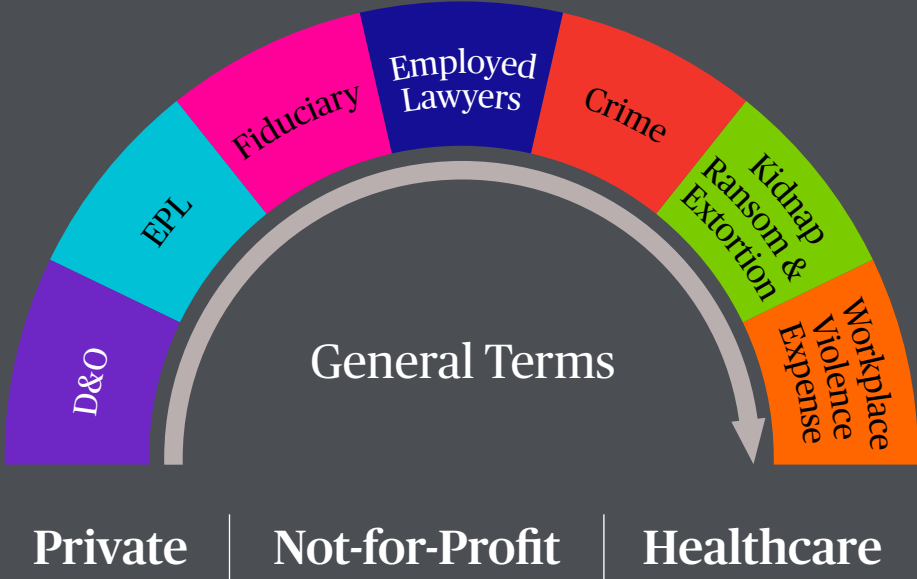




The ForeFront PortfolioSM
Policy Guidebook

CHUBB®

The ForeFront PortfolioSM is designed to provide comprehensive, coordinated, and consistent insurance protection to private, not-for-profit, and healthcare organizations.



Chubb’s flagship management liability package includes the general offerings you’ve come to rely on, with the opportunity to adapt to your specific business needs by selecting from seven modular coverage parts. Supported by expert underwriting, exceptional claims handling, and value-added loss prevention services, The ForeFront Portfolio can greatly impact an organization’s risk management program.

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DECLARATIONS

FEDERAL INSURANCE COMPANY

Policy Number:

Incorporated under the laws of _____, a stock insurance company, herein called the Company

NOTICE: THE LIABILITY COVERAGE PARTS PROVIDE CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO "MATTERS" FIRST MADE DURING THE "POLICY PERIOD", OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY "LOSS" WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE COSTS", AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE RETENTION. IN NO EVENT WILL THE COMPANY BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. READ THE ENTIRE POLICY CAREFULLY.

Item 1. Parent Organization:

Item 2. Policy Period:

From: _____ To: _____

At 12:01 AM local time at the address shown above.

Item 3. Extended Reporting Period:

(A) Additional Period:

(B) Additional Premium:

Item 4. Coverage(s) Applicable to this Policy:

- Directors & Officers and Entity Liability Coverage Part
- Employment Practices Liability Coverage Part
- Fiduciary Liability Coverage Part
- Crime Coverage Part
- Kidnap, Ransom & Extortion Coverage Part
- Employed Lawyers Liability Coverage Part
- Workplace Violence Expense Coverage Part

DIRECTORS & OFFICERS AND ENTITY LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability: «DOLIMIT»
 Sublimit for **Securityholder Inquiry** Coverage:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 Employment Practices Liability Fiduciary Liability Employed Lawyers Liability
- (C) Additional Limit of Liability Dedicated for **Executives**:
- (D) Retentions:
 (1) No Retention is applicable to Insuring Clause (A)
 (2) Insuring Clauses (B) & (C):
- (E) Pending or Prior Proceedings Date:
- (F) Defense:

EMPLOYMENT PRACTICES LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 Directors & Officers and Entity Liability Fiduciary Liability Employed Lawyers Liability
- (C) Retentions:
 (1) Each **Employment Claim** (other than a **Mass or Class Action**):
 (2) Each **Third Party Claim** (other than a **Mass or Class Action**):
 (3) Each **Mass or Class Action**:
- (D) Pending or Prior Proceedings Date:
- (E) Defense:

Chubb's EPL Loss Prevention Program offers our EPL customers access to state-of-the-art policies and practices, training vehicles and loss prevention specialists, including direct contact with the nationally known law firm of Jackson Lewis. The Insured may call (888) 249-8425, 24 hours a day, 7 days a week, without limitation or register at www.ChubbWorks.com for additional resources.

FIDUCIARY LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
 - (1) Sublimit for HIPAA/HITECH Penalties:
 - (2) Sublimit for PPACA Penalties:
 - (3) Sublimit for Section 4975 IRC Excise Tax:
 - (4) Sublimit for Section 502(c) Penalties:
 - (5) Sublimit for Canadian Penalties:
 - (6) Sublimit for **Voluntary Program Notice** Coverage:
 - (7) Penalty Suite Additional Sublimit of Liability:
 - (8) Sublimit for Failure to Enroll Demand Coverage:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Directors & Officers and Entity Liability Employment Practices Liability Employed Lawyers Liability
- (C) Retentions:
 - (1) Each **Claim** (other than a **Mass or Class Action**):
 - (2) **Voluntary Program Notice** Coverage:
 - (3) Each **Mass or Class Action**:
- (D) Pending or Prior Proceedings Date:

CRIME COVERAGE PART

	Insuring Clause	Limit of Liability	Retentions
(A)	Employees and Plan Officials		
	(1) Employee Theft		
	(2) Client Theft		
	(3) ERISA Fraud or Dishonesty		None
(B)	Premises		
(C)	In Transit		
(D)	Forgery		
(E)	Computer System Fraud		
(F)	Funds Transfer Fraud		
(G)	Social Engineering Fraud		
(H)	Money Orders and Counterfeit Currency Fraud		
	Claim and Computer Investigation Expense		None

KIDNAP, RANSOM & EXTORTION COVERAGE PART

Insuring Clause	Limit of Liability
(A) Ransom	
(B) Custody	
(C) Insured Event Expense	
(D) Accidental Loss	
(1) Benefit Amount	
(2) Event Benefit Amount	
(E) Legal Liability	
(F) Emergency Political Repatriation	
(G) Threat Expense	

KRE Coverage Territory: Worldwide

Should emergency assistance be needed at any time, the Insured may contact The Ackerman Group directly at (305) 865-0072 to receive immediate support.

EMPLOYED LAWYERS LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Directors & Officers and Entity Liability Employment Practices Liability Fiduciary Liability
- (C) Retentions:
 - (1) No Retention is applicable to Insuring Clause (A)
 - (2) Insuring Clause (B):
- (D) Pending or Prior Proceedings Date:

WORKPLACE VIOLENCE EXPENSE COVERAGE PART

- (A) Limit of Liability:
 - (1) Insuring Clause (A):
 - (2) Insuring Clause (B):
- (B) Retentions:
 - (1) Insuring Clause (A):
 - (2) Insuring Clause (B): None
- (C) WPV Coverage Territory: Worldwide

Should emergency assistance be needed at any time, the Insured may contact Chubb’s Workplace Violence Threat Consultation Hotline at 855-896-0710 to receive immediate support.

IN WITNESS WHEREOF, the Company issuing this Policy has caused this Policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Company.

FEDERAL INSURANCE COMPANY

Secretary

President

Date

Authorized Representative

DECLARATIONS

FEDERAL INSURANCE COMPANY

Policy Number:

Incorporated under the laws of _____, a stock insurance company, herein called the Company

NOTICE: THE LIABILITY COVERAGE PARTS PROVIDE CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO "MATTERS" FIRST MADE DURING THE "POLICY PERIOD", OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY "LOSS" WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE COSTS", AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE RETENTION. IN NO EVENT WILL THE COMPANY BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. READ THE ENTIRE POLICY CAREFULLY.

Item 1. Parent Organization:

Item 1. Policy Period:

From: _____ To: _____

At 12:01 AM local time at the address shown above.

Item 3. Extended Reporting Period:

(A) Additional Period: _____

(B) Additional Premium: _____

Item 4. Coverage(s) Applicable to this Policy:

- Directors & Officers and Entity Liability Coverage Part
- Employment Practices Liability Coverage Part
- Fiduciary Liability Coverage Part
- Crime Coverage Part
- Kidnap, Ransom & Extortion Coverage Part
- Employed Lawyers Liability Coverage Part
- Workplace Violence Expense Coverage Part

DIRECTORS & OFFICERS AND ENTITY LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
 - (1) Sublimit for **Member Inquiry** Coverage:
 - (2) Sublimit for **Tax Matters**:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Employment Practices Liability Fiduciary Liability Employed Lawyers Liability
- (C) Additional Limit of Liability Dedicated for **Executives**:
- (D) Retentions:
 - (1) No Retention is applicable to Insuring Clause (A)
 - (2) Insuring Clauses (B) & (C):
- (E) Pending or Prior Proceedings Date:
- (F) Defense:

EMPLOYMENT PRACTICES LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability: «EPLLIMIT»
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Directors & Officers and Entity Liability Fiduciary Liability Employed Lawyers Liability
- (C) Retentions:
 - (1) Each **Employment Claim** (other than a **Mass or Class Action**):
 - (2) Each **Third Party Claim** (other than a **Mass or Class Action**):
 - (3) Each **Mass or Class Action**:
- (D) Pending or Prior Proceedings Date:
- (E) Defense:

Chubb’s EPL Loss Prevention Program offers our EPL customers access to state-of-the-art policies and practices, training vehicles and loss prevention specialists, including direct contact with the nationally known law firm of Jackson Lewis. The Insured may call (888) 249-8425, 24 hours a day, 7 days a week, without limitation or register at www.ChubbWorks.com for additional resources.

FIDUCIARY LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
 - (1) Sublimit for HIPAA/HITECH Penalties:
 - (2) Sublimit for PPACA Penalties:
 - (3) Sublimit for Section 4975 IRC Excise Tax:
 - (4) Sublimit for Section 502(c) Penalties:
 - (5) Sublimit for Canadian Penalties:
 - (6) Sublimit for **Voluntary Program Notice** Coverage:
 - (7) Penalty Suite Additional Sublimit of Liability:
 - (8) Sublimit for Failure to Enroll Demand Coverage:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Directors & Officers and Entity Liability Employment Practices Liability Employed Lawyers Liability
- (C) Retentions:
 - (1) Each **Claim** (other than a **Mass or Class Action**):
 - (2) **Voluntary Program Notice** Coverage:
 - (3) Each **Mass or Class Action**:
- (D) Pending or Prior Proceedings Date:

CRIME COVERAGE PART

	Insuring Clause	Limit of Liability	Retentions
(A)	Employees and Plan Officials		
	(1) Employee Theft		
	(2) Client Theft		
	(3) ERISA Fraud or Dishonesty		None
(B)	Premises		
(C)	In Transit		
(D)	Forgery		
(E)	Computer System Fraud		
(F)	Funds Transfer Fraud		
(G)	Social Engineering Fraud		
(H)	Money Orders and Counterfeit Currency Fraud		
	Claim and Computer Investigation Expense		None

KIDNAP, RANSOM & EXTORTION COVERAGE PART

	Insuring Clause	Limit of Liability
(A)	Ransom	
(B)	Custody	
(C)	Insured Event Expense	
(D)	Accidental Loss	
	(1) Benefit Amount	
	(2) Event Benefit Amount	
(E)	Legal Liability	
(F)	Emergency Political Repatriation	
(G)	Threat Expense	

KRE Coverage Territory: Worldwide

Should emergency assistance be needed at any time, the Insured may contact The Ackerman Group directly at (305) 865-0072 to receive immediate support.

EMPLOYED LAWYERS LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Directors & Officers and Entity Liability Employment Practices Liability Fiduciary Liability
- (C) Retentions:
 - (1) No Retention is applicable to Insuring Clause (A)
 - (2) Insuring Clause (B):
- (D) Pending or Prior Proceedings Date:

WORKPLACE VIOLENCE EXPENSE COVERAGE PART

- (A) Limit of Liability:
 - (1) Insuring Clause (A):
 - (2) Insuring Clause (B):
- (B) Retentions:
 - (1) Insuring Clause (A):
 - (2) Insuring Clause (B): None
- (C) WPV Coverage Territory: Worldwide

Should emergency assistance be needed at any time, the Insured may contact Chubb's Workplace Violence Threat Consultation Hotline at 855-896-0710 to receive immediate support.

IN WITNESS WHEREOF, the Company issuing this Policy has caused this Policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Company.

FEDERAL INSURANCE COMPANY

Secretary

President

Date

Authorized Representative

DECLARATIONS

Policy Number:

Federal Insuring Company

Incorporated under the laws of _____, a stock insurance company, herein called the Company

NOTICE: THE LIABILITY COVERAGE PARTS PROVIDE CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO "MATTERS" FIRST MADE DURING THE "POLICY PERIOD", OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY "LOSS" WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE COSTS", AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE RETENTION. IN NO EVENT WILL THE COMPANY BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. READ THE ENTIRE POLICY CAREFULLY.

Item 1. Parent Organization:

Item 2. Policy Period:

From: _____ To: _____

At 12:01 AM local time at the address shown above.

Item 3. Extended Reporting Period:

(A) Additional Period: _____

(B) Additional Premium: _____

Item 4. Coverage(s) Applicable to this Policy:

- Directors & Officers and Entity Liability Coverage Part
- Employment Practices Liability Coverage Part
- Fiduciary Liability Coverage Part
- Crime Coverage Part
- Kidnap, Ransom & Extortion Coverage Part
- Employed Lawyers Liability Coverage Part
- Workplace Violence Expense Coverage Part

DIRECTORS & OFFICERS AND ENTITY LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
- (1) **Antitrust Matters** Limit of Liability:
 - (2) Sublimit for **Regulatory Fraud** Coverage:
 - (3) Sublimit for **Clinical Trial** Coverage:
 - (4) Sublimit for **EMTALA Matters**:
 - (5) Sublimit for **Tax Matters**:
 - (6) Sublimit for **Securityholder or Member Inquiry** Coverage:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
- Employment Practices Liability Fiduciary Liability Employed Lawyers Liability
- (C) Additional Limit of Liability Dedicated for **Executives**:
- (D) Retentions:
- (1) No Retention is applicable to Insuring Clause (A)
 - (2) Insuring Clauses (B) & (C), except as provided below:
 - (3) Each **Antitrust Matter**:
 - (4) Each **Provider Selection Matter**:
 - (5) Each **Regulatory Fraud Matter**:
 - (6) Each **Clinical Trial Matter**:
- (E) Co-Insurance:
- (1) **Antitrust Matters**:
 - (2) **Regulatory Fraud Matters**:
- (F) Pending or Prior Proceedings Date:
- (G) Defense:

EMPLOYMENT PRACTICES LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Directors & Officers and Entity Liability Fiduciary Liability Employed Lawyers Liability
- (C) Retentions:
 - (1) Each **Employment Claim** (other than a **Mass or Class Action**):
 - (2) Each **Third Party Claim** (other than a **Mass or Class Action**):
 - (3) Each **Mass or Class Action**:
- (D) Pending or Prior Proceedings Date:
- (E) Defense:

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FIDUCIARY LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
 - (1) Sublimit for HIPAA/HITECH Penalties:
 - (2) Sublimit for PPACA Penalties:
 - (3) Sublimit for Section 4975 IRC Excise Tax:
 - (4) Sublimit for Section 502(c) Penalties:
 - (5) Sublimit for Canadian Penalties:
 - (6) Sublimit for **Voluntary Program Notice** Coverage:
 - (7) Penalty Suite Additional Sublimit of Liability:
 - (8) Sublimit for Failure to Enroll Demand Coverage:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Directors & Officers and Entity Liability Employment Practices Liability Employed Lawyers Liability
- (C) Retentions:
 - (1) Each **Claim** (other than a **Mass or Class Action**):
 - (2) **Voluntary Program Notice** Coverage:
 - (3) Each **Mass or Class Action**:
- (D) Pending or Prior Proceedings Date:

CRIME COVERAGE PART

	Insuring Clause	Limit of Liability	Retentions
(A)	Employees and Plan Officials		
	(1) Employee Theft		
	(2) Client Theft		
	(3) ERISA Fraud or Dishonesty		None
(B)	Premises		
(C)	In Transit		
(D)	Forgery		
(E)	Computer System Fraud		
(F)	Funds Transfer Fraud		
(G)	Social Engineering Fraud		
(H)	Money Orders and Counterfeit Currency Fraud		
	Claim and Computer Investigation Expense		None

KIDNAP, RANSOM & EXTORTION COVERAGE PART

	Insuring Clause	Limit of Liability
(A)	Ransom	
(B)	Custody	
(C)	Insured Event Expense	
(D)	Accidental Loss	
	(1) Benefit Amount	
	(2) Event Benefit Amount	
(E)	Legal Liability	
(F)	Emergency Political Repatriation	
(G)	Threat Expense	

KRE Coverage Territory: Worldwide

Should emergency assistance be needed at any time, the Insured may contact The Ackerman Group directly at (305) 865-0072 to receive immediate support.

EMPLOYED LAWYERS LIABILITY COVERAGE PART

- (A) Aggregate Limit of Liability:
- (B) Aggregate Limit of Liability in (A) above shall be shared with:
 - Directors & Officers and Entity Liability Employment Practices Liability Fiduciary Liability
- (C) Retentions:
 - (1) No Retention is applicable to Insuring Clause (A)
 - (2) Insuring Clause (B):
- (D) Pending or Prior Proceedings Date:

WORKPLACE VIOLENCE EXPENSE COVERAGE PART

- (A) Limit of Liability:
 - (1) Insuring Clause (A):
 - (2) Insuring Clause (B):
- (B) Retentions:
 - (1) Insuring Clause (A):
 - (2) Insuring Clause (B): None
- (C) WPV Coverage Territory: Worldwide

Should emergency assistance be needed at any time, the Insured may contact Chubb’s Workplace Violence Threat Consultation Hotline at 855-896-0710 to receive immediate support.

IN WITNESS WHEREOF, the Company issuing this Policy has caused this Policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Company.

FEDERAL INSURANCE COMPANY

Secretary

President

Date

Authorized Representative

In consideration of payment of the premium and subject to the Declarations and the limitations, conditions, provisions and other terms of this Policy, the Company and the Insureds agree as follows:

I. TERMS AND CONDITIONS

Except for these General Terms and Conditions or unless stated to the contrary in any Coverage Part, the terms and conditions of each Coverage Part apply only to that Coverage Part. If any provision in these General Terms and Conditions is inconsistent or in conflict with the terms and conditions of any Coverage Part, the terms and conditions of such Coverage Part shall control for purposes of that Coverage Part. All bolded terms in these General Terms and Conditions that are not defined under Section II, Definitions shall have the meaning set forth in the applicable Coverage Part.

II. DEFINITIONS

Application means any portion of an application given to the Company for this Policy, including any attachments, written information, representations or materials provided to the Company by, or on behalf of, an **Insured** during the negotiation of this Policy or for the purposes of the Company's underwriting of this Policy.

Foreign Jurisdiction means any jurisdiction, other than the United States of America.

Global Law means:

- (A) United States federal, state, and local statutory law and any rule or regulation promulgated thereunder, all as amended;
- (B) United States common law; and
- (C) with respect to Subsections (A) and (B) above, any equivalent body of law in a **Foreign Jurisdiction**.

Liability Coverage Part means the Directors & Officers and Entity Liability ("D&O"), Employment Practices Liability ("EPL"), Fiduciary Liability ("FL") and Employed Lawyers Liability ("ELL") Coverage Parts, if purchased as set forth in Item 4, Coverage(s) Applicable to this Policy, of the Declarations.

Non-Liability Coverage Part means the Crime ("Crime"), Kidnap, Ransom & Extortion ("KRE") and Workplace Violence Expense ("WPV") Coverage Parts, if purchased as set forth in Item 4, Coverage(s) Applicable to this Policy, of the Declarations.

Organization means the **Parent Organization** and any **Subsidiary**. **Organization** shall also mean any such entity as a debtor in possession or the equivalent thereof in a **Foreign Jurisdiction**.

Parent Organization means the entity named in Item 1 of the Declarations.

Policy Period means the period of time set forth in Item 2 of the Declarations (subject to any termination in accordance with Section XIX, Termination of Policy) and the Extended Reporting Period, if applicable.

Related means based upon, arising from or in consequence of the same or related, or the same or related series of, facts, circumstances, transactions, situations, events or **Wrongful Acts**.

Subsidiary means:

- (A) any entity while the **Parent Organization**, directly or indirectly through one or more **Subsidiaries**:
 - (1) owns or controls more than fifty percent (50%) of the outstanding securities or voting rights representing the present right; or

- (2) has the right, pursuant to either written contract or the by-laws, charter, operating agreement or similar documents of an **Organization**,

to elect, appoint or exercise a majority control over such entity's directors, trustees, manager, member of the Board of Managers, or the functional or foreign equivalent positions of such entity;

- (B) any entity while the **Parent Organization**, directly or indirectly through one or more **Subsidiaries**:

- (1) owns or controls exactly fifty percent (50%) of the outstanding securities or voting rights representing the present right to elect, appoint or exercise a majority control over such entity's directors, trustees, manager, member of the Board of Managers, or the functional or foreign equivalent positions of such entity; and

- (2) has the right, pursuant to either written contract or the by-laws, charter, operating agreement or similar documents of an **Organization** to solely control the management and operation of such entity; or

- (C) any foundation or charitable trust while such entity is controlled by the **Parent Organization**;

However, with respect to the D&O for Not-for-Profit Organizations Coverage Part (if purchased), **Subsidiary** shall not include any for-profit entity or chapter of the **Parent Organization** unless added by Endorsement.

III. LIMIT OF LIABILITY

- (A) With respect to the **Liability Coverage Parts**:

- (1) The Company's maximum aggregate liability for each **Liability Coverage Part** shall be the applicable Aggregate Limit of Liability set forth in Item 4(A) of the Declarations: (a) subject to any Sublimits; and (b) excess of any applicable Retention.

- (2) Subject to Paragraph (A)(1) above, if the Limit of Liability of any Coverage Part is designated as shared in Item 4(B) of the Declarations ("Shared Coverage Part"), then the Company's Limit of Liability for each Shared Coverage Part shall be part of, and not in addition to, all other Shared Coverage Parts and shall reduce and may exhaust the Limit of Liability for each Shared Limit of Liability.

- (3) Subject to Paragraphs (A)(1) and (A)(2) above, all **Defense Costs** are part of, and not in addition to, the applicable Aggregate Limit of Liability for each **Liability Coverage Part** and payment by the Company of **Defense Costs** shall reduce and may exhaust such Limits of Liability.

- (4) If different parts of a **Matter** are subject to different Sublimits under this Policy, then the amount of **Loss** applicable to such Sublimits shall not exceed the largest applicable Sublimit.

- (B) With respect to the **Non-Liability Coverage Parts**, the Company's maximum liability shall be the applicable Limits of Liability set forth in the Crime, KRE and WPV portions of the Declarations and shall apply as provided in such **Non-Liability Coverage Part**.

IV. RETENTION

- (A) With respect to the **Liability Coverage Parts**:

- (1) The Retentions shall apply as set forth in the Declarations and shall only apply to covered **Loss**. Retentions shall be borne uninsured by the **Insureds** and at their own risk.

- (2) If different parts of a **Matter** are subject to different Retentions in different Insuring Clauses, Coverage Extensions or Coverage Parts, the applicable Retentions shall be applied separately to each part of such **Matter**, but the sum of such Retentions shall not exceed the largest applicable Retention.

- (3) No Retention shall apply to **Loss** incurred by an **Insured Person** if such **Loss** cannot be indemnified by an **Organization** because such **Organization** is not permitted to indemnify by any **Global Law**, or is permitted or required to indemnify, but is unable to do so by reason of **Financial Impairment**.
- (4) Except as otherwise provided in this Policy, coverage for any **Matter** (other than a **Claim** or **Derivative Demand Investigation**) shall only apply in excess of the Retention applicable if such **Matter** was a **Claim**.
- (B) With respect to the **Non-Liability Coverage Parts**:
- (1) The Company's liability shall apply only to that part of each covered loss which is in excess of the applicable Retention set forth in the Crime, KRE and WPV portions of the Declarations, if applicable.
- (2) If an **Insured** receives payment under another insurance policy or bond, after application of any deductible or retention thereunder, for loss also covered hereunder, then the applicable Retention set forth in the Crime, KRE and WPV portions of the Declarations, if applicable, shall be reduced by the amount of the deductible or retention applied to such loss under such other insurance policy or bond.

V. RELATED MATTERS

With respect to the **Liability Coverage Parts**, all **Matters** that are **Related** shall be deemed a single **Matter** first made on the date the earliest of such **Matters** was either first made, or on the date the earliest of such **Matters** is deemed to have been first made in accordance with the reporting provisions of this Policy or any prior policy.

VI. EXTENDED REPORTING PERIOD

With respect to the **Liability Coverage Parts**:

- (A) If this Policy does not renew or is otherwise terminated for a reason other than for non-payment of premium (each a "Termination of Coverage"), then any **Insured** shall have the right to purchase the Extended Reporting Period for the Additional Period and Additional Premium as set forth in Item 3 of the Declarations.
- (B) The right to purchase the Extended Reporting Period shall lapse unless written notice of election to purchase the Extended Reporting Period, together with payment of the applicable Additional Premium, is received by the Company within sixty (60) days after the effective date of a Termination of Coverage.
- (C) If the Extended Reporting Period is purchased, then coverage otherwise afforded by this Policy shall be extended to apply to:
- (1) any **Matter** that is either first made or deemed to have been first made during the Extended Reporting Period;
- (2) any **Matter** that is reported to the Company in accordance with the Reporting Section for each applicable **Liability Coverage Part**; and
- (3) any **Matter** for any **Wrongful Act**, or any **Matter** arising out of facts or circumstances, occurring prior to the earliest of the effective date of a Termination of Coverage or the date of any conversion of coverage described in Section X, Acquisition of The Parent Organization, or Section XI, Acquisition, Creation or Cessation of Subsidiaries or Plans.
- (D) The Additional Premium for the Extended Reporting Period shall be deemed fully earned at the inception of the Extended Reporting Period.

- (E) No coverage shall be available under this Section VI for that portion of any **Matter** covered under insurance purchased subsequent to the effective date of a Termination of Coverage. The applicable Limits of Liability including any Sublimits for the Extended Reporting Period are part of, and not in addition to, any applicable Aggregate Limit of Liability for the **Policy Period** immediately preceding the Extended Reporting Period.

VII. BANKRUPTCY

- (A) Bankruptcy or insolvency of any **Insured** shall not relieve the Company of its obligations nor deprive the Company of its rights or defenses under this Policy.
- (B) In the event a liquidation or reorganization proceeding is commenced by or against an **Organization** under United States bankruptcy law or any equivalent body of law in a **Foreign Jurisdiction**, the **Organization** and the **Insured Persons** hereby agree not to oppose or object to any efforts by the Company, the **Organization** or an **Insured Person** to obtain relief from any stay or injunction.

VIII. INDEMNIFICATION, SUBROGATION AND RECOURSE

With respect to the **Liability Coverage Parts**:

- (A) This Policy has been issued to the **Parent Organization** with the understanding and agreement that each **Organization** agrees to fulfill its indemnification obligations to each **Insured Person** to the fullest extent permitted by: (1) any **Global Law**, or (2) any contract or agreement providing an indemnification obligation exceeding any such law. If indemnification is permitted, then coverage shall apply under each **Liability Coverage Part** as if such indemnification has been provided. If the Company pays as **Loss** any indemnification owed to any **Insured Person** by any **Organization**, the Company does not waive or compromise any of its rights to recover such **Loss** from such **Organization**.
- (B) In the event of any payment of **Loss** under this Policy, the Company shall be subrogated to the extent of such payment of **Loss** to all of the **Insureds'** rights of recovery, including any such right to indemnification from any **Organization, Outside Entity**, other insurer or other source. The **Insureds** shall take all reasonable actions to secure and preserve the Company's rights, including any action against any **Organization** for indemnification. It is understood and agreed that the Company shall not subrogate against any **Insured Person**.
- (C) Any recovery of payment made by the Company shall be the sole property of the Company; provided, as of the date the recovery is received by the Company, the applicable Limits of Liability of this Policy shall be reinstated in the amount of such recovery, minus all costs incurred by the Company to obtain such recovery.
- (D) No **Plan** has purchased or paid for this Policy and thus, the right of recourse that is otherwise required under ERISA Section 410(b)(1) is not applicable.

IX. ACTION AGAINST THE COMPANY

No action may be taken against the Company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy. No natural person or entity shall have any right under this Policy to join the Company as a party to any action against any **Insured** to determine such **Insured's** liability nor shall the Company be impleaded by such **Insured** or legal representatives of such **Insured**.

X. ACQUISITION OF THE PARENT ORGANIZATION

- (A) If during the **Policy Period** any of the following events occurs:
- (1) another entity, natural person or group of entities or natural persons acquires:

- (a) more than fifty percent (50%) of the outstanding securities or voting rights representing the present right; or
- (b) the right, pursuant to either written contract or the by-laws, charter, operating agreement or similar documents;

to elect, appoint or exercise a majority control over the **Parent Organization's** directors, trustees, manager, member of the Board of Managers, or the functional or foreign equivalent positions of the **Parent Organization**;

- (2) the **Parent Organization** emerges from bankruptcy as of the effective date stated in the plan of reorganization; or
 - (3) the acquisition of all or substantially all of the **Parent Organization's** assets, by another entity, natural person or group of entities or natural persons, or the merger of the **Parent Organization** into or with another entity such that the **Parent Organization** is not the surviving entity;
- (B) then:
- (1) any applicable coverage under this Policy with respect to:
 - (a) any **Liability Coverage Part**, shall continue until the expiration of the current **Policy Period**, solely for **Matters for Wrongful Acts**, or **Matters** arising out of facts or circumstances, first occurring prior to such event; or
 - (b) any **Non-Liability Coverage Part**, shall terminate subject to Section XIX, Termination of Policy;
 - (2) the **Parent Organization** shall give written notice of such event to the Company as soon as practicable together with such information as the Company may require; and
 - (3) the entire premium for this Policy shall be deemed fully earned as of the effective date of such event.
- (C) If the **Parent Organization** gives the Company written notice of an acquisition described in Paragraphs (A)(1) or (A)(3) above at least sixty days prior to the date of such acquisition together with all information that the Company may require, the Company shall provide the **Parent Organization** with a quote for up to a six (6) year extension of coverage, solely for **Matters for Wrongful Acts**, or **Matters** arising out of facts or circumstances, first occurring prior to such acquisition (the "Run-Off Quote"). Coverage offered pursuant to the Run-Off Quote may be subject to additional or different terms and conditions and payment of additional premium. If the **Parent Organization** accepts the Run-Off Quote, the extension of coverage provided pursuant to the Run-Off Quote shall replace any extension of coverage that would otherwise be available to the **Insureds** pursuant to Section VI, Extended Reporting Period.

XI. ACQUISITION, CREATION OR CESSATION OF SUBSIDIARIES OR PLANS

- (A) **Acquisition of Another Organization, Sponsored Plan or Employee Benefit Plan**
- (1) With respect to the **Liability Coverage Parts**, if before or during the **Policy Period** an **Organization** acquires:
 - (a) voting rights or appointment rights in another entity, such that the acquired entity becomes a **Subsidiary**; or
 - (b) another plan such that the acquired plan becomes a **Sponsored Plan** (other than an Employee Stock Ownership Plan ("ESOP")),
 then coverage shall be provided for such **Subsidiary, Sponsored Plan**, and any

Insureds thereof, solely for **Matters for Wrongful Acts**, or **Matters** arising out of facts or circumstances, first occurring after such acquisition.

- (2) With respect to the **Non-Liability Coverage Parts**, if before or during the **Policy Period** an **Insured** acquires, merges or consolidates with another entity, such that the acquired, merged or consolidated entity becomes a **Subsidiary**, then coverage shall be provided for such **Subsidiary** and any **Employee Benefit Plan** thereof for loss **Discovered** after the date the **Insured** acquires, merges or consolidates with such entity, regardless of whether or not the loss was sustained prior to the date of such acquisition, merger or consolidation.

(B) **Acquisition or Creation of ESOP**

If during the **Policy Period** any **Organization** creates or directly or indirectly acquires an ESOP, then with respect to the Fiduciary Liability Coverage Part, the **Organization** shall promptly give to the Company written notice thereof, together with such other information requested by the Company. The Company shall, at the request of the **Organization**, provide to the **Organization** a quotation for coverage for **Matters** based upon, arising from or in consequence of such ESOP, subject to such terms, conditions, and limitations of coverage and such additional premium as the Company, in its sole discretion, may require.

(C) **Cessation of Subsidiaries, Sponsored Plans or Employee Benefit Plans**

If before or during the **Policy Period**:

- (1) an **Organization** ceases to be a **Subsidiary**, then with respect to any:
- (a) **Liability Coverage Part**, coverage for such **Subsidiary** and its **Insureds** shall continue until termination of this Policy for **Matters for Wrongful Acts**, or **Matters** arising out of facts or circumstances, first occurring while such **Organization** was a **Subsidiary**; and
- (b) **Non-Liability Coverage Part**, such **Subsidiary** and any **Employee Benefit Plan** thereof shall cease to be **Insureds** as of the effective date of such cessation and coverage under this Policy shall terminate in accordance with Section XIX, Termination of Policy.
- (2) a **Sponsored Plan** is terminated or otherwise ceases to be a **Sponsored Plan**, then with respect to the Fiduciary Liability Coverage Part coverage for such **Sponsored Plan** and its **Insureds** shall continue until termination of this Policy for **Matters for Wrongful Acts**, or **Matters** arising out of facts or circumstances, occurring prior to the earlier of:
- (a) the date that the **Organization** or **Insured Person** ceases to be a fiduciary of such **Sponsored Plan**; or
- (b) the date that:
- (i) the **Sponsored Plan** ceases to be a **Sponsored Plan**; or
- (ii) the final distribution of the assets of such **Sponsored Plan**,
whichever occurs last.
- (3) the Pension Benefit Guaranty Corporation (“PBGC”) becomes the Trustee of a **Sponsored Plan**, then with respect to the Fiduciary Liability Coverage Part coverage for such **Sponsored Plan** and its **Insureds** shall continue until termination of this Policy for **Matters for Wrongful Acts**, or **Matters** arising out of facts or circumstances, first occurring prior to the effective date the PBGC became the Trustee of such **Sponsored Plan**.

XII. REPRESENTATIONS AND SEVERABILITY

With respect to the **Liability Coverage Parts**:

- (A) The Company, in issuing this Policy, has relied upon the statements, representations and information in the **Application** as being true and accurate. The **Application** is the basis for, and considered incorporated into, this Policy and shall be construed as a separate request for coverage by each **Insured**.
- (B) The knowledge of an **Insured** shall not be imputed to any **Insured Person**, and only the actual knowledge of the **Control Group** shall be imputed to the **Organization** or **Plan**. The Company shall not be entitled under any circumstances to void or rescind this Policy with respect to any **Insured**.
- (C) However, in the event that such **Application** contains any misrepresentations made with the actual intent to deceive or contains misrepresentations which materially affect either the acceptance of the risk or the hazard assumed by the Company under this Policy, then no coverage shall be afforded for any **Matter** based upon, arising from or in consequence of any such misrepresentations with respect to:
 - (1) any **Insured Person** who knew of such misrepresentations (whether or not such **Insured Person** knew such **Application** contained such misrepresentations) or any **Organization** or **Plan** to the extent it indemnifies any such **Insured Person**; or
 - (2) any **Organization** or **Plan** if any member of the **Control Group** knew of such misrepresentations (whether or not such individual knew such **Application** contained such misrepresentations).

XIII. STATE AMENDATORY INCONSISTENCY

If there is an inconsistency between a state amendatory endorsement attached to this Policy and any other term or condition of this Policy, the Company shall apply, where permitted by law, those terms and conditions either of such state amendatory endorsement or the Policy which are more favorable to the **Insured's** coverage; provided that, with respect to any time period relating to notice of cancellation or non-renewal, the Company shall apply the applicable state law.

XIV. NOTICE

- (A) Notice to the Company of any **Matter, Potential Claim** or circumstances under any **Liability Coverage Part**, or any loss or occurrence that may subsequently result in a covered loss under any **Non-Liability Coverage Part**, shall be deemed notice under the Policy in its entirety.
- (B) All notices to the Company under this Policy of any **Matter, Potential Claim** or circumstances under any **Liability Coverage Part**, or any loss or occurrence that may subsequently result in a covered loss under any **Non-Liability Coverage Part**, shall be given in writing to one of the following addresses:
 - (1) ChubbClaimsFirstNotice@Chubb.com
 - (2) Attn: Chubb Claims Department
Chubb Group of Insurance Companies
P.O. Box 5122
Scranton, PA18505-0544
- (C) All other notices to the Company under this Policy shall be given in writing addressed to:
 - (1) NA.FinancialLines@Chubb.com
 - (2) Attn: Chubb Underwriting Department
Chubb Group of Insurance Companies
202B Hall's Mill Road
Whitehouse Station, NJ 08889

- (D) Any notice described in Subsection (B) or (C) above shall be effective on the date of receipt by the Company.

XV. HEADINGS

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

XVI. SPOUSES, DOMESTIC PARTNERS, ESTATES AND LEGAL REPRESENTATIVES

With respect to the **Liability Coverage Parts**, coverage under this Policy shall extend to **Claims** for **Wrongful Acts** of an **Insured Person** made against:

- (A) the estate, heirs, legal representatives or assigns of such **Insured Person** if such **Insured Person** is deceased, or the legal representatives or assigns of such **Insured Person** if such **Insured Person** is legally incompetent, insolvent or bankrupt; or
- (B) the lawful spouse or domestic partner of such **Insured Person** solely by reason of such spouse's or domestic partner's: (1) status as a spouse or domestic partner, or (2) ownership interest in property which the claimant seeks as recovery for an alleged **Wrongful Act** of such **Insured Person**;

provided that no coverage afforded by this Section XVI shall apply with respect to any loss arising from an act, error or omission by an **Insured Person's** estate, heirs, assigns, lawful spouse or domestic partner.

XVII. ALTERATION AND ASSIGNMENT

No change in, modification of or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy which is signed by an authorized representative of the Company.

XVIII. COMPLIANCE WITH TRADE SANCTIONS

This insurance does not apply to the extent that trade or economic sanctions or other similar laws or regulations prohibit the Company from providing insurance.

XIX. TERMINATION OF POLICY

- (A) With respect to the **Liability Coverage Parts**, this Policy shall terminate at the earliest of the following times:
- (1) ten (10) days after receipt by the **Parent Organization** of a written notice of termination from the Company for non-payment of premium;
 - (2) upon expiration of the **Policy Period**;
 - (3) upon receipt by the Company of a written notice of termination from the **Parent Organization**; except with respect to the **Liability Coverage Parts**, this Policy may not be terminated by the **Parent Organization** after the effective date of any event described in Section X, Acquisition of the Parent Organization; or
 - (4) at such other time as may be agreed upon by the Company and the **Parent Organization**.
- (B) With respect to the **Non-Liability Coverage Parts**, this Policy shall terminate at the earliest of following times:
- (1) upon any event set forth in Subsection (A) above;

- (2) immediately upon any event described in Section X, Acquisition of the Parent Organization;
 - (3) immediately upon the liquidation or dissolution of the **Parent Organization**;
 - (4) as to any **Insured**, immediately upon such **Insured's** liquidation or dissolution;
 - (5) as to any **Insured**, immediately upon any event described in Section XI, Acquisition Creation, Cessation of Subsidiaries or Plans; or
 - (6) as to any **Employee Benefit Plan**, immediately upon the full assumption of responsibilities for the administration of such **Employee Benefit Plan** by another entity or **Insured** that was not the plan sponsor of such **Employee Benefit Plan** as of either the inception date of this Policy or the date such **Employee Benefit Plan** was added to the Policy.
- (C) The Company shall refund the unearned premium on a pro rata basis if this Policy is terminated. Payment or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable.

