



AMERICAN INTERNATIONAL COMPANIES®

- AIU Insurance Company
- American Home Assurance Company
- American International Pacific Insurance Company
- American International South Insurance Company
- Birmingham Fire Insurance Company of Pennsylvania
- Granite State Insurance Company
- Illinois National Insurance Co.
- National Union Fire Insurance Company of Pittsburgh, Pa.
- National Union Fire Insurance Company of Louisiana
- New Hampshire Insurance Company

(each of the above being a capital stock company)

PRIVATERISK PROTECTORSM

Management Liability, Professional Liability and Crime Coverage for Private Companies

NOTICES

[APPLICABLE TO ALL COVERAGE SECTIONS OTHER THAN THE CRIME COVERAGE SECTION]

EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THE COVERAGE OF THIS POLICY IS GENERALLY LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. VARIOUS PROVISIONS IN THIS POLICY RESTRICT COVERAGE. PLEASE READ THE ENTIRE POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE AGENT OR BROKER TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED.

THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED FOR LEGAL DEFENSE. AMOUNTS INCURRED FOR LEGAL DEFENSE SHALL BE APPLIED AGAINST THE RETENTION AMOUNT.

WITH RESPECT TO ALL COVERAGE SECTIONS OTHER THAN THE PTL COVERAGE SECTION AND THE EMPLOYED LAWYERS COVERAGE SECTION, THE INSURER DOES NOT ASSUME ANY DUTY TO DEFEND. HOWEVER THE INSURED MAY UNDER CERTAIN CONDITIONS TENDER THE DEFENSE OF A CLAIM. SOLELY WITH RESPECT TO THE PTL COVERAGE SECTION, THE INSURER HAS THE DUTY TO DEFEND; PROVIDED, HOWEVER, THE INSURED MAY ELECT TO ASSUME THE DUTY TO DEFEND. SOLELY WITH RESPECT TO THE EMPLOYED LAWYERS COVERAGE SECTION, THE INSURER HAS THE DUTY TO DEFEND.

IN ALL EVENTS, THE INSURER MUST ADVANCE DEFENSE COST, EXCESS OF THE APPLICABLE RETENTION, PURSUANT TO THE TERMS HEREIN PRIOR TO THE FINAL DISPOSITION OF A CLAIM.

Policy Number:

Replacement
of Policy
Number:

DECLARATIONS

ITEMS	
1	NAMED ENTITY: _____ (herein "Named Entity")
1(a)	MAILING ADDRESS: _____
1(b)	STATE OF INCORPORATION/FORMATION: _____
2	POLICY PERIOD: From: _____ To: _____ 12:01 A.M. at the address stated in Item 1(a)

ITEMS (continued)

3 COVERAGE SECTIONS PURCHASED						
	D&O and Corporate Liability ("D&O")		<input type="checkbox"/> YES	<input type="checkbox"/> NO		
	Employment Practices Liability ("EPL")		<input type="checkbox"/> YES	<input type="checkbox"/> NO		
	Pension Trust Liability ("PTL")		<input type="checkbox"/> YES	<input type="checkbox"/> NO		
	Crime Coverage ("CRIME")		<input type="checkbox"/> YES	<input type="checkbox"/> NO		
	Employed Lawyers Professional Liability ("Employed Lawyers")		<input type="checkbox"/> YES	<input type="checkbox"/> NO		
	AIG netAdvantage Media Liability ("Media")		<input type="checkbox"/> YES	<input type="checkbox"/> NO		
4 LIMITS OF LIABILITY; RETENTION AND CONTINUITY DATE						
4(a)	POLICY AGGREGATE: Aggregate for all coverages combined (including Defense Costs) \$ other than the Crime Coverage Section:					
	COVERAGE SECTION	SEPARATE LIMIT OF LIABILITY	RETENTION		CONTINUITY DATE	
			Non-Indemnifiable Loss:	None	D&O other than Outside Entity Executive Coverage	
			Indemnifiable Loss:		Outside Entity Executive Coverage	The date on which the Individual Insured first served as an Outside Entity Executive of such Outside Entity
4(b)	D&O Coverage		Company Loss:			
4(c)	EPL Coverage		All Claims:			
			Non-Indemnifiable Loss:	None		
			Defense Costs for Indemnifiable Loss or Company Loss:			
			Judgments and Settlements	None		
4(d)	PTL Coverage		Voluntary Compliance Loss	None		
	Sublimit of Liability for Voluntary Compliance Loss:		This Sublimit of Liability shall be part of and not in addition to the Aggregate Limit of Liability set forth in Item 4(a) (and, if a Separate Limit of Liability for the PTL Coverage is elected, then this Sublimit of Liability shall be part of and not in addition to the Separate Limit of Liability set forth in this Item 4(d)).			
4(e)	Employed Lawyers Coverage		Non-Indemnifiable Loss:			
			All Other Loss:			
4(f)	Media Liability Coverage		All Claims		Retroactive Date:	
5 PER OCCURRENCE LIMIT OF LIABILITY AND DEDUCTIBLE AMOUNT:						
	COVERAGE SECTION	PER OCCURRENCE LIMIT OF LIABILITY	DEDUCTIBLE AMOUNT			
	Crime Coverage:					
	a. Insuring Agreement 1.A.: "Employee Theft" Loss					

GENERAL TERMS AND CONDITIONS

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

1. TERMS AND CONDITIONS

These General Terms and Conditions shall be applicable to all Coverage Sections, unless otherwise stated to the contrary. The terms and conditions of each Coverage Section shall only apply to that particular Coverage Section and shall in no way be construed to apply to any other Coverage Section of this policy.

2. DEFINITIONS

- (a) "Affiliate" means: (i) any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is in common control with, another person or entity; or (ii) any person or entity that directly, or indirectly through one or more intermediaries, is a successor in interest to another person or entity.
- (b) "Bodily Injury" means physical injury, sickness, disease (other than emotional distress or mental anguish), including death resulting therefrom; provided, however, that solely with respect to the PTL Coverage Section, "Bodily Injury" shall include emotional distress and/or mental anguish.
- (c) "Class Action Suit" means any suit seeking certification or that is certified as a class action by any court.
- (d) "Company" means the Named Entity and any Subsidiary thereof.
- (e) "Continuity Date" means the date set forth in Item 4 of the Declarations with respect to each coverage section.
- (f) "Defense Costs" means reasonable and necessary fees, costs and expenses consented to by the Insurer (including premiums for any appeal bond, attachment bond, bonds to release property used to secure a legal obligation, or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond), resulting solely from the investigation, adjustment, defense and appeal of a Claim against the Insureds, but excluding any compensation of any Individual Insured of the Company. Defense Costs shall not include any fees, costs or expenses incurred prior to the time that a Claim is first made against an Insured.
- (g) "Director(s) or Officer(s)" means any:
- (1) past, present and future duly elected or appointed director or officer of a corporation, management committee member of a joint venture and member of the management board of a limited liability company (or equivalent positions); and
 - (2) with respect to operations of the Company in a jurisdiction other than the United States of America, its possessions and territories, such past, present and future persons in duly elected

or appointed positions of the Company that are equivalent to an executive position listed in Item (1) of this Definition.

- (h) "Domestic Partner" means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the Named Entity or any Subsidiary.
- (i) "Employee(s)" means an Employee as that term is defined within each Coverage Section.
- (j) "Indemnifiable Loss" means Loss for which the Company has indemnified or is permitted or required to indemnify any Individual Insureds.
- (k) "Individual Insured(s)" means, with respect to each Coverage Section, an Individual Insured, as that term is defined within each Coverage Section.
- (l) "Insured(s)" means an Insured, as that term is defined within each Coverage Section.
- (m) "Loss" means Loss, as that term is defined within each Coverage Section.
- (n) "Named Entity" shall mean the entity listed in Item 1 of the Declarations.
- (o) "Outside Entity" means any: (1) not-for-profit organization; or (2) other entity listed as an "Outside Entity" in an endorsement attached to this policy.
- (p) "Outside Entity Executive" means any: (1) Director(s) or Officer(s) of the Company who is or was acting at the specific written request or direction of the Company as a Director(s) or Officer(s) of an Outside Entity; or (2) any other person listed as an Outside Entity Executive in an endorsement attached to this policy.
- (q) "Policy Period" means the period of time from the inception date shown in Item 2 of the Declarations to the earlier of the expiration date shown in Item 2 of the Declarations or the effective date of cancellation of this policy.
- (r) "Pollutants" means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and Waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
- (s) "Property Damage" means damage to, or destruction of tangible or intangible property, including the loss of use thereof, or the loss of use of tangible or intangible property which has not been damaged or destroyed.
- (t) "Related Wrongful Act" means a Wrongful Act, which is the same, related or continuous, or a Wrongful Act which arises from a common nucleus of facts. Claims can allege Related Wrongful Acts regardless of whether such Claims involve the same or different claimants, Insureds or legal causes of action.
- (u) "Subsidiary" means:
 - (1) Solely with respect to the D&O Coverage Section, EPL Coverage Section, and the Employed Lawyers Coverage Section:

- (i) any for-profit organization that is not formed as a joint venture or a partnership, whose securities are not publicly traded, which on or before the inception of the Policy Period is more than 50% owned by the Named Entity, either directly or indirectly through one or more of its Subsidiaries;
- (ii) automatically any for-profit organization that is not formed as a joint venture or a partnership, whose securities are not publicly traded and whose assets total less than 25% of the total consolidated assets of the Company as of the inception date of this policy, which organization becomes a Subsidiary during the Policy Period. The Named Entity shall provide the Insurer with full particulars of the new Subsidiary before the end of the Policy Period; and
- (iii) automatically any for-profit organization that is not formed as a joint venture or a partnership, whose securities are not publicly traded and whose assets total 25% or more than the total consolidated assets of the Company as of the inception date of this policy, but such entity shall be a Subsidiary only: (i) for a period of ninety (90) days from the date the organization became a Subsidiary; or (ii) until the end of the Policy Period, whichever ends or occurs first (hereinafter "Auto-Subsidiary Period"); provided that the Named Entity or any other Insured shall report such Subsidiary to the Insurer, in writing, prior to the end of the Policy Period.

The Insurer shall extend coverage for any Subsidiary described in (u)(1)(iii) above, and any Individual Insured thereof, beyond its respective Auto-Subsidiary Period if during such Auto-Subsidiary Period, the Named Entity shall have provided the Insurer with full particulars of the new Subsidiary and agreed to any additional premium and amendment of the provisions of this policy as required by the Insurer relating to such Subsidiary. Further, coverage as shall be afforded to any Subsidiary and any Individual Insured thereof is conditioned upon the Named Entity paying when due any additional premium required by the Insurer relating to such Subsidiary.

(2) Solely with respect to the PTL Coverage Section:

"Subsidiary" means any past, present or future corporation of which the Named Entity owns more than 50% of the issued and outstanding voting stock either directly or indirectly through one or more of its Subsidiaries but only for a Wrongful Act taking place at a time when the Subsidiary was so owned by the Named Entity. The term "Subsidiary" shall automatically apply to any new Subsidiary acquired or created during the Policy Period.

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

An organization becomes a Subsidiary when the Named Entity owns more than a 50% ownership interest in such Subsidiary, either directly, or indirectly through one or more of its Subsidiaries. An organization ceases to be a Subsidiary when the Named Entity ceases to own more than 50% ownership interest in such Subsidiary, either directly, or indirectly through one or more of its Subsidiaries.

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

(v) "Wrongful Act" means a Wrongful Act, as that term is defined within each Coverage Section.

3. EXTENSIONS

Subject otherwise to the terms hereof, this policy shall cover Loss arising from any Claims made against the estates, heirs, or legal representatives of deceased Individual Insureds, and the legal representatives of Individual Insureds in the event of incompetency, insolvency or bankruptcy, who were Individual Insureds at the time the Wrongful Acts upon which such Claims are based were committed.

Subject otherwise to the terms hereof, this policy shall cover Loss arising from all Claims made against the lawful spouse (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) or Domestic Partner of an Individual Insured for all Claims arising solely out of his or her status as the spouse or Domestic Partner of an Individual Insured, including a Claim that seeks damages recoverable from marital community property, property jointly held by the Individual Insured and the spouse or Domestic Partner, or property transferred from the Individual Insured to the spouse or Domestic Partner; provided, however, that this extension shall not afford coverage for any Claim for any actual or alleged Wrongful Act of the spouse or Domestic Partner, but shall apply only to Claims arising out of any actual or alleged Wrongful Acts of an Individual Insured, subject to the policy's terms, conditions and exclusions.

