the Insurer in compliance with Section VII. This Insuring Agreement E. shall be subject to the Sublimit for Crisis Management Expenses set forth in the Declarations. The Sublimit for Crisis Management Expenses shall be the maximum amount that the Insurer shall pay under this Insuring Agreement for all Crisis Management Expenses from all Crisis Events covered under this Insuring Agreement. Such Sublimit shall be subject to, part of, and not in addition to, the Aggregate Limit of this Policy set forth in the Declarations. No Retention shall apply to this Insuring Agreement E.

Section II. Definitions

- A. "Affiliate" shall mean (i) any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is in common control with, an Insured; or (ii) any person or entity that directly, or indirectly through one or more intermediaries, is a successor in interest to an Insured.
- B. "Application" shall mean each and every application submitted to the Insurer for consideration of this insurance together with any attachments to such applications, other materials submitted therewith or incorporated therein, and any other documents submitted in connection with the underwriting of this Policy. Application shall also mean any warranties submitted over the last three (3) years relating to any coverage for which this Policy is a renewal or replacement.
- C. "Claim" shall mean
- 1) a written demand for monetary or other legal relief made against any Insured (including any request to toll or waive any statute of limitations);
 - 2) a civil, administrative, regulatory or arbitration proceeding, against any Insured Person or the Company seeking monetary or non-monetary relief, including any proceeding or investigation by or before the U.S. Equal Employment Opportunity Commission ("EEOC") or any other federal, state or local governmental body, commenced by: a) the service of a complaint or similar pleading; or b) the filing of a notice of charges, investigative order or similar document;
 - 3) a criminal investigation or proceeding initiated against any Insured Person, in their capacity as such, commenced by the return of an indictment, information or similar pleading in a criminal proceeding against such Insured Person;
 - 4) except with respect to an Employment Practices Claim, any civil, criminal, administrative or regulatory investigation of an Insured Person,
 - a) once such Insured Person is identified in writing by such investigating authority as the subject of an investigation that may lead to a criminal, civil, administrative, regulatory or other enforcement proceeding;

- b) in the case of an investigation by the Securities and Exchange Commission or other federal, state or foreign government authority, after the service of a subpoena or written "Wells" or other notice from the Securities and Exchange Commission or other federal, state or foreign government authority;
- 5) solely with respect to Insuring Agreement A, and solely with respect to Costs of Defense, any written request or subpoena to interview or depose an Insured Person in his or her capacity as such or to produce documents by an Insured Person, provided such request or subpoena is not part of a regular examination, audit or inspection or part of a general oversight or compliance activity of the Insured;
- 6) solely for purposes of coverage afforded under Insuring Clause I. D, a Derivative Demand; or
- 7) a Securities Claim.

However, in no event shall the term "Claim" include any labor or grievance proceeding which is subject to a collective bargaining agreement, any government or regulatory audits or inspections or other routine compliance activities.

A Claim shall be deemed "made" at the time it is received by an Insured.

- D. "Company" shall mean the entity or organization identified as the Named Insured in the Declarations and any Subsidiary, and in the event of a bankruptcy, shall include the Company and any Subsidiary as a debtor in possession, if any, as such term is used in Chapter 11 of the United States Bankruptcy Code.
- E. "Costs of Defense" shall mean reasonable and necessary legal fees, costs and expenses incurred subject to Section VI, resulting solely from the investigation, defense or appeal of any Claim against an Insured, (including the costs of an appeal bond, attachment bond or similar bond but will not include the obligation to apply for or furnish such bonds). Costs of Defense shall not include any salaries, wages, overhead, benefits or benefit expenses associated with any Insured. Costs of Defense shall not include any fees, costs or expenses incurred prior to the date that a Claim is first reported to the Insurer. Costs of Defense will, however, include legal fees necessary to respond to a potential Claim identified under Section VII. B. if incurred at the Insurer's request and direction.
- F. "Crisis Event" shall mean one of the following events which, in the good faith opinion of the Chief Financial Officer of the Company, did cause or is reasonably likely to cause damage to the public confidence in the Company:
 - 1) Negative earnings or sales announcement
The public announcement of the Company's past or future earnings or sales, which is substantially less favorable than any of the following: (i) the Company's prior year's earnings or sales for the same period, (ii) the Company's prior public statements or projections regarding earnings or sales for such period, or (iii) an outside securities analyst's published estimate of the Company's earnings or sales.
 - 2) Loss of a patent, trade mark or copyright or major customer or contract
The public announcement of an unforeseen loss of: (i) the Company's intellectual property rights for a patent, trademark or copyright, other than by expiration; (ii) a major customer or client of the Company; or (iii) a major contract with the Company.
 - 3) Product recall or delay

The public announcement of the recall of a major product of the Company or the unforeseen delay in the production of a major product of the Company.

4) Mass tort

The public announcement or accusation that the Company has caused the bodily injury, sickness, disease, death or emotional distress of a group of persons, or damage to or destruction of any tangible group of properties, including the loss of use thereof. However, the term Crisis Event shall not include any actual, alleged or threatened discharge, dispersal, release or escape of Pollutants or any event relating to the hazardous properties of nuclear materials.

5) Employee layoffs or loss of key executive officer(s)

The public announcement of employee layoffs, or the death or resignation of one or more key executive officer(s) of the Company.

6) Elimination or suspension of dividend

The public announcement of the elimination or suspension of a regularly scheduled dividend previously being paid by the Company.

7) Write-off of assets

The public announcement that the Company intends to write off a material amount of its assets.

8) Debt restructuring or default

The public announcement that the Company has defaulted or intends to default on its debt or intends to engage in a debt restructuring.

9) Bankruptcy

The public announcement that the Company intends to file for bankruptcy protection or that a third party is seeking to file for involuntary bankruptcy on behalf of the Company; or the imminence of bankruptcy proceedings, whether voluntary or involuntary.

10) Governmental or regulatory litigation

The public announcement of the commencement or threat of commencement of litigation or governmental or regulatory proceedings against the Company.

11) Other

Any other event specifically scheduled by written endorsement to the Policy.

It is a condition for coverage to apply to such Crisis Event that such specific event, circumstances or Wrongful Act has led, or in the absence of the incurring of Crisis Management Expenses might reasonably be expected to lead, to the publication of materially unfavorable information in a newspaper, magazine, or other written media of general circulation, or in a radio or television broadcast specifically regarding the Company.

A Crisis Event shall first commence when the Company or any of its Executive Officers shall first become aware of such Crisis Event. A Crisis Event shall conclude once a Crisis Management Firm advises the Company that such Crisis Event no longer exists or when the Sublimit for Crisis Management Expenses set forth in Item D. of the Declarations has been exhausted.

