

# Executive Plus™ Directors and Officers Liability Policy Declarations



RLI Insurance Company  
9025 North Lindbergh Drive  
Peoria, Illinois 61615  
Phone: (309) 692-1000

A stock insurance company,  
herein called the Company.

**THIS IS A CLAIMS MADE POLICY. THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. PLEASE READ CAREFULLY.**

Policy No:

Item 1. **Parent Company:**

Item 2. **Policy Period:** From 12:01 A.M.  
To 12:01 A.M.  
Local Time at the address shown above.

Item 3. Aggregate Limit of Liability (inclusive of **Defense Expenses**) for all **Claims**:

Item 4. Sublimit of Liability for civil penalties assessed under Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. Sec. 7246): \$

Item 5. Coverage: Granted:  
Primary Coverage  Yes  No  
Excess Coverage  Yes  No

Item 6. **Underlying Insurance:**  
Insurer Policy Number Limit of Liability Policy Period

Item 7. Discovery Period:

(a) Discovery Period Premium:

\$


(b) Discovery Period:

Item 8. Prior or Pending Date:

Item 9. Endorsements Effective at Inception:

SPECIMEN

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Authorized Company Representative

**RLI Insurance Company**  
**Executive Plus™ Directors and Officers**  
**Liability Policy**

**In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer in the Application forming a part hereof and its attachments and the material incorporated therein, RLI Insurance Company, herein called the "Insurer," and the Insured Persons agree as follows:**

**INSURING CLAUSE**

1. The Insurer will pay on behalf of the **Insured Persons, Loss** (including civil penalties assessed under Section 308 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. Section 7246) which the **Insured Persons** are legally obligated to pay as a result of **Claims** first made during the **Policy Period**, or during the Discovery Period (if purchased), against the **Insured Persons** for **Wrongful Acts**; provided that if this Policy affords Excess Coverage as provided in Item 5. of the Declarations of this Policy, the Insurer shall not be liable for any **Loss** unless such **Loss** is not paid by the **Underlying Insurance** by reason of one or more of the following:
  - a. the insurer(s) of the **Underlying Insurance**:
    - (i) wrongfully refuses to pay or indemnify the **Insured Persons** as required under the terms and conditions of the **Underlying Insurance**; or
    - (ii) is financially unable to pay or indemnify the **Insured Persons**; or
    - (iii) rescinds the **Underlying Insurance**; or
  - b. according to the terms and conditions of the **Underlying Insurance**, the insurer(s) of the **Underlying Insurance** is not liable for such **Loss**; or
  - c. the limit(s) of liability of the **Underlying Insurance** has been exhausted by reason of losses paid thereunder; or
  - d. a liquidation or reorganization proceeding is commenced by or against the **Entity** pursuant to the U.S. Bankruptcy Code, as amended ("Code") and as a result of such proceeding the proceeds of any **Underlying Insurance** cannot legally be paid by the insurer thereof because such proceeds are subject to the automatic stay under the Code; provided that as a condition precedent to the Insurer being liable pursuant to this subparagraph d., the **Insured Persons** or **Entity** shall request, or arrange for the insurer of the **Underlying Insurance** to request, relief from the automatic stay with respect to such proceeds.

If and to the extent any **Loss** is excluded under this Policy pursuant to Section 3. but is not excluded under the **Underlying Insurance**, this Policy is amended to delete such exclusion with respect to such **Loss**.

**DEFINITIONS**

2. When used in this Policy:

"**Claim**" means:

- a. a written demand for monetary or non-monetary relief against any **Insured Person**; or
- b. a civil proceeding against any **Insured Person** commenced by the service of a complaint or similar pleading; or
- c. a criminal proceeding against any **Insured Person** commenced by the return of an indictment; or

- d. an administrative, regulatory or arbitration proceeding against any **Insured Person** commenced by the filing of a notice of charges or formal investigative order; or
- e. a civil, criminal, administrative or regulatory investigation against any **Insured Person** commenced by the service upon or other receipt by the **Insured Person** of a written notice or subpoena from the investigating authority identifying such **Insured Person** as an individual against whom a proceeding may be commenced; or
- f. an official request for **Extradition** of any **Insured Person** or the execution of a warrant for the arrest of any **Insured Person** in connection with **Extradition** of such **Insured Person**;

including any appeal thereof.