4. EXCLUSIONS

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

- (a) arising out of, based upon or attributable to the gaining in fact of any profit or advantage to which an Insured was not legally entitled;
- (b) alleging, arising out of, based upon or attributable to the facts alleged, or to the same or Related Wrongful Act alleged or contained in any claim which has been reported, or in any circumstances of which notice has been given, under any policy of which this policy is a renewal or replacement or which it may succeed in time;
- (c) alleging, arising out of, based upon or attributable to as of the Continuity Date, any pending or prior: (1) litigation; or (2) administrative or regulatory proceeding or investigation of which an Insured had notice, or alleging any Wrongful Act which is the same or Related Wrongful Act to that alleged in such pending or prior litigation or administrative or regulatory proceeding or investigation;
- (d) for any actual, alleged or threatened discharge, dispersal, release or escape of Pollutants; or for any direction or request to test, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants; provided, however, that with respect to the D&O Coverage Section only, this exclusion shall not apply to any Securities Claim;
- (e) alleging, arising out of, based upon or attributable to, or in any way involving, directly or indirectly, Bodily Injury or Property Damage; provided, however, that (i) with respect to the D&O Coverage Section only, this exclusion shall not apply to any Securities Claim; and (ii) with respect to the PTL Coverage Section only, this exclusion shall not apply to Defense Costs incurred in the defense of a Claim alleging a Breach of Fiduciary Duty;
- (f) for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget

Reconciliation Act, the Occupational Safety and Health Act, or any violation of any federal, state, local or foreign statutory law or common law that governs the same topic or subject and any rules, regulations and amendments thereto; provided, however, that:

(1) with respect to the EPL Coverage Section only, this exclusion shall not apply to:

- (i) the Equal Pay Act; or
- (ii) Loss arising from a Claim for Retaliation;

(2) with respect to the PTL Coverage Section only, this exclusion shall not apply to:

- (i) any Employee Benefit Law;

(g) alleging, arising out of, based upon or attributable to, directly or indirectly, claims for unpaid wages or overtime pay for hours actually worked or labor actually performed by any Employee of the Company, for improper payroll deductions or any violation of any federal, state, local or foreign statutory law or common law that governs the same topic or subject and any rules, regulations and amendments thereto; or

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

- (1) with respect to the EPL Coverage Section only, Loss arising from a Claim for Retaliation; and
- (2) with respect to the PTL Coverage Section only, any Claim.

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

5. LIMIT OF LIABILITY

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

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

The Policy Aggregate Limit of Liability stated in Item 4(a) of the Declarations is the maximum limit of the Insurer's liability for all Loss under all coverages combined, arising out of all Claims first made against the Insureds during the Policy Period or the Discovery Period (if applicable); however, the Policy Aggregate Limit of Liability for the Discovery Period shall be part of, and not in addition to, the Policy Aggregate Limit of Liability for the Policy Period. Further, a Claim which is made subsequent to the Policy Period or Discovery Period (if applicable) which pursuant to Clause 7(b) or 7(c) is considered made during the Policy Period or Discovery Period, shall also be subject to the Policy Aggregate Limit of Liability stated in Item 4(a) of the Declarations and subject to the applicable Separate Limits of Liability, if any.

If Separate Limits of Liability are stated in Items 4(b), 4(c), 4(d), 4(e) and/or 4(f) of the Declarations, each such Separate Limit of Liability shall be the maximum limit of the Insurer's

liability for all Loss arising out of all Claims first made against the Insureds during the Policy Period or the Discovery Period (if applicable) with respect to the Coverage Section for which it is shown; however, the Separate Limit of Liability for the Discovery Period shall be part of, and not in addition to, the Separate Limit of Liability for the Policy Period. The Separate Limits of Liability shall be part of and not in addition to the Policy Aggregate Limit of Liability for all Loss under this policy as stated in Item 4(a) of the Declarations and shall in no way serve to increase the Insurer's Limit of Liability as therein stated.

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

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

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

6. RETENTION CLAUSE

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

The Insurer shall only be liable for the amount of Loss arising from a Claim which is in excess of the applicable Retention amount stated in Item 4(b), 4(d), 4(e) or 4(f) of the Declarations, such Retention amount to be borne by the Company and/or the Insureds and shall remain uninsured, with regard to: (i) all Indemnifiable Loss; and (ii) Loss of the Company. A single Retention amount shall apply to Loss arising from all Claims alleging the same Wrongful Act or Related Wrongful Acts.

(b) With respect to the EPL Coverage Section, the following shall apply:

The Insurer shall only be liable for the amount of Loss arising from a Claim which is in excess of the Retention amount stated in Item 4(c) of the Declarations, such Retention amount to be borne by the Company and/or the Insureds and shall remain uninsured, with regard to all Loss. A single Retention amount shall apply to Loss arising from all Claims alleging the same Employment Practices Violation or related Employment Practices Violation.

In the event a Claim triggers more than one amount stated in Item 4(b), 4(c), 4(d), 4(e) or 4(f) of the Declarations, only the highest such amount shall apply, which amount shall apply to all Loss under such Claim.

(c) With respect to the Crime Coverage Section, the following shall apply:

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

7. NOTICE/CLAIM REPORTING PROVISIONS

Notice hereunder shall be given in writing to AIG Technical Services, Inc., P.O. Box 1000, New York, NY 10268 to the attention of "D&O Claims Unit." Notice shall include and reference this Policy Number as indicated in the Declarations. If mailed, the date of mailing shall constitute the date that such notice was given and proof of mailing shall be sufficient proof of notice.

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

A Claim shall be considered to have been first made against an Insured when written notice of such Claim is received by any Insured, by the Company on the behalf of any Insured, or by the Insurer, whichever comes first.

- (a) The Company or the Insureds shall, as a condition precedent to the obligations of the Insurer under this policy, give written notice to the Insurer of any Claim made against an Insured as soon as practicable and either:

- (1) any time during the Policy Period or during the Discovery Period (if applicable); or
- (2) within thirty (30) days after the end of the Policy Period or the Discovery Period (if applicable), as long as such Claim was first made against an Insured within the final thirty (30) days of the Policy Period or the Discovery Period (if applicable).

- (b) If written notice of a Claim has been given to the Insurer pursuant to Clause 7(a) above, then any Claim which is subsequently made against the Insureds and reported to the Insurer alleging a Related Wrongful Act to the Claim for which such notice has been given shall be considered made at the time such notice was given.

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

- (d) All Claims asserted in a Class Action Suit shall be treated as arising out of the same or Related Wrongful Act.

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

- (a) Duties in The Event of Loss:

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

- (1) Notify the Insurer as soon as possible. If the Insured has reason to believe that any loss (except for loss covered under Insuring Agreements A or B of the Crime Coverage Section)

involves a violation of law, the Insured must also notify the local law enforcement authorities.

- (2) Submit to examination under oath at the Insurer's request and provide the Insurer with a signed statement of the Insured's answers.
- (3) Give the Insurer a detailed, sworn proof of loss within 120 days.
- (4) Cooperate with the Insurer in the investigation and settlement of any claim.

8. CANCELLATION CLAUSE

This policy may be canceled by the Named Entity at any time only by mailing written prior notice to the Insurer or by surrender of this policy to the Insurer or its authorized agent; provided, however, that the Named Entity may not cancel this policy if the Policy Period as set forth in Item 2 of the Declarations is twenty-four (24) months or longer.

This policy may be canceled by or on the behalf of the Insurer only in the event of non-payment of premium by the Named Entity. In the event of non-payment of premium by the Named Entity, the Insurer may cancel this policy by delivering to the Named Entity or by mailing to the Named Entity, by registered, certified, or other first class mail, at the Named Entity's address as shown in Item 1(a) of the Declarations, written notice stating when, not less than ten (10) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice. The Policy Period terminates at the date and hour specified in such notice, or at the date and time of surrender. The Insurer shall have the right to the premium amount for the portion of the Policy Period during which the policy was in effect.

If this policy shall be canceled by the Named Entity, the Insurer shall retain the customary short rate proportion of the premium herein.

If the period of limitation relating to the giving of notice as set forth above is also set forth in any law controlling the construction thereof, the period set forth above shall be deemed to be amended so as to be equal to the minimum period of limitation set forth in the controlling law.

9. CHANGE IN CONTROL OF NAMED ENTITY

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

If during the Policy Period:

- a. the Named Entity shall consolidate with or merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or
- b. any person or entity or group of persons or entities acting in concert shall acquire an amount of the outstanding securities representing more than 50% of the voting power for the election of directors of the Named Entity, or acquires the voting rights of such an amount of such securities;

(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 actual or alleged Wrongful Act occurring after the effective time of the Transaction. This policy may not be canceled after the effective time of the Transaction and the entire premium for this policy shall be deemed earned as of such time. The Named Entity shall also have the right to an offer by the Insurer of

a Discovery Period described in the Clause of each applicable Coverage Section entitled DISCOVERY CLAUSE.

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

10. SUBROGATION

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

Solely with respect to the PTL Coverage Section, in the event this policy has been purchased by an Insured other than a Plan, the Insurer shall have no right of recourse against an Insured. Notwithstanding the foregoing, the Insurer shall have a right of recourse against an Insured arising out of a Claim by an Insured against another Insured unless such Claim is instigated and continued totally independent of, and totally without the solicitation of, assistance of or active participation by the Insured claimed against.

11. OTHER INSURANCE

Such insurance as is provided by this policy shall apply only as excess over any other valid and collectible insurance, unless such other insurance is written only as specific excess insurance over the Limit of Liability provided by this policy. This policy specifically shall be excess of any other policy pursuant to which any other insurer has a duty to defend a Claim for which this policy may be obligated to pay Loss.

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

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

12. NOTICE AND AUTHORITY

It is agreed that the Named Entity shall act on behalf of its Subsidiaries and all Insureds with respect to the giving of notice of a Claim, the giving and receiving of notice of cancellation and nonrenewal, the payment of premiums and the receiving of any return premiums that may become due under this policy,

the receipt and acceptance of any endorsements issued to form a part of this policy, the exercising or declining of the right to tender the defense of a Claim to the Insurer and the exercising or declining to exercise any right to a Discovery Period.

13. ASSIGNMENT

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

14. DISPUTE RESOLUTION PROCESS

It is hereby understood and agreed that all disputes or differences which may arise with regard to the construction or interpretation of the provisions of this policy, whether arising before or after termination of this policy shall be submitted to the alternative dispute resolution ("ADR") process set forth in this Clause.

Either the Insurer or an Insured may elect the type of ADR process discussed below; provided, however, that such Insured shall have the right to reject the Insurer's choice of the type of ADR process at any time prior to its commencement, in which case such Insured's choice of ADR process shall control.

The Insurer and each and every Insured agree that there shall be two choices of ADR process: (1) non-binding mediation administered by any mediator to which the Insurer and Insured mutually agree, in which the Insurer and any such Insured shall try in good faith to settle the dispute by mediation under or in accordance with its then-prevailing commercial mediation rules; or (2) arbitration submitted to an arbitration panel of three (3) arbitrators. The Insureds shall select one (1) arbitrator, the Insurer shall select one (1) arbitrator and said arbitrators shall mutually agree upon the selection of the third arbitrator. In either mediation or arbitration, the mediator or arbitrators shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute.

The dispute or differences considered by the mediator or arbitrators shall be governed by the internal laws of the State of New York; provided, however that New York law shall not apply to: (i) procurement, issuance or delivery of this policy, including cancellation or nonrenewal provisions of this policy (if any) or any other New York State regulations or requirements regarding policies issued pursuant to New York State Insurance Law; or (ii) to the determination of the availability of punitive damages, unless New York law otherwise applies. In the event of arbitration, the decision of the arbitrators shall be final and binding and provided to both parties, and the arbitrators' award shall not include attorneys' fees or other costs. In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least 120 days shall have elapsed from the date of the termination of the mediation. In all events, each party shall share equally the expenses of the ADR process.

Either choice of ADR process may be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state indicated in Item 1(a) of the Declarations as the mailing address for the Named Entity. The Named Entity shall act on behalf of each and every Insured in deciding to proceed with an ADR process under this clause.

15. ACTION AGAINST INSURER

Except as provided in Clause 14 above, no action shall lie against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the Insureds' obligation to pay shall have been finally determined either by judgment

against the Insureds after actual trial or by written agreement of the Insureds, the claimant and the Insurer.

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

16. TERRITORY

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

WORLDWIDE TERRITORY

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

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

TERRITORY

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

17. HEADINGS

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

**DIRECTORS, OFFICERS AND PRIVATE COMPANY LIABILITY
COVERAGE SECTION ONE
("D&O COVERAGE SECTION")**

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

1. INSURING AGREEMENTS

With respect to Coverage A and B, solely with respect to Claims first made against an Insured during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy, and subject to the other terms, conditions and limitations of this policy, this policy affords the following coverage:

COVERAGE A: INDIVIDUAL INSURED INSURANCE

This policy shall pay the Loss of each and every Individual Insured arising from a Claim first made against such Individual Insureds during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any Wrongful Act of such Individual Insured, except when and to the extent that the Company has indemnified such Individual Insureds. The Insurer shall, in accordance with Clause 4 of this Coverage Section, advance Defense Costs of such Claim prior to its final disposition.

COVERAGE B: PRIVATE COMPANY INSURANCE

This policy shall pay the Loss of the Company arising from a:

- (i) Claim first made against the Company, or
- (ii) Claim first made against an Individual Insured,

during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any Wrongful Act, but, in the case of (ii) above, only when and to the extent that the Company has indemnified the Individual Insured for such Loss pursuant to law, common or statutory, or contract, or the charter or by-laws of the Company duly effective under such law which determines and defines such rights of indemnity. The Insurer shall, in accordance with Clause 4 of this Coverage Section, advance Defense Costs of such Claim prior to its final disposition.

2. DEFINITIONS

(a) "Claim" means:

- (1) a written demand for monetary, non-monetary or injunctive relief (including any request to toll or waive any statute of limitations); or
- (2) a civil, criminal, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by:
 - (i) service of a complaint or similar pleading; or

- (ii) return of an indictment, information or similar document (in the case of a criminal proceeding); or
- (iii) receipt or filing of a notice of charges.

The term "Claim" shall include a Securities Claim.

