

PRIVATUS

(INCLUDING DIRECTORS, OFFICERS AND CORPORATE LIABILITY, EMPLOYMENT PRACTICES LIABILITY, FIDUCIARY LIABILITY AND OUTSIDE EXECUTIVE LIABILITY INSURANCE)

In consideration of payment of the premium, and in reliance on all statements made in the Application for this Policy and all information provided to the Insurer, and subject to all the provisions of this Policy, the Insurer designated as such in the Declarations and the **Parent Company**, on behalf of all **Insureds**, agree as follows:

I. INSURING AGREEMENTS

The Insurer shall pay in connection with a **Wrongful Act** as appropriate per the Insuring Agreements below, which takes place before or during the **Policy Period**:

DIRECTORS, OFFICERS AND CORPORATE LIABILITY

(A) all **Loss** on behalf of any **Insured** arising from any **D&O Claim** for a **Wrongful Act**, other than a **Wrongful Act** while serving in an **Outside Position**, first made against such **Insured**;

EMPLOYMENT PRACTICES LIABILITY

(B) all **Loss** on behalf of any **Insured** arising from any:

- (1) **Employment Practice Claim** for a **Wrongful Act** first made against such **Insured** by or on behalf of any **Employee**; or
- (2) **Third Party Claim** for a **Wrongful Third Party Act** first made against such **Insured**, but solely if such coverage is purchased and marked as "included" in Item 7 of the Declarations;

FIDUCIARY LIABILITY

(C) all **Loss** on behalf of any **Insured** arising from any **Fiduciary Claim** for a **Wrongful Act** first made against such **Insured**; or

OUTSIDE EXECUTIVE LIABILITY

(D) all **Loss** on behalf of any **Insured Individual** arising from any **D&O Claim** for a **Wrongful Act** while serving in an **Outside Position** first made against such **Insured Individual**;

during the **Policy Period** or Extended Reporting Period, if applicable, and reported in writing to the Insurer as soon as practicable after any of the **Policyholder's Executive Officers** first becomes aware of such **Claim**, but in no event later than sixty (60) days after the expiration of the **Policy Period** or Extended Reporting Period, if applicable.

Coverage under each Insuring Agreement above shall only be included in this Policy if such Insuring Agreement is marked as "included" in Item 6 of the Declarations.

II. COVERAGE EXTENSIONS

A. Spouses

If a **Claim** made against an **Insured Individual** includes a claim against the **Insured Individual's** lawful spouse solely by reason of (1) such spouse's status as a spouse of the **Insured Individual**, or (2) such spouse's ownership interest in property from which the claimant seeks recovery for the **Wrongful Acts** of the **Insured Individual**, all loss which such spouse becomes legally obligated to pay on account of such claim will be treated for purposes of this Policy as **Loss** which the **Insured Individual** is legally obligated to pay on account of the **Claim** made against the **Insured Individual**. Such loss shall be covered under this Policy only if and to the extent that such loss would be covered under this Policy if incurred by the **Insured Individual**.

The coverage extension afforded by this Subsection does not apply to any **Claim** alleging any wrongful act or omission by an **Insured Individual's** spouse. The term "spouse" as used in this paragraph shall include any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law in the United States of America.

B. Estates and Legal Representatives

Coverage under this Policy shall extend to a **Claim** made against the estates, heirs, legal representatives or assigns of an **Insured Individual** who is deceased or against the legal representatives or assigns of an **Insured Individual** who is incompetent, insolvent or bankrupt for the **Wrongful Acts** of such **Insured Individual**.

The coverage extension afforded by this Subsection does not apply to any **Claim** alleging any wrongful act or omission by the **Insured Individual's** estates, heirs, legal representatives or assigns.

C. Extended Reporting Period

If the Insurer chooses not to renew or the **Parent Company** cancels or non renews this Policy, the **Policyholder** or the **Insured Individuals** shall have the right, upon payment of the additional premium required by the Insurer in Item 5(A) in the Declarations, to a one year Extended Reporting Period following the termination of the **Policy Period**, but only with respect to **Wrongful Acts** occurring prior to the effective date of cancellation or nonrenewal.

The right to purchase the Extended Reporting Period shall not be available in the event of non-renewal or cancellation of this Policy resulting from the failure to pay any premium due. The offer of renewal terms, conditions or premiums different from those in effect prior to renewal shall not constitute a refusal to renew.

This right to elect any Extended Reporting Period shall lapse unless written notice of the of the election, together with payment of the additional premium due, is given by the **Policyholder** or **Insured Individual** and is received by the Insurer within sixty (60) days following the effective date of cancellation or nonrenewal, as appropriate. Coverage under the Extended Reporting Period shall apply only to a **Claim** that is first made against the **Policyholder** or **Insured Individual** during the Extended Reporting Period and any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding **Policy Period**. The Limit of Liability applicable to the Extended Reporting Period shall be part of, and not in addition to, the Limit of Liability for the immediately preceding **Policy Period**.

III. DEFINITIONS

A. Definitions Applicable To the Coverage Afforded Under All Section I. Insuring Agreements:

The following definitions apply to all Insuring Agreements under this Policy:

1. **Application** means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other such documents submitted in connection with the underwriting of this policy or of which this policy is a renewal, replacement or which succeed it in time.
2. **Defense Costs** means reasonable and necessary legal fees and expenses (other than regular or overtime wages, salaries, fees or benefits of the **Insured Individuals or Employees** of the **Policyholder** or the **Policyholder's** overhead expenses) incurred by or on behalf of the **Insureds** in defending, settling, appealing or investigating **Claims**, and the premiums for appeal, attachment or similar bonds. The Insurer, however, shall have no obligation to furnish such bonds.
3. **Employee** means any one or more natural persons who are past, present or future:
 - a. duly appointed officer of the **Policyholder**;
 - b. individuals whose labor or service is directed by the **Policyholder**, whether such labor or service is on a part-time, temporary, seasonal, or full-time basis;
 - c. leased employees and volunteers whose labor or service is directed solely by the **Policyholder**;
 - d. applicants for prospective employment by the **Policyholder**; or

- e. any individual contracted to perform work for the **Policyholder** or who is an independent contractor for the **Policyholder**, but only if such individual performs work or services solely for or on behalf of the **Policyholder**.
4. **Executive Officer** means any one or more natural persons who are a past, present or future chairperson of the board of directors, president, chief executive officer, chief operating officer, chief financial officer, in-house general counsel, human resource manager or risk manager of the **Policyholder** or the functional equivalent of any such positions.
 5. **Financial Impairment** means:
 - a. the appointment by any state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Policyholder**; or
 - b. the **Policyholder** becoming a debtor in possession within the meaning of the United States Bankruptcy Code or similar legal status under foreign law.
 6. **Interrelated Wrongful Acts** means any and all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally or logically connected facts, circumstances, situations, events, transactions or causes.
 7. **Loss** means the amount(s) which the Insureds become legally obligated to pay on account of a **Claim**, including damages, judgments, any award of pre-judgment and post-judgment interest, settlement amounts, costs and fees awarded pursuant to judgments, and **Defense Costs**.