“**Defense Expenses**” means reasonable and necessary fees and expenses (including without limitation attorneys’ fees and experts’ fees) incurred in the defense, investigation or appeal of a **Claim**, or the opposition or revocation of an **Extradition** or any judicial ruling related thereto, after notice of such **Claim** is given to the Insurer pursuant to Section 7. of this Policy, including premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond. **Defense Expenses** shall not include the **Entity’s** overhead expenses or any salaries, wages, fees or benefits of its directors, officers or employees.

“**Entity**” means the **Parent Company** listed on the Declarations, of this Policy, and all **Subsidiaries**, including any such organization as a debtor in possession under the United States bankruptcy law or an equivalent status under the law of any other country.

“**Extradition**” means any formal process by which an **Insured Person** located in any country is surrendered to any other country in connection with a criminal proceeding against such **Insured Person** for **Wrongful Acts**.

“**Insured Person**” either in the singular or plural, means:

- a. any natural person who was, now is or shall be a duly elected or appointed director, trustee, manager or member of the board of managers (if the **Entity** is a limited liability company), officer, comptroller, in-house general counsel, or in-house risk manager of any **Entity**;
- b. any natural person who was, now is or shall be a holder of a title, position or capacity comparable or equivalent to a position described in a. above of any **Entity** chartered in any jurisdiction outside of the United States of America;
- c. any natural person who was, now is or shall be an employee of the **Entity**, but solely with respect to a **Claim** while the **Claim** is also made against a person identified in a. or b. above; or
- d. any natural person identified in a. above who, at the specific request of the **Entity**, is serving as a director, officer, trustee, regent or governor of any **Outside Entity**.

Any **Claim** against the estate, heir, or legal representative of any person identified in a., b., or c., above, or against a trust which holds assets contributed by such person identified above, for a **Wrongful Act** by such person identified above will be deemed to be a **Claim** against such person identified above.

“**Loss**” means monetary damages, judgments, settlements, including but not limited to pre-judgment and post-judgment interest, punitive, exemplary or multiple damages where insurable under applicable law, and **Defense Expenses** which the **Insured Persons** are legally obligated to pay as a result of a covered **Claim**.

The law of the jurisdiction most favorable to the insurability of those punitive, exemplary or multiple damages shall control whether such damages are insurable, provided that such jurisdiction is where:

- a. those damages were awarded or imposed;
- b. any **Wrongful Act** occurred for which such damages were awarded or imposed;

- c. the **Entity** is incorporated or has its principal place of business; or
- d. the Insurer is incorporated or has its principal place of business.

**Loss** shall not include taxes, civil or criminal fines or penalties imposed by law, any amount for which the **Insured Persons** are absolved from payment, or matters which are uninsurable under the law pursuant to which this Policy shall be construed. Solely with respect to a **Claim** arising out of a public offering of securities of the **Entity**, the Insurer shall not assert that part or all of the **Defense Expenses** or any settlement in such **Claim** is uninsurable due to the actual or alleged violation of Section 11 or 12 of the Securities Act of 1933, as amended.

Notwithstanding the foregoing, **Loss** shall include (i) civil penalties assessed under Section 308 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. Section 7246, against any **Insured Person**, provided the amount stated in Item 4. of the Declarations of this Policy shall be the maximum aggregate liability of the Insurer under this Policy for all such civil penalties, and (ii) civil penalties assessed against an **Insured Person** pursuant to Section 2(g)(2)(B) of the Foreign Corrupt Practices Act, 15 U.S.C. Section 78dd-2(g)(2)(B). The amount stated in Item 4. of the Declarations of this Policy constitutes a sublimit which shall be within, and not in addition to, the Limit of Liability listed in Item 3. of the Declarations of this Policy.

“**Outside Entity**” means an organization, other than the **Entity**, which is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code, as amended.

“**Outside Position**” means service by an **Insured Person** as a director, officer, trustee, regent or governor of an **Outside Entity**, but only while such service is rendered at the specific request of the **Entity** or is part of the duties regularly assigned to the **Insured Person** by the **Entity**.

“**Parent Company**” means the organization named in Item 1. of the Declarations of this Policy.

“**Policy Period**” means the period of time specified in Item 2. of the Declarations of this Policy, subject to prior cancellation. If this period is less than or greater than one year, then the Limit of Liability specified in Item 3. of the Declarations of this Policy shall be the Insurer’s maximum Limit of Liability for the entire period.

