

DIRECTORS, OFFICERS AND COMPANY LIABILITY POLICY

POLICY NUMBER

1 TWIN CITY FIRE INSURANCE COMPANY
Indianapolis, Indiana



NOTICE: THIS IS A CLAIMS-MADE AND REPORTED POLICY. EXCEPT AS MAY BE OTHERWISE PROVIDED HEREIN, THE COVERAGE OF THIS POLICY IS LIMITED TO LIABILITY FOR WRONGFUL ACTS FOR WHICH CLAIMS ARE FIRST MADE WHILE THE POLICY IS IN FORCE AND WHICH ARE REPORTED TO THE INSURER NO LATER THAN SIXTY (60) DAYS AFTER THE TERMINATION OF THE POLICY. PLEASE READ AND REVIEW THE POLICY CAREFULLY.

THE LIMIT OF LIABILITY AVAILABLE TO PAY LOSS, INCLUDING JUDGMENT OR SETTLEMENT AMOUNTS, SHALL BE REDUCED BY AMOUNTS INCURRED FOR LEGAL DEFENSE AND OTHER CLAIMS EXPENSES. FURTHER NOTE THAT AMOUNTS INCURRED FOR LEGAL DEFENSE AND OTHER CLAIMS EXPENSES SHALL BE APPLIED AGAINST THE APPLICABLE RETENTION AMOUNT.

THE POLICY DOES NOT PROVIDE FOR ANY DUTY OR OBLIGATION ON THE PART OF THE INSURER TO DEFEND THE DIRECTORS AND OFFICERS AND THE COMPANY.

DECLARATIONS

- Agency Code, Name and Address

ITEM A Name of Company and Address:

ITEM B Policy Period: From 12:01 a.m. on _____ To 12:01 a.m. on _____

ITEM C

LIMIT OF LIABILITY	\$	in the aggregate each Policy Period , including Claims Expenses
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ITEM D

RETENTION	INSURING AGREEMENT A	\$	each Director and Officer , each Claim , including Claims Expenses , but in no event exceeding
		\$	in the aggregate each Claim , including Claims Expenses , with respect to all Directors and Officers .
	INSURING AGREEMENT B	\$	in the aggregate each Claim , including Claims Expenses , with respect to Company Reimbursement.
	INSURING AGREEMENT C	\$	in the aggregate each Securities Claim , including Claims Expenses .

ITEM E SECURITIES CLAIM

COINSURANCE:

CLAIMS EXPENSES _____ % ALL OTHER LOSS _____ %

ITEM F INSURING AGREEMENT C COVERAGE GRANTED?

 YES

 NO

ITEM G

DISCOVERY PERIOD PREMIUM	\$	
DISCOVERY PERIOD DURATION		() months

ITEM H PRIOR LITIGATION DATE

INSURING AGREEMENTS A AND B:

INSURING AGREEMENT C:

ITEM I NON-PROFIT **OUTSIDE POSITION** COVERAGE GRANTED?

 YES

 NO

ITEM J PREMIUM: \$ _____

ITEM K FORM NUMBER OF ENDORSEMENTS ATTACHED AT ISSUANCE:

This Declarations Page, together with the completed and signed Proposal, including all attachments and exhibits, and the attached Directors, Officers and Company Liability Policy form and all endorsements thereto, shall constitute the Contract between (1) the Directors and Officers and the Company and (2) the Insurer.

Date: _____

Authorized Representative: _____

THE HARTFORD

DIRECTORS, OFFICERS AND COMPANY LIABILITY POLICY

In consideration of, and subject to, the payment of the premium, and in reliance upon the particulars, statements, attachments and exhibits contained in and submitted with the Proposal and which shall be the basis of this Policy and shall be deemed to be incorporated herein, and subject to all the terms and conditions of this Policy, the Insurer and the Insureds agree as follows:

I. INSURING AGREEMENTS

This Policy affords the following coverages:

(A) DIRECTORS' AND OFFICERS' LIABILITY

Except for **Loss** which the Insurer pays pursuant to Insuring Agreement (B) of this Policy, the Insurer will pay on behalf of the **Directors** and **Officers Loss** which the **Directors** and **Officers** shall become legally obligated to pay as a result of a **Claim** first made during the **Policy Period** or **Discovery Period**, if applicable, against the **Directors** and **Officers** for a **Wrongful Act** which takes place during or prior to the **Policy Period**;