XX. PAYMENT PRIORITY AND COVERAGE COORDINATION

With respect to the **Liability Coverage Parts**:

- (A) It is understood and agreed that any coverage provided under this Policy is principally intended to protect and benefit the **Insured Persons**. Accordingly, in the event that **Loss** for which an **Insured Person** has not been paid or indemnified; and any other **Loss**, are concurrently due under any **Liability Coverage Part**, the Company shall pay **Loss** as follows:
 - (1) first, **Loss** for which an **Insured Person** has not been paid or indemnified;
 - (2) second, if applicable, **Loss** for which an **Insured Person** has been indemnified by the **Organization**; or **Loss** incurred by a **Plan**;
 - (3) third, if applicable, **Loss** incurred by an **Organization**; and
 - (4) with respect to whatever remaining amount of the Limit of Liability is available after payment under Paragraphs (A)(1) through (A)(3) above, any other **Loss** afforded coverage under any Insuring Clause or Coverage Extension.
- (B) Except as otherwise provided in Subsection (A) above, the Company may pay covered **Loss** as it becomes due under this Policy without regard to the potential for other future payment obligations under this Policy.
- (C) Any **Loss** covered under more than one **Liability Coverage Part** shall be first covered under the Employment Practices Liability Coverage Part, if applicable, subject to its terms, conditions and limitations. Any remaining portion of such **Loss** otherwise covered under any other applicable **Liability Coverage Part** which is not paid under the Employment Practices Liability Coverage Part shall be covered under such other **Liability Coverage Part**, subject to the terms, conditions and limitations of such **Liability Coverage Part**.

XXI. VALUATION AND FOREIGN CURRENCY

- (A) With respect to the **Liability Coverage Parts**, all premiums, limits, retentions, **Loss** and other amounts under this Policy are expressed and payable in the currency of the United States of America. Except as otherwise provided in this Policy, if a judgment is rendered, a settlement is denominated or any element of **Loss** under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States of America dollars at the rate of exchange published in *The Wall Street Journal* on the date the judgment

becomes final, the amount of the settlement is agreed upon or any element of **Loss** is due, respectively.

(B) With respect to the **Non-Liability Coverage Parts**:

- (1) In the event of loss involving foreign currency, the Company shall pay the United States of America dollar value of foreign currency based on the rate of exchange published in *The Wall Street Journal* on the day loss involving foreign currency is **Discovered**.
- (2) In the event of a loss of **Securities**, the Company shall value such **Securities** at the closing price of such **Securities** on the business day immediately preceding the day on which a loss is **Discovered**, provided that at its sole discretion, the Company may:
 - (a) pay the value of such **Securities** or purchase replacement **Securities**, in which event the **Insured** must assign the Company all rights, title and interest in and to those **Securities**; or
 - (b) issue its indemnity in the form of, or pay the cost of, a Lost Instrument Bond or similar suretyship, to effect replacement of such **Securities**.
- (3) In the event of a loss of **Property**, other than any loss of precious metals, the Company shall pay without deduction for depreciation, the least of:
 - (a) the cost to repair or replace **Property**, other than precious metals, with that of similar quality and value; or
 - (b) the amount the **Insured** actually spends that is necessary to repair or replace **Property**.

With respect to this Subsection (B)(3):

- (i) the Company shall not pay the cost to repair or replace **Property** until such **Property** is actually repaired or replaced, which must occur within twelve (12) months from the time the **Parent Organization** complies with Section XVI, Notice, of the General Terms and Conditions; and
 - (ii) if the **Property** is not repaired or replaced, the Company will pay the actual cash value of the **Property**.
- (4) In the event of a loss of precious metals, the Company shall pay the United States of America dollar value of any precious metals based on the price published in *The Wall Street Journal*, Cash Prices, Precious Metals, on the day loss involving precious metals is **Discovered**.
 - (5) For purposes of this Subsection (B), the term **Securities** shall include both **Securities** as defined in the Crime Coverage Part and securities as referenced in the Kidnap, Ransom & Extortion Coverage Part.

XXII. WORLDWIDE TERRITORY, APPLICATION OF LAW AND LIBERALIZATION

(A) With respect to the **Liability Coverage Parts**:

- (1) This Policy shall apply anywhere in the world.
- (2) If the **Parent Organization** requests a policy for issuance to its foreign **Subsidiaries** in their own countries, the Company or any subsidiary or affiliate of Chubb shall provide a quote to the **Parent Organization** for a GLS policy; provided that Chubb can support or facilitate the issuance of such GLS policy to such foreign **Subsidiary** in such foreign country. Coverage offered pursuant to the issued GLS policy may be subject to additional or different terms and conditions and payment of additional premium. Any coordination of coverage under such policy with coverage under this Policy shall be set forth in an

endorsement attached to this Policy. For the purposes of this Subsection, "GLS policy" means Chubb's current Good Local Standard liability policy, including any mandatory endorsements, sold within such **Foreign Jurisdiction** that provides coverage substantially similar to the coverage afforded under this Policy. "GLS policy" shall not include any partnership management, cyber liability, or professional liability coverages.

- (3) Whether or not a policy is purchased pursuant to Paragraph (B)(1) above, where legally permissible, for **Loss** from that portion of any **Matter** maintained in a **Foreign Jurisdiction** or to which the law of a **Foreign Jurisdiction** is applied, the Company shall apply to such **Matter** those specific definitions and exclusions of the GLS policy in such **Foreign Jurisdiction** that are more favorable to such **Insured** than the comparable definitions and exclusions of this Policy. This Section XXII shall not apply to any policy provision addressing limits of liability (primary, excess or sublimits), retentions, other insurance or excess liability provisions, duty to defend, defense within or outside the limits, taxes, conformance to law, any claims made provisions, and any endorsement to this Policy that excludes or limits coverage for specific events or litigation, or that specifically states that it will have worldwide effect.
- (B) With respect to the **Non-Liability Coverage Parts**:
- (1) Coverage under the Crime Coverage Part, if applicable, shall extend to loss anywhere in the world.
- (2) Coverage under the Kidnap, Ransom & Extortion Coverage Part and the Workplace Violence Expense Coverage Part, if applicable, shall extend to the Coverage Territory set forth in KRE and WPV portions of the Declarations, if applicable.

XXIII. ROLE OF PARENT ORGANIZATION

By acceptance of this Policy, the **Parent Organization** agrees that it shall be considered the sole agent of, and shall act on behalf of, each **Insured** with respect to:

- (A) the payment of premiums and the receiving of any return premiums that may become due under this Policy;
- (B) the negotiation, agreement to and acceptance of endorsements; and
- (C) the giving or receiving of any notice provided for in this Policy (except the giving of notice to apply for an Extended Reporting Period in accordance with Section VI, Extended Reporting Period, the giving of notice of **Matter**, **Potential Claim** or circumstances in accordance with the Reporting section of the applicable **Liability Coverage Part**).

Each **Insured** agrees that the **Parent Organization** shall act on its behalf with respect to the foregoing.

In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company and the Insureds agree as follows:

I. INSURING CLAUSES

Insuring Clause (A): Individual Non-Indemnified Liability Coverage

- (A) The Company shall pay, on behalf of an **Insured Person**, **Loss** on account of a **Claim** first made against the **Insured Person** during the **Policy Period**, to the extent that such **Loss** is not indemnified by an **Organization**.

Insuring Clause (B): Individual Indemnified Liability Coverage

- (B) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against an **Insured Person** during the **Policy Period**, to the extent the **Organization** indemnifies the **Insured Person** for such **Loss** as permitted or required by law.

Insuring Clause (C): Entity Liability Coverage

- (C) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against the **Organization** during the **Policy Period**.

II. COVERAGE EXTENSIONS

(A) Inquiry Coverages

(1) Securityholder Inquiry Coverage

(a) Derivative Demand Investigation Coverage

The Company shall pay, on behalf of an **Organization**, **Defense Costs** on account of a **Derivative Demand Investigation** first made during the **Policy Period**. No Retention shall apply to **Defense Costs** under this Inquiry Coverage (A)(1)(a).

(b) Appraisal Action Coverage

The Company shall pay, on behalf of an **Insured**, **Loss** on account of an **Appraisal Action** first made during the **Policy Period**.

(c) Books and Records Request Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** on account of a **Books and Records Request** first made during the **Policy Period**.

(2) Interview Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by an **Insured Person** on account of an **Interview** first made during the **Policy Period**.

(3) Written Request to Toll or Waive a Statute of Limitations Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by such **Insured** in responding to a written request to toll or waive a statute of limitations, first made during the **Policy Period**, applicable to a potential **Claim**.

(B) **Early Engagement Expense Coverage**

In the event of any **Pre-Matter Expense**, **Pre-Tender Expense** or **Early Settlement Opportunity**, an aggregate amount not to exceed the lesser of: (1) \$25,000; or (2) fifty percent (50%) of the applicable Retention, shall qualify as **Loss** solely for the purpose of exhaustion of the applicable Retention. Once the applicable Retention has been exhausted, any **Pre-Matter Expense** or **Pre-Tender Expense** shall no longer qualify as covered **Loss** under this Coverage Part.

Coverage provided herein shall not be deemed to waive the Company's rights hereunder or limit the **Insured's** right to receive coverage for **Loss** incurred following the reporting of a **Matter**.

(C) **Additional Limit of Liability Dedicated for Executives**

The Additional Limit of Liability Dedicated for Executives as set forth in Item 4(C) of the D&O portion of the Declarations, which amount is in addition to, and not part of, the Aggregate Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations, shall be available to any **Executive** solely with respect to any **Loss** resulting from any **Matter** against an **Executive** that is not indemnified by an **Organization**.

Coverage Extension (A) above shall be subject to any applicable Limit of Liability, Sublimit and Retention set forth in the D&O portion of the Declarations and this Policy.

III. DEFINITIONS

For purposes of this Coverage Part:

Appraisal Action means any written demand or proceeding brought by a securityholder of an **Organization** against an **Insured** pursuant to any **Global Law** which provides appraisal rights to determine the value of such **Organization's** securities.

Asset Protection Costs means that portion of **Defense Costs** constituting reasonable costs, charges, fees and expenses incurred by an **Executive**, with the Company's consent, to oppose any efforts by an **Enforcement Unit** to seize or otherwise enjoin the personal assets or real property of such **Executive** or to obtain the discharge or revocation of a court order entered during the **Policy Period** that in any way impairs the use thereof.

Board Observer means any natural person formally designated or invited to act as an observer at formal board meetings or committee meetings of the duly elected or appointed directors of an **Organization** pursuant to a written agreement with such **Organization**.

Books and Records Request means any written demand or proceeding brought by a securityholder of an **Organization** pursuant to any federal, state or local statutory law which provides a right to inspect such **Organization's** books and records.

Claim means any:

- (A) written demand (other than an **Inquiry**, subpoena or other investigatory instrument):
 - (1) for monetary or non-monetary (including injunctive) relief; or
 - (2) for arbitration, mediation, or other equivalent alternative dispute resolution proceeding, against an **Insured** for a **Wrongful Act**, commenced by the first receipt of such demand by an **Insured**;
- (B) proceeding, including any appeal therefrom, against an **Insured** for a **Wrongful Act**, commenced by:
 - (1) the service of a civil complaint or similar pleading, or any foreign equivalent thereof;

- (2) the service of a notice of charges or foreign equivalent thereof; or
 - (3) an arrest, the return of an indictment, information or any foreign equivalent thereof, or the receipt of an official request for **Extradition**; or
- (C) investigation by an **Enforcement Unit** against an **Insured Person** for a **Wrongful Act**, commenced by the service of a written request from such **Enforcement Unit** upon an **Insured Person** compelling witness testimony or document production and identifying such **Insured Person** as the target of such investigation, including a subpoena, civil investigative demand, grand jury subpoena, search warrant, target letter or Wells notice; provided that the Company shall take into reasonable consideration all extrinsic evidence presented by the **Insured Person** when determining whether such written request identifies such **Insured Person** as a target of such investigation;

provided that **Claim** shall not include any **Inquiry** or, except as otherwise provided in Subsection (C) above, any civil, criminal, administrative or regulatory inquiry or investigation.

Control Group means the chief executive officer, chief financial officer, in-house general counsel or any person with the responsibility for the management of insurance claims (or any equivalent position to any of the foregoing) of an **Organization**.

De Facto Director means a natural person who is expressly recognized by **Global Law** as a “de facto” director of an **Organization** and, as result of such recognition, would incur liability as if such natural person were a duly elected or appointed director of such **Organization**.

Defense Costs means that part of **Loss** consisting of the following:

- (A) reasonable costs, charges, fees (including attorneys’ fees, experts’ fees, and the cost of **E-Discovery Specialist Services**) and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**) incurred in:
 - (1) investigating, defending, opposing or appealing any **Claim** and the premium for appeal, attachment or similar bonds;
 - (2) a **Securityholder Inquiry**;
 - (3) an **Interview**; or
 - (4) responding to a written request to toll or waive a statute of limitations;
- (B) **Asset Protection Costs**; or
- (C) any costs under Insuring Clause (A), Individual Non-Indemnified Liability Coverage, that are deemed by the Company, in its sole discretion, to be reasonable costs, charges, fees, and expenses (including the premium or origination fee for a bond or loan) solely to facilitate the return of amounts incurred and required to be repaid by an **Insured Person** pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002.

Derivative Demand Investigation means an investigation by an **Organization** solely to determine whether it is in the best interest of such **Organization** to pursue the claims alleged in a securityholder derivative demand.

Early Settlement Opportunity means any settlement recommended by the Company within the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations which is agreed to by the claimant where: (A) the **Insureds** consent to such settlement within thirty (30) days of the date the **Insureds** are first made aware of such opportunity to settle; (B) such consent occurs within the first ninety (90) days after the **Matter** is first reported to the Company; and (C) such **Matter** is reported to the Company within the first thirty (30) days after it is made. The **Insured** agrees not to settle or offer to settle any **Claim** or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company’s written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement assumed obligation or admission to which it has not consented.

E-Discovery means the review, development, collection, cataloging and/or production of electronically stored information in connection with the defense of a **Matter**.

E-Discovery Specialist Services means only the following services performed by an **E-Specialist Firm**:

- (A) assisting the **Insured** with managing and minimizing the internal and external costs associated with **E-Discovery**;
- (B) assisting the **Insured** in developing or formulating an **E-Discovery** strategy which shall include interviewing qualified and cost-effective **E-Discovery** vendors;
- (C) serving as project manager, advisor and/or consultant to the **Insured**, defense counsel and the Company in executing and monitoring the **E-Discovery** strategy; and
- (D) such other services provided by the **E-Specialist Firm** that the **Insured**, Company, and **E-Specialist Firm** agree are reasonable and necessary given the circumstances of the **Matter**.

E-Specialist Firm means any e-discovery consultant firm approved by the Company.

Employee means any natural person whose labor or service is, was or will be engaged and directed by an **Organization**, including a part-time, seasonal, leased or temporary employee, intern or volunteer. **Employee** shall not include any **Independent Contractor**.

Enforcement Unit means any federal, state, local, provincial or foreign law enforcement or governmental authority worldwide (including the U.S. Department of Justice, the U.S. Securities and Exchange Commission or any attorney general).

Executive means any natural person who was, now is or shall become:

- (A) a duly elected or appointed director, officer, manager, or member of the Board of Managers, the Advisory Board or any duly constituted committee, or the in-house general counsel of any **Organization** incorporated, formed or organized in the United States of America;
- (B) a holder of an equivalent position to those described in Subsection (A) above in any **Organization** incorporated, formed or organized in a **Foreign Jurisdiction**; or
- (C) a **Board Observer** or **De Facto Director** of an **Organization** but only if such **Organization** has indemnified such **Board Observer** or **De Facto Director** as any director or officer of an **Organization**, to the fullest extent permitted by: (1) any **Global Law**; or (2) any contract or agreement providing an indemnification obligation exceeding such law.

Extradition means any formal or written process by which an **Insured Person** located in any country is surrendered, or sought to be surrendered, to any other country for trial or otherwise to answer any criminal accusation, including the execution of an arrest warrant where such execution is an element of such process.

Financial Impairment means the status of an **Organization** resulting from:

- (A) the appointment by a state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar party (including a creditors' committee, if applicable) or foreign equivalent thereof empowered to initiate the assumption of control, supervision, management or liquidation of such **Organization**; or
- (B) such **Organization** becoming a debtor in possession under United States bankruptcy law or the equivalent of a debtor in possession under the law of any **Foreign Jurisdiction**;

provided that the court or other judicial or administrative body overseeing the receivership, conservatorship, liquidation, rehabilitation, bankruptcy or equivalent proceeding has denied a request by the **Organization**, or other party determined to have standing, for authorization of the **Organization** to

indemnify an **Insured Person** for **Loss**; provided further that, the Company may, in its sole discretion, waive the foregoing requirement.

Independent Contractor means any natural person working for an **Organization** in the capacity of an independent contractor and pursuant to an **Independent Contractor Services Agreement**.

Independent Contractor Services Agreement means any written contract or agreement between an **Independent Contractor**, or any entity on behalf of such **Independent Contractor**, and the **Organization**, governing the nature of the **Organization's** engagement of such **Independent Contractor**.

Inquiry means a **Securityholder Inquiry, Interview**, or written request to toll or waive the statute of limitations. An **Inquiry** is commenced by first receipt by an **Insured** of any applicable written demand or request.

Insured means any **Organization** and any **Insured Person**.

Insured Person means any:

- (A) **Executive**;
- (B) **Employee**; or
- (C) **Independent Contractor** working for an **Organization**, but only while acting in his or her capacity as such and only if the **Organization** agrees in writing, prior to or no later than thirty (30) days after a **Matter** is reported to the Company, to indemnify the **Independent Contractor** for liability arising out of such **Matter**.

Interview means any request for an interview, deposition or meeting with, or a sworn statement or testimony from, an **Insured Person** by:

- (A) an **Enforcement Unit** in connection with: (1) such **Insured Person** acting in his or her capacity as such; or (2) an **Organization's** business activities; or
- (B) an **Organization** in connection with: (1) an inquiry or investigation of the **Organization** by an **Enforcement Unit**; or (2) a securityholder derivative demand;

provided that an **Interview** does not include any request: (a) for document production or discovery of information unless such documents or information are in the sole possession or control of an **Insured Person**; (b) by an **Enforcement Unit** that is part of any routine or regularly scheduled **Enforcement Unit** oversight, compliance, audit, inspection or examination; or (c) by an **Enforcement Unit** that is part of an employment-related investigation or claim.

Loss means the amount which an **Insured** becomes legally obligated to pay as a result of any **Matter**, including:

- (A) **Defense Costs**, compensatory damages, judgments, including pre-judgment and post-judgment interest;
- (B) settlements, including that portion of any settlement which represents claimant's attorney's fees;
- (C) punitive, exemplary or multiplied damages, if and to the extent such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages, provided such jurisdiction has a substantial relationship to the relevant **Insureds**, to the Company, or to the **Matter** giving rise to such damages;
- (D) civil fines or civil penalties assessed against an **Insured Person** for a violation of any **Global Law** including civil fines or penalties assessed against an **Insured Person** pursuant to 15 U.S.C. §78dd-2(g)(2)(B) (the Foreign Corrupt Practices Act), if and to the extent that such violation is neither intentional nor willful and only if such civil fines or penalties are insurable under the law of the jurisdiction in which such fines or penalties are assessed; and

- (E) the premium for a bail bond, if bail is available for an **Extradition** in the country at issue; provided the Company shall be under no obligation to provide such bail bond;

provided that **Loss** does not include any portion of such amount that constitutes any:

- (1) cost incurred to comply with any order for non-monetary (including injunctive) relief or to comply with any agreement to provide such relief;
- (2) amount uninsurable under the law pursuant to which this Coverage Part is construed; provided that the Company shall not assert that any amount attributable to violations of Sections 11, 12 or 15 of the Securities Act of 1933, as amended, is subject to this Subsection (2), unless such amount is determined to be uninsurable in a final, non-appealable adjudication in the underlying action or proceeding (other than a declaratory or equivalent action or proceeding brought by or against the Company);
- (3) amount that represents, or is substantially equivalent to, an increase in the consideration paid (or proposed to be paid) in an acquisition or merger (or proposed acquisition or merger) of more than fifty percent (50%) of the outstanding securities or other ownership interest of an entity, including an **Organization**, or in the right to vote for election of, or to appoint, more than fifty percent (50%) of the directors, manager, member of the Board of Managers, or the equivalent of such positions, of an entity, including an **Organization**; provided that this Subsection (3) shall not apply to any amount otherwise covered under Insuring Clause (A), Individual Non-Indemnified Liability Coverage;
- (4) tax, except, solely for the purposes of Insuring Clause (A), Individual Non-Indemnified Liability Coverage, any tax imposed upon an **Insured Person** in his or her capacity as such in connection with any bankruptcy, receivership, conservatorship, or liquidation of an **Organization**, to the extent that such tax is insurable under the law pursuant to which this Coverage Part is construed;
- (5) fines or penalties, except as provided in Subsections (C) or (D) above;
- (6) cost incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for or monitoring **Pollutants**;
- (7) **Pre-Matter Expense** or **Pre-Tender Expense**, except as provided under the Early Engagement Expense Coverage set forth in Section II(B) of this Coverage Part; or
- (8) amount that represents the payment, return, reimbursement, disgorgement or restitution requested or required to be repaid by an **Insured** pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002, or Section 6501 of the National Defense Authorization Act, as amended.

Matter means any **Claim** or **Inquiry**.

Network Security or Privacy Breach means any:

- (A) unauthorized or unlawful access to, alteration of, or damage to any computer, computer program, computer network or computer database, including the infection of any of the foregoing through the transmission of a computer virus, malware, spyware or other fraudulent or unauthorized computer code that: (1) modifies, alters, damages, destroys, deletes, records or transmits information; (2) contaminates other computer programs or computer data; or (3) consumes computer resources or in some fashion usurps the normal operation of a computer system;
- (B) denial of service or delay, disruption, impairment or failure of any computer network, communication network, technology, information or telecommunication network, service, hardware or software;
- (C) unauthorized or unlawful access to, disclosure of, alteration of, theft, collection, storage, use or dissemination of, or loss of any data or confidential or proprietary business information or personally identifiable information as defined by: (1) applicable **Global Law**; or (2) an **Organization's** publicly stated privacy policy;

- (D) violation of any privacy protection or data security **Global Law**; or
- (E) violation of any **Global Law** used to impose liability in connection with any unsolicited communication, distribution, publication, sending or transmission via telephone, cell or mobile phone, telephone facsimile machine, computer or other telephonic or electronic devices, including the United States of America Telephone Consumer Protection Act of 1991, United States of America CAN-SPAM Act of 2003, as amended.

Outside Capacity means service by an **Insured Person** in an **Outside Entity** as a: (A) director or officer; (B) manager or member of the Board of Managers; (C) trustee, regent, or governor; or (D) equivalent executive position of any of the foregoing, but solely during the time that such service is with the knowledge and express consent of an **Organization**.

Outside Entity means:

- (A) any non-profit corporation, community chest, fund or foundation that is exempt from federal income tax as an entity described in Section 501(c)(3), 501(c)(4), 501(c)(7) or 501(c)(10) of the Internal Revenue Code of 1986, as amended, or any other entity organized for a religious or charitable purpose under any non-profit organization act or statute; or
- (B) any other entity specifically added as an **Outside Entity** by written endorsement attached to this Coverage Part;

that is not an **Organization**.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, asbestos, asbestos products or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Pre-Matter Expense means reasonable costs, charges fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees, or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing a notice of circumstance if such circumstance has been reported under Subsection (D) of Section V, Reporting, and a **Matter** subsequently arises out of such circumstance.

Pre-Tender Expense means reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing any **Matter** before such **Matter** has been reported under Subsections (A) or (B) of Section V, Reporting.

Professional Services means services which are performed for others for a fee.

Securityholder Inquiry means any:

- (A) **Derivative Demand Investigation;**
- (B) **Appraisal Action;** or
- (C) **Books and Records Request.**

Securityholder Matter means any:

- (A) **Claim** against an **Insured** for a violation of any **Global Law** relating to securities brought by: (1) a securityholder of an **Organization** solely in connection with such securityholder's interest in the securities of such **Organization**, or (2) any person or entity solely in connection with the purchase or sale of, or offer to purchase or sell securities of an **Organization**;
- (B) **Claim** brought as a securityholder derivative demand or action, on behalf of an **Organization** against an **Insured Person** or the **Organization** (in the **Organization's** capacity as a nominal defendant);

- (C) **Securityholder Inquiry**, subject to the Sublimit set forth in Item 4(A) of the D&O portion of the Declarations; or
- (D) other **Matter** which is brought by or on behalf of one or more securityholders of an **Organization** in their capacity as such;

provided such **Securityholder Matter** is brought without the solicitation, assistance, active participation or intervention of any **Executive**.

Wage and Hour Violation means any actual or alleged violation of the responsibilities, obligations or duties imposed by any **Global Law** (including the Fair Labor Standards Act) that governs wage, hour and payroll policies and practices, except the Equal Pay Act.

Wrongful Act means:

- (A) any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty committed, attempted, or allegedly committed or attempted by: (1) an **Insured Person** while acting in his or her capacity as such, or in an **Outside Capacity**; or (2) for purposes of coverage under Insuring Clause (C), Entity Liability Coverage, an **Organization**; or
- (B) any other matter claimed against an **Insured Person** solely by reason of serving in his or her capacity or status as such, including any matter claimed pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002 or Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

IV. EXCLUSIONS

(A) EXCLUSIONS APPLICABLE TO ALL INSUREDS

The Company shall not be liable for any **Loss** on account of any **Matter**:

- (1) Prior Notice
based upon, arising from or in consequence of any **Wrongful Act**, fact, circumstance or **Matter** that was the subject of any notice accepted under any prior management liability coverage;
- (2) Pending or Prior Proceedings
based upon, arising from or in consequence of any written demand first received by, or action, proceeding, **Matter** or **Matter** that is **Related** commenced against any **Insured**, on or prior to the applicable Pending or Prior Proceedings Date set forth in Item (E) of the D&O portion of the Declarations;
- (3) Bodily Injury/Property Damage
for bodily injury, mental anguish, humiliation, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property, including loss of use thereof, whether or not it is damaged or destroyed; provided that this Exclusion (A)(3) shall not apply to **Loss** on account of any: (a) mental anguish, humiliation or emotional distress asserted in an employment-related **Matter** against an **Insured Person** that is not indemnified by an **Organization** (other than a **Wage and Hour Violation**); or (b) **Securityholder Matter**;
- (4) Pollution
based upon, arising from or in consequence of any: (a) discharge, emission, release, dispersal or escape of any **Pollutants** or any threat thereof; (b) treatment, removal or disposal of any **Pollutants**; or (c) regulation, order, direction or request to test for,

monitor, clean up, remove, contain, treat, detoxify or neutralize any **Pollutants**; provided that this Exclusion (A)(4) shall not apply to **Loss** on account of any: (i) **Matter** against an **Insured Person** that is not indemnified by an **Organization**; or (ii) **Securityholder Matter**;

(5) ERISA

for any violation of the responsibilities, obligations or duties imposed by Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985, and the Health Insurance Portability and Accountability Act of 1996), all as amended, or any similar **Global Law**;

(6) Insured versus Insured

brought by or on behalf of: (a) an **Insured** in any capacity; (b) an **Outside Entity** against an **Insured Person** serving in an **Outside Capacity**; or (c) a securityholder of an **Organization** with the solicitation, assistance, active participation or intervention of any **Executive** against an **Insured**; provided that this Exclusion (A)(6) shall not apply to any:

(i) **Securityholder Matter**; or

(ii) other **Matter**:

a. brought against an **Insured Person**:

1. outside the United States of America or Canada;
2. while an **Organization** is in **Financial Impairment**;
3. for employment-related **Wrongful Acts** if the **Loss** is not indemnified by the **Organization** (other than a **Wage and Hour Violation**); or
4. for contribution or indemnity arising from another **Matter** otherwise covered under this Coverage Part;

b. brought by an **Executive** who has ceased serving in his or her capacity as an **Executive** for at least one (1) year; or

c. brought by a whistleblower pursuant to any **Global Law**;

(7) Publicly Traded Securities

based upon, arising from or in consequence of: (a) any public offering of securities issued by any **Organization** or **Outside Entity**; or (b) the violation of any **Global Law** relating to securities, including the Securities Act of 1933 and the Securities Exchange Act of 1934, all as amended; provided that this Exclusion A(7) shall not apply to **Loss** on account of any **Matter**:

(i) based upon, arising from or in consequence of an offering, sale or purchase of:

a. securities that are not required to be registered under the Securities Act of 1933 or any **Global Law** that regulates the offering, sale or purchase of securities, including an offering, sale or purchase made pursuant to Regulation D or Regulation S under the Securities Act of 1933 or Titles II, III or IV of the JOBS Act, all as amended; or

b. debt securities, provided such securities were offered to the public prior to the **Policy Period**;

- (ii) made by any securityholder of an **Organization** for the failure of the **Organization** to undertake or complete the initial public offering or sale of securities of the **Organization**; or
- (iii) for any **Wrongful Act** relating to an **Organization's** preparation for any public offering, including any road show presentation to potential investors or other similar presentation, made by the **Organization** and its **Executives** via any medium in connection with such public offering, if such offering does not occur;

(8) Conduct

based upon, arising from or in consequence of:

- (a) any deliberate fraud, any deliberate criminal act, or any knowing and willful violation of any **Global Law** by an **Insured**; provided that, for acts or omissions which are treated as a criminal violation in a **Foreign Jurisdiction** and that are not treated as a criminal violation in the United States, the imposition of a criminal fine or other criminal sanction in such **Foreign Jurisdiction** will not, by itself, be conclusive proof that a deliberate fraud, deliberate criminal act, or knowing and willful violation has occurred;
- (b) an **Insured Person** having gained any personal profit, remuneration or other financial advantage to which such **Insured Person** was not legally entitled; or
- (c) an **Organization** having gained any profit, remuneration or other financial advantage to which such **Organization** was not legally entitled,

established by a final, non-appealable adjudication in the underlying action or proceeding; provided that Paragraphs (8)(b) and (8)(c) above shall not apply to that portion of a **Securityholder Matter** for a violation of Section 11, 12, or 15 of the Securities Act of 1933, as amended, to the extent such amount is insurable under the law pursuant to which this Coverage Part is construed;

(9) Employment-Related/Third-Party

based upon, arising from or in consequence of any employment-related **Wrongful Act**; or any discrimination against or harassment, including sexual harassment, of any third party; provided that this Exclusion A(9) shall not apply to **Loss** on account of any: (a) **Matter** against an **Insured Person** that is not indemnified by an **Organization** (other than a **Wage and Hour Violation**); or (b) **Securityholder Matter**;

(10) Network Security/Privacy Breach

based upon, arising from or in consequence of any **Network Security or Privacy Breach**; provided that this Exclusion (A)(10) shall not apply to **Loss** on account of any: (a) **Matter** against an **Insured Person** that is not indemnified by an **Organization**; or (b) **Securityholder Matter**;

(B) EXCLUSIONS APPLICABLE TO THE ORGANIZATION ONLY

The Company shall not be liable for any **Loss** on account of any **Matter** against an **Organization**:

(1) Contract

based upon, arising from or in consequence of any liability in connection with any written contract or agreement to which an **Organization** is a party; provided that this Exclusion (B)(1) shall not apply to: (a) **Loss** on account of any **Securityholder Matter**; or (b) the extent that such **Organization** would have been liable in the absence of such contract or agreement;

(2) Antitrust

based upon, arising from or in consequence of price fixing, restraint of trade, monopolization, unfair trade practices or any violation of the Federal Trade Commission Act, the Sherman Antitrust Act, the Clayton Act, or any other **Global Law** involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities; provided that this Exclusion (B)(2) shall not apply to **Loss** on account of any **Securityholder Matter**;

(3) Professional Services

based upon, arising from or in consequence of the rendering of, or failure to render, any **Professional Services** by an **Insured**; provided that this Exclusion (B)(3) shall not to **Loss** on account of any **Securityholder Matter**;

(4) Goods/Products

based upon, arising from or in consequence of:

- (a) any malfunction or vulnerability of any product or failure of any product to perform in any manner as a result of any defect, vulnerability, deficiency, inadequacy or dangerous condition in such product or in its design or manufacture; or
- (b) any false advertising, misrepresentation in advertising or unfair or deceptive trade practices, with respect to or the labeling or advertising of the **Insured's** own goods, publications or services;

provided that this Exclusion (B)(4) shall not apply to **Loss** on account of any **Securityholder Matter**;

(5) Personal Injury

based upon, arising from or in consequence of any libel, slander, oral or written publication of defamatory or disparaging material, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, malicious use or abuse of process, assault, battery or loss of consortium; provided that this Exclusion (B)(5) shall not apply to any **Loss** on account of any **Securityholder Matter**; or

(6) Intellectual Property

based upon, arising from or in consequence of any infringement, misappropriation, or violation of copyright, patent, service marks, trademarks, trade secrets, title or other proprietary or licensing rights or intellectual property of any products, technologies or services; provided that this Exclusion (B)(6) shall not apply to **Loss** on account of any **Securityholder Matter**.

For the purpose of determining the applicability of the foregoing Exclusion (A)(8) above: (i) the **Wrongful Acts**, conduct, or actual knowledge of, or facts pertaining to, one **Insured** shall not be imputed to any **Insured Person**; and (ii) solely with respect to Insuring Clause (C), the **Wrongful Acts**, conduct, or actual knowledge of, or facts pertaining to the **Control Group** of an **Organization** shall be imputed to such **Organization** and its **Subsidiaries**, provided that, the foregoing Subparagraph (ii) shall not preclude the application of Exclusion (A)(8) if the **Organization** is adjudicated in its own right.

V. REPORTING

- (A) An **Insured** shall give to the Company written notice of any **Claim** as soon as practicable after the **Control Group** of an **Organization** becomes aware of such **Claim**, but in no event later than:
- (1) if this Coverage Part expires (or is otherwise terminated) without being renewed with the Company, ninety (90) days after the effective date of such expiration or termination; or
 - (2) the expiration date of the Extended Reporting Period, if applicable;
- provided that if the Company sends written notice to the **Parent Organization** stating that this Coverage Part is being terminated for nonpayment of premium, an **Insured** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.
- (B) The **Insureds**, at their discretion, may give to the Company written notice of any **Inquiry** no later than ninety (90) days after the **Control Group** first becomes aware of such **Inquiry**. No coverage shall be available under this Coverage Part for **Loss** on account of any unreported **Inquiry**.
- (C) With respect to Subsections (A) and (B) above, such written notice to the Company shall be a condition precedent to coverage for any **Matter**. Provided, however, if the **Parent Organization** can prove to the Company's satisfaction that it was not reasonably possible for the **Insureds** to give such notice within the time periods set forth in Subsections (A) or (B) above and that subsequent notice was given as soon as reasonably possible thereafter, the Company shall waive the foregoing time period.
- (D) If during the **Policy Period** an **Insured** gives written notice to the Company of any circumstance which could give rise to a subsequent **Matter**, then such **Matter** subsequently arising from such circumstance shall be deemed to have been first made during the **Policy Period** in which such written notice was first given by an **Insured** to the Company; provided any such subsequent **Matter** is reported to the Company as soon as practicable after the **Control Group** first becomes aware of such **Matter**.

The **Insureds** shall give to the Company in any written notice described in Subsections (A), (B) or (D) above a description of the **Matter** or circumstance, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage, and the names of all actual or potential defendants.

VI. DEFENSE AND SETTLEMENT

- (A) If Duty to Defend Defense is selected in Item 4(F) of the D&O portion of the Declarations, then:
- (1) the Company shall have the right and duty to defend any **Matter** covered by this Coverage Part, including the right to select defense counsel from the current list of approved defense firms for the jurisdiction in which such **Matter** is pending;
 - (2) coverage shall apply even if any of the allegations are groundless, false or fraudulent; and
 - (3) the Company's obligation to pay **Loss**, including **Defense Costs**, or to defend or continue to defend any **Matter** shall cease upon exhaustion of the applicable Limit of Liability or Sublimit.
- (B) If Reimbursement Defense is selected in Item 4(F) of the D&O portion of the Declarations, or, if the **Insured** has the duty to defend or exercises any legal right to appoint counsel for the defense of a **Matter** covered by this Coverage Part, then:
- (1) the **Insured** shall have the duty to defend **Matters** made against the **Insured**, including the right to select defense counsel, subject to the Company's approval which shall not be unreasonably withheld;

- (2) the **Insured** agrees that: (a) defense counsel shall adhere in all respects to the Company's Litigation Management Guidelines; and (b) **Defense Costs** shall not include any costs, charges, fees or expenses: (i) that are not billed in accordance with the hourly rates agreed to between the **Insured** and the Company; (ii) that do not adhere in all respects to the Company's Litigation Management Guidelines; (iii) related to travel incurred by any firm while traveling to, from or within any state in which such firm does not maintain an office; and (iv) incurred by or through the use of local counsel. The Company shall not be liable for any such **Defense Costs** unless incurred with the Company's written consent, which shall not be unreasonably withheld; and
- (3) the Company shall advance covered **Defense Costs** on a current basis on account of a **Matter** reported pursuant to Section V, Reporting, on a current basis, but no later than sixty (60) days after receipt by the Company of bills or invoices detailing such **Defense Costs** and all other information reasonably requested by the Company with respect to such bills or invoices, until such time the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or any applicable Sublimit has been exhausted, whichever first occurs. Any advancement of **Defense Costs** shall reduce the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or any applicable Sublimit.
- (C) With respect to Subsections (A) and (B) above:
- (1) the **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defense Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented;
- (2) the **Insured** agrees, with respect to a **Matter**, to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agrees that the **Insured** shall not do anything that could prejudice the Company's position or its potential or actual rights of recovery; provided that the failure of any **Insured** to give the Company such information, assistance or cooperation shall not impair the rights of any other **Insured Person** under this Coverage Part;
- (3) in the event an **Organization** refuses in writing, or fails within sixty (60) days of an **Insured Person's** written request for indemnification, to advance, pay or indemnify an **Insured Person** for **Defense Costs** on account of a **Matter** reported pursuant to Section V, Reporting, the Company shall pay or advance covered **Defense Costs** on a current basis until such time that the **Organization** accepts an **Insured Person's** request for indemnification or the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or applicable Sublimit has been exhausted, whichever first occurs; and
- (4) any payment or advancement of **Defense Costs** shall be repaid to the Company by the **Insureds**, severally according to their respective interests, if and to the extent it is determined that such **Defense Costs** are not insured under this Coverage Part; provided the Company shall not seek repayment from an **Insured** of any **Defense Costs** paid or advanced by the Company that are deemed uninsured pursuant to Exclusion (A)(8), Conduct, unless a final, non-appealable adjudication has occurred.