- (b) "Employee" means any past, present or future employee, whether such employee is in a supervisory, co-worker or subordinate position or otherwise, including any part-time, seasonal and temporary employee in his or her capacity as such. Independent contractors and individuals who are leased to the Company are not Employees.
- (c) "Individual Insured(s)" means any:
 - (1) Director(s) or Officer(s) of the Company;
 - (2) Employee(s) of the Company; and
 - (3) Outside Entity Executive.
- (d) "Insured(s)" mean:
 - (1) any Individual Insured; and
 - (2) the Company.
- (e) "Loss" means damages, judgments, settlements, pre-judgment and post-judgment interest on that part of any judgment paid under this Coverage Section, and Defense Costs; however, Loss shall not include: (1) civil or criminal fines or penalties; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes; (5) any amount for which the Insureds are not financially liable or which are without legal recourse to the Insureds; and (6) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.
- (f) "Securities Claim" means a Claim made against any Insured:
 - (1) alleging a violation of any law, regulation or rule, whether statutory or common law (including, but not limited to, the purchase or sale or offer or solicitation of an offer to purchase or sell securities) which is:
 - (i) brought by any person or entity alleging, arising out of, based upon or attributable to the purchase or sale or offer or solicitation of an offer to purchase or sell any securities of the Company; or
 - (ii) brought by a security holder or purchaser or seller of securities of the Company, with respect to such security holder's, purchaser's or seller's interest in securities of such Company; or
 - (2) brought derivatively on the behalf of the Company by a security holder of such Company, relating to a Securities Claim as defined in subparagraph (1) above.

The foregoing Definition of Securities Claim shall not include any Claim brought by any Individual Insured of the Company alleging, arising out of, based upon or attributable to the loss of, or failure to receive or obtain, the benefit of stock, stock warrants, stock options or other securities of the Company.

- (g) "Wrongful Act" means any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act:

- (1) with respect to any Director, Officer or Employee of the Company, by such Director, Officer or Employee in his or her capacity as such or any matter claimed against such Director, Officer or Employee solely by reason of his or her status as such;
- (2) with respect to any Outside Entity Executive, by such Outside Entity Executive in his or her capacity as such or any matter claimed against such Outside Entity Executive solely by reason of his or her status as such; or
- (3) with respect to Coverage B(i), by the Company.

3. EXCLUSIONS

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

- (a) arising out of, based upon or attributable to the committing in fact of any criminal, fraudulent or dishonest act;
- (b) arising out of, based upon or attributable to: (1) profits in fact made from the purchase or sale by an Insured of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any state statutory law; or (2) payments to an Insured of any remuneration without the previous approval of the stockholders of the Company, which payment without such previous approval shall be held to have been illegal;
- (c) alleging, arising out of, based upon, or attributable to, directly or indirectly resulting from, in consequence of, or in any way involving, employment of any individual or any employment practice (including but not limited to wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim);
- (d) alleging, arising out of, based upon or attributable to any actual or alleged act or omission of an Individual Insured serving in his or her capacity as a Director, Officer or Employee of any entity that is not the Company or an Outside Entity, or by reason of his or her status as a Director, Officer or Employee of such other entity;
- (e) for any Wrongful Act arising out of an Individual Insured serving in a capacity as an Outside Entity Executive, if such Claim is brought by the Outside Entity or a director, officer, trustee or governor thereof;
- (f) alleging, arising out of, based upon or attributable to the purchase by the Company of securities of a "publicly traded entity" in a transaction which resulted, or would result, in such entity becoming an Affiliate or Subsidiary of the Company; provided, however, this exclusion shall not apply in the event that within thirty (30) days prior to it becoming an Affiliate or Subsidiary, the Named Entity gives written notice of the transaction to the Insurer together with full particulars and underwriting information required and agrees to any additional premium or amendment of the provisions of this policy required by the Insurer relating to the transaction. Further, coverage as shall be afforded to the transaction is conditioned upon the Named Entity paying when due any additional premium required by the Insurer relating to the transaction. An entity is a "publicly traded entity" if any securities of such entity have previously been subject to a public offering;
- (g) with respect to Coverage B(i) only:

- (1) for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, trade secret or any other intellectual property rights;
 - (2) for any actual or alleged violation of any law, whether statutory, regulatory or common law, respecting any of the following activities: anti-trust, business competition, unfair trade practices or tortious interference in another's business or contractual relationships;
 - (3) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of any Insured under any contract or agreement (either oral or written);
 - (4) seeking fines or penalties or non-monetary relief against the Company;
 - (5) for the rendering or failure to render any service to a customer or client of the Insured;
- provided, however, that exclusions (g)(4) and (g)(5) shall not apply to any Securities Claim;

(h) for emotional distress, or for injury from libel or slander, or defamation or disparagement, or for injury from a violation of a person's right of privacy; provided, however, that this exclusion shall not apply to a Securities Claim;

(i) which is brought by, on behalf of or in the right of, the Company or any Individual Insured; or which is brought by any security holder or member of the Company, whether directly or derivatively, unless such security holder's or member's Claim is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any Individual Insured of the Company or the Company; provided, however, this exclusion shall not apply to any Claim brought by an Individual Insured in the form of a cross-claim or third-party claim for contribution or indemnity which is part of, and results directly from a Claim that is covered by this policy; or

(j) alleging, arising out of, based upon or attributable to any public offering of securities by the Company, an Outside Entity or an Affiliate or alleging a purchase or sale of such securities subsequent to such public offering;

provided, however, that this exclusion shall not apply to:

- (1) any purchase or sale of securities exempted pursuant to Section 3(b) of the Securities Act of 1933. Coverage for such purchase or sale transaction shall not be conditioned upon payment of any additional premium; however, the Named Entity shall give the Insurer written notice of any public offering exempted pursuant to Section 3(b), together with full particulars and as soon as practicable, but not later than thirty (30) days after the effective date of the public offering;
- (2) any public offering of securities (other than a public offering described in paragraph (1) above), as well as any purchase or sale of such securities subsequent to such public offering, in the event that within thirty (30) days prior to the effective time of such public offering: (i) the Named Entity shall give the Insurer written notice of such public offering together with full particulars and underwriting information required thereto, and (ii) the Named Entity accepts such terms, conditions and additional premium required by the Insurer for such coverage. Such coverage is also subject to the Named Entity paying when due any such additional premium. In the event the Company gives written notice with full particulars and underwriting information pursuant to (i) above, then the Insurer must offer a quote for coverage under this paragraph.

For the purpose of determining the applicability of the foregoing Exclusions, other than exclusion (i): (1) the facts pertaining to and knowledge possessed by any Insured shall not be imputed to any other Individual Insured; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer (or equivalent positions) of the Company shall be imputed to the Company.

4. DEFENSE COSTS, SETTLEMENTS, JUDGMENTS (INCLUDING THE ADVANCEMENT OF DEFENSE COSTS)

The Insurer does not assume any duty to defend. The Insureds shall defend and contest any Claim made against them.

Notwithstanding the foregoing, the Insureds shall have the right to tender the defense of any Claim to the Insurer, which right shall be exercised in writing by the Named Entity on behalf of all Insureds to the Insurer pursuant to the notice provisions of Clause 7 of the General Terms and Conditions. This right shall terminate if not exercised within thirty (30) days of the date the Claim is first made against an Insured, pursuant to Clause 7 of the General Terms and Conditions. Further, from the date the Claim is first made against the Insureds to the date when the Insurer accepts the tender of the defense of such Claim, the Insureds shall take no action, or fail to take any required action, that prejudices the rights of the Insureds or the Insurer with respect to such Claim. Provided that the Insureds have complied with the foregoing, the Insurer shall be obligated to assume the defense of the Claim, even if such Claim is groundless, false or fraudulent. The assumption of the defense of the Claim shall be effective upon written confirmation sent thereof by the Insurer to the Named Entity. Once the defense has been so tendered, the Insured shall have the right to effectively associate with the Insurer in the defense and negotiation of any settlement of any Claim, subject to the provisions of this Clause 4. However, the Insurer shall not be obligated to defend such Claim after the Policy Aggregate Limit of Liability or Separate Limit of Liability, if any, has been exhausted, or after an Insured's rejection of a Settlement Opportunity as defined in this Clause 4.

When the Insurer has not assumed the defense of a Claim pursuant to this Clause 4, the Insurer shall advance nevertheless, at the written request of the Insured, Defense Costs prior to the final disposition of a Claim. Such advanced payments by the Insurer shall be repaid to the Insurer by the Insureds or the Company, severally according to their respective interests, in the event and to the extent that the Insureds or the Company shall not be entitled under the terms and conditions of this policy to payment of such Loss.

The Insureds shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any Defense Costs without the prior written consent of the Insurer. Only those settlements, stipulated judgments and Defense Costs, which have been consented to by the Insurer, in writing, shall be recoverable as Loss under the terms of this policy. The Insurer's consent shall not be unreasonably withheld, provided that the Insurer, when it has not assumed the defense of a Claim pursuant to this Clause 4, shall be entitled to fully and effectively associate in the defense and negotiation of any settlement of any Claim, and provided further that in all events the Insurer may withhold consent to any settlement, stipulated judgment or Defense Costs, or any portion thereof, to the extent such loss is not covered under the terms of this policy.

The Insurer shall have the right to fully and effectively associate with the Company in the defense of any Claim that appears reasonably likely to involve the Insurer, including but not limited to negotiating a settlement. The Company and the Insureds shall give the Insurer full cooperation and such information as it may reasonably require.

If the Insurer recommends a settlement within the policy's applicable Limit of Liability which is acceptable to the claimant ("Settlement Opportunity"), and the Insureds consent to such settlement, then the Insured's applicable Retention amount shall be retroactively reduced by ten percent (10%) for such Loss. It shall be a condition to such reduction that the Insureds must consent to such settlement within thirty (30) days of the date the Insureds are first made aware of the Settlement Opportunity, or in the case of a Settlement Opportunity which arises from a settlement offer by the claimants, then within the time permitted by the claimant to accept such settlement offer, but in all events no later than thirty (30) days after the settlement offer was made.

However, if a Settlement Opportunity arises and the Insureds do not consent to the settlement within the time prescribed above, the Retention amount shall remain the applicable amount set forth in Item 4(b) of the Declarations even if consent is given to a subsequent Settlement Opportunity.

Furthermore, in the event the Insureds do not consent to a Settlement Opportunity within the time prescribed, then, subject to the applicable Limit of Liability, the Insurer's liability for all Loss on account of such Claim shall not exceed: (1) the amount for which the Insurer could have settled such Claim, plus Defense Costs incurred as of the date such settlement was proposed in writing by the Insurer ("Settlement Opportunity Amount"), plus (2) 50% of covered Loss in excess of such Settlement Opportunity Amount, it being a condition of this insurance that the remaining 50% of such Loss excess of the Settlement Opportunity Amount shall be carried by the Company and the Insureds at their own risk and be uninsured. Notwithstanding the foregoing, this paragraph shall not apply until the Settlement Opportunity Amount exceeds the applicable Retention amount stated in Item 4(b) of the Declarations.

With respect to: (i) Defense Costs jointly incurred by, (ii) any joint settlement entered into by, or (iii) any judgment of joint and several liability against the Company and any Individual Insured in connection with any Claim, there shall be a fair and equitable allocation as between the Company and any such Individual Insured, taking into account the relative legal and financial exposures and the relative benefits obtained by any such Individual Insured and the Company, without any presumption that the coverage afforded to the Individual Insured shall in any way reduce the allocation to the Company which shall not be insured for such allocation. In the event that a determination as to the amount of Defense Costs to be advanced under the policy cannot be agreed to, then the Insurer shall advance Defense Costs excess of any applicable Retention amount which the Insurer states to be fair and equitable until a different amount shall be agreed upon or determined pursuant to the provisions of this policy and applicable law.

5. PRE-AUTHORIZED DEFENSE ATTORNEYS

This clause applies to all Claims under this Coverage Section. Affixed as Appendix A hereto and made a part of this policy is a list or lists of Panel Counsel law firms (herein "Panel Counsel Firms") from which a selection of legal counsel shall be made to conduct the defense of any Claim(s) against any Insured(s) pursuant to the terms set forth below.

In the event the Insurer has assumed the defense pursuant to Clause 4, then the Insurer shall select a Panel Counsel Firm to defend the Insureds. In the event the Insureds are already defending a Claim, then the Insureds shall select a Panel Counsel Firm to defend the Insureds.

The selection of the Panel Counsel Firm, whether done by the Insurer or the Insureds, shall be from the list of Panel Counsel Firms designated for the type of Claim and be from the jurisdiction in which the Claim is brought. In the event a Claim is brought in a jurisdiction not included on the appropriate list, the selection shall be made from a listed jurisdiction which is the nearest geographic jurisdiction to either where the Claim is maintained or where the corporate headquarters or state of formation of the

Named Entity is located. In such instance, however, the Insurer shall, at the written request of the Named Entity assign a non-Panel Counsel Firm of the Insurer's choice in the jurisdiction in which the Claim is brought to function as "local counsel" on the Claim to assist the Panel Counsel Firm, which will function as "lead counsel" in conducting the defense of the Claim.

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

The list of Panel Counsel Firms may be amended from time to time by the Insurer. However, no change shall be made to the specific list attached to this policy during the Policy Period without the consent of the Named Entity.

6. DISCOVERY CLAUSE

Except as indicated below, if the Named Entity shall cancel or the Named Entity or the Insurer shall refuse to renew this Coverage Section, then solely with respect to this Coverage Section, the Named Entity shall have the right to a period of either one, two or three years following the effective date of such cancellation or nonrenewal upon payment of the respective "Additional Premium Amount" described below (herein referred to as the "Discovery Period") in which to give to the Insurer written notice of Claims first made against the Insureds during said Discovery Period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. The rights contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within thirty (30) days of the effective date of cancellation or nonrenewal.