(B) COMPANY REIMBURSEMENT

The Insurer will pay on behalf of the **Company Loss** for which the **Company** has, to the extent permitted or required by law, indemnified the **Directors** and **Officers**, and which the **Directors** and **Officers** have become legally obligated to pay as a result of a **Claim** first made during the **Policy Period** or **Discovery Period**, if applicable, against the **Directors** and **Officers** for a **Wrongful Act** which takes place during or prior to the **Policy Period**;

(C) COMPANY SECURITIES CLAIM LIABILITY

If Insuring Agreement (C) coverage is granted pursuant to Item F of the Declarations, the Insurer will pay on behalf of the **Company Loss** which the **Company** shall become legally obligated to pay as a result of a **Securities Claim** first made during the **Policy Period** or **Discovery Period**, if applicable, against the **Company** for a **Wrongful Act** which takes place during or prior to the **Policy Period**;

provided, however, as a condition precedent to any such coverage, the **Insureds** shall report such **Claim** (including such **Securities Claim**) to the Insurer as soon as practicable but in no event later than sixty (60) days after the termination of the **Policy Period** or **Discovery Period**, if applicable.

II. EXTENSIONS

(A) DEATH, INCAPACITY OR BANKRUPTCY

In the event of the death, incapacity or bankruptcy of a **Director** or **Officer**, any **Claim** made against the estate, legal representatives, heirs or the assigns of such **Director** or **Officer** for a **Wrongful Act** of such **Director** or **Officer** shall be deemed to be a **Claim** against such **Director** or **Officer**.

(B) DISCOVERY PERIOD

If the Insurer or the **Parent Company** fails or refuses to renew this Policy or if the **Parent Company** cancels this Policy, any **Insured** shall have the right, upon payment of the Discovery Period Premium set forth in Item G of the Declarations, to an extension of the coverage granted by this Policy for the period set forth in Item G of the Declarations following the effective date of such cancellation or non-renewal but only with respect to any **Wrongful Act** taking place before the date of such cancellation or non-renewal. A written request for this extension, together with payment of the Discovery Period Premium, must be made within thirty (30) days after the effective date of cancellation or non-renewal of the Policy. Such Discovery Period Premium shall be deemed to be fully earned as of such date. This extension shall not apply if this Policy is terminated by the Insurer for failure to pay any premium when due.

(C) SPOUSAL EXTENSION

If a **Claim** against a **Director** or **Officer** includes a claim against the lawful spouse of such **Director** or **Officer** solely by reason of (a) such spousal status, or (b) such spouse's ownership interest in property or assets that are sought as recovery for **Wrongful Acts**, any loss for which such spouse becomes legally obligated to pay on account of such **Claim** shall be deemed **Loss** which such **Director** or **Officer** of the spouse becomes legally obligated to pay as a result of such **Claim**.

All terms and conditions of this Policy, including the Retention, applicable to **Loss** sustained by such **Director** or **Officer** in the **Claim** shall also apply to such spousal loss.

The extension of coverage afforded by this Section II.(C) shall not apply to the extent the **Claim** alleges any wrongful act or omission by such spouse.

(D) OUTSIDE POSITION LIABILITY EXTENSION

Subject to all of its terms and conditions, this Policy covers any **Director** or **Officer** serving in an **Outside Position**, but such coverage shall be specifically excess of any indemnity or insurance available from or provided by the entity in which the **Director** or **Officer** serves in such **Outside Position**.

Payment by the Insurer or any member company of The Hartford Group of Insurance Companies under another policy as a result of a **Claim** against a **Director** or **Officer** in an **Outside Position** shall reduce, by the amount of such payment, the Insurer's Limit of Liability under this Policy with respect to such **Claim**.

"**Outside Position**" means the position of director, officer, trustee, or other equivalent executive position held by a **Director** or **Officer** in:

- (i) any **Non-Profit Entity**, provided Non-Profit Outside Position coverage is granted pursuant to Item I of the Declarations, or
- (ii) any other entity, provided such coverage is specifically granted by endorsement to this Policy,

if service in such position is with the knowledge and consent or at the request of the **Company**.

"**Non-Profit Entity**" means any non-profit corporation, community chest, fund or foundation that (i) is not included in the definition of **Company**, and (ii) is exempt from federal income tax as an organization described in Section 501(c) (3) of the Internal Revenue Code of 1986, as amended.