Loss does not include:

- a. fines, penalties, or taxes imposed by law, except for:
 - (i) the five (5) percent or less civil penalty imposed upon an **Insured** under Section 502(i) of the Employee Retirement Income Security Act of 1974, including any amendments thereto, ("ERISA");
 - (ii) the twenty (20) percent or less penalty imposed upon an **Insured** under Section 502(l) of ERISA;
 - (iii) fines, penalties or sanctions imposed upon an **Insured** pursuant to the Internal Revenue Service's Voluntary Compliance Resolution Program, Closing Agreement Program, or Tax Sheltered Annuity Voluntary Correction program, subject always to the Sublimit of Liability set forth in Item 3(C) in the Declarations; or
 - (iv) penalties or other awards imposed by the Pension Ombudsman of England or Occupational Pensions Regulatory Authority of England pursuant to the English Pension Scheme Act 1993, the English Pensions Act 1995, as amended, and any rules and regulations promulgated thereunder, provided always that no part of the premium for this Policy attributable to this exception has been funded, paid or reimbursed from the funds or assets or any pension scheme insured under this Policy;

with respect to covered settlements or judgments in a **Fiduciary Claim** arising under Section I. Insuring Agreement C; or

- b. matters uninsurable under the law pursuant to which this Policy shall be construed.

However, in determining the insurability of punitive or exemplary damages, or the multiplied portion of any multiplied damage award, other than as excluded in Subsection III.A7.b., it is agreed that the law of the jurisdiction most favorable to the insurability of those damages will control for purposes of resolving any dispute between the Insurer and the **Insureds**, provided that such jurisdiction is:

- (i) where the punitive, exemplary or multiplied damages were awarded or imposed;
- (ii) where the **Wrongful Act** or **Wrongful Third Party Act** underlying the **Claim** took place;

- (iii) where either the Insurer or any **Insured** is incorporated, has its principal place of business or resides; or
 - (iv) where the Policy was issued or became effective.
- 8. **Manager** means any one or more natural persons who are a past, present or future manager, managing member, member of the board of managers or equivalent executive of a **Policyholder** that is a limited liability company.
- 9. **Non-Profit Entity** means any non-profit corporation, community chest, fund or foundation that is not included in the definition of **Policyholder** and that is: (a) exempt from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended; or (b) organized for a religious or charitable purpose under any non-profit organization statute.
- 10. **Outside Entity** means:
 - (a) any **Non-Profit Entity**; or
 - (b) any other entity, if **Outside Position** coverage under Section I. Insuring Agreement D with respect to such entity is specifically granted by endorsement to this Policy.
- 11. **Outside Position** means the position of director, officer, trustee or other equivalent executive position held by any **Insured Individual** in an **Outside Entity** if service in such position is at the specific request of the **Policyholder**.
- 12. **Parent Company** means the company designated in Item 1 in the Declarations.
- 13. **Policyholder** means:
 - a. the **Parent Company** and its **Subsidiaries**, including any such organization as a debtor in possession within the meaning of the United States Bankruptcy Code or similar legal status under foreign law; and
 - b. any foundation or charitable trust controlled by the **Parent Company** and/or its **Subsidiaries**.
- 14. **Policy Period** means the period of time specified in Item 2 in the Declarations, subject to prior termination in accordance with Section VIII.C.
- 15. **Pollutants** means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or any federal, state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, mold, spores, fungi, germs, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odor, waste water, oil or oil product, infectious or medical waste, asbestos or asbestos product, lead or lead product, noise, and electric, magnetic or electromagnetic field.
- 16. **Subsidiary(ies)** means any entity in which and so long as the **Parent Company**, either directly or indirectly:
 - a. owns more than 50% of the issued and outstanding voting securities; or
 - b. controls voting rights representing the present right to elect or to appoint more than fifty (50) percent of the directors or trustees;on or before the effective date of this Policy, or after the effective date of this Policy if the entity is covered pursuant to Section VIII. A. 1, solely with regard to **Wrongful Acts** occurring at or after the time such entity became a **Subsidiary**.

B. Definitions Applicable To The Coverage Afforded Under Section I. Insuring Agreements A and D, Directors, Officers and Corporate Liability and Outside Executive Liability:

With respect to Insuring Agreements A and D the following definitions shall apply:

1. **Claim** means any **D&O Claim**.
2. **D&O Claim** means:
 - a. a written demand against an **Insured** for monetary or non-monetary relief;
 - b. a civil, arbitration, administrative or regulatory proceeding against any **Insured** commenced by:
 - (i) the service of a complaint or similar pleading;
 - (ii) the filing of a notice of charge, investigative order or like document; or
 - (iii) written notice or subpoena from an authority identifying such **Insured** as an entity or person against whom a formal proceeding may be commenced; or
 - c. a criminal investigation or proceeding against any **Insured Individual** commenced by:
 - (i) the return of an indictment, information, or similar pleading; or
 - (ii) written notice or subpoena from an authority identifying such **Insured Individual** as an individual against whom a formal proceeding may be commenced.
3. **Insured** means the **Insured Individual** and the **Policyholder**.
4. **Insured Individual** means any one or more natural persons who are past, present or future:
 - a. duly elected or appointed director(s), officer(s), trustee(s) or **Manager(s)** of the **Policyholder** or their functional equivalents if serving in such a position outside the United States;
 - b. management committee members of a joint venture which is a **Subsidiary**; or
 - c. **Employees**, other than independent contractors, who are named in any **D&O Claim**;provided always that, with regard to paragraph III. B. 4. c. above, such **Employees** shall not be considered **Insureds** for the purposes of Exclusion IV. B. 1.b.
5. **Wrongful Act** means:
 - a. any actual or alleged error, misstatement, misleading statement, act, omission, neglect, or breach of duty by:
 - (i) any **Insured Individual** in their capacity as such;
 - (ii) any **Insured Individual** in an **Outside Position** with respect to Section I. Insuring Agreement D; or
 - (iii) the **Policyholder** with respect to Section I. Insuring Agreement A; or
 - b. any matter claimed against any **Insured Individual** solely by reason of their serving in their capacity as such or in an **Outside Position** with respect to Section I. Insuring Agreement D.