The Additional Premium Amount for: (1) one year shall be 75% of the "full annual premium"; (2) two years shall be 150% of the "full annual premium"; and (3) three years shall be a reasonable premium amount to be mutually agreed upon by the Named Entity and the Insurer. As used herein, "full annual premium" means the premium level in effect for this Coverage Section immediately prior to the end of the Policy Period.

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

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

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**EMPLOYMENT PRACTICES LIABILITY
COVERAGE SECTION TWO
("EPL COVERAGE SECTION")**

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

1. INSURING AGREEMENT

Solely with respect to Claims first made against an Insured during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy, and subject to the other terms, conditions and limitations of this policy, this policy shall pay the Loss of each and every Insured arising from a Claim first made against such Insured for any Wrongful Act against an Employee(s) of the Company. The Insurer shall, in accordance with Clause 4 of this Coverage Section advance Defense Costs of such Claim prior to its final disposition.

2. DEFINITIONS

(a) "Claim" means:

- (1) a written demand for monetary relief; or
- (2) a civil, administrative, regulatory or arbitration proceeding for monetary relief, which is commenced by:
 - (i) service of a complaint or similar pleading; or
 - (ii) receipt or filing of a notice of charges.

The term Claim shall include an Equal Employment Opportunity Commission ("EEOC") or Office of Federal Contract Compliance Program ("OFCCP") (or similar federal, state or local agency) proceeding or investigation commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to the Insured.

However, in no event shall the term Claim include any labor or grievance proceeding which is subject to a collective bargaining agreement.

(b) "Employee" means any past, present or future employee, whether such employee is in a supervisory, co-worker or subordinate position or otherwise, including any part-time, seasonal and temporary employee in his or her capacity as such. Independent contractors and individuals who are leased to the Company are not Employees; however, Insureds are covered for Loss arising from Wrongful Acts of such independent contractors and leased individuals.

(c) "Individual Insured(s)" means any Director, Officer or Employee of the Company.

(d) "Insured(s)" means:

- (1) any Individual Insured; and
- (2) the Company.

(e) "Loss" means damages (including front pay and back pay), judgments, settlements, pre-judgment and post-judgment interest on that part of any judgment paid under this Coverage Section, statutory attorneys' fees and Defense Costs; however, Loss shall not include: (1) civil or criminal fines or penalties imposed by law; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes; (5) any amount for which the Insureds are not financially liable or which are without legal recourse to the Insureds; (6) employment-related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation; or (7) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

(f) "Retaliation" means a Wrongful Act of an Insured alleged to be in response to, the actual or attempted exercise by an Employee of any right that such Employee has under the law. Provided, however, Retaliation shall not include the Wrongful Act of an Insured alleged to be in response to the threat of or the actual filing of any claim or litigation by an Employee under the Federal False Claims Act or any other federal, state, local or foreign Whistleblower Law.

(g) "Whistleblower Law" means a statute, rule or regulation, which protects an employee against discrimination from his or her employer, if the employee discloses or threatens to disclose to a superior or any governmental agency, or who gives testimony relating to, any action with respect to the employer's operations, which may be a violation of public policy as reflected in legislation, administrative rules, regulations or decisions, judicial decisions and professional codes of ethics.

(h) "Wrongful Act(s)" means any actual or alleged:

- (1) wrongful dismissal, discharge or termination (either actual or constructive), including breach of an implied contract;
- (2) harassment (including sexual harassment, whether "quid pro quo", hostile work environment or otherwise);
- (3) discrimination (including, but not limited to, discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy, or disability);
- (4) Retaliation;
- (5) employment-related misrepresentation(s) to an Employee or applicant for employment with the Company;
- (6) wrongful failure to employ or promote;
- (7) employment-related libel, slander, humiliation, defamation or invasion of privacy;
- (8) wrongful deprivation of career opportunity with the Company, wrongful demotion or negligent Employee evaluation, including the giving of negative or defamatory statements in connection with an Employee reference;

- (9) wrongful discipline;
- (10) failure to grant tenure; and
- (11) with respect to any of the foregoing items (1) through (10) of this definition: negligent hiring, retention, training or supervision, infliction of emotional distress, mental anguish, failure to provide or enforce adequate or consistent corporate policies and procedures, or violation of an individual's civil rights.

3. EXCLUSIONS

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

- (a) arising out of, based upon or attributable to the committing in fact of any dishonest, fraudulent, criminal, or malicious act;
- (b) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of any Insured under any express contract or agreement; provided, however, this exclusion shall not apply to:
 - (i) the extent any liability does not arise under such express contract or agreement;
 - (ii) Loss constituting Defense Costs;
- (c) which is brought by any Insured; provided, however, this exclusion shall not apply to a Claim brought by an Employee of the Company, other than an Employee who is or was a Director of the Company;
- (d) seeking any non-monetary relief, including but not limited to: (1) injunctive relief; (2) declaratory relief; (3) disgorgement; (4) job reinstatement; (5) costs or expenses incurred in accommodating any disabled person, pursuant to the Americans with Disabilities Act of 1990 (ADA), including amendments to that law or similar federal, state or local statutory or common law; (6) any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar; and (7) other equitable remedies, including as to all of the above, the cost of compliance therewith; provided, however, if such request for non-monetary relief is part of an otherwise covered Claim, the Insurer will not seek to allocate Defense Costs for the portion of the Claim seeking non-monetary relief;
- (e) alleging, arising out of, based upon or attributable to any actual or alleged act or omission of an Insured serving in any capacity, other than as a Director, Officer or Employee of the Company; or
- (f) alleging, arising out of, based upon or attributable to any offering of securities or alleging a purchase or sale of such securities subsequent to such offering.

For the purpose of determining the applicability of the foregoing Exclusions, other than exclusion (c): (1) the facts pertaining to and knowledge possessed by any Insured shall not be imputed to any other Individual Insured; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer (or equivalent positions) of the Company shall be imputed to the Company.

4. DEFENSE COSTS, SETTLEMENTS, JUDGMENTS (INCLUDING THE ADVANCEMENT OF DEFENSE COSTS)

The Insurer does not assume any duty to defend. The Insureds shall defend and contest any Claim made against them.

Notwithstanding the foregoing, the Insureds shall have the right to tender the defense of the Claim to the Insurer, which right shall be exercised in writing by the Named Entity on behalf of all Insureds to the Insurer pursuant to the notice provisions of Clause 7 of the General Terms and Conditions. This right shall terminate if not exercised within thirty (30) days of the date the Claim is first made against an Insured, pursuant to Clause 7 of the General Terms and Conditions. Further, from the date the Claim is first made against the Insureds to the date when the Insurer accepts the tender of the defense of such Claim, the Insureds shall take no action, or fail to take any required action, that prejudices the rights of the Insureds or the Insurer with respect to such Claim. Provided that the Insureds have complied with the foregoing, the Insurer shall be obligated to assume the defense of the Claim, even if such Claim is groundless, false or fraudulent. The assumption of the defense of the Claim shall be effective upon written confirmation sent thereof by the Insurer to the Named Entity. Once the defense has been so tendered, the Insured shall have the right to fully and effectively associate with the Insurer in the defense and negotiation of any settlement of any Claim, subject to the provisions of this Clause 4. However, the Insurer shall not be obligated to defend such Claim after the Policy Aggregate Limit of Liability or Separate Limit of Liability (if any) has been exhausted, or after an Insured's rejection of a Settlement Opportunity as defined in this Clause 4.

When the Insurer has not assumed the defense of a Claim pursuant to this Clause 4, the Insurer shall advance nevertheless, at the written request of the Insured, Defense Costs prior to the final disposition of a Claim. Such advanced payments by the Insurer shall be repaid to the Insurer by the Insureds or the Company, severally according to their respective interests, in the event and to the extent that the Insureds or the Company shall not be entitled under the terms and conditions of this policy to payment of such Loss.

The Insureds shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any Defense Costs without the prior written consent of the Insurer. Only those settlements, stipulated judgments and Defense Costs, which have been consented to by the Insurer, in writing, shall be recoverable as Loss under the terms of this policy. The Insurer's consent shall not be unreasonably withheld, provided that the Insurer, when it has not assumed the defense of a Claim pursuant to this Clause 4, shall be entitled to fully and effectively associate in the defense and negotiation of any settlement of any Claim, and provided further that in all events the Insurer may withhold consent to any settlement, stipulated judgment or Defense Costs, or any portion thereof, to the extent such loss is not covered under the terms of this policy.

The Insurer shall have the right to fully and effectively associate with the Company in the defense of any Claim that appears reasonably likely to involve the Insurer, including but not limited to negotiating a settlement. The Company and the Insureds shall give the Insurer full cooperation and such information as it may reasonably require.

If the Insurer recommends a settlement within the policy's applicable Limit of Liability which is acceptable to the claimant ("Settlement Opportunity"), and the Insureds consent to such settlement, then the Insured's applicable Retention amount shall be retroactively reduced by ten percent (10%) for such Loss. It shall be a condition to such reduction that the Insureds must consent to such settlement within thirty (30) days of the date the Insureds are first made aware of the Settlement Opportunity, or in the case of a Settlement Opportunity which arises from a settlement offer by the claimants, then within the time permitted by the claimant to accept such settlement offer, but in all events no later than thirty (30) days after the settlement offer was made.

However, if a Settlement Opportunity arises and the Insureds do not consent to the settlement within the time prescribed above, the Retention amount shall remain the applicable amount set forth in Item 4(c) of the Declarations even if consent is given to a subsequent Settlement Opportunity.

Furthermore, in the event the Insureds do not consent to a Settlement Opportunity within the time prescribed, then, subject to the applicable Limit of Liability or Separate Limit of Liability, if any, the Insurer's liability for all Loss on account of such Claim shall not exceed: (1) the amount for which the Insurer could have settled such Claim, plus Defense Costs incurred as of the date such settlement was proposed in writing by the Insurer, ("Settlement Opportunity Amount"), plus (2) 50% of covered Loss in excess of such Settlement Opportunity Amount, it being a condition of this insurance that the remaining 50% of such Loss excess of the Settlement Opportunity Amount shall be carried by the Company and the Insureds at their own risk and be uninsured. Notwithstanding the foregoing, this paragraph shall not apply until the Settlement Opportunity Amount exceeds the Retention amount stated in Item 4(c) of the Declarations.

With respect to: (i) Defense Costs jointly incurred by, (ii) any joint settlement entered into by, or (iii) any judgment of joint and several liability against the Company and any Individual Insured in connection with any Claim, there shall be a fair and equitable allocation as between the Company and any such Individual Insured, taking into account the relative legal and financial exposures and the relative benefits obtained by any such Individual Insured and the Company, without any presumption that the coverage afforded to the Individual Insured shall in any way reduce the allocation to the Company which shall not be insured for such allocation. In the event that a determination as to the amount of Defense Costs to be advanced under the policy cannot be agreed to, then the Insurer shall advance Defense Costs excess of any applicable retention amount which the Insurer states to be fair and equitable until a different amount shall be agreed upon or determined pursuant to the provisions of this policy and applicable law.

5. PRE-AUTHORIZED DEFENSE ATTORNEYS

This clause applies to all Claims under this Coverage Section. Affixed as Appendix B hereto and made a part of this policy is a list of Panel Counsel law firms (herein "Panel Counsel Firms") from which a selection of legal counsel shall be made to conduct the defense of any Claim(s) against any Insured(s) pursuant to the terms set forth below.

In the event the Insurer has assumed the defense pursuant to Clause 4, then the Insurer shall select a Panel Counsel Firm to defend the Insureds. In the event the Insureds are already defending a Claim, then the Insureds shall select a Panel Counsel Firm to defend the Insureds.

The selection of the Panel Counsel Firm, whether done by the Insurer or the Insureds, shall be from the list of Panel Counsel Firms designated for the type of Claim and be from the jurisdiction in which the Claim is brought. In the event a Claim is brought in a jurisdiction not included on the appropriate list, the selection shall be made from a listed jurisdiction which is the nearest geographic jurisdiction to either where the Claim is maintained or where the corporate headquarters or state of formation of the Named Entity is located. In such instance, however, the Insurer shall, at the written request of the Named Entity assign a non-Panel Counsel Firm of the Insurer's choice in the jurisdiction in which the Claim is brought to function as "local counsel" on the Claim to assist the Panel Counsel Firm, which will function as "lead counsel" in conducting the defense of the Claim.

With the express prior written consent of the Insurer, an Insured may select (in the case of the Insured defending the Claim), or cause the Insurer to select (in the case of the Insurer defending the Claim), a

Panel Counsel Firm different from that selected by other Insured defendants if such selection is required due to an actual conflict of interest.

The list of Panel Counsel Firms may be amended from time to time by the Insurer. However, no change shall be made to the specific list attached to this policy during the Policy Period without the consent of the Named Entity.

6. DISCOVERY CLAUSE

Except as indicated below, if the Named Entity shall cancel or the Named Entity or the Insurer shall refuse to renew this Coverage Section, then solely with respect to this Coverage Section, the Named Entity shall have the right to a period of either one, two or three years following the effective date of such cancellation or nonrenewal upon payment of the respective "Additional Premium Amount" described below (herein referred to as the "Discovery Period") in which to give to the Insurer written notice of Claims first made against the Insureds during said Discovery Period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. The rights contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within thirty (30) days of the effective date of cancellation or nonrenewal.

The Additional Premium Amount for: (1) one year shall be 75% of the "full annual premium"; (2) two years shall be 150% of the "full annual premium"; and (3) three years shall be a reasonable premium amount to be mutually agreed upon by the Named Entity and the Insurer. As used herein, "full annual premium" means the premium level in effect for this Coverage Section immediately prior to the end of the Policy Period.