III. CLAIMS EXPENSES, SETTLEMENTS AND COOPERATION

- (A) No **Claims Expenses** shall be incurred or settlements made, contractual obligations assumed or liability admitted with respect to any **Claim** without the Insurer's prior written consent, which shall not be unreasonably withheld. The Insurer shall not be liable for any **Claims Expenses**, settlement, assumed obligation or admission to which it has not consented.
- (B) The Insurer shall have the right to associate itself in the defense and settlement of any **Claim** that appears reasonably likely to involve this Policy. The Insurer may make any investigation it deems appropriate. However, it shall be the duty of the **Insureds**, not the Insurer, to defend any **Claim**.
- (C) Subject to Section VII. of this Policy, the Insurer shall advance on behalf of the **Insureds Claims Expenses** which **Directors** and **Officers** or, solely with

respect to Insuring Agreement (C), the **Company**, have incurred in connection with **Claims** made against them, prior to disposition of such **Claims**, provided always that to the extent it is finally established that any such **Claims Expenses** are not covered under this Policy, the **Insureds**, as appropriate, agree to repay the Insurer such non-covered **Claims Expenses**.

- (D) The Insurer may, with the written consent of the **Insured**, settle any **Securities Claim** for solely a monetary amount which the Insurer deems reasonable. If the **Insured** withholds consent to such settlement, the Insurer's liability for all **Loss** on account of such **Claim** shall not exceed the amount for which the Insurer could have settled such **Claim** plus **Claims Expenses** accrued as of the date such settlement was proposed in writing by the Insurer to the **Insured**.
- (E) The **Insureds** shall, as a condition precedent to their rights under this Policy, give to the Insurer all information and cooperation as the Insurer may reasonably require and shall do nothing that may prejudice the Insurer's position or its potential or actual rights of recovery.

IV. DEFINITIONS

- (A) "**Claim**" means:
 - (1) a written demand for civil damages or other civil relief commenced by the **Insureds'** receipt of such demand,
 - (2) a civil proceeding commenced by the service of a complaint or similar pleading, or
 - (3) a formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document,against **Directors** or **Officers** or, with respect to Insuring Agreement (C), the **Company**, for a **Wrongful Act**, including any appeal therefrom.
- (B) "**Claims Expenses**" means that portion of **Loss** consisting of reasonable and necessary fees (including attorneys' fees and experts' fees) and expenses incurred in the defense or appeal of a **Claim**, but shall not include the wages, salaries, benefits or expenses of any **Directors**, **Officers** or employees of the **Company**.
- (C) "**Company**" means any company named in Item A of the Declarations and any **Subsidiary**.
- (D) "**Director(s)**" and/or "**Officer(s)**" means:

- (1) one or more natural persons who were, now are or shall hereafter be duly elected or appointed directors or officers of the **Company**, or, with respect to a **Subsidiary** incorporated outside the United States, their functional equivalent; and
- (2) with respect to a **Securities Claim** only, any other natural persons who were, now are or shall hereafter be employees of the **Company**.
- (E) "**Discovery Period**" means the period set forth in Item G of the Declarations.
- (F) "**Executive Officer**" means the president, chief executive officer, chief operating officer, chief financial officer, in-house general counsel, managing director, any executive vice president and any equivalent executive officer of the **Company**.
- (G) "**Financial Insolvency**" means the status of the **Company** as a result of the appointment of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the **Company**, or the **Company** becoming a debtor in possession.
- (H) "**Insured(s)**" means one or more **Directors** or **Officers** and, solely with respect to Insuring Agreements (B) and (C), the **Company**.
- (I) "**Interrelated Wrongful Acts**" means **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally connected facts, circumstances, situations, events, transactions or causes.
- (J) "**Loss**" means sums which the **Directors** and **Officers** or, with respect to Insuring Agreement (C), the **Company**, are legally liable to pay solely as a result of any **Claim** insured by this Policy, including **Claims Expenses**, compensatory damages, settlement amounts and legal fees and costs awarded pursuant to judgments, but excluding fines, penalties, taxes, any amount allocated to uncovered loss pursuant to Section VII. of this Policy, or matters uninsurable pursuant to any applicable law, provided this definition does not exclude punitive or exemplary damages or the multiple portion of any multiplied damage award unless such damages are uninsurable pursuant to applicable law.
- (K) "**Parent Company**" means the **Company** first named in Item A of the Declarations.
- (L) "**Policy Period**" means the period set forth in Item B of the Declarations, subject to prior termination pursuant to Section IX.(B).

