

CRIME COVERAGE PART

I. INSURING AGREEMENTS

Coverage for the **Insureds'** loss is provided under the following Insuring Agreements for which there is a Limit of Insurance shown in the Declarations.

(A) INSURING AGREEMENT 1. - EMPLOYEE THEFT

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

(B) INSURING AGREEMENT 2. - DEPOSITORS FORGERY OR ALTERATION

- (1) The Insurer will pay for loss resulting directly from **Forgery** or alteration of checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in **Money** that are:
 - (a) made or drawn upon an **Insured**; or
 - (b) made or drawn by one acting as an **Insured's** agent and drawn on an **Insured's** account or that are purported to have been so made or drawn.
- (2) The Insurer will treat mechanically reproduced facsimile signatures the same as handwritten signatures.
- (3) If an **Insured** is sued for refusing to pay any instrument in B.1. above, on the basis that it has been forged or altered and the **Insured** has the Insurer's written consent to defend against that suit, the Insurer will pay for any reasonable legal expenses that the **Insured** incurs and pays in such defense. The amount that the Insurer will pay is in addition to the Limit of Insurance applicable to this Insuring Agreement. If a Retention Amount applies to this Insuring Agreement, the Insurer will also apply it to the amount of legal expenses incurred in this Insuring Agreement.
- (4) The **Insured** must include with its proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss and describing both sides of said instrument.

(C) INSURING AGREEMENT 3. – INSIDE THE PREMISES - *Money, Securities and Other Property*

- (1) The Insurer will pay for loss of **Money** and **Securities** inside the **Premises** or **Banking Premises** resulting directly from **Theft**, disappearance or destruction.
- (2) The Insurer will pay for loss of or damage to **Other Property**:
 - (a) inside the **Premises** resulting directly from an actual or attempted **Robbery** of a **Custodian**; or
 - (b) inside the **Premises** in a safe or vault resulting directly from an actual or attempted **Safe Burglary**.
- (3) The Insurer will pay for loss from damage to the **Premises** or its exterior resulting from an actual or attempted:
 - (a) **Theft** of **Money** or **Securities**; or
 - (b) **Robbery** or **Safe Burglary** of **Other Property**;

if an **Insured** is the owner of the **Premises** or is liable for damage to it.

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

(D) INSURING AGREEMENT 4. – OUTSIDE THE PREMISES - Money, Securities and Other Property

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

(E) INSURING AGREEMENT 5. - COMPUTER AND FUNDS TRANSFER FRAUD

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

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

And, the Insurer will pay for loss of **Money** or **Securities** through **Funds Transfer Fraud** resulting directly from **Fraudulent Transfer Instructions** communicated to a **Financial Institution** and instructing such institution to pay, deliver, or transfer **Money** or **Securities** from an **Insured's Transfer Account**.

(F) INSURING AGREEMENT 6. - MONEY ORDERS AND COUNTERFEIT CURRENCY

The Insurer will pay for loss resulting directly from an **Insured's** having accepted in good faith and in the regular course of business, in exchange for merchandise, **Money** or services;

- (1) money orders issued by any post office, express company or bank in the United States of America or Canada that are not paid upon presentation; and
- (2) **Counterfeit** currency of the United States of America, Canada, or any other country in which an **Insured** maintains physical premises.

Unless otherwise shown in the Declarations for this **Non-Liability Coverage Part**, the Limit of Insurance under this insuring agreement is \$50,000. There is no retention applying to loss covered under this agreement unless otherwise shown in the Declarations for this **Non-Liability Coverage Part**.

II. LIMIT OF INSURANCE

The most that the Insurer will pay for loss in any one **Occurrence** is the applicable Limit of Insurance shown in the Declarations.

III. RETENTION

The Insurer will not pay for loss in any one **Occurrence** unless the amount of the loss exceeds the Retention Amount shown in the Declarations. The Insurer will then pay the amount of loss in excess of the Retention

Amount, up to the Limit of Insurance. In the event that more than one Retention Amount could apply to the same loss, only the highest Retention Amount will be applied.