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

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

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

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

1. INSURING AGREEMENTS

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

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

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

2. DEFENSE AGREEMENT

(a) INSURER'S DUTY TO DEFEND

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

The Insured shall have the right to effectively associate with the Insurer in the defense of any Claim, including, but not limited to, negotiating a settlement, subject to the provisions of this clause. However, the Insurer shall not be obligated to defend any Claim after the Policy Aggregate Limit of Liability or Separate Limit of Liability (if any) has been exhausted, or pursuant to subparagraph (b) below, after the rejection of a settlement offer.

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

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

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

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

3. DEFINITIONS

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

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

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

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

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

Loss shall include Voluntary Compliance Loss.

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

(q) "Plan" means:

(i) any Non-Qualified Plan; or

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

- (1) a welfare plan, as defined under Employee Benefit Law which was, is now, or hereinafter becomes sponsored solely by the Company, or sponsored jointly by the Company and a labor organization, solely for the benefit of the employees of the Company;
- (2) a pension plan as defined under Employee Benefit Law (other than an ESOP or stock option plan) which was, on or prior to the inception date of the policy, sponsored solely by the Company, or sponsored jointly by the Company and a labor organization, solely for the benefit of the employees of the Company, provided that at any time prior to the inception date of this policy such plan has been reported in writing to the Insurer by the Named Entity pursuant to the terms of the application for this policy, or any prior policy or its application issued by the Insurer (or any other member company of American International Group, Inc.) and the Named Entity shall have paid any required premium relating to such plan;
- (3) subject to the requirements of sub-paragraphs (1) and (2) above, coverage under this policy shall apply to any pension or welfare plan that was sold, spun-off or terminated during or prior to the inception date of this policy, but solely with respect to Wrongful

Acts that occurred prior to the date of such sale or spin-off, or in the case of a terminated plan, prior to the final date of asset distribution of such plan, provided that notice of such sale, spin-off or termination is provided to the Insurer before the end of the Policy Period;

- (4) a pension plan as defined in ERISA (other than an ESOP) which, during the Policy Period, becomes sponsored solely by the Company, or sponsored jointly by the Company and a labor organization, solely for the benefit of the employees of the Company, but only upon the condition that within ninety (90) days of it becoming so sponsored, the Named Entity shall have provided the Insurer with a completed application for such new plan and agreed to any additional premium or amendment of the provisions of the policy required by the Insurer relating to such new plan;
- (5) a pension plan which, during or prior to the Policy Period of this policy, has been merged into or consolidated with a pension plan for which coverage is afforded under this policy; and
- (6)(i) a plan which is both a welfare plan and a pension plan as defined in ERISA (other than an ESOP) subject to the requirements of this Definition (q);
 - (ii) the following government-mandated programs: unemployment insurance, Social Security or similar programs outside of the United States or disability benefits, solely with respect to a Wrongful Act defined in subparagraph (2) of the Definition of "Wrongful Act" in this Coverage Section;
 - (iii) any other plan, fund or program, including an ESOP, which is included in the Definition of "Plan" by specific written endorsement attached to this policy.

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

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

(u) "Wrongful Act" means:

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

4. EXCLUSIONS

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

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

For the purpose of determining the applicability of the foregoing Exclusion 4(a): (1) the facts pertaining to and knowledge possessed by any Insured shall not be imputed to any other Individual Insured; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board,

president, chief executive officer, chief operating officer, chief financial officer (or equivalent position) of the Company shall be imputed to the Company.

5. PRE-AUTHORIZED DEFENSE ATTORNEYS

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

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

In the event the Insurer is operating under a duty to defend pursuant to Clause 2(a) of this Coverage Section, then the Insurer shall select a Panel Counsel Firm to defend the Insureds. Upon the written request of the Named Entity, the Insurer may consent to a different Panel Counsel Firm selected by the Named Entity to defend the Insureds, which consent shall not be unreasonably withheld.

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

The list of Panel Counsel Firms may be amended from time to time by the Insurer. However, no change shall be made to the specific list attached to this policy during the Policy Period without the consent of the Named Entity. At the request of the Named Entity, the Insurer may in its discretion add one or more law firms to the attached list of Panel Counsel Firms for the purposes of defending the Claim made against the Insureds. The list of Panel Counsel Firms may also be amended to add, at the sole discretion of the Insurer, a non-Panel Counsel Firm for the purpose of acting as "local counsel" to assist an existing Panel Counsel Firm, which Panel Counsel Firm will act as "lead counsel" in conducting the defense of the Claim, for Claims brought in a jurisdiction in which the chosen Panel Counsel Firm does not maintain an office.

6. DISCOVERY CLAUSE

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

In the event of a Transaction, as defined in Clause 9 of the General Terms and Conditions, the Named Entity shall have the right, within thirty (30) days before the end of the Policy Period, to request an offer from the Insurer of a Discovery Period (with respect to Wrongful Acts occurring prior to the effective time of the Transaction) for a period of no less than three (3) years or for such longer or shorter period as the Named Entity may request. The Insurer shall offer such Discovery Period pursuant

to such terms, conditions and premium as the Insurer may reasonably decide. In the event of a Transaction, the right to a Discovery Period shall not otherwise exist except as indicated in this paragraph.

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

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SPECIMEN

**CRIME
COVERAGE SECTION FOUR
("CRIME COVERAGE SECTION")**

In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer by application, including its attachments and the material incorporated therein, solely with respect to this Coverage Section, the Insurer agrees as follows:

1. INSURING AGREEMENTS

Coverage is provided under the following Insuring Agreements for which a Per Occurrence Limit of Liability is shown on the Declarations:

A. EMPLOYEE THEFT

The Insurer will pay for loss of or damage to Money, Securities and Other Property resulting directly from Theft committed by an Employee, whether identified or not, acting alone or in collusion with other persons.

B. FORGERY OR ALTERATION

(a) The Insurer will pay for loss resulting directly from Forgery or alteration of checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in Money that are:

- (1) made or drawn by or drawn upon the Insured; or
- (2) made or drawn by one acting as the Insured's agent;

or that are purported to have been so made or drawn.

(b) If the Insured is sued for refusing to pay any instrument covered in paragraph (a) above, on the basis that it has been forged or altered, and the Insured has the Insurer's written consent to defend against the suit, the Insurer will pay for any reasonable legal expenses that the Insured incurs and pays in that defense. The amount that the Insurer will pay is in addition to the Limit of Liability applicable to this Insuring Agreement.

C. INSIDE THE PREMISES - THEFT OF MONEY AND SECURITIES

(a) The Insurer will pay for loss of Money and Securities inside the Premises or Banking Premises resulting directly from Theft, disappearance or destruction.

(b) The Insurer will pay for loss from damage to the Premises or its exterior resulting directly from an actual or attempted Theft of Money and Securities, if the Insured is the owner of the Premises or is liable for damage to it.

- (c) The Insurer will pay for loss of or damage to a locked safe, vault, cash register, cash box or cash drawer located inside the Premises resulting directly from an actual or attempted Theft of or unlawful entry into those containers.

D. INSIDE THE PREMISES - ROBBERY OR SAFE BURGLARY OF OTHER PROPERTY

- (a) The Insurer will pay for loss of or damage to Other Property:
 - (1) inside the Premises resulting directly from an actual or attempted Robbery of a Custodian;
or
 - (2) inside the Premises in a safe or vault resulting directly from an actual or attempted Safe Burglary.
- (b) The Insurer will pay for loss from damage to the Premises or its exterior resulting directly from an actual or attempted Robbery or Safe Burglary of Other Property, if the Insured is the owner of the Premises or is liable for damage to it.
- (c) The Insurer will pay for loss of or damage to a locked safe or vault located inside the Premises resulting directly from an actual or attempted Robbery or Safe Burglary.

E. OUTSIDE THE PREMISES

- (a) The Insurer will pay for loss of Money and Securities outside the Premises in the care and custody of a Messenger or an armored motor vehicle company resulting directly from Theft, disappearance or destruction.
- (b) The Insurer will pay for loss of or damage to Other Property outside the Premises in the care and custody of a Messenger or an armored motor vehicle company resulting directly from an actual or attempted Robbery.

F. COMPUTER FRAUD

The Insurer will pay for loss of or damage to Money, Securities and Other Property resulting directly from the use of any computer to fraudulently cause a transfer of that property from inside the Premises or Banking Premises:

- (a) to a person (other than a Messenger) outside those Premises; or
- (b) to a place outside those Premises.

G. MONEY ORDERS AND COUNTERFEIT PAPER CURRENCY

The Insurer will pay for loss resulting directly from the Insured's having accepted in good faith, in exchange for merchandise, Money or services:

- (a) money orders issued by any post office, express company or bank that are not paid upon presentation; or

(b) Counterfeit paper currency that is acquired during the regular course of business.

2. DEFINITIONS

- (a) "Banking Premises" means the interior of that portion of any building occupied by a banking institution or similar safe depository.
- (b) "Client" means any entity for whom the Insured performs services under a written agreement.
- (c) "Counterfeit" means an imitation of an actual valid original which is intended to deceive and to be taken as the original.
- (d) "Custodian" means the Insured, or any of the Insured's partners or Members, or any Employee while having care and custody of property inside the Premises, excluding any person while acting as a Watchperson or janitor.
- (e) "Employee" means:
- (1) any natural person:
 - (i) while in the Insured's service or for thirty (30) days after termination of service;
 - (ii) who the Insured compensates directly by salary, wages or commissions; and
 - (iii) who the Insured has the right to direct and control while performing services for the Insured;
 - (2) any natural person who is furnished temporarily to the Insured:
 - (i) to substitute for a permanent Employee as defined in Paragraph (1) above, who is on leave; or
 - (ii) to meet seasonal or short-term work load conditions; or
 - (iii) who is a student gaining work experience; or
 - (iv) who is a non-fund soliciting volunteer;

while that person is subject to the Insured's direction and control and is performing services for the Insured, excluding, however, any such person while having care and custody of property outside the Premises; or

- (3) any natural person who is:
 - (i) a trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any Employee Benefit Plan(s) insured under this Coverage Section; and
 - (ii) the Insured's director or trustee while that person is handling Funds or Other Property of any Employee Benefit Plan(s) insured under this Coverage Section.

But "Employee" does not mean:

- (1) any agent, broker, person leased to the Insured by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) any Manager, director, trustee or non-compensated officer of the Insured except while performing acts coming within the scope of the usual duties of an Employee.

- (f) "Employee Benefit Plan(s)" means any welfare or pension benefit plan scheduled by specific written endorsement attached to this policy that is subject to the Employee Retirement Income Security Act of 1974.
- (g) "Forgery" means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.
- (h) "Funds" means Money and Securities.
- (i) "Insured(s)" means the Named Entity shown in the Declarations.
- (j) "Manager" means a person serving in a directorial capacity for a limited liability company.
- (k) "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a Manager.
- (l) "Messenger" means the Insured, or a relative of the Insured, or any of the Insured's partners or Members, or any Employee while having care and custody of property outside the Premises.
- (m) "Money" means:
- (1) currency, coins and bank notes in current use and having a face value; and
 - (2) travelers checks, register checks and money orders held for sale to the public.
- (n) "Occurrence" means:
- (1) as respects Insuring Agreement A of this Coverage Section, all loss caused by, or involving, one or more Employees, whether the result of a single act or series of acts; or
 - (2) as respects Insuring Agreement B of this Coverage Section, all loss caused by any person or in which that person is involved, whether the loss involves one or more instruments; or
 - (3) as respects all other Insuring Agreements of this Coverage Section:
 - (a) an act or series of related acts involving one or more persons; or
 - (b) an act or event, or a series of related acts or events not involving any person.
- (o) "Other Property" means any tangible property other than Money and Securities that has intrinsic value but does not include any property excluded under this Coverage Section.
- (p) "Premises" means the interior of that portion of any building the Insured occupies in conducting the Insured's business.
- (q) "Robbery" means the unlawful taking of property from the care and custody of a person by one who has:
- (1) caused or threatened to cause that person bodily harm; or
 - (2) committed an obviously unlawful act witnessed by that person.
- (r) "Safe Burglary" means the unlawful taking of:
- (1) property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior; or

(2) a safe or vault from inside the Premises.

- (s) "Securities" means negotiable and nonnegotiable instruments or contracts representing either Money or property and includes:
- (1) tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
 - (2) evidences of debt issued in connection with credit or charge cards, which cards are not issued by the Insured;
- but does not include Money.
- (t) "Theft" means the unlawful taking of Money, Securities or Other Property to the deprivation of the Insured.
- (u) "Watchperson" means any person the Insured retains specifically to have care and custody of property inside the Premises and who has no other duties.