- (M) **"Securities Claim"** means any **Claim** brought by a securities holder of the **Company** against the **Directors** and **Officers** or, with respect to Insuring Agreement (C), the **Company**, if such **Claim**:
- (1) alleges a violation of the Securities Act of 1933, the Securities Exchange Act of 1934, any similar state statute or similar common law, or any rules or regulations promulgated thereunder; or
 - (2) arises from the purchase or sale of, or offer to purchase or sell, any securities issued by the **Company**, whether such purchase, sale or offer involves a transaction with the **Company** or occurs in the open market.
- (N) **"Subsidiary"** means any corporation in which more than fifty percent (50%) of the outstanding securities or voting rights representing the present right to vote for election of directors or equivalent position is owned, in any combination, by one or more **Companies**.
- (O) **"Wrongful Act"** means:
- (1) any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty, committed or attempted by the **Directors** and **Officers**, in their capacity as such, or in an **Outside Position**, or, with respect to Insuring Agreement (C), by the **Company**, or
 - (2) any matter claimed against the **Directors** and **Officers** solely by reason of their serving in such capacity or in an **Outside Position**.

V. EXCLUSIONS

The Insurer shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Directors** and **Officers** or, with respect to Insuring Agreement (C), the **Company**:

- (A) for bodily injury, sickness, disease, emotional distress, mental anguish, outrage, humiliation, death, false arrest or imprisonment, abuse of process, malicious prosecution, defamation, violation or invasion of any right of privacy or private occupancy, trespass, nuisance or wrongful entry or eviction, or for damage to or destruction of any tangible property including loss of use thereof;
- (B) for any actual or alleged **Wrongful Act** by **Directors** and **Officers** of any **Subsidiary** in their capacities as such or, with respect to Insuring Agreement

(C), by any **Subsidiary** if such **Wrongful Act** actually or allegedly occurred when such corporation was not a **Subsidiary**;

(C) for, based upon, arising from, or in any way related to any claim, **Wrongful Act**, or circumstance if notice thereof is given under any directors and officers liability policy, the term of which incepted prior to the Inception Date of this Policy;

(D) brought or maintained by or on behalf of the **Company** or any **Director** or **Officer**, in any capacity, except:

(1) a **Claim** that is a derivative action brought and maintained on behalf of the **Company** by one or more security holders who are not **Directors** and **Officers** and who bring or maintain the **Claim** without the solicitation, assistance or participation of any **Director** and **Officer**;

(2) a **Claim** by a former **Director** or **Officer** for the actual or alleged wrongful termination, discrimination or sexual harassment of such **Director** or **Officer**;

(3) a **Claim** for contribution or indemnity, if the **Claim** directly results from another **Claim** that is otherwise covered under this Policy; or

(4) a **Claim** by any employee(s) of the **Company** described in Section IV.(D)(2) of this Policy;

(E) for, based upon, arising from, or in any way related to:

(1) the actual, alleged or threatened discharge, dispersal, release or escape of pollutants; or

(2) any direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, nuclear material or nuclear waste,

including without limitation any **Securities Claim** or any other **Claim** by or on behalf of the **Company** or its shareholders in their capacity as such.

Pollutants include, but are not limited to, any solid, liquid, gaseous or thermal irritant or contaminant, including without limitation smoke, vapor, soot, fumes, acids, alkalies, chemicals, odors, noise, lead, oil or oil products, radiation, asbestos or asbestos-containing products, waste and any electric, magnetic or electromagnetic field of any frequency. Waste includes, but is not limited to, material to be recycled, reconditioned or reclaimed;