“**Related Claims**” means all **Claims** for **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes.

“**Subsidiary**” either in the singular or plural, means:

- a. any for-profit organization for which the **Entity**, on or before the inception of the **Policy Period**, either directly or indirectly has the right, pursuant to written contract or the by-laws, charter, operating agreement or similar document of such organization or otherwise, to elect, appoint or designate a majority of: the Board of Directors if such organization is a corporation; the management committee if such organization is a joint venture or partnership; or members of the management board if such organization is a limited liability company; and
- b. any not-for-profit organization sponsored exclusively by the **Entity**.

Coverage afforded under this Policy with respect to **Claims** made against any **Insured Person** of a **Subsidiary** shall only apply for **Wrongful Acts** occurring after the effective time such **Subsidiary** became a **Subsidiary** and prior to the time such **Subsidiary** ceased to be a **Subsidiary**.

“**Underlying Insurance**” means the insurance listed in Item 6. of the Declarations of this Policy.

“**Wrongful Act**” means any actual or alleged error, omission, act, misstatement, misleading statement, or breach of duty by the **Insured Persons** in their respective capacities as such or in an **Outside Position**, or any matter claimed against them solely by reason of such status.

## EXCLUSIONS

3. The Insurer shall not be liable for **Loss** (except for **Defense Expenses**) on account of that portion of any **Claim** made against any **Insured Person** based upon, arising out of, directly or indirectly resulting from or in consequence of:
  - a. such **Insured Person** gaining any profit, remuneration or financial advantage to which such **Insured Person** is not legally entitled if (i) a final judgment or adjudication in any proceeding establishes that such **Insured Person** gained such profit, remuneration or financial advantage, or (ii) such **Insured Person** agrees to repay or disgorge such profit, remuneration or financial advantage; or
  - b. such **Insured Person** committing any deliberately fraudulent or criminal **Wrongful Act** or any willful violation of criminal law if a final judgment or adjudication in any proceeding establishes that such **Insured Person** committed such a **Wrongful Act** or willful violation.
4. The Insurer shall not be liable for **Loss** on account of that portion of any **Claim** made against any **Insured Person**:
  - a. for which the **Entity** or an **Outside Entity** actually pays or indemnifies or is required or permitted to pay on behalf of or to indemnify the **Insured Person** pursuant to statutory or common law; provided, however, this Exclusion shall not apply if:
    - (i) the **Entity** and the **Outside Entity** refuse to pay or indemnify or advance such **Loss** as required or permitted, or are financially unable to pay or indemnify; and
    - (ii) the **Insured Persons** comply with Section 18. of this Policy;
  - b. for any actual or alleged bodily injury, sickness, disease or death of any person, or for damage to or destruction of any tangible property including loss of use thereof. However, this Exclusion shall not apply with respect to: (i) any actual or alleged mental anguish or emotional distress in any **Claim** by a past, present or prospective employee of the **Entity** for any actual or alleged (1) wrongful dismissal, discharge or termination of employment; (2) employment related misrepresentation; (3) violation of any federal, state or local statutory employment law(s); (4) sexual or workplace harassment of any kind; (5) employment discrimination; (6) wrongful failure to employ or promote; (7) wrongful discipline; (8) wrongful deprivation of career opportunity including a wrongful failure to hire or promote; (9) failure to grant tenure; (10) negligent employment evaluation; or (11) failure to adopt adequate workplace or employment policies and procedures; or (ii) any **Claim** for the actual or alleged discharge, dispersal, release or escape of any solid, liquid, gaseous, or thermal irritant, contaminant or other pollutant, provided any coverage under this Policy with respect to any such **Claim** shall be specifically excess of the amount of coverage available under any general liability, environmental impairment or similar insurance policy with respect to such **Claim** and such other policy shall be considered **Underlying Insurance** under this Policy with respect to such **Claim**; or (iii) any **Claim** by securities holders of the **Entity** in their capacity as such, including without limitation any shareholder derivative or securities class action lawsuit;
  - c. based upon, arising out of, directly or indirectly resulting from, or in consequence of:
    - (i) the service by any **Insured Person** as a director, officer, partner, principal, trustee, regent, governor or employee of any organization other than the **Entity** or an **Outside Entity**, even if directed or requested by the **Entity** to serve as a director, officer, partner, principal, trustee, regent, governor or employee of such other organization;
    - (ii) any litigation or administrative or regulatory proceeding against any **Insured Person** pending on or before the date set forth in Item 8. of the Declarations of this Policy, or any actual or alleged fact, circumstance, situation, transaction, event or **Wrongful Act** underlying or alleged therein; or
    - (iii) any fact, circumstance, situation, transaction, event or **Wrongful Act** which was the subject of any notice given under any prior policy or coverage section for directors and officers liability or other similar executive liability insurance, of which this Policy or any **Underlying Insurance** is a direct or indirect renewal or replacement;