3. EXCLUSIONS

This Coverage Section does not apply to:

- (a) Acts Committed By The Insured, The Insured's Partners Or The Insured's Members

Loss resulting from Theft or any other dishonest act committed by:

- (1) the Insured; or
 - (2) any of the Insured's partners or Members;
- whether acting alone or in collusion with other persons;

- (b) Acts Of Employees, Managers, Directors, Trustees Or Representatives

Loss resulting from Theft or any other dishonest act committed by any of the Insured's Employees, Managers, directors, trustees or authorized representatives:

- (1) whether acting alone or in collusion with other persons; or
 - (2) while performing services for the Insured or otherwise;
- except when covered under Insuring Agreement A of this Coverage Section;

- (c) Governmental Action

Loss resulting from seizure or destruction of property by order of governmental authority;

- (d) Indirect Loss

Loss that is an indirect result of any act or Occurrence covered by this Coverage Section including, but not limited to, loss resulting from:

- (1) the Insured's inability to realize income that the Insured would have realized had there been no loss of or damage to Money, Securities or Other Property;
 - (2) payment of damages of any type for which the Insured is legally liable. But, the Insurer will pay compensatory damages arising directly from a loss covered under this Coverage Section;
- or

(3) payment of costs, fees or other expenses the Insured incurs in establishing either the existence or the amount of loss under this Coverage Section;

(e) Legal Expenses

Expenses related to any legal action, except when covered under Insuring Agreement B of this Coverage Section;

(f) Nuclear

Loss resulting from nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident;

(g) War And Similar Actions

Loss resulting from war, whether or not declared, warlike action, insurrection, rebellion or revolution, or any related act or incident;

INSURING AGREEMENT A of this Coverage Section does not apply to:

(a) Employee Cancelled Under Prior Insurance

Loss caused by any Employee of the Insured, or predecessor in interest of the Insured, for whom similar prior insurance has been cancelled and not reinstated since the last such cancellation;

(b) Inventory Shortages

Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

- (1) an inventory computation; or
- (2) a profit and loss computation;

however, where the Insured establishes wholly apart from such computations that the Insured has sustained a loss, then the Insured may offer the Insured's inventory records and actual physical count of inventory in support of the amount of loss claimed;

(c) Trading

Loss resulting directly or indirectly from trading, whether in the Insured's name or in a genuine or fictitious account;

(d) Warehouse Receipts

Loss resulting from fraudulent or dishonest signing, issuing, cancelling or failing to cancel, a warehouse receipt or any papers connected with it;

INSURING AGREEMENTS C, D and E of this Coverage Section do not apply to:

(a) Accounting Or Arithmetical Errors Or Omissions

Loss resulting from accounting or arithmetical errors or omissions;

(b) Exchanges Or Purchases

Loss resulting from the giving or surrendering of property in any exchange or purchase;

(c) Fire

Loss resulting from fire, however caused, except:

- (1) Loss from damage to a safe or vault; and
- (2) Under Insuring Agreement C of this Coverage Section, loss of or damage to Money and Securities;

(d) Money Operated Devices

Loss of property contained in any money operated device unless the amount of Money deposited in it is recorded by a continuous recording instrument in the device;

(e) Motor Vehicles Or Equipment And Accessories

Loss of or damage to motor vehicles, trailers or semi-trailers or equipment and accessories attached to them;

(f) Transfer Or Surrender Of Property

- (1) Loss of or damage to property after it has been transferred or surrendered to a person or place outside the Premises or Banking Premises:
 - (a) on the basis of unauthorized instructions;
 - (b) as a result of a threat to do bodily harm to any person; or
 - (c) as a result of a threat to do damage to any property;
- (2) provided, however, this Exclusion does not apply under Insuring Agreement E of this Coverage Section to loss of Money, Securities or Other Property while outside the Premises in the care and custody of a Messenger if the Insured:
 - (a) had no knowledge of any threat at the time the conveyance began; or
 - (b) had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat;

(g) Vandalism

Loss from damage to the Premises or its exterior, or to any safe, vault, cash register, cash box, cash drawer or Other Property by vandalism or malicious mischief;

(h) Voluntary Parting Of Title To Or Possession Of Property

Loss resulting from the Insured, or anyone acting on the Insured's express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property;

INSURING AGREEMENT F of this Coverage Section does not apply to:

(a) Inventory Shortages

Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

- (1) an inventory computation; or
- (2) a profit and loss computation.

4. CONDITIONS

A. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS OF THIS COVERAGE SECTION:

1. Cancellation As To Any Employee

This Coverage Section is cancelled as to any Employee:

- (1) immediately upon discovery by:
 - (a) the Insured; or
 - (b) any of the Insured's partners, Members, Managers, officers, directors or trustees not in collusion with the Employee; of Theft or any other dishonest act committed by the Employee whether before or after becoming employed by the Insured.
- (2) on the date specified in a notice mailed to the Named Entity. That date will be at least thirty (30) days after the date of mailing.

The Insurer will mail or deliver the Insurer's notice to the Named Entity's last mailing address known to the Insurer. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. Concealment, Misrepresentation Or Fraud

This Coverage Section is void in any case of fraud by the Insured as it relates to this Coverage Section at any time. It is also void if the Named Entity or any other Insured, at any time, intentionally conceals or misrepresents a material fact concerning:

- (1) this Coverage Section;
- (2) the property covered under this Coverage Section;
- (3) the Insured's interest in the property covered under this Coverage Section; or
- (4) a claim under this Coverage Section.

3. Consolidation - Merger

If through consolidation or merger with, or purchase or acquisition of assets or liabilities of, some other entity, any additional persons become Employees or the Insured acquires the use and control of any additional Premises:

- (1) the Insured must give the Insurer written notice and obtain the Insurer's written consent to extend this insurance to such additional Employees or Premises. The Insurer may condition the Insurer's consent upon payment of an additional premium; but
- (2) for the first ninety (90) days after the effective date of such consolidation, merger or purchase or acquisition of assets or liabilities, any insurance afforded for Employees or Premises also applies to these additional Employees or Premises for acts committed or events occurring within this ninety (90) day period.

4. Loss-Notice-Proof - The Fidelity Research & Investigative Settlement Clause (FRISC)

After the Insured discovers a loss or a situation that may result in loss of or damage to Money, Securities or Other Property the Insured must notify the Insurer pursuant to Clause 7.2. of the General Terms and Conditions of the policy.

Thereafter, an independent Investigative Specialist will investigate the facts and determine the quantum of loss. The report issued by the Investigative Specialist will be definitive as respects the facts and the quantum. After a joint review of the investigative report, if the Named Entity and the Insurer cannot agree upon the settlement of loss, the Insurer, at the Named Entity's request, shall submit the dispute to arbitration, pursuant to the provisions Clause 14. DISPUTE RESOLUTION PROCESS of the General Terms and Conditions.

Upon the Insurer's request, the Insured shall submit to examination by the Insurer, subscribe the same, under oath if required, give the Insurer a signed statement of the Insured's answers, and produce for the Insurer's examination all pertinent records, all at such reasonable times and places as the Insurer shall designate, and shall cooperate with the Insurer in all matters pertaining to loss or claims with respect thereto.

5. Employee Benefit Plan(s)

- (1) The Employee Benefit Plan(s) shown in an Endorsement attached to this policy are included as Insureds under Insuring Agreement A of this Coverage Section.
- (2) If any Employee Benefit Plan(s) is insured jointly with any other entity under this Coverage Section, the Insured or the Plan Administrator must select a Limit of Liability for Insuring Agreement A of this Coverage Section that is sufficient to provide a Limit of Liability for each Plan that is at least equal to that required if each Plan were separately insured.
- (3) With respect to losses sustained or discovered by any such Plan, Insuring Agreement A of this Coverage Section is replaced by the following:

The Insurer will pay for loss of or damage to Funds and Other Property resulting directly from fraudulent or dishonest acts committed by an Employee, whether identified or not, acting alone or in collusion with other persons.

- (4) If the Named Entity is an entity other than a Plan, any payment the Insurer makes to that Insured for loss sustained by any Plan will be held by that Insured for the use and benefit of the Plan(s) sustaining the loss.
- (5) If two or more Plans are insured under this Coverage Section, any payment the Insurer makes for loss:
 - (a) sustained by two or more Plans; or
 - (b) of commingled Funds or Other Property of two or more Plans;that arises out of one Occurrence, is to be shared by each Plan sustaining loss in the proportion that the Limit of Liability required for each Plan bears to the total of those limits.
- (6) The Deductible Amount applicable to Insuring Agreement A of this Coverage Section does not apply to loss sustained by any Employee Benefit Plan(s).

6. Examination Of The Insured's Books And Records

The Insurer may examine and audit the Insured's books and records as they relate to this Coverage Section at any time during the policy period and up to three (3) years afterward.

7. Extended Period To Discover Loss

- (1) The Insurer will pay for loss that the Insured sustained prior to the effective date of termination or cancellation of this Coverage Section, which is discovered by the Insured no later than sixty (60) days from the date of that termination or cancellation.
- (2) However, this extended period to discover loss terminates immediately upon the effective date of any other insurance obtained by the Insured replacing in whole or in part the insurance afforded by this Coverage Section, whether or not such other insurance provides coverage for loss sustained prior to its effective date.

8. Inspections And Surveys

- (1) The Insurer has the right to:
 - (a) make inspections and surveys at any time;
 - (b) give the Insured reports on the conditions the Insurer finds; and
 - (c) recommend changes.
- (2) The Insurer is not obligated to make any inspections, surveys, reports or recommendations and any such actions the Insurer does undertake relate only to insurability and the premiums to be charged. The Insurer does not make safety inspections. The Insurer does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And the Insurer does not warrant that conditions:
 - (a) are safe or healthful; or
 - (b) comply with laws, regulations, codes or standards.
- (3) Paragraphs (1) and (2) above apply not only to the Insurer, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

9. Joint Insured

- (1) If more than one Insured is covered under this Coverage Section, the Named Entity shall act for itself and for every other Insured for all purposes of this Coverage Section.
- (2) If any Insured, or partner, Member or officer of that Insured has knowledge of any information relevant to this Coverage Section, that knowledge is considered knowledge of every Insured.
- (3) An Employee of any Insured is considered to be an Employee of every Insured.
- (4) If this Coverage Section or any of its coverages is cancelled or terminated as to any Insured, loss sustained by that Insured is covered only if discovered by the Insured during the period of time provided in the Extended Period To Discover Loss Condition 4.A.7. However, this extended period to discover loss terminates immediately upon the effective date of any other insurance obtained by that Insured replacing in whole or in part the insurance afforded by this Coverage Section, whether or not such other insurance provides coverage for loss sustained prior to its effective date.
- (5) The Insurer will not pay more for loss sustained by more than one Insured than the amount the Insurer would pay if all the loss had been sustained by one Insured.

10. Loss Covered Under More Than One Coverage Of This Coverage Section

If two or more coverages of this Coverage Section apply to the same loss, the Insurer will pay the lesser of:

- (1) the actual amount of loss; or
- (2) the sum of the Limits of Liability applicable to those coverages;

11. Loss Covered Under This Coverage Section And Prior Insurance Issued By the Insurer Or Any Affiliate

If any loss is covered:

- (1) partly by this Coverage Section; and
- (2) partly by any prior cancelled or terminated insurance that the Insurer or any affiliate had issued to the Insured or any predecessor in interest;

the most the Insurer will pay is the larger of the amount recoverable under this Coverage Section or the prior insurance.

Regardless of the number of years this Coverage Section remains in force or the number of premiums paid, no Limit of Liability cumulates from year to year or policy period to policy period.

12. Loss Sustained

Subject to the Loss Sustained During Prior Insurance, Condition 4.A.13. of this Coverage Section, the Insurer will pay for loss that the Insured sustains through acts committed or events occurring during the policy period shown in the Declarations and discovered by the Insured:

- (1) during the policy period; or

- (2) during the period of time provided in the Extended Period To Discover Loss, Condition 4.A.7. of this Coverage Section.

13. Loss Sustained During Prior Insurance

- (1) If the Insured, or any predecessor in interest, sustained loss during the period of any prior insurance that the Insured or the predecessor in interest could have recovered under that insurance except that the time within which to discover loss had expired, the Insurer will pay for it under this Coverage Section, provided:
 - (a) this Coverage Section became effective at the time of cancellation or termination of the prior insurance; and
 - (b) the loss would have been covered by this Coverage Section had it been in effect when the acts or events causing the loss were committed or occurred.
- (2) The insurance under this Condition is part of, not in addition to, the applicable Limit of Liability applying to this Coverage Section and is limited to the lesser of the amount recoverable under:
 - (a) this Coverage Section as of its effective date; or
 - (b) the prior insurance had it remained in effect.

14. Ownership Of Property; Interests Covered

The property covered under this Coverage Section is limited to property:

- (1) that the Insured owns or leases;
- (2) that the Insured holds for others; or
- (3) for which the Insured is legally liable, except for property inside the premises of a Client of the Insured.

However, this Coverage Section is for the Insured's benefit only. It provides no rights or benefits to any other person or organization. Any claim for loss that is covered under this Coverage Section must be presented by the Named Entity.

15. Records

The Insured must keep records of all property covered under this Coverage Section so that the Insurer can verify the amount of any loss.

16. Recoveries

- (1) Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this Coverage Section will be distributed as follows:
 - (a) to the Insured, until the Insured is reimbursed for any loss that the Insured sustains that exceeds the applicable Limit of Liability and the Retention Amount, if any;
 - (b) then to the Insurer, until the Insurer is reimbursed for the settlement made; and
 - (c) then to the Insured, until the Insured is reimbursed for that part of the loss equal to the Retention Amount, if any.

(2) Recoveries do not include any recovery:

- (a) from insurance, suretyship, reinsurance, security or indemnity taken for the Insurer's benefit; or
- (b) of original Securities after duplicates of them have been issued.

17. Transfer Of The Insured's Rights Of Recovery Against Others To the Insurer

The Insured must transfer to the Insurer all the Insured's rights of recovery against any person or organization for any loss the Insured sustained and for which the Insurer has paid or settled. The Insured must also do everything necessary to secure those rights and do nothing after loss to impair them.

18. Valuation - Settlement

(1) Subject to Clause 5. Limit Of Liability of the General Terms and Conditions, the Insurer will pay for:

(a) Loss of Money but only up to and including its face value. The Insurer may, at the Insurer's option, pay for loss of Money issued by any country other than the United States of America:

- (i) at face value in the Money issued by that country; or
- (ii) in the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.