C. Definitions Applicable To The Coverage Afforded Under Section I. Insuring Agreement B, Employment Practices Liability:

With respect to Insuring Agreement B. the following definitions shall apply:

1. **Breach of Employment Contract** means a breach of any oral, written or implied employment contract.

2. **Claim** means any **Employment Practice Claim**. If **Third Party Claim** Coverage is included in Item 7 in the Declarations, **Claim** shall include a **Third Party Claim**.
3. **Discrimination** means the violation of any Federal, State, or local statute, regulation, ordinance or common law concerning discrimination in employment anywhere in the world.
4. **Employment Benefits** means perquisites, fringe benefits, deferred compensation or payments (including insurance premiums) in connection with an employee benefit plan and any other payment to or for the benefit of an employee arising out of the employment relationship. **Employment Benefits** shall not include salary, wages, commissions or non-deferred cash incentive compensation.
5. **Employment Practices Claim** means:
 - a. a written demand against any **Insured** for monetary or non-monetary relief;
 - b. a civil proceeding against any **Insured** commenced by the service of a complaint or similar pleading;
 - c. a formal, administrative, investigative or regulatory proceeding by or before the Equal Employment Opportunity Commission (EEOC), the Office of Federal Contract Compliance Programs (OFCCP), or similar formal proceeding before another federal, state or other governmental agency against any **Insured** commenced by a notice of charges, formal investigative order or similar document; or
 - d. an arbitration or other alternative dispute resolution proceeding against any **Insured** commenced by a written demand or notice.

The term **Employment Practices Claim** shall not include any labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement. If **Third Party Claim** Coverage is purchased and marked as "included" in Item 7 in the Declarations, **Employment Practices Claim** shall include **Third Party Claim** Coverage.

6. **Insured** means the **Insured Individual** and the **Policyholder**.
7. **Insured Individual** means any one or more natural persons who are past, present or future:
 - a. duly elected or appointed director, officer, trustee, or **Manager** of the **Policyholder** or their functional equivalent if serving in such a position outside the United States;
 - b. individuals compensated by the **Policyholder** through wages, salary and/or commissions and whose labor or service is directed by the **Policyholder**, whether such labor or service is on a part-time, temporary, seasonal, or full-time basis;
 - c. volunteers whose labor or service is directed by the **Policyholder**;
 - d. individuals leased to the **Policyholder**, but only if prior to any **Claim** against such individual the **Policyholder** has agreed in writing to indemnify such individual or the company leasing that individual for matters within the scope of coverage of the Policy; or
 - e. individuals contracted to perform work for the **Policyholder** or who is an independent contractor for the **Policyholder**, but only if prior to any **Claim** against such individual the **Policyholder** has agreed in writing to indemnify such individual for matters within the scope of coverage of this Policy.
8. **Harassment** means:
 - a. work related sexual harassment that interferes with an **Employee's** performance or creates an intimidating, hostile or offensive working environment;
 - b. sexual advances, requests for sexual favors, or other conduct of a sexual nature that is made a condition of employment or that is used as a basis for employment decisions; or

c. illegal work related harassment.

9. **Other Workplace Tort** means

- a. an employment related misrepresentation to an employee;
- b. failure to grant or adopt adequate employment related policies and procedures;
- c. negligent hiring, supervision, evaluation or retention of employees;
- d. employment-related invasion of privacy or defamation;
- e. employment-related wrongful infliction of emotional distress; or
- f. employment-related libel, slander, false arrest, detention, or imprisonment;

but only when alleged as part of a **Employment Practices Claim** for an actual or alleged **Breach of Employment Contract, Discrimination, Harassment, Retaliation, or Wrongful Job Action**

10. **Retaliation** means the illegal retaliatory treatment of **Employees**, including any retaliatory treatment against an **Employee** for such **Employee** engaging in any of the following activities:

- a. exercising his or her rights under the law;
- b. refusing to violate any law or opposing an unlawful practice;
- c. threatening to disclose or actually disclosing violations of the law to any governmental authority or the management of the **Policyholder**; or
- d. testifying, cooperating, or assisting with respect to an investigation or proceeding by a governmental authority against the **Policyholder**.

11. **Third Party Claim** means any **Employment Practices Claim** brought and maintained against any **Insured** by or on behalf of any natural person(s) who is, or attempted to be, a past, present or future customer(s) or vendor(s), or an employee of customer(s) or vendor(s) of the **Policyholder** for any **Wrongful Third Party Act**.

12. **Wrongful Act** means any **Breach of Employment Contract, Discrimination, Harassment, Retaliation, Wrongful Job Action, or Other Workplace Torts** actually or allegedly committed or attempted by:

- a. the **Policyholder**;
- b. any **Insured Individuals** in their capacities as such; or
- c. by any other persons for whom the **Insureds** are legally responsible.

13. **Wrongful Job Action** means wrongful:

- a. dismissal, discharge or termination (either actual or constructive) of employment;
- b. wrongful failure to employ or promote;
- c. wrongful reference, discipline or deprivation of a career opportunity; or
- d. wrongful demotion or adverse change in the terms, conditions or status of employment.