- (F) for, based upon, arising from, or in any way related to such **Directors** and **Officers** serving as a director, officer, trustee, regent, governor or employee of any entity other than the **Company** even if such service is at the direction or request of the **Company**, provided this exclusion does not apply with respect to a **Claim** for a **Wrongful Act** by a **Director** or **Officer** while serving in an **Outside Position** if such **Claim** is brought and maintained without the solicitation, assistance or participation of the entity in which the **Director** or **Officer** serves in the **Outside Position** or any director, officer, trustee, regent, governor or employee of such entity;
- (G) for, based upon, arising from, or in any way related to an actual or alleged violation of the Employee Retirement Income Security Act of 1974, amendments thereto or similar federal, state, local or common law;
- (H) for, based upon, arising from, or in any way related to any demand, suit, or other proceeding against any **Insured** which was pending on or existed prior to the applicable Prior Litigation Date specified in Item H of the Declarations, or the same or substantially the same facts, circumstances or allegations which are the subject of or the basis for such demand, suit, or other proceeding;
- (I) for, based upon, arising from, or in any way related to their gaining in fact any personal profit, remuneration or advantage to which they were not legally entitled;
- (J) for, based upon, arising from, or in any way related to any deliberately dishonest, malicious or fraudulent act or omission or any willful violation of law by such **Insured** if a judgment or other final adjudication adverse to the **Insured** establishes such an act, omission or willful violation, provided this exclusion shall apply to Insuring Agreement (C), if granted, only if such judgment or final adjudication establishes that a **Director** or **Executive Officer** of the **Company** committed such an act, omission or willful violation;
- (K) for an accounting of profits made from the purchase or sale by such **Insured** of securities of the **Company** within the meaning of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any federal, state, local or common law; or
- (L) for, based upon, arising from, or in any way related to the actual or proposed payment by the **Company** of allegedly inadequate or unfair consideration in connection with its purchase of securities issued by the **Company**; provided, however, that this exclusion shall not apply to Insuring Agreements (A) or (B) or to **Claims Expenses** under Insuring Agreement (C).

The **Wrongful Act** of any **Director** or **Officer** shall not be imputed to any other **Director** or **Officer** for purposes of applying the exclusions set forth in this Section V.

VI. LIMITS OF LIABILITY, RETENTION AND COINSURANCE

- (A) The Insurer's aggregate Limit of Liability for all **Loss** otherwise covered under this Policy shall be the amount shown under Item C of the Declarations whether such **Loss** is covered under one or more Insuring Agreements. The Limit of Liability in the **Discovery Period** shall be a part of, and not in addition to, the Limit of Liability shown under Item C of the Declarations.
- (B) Except as provided in paragraph (C) below, the Insurer's liability in respect of **Loss** arising from each **Claim** shall apply only to that part of **Loss** which is excess of the applicable Retention set forth in Item D of the Declarations.
- (C) If in a **Securities Claim** all defendant **Insureds** obtain by reason of a motion to dismiss, motion for summary judgment or trial a final non-appealable judgment of no liability in their favor, there shall be no Retention or coinsurance percentage applicable to any **Claims Expenses** resulting from such **Securities Claim**.
- (D) All **Claims** arising out of the same **Wrongful Act** or **Interrelated Wrongful Acts** of one or more of the **Insureds** shall be considered a single **Claim**. Such **Claims** shall be deemed to be first made on the date the first such **Claim** is made or deemed to be made pursuant to Section VIII.(A) of this Policy, regard-less of whether such date is before or during the **Policy Period**.
- (E) If **Loss** arising from a single **Claim** is covered in whole or in part under more than one Insuring Agreement, the applicable Retention shall be applied separately to that part of the **Loss** covered by each Insuring Agreement and the sum of the Retentions so applied shall constitute the Retention applicable to such **Claim**; provided, however, the largest Retention amount set forth in Item D of the Declarations shall be the maximum Retention applicable to such **Claim**.
- (F) If the **Company** is permitted or required by law to ultimately indemnify the **Directors** and **Officers**, or to advance **Claims Expenses** on their behalf, and does not in fact do so other than for reasons of **Financial Insolvency**, then the Insurer's liability under Insuring Agreement (A) shall be subject to the Insuring Agreement (B) Retention amount set forth in Item D of the Declarations and the coinsurance percentage set forth in Item E of the Declarations (if such **Loss** results from a **Securities Claim**). For purposes of this paragraph, the shareholder and board of directors resolutions of the **Company** shall be deemed

to provide indemnification for such **Loss** to the fullest extent permitted or required by law.

- (G) The Limit of Liability available to pay judgments or settlements shall be reduced by **Claims Expenses**.
- (H) With respect to all **Loss** covered under Insuring Agreements (B) or (C) which arises from a **Securities Claim** and is in excess of the applicable Retention, the **Company** shall bear uninsured the coinsurance percentage of all such **Loss** specified in Item E of the Declarations. The Insurer's liability shall apply only to the remaining percentage of all such **Loss**.