IV. DEFINITIONS

- (A) **“Banking Premises”** means the interior portion of that part of any building occupied by a banking institution or similar safe depository.
- (B) **“Counterfeit”** means an imitation of an actual valid original that is intended to deceive and to be taken as an original.
- (C) **“Custodian”** means an **Insured**, or any of the **Insureds’** partners, or members or any **Employee** while having the care and custody of property inside the **Premises**, excluding any person while acting as a **Watchperson** or janitor.
- (D) **“Employee”** means:
 - (1) a natural person:
 - (a) while in any **Insured’s** service or for 60 days after termination of such service; and
 - (b) whom the **Insured** compensates directly by salary, wages, commissions; and
 - (c) whom the **Insured** has the right to direct and control while performing services for it;
 - (2) a natural person who is:
 - (a) a trustee, officer, employee, administrator or manager of any **Employee Benefit Plan(s)** insured under this **Non-Liability Coverage Part**; or
 - (b) an **Insured’s** director or trustee while that person is handling **Money** or **Securities** or **Other Property** of **Employee Benefit Plan(s)** insured under this **Non-Liability Coverage Part**;
 - (3) a natural person who is a director or trustee of an **Insured** while performing acts coming within the scope of the usual duties of an **Employee** or while acting as a member of any of an **Insured’s** elected or appointed committees to perform on an **Insured’s** behalf, as distinguished from general directorial acts;
 - (4) a natural person who is furnished temporarily to an **Insured** by a temporary employment service firm to substitute for a permanent **Employee** as defined in sub-paragraph (1) above, who is on leave, or to meet seasonal or short-term work load conditions and who such **Insured** has the right to direct and control while performing services for such **Insured**; provided, however, such persons are excluded while having care and custody of property outside the **Premises**.
 - (5) a natural person who is leased to an **Insured** under a written agreement between such **Insured** and a labor leasing firm, to perform duties related to the conduct of such **Insured’s** business;
 - (6) a natural person who is a former **Employee** while retained as a consultant for an **Insured**;
 - (7) a natural person who is a non-compensated officer of an **Insured**;
 - (8) a natural person who is a volunteer of an **Insured** who is not compensated, other than one who is a fund solicitor, while performing services for the **Insured** that are usual to the duties of an **Employee**;
 - (9) a natural person who is a former employee, director, partner, member or trustee of an **Insured** retained as a consultant while performing services for the **Insured**;
 - (10) a natural person who is a guest student or intern of an **Insured** while pursuing studies or duties with the guidance or direction of such **Insured**; or

- (11) a natural person who is an **Insured's** partner or limited liability member, but the Insurer will not pay for loss caused by any partner or limited liability member, unless the amount of the loss exceeds the sum of:
- (a) any amounts an **Insured** owes that partner or limited liability member; and
 - (b) the value of that partner's partnership interest, or that limited liability member's ownership interest determined by the closing of the **Insured's** organization's books on the date of discovery of the loss by the **Insured's** organization by anyone not in collusion with the person causing the loss, and
 - (c) any applicable Retention Amount; then the Insurer will pay the amount of loss excess of that sum, up to the Limit of Insurance applicable to Insuring Agreement 1.

However, **Employee** does not mean any agent, broker, factor, commission merchant, consignee, or representative of the same general character, nor any independent contractor (other than those specified in (6) and (9) above).

- (E) "**Employee Benefit Plan(s)**" means any welfare or pension plan(s) as defined in **ERISA** and which is sponsored by one or more of the **Insureds**.
- (F) "**Financial Institution**" means a bank, savings bank, savings and loan association or similar thrift institution, a stockbroker, mutual fund, liquid assets fund, or similar investment institution in which an **Insured** maintains a **Transfer Account**.
- (G) "**Forgery**" means the signing of the name of another person or organization with intent to deceive; provided, however, that it does not mean a signature that consists in whole or in part of one's own name signed with or without authority, in any capacity, for any reason.
- (H) "**Fraudulent Transfer Instructions**" means:
- (1) fraudulent electronic, telegraphic, facsimile, cable, teletype or telephone instructions to a **Financial Institution** to debit a **Transfer Account** and to pay, transfer or deliver **Money** or **Securities** from such account and which instructions purport to have been authorized by an **Insured** but which have been fraudulently transmitted by another; or
 - (2) fraudulent written instructions to a **Financial Institution** to debit a **Transfer Account** and to pay, transfer or deliver **Money** or **Securities** from such account through an electronic funds transfer system at specified times or under specified conditions and which instructions purport to have been duly authorized by an **Insured** but which have been fraudulently issued, forged or altered by another.
- (I) "**Funds Transfer Fraud**" means **Theft** of **Money** or **Securities** from any of the **Insureds' Transfer Accounts** at a **Financial Institution** and occurring through **Fraudulent Transfer Instructions** communicated to such **Financial Institution**.
- (J) "**Insured(s)**" shall mean any **Insured Entity**.
- (K) "**Investigative Expenses**" means reasonable expenses incurred and paid by an **Insured** in establishing the existence and amount of any direct loss covered under an Insuring Agreement within this **Non-Liability Coverage Part**. The reasonableness of such expenses shall be determined by the Insurer and shall not include any **Insured's** internal corporate obligations such as **Employee** wages or any other internal costs.
- (L) "**Messenger**" means an **Insured**, any of the **Insured's** partners or members or any **Employee** while having care and custody of property outside the **Premises**.