14. **Wrongful Third Party Act** means any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by:

- a. the **Policyholder**;
- b. any **Insured Individuals** in their capacities as such; or
- c. any other persons for whom the **Insureds** are legally responsible;

which discriminates against any natural person who is a customer or vendor, or employee of a customer or vendor, of the **Policyholder** on the basis of that natural person's race, color, creed, national origin, gender, sexual orientation or preference, marital status, sex, religion, age, military service, disability or handicap, pregnancy, or on any other basis prohibited by law, including the sexual or other discriminatory harassment of such customer or vendor or employee of such customer or vendor; provided, however, that a **Wrongful Third Party Act** does not include, in whole or in part:

- y. any actual or alleged battery or bodily injury (other than mental anguish, humiliation or emotional distress); or
- z. any actual or alleged price discrimination or violation of any antitrust statute or other law proscribing unfair competition or unfair business practices.

D. Definitions Applicable To The Coverage Afforded Under Section I. Insuring Agreement C, Fiduciary Liability:

With respect to Insuring Agreement C. the following definitions shall apply:

1. **Administrator** means an **Insured Individual** with responsibility for the performance of one or more of the following administrative duties or activities:
 - a. counseling participants or beneficiaries with respect to a **Plan**,
 - b. providing interpretations with respect to a **Plan**,
 - c. handling of records with respect to a **Plan**, or
 - d. activities affecting enrollment, termination, amendment or cancellation of participants or beneficiaries under the **Plan**.

Administrator also means any third party which is included in the definition of **Administrator** by written endorsement attached hereto, but only with respect to a **Plan**.

2. **Benefits** means any obligation under a **Plan** to a participant or beneficiary under a **Plan** which is a payment of money or property or the grant of a privilege or perquisite.
3. **Claim** means any **Fiduciary Claim**.
4. **ERISA** means the Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985), and any amendment or revision thereto, or any similar common or statutory law of the United States, Canada or any state or other jurisdiction to which a **Plan** is subject. **ERISA** shall not include any law concerning worker's compensation, unemployment insurance, Social Security, government mandated disability benefits or similar law.
5. **ESOP** means any employee stock ownership plan as defined in **ERISA**.
6. **Fiduciary(ies)** means a fiduciary(ies) of a **Plan** as defined in **ERISA**.
7. **Fiduciary Claim** means:
 - a. a written demand against any **Insured** for monetary or non-monetary relief,
 - b. a civil, arbitration, administrative or regulatory proceeding against any **Insured** commenced by:
 - (i) the service of a complaint or similar pleading,
 - (ii) the filing of a notice of a charge, investigative order or like document, or
 - (iii) written notice or subpoena from an authority identifying such **Insured** as an entity or person against whom a formal proceeding may be commenced,
 - c. a criminal proceeding against any **Insured** commenced by:

- (i) the return of an indictment, information, or similar pleading, or
 - (ii) written notice or subpoena from an authority identifying such **Insured** as an Individual or entity against whom a subsequent formal proceeding may be commenced, or
- d. any fact-finding investigation by the Department of Labor, the Pension Benefit Guaranty Corporation, or similar governmental agency located outside the United States.
8. **Insured** means any of the **Insured Individuals**, the **Policyholder** (including any general or limited partnership scheduled by written endorsement hereto) and any **Plan**. **Insured** shall also include any natural person in the capacity of **Fiduciary** or **Administrator** of a **Plan** if such person is scheduled by written endorsement attached hereto.
9. **Insured Individual** means any one or more natural persons who are past, present or future duly elected or appointed director(s), officer(s), **Managers** or employee(s) of the **Policyholder** or a **Plan** (including a general partner(s) of a general or limited partnership scheduled by written endorsement attached hereto) or his or her functional equivalent if serving in such a position outside the United States, in his or her capacity as a **Fiduciary** or **Administrator** of a **Plan**.
10. **Plan** means any plan, fund or program, regardless of whether it is subject to regulation under Title I of ERISA or any part thereof, or meets the requirements for qualification under Section 401 of the Internal Revenue Code of 1986, as amended, and which is:
- a. a welfare plan, as defined in **ERISA**, sponsored solely by the **Policyholder** or sponsored jointly by the **Policyholder** and a labor organization, solely for the benefit of the employee(s) of the **Policyholder**,
 - b. a pension plan, as defined in **ERISA** (other than an **ESOP**), sponsored solely by the **Policyholder** or sponsored jointly by the **Policyholder** and a labor organization, solely for the benefit of the employee(s) of the **Policyholder**, provided that prior to the inception date of this Policy, such plan has been reported in writing to the Insurer pursuant to the terms of the Application for this Policy or pursuant to the terms of any prior policy issued by the Insurer or the Application for such policy and the **Policyholder** shall have paid any premium required for such plan,
 - c. a pension plan, as defined in **ERISA** (other than an **ESOP**), which, during the **Policy Period**, becomes sponsored solely by the **Policyholder** or sponsored jointly by the **Policyholder** and a labor organization, solely for the benefit of the employee(s) of the **Policyholder**,
 - d. a plan which is both a welfare plan and a pension plan as defined in **ERISA** (other than an **ESOP**),
 - e. a government-mandated program for unemployment insurance, social security or disability benefits solely with respect to a **Wrongful Act** as defined in Subsection III.D.11.b.,
 - f. an **ESOP** which is included in the definition of **Plan** by written endorsement attached hereto, or
 - g. any other plan, fund or program, including a multi-employer plan(s) solely with respect to a **Wrongful Act** as defined in Subsection III.D.11.c., which is included in the definition of **Plan** by written endorsement attached hereto.

Pursuant to the requirements of paragraphs a. and b. above, coverage under this Policy shall apply to any pension or welfare plan that was merged, sold, spun-off or terminated prior to or during the **Policy Period** with respect to **Wrongful Acts** that occurred prior to the date of such merger, sale or spin-off or prior to the final date of asset distribution of such plan. As a condition precedent to coverage with respect to any such pension or welfare plan, the **Policyholder** shall give written notice of such transaction to the Insurer as soon as practicable but in no event more than ninety (90) days after the effective date of such merger, sale, spin-off or termination.

Pursuant to the requirement of paragraph c. above, if the total assets of such newly sponsored **Plan** are greater than twenty-five (25) percent of the total consolidated assets of the existing **Plans** of the **Policyholder**, this Policy shall provide insurance for such plan for a period of ninety (90) days after the effective date of such sponsorship.