- G. "Crisis Management Expenses" shall mean the following reasonable and necessary expenses first incurred by the Company with the Insurer's consent during a Crisis Event, or within sixty (60) days prior to and in anticipation of adverse publication relating to the Crisis Event, but in no event later than 12 months after the Crisis Event first begins:
- 1) the fees and expenses of a Crisis Management Firm to advise the Company on minimizing potential financial damage to the Company arising out of the actual or anticipated Crisis Event, including, but not limited to, maintaining and restoring public confidence in the Company; and
 - 2) those costs incurred pursuant to the instructions of a Crisis Management Firm for printing, advertising (including television, print or other media) and mailing of materials specifically intended to inform or educate the general public about the Crisis Event.
- H. "Crisis Management Firm" shall mean any public relations firm, crisis management firm or law firm listed in the Crisis Management Firm Panel List attached to this Policy or approved by the Insurer, to advise the Company on minimizing the potential financial damage to the Company arising out of the actual or anticipated Crisis Event.
- I. "Derivative Demand" means a written demand by any security holder of the Company, in their capacity as such, upon the Board of Directors of the Company to investigate or bring a civil proceeding on behalf of, or in the name or the right of, the Company in a court of law against any of the Directors and Officers for a Wrongful Act, but only if such demand is made without the assistance, participation or solicitation of any Executive Officer.
- J. "Derivative Demand Investigation Costs" shall mean reasonable and necessary costs, fees and expenses (other than regular or overtime wages, salaries, fees, or benefits of the directors, officers or employees of the Company or the Company's overhead expenses) incurred by the Company (including its Board of Directors or any committee of its Board of Directors) solely with respect to an evaluation required to determine whether it is in the best interest of the Company to prosecute the claims alleged in a Derivative Demand and prior to any Claim first made in connection with such Derivative Demand. In no event shall Derivative Demand Investigation Costs include any costs, fees or expenses incurred in a Claim.
- K. "Directors and Officers" shall mean all persons who were, now are, or shall be duly elected or appointed directors, officers, trustees or members of the board of managers of the Company and all persons serving in a functionally equivalent role for the Company if serving in such a position outside the United States.
- L. "Domestic Partner" shall mean 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 Company.
- M. "Employee" shall mean any past, present or future employee of the Company including any part-time, seasonal or temporary employee or any applicant for employment, solely in his or her capacity as such. Any person leased to the Company and any person hired by written contract to perform work for the Company, or who is an independent contractor for the Company, shall also be an Employee, but only if the Company indemnifies the person in the same manner as is provided to the Company's employees.

- N. "Employment Practices Claim" shall mean any Claim brought by or on behalf of any Employee alleging an Employment Practices Wrongful Act or, if coverage is purchased as stated in Item D of the Declarations, any Claim alleging Third Party Discrimination.
- O. "Employment Practices Wrongful Act" shall mean:
- 1) wrongful, excessive or unfair discipline of an Employee;
 - 2) wrongful failure or refusal to hire or promote or wrongful demotion;
 - 3) abusive or hostile work environment;
 - 4) violation of any federal, state or local law concerning discrimination in employment, including but not limited to the Americans with Disabilities Act of 1992; the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967, Title VII of the Civil Rights Act of 1964, the Pregnancy Discrimination Act of 1978, the Civil Rights Act of 1866, the Family and Medical Leave Act of 1993, the Older Workers Benefit Protection Act of 1990, the Equal Pay Act, the Lilly Ledbetter Fair Pay Restoration Act of 2009, or any rule or regulation promulgated thereunder, or any amendments thereto;
 - 5) employment-related misrepresentations or omissions;
 - 6) employment-related libel, slander, or defamation;
 - 7) wrongful failure to grant tenure;
 - 8) wrongful failure to provide an adequate employment policy or grievance procedure for Employees;
 - 9) wrongful failure to provide training, mentoring, or advancement opportunities to an Employee;
 - 10) negligent evaluation of an Employee;
 - 11) Retaliation against an Employee;
 - 12) harassment, including any type of sexual or gender harassment as well as racial, religious, sexual orientation, pregnancy, disability, age or national origin-based harassment;
 - 13) wrongful deprivation of career opportunity of an Employee, including defamatory statements made in connection with an Employee reference;
 - 14) wrongful dismissal, discharge or termination of employment, whether actual or constructive;
 - 15) negligent hiring, discipline, supervision or retention;
 - 16) breach of any implied employment contract of an Employee who is not an Executive Officer;
 - 17) wrongful infliction of emotional distress, mental anguish or humiliation;
 - 18) wrongful failure or refusal to provide equal treatment or opportunities;
 - 19) wrongful failure to promote, transfer or employ or wrongful demotion;
 - 20) violation of the Uniformed Services Employment and Reemployment Rights Act;
 - 21) violation of an Employee's civil rights relating to any of the above;

but only if employment-related and claimed by or on behalf of an Employee in their capacity as such and only if committed or allegedly committed by any of the Insureds in their capacity as such.

- P. "Executive Officer" shall mean any director of the Company as well as the chief executive officer, chief financial officer, general counsel or director of human resources, or equivalent position of any of the foregoing.
- Q. "Financial Insolvency" shall mean the Company becoming a debtor in possession, or the appointment of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the Company. Financial Insolvency shall also mean the filing of a bankruptcy petition by or against the Company under the bankruptcy laws of the United States of America or any equivalent event outside the United States.
- R. "Insured" shall mean any Insured Person and the Company.
- S. "Insured Person" shall mean:
- 1) Directors and Officers;
 - 2) Employees of the Company, other than those identified in S. 1) above, for whom the Company requests coverage at the time the Claim is made;
 - 3) any managing member or manager of any Company organized as a limited liability company;
 - 4) those persons serving in a functionally equivalent role as above for the Company or any Subsidiary operating or incorporated outside the United States;
 - 5) any individual identified above who, at the specific written request of the Company, is serving as a director, officer, trustee, regent or governor, or in an equivalent executive position, of an Outside Entity in their capacity as such.
 - 6) any individual identified in S. 1), 3) or 4) above who, at the specific written request of the Company is serving in an elected or appointed position having fiduciary, supervisory or managerial duties and responsibilities comparable to those of a director, officer, member of Board of Managers, managing member or manager, regardless of the name or title by which such position is designated, of a Joint Venture.
- T. "Insurer" shall refer to the Underwriters providing this insurance.
- U. "Joint Venture" means any corporation, partnership, joint venture, association or other entity, other than a Subsidiary, at any time during which the Company, either directly or through one or more Subsidiary(s):
- 1) owns or controls at least thirty three percent (33%), but not more than fifty percent (50%), in the aggregate of the outstanding securities or other interests representing the right to vote for the election or appointment of those persons of such an entity occupying elected or appointed positions having fiduciary, supervisory or managerial duties and responsibilities comparable to those of a director, officer, member of Board of Managers, managing member or manager of the Company, regardless of the name or title by which such position is designated, of a Joint Venture; or
 - 2) has the right, by contract, ownership of securities or otherwise, to elect, appoint or designate at least thirty three (33%) of those persons described in U.1) above.

- V. "Loss" shall mean compensatory damages, statutory attorneys' fees, pre- and post-judgment interest, Derivative Demand Investigation Costs and Costs of Defense, in excess of the Retention. Loss shall also include, subject to the other terms, conditions and exclusions of this Policy, punitive or exemplary damages and the multiple portions of any multiplied damage award, judgments or settlements to the extent insurable under the law of any applicable jurisdiction most favorable to insurability.