VII. ALLOCATION

- (A) Except as provided in Subsection (B) below, if an **Insured** who is afforded coverage for a **Matter** incurs an amount consisting of both **Loss** that is covered by this Coverage Part and any amount that is not covered by this Coverage Part, then:
- (1) one hundred percent (100%) of **Defense Costs** incurred by such **Insured** on account of such **Matter** shall be covered **Loss**; and

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- (2) with respect to loss other than **Defense Costs**, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters.
- (B) Notwithstanding anything in (A) above, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters, if:
- (1) Reimbursement Defense is selected in Item (F) of the D&O portion of the Declarations;
 - (2) the **Insured** has the duty to defend or exercises any legal right to appoint counsel for the defense of a **Matter** covered by this Coverage Part; or
 - (3) coverage with respect to any **Insured** is excluded, in whole or in part, pursuant to Exclusion (B)(4)(b), or Subsection XII(C), Representations and Severability of the General Terms and Conditions.
-

VIII. OTHER INSURANCE

- (A) If any **Loss** under this Coverage Part is insured under any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this Coverage Part), this Coverage Part shall be excess of and shall not contribute with such other insurance, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
- (B) This Coverage Part shall be specifically excess of, and shall not contribute with, any valid and collectible insurance for privacy, network security or cyber liability, or professional liability, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
- (C) The Additional Limit of Liability Dedicated For **Executives** set forth in Coverage Extension (C) shall be excess of any insurance available that is specifically excess to this Coverage Part and such excess insurance must be completely exhausted by payment of loss, damages or defense costs thereunder before the Company shall have any obligation to make any payment.
- (D) Any coverage afforded under this Coverage Part for a **Matter** in connection with an **Insured Person** serving in an **Outside Capacity** for an **Outside Entity** shall be specifically excess of any indemnity (other than any indemnity provided by an **Organization**) and insurance available to such **Insured Person** by reason of serving in such **Outside Capacity**. Notwithstanding the foregoing, if the Company or any subsidiary or affiliate of Chubb Limited (“Chubb”) makes payment under another coverage part or policy on account of such **Matter**, the applicable Limit of Liability for this Coverage Part with respect to such **Matter** shall be reduced by the amount of such payment.
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In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company and the Insureds agree as follows:

I. INSURING CLAUSES

Insuring Clause (A): Individual Non-Indemnified Liability Coverage

- (A) The Company shall pay, on behalf of an **Insured Person**, **Loss** on account of a **Claim** first made against the **Insured Person** during the **Policy Period**, to the extent that such **Loss** is not indemnified by an **Organization**.

Insuring Clause (B): Individual Indemnified Liability Coverage

- (B) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against an **Insured Person** during the **Policy Period**, to the extent the **Organization** indemnifies the **Insured Person** for such **Loss** as permitted or required by law.

Insuring Clause (C): Entity Liability Coverage

- (C) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against the **Organization** during the **Policy Period**.

II. COVERAGE EXTENSIONS

(A) Inquiry Coverages

(1) Member Inquiry Coverage

(a) Derivative Demand Investigation Coverage

The Company shall pay, on behalf of an **Organization**, **Defense Costs** on account of a **Derivative Demand Investigation** first made during the **Policy Period**. No Retention shall apply to **Defense Costs** under this Inquiry Coverage (A)(1)(a).

(b) Books and Records Request Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** on account of a **Books and Records Request** first made during the **Policy Period**.

(2) Interview Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by an **Insured Person** on account of an **Interview** first made during the **Policy Period**.

(3) Written Request to Toll or Waive a Statute of Limitations Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by such **Insured** in responding to a written request to toll or waive a statute of limitations, first made during the **Policy Period**, applicable to a potential **Claim**.

(B) Early Engagement Expense Coverage

In the event of any **Pre-Matter Expense**, **Pre-Tender Expense** or **Early Settlement Opportunity**, an aggregate amount not to exceed the lesser of: (1) \$25,000; or (2) fifty percent (50%) of the applicable Retention, shall qualify as **Loss** solely for the purpose of exhaustion of the

applicable Retention. Once the applicable Retention has been exhausted, any **Pre-Matter Expense** or **Pre-Tender Expense** shall no longer qualify as covered **Loss** under this Coverage Part.

Coverage provided herein shall not be deemed to waive the Company's rights hereunder or limit the **Insured's** right to receive coverage for **Loss** incurred following the reporting of a **Matter**.

(C) **Additional Limit of Liability Dedicated for Executives**

The Additional Limit of Liability Dedicated for **Executives** as set forth in Item 4(C) of the D&O portion of the Declarations, which amount is in addition to, and not part of, the Aggregate Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations, shall be available to any **Executive** solely with respect to any **Loss** resulting from any **Matter** against an **Executive** that is not indemnified by an **Organization**.

Coverage Extension (A) shall be subject to any applicable Limit of Liability, Sublimit and Retention set forth in the D&O portion of the Declarations and this Policy.

III. DEFINITIONS

For purposes of this Coverage Part:

Asset Protection Costs means that portion of **Defense Costs** constituting reasonable costs, charges, fees, and expenses incurred by an **Executive**, with the Company's consent, to oppose any efforts by an **Enforcement Unit** to seize or otherwise enjoin the personal assets or real property of such **Executive** or to obtain the discharge or revocation of a court order entered during the **Policy Period** that in any way impairs the use thereof.

Books and Records Request means any written demand or proceeding brought by a member of an **Organization** pursuant to any federal, state or local statutory law which provides a right to inspect the **Organization's** books and records.

Claim means any:

- (A) written demand (other than an **Inquiry**, subpoena or other investigatory instrument):
 - (1) for monetary or non-monetary (including injunctive) relief; or
 - (2) for arbitration, mediation, or other equivalent alternative dispute resolution proceeding, against an **Insured** for a **Wrongful Act**, commenced by the first receipt of such demand by an **Insured**;
- (B) proceeding, including any appeal therefrom, against an **Insured** for a **Wrongful Act**, commenced by:
 - (1) the service of a civil complaint or similar pleading, or any foreign equivalent thereof;
 - (2) the service of a notice of charges or foreign equivalent thereof; or
 - (3) an arrest, the return of an indictment, information or any foreign equivalent thereof, or the receipt of an official request for **Extradition**; or
- (C) investigation by an **Enforcement Unit** against an **Insured Person** for a **Wrongful Act**, commenced by the service of a written request from such **Enforcement Unit** upon an **Insured Person** compelling witness testimony or document production and identifying such **Insured Person** as the target of such investigation, including a subpoena, civil investigative demand, grand jury subpoena, search warrant, target letter or Wells notice; provided that the Company shall take into reasonable consideration all extrinsic evidence presented by the **Insured Person**

when determining whether such written request identifies such **Insured Person** as a target of such investigation;

provided that **Claim** shall not include any **Inquiry** or, except as otherwise provided in Subsection (C) above, any civil, criminal, administrative or regulatory inquiry or investigation.

Control Group means the chief executive officer, executive director, president, chief financial officer, in-house general counsel, or any person with the responsibility for the management of insurance claims (or any equivalent position to any of the foregoing) of an **Organization**.

De Facto Director means a natural person who is expressly recognized by **Global Law** as a “de facto” director of an **Organization** and, as result of such recognition, would incur liability as if such natural person were a duly elected or appointed director of such **Organization**.

Defense Costs means that part of **Loss** consisting of the following:

- (A) reasonable costs, charges, fees (including attorneys’ fees, experts’ fees and the cost of **E-Discovery Specialist Services**) and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**) incurred in:
 - (1) investigating, defending, opposing or appealing any **Claim** and the premium for appeal, attachment or similar bonds;
 - (2) a **Member Inquiry**;
 - (3) an **Interview**; or
 - (4) responding to a written request to toll or waive a statute of limitations; or
- (B) **Asset Protection Costs**.

Derivative Demand Investigation means an investigation by an **Organization** solely to determine whether it is in the best interest of such **Organization** to pursue the claims alleged in a derivative demand.

Early Settlement Opportunity means any settlement recommended by the Company within the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations which is agreed to by the claimant where: (A) the **Insureds** consent to such settlement within thirty (30) days of the date the **Insureds** are first made aware of the opportunity to settle; (B) such consent occurs within the first ninety (90) days after the **Matter** is first reported to the Company; and (C) such **Matter** is reported to the Company within the first thirty (30) days after it is made. The **Insured** agrees not to settle or offer to settle any **Claim** or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company’s written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement assumed obligation or admission to which it has not consented.

E-Discovery means the review, development, collection, cataloging, preservation and/or production of electronically stored information in connection with the defense of a **Matter**.

E-Discovery Specialist Services means only the following services performed by an **E-Specialist Firm**:

- (A) assisting the **Insured** with managing and minimizing the internal and external costs associated with **E-Discovery**;
- (B) assisting the **Insured** in developing or formulating an **E-Discovery** strategy which shall include interviewing qualified and cost-effective **E-Discovery** vendors;
- (C) serving as project manager, advisor and/or consultant to the **Insured**, defense counsel and the Company in executing and monitoring the **E-Discovery** strategy; and
- (D) such other services provided by the **E-Specialist Firm** that the **Insured**, Company, and **E-Specialist Firm** agree are reasonable and necessary given the circumstances of the **Matter**.

E-Specialist Firm means any e-discovery consultant firm approved by the Company.

Employee means any natural person whose labor or service is, was or will be engaged and directed by an **Organization**, including a part-time, seasonal, leased or temporary employee, intern or volunteer. **Employee** shall not include any **Independent Contractor**.

Enforcement Unit means any federal, state, local, provincial or foreign law enforcement or governmental authority worldwide (including the U.S. Department of Justice, the U.S. Securities and Exchange Commission, or any attorney general).

Executive means any natural person who was, now is or shall become:

- (A) a duly elected or appointed director, officer, manager, or member of the Board of Managers, the Advisory Board or any duly constituted committee, trustee (excluding bankruptcy trustee), regent, governor, or in-house general counsel of any **Organization** incorporated, formed or organized in the United States of America;
- (B) a holder of an equivalent position to those described in Subsection (A) above in any **Organization** incorporated, formed or organized in a **Foreign Jurisdiction**; or
- (C) a **De Facto Director** of an **Organization** but only if such **Organization** has indemnified such **De Facto Director** as any director or officer of an **Organization**, to the fullest extent permitted by: (1) any **Global Law**; or (2) any contract or agreement providing an indemnification obligation exceeding such law.

Excess Benefit means an excess benefit as defined in the Taxpayer Bill of Rights Act 2, 26 U.S.C. 4958.

Extradition means any formal or written process by which an **Insured Person** located in any country is surrendered, or sought to be surrendered, to any other country for trial or otherwise to answer any criminal accusation, including the execution of an arrest warrant where such execution is an element of such process.

Financial Impairment means the status of an **Organization** resulting from:

- (A) the appointment by a state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar party (including a creditors' committee, if applicable) or foreign equivalent thereof empowered to initiate the assumption of control, supervision, management, or liquidation of such **Organization**; or
- (B) such **Organization** becoming a debtor in possession under United States bankruptcy law or the equivalent of a debtor in possession under the law of any **Foreign Jurisdiction**;

provided that the court or other judicial or administrative body overseeing the receivership, conservatorship, liquidation, rehabilitation, bankruptcy or equivalent proceeding has denied a request by the **Organization**, or other party determined to have standing, for authorization of the **Organization** to indemnify an **Insured Person** for **Loss**; provided further that, the Company may, in its sole discretion, waive the foregoing requirement.

Independent Contractor means any natural person working for an **Organization** in the capacity of an independent contractor and pursuant to an **Independent Contractor Services Agreement**.

Independent Contractor Services Agreement means any written contract or agreement between an **Independent Contractor**, or any entity on behalf of such **Independent Contractor**, and the **Organization**, governing the nature of the **Organization's** engagement of such **Independent Contractor**.

Inquiry means a **Member Inquiry**, **Interview**, or written request to toll or waive the statute of limitations. An **Inquiry** is commenced by first receipt by an **Insured** of any applicable written demand or request.

Insured means any **Organization** and any **Insured Person**.

Insured Person means any:

- (A) **Executive**;
- (B) **Employee**; or
- (C) **Independent Contractor** working for an **Organization**, but only while acting in his or her capacity as such and only if the **Organization** agrees in writing, prior to or no later than thirty (30) days after a **Matter** is reported to the Company, to indemnify the **Independent Contractor** for liability arising out of such **Matter**.

Interview means a request for an interview, deposition or meeting with, or a sworn statement or testimony from, an **Insured Person** by:

- (A) an **Enforcement Unit** in connection with: (1) such **Insured Person** acting in his or her capacity as such; or (2) an **Organization's** business activities; or
- (B) an **Organization** in connection with: (1) an inquiry or investigation of the **Organization** by an **Enforcement Unit**; or (2) a derivative demand;

provided that an **Interview** does not include any request: (a) for document production or discovery of information unless such documents or information are in the sole possession or control of an **Insured Person**; (b) by an **Enforcement Unit** that is part of any routine or regularly scheduled **Enforcement Unit** oversight, compliance, audit, inspection or examination; or (c) by an **Enforcement Unit** that is part of an employment-related investigation or claim.

Loss means the amount which an **Insured** becomes legally obligated to pay as a result of any **Matter**, including:

- (A) **Defense Costs**, compensatory damages, judgments, including pre-judgment and post-judgment interest;
- (B) settlements, including that portion of any settlement which represents claimant's attorney's fees;
- (C) punitive, exemplary or multiplied damages, if and to the extent such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages, provided such jurisdiction has a substantial relationship to the relevant **Insureds**, to the Company, or to the **Matter** giving rise to such damages;
- (D) civil fines or civil penalties: (1) assessed pursuant to a **Tax Matter**; or (2) assessed against an **Insured Person** for a violation of **Global Law** including civil fines or penalties assessed against an **Insured Person** pursuant to 15 U.S.C. §78dd-2(g)(2)(B) (the Foreign Corrupt Practices Act), if and to the extent that such violation is neither intentional nor willful and only if such civil fines or penalties are insurable under the law of the jurisdiction in which such fines or penalties are assessed;
- (E) **Excess Benefit** penalties assessed in the amount of ten percent (10%) by the Internal Revenue Service against any **Insured** for management's involvement in the award of an **Excess Benefit**; and
- (F) the premium for a bail bond, if bail is available for an **Extradition** in the country at issue, provided the Company shall be under no obligation to provide such bail bond;

provided that **Loss** does not include any portion of such amount that constitutes any:

- (1) cost incurred to comply with any order for non-monetary (including injunctive) relief, or to comply with any agreement to provide such relief;
- (2) amount uninsurable under the law pursuant to which this Coverage Part is construed;

- (3) (a) twenty-five percent (25%) penalty assessed by the Internal Revenue Service against an **Insured** deemed to have received an **Excess Benefit**; (b) **Defense Costs** incurred to defend an **Insured Person** if it has been determined in fact that such **Insured Person** received an **Excess Benefit**; or (c) two hundred percent (200%) penalty assessed by the Internal Revenue Service for failure to correct the award of an **Excess Benefit**;
- (4) taxes, fines or penalties, except as provided in Subsections (C) through (E) above;
- (5) cost incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for, or monitoring **Pollutants**; or
- (6) **Pre-Claim Expenses** and **Pre-Tender Expense**, except as provided under the Early Engagement Expense Coverage set forth in Section II(B) of this Coverage Part.

Matter means any **Claim** or **Inquiry**.

Member Inquiry means any:

- (A) **Derivative Demand Investigation**; or
- (B) **Books and Records Request**.

Network Security or Privacy Breach means any:

- (A) unauthorized or unlawful access to, alteration of, or damage to any computer, computer program, computer network or computer database, including the infection of any of the foregoing through the transmission of a computer virus, malware, spyware or other fraudulent or unauthorized computer code that: (1) modifies, alters, damages, destroys, deletes, records or transmits information; (2) contaminates other computer programs or computer data; or (3) consumes computer resources or in some fashion usurps the normal operation of a computer system;
- (B) denial of service or delay, disruption, impairment or failure of any computer network, communication network, technology, information or telecommunication network, service, hardware or software;
- (C) unauthorized or unlawful access to, disclosure of, alteration of, theft, collection, storage, use or dissemination of, or loss of any data or confidential or proprietary business information or personally identifiable information as defined by: (i) applicable **Global Law**; or (ii) an **Organization's** publicly stated privacy policy;
- (D) violation of any privacy protection or data security **Global Law**; or
- (E) violation of any **Global Law** used to impose liability in connection with any unsolicited communication, distribution, publication, sending or transmission via telephone, cell or mobile phone, telephone facsimile machine, computer or other telephonic or electronic devices, including the United States of America Telephone Consumer Protection Act of 1991, United States of America CAN-SPAM Act of 2003, as amended.

Outside Capacity means service by an **Insured Person** in an **Outside Entity** as a: (A) director or officer; (B) manager or member of the Board of Managers; (C) trustee, regent, or governor; or (D) equivalent executive position of any of the foregoing, but solely during the time that such service is with the knowledge and express consent of an **Organization**.

Outside Entity means:

- (A) any non-profit corporation, community chest, fund or foundation that is exempt from federal income tax as an entity described in Section 501(c)(3), 501(c)(4), 501(c)(7) or 501(c)(10) of the Internal Revenue Code of 1986, as amended, or any other entity organized for a religious or charitable purpose under any non-profit organization act or statute; or

- (B) any other entity specifically added as an **Outside Entity** by written endorsement attached to this Coverage Part;

that is not an **Organization**.

Personal Injury Wrongful Act means any:

- (A) false arrest, wrongful detention, imprisonment or malicious prosecution;
- (B) libel, slander or defamation of character; or
- (C) wrongful entry or eviction.

Publisher Wrongful Act means any:

- (A) infringement of copyright or trademark or unauthorized use of title; or
- (B) plagiarism or misappropriation of ideas.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, asbestos, asbestos products or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Pre-Matter Expense means reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees, or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing a notice of circumstance if such circumstance has been reported under Subsection (D) of Section V, Reporting, and a **Matter** subsequently arises out of such circumstance.

Pre-Tender Expense means reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing any **Matter** before such **Matter** has been reported under Subsections (A) or (B) of Section V, Reporting.

Tax Matter means a **Matter** brought or maintained by the Internal Revenue Service seeking an assessment of taxes, initial taxes, additional taxes, tax deficiencies, excise taxes or penalties pursuant to the Internal Revenue Code of 1986, as amended, ("**IRC**") but only so long as the **Insureds** relied upon, with respect to such **Matter**: (A) the written advice of tax counsel licensed to practice law in the United States, or a Certified Public Accountant; or (B) a tax return prepared by a Certified Public Accountant. Except as otherwise set forth in this definition, a **Tax Matter** shall not include any **Matter** brought or maintained by the Internal Revenue Service.

Wage and Hour Violation means any actual or alleged violation of the responsibilities, obligations or duties imposed by any **Global Law** (including the Fair Labor Standards Act) that governs wage, hour and payroll policies and practices, except the Equal Pay Act.

Wrongful Act means:

- (A) any actual or alleged error, misstatement, misleading statement, act, omission, neglect, breach of duty, **Personal Injury Wrongful Act**, or **Publishers Wrongful Act** committed, attempted, or allegedly committed or attempted by: (1) an **Insured Person** while acting in his or her capacity as such, or in an **Outside Capacity**; or (2) for purposes of coverage under Insuring Clause (C), Entity Liability Coverage, an **Organization**; or
- (B) any other matter claimed against an **Insured Person** solely by reason of serving in his or her capacity or status as such.

IV. EXCLUSIONS

(A) EXCLUSIONS APPLICABLE TO ALL INSUREDS

The Company shall not be liable for any **Loss** on account of any **Matter**:

(1) Prior Notice

based upon, arising from or in consequence of any **Wrongful Act**, fact, circumstance, or **Matter** that was the subject of any notice accepted under any prior management liability coverage;

(2) Pending or Prior Proceedings

based upon, arising from or in consequence of any written demand first received by, or action, proceeding, **Matter** or **Matter** that is **Related** commenced against any **Insured**, on or prior to the applicable Pending or Prior Proceedings Date set forth in Item (E) of the D&O portion of the Declarations;

(3) Bodily Injury/Property Damage

for bodily injury, mental anguish, humiliation, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property, including loss of use thereof, whether or not it is damaged or destroyed; provided that this Exclusion (A)(3) shall not apply to **Loss** on account of any mental anguish, humiliation or emotional distress asserted in an employment-related **Matter** against an **Insured Person** that is not indemnified by an **Organization** (other than a **Wage and Hour Violation**);

(4) Pollution

based upon, arising from or in consequence of any: (a) discharge, emission, release, dispersal or escape of any **Pollutants** or any threat thereof; (b) treatment, removal or disposal of any **Pollutants**; or (c) regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any **Pollutants**; provided that this Exclusion (A)(4) shall not apply to **Loss** on account of any **Matter** against an **Insured Person** that is not indemnified by an **Organization**;

(5) ERISA

for any violation of the responsibilities, obligations or duties imposed by Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985, and the Health Insurance Portability and Accountability Act of 1996), all as amended, or any similar **Global Law**;

(6) Insured versus Insured

brought by or on behalf of: (a) an **Insured** in any capacity; or (b) an **Outside Entity** against an **Insured Person** serving in an **Outside Capacity**; provided that this Exclusion (A)(6) shall not apply to any **Matter**:

(i) brought by an **Employee** serving as a member of an **Organization** or brought as a **Member Inquiry** or derivative action, without the solicitation, assistance, active participation or intervention of any **Executive**;

(ii) brought against an **Insured Person**;

a. outside the United States of America or Canada;

b. while an **Organization** is in **Financial Impairment**;

- c. for employment-related **Wrongful Acts** if the **Loss** is not indemnified by the **Organization** (other than a **Wage and Hour Violation**); or
- d. for contribution or indemnity arising from another **Matter** otherwise covered under this Coverage Part;
- (iii) brought by an **Executive** who has ceased serving in his or her capacity as an **Executive** for at least one (1) year; or
- (iv) brought by a whistleblower pursuant to any **Global Law**;
- (7) Securities
based upon, arising from or in consequence of: (a) any purchase or sale of securities of an **Organization** or **Outside Entity**; or (b) the violation of any **Global Law** relating to securities, including the Securities Act of 1933 and the Securities Exchange Act of 1934, all as amended; provided that this Exclusion (A)(7) shall not apply to a **Loss** on account of any **Matter** based upon, arising from or in consequence of an offering, sale or purchase of bond debt;
- (8) Conduct
based upon, arising from or in consequence of:
 - (a) any deliberate fraud, any deliberate criminal act, or any knowing and willful violation of any **Global Law** by an **Insured**; provided that, for acts or omissions which are treated as a criminal violation in a **Foreign Jurisdiction** and that are not treated as a criminal violation in the United States, the imposition of a criminal fine or other criminal sanction in such **Foreign Jurisdiction** will not, by itself, be conclusive proof that a deliberate fraud, deliberate criminal act, or knowing and willful violation has occurred;
 - (b) an **Insured Person** having gained any personal profit, remuneration or other financial advantage to which such **Insured Person** was not legally entitled; or
 - (c) an **Organization** having gained any profit, remuneration or other financial advantage to which such **Organization** was not legally entitled,
 established by a final, non-appealable adjudication in the underlying action or proceeding;
- (9) Employment-Related / Third-Party
based upon, arising from or in consequence of any employment-related **Wrongful Act**; or any discrimination against or harassment, including sexual harassment, of any third party; provided that this Exclusion (A)(9) shall not apply to **Loss** on account of any **Matter** against an **Insured Person** that is not indemnified by an **Organization** (other than a **Wage and Hour Violation**); or
- (10) Network Security/Privacy Breach
based upon, arising from or in consequence of any **Network Security or Privacy Breach**; provided that this Exclusion (A)(10) shall not apply to **Loss** on account of any **Matter** against an **Insured Person** that is not indemnified by an **Organization**.

(B) EXCLUSIONS APPLICABLE TO THE ORGANIZATION ONLY

The Company shall not be liable for any **Loss** on account of any **Matter** against an **Organization**:

(1) Contract

based upon, arising from or in consequence of any liability in connection with any written contract or agreement to which an **Organization** is a party; provided that this Exclusion (B)(1) shall not apply to the extent that such **Organization** would have been liable in the absence of such contract or agreement; or

(2) Intellectual Property

based upon, arising from or in consequence of any infringement, misappropriation, or violation of copyright, patent, service marks, trademarks, trade secrets, title or other proprietary or licensing rights or intellectual property of any products, technologies or services; provided that this Exclusion (B)(2) shall not apply to any **Publisher Wrongful Act**.

For the purpose of determining the applicability of the foregoing Exclusion (A)(8) above: (i) the **Wrongful Acts**, conduct, or actual knowledge of, or facts pertaining to, one **Insured** shall not be imputed to any **Insured Person**; and (ii) solely with respect to Insuring Clause (C), the **Wrongful Acts**, conduct, or actual knowledge of, or facts pertaining to the **Control Group** of an **Organization** shall be imputed to such **Organization** and its **Subsidiaries**, provided that, the foregoing Subparagraph (ii) shall not preclude the application of Exclusion (A)(8) if the **Organization** is adjudicated in its own right.

V. REPORTING

(A) An **Insured** shall give to the Company written notice of any **Claim** as soon as practicable after the **Control Group** of an **Organization** becomes aware of such **Claim**, but in no event later than:

- (1) if this Coverage Part expires (or is otherwise terminated) without being renewed with the Company, ninety (90) days after the effective date of such expiration or termination; or
- (2) the expiration date of the Extended Reporting Period, if applicable;

provided that if the Company sends written notice to the **Parent Organization** stating that this Coverage Part is being terminated for nonpayment of premium, an **Insured** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.

(B) The **Insureds**, at their discretion, may give to the Company written notice of any **Inquiry** no later than ninety (90) days after the **Control Group** first becomes aware of such **Inquiry**. No coverage shall be available under this Coverage Part for **Loss** on account of any unreported **Inquiry**.

(C) With respect to Subsections (A) and (B) above, such written notice to the Company shall be a condition precedent to coverage for any **Matter**. Provided, however, if the **Parent Organization** can prove to the Company's satisfaction that it was not reasonably possible for the **Insureds** to give such notice within the time periods set forth in Subsections (A) or (B) above and that subsequent notice was given as soon as reasonably possible thereafter, the Company shall waive the foregoing time period.

(D) If during the **Policy Period** an **Insured** gives written notice to the Company of any circumstance which could give rise to a subsequent **Matter**, then such **Matter** subsequently arising from such circumstance shall be deemed to have been first made during the **Policy Period** in which such written notice was first given by an **Insured** to the Company; provided

any such subsequent **Matter** is reported to the Company as soon as practicable after the **Control Group** first becomes aware of such **Matter**.

- (E) The **Insureds** shall give to the Company in any written notice described in Subsections (A), (B) or (D) above a description of the **Matter** or circumstance, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage and the names of all actual or potential defendants.

VI. DEFENSE AND SETTLEMENT

- (A) If Duty to Defend Defense is selected in Item 4(F) of the D&O portion of the Declarations, then:
- (1) the Company shall have the right and duty to defend any **Matter** covered by this Coverage Part, including the right to select defense counsel from the current list of approved defense firms for the jurisdiction in which such **Matter** is pending;
 - (2) coverage shall apply even if any of the allegations are groundless, false or fraudulent; and
 - (3) the Company's obligation to pay **Loss**, including **Defense Costs**, or to defend or continue to defend any **Matter** shall cease upon exhaustion of the applicable Limit of Liability or Sublimit.
- (B) If Reimbursement Defense is selected in Item 4(F) of the D&O portion of the Declarations, or, if the **Insured** has the duty to defend or exercises any legal right to appoint counsel for the defense of a **Matter** covered by this Coverage Part, then:
- (1) the **Insured** shall have the sole duty to defend **Matters** made against the **Insured**, including the right to select defense counsel, subject to the Company's approval which shall not be unreasonably withheld;
 - (2) the **Insured** agrees that: (a) defense counsel shall adhere in all respects to the Company's Litigation Management Guidelines; and (b) **Defense Costs** shall not include any costs, charges, fees or expenses: (i) that are not billed in accordance with the hourly rates agreed to between the **Insured** and the Company; (ii) that do not adhere in all respects to the Company's Litigation Management Guidelines; (iii) related to travel incurred by any firm while traveling to, from or within any state in which such firm does not maintain an office; and (iv) incurred by or through the use of local counsel. The Company shall not be liable for any such **Defense Costs** unless incurred with the Company's written consent, which shall not be unreasonably withheld; and
 - (3) the Company shall advance covered **Defense Costs** on a current basis on account of a **Matter** reported pursuant to Section V, Reporting, on a current basis, but no later than sixty (60) days after receipt by the Company of bills or invoices detailing such **Defense Costs** and all other information reasonably requested by the Company with respect to such bills or invoices, until such time the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or any applicable Sublimit has been exhausted, whichever first occurs. Any advancement of **Defense Costs** shall reduce the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or any applicable Sublimit.
- (C) With respect to Subsections (A) and (B) above:
- (1) the **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defense Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented;

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- (2) the **Insured** agrees, with respect to a **Matter**, to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agrees that the **Insured** shall not do anything that could prejudice the Company's position or its potential or actual rights of recovery; provided that the failure of any **Insured** to give the Company such information, assistance or cooperation shall not impair the rights of any other **Insured Person** under this Coverage Part;
 - (3) in the event an **Organization** refuses in writing, or fails within sixty (60) days of an **Insured Person's** written request for indemnification, to advance, pay or indemnify an **Insured Person** for **Defense Costs** on account of a **Matter** reported pursuant to Section V, Reporting, the Company shall pay or advance covered **Defense Costs** on a current basis until such time that the **Organization** accepts an **Insured Person's** request for indemnification or the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or applicable Sublimit has been exhausted, whichever first occurs; and
 - (4) any payment or advancement of **Defense Costs** shall be repaid to the Company by the **Insureds**, severally according to their respective interests, if and to the extent it is determined that such **Defense Costs** are not insured under this Coverage Part; provided the Company shall not seek repayment from an **Insured** of any **Defense Costs** paid or advanced by the Company that are deemed uninsured pursuant to Exclusion (A)(8), Conduct, unless a final, non-appealable adjudication has occurred.
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VII. ALLOCATION

- (A) Except as provided in Subsection (B) below, if an **Insured** who is afforded coverage for a **Matter** incurs an amount consisting of both **Loss** that is covered by this Coverage Part and any amount that is not covered by this Coverage Part, then:
 - (1) one hundred percent (100%) of **Defense Costs** incurred by such **Insured** on account of such **Matter** shall be covered **Loss**; and
 - (2) with respect to loss other than **Defense Costs**, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters.
 - (B) Notwithstanding anything in (A) above, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters, if:
 - (1) Reimbursement Defense is selected in Item (F) of the D&O portion of the Declarations;
 - (2) the **Insured** has the duty to defend or exercises any legal right to appoint counsel for the defense of a **Matter** covered by this Coverage Part; or
 - (3) coverage with respect to any **Insured** is excluded, in whole or in part, pursuant to Subsection XII(C), Representations and Severability of the General Terms and Conditions.
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VIII. OTHER INSURANCE

- (A) If any **Loss** under this Coverage Part is insured under any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this Coverage Part), this Coverage Part shall be excess of and shall not contribute with such other insurance, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
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- (B) This Coverage Part shall be specifically excess of, and shall not contribute with, any valid and collectible insurance for privacy, network security or cyber liability, or professional liability, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
- (C) The Additional Limit of Liability Dedicated For **Executives** set forth in Coverage Extension (C) shall be excess of any insurance available that is specifically excess to this Coverage Part and such excess insurance must be completely exhausted by payment of loss, damages or defense costs thereunder before the Company shall have any obligation to make any payment.
- (D) Any coverage afforded under this Coverage Part for a **Matter** in connection with an **Insured Person** serving in an **Outside Capacity** for an **Outside Entity** shall be specifically excess of any indemnity (other than any indemnity provided by an **Organization**) and insurance available to such **Insured Person** by reason of serving in such **Outside Capacity**. Notwithstanding the foregoing, if the Company or any subsidiary or affiliate of Chubb Limited (“Chubb”) makes payment under another coverage part or policy on account of such **Matter**, the applicable Limit of Liability for this Coverage Part with respect to such **Matter** shall be reduced by the amount of such payment.
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In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company and the Insureds agree as follows:

I. INSURING CLAUSES

Insuring Clause (A): Individual Non-Indemnified Liability Coverage

- (A) The Company shall pay, on behalf of an **Insured Person**, **Loss** on account of a **Claim** first made against the **Insured Person** during the **Policy Period**, to the extent that such **Loss** is not indemnified by an **Organization**.

Insuring Clause (B): Individual Indemnified Liability Coverage

- (B) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against an **Insured Person** during the **Policy Period**, to the extent the **Organization** indemnifies the **Insured Person** for such **Loss** as permitted or required by law.

Insuring Clause (C): Entity Liability Coverage

- (C) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against the **Organization** during the **Policy Period**.

II. COVERAGE EXTENSIONS

(A) Inquiry Coverages

(1) Securityholder or Member Inquiry Coverage

(a) Derivative Demand Investigation Coverage

The Company shall pay, on behalf of an **Organization**, **Defense Costs** on account of a **Derivative Demand Investigation** first made during the **Policy Period**. No Retention shall apply to **Defense Costs** under this Inquiry Coverage (A)(1)(a).

(b) Appraisal Action Coverage

The Company shall pay, on behalf of an **Insured**, **Loss** on account of an **Appraisal Action** first made during the **Policy Period**.

(c) Books and Records Request Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** on account of a **Books and Records Request** first made during the **Policy Period**.

(2) Written Request to Toll or Waive a Statute of Limitations Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by such **Insured** in responding to a written request to toll or waive a statute of limitations, first made during the **Policy Period**, applicable to a potential **Claim**.

(B) Regulatory Fraud Coverage

The Company shall pay, on behalf of an **Insured**, **Loss** on account of a **Regulatory Fraud Matter** first made against the **Insured** during the **Policy Period**.

(C) Clinical Trial Coverage

The Company shall pay, on behalf of an **Insured**, **Loss** on account of a **Clinical Trial Matter** first made against the **Insured** during the **Policy Period**.

(D) Early Engagement Expense Coverage

In the event of any **Pre-Matter Expense**, **Pre-Tender Expense** or **Early Settlement Opportunity**, an aggregate amount not to exceed the lesser of: (1) \$25,000; or (2) fifty percent (50%) of the applicable Retention, shall qualify as **Loss** solely for the purpose of exhaustion of the applicable Retention. Once the applicable Retention has been exhausted, any **Pre-Matter Expense** or **Pre-Tender Expense** shall no longer qualify as covered **Loss** under this Coverage Part.

Coverage provided herein shall not be deemed to waive the Company's rights hereunder or limit the **Insured's** right to receive coverage for **Loss** incurred following the reporting of a **Matter**.

(E) Additional Limit of Liability Dedicated for Executives

The Additional Limit of Liability Dedicated for **Executives** as set forth in Item 4(C) of the D&O portion of the Declarations, which amount is in addition to, and not part of, the Aggregate Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations, shall be available to any **Executive** solely with respect to any **Loss** resulting from any **Matter** against an **Executive** that is not indemnified by an **Organization**.

Coverage Extensions (A) through (C) shall be subject to any applicable Limit of Liability, Sublimit and Retention set forth in the D&O portion of the Declarations and this Policy. Except as otherwise set forth in Coverage Extensions (B) and (C) above, no coverage shall be provided under any Insuring Clause or Coverage Extension for a **Regulatory Fraud Matter** or a **Clinical Trial Matter**.

III. DEFINITIONS

For purposes of this Coverage Part:

Appraisal Action means any written demand or proceeding brought by a securityholder or member of an **Organization** against an **Insured** pursuant to any **Global Law** which provides appraisal rights to determine the value of such **Organization's** securities.

Asset Protection Costs means that portion of **Defense Costs** constituting reasonable costs, charges, fees, and expenses incurred by an **Executive**, with the Company's consent, to oppose any efforts by an **Enforcement Unit** to seize or otherwise enjoin the personal assets or real property of such **Executive** or to obtain the discharge or revocation of a court order entered during the **Policy Period** that in any way impairs the use thereof.

Antitrust Matter means any **Matter** based upon, arising from, or in consequence of an **Antitrust Wrongful Act**.

Antitrust Wrongful Act means any price fixing, restraint of trade, monopolization, unfair trade practices, or any violation of the Federal Trade Commission Act, the Sherman Antitrust Act, the Clayton Act, or any other **Global Law** involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities.

Board Observer means any natural person formally designated or invited to act as an observer at formal board meetings or committee meetings of the duly elected or appointed directors of an **Organization** pursuant to a written agreement with such **Organization**.

Books and Records Request means any written demand or proceeding brought by a securityholder or member of an **Organization** pursuant to any federal, state or local statutory law which provides a right to inspect the **Organization's** books and records.

Claim means any:

- (A) written demand (other than an **Inquiry**, subpoena or other investigatory instrument):
 - (1) for monetary or non-monetary (including injunctive) relief; or
 - (2) for arbitration, mediation, or other equivalent alternative dispute resolution proceeding, against an **Insured** for a **Wrongful Act**, commenced by the first receipt of such demand by an **Insured**;
- (B) proceeding, including any appeal therefrom, against an **Insured** for a **Wrongful Act**, commenced by:
 - (1) the service of a civil complaint or similar pleading, or any foreign equivalent thereof;
 - (2) the service of a notice of charges or foreign equivalent thereof; or
 - (3) an arrest, the return of an indictment, information or any foreign equivalent thereof, or the receipt of an official request for **Extradition**; or
- (C) investigation by an **Enforcement Unit** against an **Insured Person** for a **Wrongful Act**, commenced by the service of a written request from such **Enforcement Unit** upon an **Insured Person** compelling witness testimony or document production and identifying such **Insured Person** as the target of such investigation, including a subpoena, civil investigative demand, grand jury subpoena, search warrant, target letter or Wells notice; provided that the Company shall take into reasonable consideration all extrinsic evidence presented by the **Insured Person** when determining whether such written request identifies such **Insured Person** as a target of such investigation;

provided that **Claim** shall not include any **Inquiry** or, except as otherwise provided in Subsection (C) above, any civil, criminal, administrative or regulatory inquiry or investigation.

Claim Services means the submission, handling, investigation, adjudication, denial, payment or adjustment of claims for benefits or coverage under healthcare, behavioral health, prescription drug, dental, vision, disability or workers' compensation plans or other similar plans, including any actual or alleged lack of good faith or unfair dealing in the handling of any claim or obligation under any **Insurance Contract**.

Clinical Trial means any organized study that adheres to a formal written protocol and which provides clinical data for the assessment of the effects of a pharmaceutical, biologic, or medical device on humans.

Clinical Trial Matter means any **Matter** brought or maintained solely by a government or regulatory body arising out of a **Clinical Trial**; provided that such **Matter** shall not include any **Regulatory Fraud Matter**, **Antitrust Matter** or **Claim** as defined in Subsection (C) above. Except as otherwise set forth in this definition or unless otherwise covered as a **Regulatory Fraud Matter** or **Antitrust Matter**, no coverage shall be provided under this Coverage Part for any **Matter** arising out of a **Clinical Trial**.

Control Group means the chief executive officer, chief financial officer or in-house general counsel, or any person with the responsibility for the management of insurance claims (or any equivalent position to any of the foregoing) of an **Organization**.

De Facto Director means a natural person who is expressly recognized by **Global Law** or by a court of competent jurisdiction as a "de facto" director of an **Organization** and, as result of such recognition, would incur liability as if such natural person were a duly elected or appointed director of such **Organization**.

Defense Costs means that part of **Loss** consisting of the following:

- (A) reasonable costs, charges, fees (including attorneys' fees, experts' fees and the cost of **E-Discovery Specialist Services**), and expenses (other than regular or overtime wages, salaries, fees, or benefits of **Insured Persons**) incurred in:
 - (1) investigating, defending, opposing or appealing any **Claim** and the premium for appeal, attachment, or similar bonds;
 - (2) a **Securityholder or Member Inquiry**; or
 - (3) responding to a written request to toll or waive a statute of limitations; or
- (B) **Asset Protection Costs**.

Derivative Demand Investigation means an investigation by an **Organization** solely to determine whether it is in the best interest of such **Organization** to pursue the claims alleged in a derivative demand.

Early Settlement Opportunity means any settlement recommended by the Company within the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations which is agreed to by the claimant where: (A) the **Insureds** consent to such settlement within thirty (30) days of the date the **Insureds** are first made aware of such opportunity to settle; (B) such consent occurs within the first ninety (90) days after the **Matter** is first reported to the Company; and (C) such **Matter** is reported to the Company within the first thirty (30) days after it is made. The **Insured** agrees not to settle or offer to settle any **Claim** or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement assumed obligation or admission to which it has not consented.

E-Discovery means the review, development, collection, cataloging and/or production of electronically stored information in connection with the defense of a **Matter**.