11. **Wrongful Act** means:
- a. as respects a **Fiduciary**, a **Plan** or the **Policyholder**:

- (i) a violation of any of the responsibilities, obligations or duties imposed on **Fiduciaries** by **ERISA** with respect to a **Plan**, or
 - (ii) any matter claimed against a **Insured** by reason of his, her or its status as a **Fiduciary**,
- b. as respects an **Administrator**:
- (i) any act error or omission in the performance of his or her administrative duties as defined in Subsection III.D.1., or
 - (ii) any matter claimed against an **Administrator** by reason of his or her status as such, and
- c. as respects a **Insured Individual**, any matter claimed against him or her arising out of his or her service as a **Fiduciary** or **Administrator** of any multi-employer plan as defined by **ERISA**, but only if such service is at the specific request of the **Policyholder** and such multi-employer plan is added pursuant to Subsection III.D.10.g., identified as a multi-employer plan and any required premium is paid.

IV. Exclusions

A. Exclusions Applicable To All Section I. Insuring Agreements:

The Insurer shall not be liable for **Loss** arising from any **Claim** made against any **Insured**:

1. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any fact, circumstance, transaction, event or **Wrongful Act** which before the Inception Date set forth in Item 2 of the Declarations, was the subject of any notice of claim, loss or notice of potential claim or potential loss given under any other policy of insurance of which this policy is a direct or indirect renewal or replacement;
2. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving:
 - a. any demand, suit or other proceeding pending, or order, decree or judgment entered, against any **Insured** on or prior to the applicable Pending or Prior Claim Date set forth in Item 8 in the Declarations, or any **Wrongful Act**, fact, circumstance or situation underlying or alleged therein; or
 - b. any other **Wrongful Act** whenever occurring, which together with a **Wrongful Act** described in a. above, constitute **Interrelated Wrongful Acts**;
3. for bodily injury, mental anguish, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property including loss of use thereof, but this exclusion shall not apply with respect to any actual or alleged mental anguish or emotional distress in a **Employment Practices Claim** for a **Wrongful Act**, solely as that term is defined in Section III.C.12., brought by an **Employee**;
4. for:
 - a. any nuclear reaction, radiation or contamination;
 - b. the actual, alleged or threatened discharge, release, escape, seepage, migration, dispersal or disposal of **Pollutants** into or on real or personal property, water or the atmosphere; or
 - c. any direction or request that the **Insureds** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so (such cost hereinafter "Clean Up Costs");

however, this Exclusion IV. A. 4. shall not apply to the extent such **Claim**:

- (a) is made against a **Insured Individual**, otherwise covered under Section I. Insuring Agreement A, and the **Loss** incurred by such **Insured Individual** in connection with such **D&O Claim** is not permitted or required to be indemnified by the **Policyholder**, or the **Policyholder** is permitted or required to indemnify but does not do so by reason of **Financial**

Impairment;

- (b) is brought by or on behalf of any securities holder(s) of the **Policyholder** in their capacity as such, while acting totally independent of and without the solicitation, assistance, participation or intervention of the **Policyholder** or any **Insured Individual**; or
- (c) is brought by an **Employee** for **Retaliation**;

5. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving:
- a. the gaining of any profit, remuneration, or advantage to which the **Insured** was not legally entitled; or
 - b. any criminal or deliberately fraudulent act, error or omission by an **Insured**;
- if evidenced by any judgment, final adjudication, alternate dispute resolution proceeding or a document or written statement by an **Insured**.

With respect to exclusion A. 5. set forth above no fact pertaining to, knowledge possessed by or conduct by any **Insured Individual** shall be imputed to any other **Insured Individual**.

B. Exclusions Applicable To Section I. Insuring Agreements A and D, Directors, Officers and Corporate Liability and Outside Executive Liability:

The following exclusions apply to Insuring Agreements A and D of this Policy:

The Insurer shall not be liable for **Loss** arising from any **Claim** made against any **Insured**:

- 1. brought or maintained by or on behalf of any **Insured** except a **Claim**:
 - a. that is a derivative action brought or maintained on behalf of the **Policyholder** by one or more persons who are not **Insured Individuals** and who bring and maintain the **Claim** totally independent of and without the solicitation, assistance, participation, or intervention of any **Insured**;
 - b. that alleges a **Wrongful Act**, solely as that term is defined in Section III.C.12., and is brought by an **Employee**, but such **Claim** shall only be subject to coverage under Section I. Insuring Agreement B;
 - c. brought or maintained by any **Insured Individual** for contribution or indemnity, if the **Claim** directly results from another **Claim** covered under this Policy;
 - d. brought or maintained by or on behalf of a bankruptcy or insolvency receiver, trustee, examiner, conservator, liquidator or rehabilitator for a **Policyholder**, or any assignee of such receiver, trustee, examiner, conservator, liquidator or rehabilitator;
 - e. brought or maintained by one or more **Insured Individuals** who have not served as directors, trustees, **Managers**, officers, or equivalent executives of the **Policyholder** within five (5) years immediately preceding the date the **Claim** is first made, and the **Claim** is brought and maintained totally independent of and without the solicitation, assistance, active participation, or intervention of the **Policyholder** or any **Insured Individual** not described in this paragraph e; or
 - f. brought or maintained outside the United States, Canada and any common law jurisdiction;
- 2. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 and amendments thereto or similar provisions of any federal, state or local statutory law or common law or the equivalent law of any other country in connection with any pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing benefits to employees of the **Policyholder**; or

3. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving the actual or alleged violation of any the Securities Act of 1933, Securities Exchange Act of 1934, Investment Act of 1940, any state "blue sky" securities laws; provided that this Exclusion B. 3. shall not apply to any **D&O Claim** arising out of the offering, sale or purchase of securities, whether debt or equity, in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933 and any amendments thereto or any rules or regulations promulgated thereunder; or
4. for any **Third Party Claim** for a **Wrongful Third Party Act** as such terms are defined in Section III C.

C. Exclusions Applicable To Section I. Insuring Agreement A, Directors, Officers and Corporate Liability:

The following exclusions apply to Insuring Agreement A of this Policy.