Loss shall not include: (1) civil or criminal fines or penalties imposed by law; (2) taxes; (3) any amount for which an Insured is not financially liable or which is without legal recourse to the Insured; (4) employment-related benefits of any kind, including, but not limited to, stock, stock options, commissions, profit sharing, termination payments, severance, perquisites, deferred compensation or any other type of compensation other than back pay or front pay; (5) any liability or costs incurred by any Insured to modify any buildings or property in order to make a building or property more accessible or accommodating to any disabled person, or any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy, seminar or monitoring (including, but not limited to any consulting fees paid to any law firm) relating to or arising out of an Employment Practices Claim; (6) any portion of damages, judgments or settlements arising out of any Claim alleging that the Company paid an inadequate price or consideration for the purchase of securities or other ownership interest; (7) contractually owed amounts; (8) any disgorgement or restitution of ill-gotten gain or recessionary damages; or (9) matters which are uninsurable under the law pursuant to which this Policy shall be construed.

- W. "Management Control" shall mean that the Company has either:

- 1) an ownership interest of more than fifty percent (50%) that entitles the Company; or
- 2) the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an organization

to elect, appoint or designate a majority of the Board of Directors of a corporation, the management committee of a Joint Venture or partnership or the management board of a limited liability company.

- X. "Outside Entity" shall mean any not-for-profit entity classified as such by the Internal Revenue Code or any for-profit entity, but only if such for-profit entity is specifically added by written endorsement to this Policy.

- Y. "Policy Period" shall mean the policy period as set forth in the Declarations, or its earlier termination if applicable.

- Z. "Pollutant" means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to:

- 1) smoke, vapor, soot, fumes, acids, alkalis, chemicals, metals, lead or materials containing lead, silica, radon, mold or asbestos;
- 2) hazardous, toxic or radioactive matter or nuclear radiation;
- 3) waste, which includes material to be recycled, reconditioned or reclaimed; or
- 4) any other pollutant as defined by applicable federal, state or local statutes, regulations, rulings or ordinances.

- AA. "Pollution" shall mean the actual, alleged or threatened discharge, release, migration, escape or disposal of Pollutants into or on real or personal property, water or the atmosphere. Pollution also means any direction request, demand, order, or state regulatory requirement that the Insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants, or any voluntary decision to do so.
- BB. "Related Wrongful Acts" shall mean Wrongful Acts that arise from a common nucleus of facts, circumstances, situations, events or transactions, regardless of whether such Wrongful Acts are alleged by way of a single or multiple Claim(s) under this Policy or any other policy in effect prior to the inception of this Policy Period.
- CC. "Retaliation" shall mean a Wrongful Act relating to or 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 act 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, Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act, the Occupational Safety and Health Act, or any other law relating to employee rights;
 - 3) the filing of any claim under the Federal False Claims Act, the Sarbanes-Oxley Act of 2002 or any other federal, state, local or foreign "whistleblower" law; or
 - 4) Employee strikes.
- DD. "Securities Claim" shall mean any Claim made against an Insured, including a civil lawsuit or proceeding brought by the Securities and Exchange Commission, or by any similar state or foreign governmental or securities regulatory entity, alleging a violation of any law, regulation or rule, whether statutory or common law, which is:
- 1) brought by any person or entity alleging, arising out of, based upon or attributable to the: (a) purchase or sale of, or (b) offer or solicitation of an offer to purchase or sell, any securities issued by the Company; or
 - 2) brought by a security holder of the Company, arising solely with respect to such security holder's interest in such securities of the Company, whether directly, by class action or derivatively on behalf of the Company.
- EE. "Subsidiary" shall mean:
- 1) any for-profit organization under the Management Control of the Company, either directly or indirectly, on or before the inception of the Policy Period;
 - 2) automatically, any for-profit organization that comes under the Management Control of the Company, either directly or indirectly, during the Policy Period, provided that (1) the organization is not publicly traded, (2) the number of employees of the organization is less than 25% of those of the Company (3) the assets of the organization are less than 25% of those

of the Company and (4) the Company provides the Insurer with full particulars of the new Subsidiary before the end of the Policy Period;

- 3) any for-profit organization, other than those described in paragraph (2) above, that comes under the Management Control of the Company, either directly or indirectly, during the Policy Period, provided that the Company provides the Insurer with the full particulars of the new Subsidiary within 90 days of it becoming a Subsidiary and the Company pays such additional premium and accepts such policy amendments as the Insurer may reasonably require.

An organization shall become a Subsidiary only when the Company has acquired Management Control, either directly or indirectly, and shall cease to be a Subsidiary when the Company ceases to have Management Control. In all events, coverage as may be afforded under this Policy with respect to any Subsidiary or any Insured Person, in their capacity as such with a Subsidiary, shall only apply for Wrongful Acts that occur while the organization is a Subsidiary.

FF. "Third Party Discrimination" shall mean any actual or alleged discrimination, including harassment, or civil rights violation by an Insured against any non-Employee. However, Third Party Discrimination shall not include any actual or alleged price discrimination or violation of any anti-trust law or any similar law designed to protect competition or prevent unfair trade practices.

GG. "Wrongful Act" shall mean:

- 1) any actual or alleged act, omission, error, misstatement, misleading statement, neglect, or breach of duty, by any Insured Person in their capacity as such with the Company, including, if coverage is purchased as stated in the Declarations, any Employment Practices Wrongful Act or Third Party Discrimination;
- 2) any matter claimed against any Insured Person solely by reason of their capacity as such with the Company;
- 3) any matter claimed against any Insured Person arising out of their service as a director, officer, trustee or governor of an Outside Entity, but only if such service is at the specific request or direction of the Company; or
- 4) solely with respect to Insuring Agreement C., any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty, or, if coverage is purchased as stated in the Declarations, any Employment Practices Wrongful Act and or Third Party Discrimination; by the Company.

Section III. Exclusions

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

A. alleging, arising out of, based upon, relating to, or attributable to:

- 1) an Insured gaining any profit, advantage, remuneration or financial advantage to which they were not legally entitled; provided however, this exclusion shall only apply if it is finally adjudicated that such conduct occurred or such Insured

agrees to repay to the Company any such profit, remuneration or financial advantage;

- 2) any deliberate fraudulent or dishonest act or any willful violation of any statute, rule or law, or deliberate criminal acts of an Insured; provided however, this exclusion shall only apply if it is finally adjudicated that such conduct occurred; or
- 3) any profits in fact made from the purchase or sale by an Insured of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provision of any similar state or foreign statutory law; provided, however, this exclusion shall only apply if a final adjudication establishes that such Section 16(b) violation occurred.