E-Discovery Specialist Services means only the following services performed by an **E-Specialist Firm**:

- (A) assisting the **Insured** with managing and minimizing the internal and external costs associated with **E-Discovery**;
- (B) assisting the **Insured** in developing or formulating an **E-Discovery** strategy which shall include interviewing qualified and cost-effective **E-Discovery** vendors;
- (C) serving as project manager, advisor and/or consultant to the **Insured**, defense counsel and the Company in executing and monitoring the **E-Discovery** strategy; and
- (D) such other services provided by the **E-Specialist Firm** that the **Insured**, Company, and **E-Specialist Firm** agree are reasonable and necessary given the circumstances of the **Matter**.

E-Specialist Firm means the e-discovery consultant firms approved by the Company.

Employee means any natural person whose labor or service is, was or will be engaged and directed by an **Organization**, including a part-time, seasonal, leased or temporary employee, intern or volunteer. **Employee** shall not include any **Independent Contractor**.

EMTALA Matter means any **Matter** brought or maintained solely by a government or regulatory body alleging a violation of the Emergency Medical Treatment and Active Labor Act, 42 U.S.C., 1396dd et seq., or any similar state or local statutory law ("**EMTALA**"). Except as otherwise set forth in this definition, no coverage shall be provided under this Coverage Part for any **Matter** arising out of **EMTALA**.

Enforcement Unit means any federal, state, local, provincial or foreign law enforcement or governmental authority worldwide (including the Office of Inspector General, Internal Revenue Service,

Federal Drug Administration, Department of Health and Human Services, Centers for Medicare & Medicaid Services, U.S. Department of Justice, the U.S. Securities and Exchange Commission, or any attorney general).

Executive means any natural person who was, now is or shall become:

- (A) a duly elected or appointed director, officer, manager, or member of the Board of Managers, the Advisory Board or any duly constituted committee, or the in-house general counsel of any **Organization** incorporated, formed or organized in the United States of America;
- (B) a holder of an equivalent position to those described in Subsection (A) above in any **Organization** incorporated, formed or organized in a **Foreign Jurisdiction**; or
- (C) a **Board Observer** or **De Facto Director** of an **Organization** but only if such **Organization** has indemnified such **Board Observer** or **De Facto Director** as any director or officer of an **Organization**, to the fullest extent permitted by: (1) any **Global Law**; or (2) any contract or agreement providing an indemnification obligation exceeding such law.

Excess Benefit means an excess benefit as defined in the Taxpayer Bill of Rights Act 2, 26 U.S.C. 4958.

Extradition means any formal or written process by which an **Insured Person** located in any country is surrendered, or sought to be surrendered, to any other country for trial or otherwise to answer any criminal accusation, including the execution of an arrest warrant where such execution is an element of such process.

Financial Impairment means the status of an **Organization** resulting from:

- (A) the appointment by a state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar party (including a creditors' committee, if applicable) or foreign equivalent thereof empowered to initiate the assumption of control, supervision, management, or liquidation of such **Organization**; or
- (B) such **Organization** becoming a debtor in possession under United States bankruptcy law or the equivalent of a debtor in possession under the law of any **Foreign Jurisdiction**;

provided that the court or other judicial or administrative body overseeing the receivership, conservatorship, liquidation, rehabilitation, bankruptcy or equivalent proceeding has denied a request by the **Organization**, or other party determined to have standing, for authorization of the **Organization** to indemnify an **Insured Person** for **Loss**; provided further that, the Company may, in its sole discretion, waive the foregoing requirement.

Independent Contractor means any natural person working for an **Organization** in the capacity of an independent contractor and pursuant to an **Independent Contractor Services Agreement**.

Independent Contractor Services Agreement means any written contract or agreement between an **Independent Contractor**, or any entity on behalf of such **Independent Contractor**, and the **Organization**, governing the nature of the **Organization's** engagement of such **Independent Contractor**.

Inquiry means a **Securityholder or Member Inquiry** or written request to toll or waive the statute of limitations. An **Inquiry** is commenced by first receipt by an **Insured** of any applicable written demand or request.

Insurance Contract means any policy or agreement of insurance, reinsurance or indemnity, including any bond, annuity, or endowment; healthcare, dental, life or disability insurance plan or product; pension contract and risk management self-insurance program, pool or similar program; and any policy or program of stop loss or provider excess insurance, reinsurance or self-insurance.

Insured means any **Organization** and **Insured Person**.

Insured Person means any:

- (A) **Executive**;
- (B) **Employee**;
- (C) **Independent Contractor** working for an **Organization**, but only while acting in his or her capacity as such and only if the **Organization** agrees in writing, prior to or no later than thirty (30) days after a **Matter** is reported to the Company, to indemnify the **Independent Contractor** for liability arising out of such **Matter**; or
- (D) staff physician, nurse or medical director of an **Organization**, regardless of whether or not such person is directly employed by an **Organization** or is considered an **Independent Contractor** as set forth in (C) above.

Loss means the amount which an **Insured** becomes legally obligated to pay as a result of any **Matter**, including:

- (A) **Defense Costs**, compensatory damages, judgments, including pre-judgment and post-judgment interest;
- (B) settlements, including that portion of any settlement which represents claimant's attorney's fees;
- (C) punitive, exemplary or multiplied damages, if and to the extent such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages, provided such jurisdiction has a substantial relationship to the relevant **Insureds**, to the Company, or to the **Matter** giving rise to such damages;
- (D) civil fines or civil penalties: (1) assessed pursuant to a **Tax Matter** or **EMTALA Matter**; or (2) assessed against an **Insured Person** for a violation of **Global Law** including civil fines or penalties assessed against an **Insured Person** pursuant to 15 U.S.C. §78dd-2(g)(2)(B) (the Foreign Corrupt Practices Act), if and to the extent that such violation is neither intentional nor willful and only if such fines or penalties are insurable under the law of the jurisdiction in which such fines or penalties are assessed;
- (E) **Excess Benefit** penalties assessed in the amount of ten percent (10%) by the Internal Revenue Service against any **Insured** for management's involvement in the award of an **Excess Benefit**; and
- (F) the premium for a bail bond, if bail is available for an **Extradition** in the country at issue, provided the Company shall be under no obligation to provide such bail bond;

provided that **Loss** does not include any portion of such amount that constitutes any:

- (1) cost incurred to comply with any order for non-monetary (including injunctive) relief, or to comply with any agreement to provide such relief;
- (2) amount uninsurable under the law pursuant to which this Coverage Part is construed; provided that the Company shall not assert that any amount attributable to violations of Sections 11, 12 or 15 of the Securities Act of 1933, as amended, is subject to this Subsection (2), unless such amount is determined to be uninsurable in a final, non-appealable adjudication in the underlying action or proceeding (other than a declaratory or equivalent action or proceeding brought by or against the Company);
- (3) amount that represents, or is substantially equivalent to, an increase in the consideration paid (or proposed to be paid) in an acquisition or merger (or proposed acquisition or merger) of more than fifty percent (50%) of the outstanding securities or other ownership interest of an entity, including an **Organization**, or in the right to vote for election of, or to appoint, more than fifty percent (50%) of the directors, manager, member of the Board of Managers, or the equivalent of such positions, of an entity, including an **Organization**; provided that this Subsection (3) shall not apply to any amount otherwise covered under Insuring Clause (A), Individual Non-Indemnified Liability Coverage;

- (4) (a) twenty-five percent (25%) penalty assessed by the Internal Revenue Service against an **Insured** deemed to have received an **Excess Benefit**; (b) **Defense Costs** incurred to defend an **Insured Person** if it has been determined in fact that such **Insured Person** received an **Excess Benefit**; or (c) two-hundred percent (200%) penalty assessed by the Internal Revenue Service for failure to correct the award of an **Excess Benefit**;
- (5) taxes, fines or penalties, except as provided in Subsections (C) through (E) above;
- (6) cost incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for, or monitoring **Pollutants**;
- (7) **Pre-Matter Expense** or **Pre-Tender Expense**, except as provided under the Early Engagement Expense Coverage set forth in Section II(D) of this Coverage Part; or
- (8) amount that represents, or is substantially equivalent to, a payment, overpayment, return, reimbursement, disgorgement or restitution requested or required to be repaid by an **Insured**, or any amount owed under any contract, including an employment contract, or a partnership, stock or other ownership agreement.

Managed Care Activity means any of the following services or activities: (A) **Utilization Review**; (B) **Claim Services**; (C) reviewing the quality of **Medical Services** or providing quality assurance, wellness or health promotion education, including participation at health fairs and the administration of any vaccination, cholesterol and blood pressure tests; (D) the development or implementation of clinical guidelines, practice parameters or protocols; (E) the design or implementation of financial incentive plans, including compensation programs based upon process and quality measures; (F) establishing healthcare, dental, vision, behavioral health, and pharmacy networks; (G) pharmaceutical formulary development and management; (H) triage for payment of **Medical Services**; (I) advertising, marketing, selling or servicing healthcare, workers' compensation, dental, vision, behavioral health, prescription drug, or disability plans or any other **Insurance Contract**; (J) any actual or alleged conduct of any **Insured** in the negotiation, placement or maintenance of any **Insurance Contract**; (K) the administration or management of healthcare, workers' compensation, dental, vision, behavioral health, prescription drug or disability plans; and (L) the disciplining, evaluating, selecting, de-selecting, contracting, credentialing, privileging or peer review of any provider of **Medical Services**.

Managed Care Organization means any health maintenance organization, preferred provider organization, or any similar organization which provides, or arranges to provide, healthcare services to members under a written contract or agreement.

Matter means any **Claim** or **Inquiry**.

Medical Services means any healthcare, medical care, or treatment provided to others, including: (A) medical, surgical, dental, psychiatric, mental health, chiropractic, osteopathic, nursing or other professional healthcare; (B) the use, prescription, furnishing or dispensing of medications, drugs, blood, blood products or medical, surgical, dental or psychiatric supplies, equipment or appliances in connection with (A) above; (C) the furnishing of food or beverages in connection with (A) above; (D) counseling or other social services in connection with (A) or (B) above; (E) the handling of, or the performance of post-mortem examinations on human bodies; (F) any services in connection with any **Clinical Trial**, whether or not the trial adheres to a formal written protocol; and (G) failure to properly select, train, retain, evaluate, or supervise any provider of services, including any actual or alleged defects in the disciplining, evaluating, selecting, de-selecting, contracting, credentialing, privileging or peer review process.

Network Security or Privacy Breach means any:

- (A) unauthorized or unlawful access to, alteration of, or damage to any computer, computer program, computer network or computer database, including the infection of any of the foregoing through the transmission of a computer virus, malware, spyware or other fraudulent or unauthorized computer code that: (1) modifies, alters, damages, destroys, deletes, records or transmits information; (2) contaminates other computer programs or computer data; or (3) consumes computer resources or in some fashion usurps the normal operation of a computer system;

- (B) denial of service or delay, disruption, impairment or failure of any computer network, communication network, technology, information or telecommunication network, service, hardware or software;
- (C) unauthorized or unlawful access to, disclosure of, alteration of, theft, collection, storage, use or dissemination of, or loss of any data or confidential or proprietary business information or personally identifiable information as defined by: (1) applicable **Global Law**; or (2) an **Organization's** publicly stated privacy policy;
- (D) violation of any privacy protection or data security **Global Law**, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA), any amendments thereto or amendments pursuant to the Health Information Technology for Economic and Clinical Health Act (HITECH) of 2009; or
- (E) violation of any **Global Law** used to impose liability in connection with any unsolicited communication, distribution, publication, sending or transmission via telephone, cell or mobile phone, telephone facsimile machine, computer or other telephonic or electronic devices, including the United States of America Telephone Consumer Protection Act of 1991, United States of America CAN-SPAM Act of 2003, as amended.

Outside Capacity means service by an **Insured Person** in an **Outside Entity** as a: (A) director or officer; (B) manager or member of the Board of Managers; (C) trustee, regent, or governor; or (D) equivalent executive position of any of the foregoing, but solely during the time that such service is with the knowledge and express consent of an **Organization**.

Outside Entity means:

- (A) any non-profit corporation, community chest, fund or foundation that is exempt from federal income tax as an entity described in Section 501(c)(3), 501(c)(4), 501(c)(7) or 501(c)(10) of the Internal Revenue Code of 1986, as amended, or any other entity organized for a religious or charitable purpose under any non-profit organization act or statute; or
- (B) any other entity specifically added as an **Outside Entity** by written endorsement attached to this Coverage Part;

that is not an **Organization**.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, asbestos, asbestos products or waste. Waste includes medical waste or materials to be recycled, reconditioned or reclaimed.

Pre-Matter Expense means reasonable costs, charges fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees, or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing a notice of circumstance if such circumstance has been reported under Subsection (D) of Section V, Reporting, and a **Matter** subsequently arises out of such circumstance.

Pre-Tender Expense means reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing any **Matter** before such **Matter** has been reported under Subsections (A) or (B) of Section V, Reporting.

Professional Services means services, other than **Medical Services**, which are performed for others for a fee.

Provider Selection Matter means any **Matter** for a **Provider Selection Wrongful Act** brought or maintained by a provider of **Medical Services** registered or licensed to perform services pursuant to federal, state or applicable local government.

Provider Selection Wrongful Act means any act, error, omission, or breach of duty (including any discrimination or retaliation) committed as part of the disciplining, evaluating, selecting, de-selecting, contracting, credentialing, privileging or peer review process; provided any such act or process is performed by, or on behalf of, an **Organization** which is not a **Managed Care Organization**.

Regulatory Fraud Matter means any **Matter**, including any proceeding brought or maintained by an **Enforcement Unit** or by a relator in a qui tam action, for a **Regulatory Fraud Wrongful Act**; provided that a **Regulatory Fraud Matter** shall not include any routine or regularly scheduled regulatory inspection, compliance, review, examination, production or audit, including any request for mandatory information from a regulated entity, conducted in the normal review or compliance process of the **Organization** by any administrative, government or regulatory agency or entity, authority, commission, department, division or similar body of any kind. No coverage for a **Regulatory Fraud Matter** shall be provided under this Coverage Part except as set forth in Coverage Extension (B).

Regulatory Fraud Wrongful Act means any actual or alleged violation by an **Insured** of the responsibilities, obligations or duties imposed by the Federal False Claims Act or any similar **Global Law**, or any anti-kickback, self-referral, or healthcare fraud and abuse **Global Law**.

Securityholder or Member Inquiry means any:

- (A) **Derivative Demand Investigation**;
- (B) **Appraisal Action**; or
- (C) **Books and Records Request**.

Securityholder or Member Matter means any:

- (A) **Claim** against an **Insured** for a violation of any **Global Law** relating to securities brought by: (1) a securityholder of an **Organization** solely in connection with such securityholder's interest in the securities of such **Organization**, or (2) any person or entity solely in connection with the purchase or sale of, or offer to purchase or sell securities of an **Organization**;
- (B) **Claim** brought as a securityholder derivative demand or action, on behalf of an **Organization** against an **Insured Person** or the **Organization** (in the **Organization's** capacity as a nominal defendant);
- (C) **Securityholder or Member Inquiry**, subject to the Sublimit set forth in Item 4(A) of the D&O portion of the Declarations; or
- (D) other **Matter** which is brought by or on behalf of one or more securityholders or members of an **Organization** in their capacity as such;

provided such **Securityholder or Member Matter** is brought without the solicitation, assistance, active participation, or intervention of any **Executive**.

Tax Matter means a **Matter** brought or maintained by the Internal Revenue Service seeking an assessment of taxes, initial taxes, additional taxes, tax deficiencies, excise taxes or penalties pursuant to the Internal Revenue Code of 1986, as amended, ("**IRC**") but only so long as, the **Insureds** relied upon, with respect to such **Matter**: (A) the written advice of tax counsel licensed to practice law in the United States of America or a Certified Public Accountant; or (B) a tax return prepared by a Certified Public Accountant. Except as otherwise set forth in this definition, a **Tax Matter** shall not include any **Matter** brought or maintained by the Internal Revenue Service.

Utilization Review means the process of evaluating the appropriateness, necessity or cost of **Medical Services** for purposes of determining whether payment or coverage for such **Medical Services** will be authorized or paid for under any healthcare plan, including the prospective review of proposed payment or coverage for **Medical Services**, concurrent review of ongoing **Medical Services**, retrospective review of already rendered **Medical Services** or already incurred costs, disease management, and case management.

Wrongful Act means:

- (A) any actual or alleged error, misstatement, misleading statement, act, omission, neglect, breach of duty, **Antitrust Wrongful Act** or **Provider Selection Wrongful Act** committed, attempted, or allegedly committed or attempted by: (1) an **Insured Person** while acting in his or her capacity as such, or in an **Outside Capacity**; or (2) for purposes of coverage under Insuring Clause (C), Entity Liability Coverage, an **Organization**;
- (B) for purposes of coverage under Coverage Extension (B), a **Regulatory Fraud Wrongful Act**; or
- (C) any other matter claimed against an **Insured Person** solely by reason of serving in his or her capacity or status as such.

IV. EXCLUSIONS

(A) EXCLUSIONS APPLICABLE TO ALL INSUREDS

The Company shall not be liable for any **Loss** on account of any **Matter**:

(1) Prior Notice

based upon, arising from or in consequence of any **Wrongful Act**, fact, circumstance or **Matter** that was the subject of any notice accepted under any prior management liability coverage;

(2) Pending or Prior Proceedings

based upon, arising from or in consequence of any written demand first received by, or action, proceeding, **Matter** or **Matter** that is **Related** commenced against any **Insured**, on or prior to the applicable Pending or Prior Proceedings Date set forth in Item (F) of the D&O portion of the Declarations;

(3) Bodily Injury/Property Damage

based upon, arising from or in consequence of any bodily injury, mental anguish, humiliation, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property, including loss of use thereof, whether or not it is damaged or destroyed; provided that this Exclusion (A)(3) shall not apply to a **Loss** on account of any: (a) **Provider Selection Matter**, (b) **Clinical Trial Matter**; (c) **EMTALA Matter**; or (d) **Securityholder or Member Matter**;

(4) Pollution

based upon, arising from or in consequence of any: (a) discharge, emission, release, dispersal or escape of any **Pollutants** or any threat thereof; (b) treatment, removal or disposal of any **Pollutants**; or (c) regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any **Pollutants**; provided that this Exclusion (A)(4) shall not apply to **Loss** on account of any: (i) **Matter** against an **Insured Person** that is not indemnified by an **Organization**; or (ii) **Securityholder or Member Matter**;

(5) ERISA

for any violation of the responsibilities, obligations or duties imposed by Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985, and the Health Insurance Portability and Accountability Act of 1996), all as amended, or any similar **Global Law**;

(6) Insured versus Insured

brought by or on behalf of: (a) an **Insured** in any capacity; (b) an **Outside Entity** against an **Insured Person** serving in an **Outside Capacity**; or (c) a securityholder or member of an **Organization** with the solicitation, assistance, active participation or intervention of any **Executive** against an **Insured**; provided that this Exclusion (A)(6) shall not apply to any:

- (i) **Securityholder or Member Matter**;
- (ii) **Provider Selection Matter**; or
- (iii) other **Matter**:
 - a. brought against an **Insured Person**:
 - 1. outside the United States of America or Canada;
 - 2. while an **Organization** is in **Financial Impairment**;
 - 3. for employment-related **Wrongful Acts** if the **Loss** is not indemnified by the **Organization**; or
 - 4. for contribution or indemnity arising from another **Matter** otherwise covered under this Coverage Part;
 - b. brought by an **Executive** who has ceased serving in his or her capacity as an **Executive** for at least one (1) year; or
 - c. brought by a whistleblower pursuant to any **Global Law**;

(7) Publicly Traded Securities

based upon, arising from or in consequence of: (a) any public offering of securities issued by any **Organization** or **Outside Entity**; or (b) the violation of any **Global Law** relating to securities, including the Securities Act of 1933 and the Securities Exchange Act of 1934, all as amended; provided that this Exclusion A(7) shall not apply to **Loss** on account of any **Matter**:

- (i) based upon, arising from or in consequence of an offering, sale or purchase of:
 - a. securities that are not required to be registered under the Securities Act of 1933 or any **Global Law** that regulates the offering, sale or purchase of securities, including an offering, sale or purchase made pursuant to Regulation D or Regulation S under the Securities Act of 1933 or Titles II, III or IV of the JOBS Act, all as amended; or
 - b. debt securities, provided such securities were offered to the public prior to the **Policy Period**;
- (ii) made by any securityholder of an **Organization** for the failure of the **Organization** to undertake or complete the initial public offering or sale of securities of the **Organization**; or
- (iii) for any **Wrongful Act** relating to an **Organization's** preparation for any public offering, including any road show presentation to potential investors or other similar presentation, made by the **Organization** and its **Executives** via any medium in connection with such public offering, if such offering does not occur;

(8) Conduct

based upon, arising from or in consequence of:

- (a) any deliberate fraud, any deliberate criminal act, or any knowing and willful violation of any **Global Law**, by an **Insured**, provided that, for acts or omissions which are treated as a criminal violation in a **Foreign Jurisdiction** and that are not treated as a criminal violation in the United States of America, the imposition of a criminal fine or other criminal sanction in such **Foreign Jurisdiction** will not, by itself, be conclusive proof that a deliberate fraud, deliberate criminal act, or knowing and willful violation has occurred;
- (b) an **Insured Person** having gained any personal profit, remuneration or other financial advantage to which such **Insured Person** was not legally entitled; or
- (c) an **Organization** having gained any profit, remuneration or other financial advantage to which such **Organization** was not legally entitled,

established by a final, non-appealable adjudication in the underlying action or proceeding; provided that Paragraphs (8)(b) and (8)(c) above shall not apply to that portion of a **Securityholder or Member Matter** for a violation of Section 11, 12, or 15 of the Securities Act of 1933, as amended, to the extent such amount is insurable under the law pursuant to which this Coverage Part is construed;

(9) Employment-Related / Third-Party

based upon, arising from or in consequence of any employment-related **Wrongful Act**; or any discrimination against, or harassment, including sexual harassment of any third party; provided that this Exclusion (A)(9) shall not apply to **Loss** on account of any: (a) **Provider Selection Matter**; or (b) **Securityholder or Member Matter**;

(10) Personal Injury

based upon, arising from or in consequence of any libel, slander, oral or written publication of defamatory or disparaging material, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, malicious use or abuse of process, assault, battery or loss of consortium; provided that this Exclusion (A)(10) shall not apply to **Loss** on account of any: (a) **Provider Selection Matter**; or (b) **Securityholder or Member Matter**;

(11) Medical Services

for a **Wrongful Act** in the rendering of, or the failure to render any **Medical Services**; provided that this Exclusion (A)(11) shall not apply to **Loss** on account of any: (a) **Regulatory Fraud Matter**; (b) **Provider Selection Matter**; (c) **Clinical Trial Matter**; or (d) **EMTALA Matter**;

(12) Managed Care

based upon, arising from or in consequence of the rendering of, or failure to render any **Managed Care Activity**; provided that this Exclusion (A)(12) shall not apply to **Loss** on account of any: (a) **Regulatory Fraud Matter**; (b) **Provider Selection Matter**; or (c) **Securityholder or Member Matter**;

(13) Professional Services

based upon, arising from or in consequence of the rendering of, or failure to render any **Professional Services**; provided that this Exclusion (A)(13) shall not apply to **Loss** on account of any: (a) **Regulatory Fraud Matter**; (b) **Provider Selection Matter**; (c) **Clinical Trial Matter**; (d) **EMTALA Matter**; or (e) **Securityholder or Member Matter**;

(14) Sexual Behavior

for any actual or alleged sexual abuse, sexual assault, or molestation, including any mental anguish or emotional distress resulting therefrom and the failure to supervise or report any person alleged to have engaged in such misconduct; provided that this Exclusion (A)(14) shall not apply to **Loss** on account of any **Provider Selection Matter**; or

(15) Network Security/Privacy Breach

based upon, arising from or in consequence of any **Network Security or Privacy Breach**, provided that this Exclusion (A)(15) shall not apply to **Loss** on account of any: (a) **Matter** against an **Insured Person** that is not indemnified by an **Organization**; or (b) **Securityholder or Member Matter**;

(16) Billing

for a **Wrongful Act** in the improper billing or collection of fees for **Medical Services** or any other services, provided that this Exclusion (A)(16) shall not apply to **Loss** on account of any **Regulatory Fraud Matter**.

(B) EXCLUSIONS APPLICABLE TO THE ORGANIZATION ONLY

The Company shall not be liable for any **Loss** on account of any **Matter** against an **Organization**:

(1) Contract

based upon, arising from or in consequence of any liability in connection with any written contract or agreement to which an **Organization** is a party; provided that this Exclusion (B)(1) shall not apply to: (a) **Loss** on account of any **Securityholder or Member Matter**; or (b) the extent that such **Organization** would have been liable in the absence of such contract or agreement;

(2) Goods/Products

based upon, arising from or in consequence of:

- (a) any malfunction of any product or failure of any product to perform in any manner as a result of any defect, deficiency, inadequacy or dangerous condition in such product or in its design or manufacture; or
- (b) any false advertising, misrepresentation in advertising or unfair or deceptive trade practices, with respect to or the labeling or advertising of the **Insured's** own goods, publications or services;

provided that this Exclusion (B)(2) shall not apply to **Loss** on account of any **Securityholder or Member Matter**; or

(3) Intellectual Property

based upon, arising from or in consequence of any infringement, misappropriation, or violation of copyright, patent, service marks, trademarks, trade secrets, title or other proprietary or licensing rights or intellectual property of any products, technologies or services; provided that this Exclusion (B)(3) shall not apply to **Loss** on account of any **Securityholder or Member Matter**.

For the purpose of determining the applicability of the foregoing Exclusion (A)(8) above: (i) the **Wrongful Acts**, conduct, or actual knowledge of, or facts pertaining to, one **Insured** shall not be imputed to any **Insured Person**; and (ii) solely with respect to Insuring Clause (C), the **Wrongful Acts**, conduct, or actual knowledge of, or facts pertaining to the **Control Group** of an **Organization** shall be imputed to such **Organization** and its **Subsidiaries**, provided that, the foregoing Subparagraph (ii) shall not preclude the application of Exclusion (A)(8) if the **Organization** is adjudicated in its own right.

V. REPORTING

- (A) An **Insured** shall give to the Company written notice of any **Claim** as soon as practicable after the **Control Group** of an **Organization** becomes aware of such **Claim**, but in no event later than:
- (1) if this Coverage Part expires (or is otherwise terminated) without being renewed with the Company, ninety (90) days after the effective date of such expiration or termination; or
 - (2) the expiration date of the Extended Reporting Period, if applicable;
- provided that if the Company sends written notice to the **Parent Organization** stating that this Coverage Part is being terminated for nonpayment of premium, an **Insured** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.
- (B) The **Insureds**, at their discretion, may give to the Company written notice of any **Inquiry** no later than ninety (90) days after the **Control Group** first becomes aware of such **Inquiry**. No coverage shall be available under this Coverage Part for **Loss** on account of any unreported **Inquiry**.
- (C) With respect to Subsections (A) and (B) above, such written notice to the Company shall be a condition precedent to coverage for any **Matter**. Provided, however, if the **Parent Organization** can prove to the Company's satisfaction that it was not reasonably possible for the **Insureds** to give such notice within the time periods set forth in Subsections (A) or (B) above and that subsequent notice was given as soon as reasonably possible thereafter, the Company shall waive the foregoing time period.
- (D) If during the **Policy Period** an **Insured** gives written notice to the Company of any circumstance which could give rise to a subsequent **Matter**, then such **Matter** subsequently arising from such circumstance shall be deemed to have been first made during the **Policy Period** in which such written notice was first given by an **Insured** to the Company; provided any such subsequent **Matter** is reported to the Company as soon as practicable after the **Control Group** first becomes aware of such **Matter**.
- (E) The **Insureds** shall give to the Company in any written notice described in Subsections (A), (B) or (D) above a description of the **Matter** or circumstance, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage, and the names of all actual or potential defendants.

VI. DEFENSE AND SETTLEMENT

- (A) If Duty to Defend Defense is selected in Item 4(G) of the D&O portion of the Declarations, then:
- (1) the Company shall have the right and duty to defend any **Matter** covered by this Coverage Part, including the right to select defense counsel from the current list of approved defense firms for the jurisdiction in which such **Matter** is pending;
 - (2) coverage shall apply even if any of the allegations are groundless, false or fraudulent; and
 - (3) the Company's obligation to pay **Loss**, including **Defense Costs**, or to defend or continue to defend any **Matter** shall cease upon exhaustion of the applicable Limit of Liability or Sublimit.
- (B) If Reimbursement Defense is selected in Item 4(G) of the D&O portion of the Declarations, or, if the **Insured** has the duty to defend or exercises any legal right to appoint counsel for the defense of a **Matter** covered by this Coverage Part, then:
- (1) the **Insured** shall have the duty to defend **Matters** made against the **Insured**, including the right to select defense counsel, subject to the Company's approval which shall not be unreasonably withheld;

- (2) the **Insured** agrees that: (a) defense counsel shall adhere in all respects to the Company's Litigation Management Guidelines; and (b) **Defense Costs** shall not include any costs, charges, fees or expenses: (i) that are not billed in accordance with the hourly rates agreed to between the **Insured** and the Company; (ii) that do not adhere in all respects to the Company's Litigation Management Guidelines; (iii) related to travel incurred by any firm while traveling to, from or within any state in which such firm does not maintain an office; and (iv) incurred by or through the use of local counsel. The Company shall not be liable for any such **Defense Costs** unless incurred with the Company's written consent, which shall not be unreasonably withheld; and
- (3) the Company shall advance covered **Defense Costs** on a current basis on account of a **Matter** reported pursuant to Section V, Reporting, on a current basis, but no later than sixty (60) days after receipt by the Company of bills or invoices detailing such **Defense Costs** and all other information reasonably requested by the Company with respect to such bills or invoices, until such time the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or any applicable Sublimit has been exhausted, whichever first occurs. Any advancement of **Defense Costs** shall reduce the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or any applicable Sublimit.
- (C) With respect to Subsections (A) and (B) above:
- (1) the **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defense Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented;
- (2) the **Insured** agrees, with respect to a **Matter**, to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agrees that the **Insured** shall not do anything that could prejudice the Company's position or its potential or actual rights of recovery; provided that the failure of any **Insured** to give the Company such information, assistance or cooperation shall not impair the rights of any other **Insured Person** under this Coverage Part;
- (3) in the event an **Organization** refuses in writing, or fails within sixty (60) days of an **Insured Person's** written request for indemnification, to advance, pay or indemnify an **Insured Person** for **Defense Costs** on account of a **Matter** reported pursuant to Section V, Reporting, the Company shall pay or advance covered **Defense Costs** on a current basis until such time that the **Organization** accepts an **Insured Person's** request for indemnification or the Limit of Liability set forth in Item 4(A) of the D&O portion of the Declarations or applicable Sublimit has been exhausted, whichever first occurs; and
- (4) any payment or advancement of **Defense Costs** shall be repaid to the Company by the **Insureds**, severally according to their respective interests, if and to the extent it is determined that such **Defense Costs** are not insured under this Coverage Part; provided the Company shall not seek repayment from an **Insured** of any **Defense Costs** paid or advanced by the Company that are deemed uninsured pursuant to Exclusion (A)(8), Conduct, unless a final, non-appealable adjudication has occurred.

VII. ALLOCATION

- (A) Except as provided in Subsection (B) below, if an **Insured** who is afforded coverage for a **Matter** incurs an amount consisting of both **Loss** that is covered by this Coverage Part and any amount that is not covered by this Coverage Part, then:
- (1) one hundred percent (100%) of **Defense Costs** incurred by such **Insured** on account of such **Matter** shall be covered **Loss**; and

- (2) with respect to loss other than **Defense Costs**, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters.
- (B) Notwithstanding anything in (A) above, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters, if:
- (1) Reimbursement Defense is selected in Item (G) of the D&O portion of the Declarations;
 - (2) the **Insured** has the duty to defend or exercises any legal right to appoint counsel for the defense of a **Matter** covered by this Coverage Part; or
 - (3) coverage with respect to any **Insured** is excluded, in whole or in part, pursuant to Exclusion (B)(2)(b), or Subsection XII(C), Representations and Severability of the General Terms and Conditions.

VIII. OTHER INSURANCE

- (A) If any **Loss** under this Coverage Part is insured under any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this Coverage Part), this Coverage Part shall be excess of and shall not contribute with such other insurance, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
- (B) This Coverage Part shall be specifically excess of, and shall not contribute with, any valid and collectible insurance for privacy, network security or cyber liability, professional liability or general liability, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
- (C) The Additional Limit of Liability Dedicated For **Executives** set forth in Coverage Extension (E) shall be excess of any insurance available that is specifically excess to this Coverage Part and such excess insurance must be completely exhausted by payment of loss, damages or defense costs thereunder before the Company shall have any obligation to make any payment. Any coverage afforded under this Coverage Part for a **Matter** in connection with an **Insured Person** serving in an **Outside Capacity** for an **Outside Entity** shall be specifically excess of any indemnity (other than any indemnity provided by an **Organization**) and insurance available to such **Insured Person** by reason of serving in such **Outside Capacity**. Notwithstanding the foregoing, if the Company or any subsidiary or affiliate of Chubb Limited (“Chubb”) makes payment under another coverage part or policy on account of such **Matter**, the applicable Limit of Liability for this Coverage Part with respect to such **Matter** shall be reduced by the amount of such payment.

IX. CO-INSURANCE

To the extent that a **Matter** is subject to Co-Insurance as set forth in Item 4(E) of the D&O portion of Declarations, with respect to that part of **Loss** which is excess of the applicable Retention, the **Insured** shall bear uninsured and at their own risk that percentage of such **Loss** specified as the applicable Co-Insurance Percentage, and the Company’s liability shall apply only to the remaining percentage of such **Loss**.

In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company and the Insureds agree as follows:

I. INSURING CLAUSES

Insuring Clause (A): Employment Practices Liability Coverage

- (A) The Company shall pay, on behalf of an **Insured**, **Loss** on account of an **Employment Claim** first made against the **Insured** during the **Policy Period**.

Insuring Clause (B): Third Party Liability Coverage

- (B) The Company shall pay, on behalf of an **Insured**, **Loss** on account of a **Third Party Claim** first made against the **Insured** during the **Policy Period**.

II. COVERAGE EXTENSIONS

(A) **Written Request to Toll or Waive a Statute of Limitation Coverage**

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by such **Insured** in responding to a written request to toll or waive a statute of limitations, first made during the **Policy Period**, applicable to a potential **Claim**.

(B) **Early Engagement Expense Coverage**

In the event of any **Pre-Matter Expense**, **Pre-Tender Expense** or **Early Settlement Opportunity**, an aggregate amount not to exceed the lesser of: (1) \$25,000; or (2) fifty percent (50%) of the applicable Retention, shall qualify as **Loss** solely for the purpose of exhaustion of the applicable Retention. Once the applicable Retention has been exhausted, any **Pre-Matter Expense** or **Pre-Tender Expense** shall no longer qualify as covered **Loss** under this Coverage Part.

Coverage provided herein shall not be deemed to waive the Company's rights hereunder or limit the **Insured's** right to receive coverage for **Loss** incurred following the reporting of a **Matter**.

Coverage Extension (A) above shall be subject to any applicable Limit of Liability, Sublimit and Retention set forth in the EPL portion of the Declarations and this Policy.

III. DEFINITIONS

For purposes of this Coverage Part:

Benefits means perquisites, fringe benefits, deferred compensation or payments (including insurance premiums) in connection with an employee benefit plan and any other payment to or for the benefit of an employee arising out of the employment relationship. **Benefits** shall not include salary, wages, commissions, bonuses, **Stock Benefits** or non-deferred cash incentive compensation.

Breach of Employment Contract means any breach of any oral, written or implied contract or contractual obligation including any contract or contractual obligation arising out of any personnel manual, employee handbook, policy statement or other representation.

Claim means any **Employment Claim** and any **Third Party Claim**.

Control Group means the chief executive officer, executive director, president, in-house general counsel, head of human resources, risk manager or any person with the responsibility for the management of insurance claims (or any equivalent position to any of the foregoing) of an **Organization**.

Defense Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including attorneys' fees, experts' fees and the cost of **E-Discovery Specialist Services**) and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**) incurred in:

- (A) investigating, defending, opposing or appealing any **Claim**, and the premium for appeal, attachment or similar bonds; or
- (B) responding to a written request to toll or waive the statute of limitations.

Early Settlement Opportunity means any settlement recommended by the Company within the Limit of Liability set forth in Item 4(A) of the EPL portion of the Declarations which is agreed to by the claimant where: (A) the **Insureds** consent to such settlement within thirty (30) days of the date the **Insureds** are first made aware of the opportunity to settle; (B) such consent occurs within the first ninety (90) days after the **Matter** is first reported to the Company; and (C) such **Matter** is reported to the Company within the first thirty (30) days after it is made. The **Insured** agrees not to settle or offer to settle any **Claim** or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement assumed obligation or admission to which it has not consented.

E-Discovery means the review, development, collection, cataloging and/or production of electronically stored information in connection with the defense of a **Matter**.

E-Discovery Specialist Services means only the following services performed by an **E-Specialist Firm**:

- (A) assisting the **Insured** with managing and minimizing the internal and external costs associated with **E-Discovery**;
- (B) assisting the **Insured** in developing or formulating an **E-Discovery** strategy which shall include interviewing qualified and cost-effective **E-Discovery** vendors;
- (C) serving as project manager, advisor or consultant to the **Insured**, defense counsel, and the Company in executing and monitoring the **E-Discovery** strategy; and
- (D) such other services provided by the **E-Specialist Firm** that the **Insured**, Company, and **E-Specialist Firm** agree are reasonable and necessary given the circumstances of the **Matter**.

E-Specialist Firm means any e-discovery consultant firm approved by the Company.

Employee means any natural person whose labor or service was, is or will be engaged and directed by an **Organization**, including a part-time, seasonal, leased and temporary employee, intern or volunteer. **Employee** shall not include any **Independent Contractor**.

Employment Claim means:

- (A) any:
 - (1) written demand (other than a written request to toll or waive a statute of limitations, subpoena or other investigatory instrument):
 - (a) for monetary or non-monetary (including injunctive) relief; or
 - (b) for an arbitration proceeding pursuant to an employment contract, policy or practice of an **Organization**, or any other external alternative dispute resolution proceeding,
 commenced by first receipt of such demand by an **Insured**;
 - (2) proceeding, including any appeal therefrom, commenced by:
 - (a) the service of a civil complaint or similar pleading, or any foreign equivalent thereof; or

- (b) the return of an indictment, information or any foreign equivalent thereof; or
- (3) administrative, regulatory or tribunal proceeding, including any appeal therefrom, commenced by:
 - (a) the issuance of a notice of charges, formal investigative order or foreign equivalent thereof; or
 - (b) in the event an **Insured** is not issued notice as set forth in Subparagraph (3)(a) above, the receipt by an **Insured** of the charge, formal investigative order or foreign equivalent thereof; or
- (B) in the context of an audit conducted by the Office of Federal Contract Compliance Programs, a Notice of Violation or Order to Show Cause or written demand for monetary relief or injunctive relief, commenced by the receipt by an **Insured** of such notice, order or written demand,

which is brought and maintained by or on behalf of a past, present or prospective employee, an applicant for employment, intern, volunteer or an independent contractor of an **Organization** against an **Insured** for an **Employment Practices Wrongful Act**.

Notwithstanding the foregoing, **Employment Claim** shall not include any labor or grievance proceeding, arbitration proceeding or any other proceeding pursuant to a collective bargaining agreement.

Employment Discrimination means any violation of employment discrimination laws or discrimination based upon a **Protected Status**.

Employment Harassment means any workplace harassment (including bullying) of a sexual or non-sexual nature that interferes with performance or creates an abusive, intimidating, hostile or offensive working environment within an **Organization**, even if not perpetrated by an **Insured Person**.