The Insurer shall not be liable for **Loss** arising from any **Claim** made against the **Policyholder**:

1. for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, service mark, trademark, trade secret or any other intellectual property rights;
2. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any actual or alleged contractual liability of the **Policyholder** under any express contract or agreement; or
3. for the rendering of or failure to render any service to a customer or client.

D. Exclusions Applicable to Section I. Insuring Agreement B, Employment Practices Liability:

The following exclusions apply to Insuring Agreement B. of this Policy.

The Insurer shall not be liable for **Loss** arising from any **Claim** made against any **Insured**:

1. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any action that relates to a collective bargaining agreement;
2. based upon, arising from, or in consequence of the liability of others assumed by any **Insured** under any written or oral contract or agreement; provided that this Exclusion A. 2 shall not apply to the extent that an **Insured** would have been liable in the absence of such a contract or agreement;
3. for an actual or alleged violation of the responsibilities, obligations or duties imposed by the following laws and any amendments thereto:
 - (a) any law governing workers' compensation, unemployment insurance, social security, disability benefits or similar law;
 - (b) the Employee Retirement Income Security Act of 1974 (except Section 510 thereof) or any law that governs any employee benefit arrangement, program, policy, plan or scheme of any type (whether or not legally required or whether provided during or subsequent to employment with the **Policyholder**);
 - (c) the Fair Labor Standards Act or any law that governs wage, hour or payroll policies and practices, except the Equal Pay Act;
 - (d) the National Labor Relations Act or any law that pertains to the rights of employees with respect to unions, unionizing, or collective activities in the workplace or any obligations of employers with respect to such employee activities;
 - (e) the Worker Adjustment and Retraining Notification Act, or any law that governs any obligation of an employer to notify, discuss, or bargain with its employees or others in advance of any plant or facility closing, or mass layoff or any similar obligation;
 - (f) the Consolidated Omnibus Budget Reconciliation Act of 1985;

(g) the Federal False Claims Act or any similar federal, state, or local statutory law or common law anywhere in the world; or

(h) the Occupational Safety and Health Act or any law that governs workplace safety and health;

including any other federal, state local or foreign statute or law similar to any statute or law described in (a) through (h) of this exclusion, or rules or regulations promulgated under any of such statutes or laws; provided however this Exclusion D. 3. shall not apply to any **Claim** for **Retaliation**;

4. made against a **Subsidiary** or an **Insured Individual** of such **Subsidiary** for any **Wrongful Employment Practices Act** committed, attempted, or allegedly committed or attempted during anytime when such entity was not a **Subsidiary**;
5. for any actual or alleged breach of any express contract between the **Policyholder** and an independent contractor of the **Policyholder**; or
6. for any actual or alleged charge of contempt of court or violation of a court order; or
7. based upon, arising from, or in consequence of any federal, state, or local statutory law or common law anywhere in the world that governs competition, monopolistic practices, or price fixing (including horizontal or other price fixing of wages, hours, salaries, compensation, benefits or any other terms and conditions of employment), including but not limited to the Interstate Commerce Act of 1887, the Sherman Antitrust Act of 1890, the Clayton Act of 1914, the Robinson-Patman Act of 1936, the Cellar-Kefauver Act of 1950, the Federal Trade Commission Act of 1914, or amendments to or regulations promulgated under any such law; or

E. Exclusions Applicable Solely To Loss other than **Defense Costs** under Insuring Agreement B

The following exclusions apply to Insuring Agreement B of this Policy.

With respect to **Employment Claims** not excluded by Section IV Exclusions D of the Policy, the Insurer shall only pay **Defense Costs**, and not other components of **Loss**, on account of any **Claim** made against any **Insured**, for:

1. amounts which constitute **Employment Benefits** due or to become due or the equivalent value of such **Benefits**; provided that this Exclusion E. 1. shall not apply to any **Employment Claim** for **Wrongful Termination**;
2. amounts which constitute costs associated with providing any accommodation for persons with disabilities or any other status which is protected under any applicable federal, state, or local statutory law or common law anywhere in the world, including but not limited to the Americans With Disabilities Act, the Civil Rights Act of 1964, or amendments to or rules or regulations promulgated under any such law;
3. the recovery of amounts owing under or assumed by any **Insured** pursuant to any express written employment contract or agreement with any **Employee**; provided, however, this exclusion shall not apply to the extent the **Insured** would be liable for such amounts in the absence of such contract or agreement; or
4. any request order (including the cost of compliance with such order) or agreement for non-monetary relief including injunctive relief, declaratory relief, restitution, or any other equitable remedy.

F. Exclusions Applicable to Section I. Insuring Agreement C, Fiduciary Liability:

The following exclusions apply to Insuring Agreement C of this Policy.

1. The Insurer shall not be liable for **Loss** arising from any **Claim** made against any **Insured**:

- a. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any act or omission in his, her or its capacity as a **Fiduciary** or **Administrator** of any plan, fund or program other than a **Plan** as defined in this **Policy**, or by reason of his, her or its status as a **Fiduciary** or **Administrator** of such other plan, fund or program; or
 - b. based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving to any **Wrongful Act** as respects a **Plan** taking place at any time when the **Policyholder** did not sponsor such **Plan**.
2. The Insurer shall only pay **Defense Costs**, and not **Indemnity Amounts**, for any **Claim** made against any **Insured** for:
 - a. the failure to collect contributions owed to any **Plan** from any employer unless such failure is due to the negligence of an **Insured**; or
 - b. **Benefits**, including that portion of any settlement or judgment equal to such **Benefits**, unless recovery of such **Benefits** is based on a **Wrongful Act** and is payable as a personal obligation of an **Insured Individual**.

V. LIMITS OF LIABILITY, RETENTION, DEFENSE AND SETTLEMENT

A. Limits of Liability

The Insurer's maximum aggregate liability for all **Loss** arising from all **Claims**, under all Insuring Agreements, first made during the **Policy Period** shall be the Limit of Liability set forth in Item 3(A) in the Declarations. As respects Insuring Agreement C, the Insurer's maximum aggregate liability for Internal Revenue Service fines, penalties and sanctions shall be the Sublimit of Liability set forth in Item 3(B) in the Declarations, which amount shall be part of and not in addition to the Limit of Liability set forth in Item 3(A) in the Declarations.