VII. ALLOCATION

If both **Loss** covered under this Policy and loss not covered under this Policy are incurred, either because a **Claim** against an **Insured** includes both covered and uncovered matters or because a **Claim** not covered under Insuring Agreement (C) is made against both a **Director** and **Officer** and others, including the **Company**, the **Insureds** and the Insurer shall fairly and reasonably allocate such amount between covered **Loss** and uncovered loss.

If there can be an agreement on an allocation of **Claims Expenses**, the Insurer shall advance on a current basis **Claims Expenses** allocated to covered **Loss**. If there can be no agreement on an allocation of **Loss**:

- (A) in any arbitration, suit or other proceeding, no presumption shall exist concerning what is a fair and reasonable allocation;
- (B) the Insurer shall advance on a current basis **Claims Expenses** which the Insurer believes to be covered under this Policy until a different allocation is negotiated, arbitrated or judicially determined; and
- (C) the Insurer, solely if requested by the **Insureds**, shall submit the dispute 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 the **Insureds**, one arbitrator selected by the Insurer and a third independent arbitrator selected by the first two arbitrators.

Any negotiated, arbitrated or judicially determined allocation of **Claims Expenses** on account of a **Claim** shall be applied retroactively to all **Claims Expenses** on account of such **Claim**, notwithstanding any prior advancement to the contrary. Any allocation or advancement of **Claims Expenses** on account of a **Claim** shall not apply to or create any presumption with respect to the allocation of other **Loss** on account of such **Claim**.

VIII. NOTICE

- (A) If during the **Policy Period** the **Insureds** become aware of a specific **Wrongful Act** that may reasonably be expected to give rise to a **Claim** against any **Director** or **Officer** or, with respect to Insuring Agreement (C), the **Company**, and if such **Wrongful Act** is reported to the Insurer during the **Policy Period** in writing with particulars as to the reasons for anticipating such a **Claim**, the nature and dates of the alleged **Wrongful Act**, the alleged damages sustained, the names of potential claimants, any **Director** or **Officer** involved in the alleged **Wrongful Act** and the manner in which the **Insureds** first became aware of the specific **Wrongful Act**, then any **Claim** subsequently arising from such duly reported **Wrongful Act** shall be deemed under this Policy to be a **Claim** made during the **Policy Period** in which the **Wrongful Act** is first duly reported to the Insurer.
- (B) Notice of any **Claim** or specific **Wrongful Act** shall be given in writing to **The Hartford, Hartford Plaza, Hartford, Connecticut 06115 Attention: D&O Claims**. All other notices under this Policy shall be given to the same addressee but to the attention of Financial Products Underwriters.
- (C) All notices under this Policy shall refer to the Policy Number, shall be in writing, shall be given by mail, prepaid express courier or facsimile properly addressed and shall be effective upon receipt.

IX. GENERAL CONDITIONS

(A) TERRITORY

This Policy extends to **Wrongful Acts** taking place or **Claims** made anywhere in the world.

(B) CANCELLATION OF POLICY

The Insurer may cancel this Policy for non-payment of premium by sending not less than ten (10) days notice to the **Parent Company** at its last known address. The Insurer may not otherwise cancel this Policy. The **Parent Company** may cancel this Policy by sending contemporaneous notice to the Insurer, provided the **Parent Company** may not cancel this Policy after the effective date of the acquisition of the **Parent Company** as described in Section IX.(H)(2) of this Policy. In the event the **Parent Company** cancels this Policy, the Insurer shall retain the customary short rate premium. Payment of any unearned premium by

the Insurer shall not be a condition precedent to the effectiveness of cancellation but such payment shall be made as soon as practicable.

(C) SUBROGATION

In the event of any payment under this Policy, the Insurer shall be subrogated to the extent of such payment to all rights of recovery thereof, and the **Insureds** shall execute all papers required and shall do everything that may be necessary to secure and preserve such rights including the execution of such documents necessary to enable the Insurer effectively to bring suit in the name of the **Insureds**. The obligations of the **Insureds** pursuant to this Section IX.(C) survive the termination of the **Policy Period**.

(D) COMPANY AUTHORIZATION

By acceptance of this Policy, the **Insureds** agree that the **Parent Company** may act on behalf of all **Insureds** with respect to the giving and receiving of notice of **Claim** or cancellation, the payment of premiums and the receiving of any return premium, the negotiation, agreement to and acceptance of any endorsements to this Policy, and the exercising of the **Discovery Period** option.

(E) OTHER INSURANCE

If any **Loss** arising from any **Claim** is insured by another valid policy or policies, then this Policy shall apply only in excess of the amount of any deductibles, retentions and limits of liability under such other policy or policies, whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other policy to this Policy's Policy Number.