Employment Practices Wrongful Act means any actual or alleged:

- (A) **Breach of Employment Contract;**
- (B) **Employment Discrimination;**
- (C) **Employment Harassment;**
- (D) **Retaliation;**
- (E) **Workplace Tort;**
- (F) **Wrongful Employment Decision;**
- (G) **Wrongful Termination;** or
- (H) act described in Subsections (A) through (G) above that occurs via social media or social networking;

committed, attempted, or allegedly committed or attempted by an **Organization**, or by an **Insured Person** while acting in his or her capacity as such.

Executive means any natural person who was, now is or shall become:

- (A) a duly elected or appointed director, officer, manager, or member of the Board of Managers, the Advisory Board or any duly constituted committee, or the in-house general counsel of any **Organization** incorporated, formed or organized in the United States of America; or
- (B) a holder of an equivalent position to those described in Subsection (A) above in any **Organization** incorporated, formed or organized in a **Foreign Jurisdiction**.

Financial Impairment means the status of an **Organization** resulting from:

- (A) the appointment by a federal or state official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar party (including a creditors' committee, if applicable) or foreign equivalent thereof empowered to initiate the assumption of control, supervision, management or liquidation such **Organization**; or
- (B) such **Organization** becoming a debtor in possession under United States bankruptcy law or the equivalent of a debtor in possession under the law of any **Foreign Jurisdiction**.

Independent Contractor means any natural person working for an **Organization** in the capacity of an independent contractor and pursuant to an **Independent Contractor Services Agreement**.

Independent Contractor Services Agreement means any written contract or agreement between an **Independent Contractor**, or any entity on behalf of such **Independent Contractor**, and an **Organization**, governing the nature of the **Organization's** engagement of such **Independent Contractor**.

Insured means any **Organization** and any **Insured Person**.

Insured Person means any:

- (A) **Executive**;
- (B) **Employee**; or
- (C) **Independent Contractor** working for an **Organization**, but only while acting in his or her capacity as such and only if the **Organization** agrees in writing, prior to or no later than thirty (30) days after a **Matter** is reported to the Company, to indemnify the **Independent Contractor** for liability arising out of such **Matter**.

Loss means the amount which an **Insured** becomes legally obligated to pay as a result of any **Matter**, including:

- (A) **Defense Costs**, compensatory damages, judgments, including pre-judgment and post-judgment interest;
- (B) settlements, including that portion of any settlement which represents claimant's attorney's fees;
- (C) punitive, exemplary or multiplied damages, if and to the extent such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages, provided such jurisdiction has a substantial relationship to the relevant **Insureds**, to the Company, or to the **Matter** giving rise to such damages;
- (D) liquidated damages awarded pursuant to the Age Discrimination in Employment Act, Family and Medical Leave Act or Equal Pay Act; and
- (E) back pay or front pay;

provided that **Loss** does not include any portion of such amount that constitutes any:

- (1) cost incurred by any **Insured** to comply with any order for non-monetary (including injunctive) relief or to comply with an agreement to provide such relief, or cost associated with providing any accommodation for persons with disabilities or any other status which is protected under any applicable **Global Law**, including the Americans with Disabilities Act and the Civil Rights Act of 1964, all as amended;
- (2) amount uninsurable under the law pursuant to which this Coverage Part is construed;
- (3) taxes, fines or penalties, except as provided in (C) and (D) above;

- (4) **Pre-Matter Expense** or **Pre-Tender Expense**, except as provided under the Early Engagement Expense Coverage set forth in Section II(B) of this Coverage Part;
- (5) future salary, wages, commissions or **Benefits** of a claimant who has been or shall be hired, promoted or reinstated to employment pursuant to a settlement, order or other resolution of any **Matter**;
- (6) salary, wages, commissions, **Benefits** or other monetary payments which constitute a severance payment or obligation payable upon termination of employment or payments pursuant to a notice period;
- (7) **Benefits** due or to become due or the equivalent value of such **Benefits**, except with respect to any **Employment Claim** for **Wrongful Termination**;
- (8) **Stock Benefits** or any amounts based on or compensating for any alleged denial, deprivation, or future expectation of any right to **Stock Benefits**; or
- (9) amounts owed under any:
 - (a) written employment contract; or
 - (b) **Independent Contractor Services Agreement**;

except to the extent an **Insured** would have been liable for such **Loss** in the absence of such written employment contract or **Independent Contractor Services Agreement**.

Mass or Class Action means any **Matter** brought or maintained:

- (A) by or on behalf of five or more natural persons who are acting in concert, whether or not such natural persons are represented by one or more legal counsel;
- (B) by or on behalf of one to four natural persons if any of such natural persons are making a pattern and practice or systemic discrimination allegation and are seeking monetary relief on behalf of a class or group of complainants in order to resolve such **Matter**, whether or not such natural persons are represented by one or more legal counsel; or
- (C) by a governmental entity, department or agency making a pattern and practice or systemic discrimination allegation or seeking monetary relief on behalf of a class or group of complainants in order to resolve such **Matter**.

Matter means any **Claim** or written request to toll or waive the statute of limitations. A written request to toll or waive a statute of limitations is commenced by first receipt by an **Insured** of such written request.

Potential Claim means a complaint or allegation of a **Wrongful Act** by or on behalf of a potential claimant if such complaint or allegation:

- (A) does not constitute a **Matter** but may subsequently give rise to a **Matter**; and
- (B) is communicated to:
 - (1) any supervisory employee having management-level responsibility for personnel matters with respect to such claimant; or
 - (2) any member of an **Organization's** human resources, general counsel or risk management departments, or any other comparable department.

Pre-Matter Expense means reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees, or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing a **Potential Claim** if such **Potential Claim** has been reported under Subsection (D) of Section V, Reporting, and a **Matter** subsequently arises out of such **Potential Claim**.

Pre-Tender Expense means reasonable costs, charges, fees (including attorneys' fees and experts' fees), and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing any **Matter** before such **Matter** has been reported under Subsections (A) or (B) of Section V, Reporting.

Protected Status means a natural person's race, color, religion, creed, genetic information, age, sex, disability, marital status, national origin, pregnancy, HIV status, sexual orientation or preference or other status that is protected pursuant to any **Global Law**, as well as such natural person's Vietnam Era Veteran or other military status, political affiliation, or gender identity or expression.

Retaliation means retaliatory treatment against an **Employee** or **Independent Contractor** of an **Organization** on account of such individual:

- (A) exercising his or her rights under law, refusing to violate any law or opposing any unlawful practice;
- (B) having assisted or testified in or cooperated with a proceeding or investigation (including any internal investigation conducted by an **Organization's** human resources department or legal department) regarding alleged violations of law by an **Insured**;
- (C) disclosing or threatening to disclose to a superior or to any governmental agency any alleged violations of law; or
- (D) filing any claim against an **Organization** under the Federal False Claims Act, Section 806 of the Sarbanes Oxley Act or any other whistleblower **Global Law**.

Stock Benefits means any:

- (A) offering, plan or agreement between an **Organization** and any employee which grants stock, warrants, shares or stock options of the **Organization** to such employee, including grants of stock options, restricted stock, stock warrants, performance stock shares, membership shares or any other compensation or incentive granted in the form of securities of the **Organization**; or
- (B) payment or instrument, the amount or value of which is derived from the value of securities of the **Organization**, including stock appreciation rights or phantom stock plans or arrangements;

provided that **Stock Benefits** shall not include amounts claimed under any employee stock ownership plans or employee stock purchase plans.

Third Party means any natural person who is not a past, present or prospective employee, applicant for employment, intern, volunteer or independent contractor of an **Organization**, or a group of such natural persons.

Third Party Claim means any:

- (A) written demand (other than a written request to toll or waive a statute of limitations, subpoena or other investigatory instrument):
 - (1) for monetary or non-monetary (including injunctive) relief; or
 - (2) for arbitration, mediation or other equivalent alternative dispute resolution proceeding, commenced by the first receipt of such demand by an **Insured**;
- (B) proceeding, including any appeal therefrom, commenced by the service of a civil complaint or similar pleading, or any foreign equivalent thereof; or
- (C) administrative, regulatory or tribunal proceeding, including any appeal therefrom, commenced by the service of a notice of charges, formal investigative order, or foreign equivalent thereof;

which is brought and maintained by or on behalf of a **Third Party** against an **Insured** for a **Third Party Wrongful Act**, including any appeal therefrom.

Third Party Wrongful Act means any actual or alleged:

- (A) discrimination against a **Third Party** based upon such **Third Party's Protected Status**;
- (B) harassment, including sexual harassment, unwelcome sexual advances or requests for sexual favors against a **Third Party**; or
- (C) act described in Subsections (A) or (B) above that occurs via social media or social networking, committed, attempted, or allegedly committed or attempted by an **Organization**, or by an **Insured Person** while acting in his or her capacity as such.

Workplace Tort means any:

- (A) employment-related:
 - (1) misrepresentation (including any inducement to become or remain employed based upon an erroneous job description);
 - (2) defamation (including libel and slander) or disparagement;
 - (3) invasion of privacy (including the unauthorized use or disclosure of an **Employee's** (a) medical information in violation of the Health Insurance Portability and Accountability Act; (b) credit information or related information in violation of the Fair Credit Reporting Act; or (c) other information obtained through an employment-related background check);
 - (4) negligent evaluation;
 - (5) wrongful discipline;
 - (6) wrongful deprivation of career opportunity;
 - (7) violation of the Family Medical Leave Act or any similar **Global Law**; or
 - (8) violation of the Uniformed Services Employment and Reemployment Rights Act of 1994; or
- (B) employment-related:
 - (1) negligent retention, supervision, or hiring;
 - (2) denial of or negligent training;
 - (3) wrongful infliction of emotional distress, mental anguish or humiliation;
 - (4) failure to provide or enforce consistent employment-related corporate policies and procedures; or
 - (5) false imprisonment, malicious prosecution or false arrest;

but only when alleged as part of an **Employment Claim** for any **Wrongful Employment Decision, Breach of Employment Contract, Employment Discrimination, Employment Harassment, Retaliation, Wrongful Termination**, or any act set forth in Subsection (A) of this definition.

Wrongful Act means an **Employment Practices Wrongful Act** or **Third Party Wrongful Act**.

Wrongful Employment Decision means any wrongful demotion, denial of tenure, or failure or refusal to hire or promote, failure to employ, wrongful reassignment or wrongful or negligent employee reference. **Wrongful Employment Decision** does not include **Breach of Employment Contract**.

Wrongful Termination means any wrongful termination, dismissal or discharge of employment, including constructive termination, dismissal or discharge.

IV. EXCLUSIONS

The Company shall not be liable for **Loss** on account of any **Matter**:

(A) Prior Notice

based upon, arising from or in consequence of any **Wrongful Act**, fact, circumstance or **Matter** that was the subject of any notice accepted under any prior employment practices liability coverage;

(B) Pending or Prior Proceedings

based upon, arising from or in consequence of any written demand first received by, or action, proceeding, **Matter**, or **Matter** that is **Related**, commenced against any **Insured** on or prior to the applicable Pending or Prior Proceedings Date set forth in Item (D) of the EPL portion of the Declarations;

(C) Bodily Injury/Property Damage

for bodily injury, mental anguish, humiliation, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property, including the loss of use thereof, whether or not it is damaged or destroyed; provided that this Exclusion (C) shall not apply to **Loss** for any mental anguish, humiliation or emotional distress; or

(D) Statutory/Common Law

for any violation of the responsibilities, obligations or duties imposed by any **Global Law**, that governs:

- (1) workers compensation, unemployment insurance, social security or disability benefits;
- (2) any employee benefit arrangement, program, policy, plan or scheme of any type (whether or not legally required or whether provided during or subsequent to employment with an **Organization**), including the Employee Retirement Income Security Act (except Section 510 thereof) and the Consolidated Omnibus Budget Reconciliation Act;
- (3) workplace safety and health, as well as any obligation to maintain a place of employment free from hazards likely to cause physical harm, injury or death, including the Occupational Safety and Health Act;
- (4) wage, hour and payroll policies and practices or the calculation, recordkeeping, timing, manner or method of providing or payment of minimum wages, prevailing wage rates, overtime pay, business expenses, rest periods, break periods or other compensation alleged to be due and owing, including the Fair Labor Standards Act; provided that this Exclusion (D)(4) shall not apply to the Equal Pay Act;
- (5) any obligation of an employer to notify, discuss or bargain with its employees or others in advance of any plant or facility closing, mass layoff or any similar obligation, including the Worker Adjustment and Retraining Notification Act; or
- (6) rights or duties as set forth in Subparagraphs (a) through (e) below:
 - (a) the rights of employees to engage in, or to refrain from engaging in, union or other collective activities, including union organizing, union elections and other union activities;
 - (b) the duty or obligation of an employer to meet, discuss, notify or bargain with any employee or employee representative, collectively or otherwise;
 - (c) the right to enforce any collective bargaining agreement, including grievance and arbitration proceedings;

- (d) the right to strikes, work stoppages, boycotts, picketing and lockouts; or
- (e) any other similar rights or duties set forth in Subparagraphs (a) through above, including the National Labor Relations Act;

provided that this Exclusion (D) shall not apply to **Loss** on account of any **Employment Claim** for **Retaliation**.

V. REPORTING

(A) An **Insured** shall give to the Company written notice of any **Claim** as soon as practicable after the **Control Group** of an **Organization** becomes aware of such **Claim**, but in no event later than:

- (1) if this Coverage Part expires (or is otherwise terminated) without being renewed with the Company, ninety (90) days after the effective date of such expiration or termination; or
- (2) the expiration date of the Extended Reporting Period, if applicable;

provided that if the Company sends written notice to the **Parent Organization** stating that this Coverage Part is being terminated for nonpayment of premium, an **Insured** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.

(B) The **Insureds**, at their discretion, may give to the Company written notice of any request to toll or waive the statute of limitations no later than ninety (90) days after the **Control Group** first becomes aware of such request. No coverage shall be available under this Coverage Part for **Loss** on account of any unreported request to toll or waive the statute of limitations.

(C) With respect to Subsections (A) and (B) above, such written notice to the Company shall be a condition precedent to coverage for any **Matter**. Provided, however, if the **Parent Organization** can prove to the Company's satisfaction that it was not reasonably possible for the **Insureds** to give such notice within the time periods set forth in Subsections (A) and (B) above and that subsequent notice was given as soon as reasonably possible thereafter, the Company shall waive the foregoing time period.

(D) If during the **Policy Period** an **Insured** gives written notice to the Company of a **Potential Claim** which could give rise to a subsequent **Matter**, then such **Matter** subsequently arising from such **Potential Claim** shall be deemed to have been first made during the **Policy Period** in which such written notice was first given by an **Insured** to the Company; provided any such subsequent **Matter** is reported to the Company as soon as practicable after the **Control Group** first becomes aware of such **Matter**.

(E) The **Insured** shall give to the Company in any written notice described above a description of the **Matter** or **Potential Claim**, the nature of any alleged **Wrongful Act**, the nature of the alleged or potential damage, and the names of all actual or potential claimants and defendants.

VI. DEFENSE AND SETTLEMENT

- (A) If Duty to Defend Defense is selected in Item 4(E) of the EPL portion of the Declarations, then:
- (1) the Company shall have the right and duty to defend any **Matter** covered by this Coverage Part, including the right to select defense counsel from the current list of approved employment defense firms for the jurisdiction in which such **Matter** is pending;
 - (2) coverage shall apply even if any of the allegations are groundless, false or fraudulent; and
 - (3) the Company's obligation to pay **Loss**, including **Defense Costs**, or to defend or continue to defend any **Matter** shall cease upon exhaustion of the applicable Limit of Liability or Sublimit.

- (B) If Reimbursement Defense is selected in the Item 4(E) of the EPL portion of the Declarations, or, if the **Insured** has the duty to defend or exercises any legal right to appoint counsel for the defense of a **Matter** covered by this Coverage Part, then:
- (1) the **Insured** shall have the duty to defend **Matters** made against the **Insured**; including the right to select defense counsel, subject to the Company's approval which shall not be unreasonable withheld;
 - (2) the **Insured** agrees that: (a) defense counsel shall adhere in all respects to the Company's Litigation Management Guidelines; and (b) **Defense Costs** shall not include any costs, charges, fees or expenses: (i) that are not billed in accordance with the hourly rates agreed to between the Insured and the Company, (ii) that do not adhere in all respects to the Company's Litigation Management Guidelines; (iii) related to travel incurred by any firm while traveling to, from or within any state in which such firm does not maintain an office; and (iv) incurred by or through the use of local counsel. The Company shall not be liable for any such **Defense Costs** unless incurred with the Company's written consent, which shall not be unreasonably withheld; and
 - (3) the Company shall advance covered **Defense Costs** on a current basis on account of a **Matter** reported pursuant to Section V, Reporting, on a current basis, but no later than sixty (60) days after receipt by the Company of bills or invoices detailing such **Defense Costs** and all other information reasonably requested by the Company with respect to such bills or invoices, until such time the Limit of Liability set forth in Item 4(A) of the EPL portion of the Declarations or any applicable Sublimit has been exhausted, whichever first occurs. Any advancement of **Defense Costs** shall reduce the Limit of Liability set forth in Item 4(A) of the EPL portion of the Declarations or any applicable Sublimit.
- (C) With respect to Subsections (A) and (B) above:
- (1) the **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defense Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented;
 - (2) the **Insured** agrees, with respect to a **Matter**, to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agrees that the **Insured** shall not do anything that could prejudice the Company's position or its potential or actual rights of recovery; provided that the failure of any **Insured** to give the Company such information, assistance or cooperation shall not impair the rights of any other **Insured Person** under this Coverage Part; and
 - (3) any payment or advancement of **Defense Costs** shall be repaid to the Company by the **Insureds**, severally according to their respective interests, if and to the extent it is determined that such **Defense Costs** are not insured under this Coverage Part.

VII. ALLOCATION

- (A) Except as provided in (B) below, if an **Insured** who is afforded coverage for a **Matter** incurs an amount consisting of both **Loss** that is covered by this Coverage Part and any amount that is not covered by this Coverage Part, then:
- (1) one hundred percent (100%) of **Defense Costs** incurred by such **Insured** on account of such **Matter** shall be covered **Loss**; and
 - (2) with respect to loss other than **Defense Costs**, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters.

- (B) Notwithstanding anything in (A) above, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters, if:
- (1) Reimbursement Defense is selected in the EPL portion of the Declarations;
 - (2) the **Insured** has the duty to defend or exercises any legal right to appoint counsel for the defense of a **Matter** covered by this Coverage Part; or
 - (3) coverage with respect to any **Insured** is excluded, in whole or in part, pursuant to Exclusion (D)(4), or Subsection XII(C), Representations and Severability, of the General Terms and Conditions.

VIII. OTHER INSURANCE

Unless specifically stated otherwise, the coverage afforded under this Coverage Part for:

- (A) **Employment Claims** shall be primary; provided that with respect to that portion of an **Employment Claim**:
- (1) made against any leased or temporary employee or **Independent Contractor** and covered by any valid and collectible insurance policy; or
 - (2) covered by any valid and collectible: (a) insurance policy for employment practices liability for which any **Insured** is provided coverage on a codefendant basis; or (b) privacy, network security or cyber liability insurance policy,
- this Coverage Part shall be excess of and shall not contribute with such other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this Coverage Part), regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise; and
- (B) **Third Party Claims** shall be excess of and shall not contribute with any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this Coverage Part), regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
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In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company and the Insureds agree as follows:

I. INSURING CLAUSE

The Company shall pay, on behalf of an **Insured**, **Loss** on account of a **Claim** first made against an **Insured** during the **Policy Period**, for a **Wrongful Act** by such **Insured**, or by any **Insured Person** for whose **Wrongful Acts** the **Insureds** are legally liable.

II. COVERAGE EXTENSION

(A) Inquiry Coverage

(1) Pre-Claim Investigation Coverage

The Company shall pay, on behalf of an **Insured**, **Loss** on account of any **Pre-Claim Investigation** first made against an **Insured** during the **Policy Period**.

(2) Interview Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by such **Insured Person** on account of an **Interview** first made during the **Policy Period**.

(3) Written Request to Toll or Waive a Statute of Limitation Coverage

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by such **Insured** in responding to a written request to toll or waive a statute of limitations, first made during the **Policy Period**, applicable to a potential **Claim**.

(B) Benefit Claim Denial Coverage

The Company shall pay, on behalf of an **Insured**, **Loss** on account of a **Benefit Claim Denial** first made against the **Insured** during the **Policy Period**.

(C) Failure to Enroll Demand Coverage

The Company shall pay, on behalf of an **Insured**, **Failure to Enroll Loss** and **Defense Costs** on account of any **Failure to Enroll Demand** first made during the **Policy Period**.

(D) Voluntary Program Notice Coverage

The Company shall pay, on behalf of an **Insured**, **Voluntary Program Loss** and **Defense Costs** on account of a **Voluntary Program Notice** first given to the Company during the **Policy Period**.

(E) Penalty Suite Additional Sublimit of Liability

Solely with respect to coverage for **Civil Penalties** for which a Sublimit of Liability is set forth in Items (A)(1) through A(5) of the FL portion of the Declarations (each "Individual Civil Penalty Sublimit"), the Company shall provide an additional Sublimit of Liability set forth in Item (A)(7) of the Declarations ("Excess Penalty Suite Sublimit") in excess of each Individual Civil Penalty Sublimit. However, the Excess Penalty Suite Sublimit shall be an aggregate Sublimit of Liability applying to all **Civil Penalties** in excess of all Individual Civil Penalty Sublimits combined. No Retention shall apply to **Civil Penalties** pursuant to Subsections (C) through (F) of the definition of **Civil Penalties**.

(F) Early Engagement Expense Coverage

In the event of any **Pre-Matter Expense**, **Pre-Tender Expense** or **Early Settlement Opportunity**, an aggregate amount not to exceed the lesser of: (1) \$25,000; or (2) fifty percent (50%) of the applicable Retention, shall qualify as **Loss** solely for the purpose of exhaustion of the applicable Retention. Once the applicable Retention has been exhausted, any **Pre-Matter Expense** or **Pre-Tender Expense** shall no longer qualify as covered **Loss** under this Coverage Part.

Coverage provided herein shall not be deemed to waive the Company's rights hereunder or limit the **Insured's** right to receive coverage for **Loss** incurred following the reporting of a **Matter**.

Coverage Extensions (A) through (E) above shall be subject to any applicable Limit of Liability, Sublimit and Retention set forth in the FL portion of the Declarations and this Policy.

III. DEFINITIONS

For purposes of this Coverage Part:

Administration means: (A) advising, counseling, failing to provide proper or timely notice, providing interpretations to, or calculating benefits of, **Employees**, **Executives**, participants or beneficiaries with respect to any **Plan**; or (B) handling of records or effecting enrollment, termination or cancellation of **Employees**, **Executives**, participants or beneficiaries under any **Plan**.

Benefit Claim Denial means an appeal of an **Insured's** adverse benefits determination pursuant to the U.S. Department of Labor's claim procedure regulation 29 C.F.R. Section 2560.503-1(h) or any similar claim procedures pursuant to applicable law.

Civil Penalties means, to the extent such penalties are insurable under the law pursuant to which this Coverage Part is construed:

- (A) the five percent (5%) or less, or the twenty percent (20%) or less, civil penalties imposed upon an **Insured** as a fiduciary under Section 502(i) or (l) of **ERISA**, respectively;
- (B) civil money penalties imposed by:
 - (1) the Pension Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or any successor thereto, the United Kingdom Occupational Pensions Regulatory Authority, or the Pensions Regulator or any successor thereto, pursuant to the Pension Scheme Act 1993, the Pensions Act 1995, the Pensions Act 2004, or rules or regulations thereunder;
 - (2) Ireland's Pensions Board or Pensions Ombudsman; or
 - (3) the Pension Benefit Standards Act, R.S.C., 1985, C.32 of Canada, including any rules or regulations thereunder, as amended, or the same or similar provisions of any legislation, rules or regulations in each of the provinces or territories of Canada ("Canadian Penalties"); provided the Company's maximum liability for all such Canadian Penalties on account of all **Matters** shall be the amount set forth in Item (A)(5) of the FL portion of the Declarations;

provided any coverage for such civil money penalties applies only if the funds or assets of the pension scheme are not used to fund, pay or reimburse the premium for this Coverage Part;

- (C) civil money penalties imposed upon an **Insured** for violation of the privacy provisions of the Health Insurance Portability and Accountability Act of 1996, as amended, ("HIPAA/HITECH Penalties"); provided the Company's maximum limit of liability for all such HIPAA/HITECH Penalties on account of all **Matters** shall be the amount set forth in Item (A)(1) of the FL portion of the Declarations;

- (D) civil money penalties imposed upon an **Insured** for violation of the Patient Protection and Affordable Care Act, as amended (“PPACA Penalties”); provided the Company’s maximum limit of liability for all such PPACA Penalties on account of all **Matters** shall be the amount set forth in Item (A)(2) of the FL portion of the Declarations;
- (E) the fifteen percent (15%) or less excise tax imposed upon an **Insured** under Section 4975 of the Internal Revenue Code of 1986, as amended, (“Section 4975 IRC Excise Tax”); provided the Company’s maximum limit of liability for such Section 4975 IRC Excise Tax on account of all **Matters** shall be the amount set forth in Item (A)(3) of the FL portion of the Declarations; or
- (F) civil money penalties imposed upon an **Insured** as a fiduciary under Section 502(c) of **ERISA**, including any amendments pursuant to Section 507 of Title V of the Pension Protection Act of 2006 (“Section 502(c) Penalties”); provided the Company’s maximum limit of liability for all such Section 502(c) Penalties on account of all **Matters** shall be the amount set forth in Item (A)(4) of the FL portion of the Declarations.

Claim means any:

- (A) written demand (other than an **Elective Matter**, subpoena or other investigatory instrument):
 - (1) for monetary or non-monetary (including injunctive) relief; or
 - (2) for arbitration, mediation, or other equivalent alternative dispute resolution proceeding, against an **Insured** for a **Wrongful Act**, commenced by the first receipt of such demand by an **Insured**;
- (B) proceeding, including any appeal therefrom, against an **Insured** for a **Wrongful Act**, commenced by:
 - (1) the service of a civil complaint or similar pleading, or any foreign equivalent thereof;
 - (2) the receipt of written notice of an administrative or regulatory proceeding, including a receipt of a written notice of commencement of a fact-finding investigation, by the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation (“PBGC”), or any similar governmental authority located in a **Foreign Jurisdiction**, including, the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or by the United Kingdom Occupational Pensions Regulatory Authority or any successor thereto; or
 - (3) an arrest, the return of an indictment, information or any foreign equivalent thereof, or the receipt of an official request for **Extradition**; or
- (C) investigation by an **Enforcement Unit** against an **Insured Person**, solely in his or her fiduciary capacity with respect to any **Sponsored Plan**, for a **Wrongful Act**, commenced by the service of a written request from such **Enforcement Unit** upon an **Insured Person** compelling witness testimony or document production and identifying such **Insured Person** as a target of such investigation, including a subpoena, civil investigative demand, grand jury subpoena, search warrant, target letter or Wells notice; provided that the Company shall take into reasonable consideration all extrinsic evidence presented by the **Insured Person** when determining whether such written request identifies such **Insured Person** as a target of such investigation.

Committee means any employee benefit or pension committee established by an **Organization** with respect to a **Sponsored Plan**; provided the committee consists of at least one **Insured Person**.

Control Group means the chief executive officer, executive director, president, chief financial officer, in-house general counsel or head of benefits, or any person with the responsibility for the management of insurance claims (or any equivalent position to any of the foregoing) of an **Organization**.

Corporate Trustee Company means any entity formed and operating in a **Foreign Jurisdiction** established by the **Parent Organization** and duly appointed to act as a trustee of a **Sponsored Plan**.

Defense Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including attorneys' fees, experts' fees, and the cost of **E-Discovery Specialist Services**) and expenses (other than regular or overtime wages, salaries, fees or benefits of the **Insured Persons**) incurred in:

- (A) investigating, defending, opposing or appealing any **Claim** and the premium for appeal, attachment or similar bonds;
- (B) a **Pre-Claim Investigation**;
- (C) a **Benefit Claim Denial**;
- (D) preparing and filing any entry into a **Voluntary Program**;
- (E) responding to a **Failure to Enroll Demand**;
- (F) an **Interview**; or
- (G) responding to a written request to toll or waive a statute of limitations.

Early Settlement Opportunity means any settlement recommended by the Company within the Limit of Liability set forth in Item 4(A) of the FL portion of the Declarations which is agreed to by the claimant where: (A) the **Insureds** consent to such settlement within thirty (30) days of the date the **Insureds** are first made aware of such opportunity to settle; (B) such consent occurs within the first ninety (90) days after the **Matter** is first reported to the Company; and (C) such **Matter** is reported to the Company within the first thirty (30) days after it is made. The **Insured** agrees not to settle or offer to settle any **Claim** or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement assumed obligation or admission to which it has not consented.

E-Discovery means the review, development, collection, cataloging and/or production of electronically stored information in connection with the defense of a **Matter**.

E-Discovery Specialist Services means only the following services performed by an **E-Specialist Firm**:

- (A) assisting the **Insured** with managing and minimizing the internal and external costs associated with **E-Discovery**;
- (B) assisting the **Insured** in developing or formulating an **E-Discovery** strategy which shall include interviewing qualified and cost-effective **E-Discovery** vendors;
- (C) serving as project manager, advisor or consultant to the **Insured**, defense counsel and the Company in executing and monitoring the **E-Discovery** strategy; and
- (D) such other services provided by the **E-Specialist Firm** that the **Insured**, Company, and **E-Specialist Firm** agree are reasonable and necessary given the circumstances of the **Matter**.

E-Specialist Firm means any e-discovery consultant firm approved by the Company.

Elective Matter means any **Pre-Claim Investigation**, **Interview**, written request to toll or waive a statute of limitations, **Benefit Claim Denial** or **Failure to Enroll Demand**, if reported to the Company in accordance with Section V, Reporting. An **Elective Matter** is commenced by first receipt of such request or demand by an **Insured**.

Employee means any natural person whose labor or service was, is or will be engaged and directed by an **Organization** or any **Plan**, including a part-time, seasonal, leased or temporary employee, intern or volunteer. **Employee** shall not include any independent contractor.

Enforcement Unit means any federal, state, local, provincial or foreign law enforcement or governmental regulatory authority worldwide (including the U.S. Department of Justice, the U.S. Securities and Exchange Commission, or any attorney general) or the enforcement unit of any securities exchange or similar self-regulatory organization. **Enforcement Unit** shall not include the U.S. Department of Labor, the PBGC,

the Internal Revenue Service (with the exception of the Criminal Investigative Division thereof), or any similar governmental authority located in a **Foreign Jurisdiction**, including the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or by the United Kingdom Occupational Pensions Regulatory Authority or any successor thereto.

ERISA means:

- (A) the Employee Retirement Income Security Act of 1974, as amended, including amendments thereto pursuant to the:
 - (1) Consolidated Omnibus Budget Reconciliation Act of 1985;
 - (2) Health Insurance Portability and Accountability Act of 1996;
 - (3) Newborns' and Mothers' Health Protection Act of 1996;
 - (4) Mental Health Parity Act of 1996;
 - (5) Women's Health and Cancer Rights Act of 1998;
 - (6) Pension Protection Act of 2006;
 - (7) Health Information Technology for Economic and Clinical Health Act of 2009;
 - (8) Patient Protection and Affordable Care Act of 2010; and
 - (9) Setting Every Community Up for Retirement Enhancement Act of 2019;
- (B) the English Pension Scheme Act 1993, the English Pensions Act 1995 and the Pensions Act 2004, all as amended;
- (C) the privacy provisions under the Health Insurance Portability and Accountability Act of 1996, as amended; and
- (D) with respect to Subsections (A) and (B) above, any similar **Global Law**.

Executive means any natural person who was, now is or shall become:

- (A) a duly elected or appointed director, officer, manager, or member of the Board of Managers, the Advisory Board or any duly constituted committee, or the in-house general counsel of any **Organization** incorporated, formed or organized in the United States of America; or
- (B) a holder of a position equivalent to those described in Subsection (A) above in any **Organization** that is incorporated, formed or organized in a **Foreign Jurisdiction**.

Extradition means any formal or written process by which an **Insured Person** located in any country is surrendered, or sought to be surrendered, to any other country for trial or otherwise to answer any criminal accusation, including the execution of an arrest warrant where such execution is an element of such process.

Failure to Enroll Demand means any written demand (other than an otherwise covered **Matter** arising out of such demand) by a participant or a participant's beneficiary to pay **Failure to Enroll Loss**. Except as otherwise set forth in Coverage Extension (C), no coverage shall be provided under this Policy for a **Failure to Enroll Demand**.

Failure to Enroll Loss means an amount equal to the amount that otherwise would have been due to, or on behalf of, a participant or beneficiary of a **Sponsored Plan**, but for the **Insured** negligently failing to enroll such participant or beneficiary in such **Sponsored Plan**; provided that such **Sponsored Plan** is not a self-funded **Plan**.

Financial Impairment means the status of an entity resulting from:

- (A) the appointment by any state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar party (including a creditors' committee, if applicable) or foreign equivalent thereof empowered to initiate the assumption of control, supervision, management or liquidation of such **Organization**; or
- (B) such entity becoming a debtor in possession under the United States bankruptcy law or the equivalent of a debtor in possession under the law of any **Foreign Jurisdiction**.

Health Care Exchange means the American Health Benefit Exchange, the SHOP Exchange, as such terms are defined in Section 1311 of the Patient Protection and Affordable Care Act of 2010, and any other similar health care exchange, including any public or private entity established to facilitate the purchase of health insurance coverage in accordance with the Patient Protection and Affordable Care Act of 2010, as amended.

Insured means any:

- (A) **Organization**;
- (B) **Plan**;
- (C) **Committee**;
- (D) **Insured Person**; and
- (E) **Corporate Trustee Company**.

Insured Person means any:

- (A) **Executive**;
- (B) **Employee**;
- (C) past **Employee** or **Executive** retained as a fiduciary or plan consultant to a **Sponsored Plan**, but only if an **Organization** has indemnified such fiduciary or plan consultant as any director or officer of an **Organization** to the fullest extent permitted by: (1) any **Global Law**; or (2) any contract or agreement providing an indemnification obligation exceeding any such law;
- (D) duly elected or appointed natural person member of a **Committee**, solely in his or her capacity as such; or
- (E) duly elected or appointed natural person trustee of a **Sponsored Plan**, solely in his or her capacity as such.

Insured Person shall not include any natural person in his or her capacity as an employee or executive of any third party, including a service provider, other than a **Corporate Trustee Company**.

Interview means any request for an interview or meeting with, or a sworn statement or testimony from, an **Insured Person** by:

- (A) an **Enforcement Unit** in connection with: (1) such **Insured Person** acting solely in his or her capacity as a fiduciary of a **Sponsored Plan**; or (2) a **Sponsored Plan's** business activities; or
- (B) an **Organization** in connection with an inquiry or investigation of a **Sponsored Plan** by an **Enforcement Unit**;

provided that **Interview** does not include any request: (a) for document production or discovery of information unless such documents or information are in the sole possession and control of the **Insured Person**; (b) by an **Enforcement Unit** that is part of any routine or regularly scheduled **Enforcement Unit** oversight, compliance, audit, inspection or examination; or (c) by an **Enforcement Unit** that is part of an employment-related investigation or claim.

Loss means the amount which any **Insured** becomes legally obligated to pay as a result of any **Matter**, including:

- (A) **Defense Costs**, compensatory damages, judgments, including pre-judgment and post-judgment interest;
- (B) settlements, including that portion of any settlement which represents claimant's attorney's fees awarded by a court pursuant to Section 502(g) of ERISA against an **Insured**;
- (C) punitive, exemplary or multiplied damages, if and to the extent such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages; provided such jurisdiction has a substantial relationship to the relevant **Insureds**, to the Company, or to the **Matter** giving rise to such damages;
- (D) **Civil Penalties**;
- (E) reasonable fees and expenses of an independent fiduciary retained to review a proposed settlement of a covered **Claim** (including reasonable and necessary fees and expenses of any law firm hired by such independent fiduciary to facilitate that review of such proposed settlement of a covered **Claim**);
- (F) **Failure to Enroll Loss**; and
- (G) solely for purposes of Coverage Extension (E), **Voluntary Program Loss**;

provided that **Loss** does not include any portion of such amount that constitutes any:

- (1) cost incurred by any **Insured** to comply with any order for non-monetary (including injunctive) relief or to comply with an agreement to provide such relief;
- (2) amount uninsurable under the law pursuant to which this Coverage Part is construed;
- (3) taxes, fines or penalties, except as provided in Subsections (C), (D) and (G) above, with respect to punitive, exemplary or multiplied damages, **Civil Penalties** and **Voluntary Program Loss**;
- (4) (a) benefits due, or to become due, or that portion of any settlement or award in an amount equal to such benefits, under any **Plan**; or (b) benefits which would be due, or that portion of any settlement or award in an amount equal to such benefits, under any **Plan** if such **Plan** complied with all applicable law, including loss resulting from the payment of claimant attorneys' fees based upon a percentage of such benefits or payable from a common fund established to pay such benefits, except to the extent that:
 - (i) an **Insured** is a natural person and the benefits are payable by such **Insured** as a personal obligation, and recovery for the benefits is based upon a covered **Wrongful Act**; or
 - (ii) a **Matter** made against an **Insured**:
 - a. alleges a loss to the **Sponsored Plan** or to the accounts of such **Sponsored Plan's** participants by reason of a change in the value of the investments held by such **Sponsored Plan**, regardless of whether the amounts sought or recovered by the plaintiffs in such **Claim** are characterized by plaintiffs as "benefits" or held by a court as "benefits"; or
 - b. seeks **Failure to Enroll Loss**;
- (5) costs incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for or monitoring **Pollutants**;
- (6) any amount constituting any contribution, or that portion of any settlement or award constituting any contribution, that is owed to, or is to fund, any **Plan**, except to the extent that the contribution is **Non-Indemnifiable Loss** payable by an **Insured Person** as a personal obligation based upon a **Wrongful Act**; or

- (7) **Pre-Matter Expense** or **Pre-Tender Expense**, except as provided under the Early Engagement Expense Coverage set forth in Section II(F) of this Coverage Part.

Managed Care Services means the administration or management of a health care plan utilizing cost control mechanisms, including utilization review, case management, disease management or the use of a preferred provider network. **Managed Care Services** does not include any **Self-Administered Plan**.

Mass or Class Action means any **Matter**:

- (A) brought or maintained by or on behalf of five or more natural persons who are acting in concert, whether or not such natural persons are represented by one or more legal counsel;
- (B) brought or maintained by or on behalf of one to four natural persons if any of such natural persons are seeking monetary relief on behalf of a class or group of complainants in order to resolve such **Matter**, whether or not such natural persons are represented by one or more legal counsel; or
- (C) brought or maintained by a governmental entity, department, agency or authority seeking monetary relief on behalf of a class or group of complainants in order to resolve such **Matter**.

Matter means any **Claim**, **Elective Matter** or **Voluntary Program Notice**.

Non-Indemnifiable Loss means **Loss** for which an **Organization** is not permitted by common or statutory law to indemnify an **Insured Person** or is permitted to indemnify an **Insured Person** but does not do so solely by reason of **Financial Impairment**.

Plan means any:

- (A) **Sponsored Plan**; and
- (B) government-mandated insurance program for workers' compensation, unemployment, social security or disability benefits for **Employees** and any plan maintained to comply with applicable workers' compensation, unemployment, social security or disability laws.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, asbestos, asbestos products or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Pre-Claim Investigation means a fact-finding investigation into a possible violation of **ERISA** with respect to a **Sponsored Plan** which does not contain any allegation of a **Wrongful Act** in writing, commenced by the U.S. Department of Labor, the PBGC, or any similar governmental authority located in a **Foreign Jurisdiction**, including, the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or by the United Kingdom Occupational Pensions Regulatory Authority, or any successor thereto.

Pre-Matter Expense means reasonable costs, charges fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees, or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing a notice of circumstance if such circumstance has been reported under Subsection (E) of Section V, Reporting, and a **Matter** subsequently arises out of such circumstance.