The Limits of Liability for the Extended Reporting Period, if exercised, shall be part of and not in addition to the Limits of Liability for the immediately preceding **Policy Period**. The purchase of the Extended Reporting Period shall not increase or reinstate the Limits of Liability, which shall be the maximum liability of the Insurer for such **Policy Period** and Extended Reporting Period, combined.

If the Limits of Liability are exhausted by payment of **Loss**, the Insurer's obligations under this Policy shall be completely fulfilled and extinguished.

All **Claims**, including all **D&O Claims**, **Employment Practices Claims**, **Third Party Claims** and **Fiduciary Claims**, arising from the same **Wrongful Act**, **Wrongful Third Party Act**, and all **Interrelated Wrongful Acts** shall be deemed one **Claim** and such **Claim** shall be deemed to be first made on the earlier date that: (1) any of the **Claims** is first made against an **Insured** under this Policy or any prior policy, or (2) valid notice was given by the **Insureds** under this Policy or any prior policy of any **Wrongful Act**, **Wrongful Third Party Act**, or any fact, circumstance, situation, event, transaction or cause which underlies such **Claim**. Coverage under this Policy shall apply only with respect to **Claims** deemed to have been first made during the **Policy Period** and reported in writing to the Insurer in accordance with the terms herein.

B. Retentions

The Insurer shall be liable for only that part of **Loss** arising from a **Claim** under Section 1. Insuring Agreement A, B, C or D., which is excess of the Retention set forth in Item 4(A) in the Declarations, and such Retention shall be borne by the **Insureds** uninsured and at their own risk.

In the event that a **Claim** falls under more than one Section 1. Insuring Agreement, the larger Retention set forth in Item 4 of the Declarations shall apply to such **Claim**.

C. Defense

The Insurer shall have both the right and the duty to defend and appoint counsel with respect to any **Claim** made against the **Insureds** alleging a **Wrongful Act**, even if such **Claim** is groundless, false or fraudulent. The **Insureds** shall have the right, at their own expense, to associate with the Insurer in the defense of any **Claim**, including but not limited to negotiating a settlement. However, the Insurer shall not be obligated to defend any **Claim** after the Limit of Liability set forth in Item 3(A) in the Declarations has been exhausted or after the rejection of a settlement offer as described below.

D. Consent, Cooperation and Settlement

The **Insureds** shall not settle any **Claim**, select any defense counsel, incur any **Defense Costs**, admit or assume any liability, stipulate to any judgment, or otherwise assume any obligation without the Insurer's prior written consent, which shall not be unreasonably withheld. The Insurer shall not be liable for any settlement, **Defense Costs**, assumed obligation, admission or stipulated judgment to which it has not consented or for which the **Insureds** are not legally obligated. The **Insureds** shall not knowingly take any action which increases the Insurer's exposure for **Loss** under this Policy. The **Insureds** shall provide the Insurer with all information, assistance and cooperation which the Insurer reasonably requests and shall do nothing that may prejudice the Insurer's potential or actual rights of recovery with respect to **Loss** paid on account of a **Claim**.

If the Insurer recommends a settlement within the Policy's applicable Limits of Liability which is acceptable to the claimant and the **Insureds** refuse to consent, then the Insurer's liability for all **Loss** on account of such **Claim** shall not exceed the amount for which the Insurer could have settled such **Claim**, plus an additional fifty (50) percent of such amount, plus **Defense Costs** up to the date the **Insureds** refused to settle such **Claim**. However, in no event shall the Insurer's liability exceed the applicable Limits of Liability set forth in Item 3 (A), (B), or (C) in the Declarations.

VI. AWARENESS PROVISION

- A. If during the **Policy Period** any **Insured** becomes aware of circumstances which could give rise to a **Claim**, and the **Insured** gives written notice of such circumstances to the Insurer during the **Policy Period**, then any **Claim** subsequently arising from such circumstances shall be considered to have been made during the **Policy Period** in which the circumstances were first reported to the Insurer. No coverage shall be provided for fees and expenses incurred prior to the time such circumstances result in a **Claim**.
- B. The **Insureds** shall, as a condition precedent to exercising their rights hereunder:
1. include with any notice of circumstances a description of such circumstances, the nature of the potential **Wrongful Act**, the nature and extent of the potential damages, the names of the potential claimants, the identities of the potential defendants and the manner in which the **Insured** first became aware of such circumstances; and
 2. give the Insurer such additional information and cooperation as it may reasonably require.

VII. NOTICES

All notices under any provision of this Policy must be made in writing and delivered by prepaid express courier, certified mail or fax. Notices to the **Insureds** shall be given to the **Parent Company**. Notices to the Insurer shall be given to the appropriate party at the address set forth in Item 10 in the Declarations. Notices 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 notices are sent, whichever is earlier.

VIII. GENERAL CONDITIONS

- A. Transactions That Impact Coverage under all Section 1. Insuring Agreements
1. Acquisitions or Creations
 - a. If, after the effective date of this Policy the **Policyholder**:
 - (i) creates or acquires an entity;
 - (ii) merges with another entity such that the **Policyholder** is the surviving entity; or
 - (iii) assumes voting rights representing the present right to vote for election or to appoint more than fifty (50) percent of the directors or trustees of an entity (hereinafter (i)-(iii) of this subsection each a "Transaction");

then such entity and any subsidiaries shall be deemed to be a **Subsidiary**, only if the total number of employees in such entity and any subsidiaries prior to such Transaction does not exceed ten percent (10%) of the total number of **Employees** immediately prior to such Transaction.

- b. If, after the effective date of this Policy the **Policyholder** engages in a Transaction or acquires all or substantially all of the assets of another entity, and the total number of employees of the **Policyholder** after such acquisition exceeds a hundred and ten percent (110%) of the total number of **Employees** immediately prior to such acquisition, then this Policy shall provide insurance for such newly hired employees for a period of ninety (90) days after the effective date of such acquisition. At its sole option and upon submission of any and all information as it may require, the Insurer may, upon payment of any additional premium or modification of the provisions of this Policy that may be warranted, extend the insurance otherwise afforded through this subparagraph.
- c. Notwithstanding the provisions above, if the **Policyholder** engages in a Transaction or acquires all or substantially all of the assets of another entity and the total consideration paid exceeds ten (10) percent of the total consolidated assets of the **Policyholder** immediately prior to such Transaction or acquisition the **Policyholder** must give the Insurer full details of such Transaction or acquisition within 90 days of the effective date thereof, and the Insurer may require, in its sole discretion, additional terms, conditions and limitations of coverage and such additional premium in connection with the foregoing.
- d. There shall be no coverage for any **Wrongful Act** by such created, acquired or merged entity or by any persons or entities considered to be **Insureds** pursuant to paragraph (a) above, where such **Wrongful Act** occurred before the effective date of such creation, acquisition or merger.