Provided, however,

- a) Subject to all other Terms and Conditions of this Policy, Exclusion A. 1) shall not apply in a Securities Claim alleging violations of Section 11 or 12 of the Securities Act of 1933, as amended, to the portion of any Loss attributable to such violations.
- b) For the purpose of determining the applicability of Exclusion A. 1), 2) and 3), it is understood and agreed that:
 - (i) as respects coverage afforded under Sections I. A. and B, the Wrongful Act of an Insured Person shall not be imputed to any other Insured Person; and
 - (ii) as respects coverage afforded under Section I. C., only the Wrongful Act of any past, present or future chief executive officer, chief operating officer, chairman, president or chief financial officer of the Company shall be imputed to the Company.
- B. alleging, arising out of, based upon, relating to, attributable to, directly or indirectly resulting from or in consequence of, or in any way involving any Wrongful Act or Related Wrongful Act or any fact, circumstance or situation which has been the subject of any Claim or notice of circumstance reported under any other policy of which this Policy is a renewal, replacement, or which this Policy may succeed in time.
- C. alleging, arising out of, based upon, relating to, or attributable to any pending or prior written demand for monetary relief, civil, criminal, or administrative or investigative proceeding, or notice of charge of any kind, including any EEOC Charge, involving the Company and/or any Insured Person as of the Prior and Pending Litigation Date stated in Item G. of the Declarations, or any Wrongful Act or Related Wrongful Acts or any fact, circumstance or situation underlying or alleged in such proceeding or notice of charge.
- D. for any actual or alleged:
 - 1) bodily injury, sickness, disease, or death of any person;
 - 2) damage to or destruction of any property, including the loss of use thereof; or
 - 3) mental anguish, emotional distress, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, libel or slander, however, this subsection D.3) does not apply to an Employment Practices Claim.

- E. for any alleged violation 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, and any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar federal, state, local or foreign statutory law or common law; provided, however, this exclusion shall not apply to a Claim for Retaliation or an alleged violation of the Equal Pay Act.
- F. for any alleged violation of any federal, state or local wage and hour law, including but not limited to: the refusal, failure or inability of any Insured to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered or time spent in connection with work related activities (herein, "Earned Wages") (as opposed to tort-based or statutory back pay or front pay damages for discrimination), failure to provide or enforce legally required meal or rest break periods, for improper payroll deductions taken by any Insured from any Employee or purported Employee, the failure to pay minimum wage or other underpayment of wages, any unfair business practice claim or any tort arising out of the failure to pay Earned Wages, or any Claim seeking Earned Wages because any Employee or purported Employee was improperly classified or mislabeled as "exempt".
- G. alleging, arising out of, based upon, relating to, or attributable to a Wrongful Act of any Insured Person serving in any capacity for any entity other than the Company or an Outside Entity, even if such service is at the direction of the Company, unless otherwise specifically added by written endorsement to this Policy.
- H. for any Wrongful Act of any Insured Person serving as a director, officer, trustee or governor of an Outside Entity if such Claim is brought by the Outside Entity or by any director, officer, trustee or governor thereof; provided, however, this exclusion shall not apply to any Employment Practices Claim.
- I. which is brought by or on behalf of the Company or by any Insured Person; or which is brought by any security holder or member of the Company, whether directly or derivatively, unless such security holder's or member's Claim is instigated and continued totally independent of, and totally without solicitation of, or assistance of, or active participation of, or intervention of any Insured Person; provided however, this exclusion shall not apply to:
 - 1) any Employment Practices Claim brought by or on behalf of an Insured Person;
 - 2) any Claim brought by an Insured Person in the form of a cross-claim or third-party claim for contribution or indemnity which is part of and results directly from a Claim that is covered by this Policy;
 - 3) any Claim brought by the examiner, trustee, receiver, liquidator, rehabilitator or creditors' committee (or any assignee thereof) of the Company, in any bankruptcy proceeding by or against the Company;
 - 4) any Claim brought by any past director or officer of the Company who has not served as a duly elected or appointed director, officer, trustee, governor, management committee member, member of the management board, General Counsel or Risk Manager (or equivalent position) of, or consultant for, the Company for at least three (3) years prior to such Claim being first made;
 - 5) any Claim brought by a director or officer (or equivalent position) of a Company formed and operating in a foreign jurisdiction against such Company or any director or officer thereof, provided that such Claim is brought by the

supervisory or any such similar board of a parent company chartered in such foreign jurisdiction; or

- 6) any Claim brought against an Insured Person for Retaliation.
- J. alleging, arising out of, based upon, relating to, attributable to, directly or indirectly resulting from, or in consequence of, or in any way involving, Pollution, including but not limited to, any Claim for financial loss to the Company, its security holders or its creditors; provided, however, this exclusion shall not apply to Securities Claims otherwise covered under Section I. A. of this Policy.
- K. for any Wrongful Act of a Subsidiary or an Insured Person of such Subsidiary or any entity that merges with the Company or an Insured Person of such entity that merges with the Company first occurring:
 - 1) prior to the date such entity becomes a Subsidiary or is merged with the Company;
 - 2) subsequent to the date such entity became a Subsidiary or was merged with the Company which, together with a Wrongful Act occurring prior to the date such entity became a Subsidiary or was merged with the Company, would constitute Related Wrongful Acts; or
 - 3) subsequent to the date the Company ceased to have, directly or indirectly, Management Control of such Subsidiary.
- L. alleging, arising out of, based upon, relating to, or attributable to alleged liability under the Securities Act of 1933, the Securities Exchange Act of 1934 or any other or similar federal or state law, including but not limited to any Claim alleging, arising out of, based upon, relating to, or attributable to any public listing or offering of securities by the Company, an Outside Entity or an Affiliate or arising in connection with a purchase or sale of such securities subsequent to such public offering, including any ongoing reporting requirements under the Securities Exchange Act of 1934 or foreign equivalent; provided, this exclusion will not apply to:
 - 1) any offering of securities exempted pursuant to section 3(b)(1) of the Securities Act of 1933. Coverage for such purchase or sale transaction shall not be conditioned upon payment of any additional premium; however, for this exception to apply, the Company shall give the Insurer written notice of any public offering exempted pursuant to section 3(b)(1), together with full particulars, as soon as practicable, but not later than 30 days after the effective date of the public offering;
 - 2) any offering of securities exempted pursuant to section 4 of the Securities Act of 1933, including any offering pursuant to section 302(a) of the provisions of the Jumpstart Our Business Startups Act of 2012 ("Crowdfunding"), however, for this exception to apply, within 30 days prior to the effective time of such public offering: (i) the Company shall give the Insurer written notice of such public offering together with full particulars and underwriting information required thereto and (ii) the Company accepts such terms, conditions and additional premium required by the Insurer for such coverage. Such coverage is also subject to the Company paying when due any such additional premium. In the event the Company gives written notice with full particulars and underwriting information pursuant to (i) above, then the Insurer must offer a quote for coverage under this paragraph;
 - 3) any public offering of securities (other than a public offering described in

paragraph 1) or 2) above), as well as any purchase or sale of such securities subsequent to such public offering, however, for this exception to apply, within 30 days prior to the effective time of such public offering: (i) the Company shall give the Insurer written notice of such public offering together with full particulars and underwriting information required thereto and (ii) the Company accepts such terms, conditions and additional premium required by the Insurer for such coverage. Such coverage is also subject to the Company paying when due any such additional premium. In the event the Company gives written notice with full particulars and underwriting information pursuant to (i) above, then the Insurer must offer a quote for coverage under this paragraph;