Pre-Tender Expense means reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**) incurred in investigating, defending, opposing or appealing any **Matter** before such **Matter** has been reported under Subsections (A), (B) or (C) of Section V, Reporting.

Self-Administered Plan means a **Plan** administered by an **Insured** and in which the employer or plan sponsor (as defined in the Employee Retirement Income Security Act of 1974) retains the right to make the final benefit determination.

Sponsored Plan means any employee benefit plan or program which is operated solely by an **Organization** or jointly by an **Organization** and a labor organization solely for the benefit of the **Employees** or **Executives** of an **Organization**, located anywhere in the world while such plan or program is being actively developed, formed or proposed by the **Organization** prior to the formal creation of such plan or program or which existed on or before the inception date of this Coverage Part, or, subject to Subsection XI(A), Acquisition of Another Organization, Sponsored Plan or Employee Benefit Plan, of the General Terms and Conditions, which is created or acquired after such inception date; provided that **Sponsored Plan** shall not include any employee stock ownership plan created or acquired by the **Organization** during the **Policy Period** or during a prior policy period for which this **Policy Period** is a renewal or replacement thereof (except as may be provided pursuant to Section XI(B), Acquisition or Creation of an ESOP, of the General Terms and Conditions).

Voluntary Program means any voluntary compliance resolution program or similar voluntary settlement program administered by the U.S. Internal Revenue Service, U.S. Department of Labor, or the PBGC, including the Delinquent Filer Voluntary Compliance Program, the Voluntary Fiduciary Correction Program, the Employee Plans Compliance Resolution System, and the Premium Compliance Evaluation Program, or any similar program administered by a governmental authority located in a **Foreign Jurisdiction**.

Voluntary Program Loss means filing fees, fines, penalties and sanctions incurred by an **Insured** pursuant to a **Voluntary Program**.

Voluntary Program Notice means prior written notice of the **Insured's** intent to enter into any **Voluntary Program** on account of any actual or alleged non-compliance of a **Plan** with any statute, rule or regulation.

Wrongful Act means any:

- (A) actual or alleged breach by an **Insured** of the responsibilities, obligations or duties imposed by **ERISA** upon fiduciaries of the **Sponsored Plan**, including any actual or alleged negligent or improper selection of or monitoring of any third-party service provider to the **Sponsored Plan**, including any provider of **Managed Care Services**;
- (B) actual or alleged negligent act, error or omission in the **Administration** of any **Plan** by an **Insured**;
- (C) other matter claimed: (1) against an **Insured** solely by reason of the **Insured's** service as a fiduciary of any **Sponsored Plan**; or (2) against any **Insured Person** solely by reason of such **Insured Person's** role in any negligent act, error or omission in the **Administration** of any **Sponsored Plan**;
- (D) actual or alleged act, error or omission by an **Insured** solely in such **Insured's** settlor capacity with respect to any **Sponsored Plan**; or
- (E) actual or alleged breach of fiduciary duty by an **Insured** with respect to a **Health Care Exchange**.

IV. EXCLUSIONS

The Company shall not be liable for any **Loss** on account of any **Matter**:

- (A) Prior Notice
based upon, arising from or in consequence of any **Wrongful Act**, fact, circumstance or **Matter** that was the subject of any notice accepted under any prior fiduciary or employee benefit liability coverage;
- (B) Pending or Prior Proceedings
based upon, arising from or in consequence of any written demand first received by, or action, proceeding, **Matter**, or **Matter** that is **Related**, commenced against any **Insured** on or prior to the Pending or Prior Proceedings Date set forth in Item (D) of the FL portion of the Declarations;

(C) Bodily Injury/Property Damage

for bodily injury, violation of any right of privacy (other than a violation of **ERISA** or the Health Insurance Portability and Accountability Act of 1996), mental anguish, humiliation, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property, including loss of use thereof, whether or not it is damaged or destroyed; provided that this Exclusion (C) shall not apply to any bodily injury to, mental anguish, emotional distress, sickness, disease, exacerbation of existing illness or wrongful death of any person resulting from: (1) selection of any **Managed Care Services** provider; or (2) denial or delay of any benefit under a health care plan, other than a **Self-Administered Plan**;

(D) Workers Compensation; Unemployment; Social Security; Disability Benefits

for any failure of any **Insured** to comply with any **Global Law** related to workers' compensation, unemployment insurance, social security or disability benefits; provided that this Exclusion (D) shall not apply to any **Matter** for a **Wrongful Act** in connection with the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Health Insurance Portability and Accountability Act of 1996, all as amended, provided such **Matter** is otherwise covered hereunder; or

(E) Conduct

based upon, arising from or in consequence of:

- (1) any deliberate fraud, any deliberate criminal act, or any knowing and willful violation of any **Global Law** by an **Insured**; provided that, for acts or omissions which are treated as a criminal violation in a **Foreign Jurisdiction** and that are not treated as a criminal violation in the United States, the imposition of a criminal fine or other criminal sanction in such **Foreign Jurisdiction** will not, by itself, be conclusive proof that a deliberate fraud, deliberate criminal act, or knowing and willful violation has occurred;
- (2) an **Insured Person** having gained any personal profit, remuneration or other financial advantage to which such **Insured Person** was not legally entitled; or
- (3) an **Organization** or **Plan** having gained any profit, remuneration or other financial advantage to which such **Organization** or **Plan** was not legally entitled,

established by a final, non-appealable adjudication in any underlying action or proceeding.

For the purpose of determining the applicability of this Exclusion (E): (i) the **Wrongful Acts**, conduct, or actual knowledge of, or facts pertaining to, one **Insured** shall not be imputed to any **Insured Person**; and (ii) only the **Wrongful Acts**, conduct, or actual knowledge of, or facts pertaining to the **Control Group** of an **Organization** shall be imputed to such **Organization** and its **Subsidiaries** or **Plan**; provided that, the foregoing Subparagraph (ii) shall not preclude application of Exclusion (E) if the **Organization** or **Plan** is adjudicated in its own right.

V. REPORTING

(A) An **Insured** shall give to the Company written notice of any **Claim** as soon as practicable after the **Control Group** of an **Organization** becomes aware of such **Claim**, but in no event later than:

- (1) if this Coverage Part expires (or is otherwise terminated) without being renewed with the Company, ninety (90) days after the effective date of such expiration or termination; or
- (2) the expiration of the Extended Reporting Period, if applicable;

provided that if the Company sends written notice to the **Parent Organization** stating that this Coverage Part is being terminated for nonpayment of premium, an **Insured** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.

(B) The **Insureds**, at their discretion, may give to the Company written notice of any **Elective Matter** no later than ninety (90) days after the **Control Group** first becomes aware of such **Elective**

Matter. No coverage shall be available under this Coverage Part for **Loss** on account of any unreported **Elective Matter**. However, if an **Insured** elects not to report an **Elective Matter**, coverage for any subsequent **Matter** that is **Related** to such **Elective Matter** shall not be denied based on a failure to report such **Elective Matter** and shall be deemed first made in the **Policy Period** in which such subsequent **Matter** was first made against such **Insured** and reported to the Company.

- (C) The **Insureds**, at their discretion, may give to the Company a **Voluntary Program Notice**. A **Voluntary Program Notice** shall be deemed to have been first made when such **Voluntary Program Notice** was first given to the Company. The Company may, in its sole discretion, waive such prior notice requirement and accept a **Voluntary Program Notice** that is given to the Company within thirty (30) days of the **Insured's** entry into such **Voluntary Program**, in which case the **Voluntary Program Notice** shall be deemed to have been first made on the initial date of the **Insured's** entry into such **Voluntary Program**. No coverage shall be available under this Coverage Part for **Loss** on account of any unreported **Voluntary Program Notice**.
- (D) With respect to Subsections (A), (B) and (C) above, such written notice to the Company shall be a condition precedent to coverage for any **Matter**. However, if the **Parent Organization** can prove to the Company's satisfaction that it was not reasonably possible for the **Insureds** to give such notice within the time periods set forth in Subsections (A), (B) or (C) above and that subsequent notice was given as soon as reasonably possible thereafter, the Company shall waive the foregoing time period.
- (E) If, during the **Policy Period**, an **Insured** gives written notice to the Company of any circumstance which could give rise to a subsequent **Matter**, then such **Matter** subsequently arising from such circumstance shall be deemed to have been first made during the **Policy Period** in which such written notice was first given by an **Insured** to the Company; provided such subsequent **Matter** is reported to the Company as soon as practicable after the **Control Group** first becomes aware of such **Matter**.
- (F) The **Insureds** shall give to the Company in any written notice described in Subsections (A), (B), (C) or (E) a description of the **Matter** or circumstance, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage, and the names of all actual or potential defendants.

VI. DEFENSE AND SETTLEMENT

- (A) With respect to any **Claim** or **Pre-Claim Investigation** covered by this Coverage Part:
 - (1) the Company shall have the right and duty to defend such **Claim** or **Pre-Claim Investigation**, including the sole right to select defense counsel from the current list of approved defense firms for the jurisdiction in which such **Matter** is pending;
 - (2) coverage shall apply even if any of the allegations are groundless, false or fraudulent; and
 - (3) the Company's obligation to pay **Loss**, including **Defense Costs**, or to defend or continue to defend any **Claim** or **Pre-Claim Investigation** shall cease upon exhaustion of the applicable Limit of Liability or Sublimit.
- (B) With respect to any **Elective Matter** (other than a **Pre-Claim Investigation**) or **Voluntary Program Notice** covered by this Coverage Part:
 - (1) the **Insured** shall have the duty to defend such **Elective Matter** or **Voluntary Program Notice**, including the right to select defense counsel, subject to the Company's approval which shall not be unreasonably withheld;
 - (2) the **Insured** agrees that: (a) defense counsel shall adhere in all respects to the Company's Litigation Management Guidelines; and (b) **Defense Costs** shall not include any costs, charges, fees or expenses: (i) that are not billed in accordance with the hourly rates agreed to between the **Insured** and the Company, (ii) that do not adhere in all respects to the Company's Litigation Management Guidelines, (iii) related to travel incurred by any firm

while traveling to, from or within any state in which such firm does not maintain an office; and (iv) incurred by or through the use of local counsel. The Company shall not be liable for any such **Defense Costs** unless incurred with the Company's written consent, which shall not be unreasonably withheld; and

- (3) the Company shall advance covered **Defense Costs** on account of a **Matter** reported pursuant to Section V, Reporting, on a current basis, but no later than sixty (60) days after receipt by the Company of bills or invoices detailing such **Defense Costs** and all other information reasonably requested by the Company with respect to such bills or invoices, until such time the Limit of Liability set forth in Item 4(A) of the FL portion of the Declarations or any applicable Sublimit has been exhausted, whichever first occurs. Any advancement of **Defense Costs** shall reduce the Limit of Liability set forth in Item 4(A) of the FL portion of the Declarations or any applicable Sublimit.
- (C) With respect to Subsections (A) and (B) above:
- (1) the **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defense Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented;
 - (2) the **Insured** agrees, with respect to a **Matter**, to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agrees that the **Insured** shall not do anything that could prejudice the Company's position or its potential or actual rights of recovery; provided that the failure of any **Insured** to give the Company such information, assistance or cooperation shall not impair the rights of any other **Insured Person** under this Coverage Part; and
 - (3) any payment or advancement of **Defense Costs** shall be repaid to the Company by the **Insureds**, severally according to their respective interests, if and to the extent it is determined that such **Defense Costs** are not insured under this Coverage Part; provided the Company shall not seek repayment from an **Insured** of any **Defense Costs** paid by the Company that are deemed uninsured pursuant to Exclusion (E), Conduct, unless a final, non-appealable adjudication has occurred.

VII. ALLOCATION

- (A) Except as provided in (B) below, if an **Insured** who is afforded coverage for a **Matter** incurs an amount consisting of both **Loss** that is covered by this Coverage Part and any amount that is not covered by this Coverage Part, then:
 - (1) one hundred percent (100%) of **Defense Costs** incurred by such **Insured** on account of such **Matter** shall be covered **Loss**; and
 - (2) with respect to loss other than **Defense Costs**, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters.
- (B) Notwithstanding anything in (A) above, the **Insureds** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters, if:
 - (1) the **Insured** has the duty to defend or otherwise has the right to appoint counsel for the defense of a **Matter** covered by this Coverage Part; or
 - (2) coverage with respect to any **Insured** is excluded, in whole or in part, pursuant to Exclusion (E), Conduct, or Subsection XII(C), Representations and Severability, of the General Terms and Conditions.

VIII. OTHER INSURANCE

- (A) If any **Loss** covered under this Coverage Part is insured under any other valid and collectible insurance policy (other than an insurance policy that is issued specifically as excess over the Limit of Liability provided by this Coverage Part or a personal umbrella policy or personal directorship liability policy purchased by an **Insured Person**), then this Coverage Part shall be excess of and shall not contribute with such other insurance, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
- (B) This Coverage Part shall be specifically excess of, and shall not contribute with, any valid and collectible insurance for professional liability, employee benefit liability or privacy, network security or cyber liability, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.

Any payment by an **Insured** of a retention or deductible under any other insurance policy described in Subsection (A) or (B) above shall reduce the applicable Retention under this Coverage Part by the amount of such payment which would otherwise have been covered **Loss** under this Coverage Part.

In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company agrees to pay for loss any Insured shall sustain at any time prior to the termination of this Coverage Part which is Discovered during the Policy Period in the manner set forth below:

I. INSURING CLAUSES

Insuring Clause (A): Employees and Plan Officials

(1) Employee Theft

The Company shall pay for loss sustained by an **Insured**, other than an **ERISA Plan**, resulting directly from **Theft** committed by an **Employee**, whether identified or not, acting alone or in collusion with others.

(2) Client Theft

The Company shall pay for loss sustained by a **Client** resulting directly from **Theft** committed by an identified **Employee**, acting alone or in collusion with others.

(3) ERISA Fraud or Dishonesty

The Company shall pay for loss sustained by an **ERISA Plan** resulting directly from **Fraud or Dishonesty** committed by a **Plan Official**, whether identified or not, acting alone or in collusion with others.

Insuring Clause (B): Premises

The Company shall pay for loss sustained by an **Insured** resulting directly from:

- (1) **Theft** within or from the **Premises** or **Banking Premises** by a person physically present in such **Premises** or **Banking Premises** at the time of the loss;
- (2) **Robbery**;
- (3) **Safe Burglary**; or
- (4) the actual destruction or disappearance of **Money** or **Securities** within or from the **Premises** or **Banking Premises**;

committed by a **Third Party**.

In the event of loss covered under Subsections (1) through (3) above, this Insuring Clause shall also cover damage to the **Premises** or its exterior, or to a locked safe, vault, cash drawer or cash box within the **Premises** which results directly from actual or attempted **Theft**, **Robbery** or **Safe Burglary**.

Insuring Clause (C): In Transit

The Company shall pay for loss sustained by an **Insured** resulting directly from:

- (1) **Theft** while **In Transit**; or
- (2) the actual destruction or disappearance of **Money** or **Securities** while **In Transit**,

committed by a **Third Party**.

In the event of loss covered under Subsections (1) and (2) above, this Insuring Clause shall also cover damage to or destruction of **Property** or damage to the home of an **Employee** occurring during actual or attempted **Theft** while **In Transit**.

Insuring Clause (D): Forgery

The Company shall pay for loss sustained by an **Insured** resulting directly from **Forgery** or alteration of a **Financial Instrument** committed by a **Third Party**.

Insuring Clause (E): Computer System Fraud

The Company shall pay for loss sustained by an **Insured** resulting directly from the unauthorized:

- (1) transfer, payment, or delivery of **Money** or **Securities**; or
- (2) transfer or delivery of **Property**,

committed by a **Third Party**, after such **Third Party** commits a **Network Intrusion**.

Insuring Clause (F): Funds Transfer Fraud

The Company shall pay for loss sustained by an **Insured** resulting directly from a **Funds Transfer Fraud** committed by a **Third Party**.

Insuring Clause (G): Social Engineering Fraud

The Company shall pay for loss sustained by an **Insured** resulting directly from a **Social Engineering Fraud** committed by a **Third Party**.

Insuring Clause (H): Money Orders and Counterfeit Currency Fraud

The Company shall pay for loss sustained by an **Insured** resulting directly from **Money Orders and Counterfeit Currency Fraud** committed by a **Third Party**.

II. EXPENSES**(A) Claim and Computer Investigation Expense**

The Company shall pay for:

- (1) **Claim Expenses** resulting directly from a loss covered under any Insuring Clause, but solely in the event such covered loss is in excess of the Retention applicable to such covered loss; and
- (2) **Computer Investigation Expenses** resulting directly from a loss covered solely under Insuring Clauses (E), (F), or (G), but solely in the event such covered loss is in excess of the Retention applicable to such covered loss.

The Company's maximum liability for Paragraphs (A)(1) and (A)(2) above shall be the Limit of Liability applicable to Claim and Computer Investigation Expense set forth in Item 4 of the Crime portion of the Declarations, which amount is part of and not in addition to the Limit of Liability for any applicable Insuring Clause related to such **Claim Expenses** or **Computer Investigation Expenses**.

(B) Legal Expense

In addition to the Limits of Liability set forth in Item 4 of the Crime portion of the Declarations, the Company shall reimburse the **Parent Organization** for reasonable court costs and attorneys' fees incurred and paid, with the Company's prior written consent, in defending an **Insured** in any legal proceeding brought against it to enforce payment of a **Financial Instrument** as a result of loss otherwise covered under Insuring Clause (D).

III. DEFINITIONS

For purposes of this Coverage Part:

Banking Premises means the interior portion of a building occupied by, or the night depository chute or safe maintained by, any bank, trust company or similar financial institution.

Certificated Security means a share, participation or other interest in property of the issuer, an enterprise of the issuer, or an obligation of the issuer, which is:

- (A) represented by an instrument issued in bearer or registered form;
- (B) of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and
- (C) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests or obligations.

Claims Expenses means reasonable expenses incurred by an **Insured** with the Company's prior written consent, solely for an independent accounting firm or other natural persons retained to determine the amount of a covered loss. **Claims Expenses** shall not include an **Insured's** internal corporate costs (such as salaries), attorneys' fees, or expenses incurred by any **Client**.

Client means a customer of an **Insured** to whom an **Insured** provides goods or services under written contract or for a fee.

Computer Investigation Expenses means reasonable expenses incurred by an **Insured** with the Company's prior written consent, for computer forensic services to investigate a covered loss. **Computer Investigation Expenses** shall not include an **Insured's** internal corporate costs (such as salaries), attorneys' fees, or expenses incurred by any **Client**.

Computer System means a device or group of devices and all input, output, processing, storage, off-line media libraries (including third-party hosted computing services accessed across the internet and their associated infrastructure, platform, and software services), and communication facilities, including related communications networks, which are connected directly or indirectly to such device or group of devices and which are leased, owned or operated by an **Insured** or operated for the benefit of an **Insured** by another entity under written agreement with such **Insured**.

Contractual Independent Contractor means any natural person while in the service of an **Insured** and in the ordinary course of such **Insured's** business, whom an **Insured** directly compensates pursuant to a written contract between such **Insured** and such natural person.

Cryptocurrency means a digital or electronic medium of exchange, operating independently of a central bank, in which encryption techniques are used to regulate the generation of units and to verify the transfer of such units.

Customer Communication System means an online portal or mobile application provided by an **Insured** for purposes of accessing a **Client** or customer account maintained by the **Insured**.

Discovery or **Discovered** means knowledge acquired by an **Executive** or **Insurance Representative** of any **Insured** which would cause a reasonable person to believe a covered loss has occurred or an occurrence has arisen that may subsequently result in a covered loss. This includes loss:

- (A) sustained prior to the inception date of any coverage under this Coverage Part;
- (B) which does not exceed the Retention; or
- (C) the exact amount or details of which are unknown.

However, this shall not include knowledge acquired by an **Executive** or **Insurance Representative** of any **Insured** acting alone or in collusion with an **Employee** who is a participant in any **Theft, Forgery, or Fraud or Dishonesty**.

Employee means any:

- (A) natural person, other than an **Executive** or **Plan Official**, while in the regular service of an **Insured** in the ordinary course of such **Insured's** business, whom such **Insured** compensates by salary or wages and has the right to govern and direct in the performance of such service, including any part-time, seasonal, leased or temporary worker, volunteer, intern, or any person formerly meeting this definition while retained by the **Insured** as a consultant pursuant to a written contract;
- (B) **Executive** while performing acts within the scope of the usual duties of an **Employee**;
- (C) **Contractual Independent Contractor**;
- (D) **Plan Official**;
- (E) natural person, as defined in Subsections (A) and (B) of this definition, while on leave for military services, or medical or family reasons, with the consent of the **Insured**; or
- (F) natural person, as defined in Subsections (A) and (B) of this definition, during a period not exceeding sixty (60) days following the termination of such natural person's service with the **Insured**.

Employee Benefit Plan means any pension or welfare benefit plan sponsored by the **Parent Organization** or any **Subsidiary** for the benefit of its **Employees** or former **Employees**, or jointly by such **Parent Organization** or **Subsidiary** and a labor union for the benefit of **Employees** and which existed on or before the inception of this Coverage Part, or which is created or acquired after the inception of this Coverage Part in accordance with Section XI(A), Acquisition of Another Organization, Sponsored Plan, or Employee Benefit Plan, of the General Terms and Conditions.

ERISA means the Employee Retirement Income Security Act of 1974, as amended.

ERISA Plan means any **Employee Benefit Plan** that is subject to **ERISA**.

Executive means any natural person specified below:

- (A) a duly elected or appointed director, officer, trustee, member of the Board of Managers, management committee member or in-house general counsel of an **Insured** incorporated, formed or organized in the United States of America;
- (B) a holder of an equivalent position to those described in Subsection (A) above of an **Insured** incorporated, formed or organized in a **Foreign Jurisdiction**; or
- (C) a natural person partner of an **Insured** while engaged in the regular service of such **Insured**.

Financial Instrument means a check, draft or similar written promise, order or direction to pay a sum certain in **Money** that is made, drawn by or drawn upon an **Insured**, or made or drawn by anyone acting as an **Insured's** agent, or that is purported to have been so made or drawn. For purposes of Insuring Clause (D), Forgery, a substitute check, as defined in the Check Clearing for the 21st Century Act, shall be treated the same as the original check it replaced.

Forgery means:

- (A) affixing the handwritten signature, or a reproduction of the handwritten signature, of another natural person without authorization and with the intent to deceive; or
- (B) affixing the name of an **Insured** as an endorsement to a **Financial Instrument** without authorization and with the intent to deceive,

provided that 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 is not a **Forgery**. An electronic or digital signature is not a reproduction of a handwritten signature. **Forgery** does not include a typed name in any form, including but not limited to an email, letterhead or pre-printed material.

Fraud or Dishonesty means any intentional act of larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wrongful conversion or willful misapplication, or any other intentional fraudulent or dishonest act. **Fraud or Dishonesty** shall also include any intentional act prohibited by Title 18, Section 1954 of the U.S. Code.

Funds Transfer Fraud means fraudulent electronic, telegraphic, cable, teletype, facsimile, telephone or written instructions (other than **Forgery**), purportedly issued by an **Insured** to a financial institution by a **Third Party** which directs such institution to transfer, pay or deliver **Money** or **Securities** from any account maintained by such **Insured** at such institution, without such **Insured's** knowledge or consent.

Insurance Representative means any member of an **Insured's** Risk Management Department (or functional equivalent) including a risk manager, designated to represent an **Insured** for the purpose of effecting and maintaining insurance.

Insured means:

- (A) the **Parent Organization**;
- (B) any **Subsidiary**;
- (C) any **Employee Benefit Plan**; or
- (D) any **ERISA Plan**.

Insured's Network means:

- (A) a **Computer System**; or
- (B) a **Customer Communication System**.

In Transit means being conveyed outside the **Premises**, from one person or place to another, by an **Insured** within the custody of:

- (A) an **Employee**; or
- (B) an armored vehicle company duly authorized by such **Insured** to have custody of **Money** or **Securities**.

Such conveyance begins immediately upon receipt of **Money** or **Securities** by any natural person or entity described in Subsection (A) or (B) above from such **Insured** and ceases immediately upon delivery to the designated recipient or its agent, provided that such conveyance shall not cease while temporarily in the home of an **Employee** while **In Transit**.

Money means a medium of exchange in current use authorized or adopted by a domestic or foreign government as part of its currency, including coin, bank notes and precious metals in bullion form. **Money** shall not include **Securities** or **Cryptocurrency**.

Money Orders and Counterfeit Currency Fraud means the good faith acceptance by an **Insured**:

- (A) in exchange for merchandise, **Money** or services, of any post office or express company or bank money order, issued or purporting to have been issued by any post office, express company, or bank, if such money order is not paid upon presentation; or
- (B) in the regular course of business, of counterfeit paper currency.

Network Intrusion means:

- (A) unauthorized access; or
- (B) the entry of an unauthorized application or software program,

into the **Network** of an **Insured** by any entity or natural person, except an **Employee** or any authorized representative of the **Insured**.

Plan Official means any natural person while in the service of any **Insured** who is required to be bonded by Title 1 of **ERISA**, including:

- (A) a fiduciary;
- (B) a trustee;
- (C) an administrator;
- (D) an officer;
- (E) any other natural person who handles **ERISA Plan** assets; or
- (F) any natural person described in Subsections (A) through (E) above during a period not exceeding sixty (60) days following the termination of such natural person's service with the **Insured**,

provided that **Plan Official** shall not include any independent contractor, **Contractual Independent Contractor**, or any agent, broker, factor, commission merchant, consignee, or representative of the same general character or employee thereof.

Premises means the interior portion of a building, facility or property occupied by an **Insured** in conducting its business.

Property means tangible property other than **Money** or **Securities**. **Property** shall not include a **Computer System**, computer programs, electronic data or any property specifically excluded under this Coverage Part.

Robbery means the unlawful taking of **Money**, **Securities** or **Property** from the custody of an **Employee**, or other person (except a person acting as a watchman, porter or janitor) duly authorized by an **Insured** to have custody of such **Money**, **Securities** or **Property**, by violence or threat of violence, committed in the presence and cognizance of such **Employee** or other person.

Safe Burglary means the unlawful taking of **Money**, **Securities** or **Property**, by forcible or violent entry evidenced by visible marks, from a locked vault or safe located within the **Premises**.

Securities means any tangible:

- (A) revenue and other stamps in current use;
- (B) gift certificates, gift cards or similar instruments issued by an **Insured**; or
- (C) tokens, chips, tickets in current use,

which represent either **Money** or **Property**.

Securities also includes any **Certificated Security** or **Uncertificated Security** but does not include **Money** or **Cryptocurrency**.

Social Engineering Fraud means the intentional misleading of an **Employee** through misrepresentation of a material fact which is relied upon by such **Employee** believing it to be genuinely committed by a natural person purporting to be:

- (A) a **Vendor**;
- (B) a **Client**; or
- (C) an **Employee** authorized by the **Insured** to instruct other **Employees** to transfer **Money** or **Securities**,

which results in the transfer, payment, or delivery of **Money** or **Securities**.

Theft means the unlawful taking of **Money** or **Securities** to the deprivation of an **Insured** or a **Client**. Solely for the purposes of Insuring Clauses (A)(1) and (A)(2), **Theft** also includes the unlawful taking of **Property**.

Third Party means any natural person or organization other than an **Employee**, **Client**, or any agent, factor, commission merchant, independent contractor, or other authorized representative of an **Insured** or of a **Client**.

Uncertificated Security means a share, participation or other interest in property of the issuer, an enterprise of the issuer, or an obligation of the issuer, which is:

- (A) not represented by an instrument and the transfer of which is registered on books maintained for that purpose by or on behalf of the issuer;
- (B) of a type commonly dealt in on securities exchanges or markets; and
- (C) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests or obligations.

Vendor means any **Third Party** that has provided goods or services to an **Insured** under a legitimate pre-existing arrangement or written agreement. However, **Vendor** does not include any asset manager, broker-dealer, counter party, custodian, or any similar entity.

IV. ERISA PLANS

In compliance with certain provisions of **ERISA**, the following provisions apply:

(A) Discovery Period

Solely with respect to loss covered under Insuring Clause (A)(3), this Coverage Part applies only to loss first **Discovered** by an **Insured**:

- (1) during the **Policy Period**; or
- (2) within one (1) year following the termination of this Coverage Part in its entirety (the "Extended Discovery Period"), provided that:
 - (a) such loss is sustained prior to such termination; and
 - (b) the Extended Discovery Period shall terminate immediately upon the effective date of any other insurance obtained for an **ERISA Plan** which replaces the coverage provided by this Coverage Part for such **ERISA Plan** in an amount no less than the minimum amount required under **ERISA** and provides coverage for loss sustained prior to the effective date of the other insurance.

(B) Limits of Liability

The Company's maximum liability for all loss sustained by each **ERISA Plan** shall not exceed the Limit of Liability applicable to Insuring Clause (A)(3) set forth in Item 4(A)(3) of the Crime portion of the Declarations, unless such Limit of Liability is less than the minimum limit of insurance required by **ERISA**. In such event, the Limit of Liability shall be amended in accordance with **ERISA** as follows:

- (1) if the **ERISA Plan** does not hold employer securities within the meaning of **ERISA**, the Limit of Liability applicable to such covered loss shall be ten percent (10%) of the funds handled by such **ERISA Plan** in the preceding reporting year, up to a maximum limit of liability of \$500,000; or
- (2) if the **ERISA Plan** does hold employer securities within the meaning of **ERISA**, the Limit of Liability applicable to such covered loss shall be ten percent (10%) of the funds handled

by such **ERISA Plan** in the preceding reporting year, up to a maximum limit of liability of \$1,000,000,

provided that, in all events, the Limit of Liability applicable to Insuring Clause (A)(3) set forth in Item 4(A)(3) of the Crime portion of the Declarations shall be never be less than \$1,000.

The payment of any such loss under this Coverage Part shall not reduce the liability of the Company for other losses whenever sustained; except that the total liability of the Company for all loss resulting from any act or any series of acts committed by the same **Plan Official** in which the same **Plan Official** is concerned or implicated, regardless of whether such act or series of acts was committed before or during the **Policy Period**, shall be treated as a single loss and the Limit of Liability applicable to Insuring Clause (A)(3) set forth in Item 4(A)(3) of the Crime portion of the Declarations (or as amended by (B)(1) and (B)(2) above) will apply.

(C) Payover

In compliance with Title 1 of **ERISA** and solely with respect to loss covered under Insuring Clause (A)(3), payment by the Company shall be held by an **Insured** for the benefit of any **ERISA Plan** sustaining a loss. If such payment is in excess of the amount of coverage required by **ERISA** for such **ERISA Plan**, such excess amount shall be held by the **Insured** for the use and benefit of any other named **ERISA Plan** should such **ERISA Plan** also **Discover** loss recoverable hereunder. If **Money, Securities, and Property** of two or more **ERISA Plans** is commingled, recovery hereunder for loss of such **Money, Securities, and Property** shall be shared by such **ERISA Plans** on a pro rata basis in accordance with the amount of coverage each such **ERISA Plan** is required to carry pursuant to **ERISA**.

V. EXCLUSIONS

(A) This Coverage Part does not cover:

(1) Disclosure of Confidential Information

loss resulting directly or indirectly from the disclosure of confidential or personal information while in the care, custody or control of an **Insured**, including but not limited to patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information, retirement or health savings account information or any similar type of non-public information, except loss that is otherwise covered under this Coverage Part through the use of confidential or personal information to facilitate such loss;

(2) Data Breach Expenses

fees, costs, fines, penalties or any other expenses or liabilities incurred by an **Insured** resulting directly or indirectly from the access to or disclosure of an **Insured's** or another entity's or natural person's confidential or personal information, including but not limited to patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information, retirement or health savings account information or any similar type of non-public information;

(3) War

loss resulting directly or indirectly from declared or undeclared war, civil war, insurrection, rebellion, revolution, military, naval or usurped power, governmental intervention, expropriation or nationalization, or any act or condition incident to any of the foregoing;

(4) Nuclear

loss resulting directly or indirectly from nuclear reaction, nuclear radiation or radioactive contamination, or any act or condition incident to any of the foregoing;

- (5) Unrealized Income
loss of income not realized, whether or not as the result of a covered loss;
- (6) Indirect or Consequential Loss
indirect or consequential loss or damage of any kind;
- (7) Expenses
fees, costs or expenses incurred or paid in defending or prosecuting any legal proceeding or claim, except those expenses otherwise covered under Section II(B), Legal Expense;
- (8) Authorized Representative
loss resulting directly or indirectly from any fraudulent, dishonest or criminal act (other than **Robbery** or **Safe Burglary**) committed by any authorized representative of an **Insured**, whether acting alone or in collusion with others, unless committed in collusion with an **Employee**;
- (9) Fraudulent Instructions
loss resulting directly or indirectly from any transfer, payment or delivery of **Money**, **Securities**, or **Property**:
- (a) approved by an **Employee**; or
- (b) arising out of any misrepresentation received by an **Employee**, agent, independent contractor or other representative of an **Insured**,
- whether such transfer, payment or delivery was made in good faith or as a result of trick, artifice, fraud or false pretenses, except when covered under Insuring Clause (A), (G), or (H);
- (10) Cryptocurrency
loss of **Cryptocurrency**;
- (11) Advantage
loss sustained by one **Insured** to the advantage of any other **Insured**, except when covered under Insuring Clause (A)(3); or
- (12) Kidnap, Ransom and Extortion
loss resulting directly or indirectly from any kidnap, ransom or other extortion payment (other than **Robbery**) surrendered to any person as a result of a threat to do bodily harm to any natural person or a threat to do damage to any **Property**, or disclose confidential or personal information of any natural person or **Insured**, except when covered under Insuring Clause (A).
- (B) In addition to the Exclusions in Subsection (A) above, with respect to Insuring Clause (A), this Coverage Part does not cover:
- (1) Trading
loss resulting directly or indirectly from any authorized or unauthorized trading of **Money**, **Securities** or **Property**, whether or not in the name of an **Insured** and whether or not in a genuine or fictitious account, except: (a) when covered under Insuring Clause (A)(3); or (b) with respect to otherwise covered loss which results in improper financial gain to an **Employee** (other than salary, commissions, fees or other compensation, including but not limited to promotions and raises associated with employment, paid by the **Insured** to such **Employee**);

- (2) Independent Contractor
- loss resulting directly or indirectly from the acts of any agent, broker, factor, commission merchant, consignee, contractor, independent contractor, subcontractor or other similar representative, except the acts of any **Contractual Independent Contractor**; or
- (3) Inventory Shortage
- any loss, or that part of any loss, for which the proof as to its existence or amount is dependent solely upon:
- (a) an inventory computation or physical count; or
- (b) a profit or loss computation;
- provided that where an **Insured** establishes wholly apart from such computation or physical count that it sustained a loss covered under Insuring Clause (A), then the **Insured** may offer its own inventory records or the inventory records of a **Client**, and an actual physical count of inventory in support of the amount of loss claimed.
- (C) In addition to the Exclusions in Subsection (A) above, with respect to Insuring Clauses (B) and (C), this Coverage Part does not cover:
- (1) Mail/Carrier for Hire
- loss resulting directly or indirectly from the damage, disappearance, or destruction of **Money, Securities or Property** while in the mail or in the custody of a carrier for hire other than an armored motor vehicle company;
- (2) Fire
- loss resulting directly or indirectly from fire, except:
- (a) loss of **Money** or **Certificated Securities**; or
- (b) damage to any safe or vault caused by the application of fire thereto for the purposes of **Safe Burglary**; or
- (3) Voluntary Parting
- loss resulting directly or indirectly from an **Insured** having given or surrendered **Money, Securities or Property** in any exchange or purchase with a **Third Party**.
- (D) In addition to the Exclusions in Subsection (A) above, with respect to Insuring Clauses (E), (F), or (G), this Coverage Part does not cover:
- (1) Credit Card Transactions
- loss resulting directly or indirectly from the use of credit, debit, charge, access, convenience, identification, cash management or other cards whether such cards were issued, or purport to have been issued, by an **Insured** or by any entity other than the **Insured**;
- (2) Product or Service Failure
- loss resulting directly or indirectly from the failure, malfunction, inadequacy or illegitimacy of any product or service;
- (3) Breach of Contract
- loss resulting directly or indirectly from the failure of any party to perform in whole or in part under any contract;

- (4) Extension of Credit
loss resulting directly or indirectly from the extension of any loan, credit or similar promise to pay; or
- (5) Gambling
loss resulting directly or indirectly from any gambling, game of chance, lottery or similar game.

VI. LIMIT OF LIABILITY

- (A) The Company's maximum liability for each loss shall not exceed the Limit of Liability applicable to such loss set forth in Item 4 of the Crime portion of the Declarations, regardless of the number of **Insureds** sustaining the loss, provided that with respect to loss covered under Insuring Clause (A)(3), the Company's maximum liability for each loss shall apply in accordance with the terms of Section IV, ERISA Plans.
- (B) If a loss is covered under more than one Insuring Clause, the maximum amount payable under this Coverage Part shall not exceed the largest applicable Limit of Liability of any such Insuring Clauses.
- (C) All loss resulting from a single act or any number of acts of the same **Employee** or **Third Party**, regardless of whether or not such loss was sustained by one or more **Insureds**, and regardless of whether such act or acts occurred before or during the **Policy Period**, will be treated as a single loss and the applicable Limit of Liability set forth in Item 4 of the Crime portion of the Declarations will apply.
- (D) With respect to loss sustained by more than one **Insured**, the maximum liability of the Company for all loss sustained by any or all **Insureds** combined shall not exceed the amount for which the Company would be liable if all loss was sustained by any one **Insured**.
- (E) Regardless of the number of years this coverage remains in effect and the total premium amounts due or paid, whether under this Coverage Part, any prior bond or coverage part, or any renewal or replacement of this Coverage Part, the liability of the Company with respect to any loss shall not be cumulative from year to year or from **Policy Period** to **Policy Period**.

VII. OWNERSHIP

This Coverage Part shall only apply to loss of **Money**, **Securities**, or **Property**:

- (A) owned by an **Insured**;
- (B) held by an **Insured** in any capacity; or
- (C) for which an **Insured** is legally liable,

except, solely with respect to loss covered under Insuring Clause (A)(2), this Coverage Part shall apply to loss of **Money**, **Securities**, or **Property** owned or held by a **Client** in any capacity and for which the **Client** is legally liable.

VIII. OTHER INSURANCE AND INDEMNITY

With respect to any loss covered by this Coverage Part, if any **Insured** or any other party in interest has any bond, indemnity, or insurance which would cover such loss in whole or in part in the absence of this Coverage Part, then this Coverage Part shall be null and void to the extent of the amount recoverable or received under such bond, indemnity or insurance; provided that this Coverage Part shall cover such loss, subject to its limitations, conditions, provisions and other terms, to the extent of the amount of such loss in excess of the amount recoverable or received under such bond, indemnity, or insurance.

Solely with respect to loss of or damage to **Money, Securities** or **Property** while in the custody of any bank, trust company, similar recognized place of safe deposit, or armored motor vehicle company, this Coverage Part shall cover such loss in excess of the amount recoverable or the amount received by an **Insured** under: (A) such **Insured's** contract, if any, with, or insurance carried by, any of the foregoing; or (B) any other valid and collectible bond, insurance, or indemnity in force which would cover such loss in whole or in part.

IX. RECOVERIES

- (A) In the event of any payment under this Coverage Part, the Company shall be subrogated to the extent of such payment to all of the **Insured's** rights of recovery, and such **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit or otherwise pursue subrogation rights in the name of the **Insured**.
- (B) Recoveries for any loss covered under this Coverage Part, whether effected by the Company or by an **Insured**, less the unreimbursed cost of recovery incurred by the Company, shall be distributed as follows:
- (1) first, to an **Insured** for the amount of such loss, otherwise covered, in excess of the applicable Limit of Liability, except such loss otherwise covered under Section II, Expenses;
 - (2) second, to the Company for the amount of such loss paid to an **Insured** as covered loss;
 - (3) third, to an **Insured** for the Retention applicable to such loss;
 - (4) fourth, to an **Insured** for the amount of such loss, otherwise covered, in excess of the applicable Limit of Liability for loss covered under Section II, Expenses; and
 - (5) fifth, to an **Insured** for the amount of such loss not covered under this Coverage Part.
- (C) Recovery from reinsurance or indemnity of the Company shall not be deemed a recovery hereunder.