2. Acquisition of **Parent Company**

If, during the **Policy Period**, any of the following events occurs:

- a. the acquisition of the **Parent Company**, or of all or substantially all of its assets, by another entity, or the merger or consolidation of the **Parent Company** into or with another entity such that the **Parent Company** is not the surviving entity; or
- b. the acquisition by any person, entity or group of persons or entities of the right to elect, appoint or designate at least fifty (50) percent of the directors of the **Parent Company**;

then coverage under this Policy shall continue until termination of the **Policy Period** and shall not be cancellable by the **Parent Company**, but only with respect to **Wrongful Acts** occurring prior to such merger, consolidation or acquisition. The **Parent Company** shall give written notice of such merger, consolidation or acquisition to the Insurer as soon as practicable together with such information as the Insurer may require. However, coverage under this Policy will cease as of the effective date of such event with respect to **Wrongful Acts** occurring after such event. The appointment by any state or federal official, agency or court of any receiver, trustee, examiner, conservator, liquidator, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Parent Company**, or the **Parent Company** becoming a debtor in possession within the meaning of the United States Bankruptcy Code or similar legal status under foreign law, shall not be considered an acquisition within the meaning of this Subsection.

3. Cessation of a **Subsidiary**

If before or during the **Policy Period** an organization ceases to be a **Subsidiary**, coverage with respect to such **Subsidiary** and its **Insureds** shall continue until termination of the **Policy Period**, but only with respect to **Wrongful Acts** occurring prior to the date such organization ceased to be a **Subsidiary**.

B. Representations and Severability With Respect To Application

In granting coverage to any one of the **Insureds**, the Insurer has relied upon the statements made in the written Application for this Policy and all information provided to the Insurer and upon the statements in the written

application and information submitted to another insurer with respect to prior coverage incepting as of the Continuity Date, if any, set forth in Item 9 in the Declarations. All such statements and information are the basis of this Policy and shall be incorporated in and constitute part of this Policy.

In order to determine if coverage is available:

1. only facts pertaining to and knowledge possessed by any **Executive Officer** shall be imputed to the **Policyholder**; and
2. no declaration or statement in the Application or knowledge possessed by the **Policyholder** or any **Insured Individual** shall be imputed to any other **Insured Individual**. Such written Application(s) for coverage shall be construed as a separate Application for coverage by each **Insured Individual**.

C. Cancellation/Non-Renewal

1. The **Parent Company** may cancel this Policy by giving the Insurer advance written notice of cancellation.
2. The Insurer may only cancel this Policy in the event of nonpayment of premium by giving the **Parent Company** written notice of cancellation at least twenty (20) days before the effective time of cancellation.
3. Notice of cancellation shall state the effective time of cancellation. The **Policy Period** shall end at that time.
4. If this Policy is cancelled, the Insurer shall send the **Parent Company** any premium refund as soon as practicable. If the **Parent Company** cancels, the refund shall be on the customary short rate basis. The return or tender of a return premium is not a condition precedent to the cancellation becoming effective at the time stated in the cancellation notice.
5. If the Insurer decides not to renew this Policy, the Insurer shall provide written notice to the **Parent Company** at least sixty (60) days prior to the end of the **Policy Period**.
6. If any controlling law requires a longer period of notice by the Insurer, the Insurer shall give such longer notice.

D. Other Insurance

If any **Loss** arising from any **Claim** is insured by any other policy(ies) of insurance, prior or current, then this Policy shall apply only in excess of and will not contribute with the amount of any deductibles, retentions and limits of liability under such other policy(ies), whether such policy(ies) is stated to be primary, contributory, excess, contingent or otherwise, unless such policy(ies) is written to be specifically excess of this Policy by reference in such other policy(ies) to this Policy's Policy Number indicated in the Declarations.

The coverage afforded under Insuring Agreement D shall be specifically excess of any indemnification and insurance available to such **Insured Individual** from the **Outside Entity**.

E. Territory

This Policy shall apply to **Claims** made against the **Insureds** anywhere in the world.

F. Valuation and Currency

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

G. Subrogation

In the event of any payment under this Policy, the Insurer shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery, and the **Insureds** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable

the Insurer effectively to bring suit in the name of the **Insureds**.

H. No Action Against Insurer

No action shall lie against the Insurer unless, as a condition precedent thereto, there has been full compliance with all the terms of this Policy. No person or organization shall have any right under this Policy to join the Insurer as a party to any action against the **Insureds** to determine the **Insureds'** liability, nor shall the Insurer be impleaded by the **Insureds** or their legal representatives.

I. Bankruptcy

Bankruptcy or insolvency of the **Policyholder** or of any **Insured Individual** shall not relieve the Insurer of its obligations nor deprive the Insurer of its rights or defenses under this Policy.

J. Authorization

By acceptance of this Policy, the **Parent Company** agrees to act on behalf of the **Insureds** with respect to the giving and receiving of any notice provided for in this Policy (except the giving of notice to apply for any Extended Reporting or Runoff Period), the payment of premiums and the receipt of any return premiums that may become due under this Policy, and the agreement to and acceptance of endorsements, and the **Insureds** agree that the **Parent Company** shall act on their behalf.

K. Alteration and Assignment of Interest

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to this Policy which is signed by an authorized representative of the Insurer. The **Insureds** agree that this Policy constitutes the entire agreement between the **Insureds** and the Insurer, or any of their agents or brokers. Notice to or knowledge possessed by the Insurer, the **Insureds** or any agent, broker or other person acting on behalf of the **Insureds** or Insurer shall not effect a waiver of or estop the Insurer or the **Insureds** from asserting any rights under this Policy.

L. Headings

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