- 4) any Claim for Loss alleging a Wrongful Act which relates only to the Insured's preparations to commence an initial public offering ("IPO") , including any presentations made by the Insured and its Executive Officers via any medium in connection with such offering, if such public offering does not occur.
- M. alleging, arising out of, based upon, relating to, or attributable to the purchase by the Company of securities of a "publicly traded entity" in a transaction which resulted, or would result, in such entity becoming an Affiliate or a Subsidiary of the Company; provided, however, this exclusion shall not apply in the event that within 30 days prior to it becoming an Affiliate or a Subsidiary, the Named Insured gives written notice of the transaction to the Insurer together with full particulars and underwriting information required and agrees to any additional premium or amendment of the provisions of this Policy required by the Insurer relating to the transaction. Further, coverage shall be conditioned upon the Named Insured paying when due any additional premium required by the Insurer relating to the transaction. An entity is a "publicly traded entity" if any securities of such entity have previously been subject to a public offering;
- N. alleging, arising out of, based upon, relating to, or attributable to emotional distress, mental anguish, or injury from libel, slander, defamation, or disparagement, or for injury from a violation of a person's right of privacy by the Company; provided, however, this exclusion shall not apply to injuries arising from an Employment Practices Claim brought by an Employee.
- O. alleging, arising out of, based upon, or attributable to any:
- 1) payment, commission, gratuity, benefit or any other favor to or for the benefit of any full or part-time domestic or foreign government or any armed services official, agent, representative, employee or any member of their family or any entity with which they are affiliated; or
 - 2) payment, commission, gratuity, benefit or any other favor to or for the benefit of any full or part-time official, director, agent, partner, representative, principal shareholder, or owner or employee, or "affiliate" (as that term is defined in The Securities Exchange Act of 1934, including any officer, director, agent, owner, partner, representative, principal shareholder or employee of such affiliate) of any customer of the Company or any member of their family or any entity with which they are affiliated; or
 - 3) political contribution, whether domestic or foreign.
- P. alleging, arising out of, based upon, relating to, or attributable to, or directly or indirectly resulting from, or in consequence of, or in any way involving, any obligation pursuant to any worker's compensation, medical benefits, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law, including any medical or insurance

benefits to which an Employee allegedly was entitled or would have been entitled had the Company provided the Employee with a continuation or conversion of insurance, provided however, this exclusion shall not apply to a Claim for Retaliation.

Q. Solely with respect to Insuring Agreement C:

- 1) for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, trade secret or any other intellectual property rights;
- 2) for the rendering or failure to render any service to a customer or client of the Insured; provided, however, that this exclusion shall not apply to any:
 - (i) Claim alleging Third Party Discrimination;
 - (ii) Claim for the rendering or failure to render any professional service to the extent such professional services errors and omissions coverage has been added to this Policy by written endorsement attached hereto;
- 3) based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving amounts actually or allegedly owed under any written or express contract with the Company, including any severance obligation of the Company; provided, however, this exclusion shall not apply if and to the extent that liability would have attached to the Insureds in the absence of a contract or obligation of the Company;
- 4) alleging, arising out of, based upon, or attributable to any price fixing, restraint of trade, monopolization, unfair trade practices or any violation of the Federal Trade Commission Act, Sherman Antitrust Act, Clayton Act, or any similar law regulating antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities;
- 5) based upon, arising out of or in any way involving the actual or alleged malfunction, defect or failure of any goods or products manufactured, distributed, sold, installed, marketed, developed or processed by the Company; provided this exclusion shall not apply to any Securities Claim or Employment Practices Claim;
- 6) for any fines, penalties or other legal relief or any taxes owed; or
- 7) alleging, arising out of, based upon or attributable to the ownership, management, maintenance or control by the Company of any captive insurance company or entity, or self insured program, including, but not limited, to any Claim alleging the insolvency or bankruptcy of the Company as a result of such ownership, operation, management or control or the failure to procure any insurance coverage.

Section IV. Limit of Liability

- A. The Insurer shall be liable to pay Loss resulting from a covered Claim in excess of the applicable Retention amount stated in Item E. of the Declarations, up to the applicable Limit of Liability stated in Item D. of the Declarations. The Insurer's maximum liability for all Loss on account of all Claims combined, including Costs of Defense, shall be the Aggregate Limit set forth in the Declarations. Under no

circumstances shall the Insurer be responsible to pay any Loss, including Costs of Defense, in excess of the Aggregate Limit.

- B. If Separate Limits of Liability or Sublimits are stated in the Declarations, then each such Separate Limit or Sublimit shall be the maximum amount 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 type of Loss to which the Separate Limit or Sublimit applies. Each Separate Limit or Sublimit shall be part of, and not in addition to, the Aggregate Limit for all Loss under this Policy and shall in no way serve to increase the Aggregate Limit for all Loss.

If Shared Limits are stated in the Declarations, then each such Shared Limit shall be the maximum amount 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 Loss to which such Shared Limit of Liability applies. Each Shared Limit shall be part of, and not in addition to, the Aggregate Limit.

If a single Claim is covered in whole or in part under more than one Shared Limit, Separate Limit or Sublimit, the maximum amount of the Insurer's liability for all Loss, combined, on account of such Claim shall not exceed the larger(est) of such applicable Shared Limit, Separate Limit or Sublimit, subject to reduction through any prior payments of Loss under such applicable Limit or Sublimit. Under no circumstance shall the Insurer be responsible to pay any Loss, including Costs of Defense, in excess of the Aggregate Limit.

All Related Wrongful Acts that, pursuant to Section VII of this Policy, are considered made or received during the Policy Period or Discovery Period (if applicable), shall also be subject to the applicable Limits of Liability set forth in this Policy. Each of the Limits of Liability for the Discovery Period (if applicable) shall be part of, and not in addition to, each of the corresponding Limits of Liability for the Policy Period.

- C. Costs of Defense shall be part of, and not in addition to, the Limit of Liability stated in Item D. of the Declarations, including but not limited to the Limits of Liability described as Shared, Separate or Sublimits. Such Costs of Defense shall serve to reduce and may totally exhaust the Limit of Liability. If the applicable Limit of Liability is exhausted by payment of Loss, the Insurer's obligations, including without limitation any duty to defend, shall be completely fulfilled and extinguished.

Section V. Retention

- A. The applicable Retention specified in Item E. of the Declarations shall be a condition precedent, and must be paid by the Company, before the Insurer has any payment obligation, and shall apply to all covered Loss, including Costs of Defense.
- B. The Retention specified in Item E. of the Declarations shall apply as follows:
- 1) The Each Claim Retention is applicable to Loss as a result of Claims other than an Employment Practices Claim or a Securities Claim.
 - 2) The Each Claim alleging an Employment Practices Wrongful Act Retention is applicable to Loss resulting from each Claim for Employment Practices Wrongful Act.