X. TERMINATION AS TO ANY EMPLOYEE

This Coverage Part terminates as to any **Employee**:

- (A) immediately upon any **Executive** or **Insurance Representative** (other than those acting in collusion with such **Employee**) becoming aware of a **Theft, Forgery** or other act involving fraud or dishonesty committed by such **Employee** while employed with or in the service of an **Insured**; or
- (B) immediately upon any **Executive** or **Insurance Representative** becoming aware of any act involving fraud or dishonesty which involves **Money, Securities** or **Property** of a value greater than or equal to twenty-five thousand dollars (\$25,000) committed by such **Employee** prior to employment or service with an **Insured**.

Coverage for an **Employee** described above may be reinstated by the Company if the general counsel and director of human resources of an **Insured** (or any functional equivalents thereof) jointly agree in writing to continue with the employment of such **Employee**, and contemporaneously document in writing additional internal control procedures implemented with the specific purpose to reduce the risk of loss associated with such continued employment. Such reinstatement must be made by written endorsement to this Coverage Part by the Company and shall be subject to additional or different terms, conditions and limitations of coverage and payment of additional premium as the Company in its sole and absolute discretion may require.

No coverage will be available for loss caused by any **Employee** for whom similar prior insurance has been terminated or cancelled and not reinstated in writing since such termination or cancellation.

XI. TERMINATION OF PRIOR POLICY

Any prior fidelity bonds or crime policies issued by the Company or any subsidiary or affiliate of the Company to the **Parent Organization** shall terminate, if not already terminated, as of the inception of this Coverage Part.

XII. DISCOVERY PERIOD

Except as set forth in Section IV, ERISA Plans, this Coverage Part applies only to loss first **Discovered** by the **Insured**:

- (A) during the **Policy Period**; or
- (B) solely in the event of complete liquidation or dissolution of the **Parent Organization**, within ninety (90) days following the termination of this Coverage Part in its entirety (the "Extended Discovery Period"), provided that:
 - (1) such loss is sustained prior to such termination; and
 - (2) the Extended Discovery Period shall terminate immediately upon the effective date of any other insurance obtained for any **Insured**, which replaces in whole or in part the coverage afforded under this Coverage Part, whether or not such other insurance provides coverage for loss sustained prior to its effective date.

XIII. PROOF OF LOSS AND LEGAL PROCEEDINGS

- (A) As a condition precedent to coverage hereunder, the **Parent Organization** shall, upon **Discovery**:
 - (1) give written notice and furnish affirmative proof of loss with full particulars to the Company at the earliest practicable moment, but in no event later than one (1) year after such **Discovery**;
 - (2) submit to examination under oath at the Company's request;
 - (3) produce all pertinent records at such reasonable times and places as the Company shall designate; and
 - (4) provide full cooperation with the Company in all matters pertaining to a loss under this Coverage Part.
- (B) No **Insured** shall institute legal proceedings against the Company:
 - (1) after two (2) years immediately following any **Discovery**; or
 - (2) after two (2) years immediately following the date upon which a judgment shall become final or settlement entered to recover a judgment or settlement against an **Insured** resulting from **Forgery** or related legal expenses as set forth in Subsection II(B), Legal Expense.

XIV. JOINT INSURED

- (A) By acceptance of this Coverage Part, the **Parent Organization** agrees that it shall be considered the sole agent of, and shall act on behalf of, each **Insured** with respect to:
 - (1) the payment of premiums and the receiving of return premiums that may become due under this Coverage Part;
 - (2) the negotiation, agreement to and acceptance of endorsements for this Coverage Part; and

- (3) the giving or receiving of any notice provided for in this Coverage Part

Each **Insured** agrees that the **Parent Organization** shall act on its behalf with respect to the foregoing.

- (B) Each and every other **Insured** shall be conclusively deemed to have consented to and agreed that none of them shall have any direct beneficiary interest in or any right of action under this Coverage Part and neither this Coverage Part nor any right of action shall be assignable.
- (C) Knowledge possessed by any **Insured** or **Discovery** by any **Insured** shall be deemed knowledge possessed by or **Discovery** by all **Insureds**.
- (D) All loss and other payments, if any, payable by the Company, shall be payable to the **Parent Organization** without regard to such **Parent Organization's** obligations to others, and the Company shall not be responsible for the application by the **Parent Organization** of any payment made by the Company, except for loss and other payments, if any, payable by the Company to any **ERISA Plan**, which shall be made directly to the **ERISA Plan** sustaining such loss. If the Company agrees to and makes payment to any **Insured**, other than the **Parent Organization**, such payment shall be treated as though made to the **Parent Organization**.

XV. JOINT LOSS PAYEE

Any loss covered under this Coverage Part involving **Money, Securities** or **Property** in which a **Client** has an interest, may be payable by the Company to the **Parent Organization** and such **Client** as joint payees, at the direction of the **Parent Organization**; provided that the coverage afforded pursuant to this Coverage Part is for the sole use and benefit of the **Parent Organization**. Any **Client** shall not be considered an **Insured** under this Coverage Part nor shall any **Client** otherwise have any rights or benefits hereunder.

XVI. CONCEALMENT, MISREPRESENTATION AND FRAUD

This Coverage Part is void in any case of fraud by an **Insured** as it relates to this Coverage Part at any time. It is also void if any **Insured**, at any time, conceals or misrepresents a material fact concerning:

- (A) this Coverage Part, and any application made in connection therewith;
- (B) **Money, Securities, or Property** covered under this Coverage Part;
- (C) an **Insured's** interest in **Money, Securities, or Property** covered under this Coverage Part; or
- (D) a claim under this Coverage Part.

In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company agrees to pay for loss any Insured shall sustain at any time prior to the termination of this Coverage Part which is Discovered during the Policy Period in the manner set forth below:

I. INSURING CLAUSES

Insuring Clause (A): Ransom

- (A) The Company shall reimburse the **Parent Organization** for loss of **Ransom** as a result of the actual surrender of such **Ransom** by or on behalf of any **Insured** or **Insured Person**.

Insuring Clause (B): Custody

- (B) The Company shall reimburse the **Parent Organization** for loss of **Ransom** as a result of the actual destruction, disappearance, confiscation or unlawful taking of such **Ransom**, while such **Ransom** is held by a natural person authorized by an **Insured** to hold such **Ransom**.

Insuring Clause (C): Insured Event Expense

- (C) The Company shall reimburse the **Parent Organization** for **Expenses** incurred by an **Insured** resulting from an **Insured Event**.

Insuring Clause (D): Accidental Loss

- (D) The Company shall reimburse the **Parent Organization** for a **Benefit Amount** paid to an **Insured Person**, or an **Event Benefit Amount** paid to a group of **Insured Persons**, for **Accidental Loss**.

Insuring Clause (E): Legal Liability

- (E) The Company shall reimburse the **Parent Organization** for **Legal Liability Costs**.

Insuring Clause (F): Emergency Political Repatriation

- (F) The Company shall reimburse the **Parent Organization** for **Emergency Political Repatriation Expenses** incurred by an **Insured** resulting from an **Emergency Political Repatriation**.

Insuring Clause (G): Threat Expense

- (G) The Company shall reimburse the **Parent Organization** for **Threat Expenses** incurred by an **Insured** resulting from a **Threat**.

II. DEFINITIONS

For purposes of this Coverage Part:

Accidental Loss means **Loss of Life, Loss of Use, Loss of Sight, Loss of Speech or Hearing, or Mutilation** of an **Insured Person** which:

- (A) is sudden, unforeseen, unexpected and independent of any existing illness, disease or other bodily malfunction of such **Insured Person** at the time of an **Insured Event**; and
- (B) happens by chance and arises from a source external to such **Insured Person**.

Benefit Amount means the amount set forth in Item 4(D)(1) of the KRE portion of the Declarations which the Company shall pay as a result of **Accidental Loss**.

Contaminate means to introduce a foreign material or substance, which would render any tangible property unfit for use or sale.

Contractual Independent Contractor means any natural person while in the service of an **Insured** and in the ordinary course of such **Insured's** business, whom an **Insured** directly compensates pursuant to a written contract between such **Insured** and such natural person.

Disappearance means the unexplained vanishing of an **Insured Person** for a period of longer than thirty-six (36) hours (other than a **Kidnapping, Hijacking, Wrongful Detention, or Express Kidnapping**), provided the vanishing has been reported to the local authorities, and a **Ransom** demand has not been made in connection therewith. The **Disappearance** of two or more **Insured Persons** last seen or reported together shall be treated as one **Disappearance**. With respect to loss involving **Disappearance**, the Company's liability shall end on the earlier of ninety (90) days after **Discovery**, or the reappearance of the **Insured Person**.

Discovery or **Discovered** means knowledge acquired by an **Executive** or **Insurance Representative** of any **Insured** which would cause a reasonable person to believe a covered loss has occurred or an occurrence has arisen that may subsequently result in a covered loss. This includes loss:

- (A) sustained prior to the inception date of any coverage under this Coverage Part; or
- (B) the exact amount or details of which are unknown.

Emergency Political Repatriation means the return of an **Insured Person** from a **Temporary Resident Country** to the **Resident Country** of such **Insured Person**, necessitated by:

- (A) an official of the **Resident Country** or the **Temporary Resident Country** issuing, for politically motivated reasons unrelated to health, a recommendation that categories of natural persons which include the **Insured Person** should leave such **Temporary Resident Country**;
- (B) an **Insured Person** being expelled or declared *persona non grata* on the written authority of the recognized government of the **Temporary Resident Country**;
- (C) wholesale seizure, confiscation or expropriation of the property, plant and equipment of an **Insured** in the **Temporary Resident Country**; or
- (D) the issuance of a written recommendation by the security consulting firm provided by the Company, or a security firm previously approved by the Company, that a category of natural persons, which includes such **Insured Person**, should leave the **Temporary Resident Country** as the result of any politically motivated threat by a natural person or group of natural persons.

Emergency Political Repatriation Expenses means only the following reasonable fees and expenses incurred by an **Insured Person**:

- (A) for travel to the nearest place of safety or to his or her **Resident Country**;
- (B) for accommodations for a maximum of seven (7) days;
- (C) for the **Salary** which an **Insured** continues to pay an **Employee** who is the subject of an **Emergency Political Repatriation**; provided that such coverage shall apply to the **Salary** in effect at the time of the **Emergency Political Repatriation** and shall end on the earlier of one-hundred twenty (120) days thereafter, or the date of the return of the **Employee** to his or her **Resident Country**;
- (D) for personal effects of an **Insured Person** which have been lost, damaged, or destroyed; or
- (E) other reasonable fees and expenses incurred with the Company's prior written approval, resulting from an **Emergency Political Repatriation** of an **Insured Person**.

Employee means any:

- (A) natural person, other than an **Executive**, while in the regular service of an **Insured** in the ordinary course of such **Insured's** business, whom such **Insured** compensates by **Salary** and has the right to govern and direct in the performance of such service, including any part-time, seasonal, leased or temporary worker, volunteer, intern, or any natural person formerly meeting this definition while retained by the **Insured** as a consultant pursuant to a written contract;
- (B) **Executive** while performing acts within the scope of the usual duties of an **Employee**;
- (C) **Contractual Independent Contractor**; or
- (D) natural person, as defined in Subsections (A) and (B) above, while on leave for medical or family reasons, with the consent of the **Insured**.

Event Benefit Amount means the amount set forth in Item 4(D)(2) of the KRE portion of the Declarations which the Company shall pay as a result of **Accidental Loss**.

Executive means any natural person specified below:

- (A) a duly elected or appointed director, officer, trustee, member of the Board of Managers, management committee member, or in-house general counsel of an **Insured** incorporated, formed, or organized in the United States of America;
- (B) a holder of an equivalent position to those described in Subsection (A) above of an **Insured** incorporated, formed, or organized in a **Foreign Jurisdiction**; or
- (C) a natural person partner of an **Insured** while engaged in the regular service of such **Insured**.

Expenses means:

- (A) in connection with an **Insured Event**, only the reasonable fees and expenses for, or reasonable costs of:
 - (1) an independent negotiator;
 - (2) an independent public relations consultant;
 - (3) travel and accommodations of an **Insured Person** incurred by an **Insured**;
 - (4) travel and accommodations of, and incurred by, the family of an **Insured Person** who was the victim of an **Insured Event**;
 - (5) independent legal advice, other than **Legal Liability Costs**;
 - (6) temporary independent security measures, other than as set forth in Paragraph (7) below, set up solely for protecting an **Insured** or an **Insured Person** after an **Insured Event** has occurred, at the specific direction of a security consultant, incurred with the Company's prior written approval;
 - (7) independent security guard services for up to ninety (90) days incurred, except in connection with an **Express Kidnapping** or a **Disappearance**;
 - (8) advertising, communications and recording equipment;
 - (9) an independent medical examiner or forensic DNA analyst engaged by an **Insured**;
 - (10) an assessment of an **Extortion** by an independent security consultant;
 - (11) interest for a loan taken by an **Insured** for property or other consideration surrendered as payment under Insuring Clause (A), Ransom;

- (12) a reward paid by an **Insured** to a natural person who provides information leading to the arrest and conviction of any natural person responsible for an **Insured Event**, subject to the Company's prior written approval;
 - (13) the **Salary** which an **Insured** continues to pay an **Employee** who is the victim of an **Insured Event**; provided that such coverage shall apply to the **Salary** in effect at the inception of such **Insured Event** and will end ninety (90) days after such **Employee** is released or suffers **Loss of Life**;
 - (14) the **Salary** which an **Insured** pays a newly hired natural person to conduct the duties of an **Employee** who has been a victim of an **Insured Event**; provided that such coverage shall apply to such **Salary** in effect at the inception of such **Insured Event** and will end ninety (90) days after such **Employee** is released or suffers **Loss of Life**;
 - (15) the **Salary** which an **Insured** pays an **Employee** or the amount paid by an **Insured** to a **Relative** equal to the **Salary** or wages of such **Relative**, who assists in: (a) the negotiation of the resolution of an **Insured Event**; or (b) the rehabilitation of the victim during and following an **Insured Event**, not to exceed a period of ninety (90) days following the end of the **Insured Event**; provided that the **Insured** submits a written account of such **Employee's** or **Relative's** involvement in the negotiation and rehabilitation process, and such **Employee's** or **Relative's** specific compensable services and **Salary**;
 - (16) retraining an **Employee** after his or her release from an **Insured Event**, including the **Salary** that an **Insured** continues to pay such **Employee** while being retrained, and the reasonable fees and cost of external training courses;
 - (17) consequential personal financial loss which an **Insured Person** suffers as the result of such **Insured Person's** inability to attend to personal financial matters;
 - (18) medical, mental health, dental and cosmetic expenses, including the cost of plastic surgery, incurred following an **Insured Person's** release;
 - (19) rest and rehabilitation, including meals and recreation, incurred by the victim of an **Insured Event** and a spouse or domestic partner and their children for up to ninety (90) days when such rest and rehabilitation fees, expenses and costs are incurred within twelve (12) months following an **Insured Person's** release and which are subject to Section IV(D) Limit of Liability; or
 - (20) repatriation of an **Insured Person's** remains following an **Insured Event** which results in **Loss of Life**;
- (B) in connection with an **Extortion** involving a threat to **Contaminate Merchandise, Recall Expenses**; and
 - (C) any other reasonable fees, expenses or costs incurred by an **Insured**, subject to the Company's prior written approval.

Express Kidnapping means the unlawful detention of an **Insured Person** (other than a **Kidnapping, Hijacking, Hostage Crisis** or **Wrongful Detention**) that:

- (A) lasts for less than twenty-four (24) hours;
- (B) is carried out by violence or a threat of violence by a natural person or group of natural persons; and
- (C) involves any perpetrator's demand of **Ransom** directly from such **Insured Person** as a condition of his or her release.

Extortion means a threat against an **Insured** to:

- (A) commit a **Kidnapping** of, do bodily harm to, wrongfully abduct or detain any **Insured Person**;
- (B) damage, destroy or **Contaminate** an **Insured's Property**;
- (C) disseminate, divulge or utilize **Proprietary Information**; or
- (D) disseminate or divulge information regarding **Merchandise**,

by a natural person or group of natural persons who demand payment of **Ransom** in exchange for ceasing such threats.

All **Extortion** threats that are: (1) related by a common intentional and unlawful physical or verbal act; or (2) made contemporaneously against the same **Insured**, shall be deemed to constitute a single **Extortion**.

Extortion shall not include any threat, act or incident based upon, arising from, or in consequence of a **Network Intrusion**, except a credible threat to commit a **Kidnapping** of, do bodily harm to, wrongfully abduct or detain any **Insured Person**.

Guest means any natural person visiting the **Premises** or traveling with an **Employee** for a lawful purpose.

Hijacking means the unlawful detention of an **Insured Person** (other than a **Kidnapping, Wrongful Detention, Disappearance, Express Kidnapping** or **Hostage Crisis**) by violence or a threat of violence by a natural person or group of natural persons, where such unlawful detention occurs while traveling on or in any form of transportation.

Hostage Crisis means an actual wrongful abduction and holding of an **Insured Person** under duress (other than a **Kidnapping, Hijacking, Wrongful Detention, Express Kidnapping**) by one party in a conflict with another party, where the holding party demands from the other party satisfaction of specified terms in exchange for the release of such **Insured Person**, and the person from whom such satisfaction of specified terms is demanded is within hearing or sight distance of the **Insured Person**.

Insurance Representative means any member of an **Insured's** Risk Management Department (or functional equivalent) including a risk manager, designated to represent an **Insured** for the purpose of effecting and maintaining insurance.

Insured means the **Parent Organization** and any **Subsidiary**.

Insured's Computer System means a device or group of devices and all input, output, processing, storage, off-line media libraries (including third-party hosted computing services accessed across the internet, including infrastructure, platform, and software services), and communication facilities, including related communications networks, which are connected directly or indirectly to such device or group of devices which are leased, owned or operated by an **Insured** or operated for the benefit of an **Insured** by another entity under written agreement with such **Insured**.

Insured Event means any:

- (A) **Kidnapping**;
- (B) **Extortion**;
- (C) **Wrongful Detention**;
- (D) **Disappearance**;
- (E) **Hostage Crisis**;
- (F) **Hijacking**; or
- (G) **Express Kidnapping**.

Insured Person means any:

- (A) **Employee**;
- (B) **Relative** of an **Employee**;
- (C) natural person who is employed in the household of an **Employee** while in the home of such **Employee**;
- (D) natural person who is a normal resident or a temporary invitee while in the home of an **Employee**;
- (E) customer or **Guest** of an **Insured** while on the **Premises**;
- (F) **Guest** of an **Employee**, or customer or **Guest** of an **Insured**, while traveling with an **Employee**;
or
- (G) natural person who is temporarily retained by an **Insured** or an independent security consultant to deliver a **Ransom** payment.

Insured's Property means all **Property**, **Premises** and **Merchandise** of an **Insured** and any other real or tangible personal property, owned by or leased by an **Insured**, for which an **Insured** is legally liable, or located on such **Premises** or on any land adjacent to or occupied by an **Insured** in conducting its business. **Insured's Property** shall not include an **Insured's Computer System**, computer programs, electronic data or any property specifically excluded under this Coverage Part.

Kidnapping means an actual or alleged wrongful abduction and holding, under duress or by fraudulent means (other than a **Wrongful Detention**, **Hijacking**, **Express Kidnapping**, or **Hostage Crisis**), of an **Insured Person**, by a natural person or a group of natural persons, which includes a demand for payment or a series of payments of **Ransom** by an **Insured**, in exchange for the release of such **Insured Person**.

Legal Liability Costs means the reasonable defense costs incurred by an **Insured** and damages which such **Insured** becomes legally obligated to pay as a result of a judgment or settlement in any suit brought by an **Insured Person** (or the estate, heirs or legal representatives of such **Insured Person**) alleging negligence or legal incompetence in the:

- (A) hostage retrieval operations or negotiations in an **Insured Event**; or
- (B) prevention of an **Insured Event**,

provided that the **Insured** agrees as a condition precedent to coverage to cooperate with the Company in conducting the defense or in negotiating the settlement of such suit.

Loss of Life means:

- (A) death, including clinical death, of an **Insured Person** determined by a medical examiner or similar local governing authority; or
- (B) the absence of communication from an **Insured Person** or those responsible for an **Insured Event** for a period of two (2) years following the later of:
 - (1) such **Insured Event**;
 - (2) the last communication from such **Insured Person**; or
 - (3) the last communication from those responsible for such **Insured Event**.

Loss of Sight means legal blindness or the permanent total loss of sight.

Loss of Speech or Hearing means the permanent total loss of the capability of speech or hearing.

Loss of Use means the permanent total loss of the function of a foot, hand or both thumb and index finger.

Merchandise means an **Insured's** inventory, raw materials, work in progress or products, manufactured or distributed by an **Insured**.

Mutilation means the permanent total loss of an entire finger, toe, ear, nose or genital organ.

Network Intrusion means:

- (A) unauthorized access; or
 - (B) the entry of an unauthorized application or software program,
- into the **Computer System** of an **Insured**, by any entity or natural person.

Premises means buildings, facilities or properties occupied by an **Insured** in conducting its business.

Property means tangible property other than money or securities.

Proprietary Information means any confidential, private or secret information unique to an **Insured** including client lists, drawings, negatives, microfilm, tapes, transparencies, manuscripts, prints, computer discs or other records of a similar nature which are protected by physical or electronic control or other reasonable efforts to maintain nondisclosure of such information.

Ransom means consideration offered as a result of an **Insured Event**, other than a **Disappearance**.

Recall Expenses means only the reasonable fees and expenses for, or the costs of:

- (A) transportation; and
- (B) other reasonable expenses, subject to the Company's prior written approval,

incurred by an **Insured** in the withdrawal, physical inspection or destruction of **Merchandise**.

Relative means spouse, domestic partner, siblings, spouse's siblings, ancestors, spouse's ancestors, lineal descendants or lineal descendants' spouses. Lineal descendants include adopted children, foster children and stepchildren. Ancestors include adoptive parents and stepparents.

Resident Country means the country of which the **Insured Person** is a national.

Salary means compensation an **Insured** pays an **Employee**, including wages, bonus, commission, incentive payments and the cost of health, welfare and pension benefits.

Temporary Resident Country means the country in which the **Insured Person** is a temporary resident or temporary business traveler.

Threat means any intentional and unlawful threat (including any physical or verbal act which constitutes a threat) of potentially deadly force made by a natural person or group of natural persons, without an accompanying **Ransom** demand, to attempt to or to:

- (A) commit a **Kidnapping** of, do bodily harm to, wrongfully abduct or detain any **Insured Person**;
- (B) damage, destroy or **Contaminate** an **Insured's Property**;
- (C) disseminate, divulge or utilize **Proprietary Information**; or
- (D) disseminate or make public information regarding **Merchandise**.

All **Threats** that are: (1) related by a common intentional and unlawful physical or verbal act; or (2) made contemporaneously against the same **Insured**, shall be deemed to constitute a single **Threat**.

Threat shall not include any threat, act or incident based upon, arising from, or in consequence of a **Network Intrusion**, unless such threat is made against an **Insured Person** and represents a credible threat to commit a **Kidnapping** of, do bodily harm to, wrongfully abduct or detain such **Insured Person**.

Threat Expenses means, in connection with a **Threat**, only the reasonable fees and expenses for, or reasonable costs of:

- (A) an independent security consultant to assess and help diffuse a **Threat**; or
- (B) independent security guard services for up to ten (10) days, except such period shall be increased to a total of up to ninety (90) days subject to the specific recommendation of the selected independent security consultant of an **Insured**.

Wrongful Detention means wrongful involuntary confinement of an **Insured Person** (other than **Kidnapping, Hijacking, Express Kidnapping** or **Hostage Crisis**) for a period of no less than four (4) hours, by government authorities or others in the place of custody. If held by legal government authorities, such detention must be the result of malicious and false criminal accusations against the **Insured** or **Insured Person** made solely and directly to achieve a political, propaganda or coercive effect upon or at the expense of the **Insured, Insured Person** or country in which the **Insured** has its headquarters or of which the **Insured Person** is a national.

III. EXCLUSIONS

- (A) This Coverage Part does not cover:
 - (1) Fraudulent or Dishonest Acts
loss resulting directly or indirectly from any fraudulent, dishonest or criminal acts of an identifiable **Employee** of an **Insured** acting alone or in collusion with others, unless such loss is in excess of the amount available to the **Insured**, whether collectible or not, under any other bond, insurance or indemnity which would cover the loss in whole or in part, in which case this Coverage Part shall cover only such excess amount;
 - (2) Advantage
loss sustained by one **Insured** to the advantage of any other **Insured**;
 - (3) Reasonable Efforts
loss sustained if an **Insured** has not made reasonable efforts to determine that an **Insured Event** or **Threat** was genuine;
 - (4) Personal Assets
loss resulting directly or indirectly from the surrender or intended surrender of **Ransom** by or on behalf of an **Insured Person**, unless an **Insured** agrees that such **Ransom** is on behalf of such **Insured**, except this exclusion shall not apply to any **Express Kidnapping**;
 - (5) Business Income
loss of income not realized by an **Insured** as the result of a covered loss;
 - (6) Recall Expenses
Recall Expenses resulting directly or indirectly from:
 - (a) refunds for the value of or the cost of replacing any withdrawn, damaged or destroyed **Merchandise**; or
 - (b) any known or suspected defect, deficiency or use of substandard or flawed materials necessitating the withdrawal, physical inspection or destruction of **Merchandise** in the absence of an **Extortion** against such **Merchandise**;

- (7) Data Restoration or Recreation
fees, costs, or expenses incurred to replace, restore, recreate, re-collect or recover digital data;
- (8) Computer Remediation
fees, costs, or expenses incurred to identify or remediate software program errors or vulnerabilities, or fees, costs, or expenses to update, replace, restore, repair, recreate, upgrade, maintain, or improve the **Insured's Computer System**;
- (9) Network Security
fees, costs, or expenses of any forensic analyst or network security consultant engaged to investigate or assess any actual or alleged **Threat or Extortion**, unless such threat is made against an **Insured** or an **Insured Person** and represents a credible threat to commit a **Kidnapping** of, do bodily harm to, or wrongfully abduct or detain an **Insured Person**;
- (10) Violation of Law or Regulation
loss resulting directly or indirectly from **Wrongful Detention** or **Emergency Political Repatriation** caused by:
- (a) any violation of criminal law by an **Insured Person** or an **Insured** if such violation would be considered a criminal violation in the **Resident Country** of such **Insured Person** or the country where such **Insured** is headquartered, except when the Company has determined that the allegations of any violation of criminal law are fraudulent or politically motivated; or
- (b) the failure of an **Insured Person** or an **Insured** to procure or maintain proper immigration, work, residence or similar visas, permits or other documentation; or
- (11) Disappearance
loss resulting directly or indirectly from the **Disappearance** of an **Insured Person** if:
- (a) the **Insured Person** disappears by his or her own free will, provided that any amounts paid to the **Parent Organization** in connection with such voluntary **Disappearance** shall be refunded by the **Parent Organization** to the Company;
- (b) the **Disappearance** occurs within twenty-four (24) hours after a storm (wind, rain, snow, sleet, hail, lightning, dust or sand), earthquake, flood, tsunami, volcanic eruption, wildfire, or other similar natural disaster which results in severe and widespread damage and which causes the area in which the **Insured Person** was last located to be declared unsafe or a disaster area by the local government and deemed uninhabitable or dangerous; or
- (c) the **Disappearance** of an **Insured Person** occurs while engaged in transit by air or sea.
- (B) In addition to the Exclusions in Subsection (A) above, with respect to Insuring Clause (A), this Coverage Part does not cover:
- (1) On Premises Robbery
loss resulting directly or indirectly from the surrender of **Ransom** in any face to face encounter either at the location where the **Kidnapping** of one or more **Insured Persons** occurs, or where the **Extortion** demand is first made, unless brought to such location after the receipt of the **Ransom** demand for the sole purpose of paying such demand; or

(2) Off Premises Robbery

loss resulting directly or indirectly from the surrender of **Ransom** in any face to face encounter, unless surrendered by a person in possession of such **Ransom** at the time of such surrender for the sole purpose of conveying it to pay a previously communicated **Ransom** demand, except this exclusion shall not apply to any **Express Kidnapping** or **Hostage Crisis**.

- (C) In addition to the Exclusions in Subsection (A) above, with respect to Insuring Clause (D), this Coverage Part does not cover:

Accidental Loss Fraud

loss resulting directly or indirectly from the fraudulent acts of an **Insured Person** who is or is alleged to be the subject of an **Accidental Loss**.

- (D) In addition to the Exclusions in Subsection (A) above, with respect to Insuring Clause (F), this Coverage Part does not cover:

(1) Financial Impairment

loss resulting directly or indirectly from a debt, insolvency, commercial failure, repossession of any property by a title holder or any other financial cause;

(2) Contractual Obligation

loss resulting directly or indirectly from an **Insured's** failure to honor any contractual obligation or bond or to obey any conditions in a license;

(3) Natural Disaster

loss resulting directly or indirectly from any natural disasters, including any storm (wind, rain, snow, sleet, hail, lightning, dust or sand), earthquake, flood, tsunami, fire, famine, or volcanic eruption;

(4) Nuclear

loss resulting directly or indirectly from nuclear reaction, nuclear radiation or radioactive contamination, or any act or condition incident to any of the foregoing; or

(5) Residence

loss resulting directly or indirectly from the relocation of any **Insured Person** from his or her **Resident Country**.

IV. LIMIT OF LIABILITY

- (A) The Company's maximum liability for each loss shall not exceed the Limit of Liability applicable to such loss set forth in Item 4 of the KRE portion of the Declarations, regardless of the number of **Insureds** sustaining the loss.
- (B) The payment of loss under this Coverage Part shall not reduce the liability of the Company for other losses, provided that the maximum amount payable under this Coverage Part shall not exceed the Limit of Liability amount set forth in Item 4 in the KRE portion of the Declarations:
- (1) applicable to Insuring Clause (A), Ransom: for all loss resulting from the payment of **Ransom** actually surrendered by any **Insured** or **Insured Person** arising from one **Insured Event** or a series of related **Insured Events**;
 - (2) applicable to Insuring Clause (B), Custody: for all loss resulting from **Ransom** intended to be surrendered in response to any demand arising from one **Insured Event** or a series of related **Insured Events**;

- (3) applicable to Insuring Clause (C), Insured Event Expense: for all **Expenses** arising from one **Insured Event** or a series of related **Insured Events**, except **Expenses** incurred by the Company's selected independent security consultant arising from one **Insured Event** or a series of related **Insured Events**. **Expenses** incurred by the Company's selected independent security consultant shall be deemed reasonable and shall not be subject to the Limit of Liability applicable to Insuring Clause (C);
- (4) applicable to Insuring Clause (D), Accidental Loss:
- (a) if one **Insured Person** suffers covered **Accidental Loss** resulting from the same **Insured Event**, or a series of related **Insured Events**, all such **Accidental Loss** shall not exceed the **Benefit Amount**; or
- (b) if more than one **Insured Person** suffers covered **Accidental Loss** resulting from the same **Insured Event**, or series of related **Insured Events**, all such **Accidental Loss** shall not exceed the **Event Benefit Amount**;
- (5) applicable to Insuring Clause (E), Legal Liability: for all **Legal Liability Costs** arising from one **Insured Event** or a series of related **Insured Events**;
- (6) applicable to Insuring Clause (F), Emergency Political Repatriation:
- (a) for all **Emergency Political Repatriation Expenses**, except **Emergency Political Repatriation Expenses** for personal effects loss as set forth in Subparagraph (b) below, resulting from the same **Emergency Political Repatriation**, or a series of related **Emergency Political Repatriations** during the **Policy Period** incurred by more than one **Insured Person**; or
- (b) for all **Emergency Political Repatriation Expenses** for personal effects loss as set forth in Subsection (D) of the definition of **Emergency Political Repatriation Expenses** resulting from the same **Emergency Political Repatriation**, or series of related **Emergency Political Repatriations** during the **Policy Period** incurred by any one **Insured Person**, the Company's maximum liability shall be ten thousand dollars (\$10,000), which amount is part of, and not in addition to, the Limit of Liability set forth in Item 4(F), Emergency Political Repatriation, of the KRE portion of the Declarations; and
- (7) applicable to Insuring Clause (G), Threat Expense: for all **Threat Expenses** incurred by an **Insured** arising from one **Threat** or a series of related **Threats**.
- (C) For all covered **Recall Expenses** incurred during the **Policy Period**, the Company's maximum liability shall be twenty-five percent (25%) of the Limit of Liability set forth in Item 4(C), Insured Event Expense, of the KRE portion of the Declarations, up to a maximum limit of liability of one million dollars (\$1,000,000), which amount is part of, and not in addition to, the Limit of Liability set forth in Item 4(C), Insured Event Expense, of the KRE portion of the Declarations.
- (D) For all covered rest and rehabilitation **Expenses** incurred during the **Policy Period**, the Company's maximum liability shall be one hundred thousand dollars (\$100,000), which amount is part of, and not in addition to, the Limit of Liability set forth in Item 4(C), Insured Event Expense, of the KRE portion of the Declarations.
- (E) Regardless of the number of years this coverage remains in effect and the total premium amounts due or paid, whether under this Coverage Part, any prior bond or policy, or any renewal or replacement of this Coverage Part, the liability of the Company with respect to any loss shall not be cumulative from year to year or from **Policy Period** to **Policy Period**.

V. OTHER INSURANCE AND INDEMNITY

With respect to any loss covered by this Coverage Part, if any **Insured** or any other party in interest has any bond, insurance, or indemnity which would cover such loss in whole or in part in the absence of this Coverage Part, then this Coverage Part shall be null and void to the extent of the amount recoverable or received under such bond, insurance, or indemnity; provided that this Coverage Part shall cover such loss, subject to the Coverage Part's limitations, conditions, provisions and other terms, to the extent the amount of such loss in excess of the amount recoverable or received under such bond, insurance, or indemnity.

The Company's liability under this Coverage Part shall be reduced by any payment of loss under any kidnap, ransom or extortion policy issued by the Company or any subsidiary or affiliate of the Company which also covers any **Insured Person**.

This Coverage Part shall be deemed to be specifically primary to any homeowners or travel accident insurance coverage available to any **Insured Person**.

VI. PERSONAL ASSETS

In the event a **Ransom** demand is directed against an **Insured Person**, rather than against an **Insured**; then, at the option of the **Parent Organization**, such **Ransom** and **Expenses** (other than as defined in Paragraphs (A)(13) through (A)(16) of the definition of **Expenses**) incurred by or on behalf of such **Insured Person** shall be considered **Ransom** and **Expenses** incurred by an **Insured**.

VII. RECOVERIES

- (A) In the event of any payment under this Coverage Part, the Company shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery, and such **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit or otherwise pursue subrogation rights in the name of the **Insured**.
- (B) Recoveries for any loss covered under this Coverage Part, whether effected by the Company or by an **Insured**, less the unreimbursed cost of recovery incurred by the Company, shall be distributed as follows:
- (1) first, to an **Insured** for the amount of such loss, otherwise covered, in excess of the applicable Limit of Liability;
 - (2) second, to the Company for the amount of such loss paid to an **Insured** as covered loss; and
 - (3) third, to an **Insured** for the amount of such loss not covered under this Coverage Part.
- (C) Recovery from reinsurance or indemnity of the Company shall not be deemed a recovery hereunder.

VIII. TERMINATION OF PRIOR POLICY

Any prior kidnap, ransom or extortion policies issued by the Company or any subsidiary or affiliate of the Company to the **Parent Organization** shall terminate, if not already terminated, as of the inception of this Coverage Part.

IX. PROOF OF LOSS AND LEGAL PROCEEDINGS

- (A) As a condition precedent to coverage hereunder, the **Parent Organization** shall, upon **Discovery**:
- (1) give written notice and furnish affirmative proof of loss with full particulars to the Company at the earliest practicable moment, and in no event later than one (1) year after such **Discovery**;

- (2) submit to examination under oath at the Company's request;
 - (3) produce all pertinent records at such reasonable times and places as the Company shall designate; and
 - (4) provide full cooperation with the Company in all matters pertaining to a loss under this Coverage Part.
- (B) No **Insured** shall institute legal proceedings against the Company after two (2) years immediately following any **Discovery**.

X. JOINT INSURED

- (A) By acceptance of this Coverage Part, the **Parent Organization** agrees that it shall be considered the sole agent of, and shall act on behalf of, each **Insured** with respect to:
- (1) the payment of premiums and the receiving of return premiums that may become due under this Coverage Part;
 - (2) the negotiation, agreement to and acceptance of endorsements for this Coverage Part; and
 - (3) the giving or receiving of any notice provided for in this Coverage Part.

Each **Insured** agrees that the **Parent Organization** shall act on its behalf with respect to the foregoing.

- (B) Each and every other **Insured** shall be conclusively deemed to have consented to and agreed that none of them shall have any direct beneficiary interest in or any right of action under this Coverage Part and neither this Coverage Part nor any right of action shall be assignable.
- (C) Knowledge possessed by any **Insured** or **Discovery** shall be deemed knowledge possessed by or **Discovery** by all **Insureds**.
- (D) All loss and other payments, if any, payable by the Company, shall be payable to the **Parent Organization** without regard to such **Parent Organization's** obligations to others, and the Company shall not be responsible for the application by the **Parent Organization** of any payment made by the Company. If the Company agrees to and makes payment to any **Insured**, other than the **Parent Organization**, including pursuant to Section XII, Joint Loss Payee, such payment shall be treated as though made to the **Parent Organization**.

XI. JOINT LOSS PAYEE

Any loss covered under this Coverage Part involving a **Benefit Amount** for **Loss of Life** may be payable by the Company to the **Parent Organization** and an **Insured Person's** beneficiary as joint payees. The Company will pay the **Benefit Amount**, at the direction of the **Parent Organization**, in the following order:

- (A) to the spouse or domestic partner;
- (B) in equal shares to the surviving children;
- (C) in equal shares to the surviving parents;
- (D) in equal shares to the surviving brothers and sisters; or
- (E) to the estate,

of the **Insured Person**.

The Company is under no obligation to conduct any search, or to seek out a beneficiary on behalf of any **Insured Person** or **Insured**.

XII. CONCEALMENT, MISREPRESENTATION & FRAUD

This Coverage Part is void in any case of fraud by an **Insured** as it relates to this Coverage Part at any time. It is also void if any **Insured**, at any time, conceals or misrepresents a material fact concerning:

- (A) this Coverage Part, or any application made in connection therewith;
 - (B) an **Insured's** interest in this Coverage Part; or
 - (C) a claim under this Coverage Part.
-

XIII. COVERAGE TERRITORY

Coverage shall extend to the KRE Coverage Territory set forth in Item 4 of the KRE portion of the Declarations.

In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company and the Insureds agree as follows:

I. INSURING CLAUSES

Insuring Clause (A): Individual Non-Indemnified Liability Coverage

- (A) The Company shall pay, on behalf of an **Insured Person**, **Loss** on account of a **Claim** first made against the **Insured Person** during the **Policy Period**, to the extent that such **Loss** is not indemnified by an **Organization**.

Insuring Clause (B): Individual Indemnified Liability Coverage

- (B) The Company shall pay, on behalf of an **Organization**, **Loss** on account of a **Claim** first made against an **Insured Person** during the **Policy Period**, to the extent the **Organization** indemnifies the **Insured Person** for such **Loss** as permitted or required by law.