(b) Loss of Securities but only up to and including their value at the close of business on the day the loss was discovered. The Insurer may, at the Insurer's option:

- (i) pay the value of such Securities or replace them in kind, in which event the Insured must assign to the Insurer all the Insured's rights, title and interest in and to those Securities; or
- (ii) pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the Securities. However, the Insurer will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
 - i. value of the Securities at the close of business on the day the loss was discovered; or
 - ii. the Per Occurrence Limit of Liability.

(c) Loss of or damage to Other Property or loss from damage to the Premises or its exterior for the replacement cost of the property without deduction for depreciation.

However, the Insurer will not pay more than the least of the following:

- (i) the Limit of Liability applicable to the lost or damaged property;
- (ii) the cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose; or
- (iii) the amount the Insured actually spends that is necessary to repair or replace the lost or damaged property.

The Insurer will not pay on a replacement cost basis for any loss or damage:

- (i) until the lost or damaged property is actually repaired or replaced; and
- (ii) unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

If the lost or damaged property is not repaired or replaced, the Insurer will pay on an actual cash value basis.

- (2) The Insurer may, at the Insurer's option, pay for loss of or damage to property other than Money:
 - (a) in the Money of the country in which the loss occurred; or
 - (b) in the United States of America dollar equivalent of the Money of the country in which the loss occurred determined by the rate of exchange on the day the loss was discovered.
- (3) Any property that the Insurer pays for or replaces becomes the Insurer's property.

B. CONDITIONS APPLICABLE TO INSURING AGREEMENT B OF THIS COVERAGE SECTION:

1. Deductible

The Deductible Amount does not apply to legal expenses paid under Insuring Agreement B.

2. Facsimile Signatures

The Insurer will treat mechanically reproduced facsimile signatures the same as handwritten signatures.

3. Proof Of Loss

The Insured must include with the Insured's proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.

C. CONDITIONS APPLICABLE TO INSURING AGREEMENTS D AND E OF THIS COVERAGE SECTION:

1. Armored Motor Vehicle Companies

Under Insuring Agreement E of this Coverage Section, the Insurer will only pay for the amount of loss the Insured cannot recover:

- (1) under the Insured's contract with the armored motor vehicle company; and
- (2) from any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

2. Special Limit Of Liability For Specified Property

The Insurer will only pay up to \$5,000 for any one Occurrence of loss of or damage to:

- (1) precious metals, precious or semiprecious stones, pearls, furs, or completed or partially completed articles made of or containing such materials that constitute the principal value of such articles; or

(2) manuscripts, drawings, or records of any kind or the cost of reconstructing them or reproducing any information contained in them.

D. CONDITIONS APPLICABLE TO INSURING AGREEMENT F OF THIS COVERAGE SECTION:

1. Special Limit of Liability For Specified Property

The Insurer will only pay up to \$5,000 for any one Occurrence of loss of or damage to manuscripts, drawings, or records of any kind or the cost of reconstructing them or reproducing any information contained in them.

In witness whereof, the Insurer has caused this Coverage Section to be executed on the Declarations.

SPECIMEN

**EMPLOYED LAWYERS PROFESSIONAL LIABILITY INSURANCE
COVERAGE SECTION FIVE
("EMPLOYED LAWYERS COVERAGE SECTION")**

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

1. INSURING AGREEMENTS

COVERAGE A: EMPLOYED LAWYER INSURANCE

This policy shall pay on behalf of the Employed Lawyer all sums which the Employed Lawyer shall become legally obligated to pay as Damages arising from a Claim first made against the Employed Lawyer during the Policy Period or Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any Wrongful Act of the Employed Lawyer, except when and to the extent that the Employer has indemnified such Employed Lawyer.

COVERAGE B: EMPLOYER INDEMNIFICATION

This policy shall pay on behalf of the Employer all sums which the Employer may be required or permitted by law to indemnify an Employed Lawyer for any sum which the Employed Lawyer becomes legally obligated to pay as Loss arising from a Claim first made against the Employed Lawyer during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any Wrongful Act of the Employed Lawyer while acting in the course of said Employed Lawyer's employment by the Employer, but only when and to the extent that the Employer has indemnified the Employed Lawyer for such Loss pursuant to law, common or statutory, or contract, or the charter or by-laws of the Employer duly effective under such law which determines and defines such rights of indemnity.

COVERAGE C: DEFENSE COSTS, CHARGES AND EXPENSES

The Insurer shall have the right and duty to defend, subject to the applicable Retention amount and subject to and as part of the applicable Limits of Liability, any Claim against the Employed Lawyer seeking Damages which are payable under the terms of this policy, even if any of the allegations of the Claim are groundless, false or fraudulent. The Insurer shall be entitled to exercise all rights of an Employed Lawyer in the choice of arbitrators and in the conduct of any arbitration proceeding involving a Claim covered by this policy.

The Insurer shall have the right to make any investigation it deems necessary and, with the written consent of the Employed Lawyer, settle any Claim covered by this policy. If the Employed Lawyer shall refuse to consent to any settlement recommended by the Insurer and acceptable to the claimant and elects to contest the Claim, then the Insurer's liability shall not exceed the amount for which the Insurer would have been liable for Loss if the Claim had been so settled when and as recommended, and the Insurer shall have no liability for Defense Costs accruing thereafter, and the Insurer shall have the right to withdraw from the further defense thereof by tendering control of said defense to the Employed Lawyer.

The Employed Lawyer shall not, except at the Employed Lawyer's own cost, admit liability, voluntarily make any payment, assume any obligation or incur any expenses without the written consent of the Insurer.

The Insurer shall not be obligated to pay any Loss, or to undertake or continue defense of any Claim after the applicable limit of the Insurer's liability has been exhausted by payment of Loss or after deposit of the applicable limit of the Insurer's liability in a court of competent jurisdiction, and in such a case, the Insurer shall have the right to withdraw from the further defense thereof by tendering control of said defense to the Employed Lawyer.

2. DEFINITIONS

(a) "Claim" means:

- (1) a written demand for monetary, non-monetary or injunctive relief; or
- (2) a civil, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by service of a complaint or similar pleading.

(b) "Damages" means a monetary judgment award or monetary settlement arising from a Claim, but does not include fines, sanctions or statutory penalties whether imposed by law or otherwise, nor the return of or restitution of legal fees, costs and expenses.

(c) "Employed Lawyer" means:

- (1) any person admitted to practice law who is, was or becomes employed as a lawyer full time and salaried by the Employer, but only as regards Wrongful Acts which occur during the term of such employment; and
- (2) non-lawyer employees of the Employer who are, were or become assistants of an Employed Lawyer as defined in sub-paragraph (1) above, while acting under the direction and control of such Employed Lawyer in the performance of professional services on behalf of the Employer.

(d) "Employer" means the Named Entity and any Subsidiary thereof.

(e) "Indemnifiable Loss" means Loss for which the Company has indemnified or is permitted or required to indemnify any Individual Insureds.

(f) "Individual Insured" means any Employed Lawyer.

(g) "Insured(s)" means:

- (1) any Employed Lawyer; and
- (2) any Employer, but solely with respect to Coverage B and such Employer's indemnification of an Employed Lawyer.

(h) "Legal Services" means any professional legal services rendered by:

- (1) an Employed Lawyer in his or her capacity as an Employee of an Employer; and
- (2) any Employed Lawyer while a full time, permanent Employee of an Employer, including, but not limited to, any moonlighting or *pro bono* services.

(i) "Loss" means Damages and Defense Costs; provided, however, Loss shall not include: (1) civil or criminal fines or penalties; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes; (5) any amount for which the Insureds are not financially liable or

which are without legal recourse to the Insureds; and (6) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

(j) "Personal Injury Peril" means the following offenses:

- (1) false arrest, detention or imprisonment, wrongful entry or eviction or other invasion of the right of private occupancy, or malicious prosecution; or
- (2) the publication or utterance of a libel or slander or other defamatory or disparaging material, or a publication or an utterance in violation of an individual's right of privacy.

(k) "Wrongful Act" means any actual or alleged:

- (1) negligent act, error, omission, breach of duty, misstatement or misleading statement; or
- (2) Personal Injury Peril;

committed or omitted in the performance of Legal Services.

3. EXCLUSIONS

The General Terms and Conditions, Exclusions Paragraph 4(a) (profit or advantage) and the paragraph following Paragraph 4(h) do not apply to this Coverage Section.

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

(a) arising out of, based upon or attributable to the committing in fact of any criminal, fraudulent or dishonest act by an Employed Lawyer; provided, however, the Insurer shall defend such Claim alleging the foregoing conduct, until there is a judgment, final adjudication, adverse admission or finding of fact against the Employed Lawyer as to such conduct, at which time the Insured shall reimburse the Insurer for Defense Costs;

(b) against an Employed Lawyer that is brought, directly or indirectly, by or on behalf of:

- (1) another Employed Lawyer;
- (2) the Employer or any Affiliate of the Employer or the Employed Lawyer;
- (3) any partnership or joint venture in which the Employed Lawyer, the Employer or any Affiliate of the Employed Lawyer or the Employer is a partner or member; or
- (4) any predecessor firm or corporation that was merged with or acquired by the Employer or any of its Affiliates or by any insurer as subrogee of any of the foregoing;

provided, however, this exclusion shall not apply to any Claim brought by a security holder of the Employer or any of its Affiliates, whether directly or derivatively, provided such Claim is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of the Employer or any of its Affiliates, a director or officer of the Employer or any of its Affiliates, or the Employed Lawyer or any Affiliate of the Employed Lawyer;

(c) for discrimination or other unfair employment practices; provided, however, this exclusion shall not apply to any Claim alleging a Wrongful Act in the performance of Legal Services;

(d) arising out of any breach of fiduciary duty, responsibility, or obligation in connection with any employee benefit or pension plan, including violations of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974, as amended, or similar statutory or common law of the United States of America or any state or jurisdiction therein;

- (e) alleging, arising out of, based upon, or in connection with any offering of securities by the Company or alleging a purchase or sale of such securities subsequent to such offering;
- (f) arising out of mental anguish, emotional distress or humiliation; provided, however, this exclusion shall not apply to any Claim alleging the forgoing if such allegations result from a Personal Injury Peril;
- (g) alleging, arising out of, based upon or attributable to any actual or alleged act or omission of an Employed Lawyer serving in the capacity of a Director or Officer; provided, however, this exclusion shall not apply to alleging a Wrongful Act in the performance of Legal Services; or
- (h) against an Employed Lawyer for a Wrongful Act that was committed or allegedly committed at a time when the Employed Lawyer was not employed by the Employer.

4. DISCOVERY CLAUSE

Except as indicated below, if the Named Entity shall cancel or the Named Entity or the Insurer shall refuse to renew this Coverage Section, then solely with respect to this Coverage Section, the Named Entity shall have the right to a period of either one, two or three years following the effective date of such cancellation or nonrenewal upon payment of the respective "Additional Premium Amount" described below (herein referred to as the "Discovery Period") in which to give to the Insurer written notice of Claims first made against the Insureds during said Discovery Period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. The rights contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within thirty (30) days of the effective date of cancellation or nonrenewal.

The Additional Premium Amount for: (1) one year shall be 75% of the "full annual premium;" (2) two years shall be 150% of the "full annual premium;" and (3) three years shall be a reasonable premium amount to be mutually agreed upon by the Named Entity and the Insurer. As used herein, "full annual premium" means the premium level in effect for this Coverage Section immediately prior to the end of the Policy Period.

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

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

**AIG NETADVANTAGE[®] INTERNET MEDIA LIABILITY
COVERAGE SECTION SIX
("MEDIA COVERAGE SECTION")**

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

1. INSURING AGREEMENT -- INTERNET MEDIA LIABILITY COVERAGE

This policy shall pay Loss of an Insured arising from a Claim first made against an Insured and reported to the Insurer in writing during the Policy Period or Discovery Period (if applicable), for the Insured's Wrongful Act(s) in the display of Internet Media.

2. DEFENSE COSTS, CHARGES AND EXPENSES

- (a) The Insurer has the right and duty to defend a Suit brought against an Insured for covered Wrongful Acts under this Coverage Section, even if the Suit is groundless or fraudulent and, with the Insured's written consent, settle any Suit if the Insurer believes that it is proper.
- (b) The Insurer has the right, but not the duty, to investigate any Claim under this Coverage Section and, with the Insured's written consent, settle any Claim if the Insurer believes that it is proper.
- (c) The Insurer shall pay Defense Costs the Insured incurs with the Insurer's prior written consent in the defense of a Suit for covered Wrongful acts under this Coverage Section. In addition, the Insurer may, but is not obligated to, pay Defense Costs with respect to a Claim that is not a Suit. Defense Costs for coverage provided under this Coverage Section are part of and subject to the applicable Limits of Liability.
- (d) The Insured may settle any Claim or Suit to which the insurance under this Coverage Section applies provided that the Insured does so (1) on behalf of all Insureds, and (2) without incurring Loss in excess of all applicable Retentions.
- (e) The Insurer's duty to defend under this Coverage Section ends after the applicable Limit of Liability, has been exhausted by payment of Loss, including Defense Costs. In addition, the Insurer's duty to defend ends if the Insured refuses to consent to a settlement of a Claim that the Insurer recommends and that the claimant will accept. The Insured must then defend, investigate or settle the Claim at the Insured's own expense. As a consequence of the Insured's refusal or violation, the Insurer's liability for Loss shall not exceed the amount for which the Insurer could have settled such Claim had the Insured consented or cooperated, plus Defense Costs incurred prior to the date of such refusal or violation. Provided however, this clause shall not apply to any settlement where the total incurred Loss does not exceed the applicable Retention.