- 3) The Each Claim alleging Third Party Discrimination Retention is applicable to Loss resulting from each Claim alleging Third Party Discrimination.
 - 4) The Each Securities Claim Retention is applicable to Loss resulting from a Securities Claim.
 - 5) Except as provided hereinafter, no Retention shall apply to Loss, including Costs of Defense, under Insuring Agreements I A, D or E.
 - 6) In the event a Claim triggers more than one Retention specified in Item E. of the Declarations, the applicable Retention to such Claim shall be the single highest Retention applicable to such Loss.
- C. One Retention shall apply to Loss arising from each Claim alleging the same Wrongful Act or Related Wrongful Acts. The Company shall be responsible for any amount within the Retention.
- D. More than one Claim involving the same Wrongful Act or Related Wrongful Acts of one or more Insureds shall be considered a single Claim, and only one Retention and one Limit of Liability shall be applicable to such single Claim. All such Claims constituting a single Claim shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such Claim was first made; or (2) the earliest date on which the notice of circumstance involving any such Wrongful Act or Related Wrongful Acts was reported under this Policy or any other policy providing similar coverage.
- E. For the purposes of the application of the Retention, the Retention applicable to Insuring Agreement 1.B shall apply to Loss applicable to Insuring Agreement I.A. with respect to any Claim for which indemnification is legally permissible under the broadest interpretation of the applicable law and the Company's bylaws. The certificate of incorporation, charter or other organization documents of the Company, including by-laws and resolutions, shall be deemed to require indemnification and advancement of Loss of an Insured Person to the fullest extent permitted by law. Notwithstanding the foregoing, in the event the Company is unable to indemnify an Insured Person solely by reason of its Financial Insolvency, the Insurer shall, pursuant to the terms and conditions of Section VI.F., advance Costs of Defense incurred by an Insured Person without first requiring payment of the Retention applicable to Claims for which the Retention of Insuring Agreement I.B applies. In the event the Company is otherwise permitted or required to indemnify an Insured Person, the Insurer may in its sole discretion, but is not required to, advance Costs of Defense, pursuant to the terms and conditions of Section VI.F, incurred by an Insured Person without first requiring payment of the Retention applicable to Claims for which the Retention applicable to Insuring Agreement I.B applies.

Section VI. Costs of Defense and Settlements

- A. The Insured shall not incur Costs of Defense, or admit liability, offer to settle, or agree to any settlement in connection with any Claim without the express prior written consent of the Insurer, which consent shall not be unreasonably withheld. The Insured shall provide the Insurer with all information, documents, reports and particulars it may reasonably request in order to reach a decision as to such consent. Any Loss resulting from any admission of liability, agreement to settle, default judgment, or Costs of Defense incurred without the consent of the Insurer, shall not be covered hereunder.

- B. Notwithstanding Section VI.A. above, if all Insureds are able to settle all Claims that are subject to an applicable Retention for an amount that, together with the Costs of Defense, does not exceed the applicable Retention, the Insured may agree to such a settlement without the prior written consent of the Insurer, provided, however, nothing in this paragraph shall relieve any Insured of its obligation to report a Claim in compliance with Section VII.
- C. The Insured, and not the Insurer, shall have the duty to defend all Claims, provided that the Insured shall only retain Defense Counsel as is mutually agreed in writing with the Insurer. Costs of Defense will only be paid if the written consent of the Insurer is obtained prior to the Company incurring such Costs of Defense.

“Defense Counsel” shall mean an attorney approved by the Insurer in writing from the jurisdiction in which the Claim is brought, or alternatively, counsel, who will be paid at rates regularly paid by the Insurer to attorneys retained by it in the ordinary course of business in the jurisdiction where the Claim is being defended. If the Insured does not obtain the written consent of the Insurer as to its selected counsel, then the fees incurred will be at the Company’s expense.

With the express prior written consent of the Insurer, an Insured may select (in the case of the Insured defending the Claim), or cause the Insurer to select (in the case of the Insurer defending the Claim), Defense Counsel different from that selected by other Insured defendants if such selection is required due to an actual conflict of interest or is otherwise reasonable and necessary.

- D. The Company may at its option tender to the Insurer the defense of a Claim; however in no event shall such tender of the defense relieve the Company of its obligation to pay the applicable Retention in connection with the Claim. Upon such a tender of the defense of a Claim, the Insurer shall assume the duty to defend. Such a tender of the defense of a Claim may not be made more than 30 days following notice of the Claim, or if greater than 30 days, solely at the discretion of the Insurer.
- E. The Insurer shall advance covered Costs of Defense on a current basis. Any advancement of Costs of Defense shall be repaid to the Insurer by the Insureds severally according to their respective interests if and to the extent the Insureds shall not be entitled under the terms and conditions of this Policy for such Costs of Defense. Any payment shall be on the condition that:
- 1) the appropriate Retention has been satisfied by covered Loss under the Policy, provided, however, this condition shall not apply in the event of the Financial Insolvency of the Company;
 - 2) any amounts paid by the Insurer shall serve to reduce the Limit of Liability stated in the LIMITS OF INSURANCE section of the Declarations to the extent they are not in fact repaid;
 - 3) the Insured and the Insurer have agreed upon the portion of the Costs of Defense attributable to covered Claims against the Insureds; provided, however, if no agreement, the Insurer shall pay Costs of Defense as specified in Section VI. G.
- F. The Insurer shall at all times have the right, but not the duty, to fully and effectively associate with the Insured in the investigation, defense or settlement of any Claim to which coverage under this Policy may apply. The Insured shall cooperate with the Insurer and provide the Insurer such information as it may reasonably require in the investigation, defense or settlement of any Claim. In

addition, the Insured shall not take any action, without the Insurer's written consent, which prejudices the Insurer's rights under this Policy.

- G. If a Claim made against an Insured includes both covered and uncovered matters, or is made against an Insured and others not insured, the Insured and the Insurer recognize that there must be an allocation between covered and uncovered Loss. The Insured and the Insurer shall use their best efforts to agree upon a fair and proper allocation between covered and uncovered Loss, taking into account the relative legal and financial exposures, and the relative benefits obtained by each Insured as a result of the covered and uncovered matters and/or such benefits to an uninsured party using the same measure. If the Insured and the Insurer are unable to agree on the amount of the allocation, then the Insurer shall pay only those amounts (excess of the Retention amount) which the Insurer deems to be fair and equitable until a different amount shall be agreed upon or determined pursuant to the terms of this Policy and the above stated standards.
- H. The Insurer will have no obligation to pay Loss, including Costs of Defense, or to defend or continue to defend any Claim under any Insuring Agreement or endorsement after the applicable Limit or the Aggregate Limit set forth in Item D. of the Declarations is exhausted by the payment of Loss, including Costs of Defense.