(F) ALTERATION, ASSIGNMENT AND TITLES LIMITATION

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

The titles and headings to the various paragraphs and sections in this Policy, including endorsements attached, are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions of such paragraphs and sections to which they relate.

(G) ACTION AGAINST INSURER

No action shall be taken against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, and the amount of the **Insureds'** obligation to pay shall have been finally determined either by judgment against the **Insureds** after actual trial, or by written agreement of the **Insureds**, the claimant and the Insurer.

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

(H) CHANGES IN EXPOSURE

(1) Acquisition or Creation of Corporation; Assets Acquisition; Assumption of Liabilities

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

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

such corporation and its **Directors** and **Officers** shall be **Insureds** under this Policy but only with respect to **Wrongful Acts** taking place after such acquisition or creation.

However, if during the **Policy Period** the fair value of (i) all cash, securities, assumed liabilities and other consideration paid by the **Company** for any such acquisition, or (ii) all assets acquired or liabilities assumed by the **Company** in any single transaction or series of related transactions, exceeds 20% of the total consolidated assets or liabilities, respectively, of all **Companies** as reflected in the **Parent Company's** last audited consolidated financial statements prior to such acquisition, the **Parent Company** as a condition precedent to coverage with respect to such new **Insureds** or to coverage for **Wrongful Acts** relating to such acquired assets or assumed liabilities and occurring subsequent to such acquisition or assumption, shall give written notice of such acquisition or assumption to the Insurer as soon as practicable but in no event more than ninety (90) days after the effective date of such acquisition or assumption, together with such information as the Insurer

may require, and shall pay any additional premium so required by the Insurer. If the **Parent Company** fails to comply with such condition precedent, coverage otherwise afforded by this Section (H)(1) shall terminate as of ninety (90) days after the effective date of such acquisition or assumption.

(2) **Acquisition of Parent Company**

If during the **Policy Period** (i) the **Parent Company** merges into or consolidates with another entity such that the **Parent Company** is not the surviving entity, or (ii) another entity, or person or group of entities and/or persons acting in concert acquires securities or voting rights which result in ownership or voting control by the other entity(ies) or person(s) of more than 50% of the outstanding securities representing the present right to vote for the election of directors of the **Parent Company**, then coverage under this Policy shall continue until the later of:

- (a) termination of the **Policy Period**, or
- (b) any subsequent date to which the Insurer may agree by endorsement,

but only with respect to **Claims** for **Wrongful Acts** taking place prior to such merger, consolidation or acquisition. Any coverage extension pursuant to (b), above, shall be conditioned upon any premium paid or to be paid under this Policy being deemed fully earned upon inception of such coverage extension. Any **Claim** made during such coverage extension shall be deemed to have been made during the **Policy Period** in which such merger, consolidation or acquisition occurred.

The **Parent Company** shall give written notice of such merger, consolidation or acquisition to the Insurer as soon as practicable, together with such information as the Insurer may reasonably require.

(3) **Cessation of Subsidiaries**

If before or during the **Policy Period** a corporation ceases to be a **Subsidiary**, coverage with respect to such **Subsidiary** and its **Directors** and **Officers** shall continue until termination of this Policy but only with respect to **Claims** for **Wrongful Acts** taking place prior to the date such corporation ceased to be a **Subsidiary**.

(I) REPRESENTATIONS AND SEVERABILITY

The **Insureds** represent that the particulars and statements contained in the Proposal are true and shall be deemed material to the acceptance of the risk or the hazard assumed by the Insurer under this Policy. This Policy is issued in reliance upon the truth of such representations.

The **Insureds** agree that in the event that the particulars and statements contained in the Proposal are untrue, this Policy shall not afford any coverage with respect to any of the following **Insureds**:

- (1) any **Director** or **Officer** who knew as of the Inception Date of this Policy the facts that were not truthfully disclosed in the Proposal,
- (2) the **Company**, under Insuring Agreement (B), to the extent it indemnifies any **Director** or **Officer** referenced in (1), above, and
- (3) the **Company**, under Insuring Agreement (C), if a **Director** or any **Executive Officer** knew as of the Inception Date of this Policy the facts that were not truthfully disclosed in the Proposal,

whether or not such **Director, Officer** or **Executive Officer** knew of such untruthful disclosure in the Proposal.