- d. by or on behalf of, or in the name of any **Entity** (including without limitation shareholder derivative suits) to the extent such **Claim** is brought in the United States or Canada (or any territory or possession thereof) and is authorized by the Board of Directors or by two or more persons each of whom at the time the **Claim** is brought is the President, Chief Executive Officer, Chief Financial Officer, or General Counsel of the **Entity**; provided, however, that this Exclusion shall not apply:
- (i) if between the inception of the **Policy Period** and the date such **Claim** is brought, the **Entity** has undergone a Transaction as defined in Section 13. of this Policy or in Section 11. of this Policy, and the **Claim** is brought after the date of such event; or
  - (ii) to any **Claim** brought or maintained by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver, creditors' committee, or similar official for the **Entity** or any assignee of such trustee, examiner, receiver, creditors' committee or similar official; or
  - (iii) to any **Claim** if all of the authorizations described above are protected pursuant to Section 806 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A , or any similar whistleblower statute; or
  - (iv) to any **Defense Expenses**; or
- e. by or on behalf of, or in the name or right of, any **Outside Entity** against an **Insured Person** for a **Wrongful Act** in his or her **Outside Position** with respect to such **Outside Entity** to the extent such **Claim** is authorized by the Board of Directors or by two or more persons each of whom at the time the **Claim** is brought is the President, Chief Executive Officer, Chief Financial Officer, General Counsel or equivalent executive of the **Outside Entity**; provided, however, that this Exclusion shall not apply:
- (i) to any **Claim** brought or maintained by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver, creditors' committee, or similar official for the **Outside Entity** or any assignee of such trustee, examiner, receiver, creditors' committee or similar official; or
  - (ii) to any **Claim** if all of the authorizations described above are protected pursuant to Section 806 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A, or any similar whistleblower statute; or
  - (iii) to any **Defense Expenses**.

To determine the applicability of the foregoing Exclusions, no **Wrongful Act** of any **Insured Person** will be imputed to any other **Insured Person**.

## CONDITIONS

### 5. **Limit of Liability**

The amount stated in Item 3. of the Declarations of this Policy will be the maximum aggregate liability of the Insurer under this Policy for all **Loss** from all **Claims** for which this Policy provides coverage, regardless of the time of payment by the Insurer, and regardless of whether such **Claims** are made during the **Policy Period** or during any Discovery Period (if purchased).

If any **Claim** made against an **Insured Person** gives rise to coverage both under this Policy and under any other policy(ies) or coverage section(s) issued by the Insurer or any other company of the RLI Insurance Group, to any **Outside Entity**, the maximum liability of the Insurer and such other RLI company, combined, under this Policy and all such other policies, combined, for all **Loss**, including **Defense Expenses**, in respect of such **Claim** shall not exceed the largest single available Limit of Liability under any such policy or coverage section, including this Policy.

**Defense Expenses** will be part of and not in addition to the Limit of Liability, and payment of **Defense Expenses** by the Insurer will reduce its Limit of Liability.

If the Limit of Liability is exhausted by the payment of **Loss**, the premium will be fully earned, all obligations of the Insurer under this Policy will be completely fulfilled and exhausted, and the Insurer will have no further obligations of any kind or nature whatsoever under this Policy.

## 6. **Defense and Settlement**

The Insurer will have no duty under this Policy to defend any **Claim**. No **Defense Expenses** may be incurred, no liability may be admitted, and no settlement of any **Claim** may be made or negotiated without the Insurer's written consent, such consent not to be unreasonably withheld.

The Insurer shall not be liable for any **Defense Expenses**, admission or settlement to which the Insurer has not consented.