It is understood and agreed that the Company shall be entitled to payment under Section I. D for reimbursement of its covered Derivative Demand Investigation Costs ninety (90) days after: (i) the Company has made its final decision not to bring a civil proceeding in a court of law against any of its Directors and Officers, and (ii) such decision has been communicated to the shareholders who made the Derivative Demand upon the Company. However, such payment shall be subject to an written undertaking by the Company, in a form acceptable to the Insurer, that the Company shall return to the Insurer such payment in the event any Company or any shareholder of the Company brings a Claim alleging, arising out of, based upon or attributable to any Wrongful Acts which were the subject of the Derivative Demand.

Section VII. Notice of Claim

- A. The Insured shall, as a condition precedent to their rights under this Policy, give the Insurer notice in writing of any Claim which is made during the Policy Period or Discovery Period. Such notice shall be given as soon as practicable upon knowledge of the chief executive officer, chief financial officer, general counsel, director of human resources, risk manager, or equivalent position of any of the foregoing, but in no event later than 1) sixty (60) days after the end of the Policy Period or 2) the expiration date of the Discovery Period, if applicable. If notice is provided pursuant to this Section, any Claim subsequently made against an Insured and reported to the Insurer alleging, arising out of, based upon or attributable to the prior noticed Claim or alleging any Related Wrongful Acts, shall be considered related to the prior Claim and made at the time notice of the prior Claim was first provided.
- B. If during the Policy Period the Company or any Insured becomes aware of any circumstances which may reasonably be expected to give rise to a Claim being made against an Insured and shall give written notice to the Insurer of the circumstances, the Wrongful Act allegations anticipated and the reasons for anticipating such a Claim, with full particulars as to dates, persons and entities involved, then a Claim which is subsequently made against such Insured and reported to the Insurer alleging, arising out of, based upon or attributable to such circumstances or alleging any Related Wrongful Acts, shall be considered made at

the time notice of such circumstances was given. Notice of any such subsequent Claim shall be given to the Insurer as soon as practicable.

- C. In addition to furnishing the notice as provided in Section VII, the Insured shall, as soon as practicable, furnish the Insurer with copies of reports, investigations, pleadings and other papers in connection therewith.
- D. Notice to the Insurer as provided in Section VII shall be given to the Insurer's representative identified in, and at the address set forth in Item H. of the Declarations, Notices to Insurer.

Section VIII. Discovery Period

- A. In the event the Insurer or the Company refuses to renew this Policy, the Company shall have the right, upon payment of one hundred percent (100%) of the annual premium, (or if the Policy Period is other than annual, one hundred percent (100%) of the annualized premium), to an extension of the coverage provided by this Policy with respect to any Claim first made against any Insured during the period of twelve (12) months after the end of the Policy Period and reported to the Insurer pursuant to the provisions of this Policy, but only with respect to any Wrongful Act committed or alleged to have been committed before the end of the Policy Period. This twelve (12) month period shall be referred to in this Policy as the Discovery Period.
- B. As a condition precedent to the right to purchase the Discovery Period, the total premium for this Policy, including any additional premiums for changes or additions to the Policy, must have been paid and a written request, together with payment of the appropriate premium for the Discovery Period, must be provided to the Insurer no later than thirty (30) days after the end of the Policy Period, at which time the premium shall be deemed fully earned.
- C. The fact that the coverage provided by this Policy may be extended by virtue of the purchase of the Discovery Period shall not in any way increase the Aggregate Limit of Liability stated in Item D of the Declarations. For purposes of the Limit of Liability, the Discovery Period is considered to be part of, and not in addition to, the Policy Period.

Section IX. General Conditions

A. Cancellation

- 1) This Policy may be cancelled by the Company at any time by written notice to the Insurer. Upon cancellation by the Company, the Insurer shall retain the customary short rate portion of the premium, unless this Policy is converted to Run-Off pursuant to Section IX.D. wherein the entire premium for this Policy shall be deemed earned.
- 2) This Policy may only be cancelled by the Insurer if the Company does not pay the premium when due.

B. Application

It is agreed by the Company and the Directors and Officers that the particulars and statements contained in the Application and any information provided therewith (which shall be on file with the Insurer and be deemed attached hereto as if physically attached hereto) are true, accurate and complete and that such particulars and statements are the basis of this Policy and are to be considered as

incorporated in and constituting a part of this Policy. It is further agreed by the Company and the Insured Person(s) that the statements in the Application or in any information provided therewith are their representations, that they are material and that this Policy is issued in reliance upon the truth of such representations. Knowledge of any Insured Person of a misstatement or omission in the Application shall not be imputed to any other Insured Person for purposes of determining the validity of this Policy as to such other Insured Person, against whom this Policy shall not be rescinded. Only knowledge of the chairman of the board, chief executive officer, chief operating officer, president, chief financial officer, general counsel, director of human resources or equivalent position or risk manager of a misstatement or omission in the Application shall be imputed to the Company for purposes of determining coverage under this Policy as respects Section I. C.

C. Action Against the Insurer

- 1) No action shall be taken against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy, and until the obligation of the Insured to pay shall have been finally determined by an adjudication against the Insured or by written agreement of the Insured, claimant and the Insurer.
- 2) No person or organization shall have any right under this Policy to join the Insurer as a party to any Claim against an Insured nor shall the Insurer be impleaded by any Insured or their legal representative in any such Claim.

D. Conversion to Run-Off Coverage

If, during the Policy Period, a transaction occurs wherein another entity gains control of the Company identified as the Named Insured in the Declarations through the ownership of more than fifty percent (50%) of the voting stock of the Company, or the Company merges into another entity or consolidates with another entity such that the Company is not the surviving entity, then:

- 1) this Policy shall only apply to Wrongful Acts actually or allegedly committed on or before the effective date of such transaction; and
- 2) this Policy shall be non-cancellable except for non-payment of premium, and
- 3) the entire premium for this Policy shall be deemed earned as of the date of such transaction.

E. Outside Entity and Joint Venture Provision

In the event a Claim is made against any Insured Person arising out of their service as a director, officer, trustee or governor of an Outside Entity or Joint Venture, coverage as may be afforded under this Policy shall be excess of any indemnification provided by the Outside Entity or Joint Venture and any insurance provided to the Outside Entity or Joint Venture which covers its directors, officers, trustees or governors.

F. Other Insurance

All amounts payable under this Policy will be specifically excess of, and will not contribute with, any other valid and collectible insurance, including but not limited to any insurance under which there is a duty to defend, unless such other insurance is specifically excess of this Policy. This Policy will not be subject to the terms of any other insurance policy.

G. Coverage Extensions

1) Lawful Spouse or Domestic Partner Provision

The coverage provided by this Policy shall also apply to the lawful spouse or Domestic Partner of an Insured Person, but only for a Claim arising out of any actual or alleged Wrongful Acts of such Insured Person.

2) Worldwide Provision

The coverage provided under this Policy shall apply worldwide. The term Directors and Officers is deemed to include individuals who serve in equivalent positions in foreign Subsidiaries.