3. DEFINITIONS

- (a) "Advertising" means material on the Internet in any publicity or promotion, including branding, co-branding, sponsorships or endorsements, on the Insured's own behalf or for others.
- (b) "Bodily Injury" means physical injury, sickness, disease, pain or death, and if arising out of the foregoing, mental anguish, mental injury, shock, humiliation or emotional distress at any time. For purposes of this Coverage Section only, this definition replaces the definition for "Bodily Injury" in the General Terms and Conditions of the AIG PrivateRisk Protector.

- (c) "Claim" means: (1) a written or oral demand for money, services, non-monetary relief or injunctive relief; or (2) a Suit.
- (d) "Computer Attack" means the gaining of unauthorized access to, or the unauthorized use of a Computer System, or the transmission of a Malicious code.
- (e) "Computer System" means computer hardware, software, firmware, and components thereof, including electronic data stored thereon, which are linked together through a network of two or more computers, including such networks accessible through the Internet, intranets, extranets, or virtual private networks.
- (f) "Damages" means the amount that the Insured shall be legally required to pay because of judgments or arbitration awards rendered against the Insured, or for settlements negotiated by the Insurer or the Insured in accordance with Clause II, Defense Costs, Charges and Expenses, including without limitation:
 - (1) punitive, exemplary and multiple damages (where insurable by law);
 - (2) pre-judgment interest; or
 - (3) post-judgment interest that accrues after entry of judgment and before the Insurer has paid, offered to pay or deposited in court that part of the judgment within the policy's applicable Limits of Liability.

This definition is subject to the limitations set forth in the Definition of Loss.

- (g) "Employee" means any past, present or future employee, whether such employee is in a supervisory, co-worker or subordinate position or otherwise, including any part-time, seasonal and temporary employee in his or her capacity as such, and only while acting within the scope of his or her duties as such. Independent contractors or individuals who are leased to the Company are not Employees.
- (h) "Internet" means the worldwide public network of computers commonly known as the Internet, as it currently exists or may be manifested in the future.
- (i) "Internet Media" means any material, including Advertising, on the Company's Internet site.
- (j) "Insured" means: (1) the Company; (2) any Employee; (3) any Leased Worker; and (4) any agent or independent contractor, including distributors, licensees and sub-licensees, in their provision of material for Internet media on behalf or at the direction of the Named Entity, but only in the event that a Claim has also been brought against an Insured as defined in subparagraphs (1) through (3) above, and only while such Claim is pending against such Insured.
- (k) "Leased Worker" means a person provided by an employment contractor or agency under an agreement between the Named Entity and the employment contractor or agency to perform duties related to the conduct of the Named Entity's Internet-related business.
- (l) "Loss" means Damages and Defense Costs. However, Loss shall not include, and this policy shall not cover:
 - (1) production costs or loss of profits, the cost of recall, reproduction, reprinting, or correction of material by any person or entity;
 - (2) compensation, benefits, overhead, charges or expenses of an Insured or the Company's employees;
 - (3) any costs or expenses incurred by any person or entity to withdraw or recall the Insured's material, media, medium (including without limitation Internet media) or professional services from the marketplace, or from loss of use arising out of such withdrawal or recall;
 - (4) any fines, penalties, or taxes;
 - (5) the monetary value of any electronic fund transfers or transactions by the Insured or on the Insured's behalf, which is lost, diminished or damaged during transfer from, into or between the Insured's accounts;
 - (6) any amounts for which an Insured is not financially liable or for which there is no legal recourse against an Insured;

- (7) the costs and expenses of complying with any injunctive or other form of equitable relief; or
- (8) matters that may be deemed uninsurable under the law pursuant to which this policy shall be construed.
- (m) "Malicious Code" means an unauthorized corrupting or harmful piece of code. Malicious code includes, but is not limited to, computer viruses, "Trojan horses," "worms," and "time or logic bombs."
- (n) "Over-redemption" means coupons, price discounts, prizes, awards or any other valuable consideration given in excess of the total contracted or expected amount.
- (o) "Privacy Policy" means any policy in any form regarding the collection, dissemination, storage, or treatment of information regarding customers, visitors to an Internet site, or other persons.
- (p) "Property Damage" means: (1) physical injury to, loss or destruction of, tangible property including the resulting loss of use thereof; or (2) loss of use of tangible property that has not been physically injured or destroyed. For purposes of this Coverage Section only, this definition replaces the definition for "Property Damage" in the General Terms and Conditions of the AIG PrivateRisk Protector.
- (q) "Retroactive Date" means the applicable date set forth in Item 4(f) of the Declarations.
- (r) "Suit" means a civil proceeding for monetary, non-monetary or injunctive relief that is commenced by service of a complaint or similar pleading. Suit shall also include a binding arbitration proceeding in which Damages are alleged and to which the Insured must submit or does submit with the Insurer's prior written consent.
- (s) "Trade Secret" means information (including any idea) that has been reduced to a written or electronic form, including a formula, compilation, pattern, program, device, method, process, or technique that: (1) derives independent economic value, actual or potential, from not being generally known and not being readily ascertainable through proper means by other persons who can obtain economic advantage from its disclosure or use; (2) is the subject of reasonable efforts to maintain its secrecy; and (3) is used, capable of being used, or intended to be used in commerce.
- (t) "Wrongful Act(s)" means any actual or alleged breach of duty, neglect, act, error, misstatement, misleading statement, or omission that results in:
 - (1) any form of defamation or other tort related to disparagement or harm to character, including libel, slander, product disparagement or trade libel; or the infliction of emotional distress, outrage or outrageous conduct directly resulting from the foregoing;
 - (2) an infringement of copyright, domain name, title, slogan, trademark, trade name, trade dress, mark or service name, or any form of improper deep-linking or framing; plagiarism, or misappropriation of ideas under implied contract or other misappropriation of property rights, ideas or information; or
 - (3) any form of invasion, infringement or interference with rights of privacy or publicity, including false light, public disclosure of private facts, intrusion and commercial appropriation of name, persona or likeness.

4. EXCLUSIONS - CLAIMS AND LOSSES NOT COVERED

The Insurer will not cover any Loss in connection with any Claim or Wrongful Act alleging, arising out of or resulting, directly or indirectly, from:

- (a) any of the following:
 - (1) fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused;
 - (2) strikes or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, committed by a person or persons whether acting on their own behalf or on behalf of or in connection with any organization, or any action taken to hinder or defend against these actions; or

- (3) electrical or mechanical failures, including any electrical power interruption, surge, brownout or blackout; a failure of telephone lines, data transmission lines, satellites or other infrastructure comprising or supporting the Internet, unless such lines or infrastructure were under the Insured's operational control;
- (b) any of the following:
 - (1) the purchase, sale, offer of or solicitation of an offer to purchase or sell securities;
 - (2) any violation of any securities law, including provisions of the Securities Act of 1933, or the Securities Exchange Act of 1934, as amended, or any regulation promulgated under the foregoing statutes, or any federal, state, local or foreign laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law; or
 - (3) any violation of the Organized Crime Control Act of 1970 (commonly known as "Racketeer Influenced And Corrupt Organizations Act" or "RICO"), as amended, or any regulation promulgated thereunder or any similar federal, state local or foreign laws similar to the foregoing, whether such law is statutory, regulatory or common law;
- (c) infringement of any patent;
- (d) the Insured's employment practices or any discrimination of any person or entity on any basis, including, without limitation, race, creed, color, religion, ethnic background, national origin, age, handicap, disability, sex, sexual orientation or pregnancy;
- (e) antitrust violations, restraint of trade or unfair competition, including, without limitation, violations of the Sherman Act, the Clayton Act or the Robinson-Patman Act, or any other federal, state, local or foreign laws regulating the same or similar conduct;
- (f) any misappropriation, theft, copying, display or publication of any Trade Secret by, or with active cooperation, participation, or assistance of, any Insured, any of Insured's former employees, subsidiaries, directors, officers, partners, trustees, or any successors or assignees of an Insured;
- (g) any Insured advising, requiring, obtaining, or failing to advise, require, obtain, effect or maintain, any bond, suretyship or other insurance;
- (h) any Claim, demand, Suit, arbitration, mediation, litigation, or administrative, bankruptcy or regulatory proceeding or investigation, prior to or pending as of the Continuity Date; or alleging or arising out of or relating to any fact, circumstance, situation or Wrongful Act alleged in such Claim, demand, Suit, arbitration, mediation, litigation, or administrative, bankruptcy or regulatory proceeding or investigation (for purposes of this Coverage Section only, paragraph 4(c) of the General Terms and Conditions of the AIG PrivateRisk Protector, is inapplicable);
- (i) any liability or obligation under any contract or agreement, including, without limitation, any contract price, cost guarantee or cost estimate being exceeded; however, this exclusion does not apply to liability an Insured would have in the absence of such contract or agreement;
- (j) Over-redemption;
- (k) any of the following:
 - (1) any warranty, representation or guarantee; inaccurate, inadequate, or incomplete description of the price of goods, products or services; or any failure of goods, products or services to conform with an advertised quality or performance; or liquidated damages; or any failure to provide goods or products, or perform services within a specified time period, by a deadline or according to specified milestones; or the collection of or seeking the return of fees or royalties or other compensation paid to an Insured; or the cost of providing, correcting, re-performing, or completing any services, including without limitation any professional services; or the cost of providing, repairing, or replacing any product; or the Insured's fees, cost or profit guarantees, cost representations, contract price, or estimates of probable costs or cost estimates being exceeded;
 - (2) any intentional violation of the Insured's Privacy Policy; or

(3) intentional, knowing or reckless misrepresentation in Advertising, false Advertising, or unfair or deceptive business practices, including, without limitation, violations of any local, state or federal consumer protection or privacy laws; however, the Insurer will defend Suits alleging any of the foregoing conduct until there is a judgment, final adjudication, adverse admission or finding of fact against the Insured, as to such conduct, at which time the Insured shall reimburse the Insurer for Defense Costs; provided, however, the Insurer will not defend such Suits if they allege any of the foregoing conduct that has been the subject of a criminal proceeding in which the Insured has been found guilty, or pleaded *nolo contendere* or no contest;

(l) any Wrongful Act, circumstance or event committed or occurring prior to the Continuity Date if on or before the Continuity Date, the Insured knew or could have reasonably foreseen that such Wrongful act, circumstance or event could give rise to a Claim against the Insured or Loss; provided, however, if the Wrongful act arises out of material which was initially disseminated or broadcast prior to the Continuity Date, and is disseminated or broadcast again after the Continuity Date and prior to the end of the Policy Period, then in such event, the Insurer's maximum liability shall be limited to that portion of the total Loss which the number of disseminations or broadcasts during the period of time on or after the Continuity Date and prior to the end of the Policy Period for this policy bears to the total number of disseminations or broadcasts upon which the Claim is made;

(m) any otherwise covered Wrongful Act committed prior to the Retroactive Date or the end of the Policy Period;

(n) any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law, or gaining of any profit or advantage to which the Insured is not legally entitled; provided, however, the Insurer will defend Suits alleging any of the foregoing conduct until there is a judgment, final adjudication, adverse admission or finding of fact against the Insured, as to such conduct, at which time the Insured shall reimburse the Insurer for Defense Costs. However, in no event will the Insurer defend such Suits if they allege any of the foregoing conduct that has been the subject of a criminal proceeding in which the Insured has been found guilty, or pleaded *nolo contendere* or no contest;

(o) any Computer Attack;

(p) the rendering or failure to render any professional service to others.

The Insurer will not cover any Loss in connection with any Claim (or any Wrongful Act related to such Claim):

(q) against any Insured that is brought, directly or indirectly, by or on behalf of:

(1) the Federal Trade Commission ("FTC"), the Department of Health and Human Services ("HHS"), the Office of Civil Rights, ("OCR") the Federal Communications Commission ("FCC") or any other federal, state or local government agency; or

(2) the American Society of Composers, Authors and Publishers, the Society of European Stage Authors and Composers, Broadcast Music, Inc., or any other licensing or rights organizations in such entity's regulatory, quasi-regulatory or official capacity, functions or duties; or

(r) against any Insured that is brought, directly or indirectly, by or on behalf of:

(1) any Insured;

(2) any entity that is owned, managed or operated, directly or indirectly, in whole or in part, by any Insured;

(3) any parent company, subsidiary, director, officer, partner, trustee, successor or assignee of an Insured, or anyone affiliated with an Insured or such business entity through common majority ownership or control; or

(4) any independent contractor supplying material or services to an Insured, but, as regards such independent contractor, this exclusion applies only with respect to Claims involving disputes over the ownership or exercise of rights in material or services supplied.

5. DISCOVERY CLAUSE

Except as indicated below, if the Named Entity shall cancel or the Named Entity or the Insurer shall refuse to renew this Coverage Section, then solely with respect to this Coverage Section, the Named Entity shall have the right to a period of either one, two or three years following the effective date of such cancellation or nonrenewal upon payment of the respective "Additional Premium Amount" described below (herein referred to as the "Discovery Period") in which to give to the Insurer written notice of Claims first made against the Insureds during said Discovery Period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. The rights contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within thirty (30) days of the effective date of cancellation or nonrenewal.

The Additional Premium Amount for: (1) one year shall be 75% of the "full annual premium"; (2) two years shall be 150% of the "full annual premium"; and (3) three years shall be a reasonable premium amount to be mutually agreed upon by the Named Entity and the Insurer. As used herein, "full annual premium" means the premium level in effect for this Coverage Section immediately prior to the end of the Policy Period.

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

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