The Insurer shall advance covered **Defense Expenses** on a current basis. Any advancement of **Defense Expenses** shall be subject to, and conditioned upon, receipt by the Insurer of a written undertaking by the **Insured Persons** that such advanced amounts shall be repaid to the Insurer by the **Insured Persons** severally according to their respective interests if and to the extent any such **Insured Person** shall not be entitled under the terms and conditions of this Policy to coverage for such **Defense Expenses**.

The **Insured Persons** agree to provide the Insurer with all information, assistance and cooperation which the Insurer reasonably requests and agree that in the event of a **Claim** the **Insured Persons** will do nothing that shall prejudice the Insurer's position or its potential or actual rights of recovery. The Insurer may make any investigation it deems necessary. The Insurer shall have the right and shall be given the opportunity to effectively associate with the **Insured Persons** in the investigation, defense, and settlement (including the negotiation of a settlement) of any **Claim** that appears reasonably likely to be covered in whole or in part by this Policy.

## 7. **Notice/Claim Reporting Provisions**

As a condition precedent to any right to payment in respect of any **Claim**, the **Insured Person** must give the Insurer written notice of such **Claim**, with full details, as soon as practicable after it is first made. All **Related Claims** will be treated as a single **Claim** made when the earliest of such **Related Claims** was first made, regardless of whether such date is before or during the **Policy Period**.

All notices under this Policy shall be in writing and given by prepaid express courier, certified mail or fax properly addressed to the appropriate party. Notice to any **Insured Person** may be given to the **Parent Company** at the address shown in the Declarations of this Policy. Notice to the Insurer of any **Claim** or potential **Claim** shall be given to:

RLI Insurance Company  
Attention: Claim Department  
9025 North Lindbergh Drive  
Peoria, Illinois 61615-1431

All other notices to the Insurer under this Policy shall be given to the same addressee but to the attention of the Underwriting Department. Notice given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee or one day following the date such notice is sent, whichever is earlier.

If, during the **Policy Period** or the Discovery Period (if purchased):

- a. the **Insured Persons** first become aware of a **Wrongful Act** which may subsequently give rise to a **Claim**, and
- b. the **Insured Persons** give the Insurer written notice of such **Wrongful Act**, including a description of the **Wrongful Act**, the identities of the potential claimants, the consequences which have resulted or may result from such **Wrongful Act** and the circumstances by which the **Insured Person** first became aware of such **Wrongful Act**, and
- c. the **Insured Persons** request coverage under this Policy for any subsequent **Claim** arising from such **Wrongful Act**;

then the Insurer will treat any such subsequent **Claim** as if it had been first made during the **Policy Period**.

## 8. **Renewal**

Except in the event this Policy is cancelled in accordance with Section 9. of this Policy, on each expiration date of this Policy, upon submission of the renewal application and payment of the premium, this Policy shall be renewed to a date one year beyond its previously stated expiration date, unless written notice is given by the Insurer to the **Parent Company**, or by the **Parent Company** to the Insurer, that such Policy extension is not desired. Such written notice must be given at least thirty (30) days prior to the expiration date of this Policy.



## 9. Cancellation

This Policy may not be cancelled by either the **Entity**, the **Insured Persons** or the Insurer, except that this Policy may be cancelled by the Insurer ten (10) days after the receipt by the **Parent Company** of a written notice of termination from the Insurer based upon failure to pay premium due, unless such premium is received by the Insurer prior to such tenth (10th) day.

## 10. Rescission Waiver

This Policy shall not be rescinded by the Insurer.

## 11. Bankruptcy

In the event a liquidation or reorganization proceeding is commenced by or against the **Entity** pursuant to the Code, as amended or any similar state or local law, the **Entity** and the **Insured Persons** hereby:

- a. waive and release any automatic stay or injunction which may apply in such proceeding to this Policy or its proceeds under such Code or law, and
- b. agree not to oppose or object to any efforts by the Insurer, the **Entity** or any **Insured Person** to obtain relief from any such stay or injunction.