3) Estates and Legal Representatives

a) The coverage provided by this Policy shall also apply to the estates, heirs, legal representatives or assigns of any Insured Person in the event of their death, incapacity or bankruptcy, but only for Claims arising out of any actual or alleged Wrongful Acts of any Insured Person.

b) In the event a bankruptcy proceeding shall be instituted by or against the Company, the resulting debtor-in-possession (or equivalent status outside the United States of America) shall be deemed to be the Company, but only with respect to coverage provided under Insuring Agreements I. B. and C.

H. Priority of Payments

1) In the event of Loss arising from one or more covered Claims, Derivative Demands or Crisis Events for which payment is due under this Policy, the Insurer shall:

a) first pay such Loss for which coverage is provided under Section I. A of this Policy; then

b) with respect to whatever remaining amount of the Limit of Liability is available after payment of Section I.A. above, pay such Loss for which coverage is provided under any other Insuring Agreements of this Policy.

2) Subject to the provisions of paragraph 1) above, the Insurer shall, at the request of the Company, delay payment of Loss for which coverage is provided under any Insuring Agreement other than Section I.A. until such time as the Company designates; provided the liability of the Insurer with respect to such delayed payment shall not be increased, and shall not include any interest as a result of such delay. The Company shall provide written notice to the Insurer when such delayed payment shall be made. Such written notice shall be deemed consent from all Insureds, including all Insured Person(s), to release such payment and the Insurer shall have no further obligation under this Policy with respect to such funds.

I. Subrogation

In the event of any payment under this Policy, the Insurer shall be subrogated to the extent of such payment to all the Company's and any other Insured's rights of recovery thereof, and the Company and the Insured shall execute all papers required and shall do everything that may be reasonably necessary to secure such rights, including the execution of such documents necessary to enable the Insurer

to effectively bring suit in the name of the Company or any other Insured. In no event, however, shall the Insurer exercise its rights of subrogation against an Insured Person under this Policy unless a final adjudication or binding arbitration adverse to the Insured Person in the underlying proceeding establishes that such Insured Person committed a deliberate criminal or deliberate fraudulent act, or such Insured Person has been determined, upon a final adjudication or binding arbitration adverse to the Insured Person, to have obtained any profit or advantage to which such Insured Person was not legally entitled.

J. Choice of Law

All matters arising hereunder including questions related to the validity interpretation, performance and enforcement of this Policy shall be determined in accordance with the law and practice of the State of New York notwithstanding New York's conflicts of law rules.

K. Assignment

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

L. Company Represents Insureds

By acceptance of this Policy, the Insureds agree that the Company identified as the Named Insured in the Declarations shall be designated to act on behalf of all Insureds for all purposes including, but not limited to, the giving and receiving of all notices and correspondence, the election or failure to elect a Discovery Period, the cancellation or non-renewal of this Policy, the payment of premiums, and the receipt of any return premiums that may be due under this Policy.

M. Representative of the Insurer

ANV Global Services, Inc., (101 Hudson Street , Suite 3606, Jersey City, NJ 07302) shall act on behalf of the Insurer for all purposes including, but not limited to, the giving and receiving of all notices and correspondence, provided, however, notice of Claims shall be given pursuant to Section VII of the Policy.

N. Bankruptcy

Bankruptcy or insolvency of the Company, or any Insured Person shall not relieve the Insurer of any of its obligations under this Policy.

O. Conformity to Statute

Any terms of this Policy which are in conflict with the terms of any applicable laws are hereby amended to conform to such laws.

P. Headings

The descriptions in the headings of this Policy form no part of the terms and conditions of the coverage under this Policy.

Q. Entire Agreement

By acceptance of this Policy, all Insureds and the Insurer agree that this Policy (including the Declarations, Application submitted to the Insurer and any information provided therewith) and any written endorsements attached hereto constitute the entire agreement between the parties. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

R. Dispute Resolution

In the event any dispute between the Insured and the Insurer arises in connection with this Policy that cannot be resolved by agreement, prior to commencing a judicial proceeding or arbitration, the Insured may submit the dispute to non-binding mediation. The parties shall select a mediator from the JAMS Panel of Neutrals, unless otherwise agreed upon. The Insurer and the Insured shall attempt in good faith to resolve such dispute in accordance with the American Arbitration Association's ("AAA") then-prevailing Commercial Mediation Rules. In the event the Insured does not elect to engage in non-binding mediation or such non-binding mediation does not result in a settlement of the subject dispute or difference, either the Insured or the Insurer shall have the right to commence a judicial proceeding or, if the parties agree, a binding arbitration under the then-prevailing AAA Commercial Arbitration Rules, to resolve such dispute no earlier than sixty (60) days after such mediation concludes unsuccessfully. The Company shall act on behalf of each and every Insured in deciding whether to proceed with either a judicial proceeding or binding arbitration. The costs and expenses of mediation, or arbitration, shall be split equally by the parties.

S. Service of Suit

The Insurer's representatives designated in Section IX, (M) are authorized and directed to accept service of process on behalf of the Insurer in any suit on the Policy against the Insurer. The service of process in any Claim or suit on the Policy against the Insurer may also be made upon the highest one in authority bearing the title "Commissioner", "Director" or "Superintendent" of Insurance of the state or commonwealth wherein the Policy is issued. The one in authority bearing the title "Commissioner", "Director" or "Superintendent" of Insurance of the state or commonwealth wherein the Policy is issued is hereby authorized and directed to accept service of process on our behalf in any such Claim or suit. Said officer is authorized to mail such process or a true copy thereof to the Insurer's representatives designated in Section IX (M).



Insured Education Document

Representative of the Insurer

ANV Global Services, Inc., (101 Hudson Street , Suite 3606, Jersey City, NJ 07302) shall act on behalf of the Insurer for all purposes including, but not limited to, the giving and receiving of all notices and correspondence, provided, however, notice of Claims shall be given pursuant to Section VII of the Policy.

Insurer

This Policy is underwritten by Lloyd's Syndicate ANV 1861 (ANV) whose registered office is at 47 Mark Lane, London, EC3R 7QQ, United Kingdom.

Law

All matters arising hereunder including questions related to the validity interpretation, performance and enforcement of this Policy shall be determined in accordance with the law and practice of the State of New York notwithstanding New York's conflicts of law rules.

Queries

Any query or question about this Policy or any claim under it should be addressed in the first instance to your broker.

Complaints

ANV aims to provide a professional service to its customers. Should you have any questions or concerns about your Policy or the handling of a Claim you should, in the first instance, contact your broker.

In the event that you remain dissatisfied and wish to make a complaint, it may be possible in certain circumstances for you to refer the matter to the Policyholder and Market Assistance team at Lloyd's.

Their address is:

Policyholder & Market Assistance
Market Services
Lloyd's
One Lime Street
London EC3M 7HA
Tel No: 00 44 207 327 5693
Fax No: 00 44 207 327 5225
E-mail: complaints@lloyds.com

Details of Lloyd's complaints procedures are set out in a leaflet "Your Complaint - How We Can Help" available at www.lloyds.com/complaints and are also available from the above address. If you remain dissatisfied after Lloyd's has considered your complaint, you may have the right to refer your complaint to to the United Kingdom Financial Ombudsman Service.