II. COVERAGE EXTENSIONS

(A) **Subpoena Defense Costs Coverage**

The Company shall pay, on behalf of an **Insured Person**, **Subpoena Defense Costs** incurred solely by such **Insured Person** on account of a **Covered Subpoena** first served during the **Policy Period**. The Company's maximum liability for all **Subpoena Defense Costs** under this Coverage Extension (A) shall be \$10,000, which amount shall be part of, and not in addition to, the Aggregate Limit of Liability set forth in Item 4(A) of the ELL portion of the Declarations.

(B) **Written Request to Toll or Waive a Statute of Limitations Coverage**

The Company shall pay, on behalf of an **Insured**, **Defense Costs** incurred solely by such **Insured** in responding to a written request to toll or waive a statute of limitations, first made during the **Policy Period**, applicable to a potential **Claim**.

Coverage Extensions (A) and (B) above shall be subject to any applicable Limit of Liability, Sublimit and Retention set forth in the ELL portion of the Declarations and this Policy.

III. DEFINITIONS

For purposes of this Coverage Part:

Claim means any:

- (A) written demand (other than a **Covered Subpoena** or other subpoena or investigatory instrument):
- (1) for monetary or non-monetary (including injunctive) relief; or
 - (2) for arbitration, mediation, or other equivalent alternative dispute resolution proceeding, against an **Insured Person** for a **Wrongful Act**, commenced by the first receipt of such demand by an **Insured**;
- (B) proceeding, including any appeal therefrom, against an **Insured Person** for a **Wrongful Act**, commenced by:
- (1) the service of a civil complaint or similar pleading, or any foreign equivalent thereof;

- (2) the service of a notice of charges or foreign equivalent; or
- (3) an arrest, the return of an indictment, information or any foreign equivalent thereof, or the receipt of an official request for **Extradition**;
- (C) judicial, administrative, bar association or other proceeding against an **Employed Lawyer** which concerns the eligibility or license of such **Employed Lawyer** to practice law; or
- (D) civil, criminal, administrative or regulatory investigation or interview against an **Employed Lawyer** for a **Wrongful Act**, commenced by the service of a written request including a target letter from any investigatory authority upon such **Employed Lawyer** compelling witness testimony or document production and identifying such **Employed Lawyer** as the target of such investigation or interview; provided that the Company shall take into reasonable consideration all extrinsic evidence presented by the **Employed Lawyer** when determining whether such written request identifies such **Employed Lawyer** as a target of such investigation or interview;

provided that **Claim** shall not include any **Covered Subpoena** or, except as provided in Subsection (D) above, any civil, criminal, administrative or regulatory investigation or interview.

Covered Subpoena means a subpoena seeking documents, testimony or information solely in connection with the **Wrongful Act** of an **Insured Person**.

Control Group means any **Employed Lawyer** or any person with the responsibility for the management of insurance claims (or any equivalent position to any of the foregoing) of an **Organization**.

Defense Costs means that part of **Loss** consisting of the following:

- (A) reasonable costs, charges, fees (including attorneys' fees, experts' fees and the cost of **E-Discovery Specialist Services**) and expenses (other than regular or overtime wages, salaries, fees or benefits of **Insured Persons**, **Executives** or employees of an **Organization**) incurred in:
 - (1) investigating, defending, opposing or appealing any **Claim** and the premium for appeal, attachment or similar bonds; or
 - (2) responding to a written request to toll or waive a statute of limitations; or
- (B) **Subpoena Defense Costs**.

E-Discovery means the review, development, collection, cataloging and/or production of electronically stored information in connection with the defense of a **Matter**.

E-Discovery Specialist Services means only the following services performed by an **E-Specialist Firm**:

- (A) assisting the **Insured** with managing and minimizing the internal and external costs associated with **E-Discovery**;
- (B) assisting the **Insured** in developing or formulating an **E-Discovery** strategy which shall include interviewing qualified and cost-effective **E-Discovery** vendors;
- (C) serving as project manager, advisor and/or consultant to the **Insured**, defense counsel and the Company in executing and monitoring the **E-Discovery** strategy; and
- (D) such other services provided by the **E-Specialist Firm** that the **Insured**, Company and **E-Specialist Firm** agree are reasonable and necessary given the circumstances of the **Matter**.

E-Specialist Firm means any e-discovery consultant firm approved by the Company.

Employed Lawyer means any natural person admitted to practice law anywhere in the world who was, now is or shall become a full-time or part-time employee of an **Organization** for the purpose of providing legal services to the **Organization**.

Executive means any natural person who was, now is or shall become:

- (A) a duly elected or appointed director, officer, manager, member of the Board of Managers or the Advisory Board, or in-house general counsel of any **Organization** incorporated, formed or organized in the United States of America; or
- (B) a holder of an equivalent position to those described in Subsection (A) above in any **Organization** incorporated, formed or organized in a **Foreign Jurisdiction**.

Extradition means any formal or written process by which an **Insured Person** located in any country is surrendered, or sought to be surrendered, to any other country for trial or otherwise to answer any criminal accusation, including the execution of an arrest warrant where such execution is an element of such process.

Financial Impairment means the status of an **Organization** resulting from:

- (A) the appointment by a federal or state official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar party (including a creditors' committee, if applicable) or foreign equivalent thereof empowered to initiate the assumption of control, supervision, management or liquidation such **Organization**; or
- (B) such **Organization** becoming a debtor in possession under United States bankruptcy law or the equivalent of a debtor in possession under the law of any **Foreign Jurisdiction**.

First Inception Date means the inception date of the first Employed Lawyers Professional Liability policy, coverage part or coverage issued by the Company and continuously renewed by the Company until the inception date of this current Coverage Part.

Independent Contractor Attorney means any natural person admitted to practice law who provides legal services to an **Organization**, is indemnified by the **Organization** under an independent contractor services agreement and is not employed by a law firm.

Insured means any **Organization** and any **Insured Person**.

Insured Person means any:

- (A) **Employed Lawyer**;
- (B) **Legal Assistant**;
- (C) person who was, now is or shall become a full-time or part-time employee of an **Organization** whose duties include serving as a notary public, but only while acting in his or her capacity as a notary public under the supervision of an **Employed Lawyer**;
- (D) **Temporary Attorney**;
- (E) **Independent Contractor Attorney**; and
- (F) a holder of an equivalent position to Subsections (A), (B) or (C) above in any **Organization** incorporated, formed or organized in a **Foreign Jurisdiction**;

provided that **Insured Person** shall not include any **Secondment Attorney**.

Legal Assistant means any natural person who was, now is or shall become a full-time or part-time employee of an **Organization** who supports an **Employed Lawyer** in the performance of **Professional Services**.

Loss means the amount which an **Insured Person** becomes legally obligated to pay as a result of any **Matter**, including:

- (A) **Defense Costs**, compensatory damages, judgments, including pre-judgment and post-judgment interest;
- (B) settlements, including that portion of any settlement which represents claimant's attorney's fees;
- (C) punitive, exemplary or multiplied damages, if and to the extent such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages, provided such jurisdiction has a substantial relationship to the relevant **Insureds**, to the Company, or to the **Matter** giving rise to such damages; and
- (D) civil penalties assessed against an **Employed Lawyer** for a violation of any **Global Law** including civil penalties assessed against an **Employed Lawyer** pursuant to 15 U.S.C. §78dd-2(g)(2)(B) (the Foreign Corrupt Practices Act), if and to the extent that such violation is neither intentional nor willful and only if such penalties are insurable under the law of the jurisdiction in which such penalties are assessed;

provided that **Loss** does not include any portion of such amount that constitutes any:

- (1) cost incurred to comply with any order for non-monetary (including injunctive) relief or to comply with any agreement to provide such relief;
- (2) amount uninsurable under the law pursuant to which this Policy is construed;
- (3) tax, fine, sanction or penalty imposed by law; except as provided in Subsections (C) or (D) above;
- (4) amount incurred by an **Insured** in the defense or investigation of any action, proceeding or demand that was not then a **Matter**, even if (a) such amount also benefits the defense of a covered **Matter**; or (b) such action, proceeding or demand subsequently gives rise to a **Matter**;
- (5) salary, wages, commissions, benefits or other monetary payments owed to any **Insured Person**, **Executive** or employee of an **Organization**;
- (6) cost incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for, or monitoring **Pollutants**; or
- (7) amount that represents or is substantially equivalent to an increase in the consideration paid (or proposed to be paid) by an **Organization** in connection with its purchase of any securities or assets.

Matter means any **Claim**, **Covered Subpoena** or written request to toll or waive the statute of limitations. A written request to toll or waive a statute of limitations is commenced by first receipt by an **Insured** of such written request.

Moonlighting Legal Services means legal services performed by an **Employed Lawyer** for others outside the scope of his or her employment with an **Organization**, including legal services rendered to an **Executive** or employee of the **Organization**, solely while such **Employed Lawyer** is a full-time or part-time employee of the **Organization**; provided that **Moonlighting Legal Services** shall not include services performed by an **Employed Lawyer**: (A) in his or her capacity as an owner, principal, partner, director, officer, member, manager, employee or any equivalent position of an entity that is not the **Organization**; or (B) in connection with a trust or estate when such **Employed Lawyer** is also a beneficiary of such trust or estate.

Personal Injury means:

- (A) libel, slander, product disparagement, trade libel or other form of defamation;
- (B) invasion or infringement of the right of privacy or publicity, including false light, public disclosure of private facts, intrusion and commercial appropriation of name, persona or likeness;

- (C) malicious prosecution or abuse of process;
- (D) false arrest, wrongful detention or imprisonment; or
- (E) wrongful entry or eviction, or other invasion of the right of private occupancy.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, asbestos, asbestos products or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Professional Services means:

- (A) legal services and notary public services rendered to an **Organization** by an **Employed Lawyer** solely while acting in his or her capacity as such;
- (B) legal services and notary public services rendered to an **Organization** by an **Independent Contractor Attorney, Temporary Attorney or Legal Assistant** solely while acting: (1) in his or her capacity as such; and (2) under the supervision and direction of an **Employed Lawyer**;
- (C) **Moonlighting Legal Services**; or
- (D) pro bono legal services rendered by an **Employed Lawyer** without compensation to indigent clients or for non-profit public interest groups solely while such **Employed Lawyer** is a full-time or part-time employee of an **Organization**.

Secondment Attorney means any natural person admitted to practice law anywhere in the world employed by an outside law firm and temporarily assigned by agreement between such law firm and an **Organization** to provide legal services.

Subpoena Defense Costs means reasonable attorney's fees incurred in connection with a **Covered Subpoena** including: (A) seeking to quash or modify a subpoena; (B) opposing any motion to enforce a subpoena against an **Insured Person**; and (C) representation of an **Insured Person** during the document production, witness preparation, and giving of testimony in connection with such subpoena.

Temporary Attorney means any natural person admitted to practice law anywhere in the world provided by a temporary employment agency through a service agreement between an **Organization** and the temporary employment agency to provide legal services to the **Organization**, but only if the **Organization** agrees in writing no later than thirty (30) days after a **Matter** is reported in accordance with Section V, Reporting, to indemnify the **Temporary Attorney** for **Loss** arising out of such **Matter**.

Wrongful Act means any actual or alleged error, misstatement, misleading statement, act, omission, neglect, breach of duty or **Personal Injury** committed, attempted, or allegedly committed or attempted by an **Insured Person** while acting in his or her capacity as such solely in the performance of, or failure to perform any **Professional Services**.

IV. EXCLUSIONS

The Company shall not be liable for **Loss** on account of any **Matter**:

- (A) Prior Notice
based upon, arising from or in consequence of any **Wrongful Act**, fact, circumstance, or **Matter** that was the subject of any notice accepted under any prior employed lawyers liability coverage;
- (B) Pending or Prior Proceedings
based upon, arising from or in consequence of any written demand first received by, or action, proceeding, **Matter** or **Matter** that is **Related** commenced against any **Insured**, on or prior to the Pending or Prior Proceedings Date set forth in Item 4(D) of the ELL portion of the Declarations;

(C) Bodily Injury/Property Damage

for bodily injury, mental anguish, humiliation, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property, including the loss of use thereof, whether or not it is damaged or destroyed; provided that this Exclusion (C) shall not apply to **Loss** for any mental anguish, humiliation or emotional distress resulting from a **Personal Injury**;

(D) Pollution

based upon, arising from or in consequence of any: (1) discharge, emission, release, dispersal or escape of any **Pollutants** or any threat thereof; (2) treatment, removal or disposal of any **Pollutants**; or (3) regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any **Pollutants**; provided that this Exclusion (D) shall not apply to any **Matter** against an **Insured Person** to the extent that **Loss** on account of such **Matter** is not indemnified by an **Organization**.

(E) ERISA

for any violation of the responsibilities, obligations or duties imposed by Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985, and the Health Insurance Portability and Accountability Act of 1996), all as amended, or any similar **Global Law**; provided that this Exclusion (E) shall not apply to **Loss** arising out of the performance of **Professional Services** rendered to a fiduciary of a plan sponsored by an **Organization** for the benefit of the employees and **Executives** of the **Organization**;

(F) Other Insurance

for which an **Insured Person** has coverage under any valid and collectible Directors and Officers Liability policy, Employment Practices Liability policy, Errors and Omissions policy, Media Liability policy, Lawyers Professional Liability policy or any similar insurance policy, whether or not the retention or deductible of such policy has been exhausted, and regardless of whether such policy is stated to be primary, contributory, excess, contingent or otherwise; provided that this Exclusion (F) shall not apply to the amount of **Loss** that is in excess of both the amount of any retention or deductible and the limit or remaining limit of liability of such other policy;

(G) Insured v Insured

brought by or on behalf of an **Insured** in any capacity; provided that this Exclusion (G) shall not apply to any **Matter**:

- (1) brought by any securityholder of an **Organization** as a derivative action, without the solicitation, assistance, active participation or intervention of: (a) an **Organization**; or (b) any **Insured Person** or **Executive** who is serving or has served in such capacity within the past two (2) years;
- (2) brought against an **Insured Person**:
 - (a) while an **Organization** is in **Financial Impairment**; or
 - (b) for contribution or indemnity arising from another **Matter** otherwise covered under this Coverage Part;
- (3) brought by an **Insured Person** who has ceased serving in his or her capacity as an **Insured Person** for at least one (1) year; or
- (4) brought by a whistleblower pursuant to any **Global Law**;

For all **Matters** brought by an **Organization** (other than (G)(2)(a) above), this Exclusion (G)

shall not apply to **Defense Costs** in an aggregate amount equal to eighty percent (80%) of the Aggregate Limit of Liability set forth in Item 4(A) of the ELL portion of the Declarations and such **Defense Costs** shall be part of, not in addition to, such Aggregate Limit of Liability;

(H) Wage and Hour

for any violation of the responsibilities, obligations or duties imposed by any **Global Law** that governs wage, hour and payroll policies and practices, including the Fair Labor Standards Act and the Equal Pay Act; provided that this Exclusion (H) shall not apply to **Defense Costs**;

(I) NLRA, WARN, COBRA and OSHA

for any violation of the responsibilities, obligations or duties imposed by the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act, all as amended, or any similar **Global Law**; provided that this Exclusion (I) shall not apply to **Defense Costs**;

(J) Employment Practices

based upon, arising from or in consequence of any employment practice violation not otherwise excluded in Exclusions (H) and (I) above, including discrimination, harassment, retaliation, breach of employment contract, wrongful dismissal, discharge or termination; provided that this Exclusion (J) shall not apply to **Loss** for any such employment practice violation committed by an entity or person, other than an **Employed Lawyer**, to the extent that such employment practice was committed in reliance upon **Professional Services** performed by an **Insured Person**;

(K) Patent and Trade Secret

based upon, arising from or in consequence of any infringement of patent, false patent marking, or misappropriation of trade secrets;

(L) Prior Knowledge

based upon, arising from or in consequence of any **Wrongful Act** first committed before the **First Inception Date**, if, on or before such date, any **Insured Person** knew or could have reasonably foreseen that such **Wrongful Act** did or could result in a **Matter** against any **Insured**;

(M) Notary

based upon, arising from or in consequence of any **Insured Person** notarizing any signature not made in the presence of such **Insured Person** at the time of such notarization;

(N) Conduct

based upon, arising from or in consequence of:

- (1) any deliberate fraud, any deliberate criminal act or any knowing and willful violation of any **Global Law** by an **Insured Person**; or
- (2) an **Insured Person** having gained any personal profit, remuneration or other financial advantage to which such **Insured Person** was not legally entitled,

established by a final, non-appealable adjudication in any underlying action or proceeding; provided that no conduct pertaining to any **Insured Person** shall be imputed to any other **Insured Person**; or

(O) Publicly Traded Securities

based upon, arising from or in consequence of (1) any public offering of securities issued by any **Organization**, or (2) the violation of any **Global Law** relating to securities, including the Securities Act of 1933 and the Securities Exchange Act of 1934, all as amended; provided that this Exclusion (O) shall not apply to **Loss** on account of any **Matter**:

- (a) based upon, arising from or in consequence of an offering, sale or purchase of securities that are not required to be registered under the Securities Act of 1933 or any **Global Law** that regulates the offering, sale or purchase of securities, including an offering, sale or purchase made pursuant to Regulation D or Regulation S under the Securities Act of 1933, as amended;
- (b) made by any securityholder of an **Organization** for the failure of the **Organization** to undertake or complete the initial public offering or sale of securities of the **Organization**; or
- (c) for any **Wrongful Act** relating to an **Organization's** preparation for any public offering, including any road show presentation to potential investors or other similar presentation, made by the **Organization** and its **Executives** via any medium in connection with such public offering, if such offering does not occur.

V. **REPORTING**

- (A) An **Insured** shall give to the Company written notice of any **Claim** as soon as practicable after the **Control Group** of an **Organization** becomes aware of such **Claim**, but in no event later than:
 - (1) if this Coverage Part expires (or is otherwise terminated) without being renewed with the Company, ninety (90) days after the effective date of such expiration or termination; or
 - (2) the expiration date of the Extended Reporting Period, if applicable;

provided that if the Company sends written notice to the **Parent Organization** stating that this Coverage Part is being terminated for nonpayment of premium, an **Insured** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.
- (B) The **Insureds**, at their discretion, may give to the Company written notice of any **Covered Subpoena** or written request to toll or waive a statute of limitations no later than ninety (90) days after the **Control Group** first becomes aware of such request. No coverage shall be available under this Coverage Part for **Loss** on account of any unreported **Covered Subpoena** or written request to toll or waive a statute of limitations.
- (C) With respect to Subsections (A) and (B) above, such written notice to the Company shall be a condition precedent to coverage for any **Matter**. However, if the **Parent Organization** can prove to the Company's satisfaction that it was not reasonably possible for the **Insureds** to give such notice within the time period set forth in Subsection (A) or (B) above and that subsequent notice was given as soon as reasonably possible thereafter, the Company shall waive the foregoing time period.
- (D) If during the **Policy Period** the **Insureds** give written notice to the Company of any circumstance which could give rise to a subsequent **Matter**, then any **Matter** subsequently arising from such circumstance shall be deemed to have been first made during the **Policy Period** in which such written notice was first given by the **Insured** to the Company; provided such subsequent **Matter** is reported to the Company as soon as practicable after the **Control Group** first becomes aware of such **Matter**.
- (E) The **Insureds** shall give to the Company in any written notice described in Subsections (A), (B) or (D) above a description of the **Matter** or circumstance, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage, and the names of all actual or potential defendants.

VI. DEFENSE AND SETTLEMENT

- (A) The Company shall have the right and duty to defend any **Matter** covered by this Coverage Part. Coverage shall apply even if any of the allegations are groundless, false or fraudulent. The Company's obligation to pay **Loss**, including **Defense Costs**, or to defend or continue to defend any **Matter** shall cease upon exhaustion of the applicable Limit of Liability or Sublimit.
- (B) The Company may make any investigation it deems necessary and may, with the consent of any **Insured Persons** against whom a **Claim** is made, make any settlement of such **Claim** it deems appropriate. The **Insured** agrees not to settle any **Claim**, incur any **Defense Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Matter** without the Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented.
- (C) The **Insured** agrees, with respect to a **Matter**, to provide the Company with all information, assistance and cooperation which the Company reasonably requests and agrees they will do nothing that may prejudice the Company's position or its potential or actual rights of recovery; provided that the failure of any **Insured** to give the Company such information, assistance or cooperation shall not impair the rights of any other **Insured Person** under this Coverage Part.
- (D) The Company shall not seek repayment from an **Insured Person** of any **Defense Costs** paid by the Company that are deemed uninsured pursuant to Exclusion (N), Conduct, unless a final, non-appealable adjudication has occurred.

VII. ALLOCATION

- (A) The **Insured** and the Company shall use their best efforts to determine an allocation between **Loss** that is covered and any amount that is not covered based on the relative legal and financial exposures of the covered parties to the covered matters.
- (B) If such **Insured** and the Company agree on an allocation of **Defense Costs**, then the Company shall pay, on behalf of such **Insured**, **Defense Costs** allocated to covered **Loss**. If such **Insured** and the Company cannot agree on an allocation of **Defense Costs**:
 - (1) no presumption as to allocation of **Loss**, including **Defense Costs**, shall exist in any arbitration, suit or other proceeding;
 - (2) the Company shall pay, on behalf of such **Insured**, **Defense Costs** which the Company believes to be covered under this Coverage Part until a different allocation is negotiated, arbitrated or judicially determined; and
 - (3) the Company, if requested by such **Insured**, shall submit the dispute regarding the allocation of **Defense Costs** to binding arbitration. The rules of the American Arbitration Association shall apply except with respect to the selection of the arbitration panel, which shall consist of one arbitrator selected by such **Insured**, one arbitrator selected by the Company, and a third independent arbitrator selected by the first two arbitrators.

VIII. OTHER INSURANCE

- (A) If any **Loss** under this Coverage Part is insured under any other valid and collectible insurance policy (other than a policy that is issued specifically as excess of the insurance afforded by this Coverage Part), this Coverage Part shall be excess of and shall not contribute with such other insurance, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.
- (B) Nothing in this Section VIII shall be construed to limit or impair the operation of Exclusion (F), Other Insurance.

In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Part, the Company agrees to pay for loss any Insured shall sustain at any time prior to the termination of this Coverage Part which is Discovered during the Policy Period in the manner set forth below:

I. INSURING CLAUSES

Insuring Clause (A): Expense

- (A) The Company shall reimburse the **Parent Organization** for:
- (1) **Workplace Violence Expenses** incurred by an **Insured** resulting directly from **Workplace Violence**;
 - (2) **Stalking Expenses** incurred by an **Insured** resulting directly from a **Stalking Threat**; and
 - (3) **Threat of Violence Expenses** incurred by an **Insured** resulting directly from a **Threat of Violence**.

As a condition precedent to coverage under Subsection (A)(3) above, any **Threat of Violence** shall be reported to the appropriate law enforcement agencies as soon as practicable, unless an independent threat management consultant has advised against such reporting.

Insuring Clause (B): Loss of Life

- (B) The Company shall reimburse the **Parent Organization** for payment of a **Benefit Amount** for **Loss of Life** of an **Employee** resulting directly from **Workplace Violence**.

II. DEFINITIONS

For purposes of this Coverage Part:

Benefit Amount means the amount set forth in Item 4(A)(2) of the WPV portion of the Declarations which the Company shall pay as a result of the **Loss of Life** of an **Employee**.

Contractual Independent Contractor means any natural person while in the service of an **Insured** and in the ordinary course of such **Insured's** business, whom an **Insured** directly compensates pursuant to a written contract between such **Insured** and such natural person.

Crisis Legal Costs means the reasonable legal fees, costs or expenses for independent legal advice incurred by an **Insured** in connection with the assessment and the initial response to **Workplace Violence**, a **Stalking Threat** or a **Threat of Violence**. **Crisis Legal Costs** shall not include any fees, costs or expenses incurred in:

- (A) defending an **Insured** from any claim, demand, or suit brought against an **Insured** by any victim of **Workplace Violence**, a **Stalking Threat**, or a **Threat of Violence**;
- (B) pursuing a claim for loss under this Coverage Part, or under any other insurance or indemnity; or
- (C) pursuing a civil claim or suit against the perpetrator of **Workplace Violence**, a **Stalking Threat** or a **Threat of Violence**.

Discovery or **Discovered** means knowledge acquired by an **Executive** or **Insurance Representative** of any **Insured** which would cause a reasonable person to believe a covered loss has occurred or an occurrence has arisen that may subsequently result in a covered loss. This includes loss:

- (A) sustained prior to the inception date of any coverage under this Coverage Part;

- (B) which does not exceed the Retention; or
- (C) the exact amount or details of which are unknown.

Emotional Distress means mental suffering or distress that requires medical or other professional treatment or counseling.

Employee means any:

- (A) natural person, other than an **Executive**, while in the regular service of an **Insured** in the ordinary course of such **Insured's** business, whom such **Insured** compensates by **Salary** and has the right to govern and direct in the performance of such service, including any part-time, seasonal, leased or temporary worker, volunteer, intern, or any natural person formerly meeting this definition while retained by the **Insured** as a consultant pursuant to a written contract;
- (B) **Executive** while performing acts within the scope of the usual duties of an **Employee**;
- (C) **Contractual Independent Contractor**; or
- (D) natural person, as defined in Subsections (A) and (B) of this definition, while on leave for medical or family reasons, with the consent of the **Insured**.

Executive means any natural person specified below:

- (A) a duly elected or appointed director, officer, trustee, member of the Board of Managers, management committee member or in-house general counsel of an **Insured** incorporated, formed, or organized in the United States of America;
- (B) a holder of an equivalent position to those described in Subsection (A) above of an **Insured** incorporated, formed, or organized in a **Foreign Jurisdiction**; or
- (C) a natural person partner of an **Insured** while engaged in the regular service of such **Insured**.

Guest means any natural person visiting the **Premises** for a lawful purpose.

Insurance Representative means any **Employee** including a risk manager, designated to represent an **Insured** for the purpose of effecting and maintaining insurance.

Insured means the **Parent Organization** and any **Subsidiary**.

Insured's Computer System means a device or group of devices and all input, output, processing, storage, offline media libraries (including third-party hosted computing services accessed across the internet, and their associated infrastructure, platform, and software services), and communication facilities, including related communications networks, which are connected directly or indirectly to such device or group of devices and which are leased, owned or operated by an **Insured** or operated for the benefit of an **Insured** by another entity under written agreement with such **Insured**.

Loss of Life means death, including clinical death, of any **Employee** determined by a medical examiner or similar local governing authority.

Premises means buildings, facilities or properties:

- (A) owned or leased by an **Insured**; or
- (B) temporarily occupied by an **Insured** pursuant to a written agreement entered into by an **Executive** or **Insurance Representative** of an **Insured** with the owner or operator of such buildings, facilities or properties.

Relatives means spouse, domestic partner, siblings, spouse's siblings, ancestors, spouse's ancestors, lineal descendants or lineal descendants' spouses. Lineal descendants include adopted children, foster children and stepchildren. Ancestors include adoptive parents and stepparents.

Salary means compensation an **Insured** pays an **Employee**, including wages, bonus, commission, incentive payments and the cost of health, welfare and pension benefits.

Stalking Expenses means reasonable fees, costs or expenses incurred by an **Insured** for:

- (A) an independent threat management consultant to assess and help diffuse a **Stalking Threat**;
- (B) independent security guard services for up to ten (10) days, except such period shall be increased to a total of up to ninety (90) days subject to the specific recommendation of the selected independent security consultant of an **Insured**;
- (C) **Crisis Legal Costs**; and
- (D) any other reasonable fees, costs or expenses incurred by an **Insured**, subject to the Company's prior written approval.

Stalking Threat means:

- (A) purposefully engaging directly, indirectly, or through any third party in two (2) or more acts of following, monitoring, observing, surveilling, threatening or communicating to or about an **Employee**; or
- (B) interfering with an **Employee's** personal property, by any action, method, device or means,

provided any such acts are committed by a natural person who knows or should know that such course of conduct would cause a reasonable person in such **Employee's** circumstances to fear for his or her safety or the safety of a third person, or to suffer **Emotional Distress**.

Threat of Violence means any intentional and unlawful act of, or threat of, potentially deadly force which could result in bodily injury or death to an **Employee** or **Guest**, by a natural person or group of natural persons, regardless of whether the act or threat occurs:

- (A) on or in the **Premises** without the use of a lethal weapon; or
- (B) on or in any other location with or without the use of a lethal weapon.

Threat of Violence Expenses means reasonable fees, costs and expenses incurred by an **Insured** for:

- (A) an independent threat management consultant to assess and help diffuse a **Threat of Violence**;
- (B) independent security guard services for up to ten (10) days, except such period shall be increased to a total of up to ninety (90) days subject to the specific recommendation of the selected independent security consultant of an **Insured**; and
- (C) **Crisis Legal Costs**.

Workplace Violence means any intentional and unlawful:

- (A) act of potentially deadly force involving the use of a lethal weapon; or
- (B) threat of deadly force involving the display of a lethal weapon,

which occurs on or in the **Premises** and which could or does result in bodily injury or death to an **Employee** or **Guest**.

Workplace Violence Expenses means reasonable fees, costs or expenses incurred by an **Insured** for:

- (A) an independent crisis management consultant for ninety (90) days following the date the **Workplace Violence** occurs;
- (B) an independent public relations consultant for ninety (90) days following the date the **Workplace Violence** occurs;

- (C) an independent crisis mental health specialist for ten (10) days following the date the **Workplace Violence** occurs;
- (D) independent security guard services for up to ninety (90) days;
- (E) the **Salary** which an **Insured** continues to pay an **Employee** who has been a victim of **Workplace Violence**; provided that such coverage shall apply to the **Salary** in effect at the time of such **Workplace Violence** and will end ninety (90) days following the date such **Workplace Violence** occurs;
- (F) the **Salary** which an **Insured** pays a newly hired natural person to conduct the duties of an **Employee** who has been a victim of **Workplace Violence**; provided such coverage shall apply to such **Salary** in effect at the time of such **Workplace Violence** and will end ninety (90) days following the date such **Workplace Violence** occurs;
- (G) a reward paid by an **Insured** to a natural person who provides information leading to the arrest and conviction of any natural person responsible for the **Workplace Violence**, subject to the Company's prior written approval;
- (H) medical, mental health, dental and cosmetic expenses, including the cost of plastic surgery, for an **Employee** or **Guest** resulting solely and directly from **Workplace Violence**; provided the Company, in its sole and absolute discretion, may evaluate the reasonableness of such expenses pursuant to an independent medical examination;
- (I) rest and rehabilitation of an **Employee** and the **Employee's Relatives**, including meals and recreation, for up to thirty (30) days, provided such expenses are incurred within twelve (12) months following the date the **Workplace Violence** occurs;
- (J) **Crisis Legal Costs**;
- (K) external occupational training courses attended by an **Employee** who has been a victim of **Workplace Violence**, which are necessary to help the **Employee** return to work at the **Insured**; and
- (L) any other reasonable expenses incurred by an **Insured**, subject to the Company's prior written approval.

III. EXCLUSIONS

This Coverage Part does not cover:

- (A) Off-Premises
loss resulting directly or indirectly from **Workplace Violence** which occurs anywhere other than in or on the **Premises**;
- (B) War
loss resulting directly or indirectly from declared or undeclared war, civil war, insurrection, rebellion, revolution, military, naval or usurped power, governmental intervention, expropriation or nationalization, or any act or condition incident to any of the foregoing;
- (C) Expenses
fees, costs, or expenses incurred or paid in defending or prosecuting any legal proceeding or claim, including any judgment or settlement, except those expenses otherwise covered under Insuring Clause (A), Expense;
- (D) Business Income
loss of income not realized by an **Insured** as the result of a covered loss;

(E) Robbery

loss resulting directly or indirectly from the use of or threat of force or violence occurring on or in the **Premises** for the purpose of demanding money, securities, or property; provided that this Exclusion (E) shall not apply to **Workplace Violence Expenses** for:

- (1) an independent crisis mental health specialist for ten (10) days following the date the **Workplace Violence** occurs; or
- (2) an independent crisis management consultant for thirty (30) days following the date the **Workplace Violence** occurs;

(F) Data Restoration or Recreation

fees, costs, or expenses incurred to replace, restore, recreate, re-collect or recover electronic data;

(G) Computer Remediation

fees, costs, or expenses incurred to identify or remediate software program errors or vulnerabilities, or fees, costs, or expenses to update, replace, restore, repair, recreate, upgrade, maintain, or improve the **Insured's Computer System**;

(H) Network Security

fees, costs, or expenses of any forensic analyst or network security consultant engaged to investigate or assess any actual or alleged **Workplace Violence, Stalking Threat, or Threat of Violence**; or

(I) Advantage

loss sustained by one **Insured** to the advantage of any other **Insured**.

IV. LIMIT OF LIABILITY

- (A) The Company's maximum liability for each loss shall not exceed the Limit of Liability applicable to such loss set forth in Item 4(A) of the WPV portion of the Declarations, regardless of the number of **Insureds** sustaining the loss.
- (B) If a loss is covered under more than one Insuring Clause, the maximum amount payable under this Coverage Part shall not exceed the largest applicable Limit of Liability of any such Insuring Clause.
- (C) All loss resulting from a single act or any number of acts of the same natural person or group of natural persons regardless of whether or not such loss was sustained by one or more **Insureds**, and regardless of whether such act or acts occurred before or during the **Policy Period**, will be treated as a single loss and the applicable Limit of Liability set forth in Item 4(A) of the WPV portion of the Declarations will apply.
- (D) With respect to loss sustained by more than one **Insured**, the maximum liability of the Company for all loss sustained by any or all **Insureds** combined shall not exceed the amount for which the Company would be liable if all loss was sustained by any one **Insured**.
- (E) Regardless of the number of years this coverage remains in effect and the total premium amounts due or paid, whether under this Coverage Part, any prior bond or policy, or any renewal or replacement of this Coverage Part, the liability of the Company with respect to any loss shall not be cumulative from year to year or from **Policy Period** to **Policy Period**.
- (F) The Company's maximum aggregate liability for all **Crisis Legal Costs** arising from a single act or series of related acts of **Workplace Violence, Stalking Threat, or Threat of Violence** shall be ten percent (10%) of the Limit of Liability set forth in Item 4(A)(1) of the WPV portion of the Declarations up to a maximum limit of liability of \$500,000, which amount is part of, and not in addition to, the Limit of Liability set forth in Item 4(A) of the WPV portion of the Declarations.

- (G) The Company's maximum aggregate liability for all **Threat of Violence Expenses** arising from a single act or series of related acts of a **Threat of Violence** shall be ten percent (10%) of the Limit of Liability set forth in Item 4(A)(1) of the WPV portion of the Declarations up to a maximum limit of liability of \$250,000, which amount is part of, and not in addition to, the Limit of Liability set forth in Item 4(A)(1) of the WPV portion of the Declarations.
- (H) The Company's maximum liability for each **Loss of Life** shall be the **Benefit Amount** set forth in Item 4(A)(2) of the WPV portion of the Declarations. If more than one **Employee** suffers a covered **Loss of Life** from a single act or series of related acts of **Workplace Violence**, the Company's maximum liability for all such **Benefit Amount** shall not exceed \$500,000, and such **Benefit Amount** shall be divided proportionately among such **Employees'** beneficiaries, in accordance with Section XI, Joint Loss Payee, of this Coverage Part.

V. OTHER INSURANCE AND INDEMNITY

With respect to any loss covered by this Coverage Part, if any **Insured** or any other party in interest has any bond, insurance, or indemnity which would cover such loss in whole or in part in the absence of this Coverage Part, then this Coverage Part shall be null and void to the extent of the amount recoverable or received under such bond, insurance, or indemnity; provided that this Coverage Part shall cover such loss, subject to this Coverage Part's limitations, conditions, provisions and other terms, to the extent of the amount of such loss in excess of the amount recoverable or received under such bond, insurance, or indemnity.

VI. RECOVERIES

- (A) In the event of any payment under this Coverage Part, the Company shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery, and such **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit or otherwise pursue subrogation rights in the name of the **Insured**.
- (B) Recoveries for any loss covered under this Coverage Part, whether effected by the Company or by an **Insured**, less the unreimbursed cost of recovery incurred by the Company, shall be distributed as follows:
- (1) first, to an **Insured** for the amount of such loss, otherwise covered, in excess of the applicable Limit of Liability;
 - (2) second, to the Company for the amount of such loss paid to an **Insured** as covered loss;
 - (3) third, to an **Insured** for the Retention applicable to such loss; and
 - (4) fourth, to an **Insured** for the amount of such loss not covered under this Coverage Part.
- (C) Recovery from reinsurance or indemnity of the Company shall not be deemed a recovery hereunder.

VII. CONCEALMENT, MISREPRESENTATION & FRAUD

This Coverage Part is void in any case of fraud by an **Insured** as it relates to this Coverage Part at any time. It is also void if any **Insured**, at any time, conceals or misrepresents a material fact concerning:

- (A) this Coverage Part, and any application made in connection therewith;
- (B) an **Insured's** interest in this Coverage Part; or
- (C) a claim under this Coverage Part.

VIII. JOINT INSURED

- (A) By acceptance of this Coverage Part, the **Parent Organization** agrees that it shall be considered the sole agent of, and shall act on behalf of, each **Insured** with respect to:
- (1) the payment of premiums and the receiving of return premiums that may become due under this Coverage Part;
 - (2) the negotiation, agreement to and acceptance of endorsements for this Coverage Part; and
 - (3) the giving or receiving of any notice provided for in this Coverage Part.

Each **Insured** agrees that the **Parent Organization** shall act on its behalf with respect to the foregoing.

- (B) Each and every other **Insured** shall be conclusively deemed to have consented to and agreed that none of them shall have any direct beneficiary interest in or any right of action under this Coverage Part and neither this Coverage Part nor any right of action shall be assignable.
- (C) Knowledge possessed by any **Insured** or **Discovery** by any **Insured** shall be deemed knowledge possessed by or **Discovery** by all **Insureds**.
- (D) All loss and other payments, if any, payable by the Company, shall be payable to the **Parent Organization** without regard to such **Parent Organization's** obligations to others, and the Company shall not be responsible for the application by the **Parent Organization** of any payment made by the Company. If the Company agrees to and makes payment to any **Insured**, other than the **Parent Organization**, including pursuant to Section XI, Joint Loss Payee, such payment shall be treated as though made to the **Parent Organization**.

IX. JOINT LOSS PAYEE

Any loss covered under this Coverage Part involving a **Benefit Amount** for **Loss of Life** may be payable by the Company to the **Parent Organization** and an **Employee's** beneficiary as joint payees. The Company will pay the **Benefit Amount**, at the direction of the **Parent Organization**, in the following order:

- (A) to the spouse or domestic partner;
- (B) in equal shares to the surviving children;
- (C) in equal shares to the surviving parents;
- (D) in equal shares to the surviving brothers and sisters; or
- (E) to the estate,

of the **Employee**.

The Company is under no obligation to conduct any search, or to seek out a beneficiary on behalf of any **Employee** or **Insured**.

X. TERMINATION OF PRIOR POLICY

Any workplace violence prior bonds or policies issued by the Company or any subsidiary or affiliate of the Company to the **Parent Organization** shall terminate, if not already terminated, as of the inception of this Coverage Part.

XI. COVERAGE TERRITORY

Coverage shall extend to the WPV Coverage Territory set forth in Item 4(C) of the WPV portion of the Declarations.

XII. PROOF OF LOSS AND LEGAL PROCEEDINGS

- (A) As a condition precedent to coverage hereunder, the **Parent Organization** shall, upon **Discovery**:
- (1) give written notice and furnish affirmative proof of loss with full particulars to the Company at the earliest practicable moment, and in no event later than one (1) year after such **Discovery**;
 - (2) submit to examination under oath at the Company's request;
 - (3) produce all pertinent records at such reasonable times and places as the Company shall designate; and
 - (4) provide full cooperation with the Company in all matters pertaining to a loss under this Coverage Part.
- (B) No **Insured** shall institute legal proceedings against the Company after two (2) years immediately following any **Discovery**.
-

Applications

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Private Companies

New Business – Federal

Renewal – Federal

Not-for-Profit Organizations

New Business – Federal

Renewal – Federal

Healthcare Organizations

New Business – Federal

Renewal – Federal

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