In the event the **Entity** becomes a debtor in possession under United States bankruptcy law or an equivalent status under the law of any other country and the aggregate **Loss** due under this Policy exceeds the remaining available Limit of Liability, the Insurer shall: (i) first pay such **Loss** allocable to **Wrongful Acts** that are actually or allegedly caused, committed, or attempted prior to the **Entity** becoming a debtor in possession, then (ii) with respect to whatever remaining amount of the Limit of Liability is available after payment under (i) above, pay such **Loss** allocable to **Wrongful Acts** that are actually or alleged caused, committed, or attempted after the **Entity** became a debtor in possession.

## 12. Acquisitions, Mergers and Subsidiaries

If during the **Policy Period** the **Entity**:

- a. acquires securities or voting rights in another organization or creates another organization which as a result of such acquisition or creation such organization becomes a **Subsidiary**, or
- b. acquires any organization by merger into or consolidation with such organization ("Event"),

then such organization's directors and officers shall become **Insured Persons** if:

- (i) the total consolidated assets of such organization as reflected in its then most recent consolidated financial statements are less than twenty-five percent (25%) of the total consolidated assets of the **Parent Company** as reflected in the **Parent Company's** then most recent consolidated financial statements, or
- (ii) with respect to any such organization not described in (i) above, the **Entity** gives written notice to the Insurer of the Event within ninety (90) days of such Event together with such information the Insurer may require, and the **Entity** pays any reasonable additional premium required by the Insurer.

Coverage for such **Insured Persons** shall be afforded, subject to the terms and conditions of this Policy, from the date of the Event, but only for **Wrongful Acts** committed or allegedly committed after the Event, unless the Insurer agrees by endorsement to provide coverage for **Wrongful Acts** committed or allegedly committed prior to such date.

## 13. Change of Control

If, during the **Policy Period**:

- a. the **Parent Company** shall consolidate with or merge into, or sell all or substantially all of its assets to any other person or organization or group of persons or organizations acting in concert; or
- b. any person or organization or group of persons or organizations acting in concert shall acquire securities or voting rights which result in such person(s) and organization(s) collectively owning more than fifty percent (50%) of the voting power for the election of directors of the **Parent Company**;

(either 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 **Wrongful Act** occurring after the effective time of the Transaction, and the entire premium for this Policy shall be deemed fully earned as of such time. The **Parent Company** and the **Insured Persons** shall also then have the right to elect a Discovery Period described in Section 14. of this Policy or a greater period as may be negotiated with the Insurer.

The **Parent Company** 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.

#### 14. **Discovery Period**

If:

- a. either the Insurer or the **Parent Company** refuses or declines to renew this Policy for any reason, or
- b. a Transaction described in Section 13. of this Policy occurs, and

within thirty (30) days after the end of the **Policy Period** the **Parent Company** or the **Insured Persons** elect to purchase the Discovery Period by paying the additional premium set forth in Item 7. (a) of the Declarations for this Policy, then the coverage otherwise afforded by this Policy will be extended for the period set forth in Item 7. (b) of the Declarations for this Policy but only for **Wrongful Acts** occurring before the end of the **Policy Period** or the date of any Transaction under Section 13. of this Policy, whichever is earlier. The Limit of Liability for the Discovery Period (if purchased) shall be part of, and not in addition to, the Limit of Liability for the **Policy Period**.

As a condition precedent to the right to exercise the Discovery Period, the total premium for this Policy must have been paid in full.

If the Discovery Period is purchased, the entire premium for the Discovery Period shall be deemed fully earned at its commencement.

Subject to all the terms and conditions of this Section 14., the Insurer shall, upon request, provide the **Parent Company** or the **Insured Persons** with a quotation for a three (3) year Discovery Period.

#### 15. **Marital or Domestic Partner Extension**

Subject otherwise to the terms and conditions hereof, this Policy shall cover **Loss** arising from any **Claim** made against the lawful spouse or domestic partner (whether such stature is derived by reason of statutory law, common law, or any other applicable law of any jurisdiction in the world) of an **Insured Person** for **Claims** arising solely out of his or her capacity as the spouse or domestic partner of an **Insured Person**, including such **Claims** that seek damages recoverable from marital community property, property jointly held by the **Insured Person** and the spouse or domestic partner, or property transferred from the **Insured Person** to the spouse or domestic partner; provided, however, this extension shall not afford coverage for **Wrongful Acts** of the spouse or domestic partner. All terms, conditions and other provisions of this Policy which would be applicable to **Loss** incurred by the **Insured Person** in such **Claim** shall also apply to **Loss** incurred by the spouse or domestic partner in such **Claim**.

#### 16. **Outside Position Coverage**

All coverage under this Policy for **Loss** from **Claims** against **Insured Persons** for **Wrongful Acts** in their **Outside Positions** will be specifically excess of, and will not contribute with, the amount of payment from any other insurance available to such **Insured Persons** by reason of their service in such **Outside Positions**.

## 17. Representations; Severability

The **Insured Persons** represent that the particulars and statements contained in or attached to the Application are true, accurate and complete, and agree that this Policy is issued in reliance on the truth of those representations, and agree that such particulars and statements, which are deemed to be incorporated into and to constitute a part of this Policy, are the basis of this Policy. No knowledge or information possessed by any **Insured Person** will be imputed to any other **Insured Person**.

This Policy is signed for the Insurer by its authorized officers. It is countersigned on the Declarations, where required by law, by a duly authorized agent of the Insurer.

## 18. Subrogation; Indemnification

In the event of any payment under this Policy, the Insurer shall be subrogated to the extent of such payment to all of the **Insured Persons'** rights of recovery, including without limitation rights of recovery from the **Entity** for indemnification or advancement. The **Insured Persons** shall execute and deliver all instruments and papers and do whatever else is necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Insurer effectively to bring suit in the name of the **Insured Person**.

## 19. Other Insurance

Except as otherwise expressly provided in this Policy, if any **Loss** is insured under any other valid and collectible policy(ies), prior or current, then this Policy shall cover such **Loss** subject to its limitations, conditions, provisions and other terms, only to the extent that the amount of such **Loss** is in excess of the amount of payment from such other insurance whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limit of Liability provided in this Policy.

All **Underlying Insurance** shall be maintained in full effect during the **Policy Period** and each such policy shall afford the same coverage as such policy afforded at inception of this **Policy Period**. If the **Underlying Insurance** is not so maintained, the Insurer shall not be liable under this Policy to a greater extent than it would have been had such **Underlying Insurance** been so maintained.

## 20. Worldwide Territory

Coverage under this Policy shall extend anywhere in the world.

## 21. Valuation and Foreign Currency

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

## 22. Authorization

The **Parent Company** shall act on behalf of all **Insured Persons** with respect to the giving and receiving of notice of nonrenewal, the payment of premiums and the receiving of any return premiums that may become due under this Policy, the negotiation, agreement to and acceptance of any endorsements issued to form a part of this Policy. In addition to any right of the **Insured Persons**, the **Parent Company** may also act on behalf of all **Insured Persons** with respect to the notice of **Claims** and the exercising or declining to exercise any right to a Discovery Period.

## 23. Action Against the Insurer

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

No person or organization shall have any right under this Policy to join the Insurer as a party to any action against the **Insured Persons** to determine the **Insured Person's** liability, nor shall the Insurer be impleaded by the **Insured Persons** or their legal representatives. Bankruptcy or insolvency of the **Insured Persons** or of the estate of any **Insured Person** shall not relieve the Insurer of any of its obligations hereunder.

Only if requested by the **Insured Persons**, the Insurer shall submit any dispute, controversy or claim arising out of or relating to this Policy or the breach, termination or invalidity thereof to final and binding arbitration pursuant to such rules and procedures as the parties may agree. If the parties cannot so agree, the arbitration shall be administered by the American Arbitration Association in accordance with its then prevailing commercial arbitration rules. The arbitration panel shall consist of one arbitrator selected by the **Insured Persons**, one arbitrator selected by the Insurer, and a third independent arbitrator selected by the first two arbitrators. In any such arbitration, each party will bear its own legal fees and expenses.

24. **Assignment**

This Policy and any and all rights hereunder are not assignable without the written consent of the Insurer.

25. **Changes**

The terms and conditions of this Policy shall not be waived or changed, except by endorsement issued to form a part of this Policy.

26. **Headings**

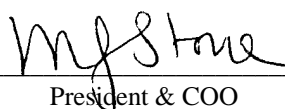
The descriptions in the headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

27. **Entire Agreement**

The **Insured Persons** agree this Policy, including the Application and any endorsements, constitutes the entire agreement between the **Insured Persons** and the Insurer or any of its agents relating to this insurance.

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

  
\_\_\_\_\_  
Corporate Secretary

  
\_\_\_\_\_  
President & COO