- (M) **“Money”** means currency, coins and bank notes in current use and having a face value; and travelers checks, register checks and money orders held for sale to the general public.
- (N) **“Occurrence”** means
- (1) as respects the Employee Theft Insuring Agreement, all loss caused by, or involving, one or more **Employees**, whether the result of a single act or a series of acts.
 - (2) as respects the Forgery or Alteration Insuring Agreement, all loss caused by any person or in which that person is involved, whether the loss involves one or more instruments.
 - (3) as respects all other Insuring Agreements, an act or series of related acts involving one or more persons; or an act or event or a series of related acts or events not involving any person.
- (O) **“Other Property”** or property means any tangible property other than **Money** or **Securities** that has intrinsic value but does not include any property excluded under this **Non-Liability Coverage Part**. **Other Property** does not include trade secrets, proprietary information, confidential information or any copyrights, patents, trademarks, proprietary manufacturing or processing procedures, or secret or confidential information, including but not limited to credit card numbers, bank account numbers or any similar information.
- (P) **“Premises”** means the interior of that portion of any building that an **Insured** occupies in conducting its business.
- (Q) **“Robbery”** means the unlawful taking of property from the care and custody of a person, by one who has caused or threatened to cause that person bodily harm or committed an obviously unlawful act witnessed by that person, to the deprivation of an **Insured**.
- (R) **“Safe Burglary”** means the unlawful taking of property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior, or, the taking of a safe or vault from inside the **Premises**.
- (S) **“Securities”** means negotiable or non-negotiable instruments or contracts representing either **Money** or property and includes tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use and evidences of debt issued in connection with credit or charge cards, which cards are not issued by an **Insured**. However, **securities** do not include **Money**.
- (T) **“Theft”** means the unlawful taking of **Money**, **Securities** or **Other Property** to the deprivation of an **Insured**.
- (U) **“Transfer Account”** means an account maintained by an **Insured** at a **Financial Institution** from which the **Insured** or its authorized representative may cause the payment, transfer or delivery of **Money** or **Securities** by any means described in the **Fraudulent Transfer Instructions** definition.
- (V) **“Watchperson”** means any person whom an **Insured** retains specifically to have the care and custody of property inside the **Premises** and who has no other duties.

V. EXCLUSIONS (Applying To All Insuring Agreements Unless Otherwise Specified)

This Coverage Part Does Not Apply To And The Insurer Will Not Pay For:

(A) Accounting or Arithmetical Errors or Omissions

Loss resulting from accounting or arithmetical errors or omissions.

(B) Acts Committed By The Insured’s Partners

Loss resulting from **Theft**, or **Forgery** committed by any partner of an **Insured** whether acting alone or in collusion with others; provided that, if such **Theft** or **Forgery** would otherwise be covered under INSURING AGREEMENTS 1 or 2, this exclusion shall not apply to the extent coverage under this coverage section is excess of the amount of such partner's percentage ownership of such **Insured**, on the day immediately preceding the date of discovery, multiplied by such **Insured's** total assets as reflected in such **Insured's** most recent audited financial statements;

(C) Acts of Employees, Managers, Directors or Trustees

Loss resulting from **Theft** or any other dishonest or criminal act committed by any of the **Insureds' Employees**, managers, directors or trustees whether acting alone or in collusion with other persons or while performing services for any **Insured** or otherwise, except when covered under Insuring Agreement 1.

(D) Employee Cancelled Under Prior Insurance

Loss caused by any of any **Insured's Employees** or by any **Employee** of any **Insured's** predecessor in interest, for whom similar prior insurance has been cancelled and not reinstated since the last cancellation.

(E) Exchanges or Purchases

Loss resulting from the giving or surrendering of **Money**, **Securities** or **Other Property** in any exchange or purchase.

(F) Fire

Loss from damage to the premises resulting from fire, however caused, except for loss of or damage to **Money** or **Securities** and loss from damage to a safe or vault under Insuring Agreement 3.

(G) Governmental Action

Loss resulting from seizure or destruction of **Money**, **Securities** or **Other Property** by order of governmental authority.

(H) Indirect Loss

Loss that is an indirect result of any act or **Occurrence** covered by this **Non-Liability Coverage Part** including but not limited to loss resulting from:

- (1)** any **Insured's** inability to realize income that it would have realized had there been no loss of or damage to **Money**, **Securities** or **Other Property**.
- (2)** payment of damages of any type for which any **Insured** is legally liable; provided, however, that the Insurer will pay compensatory damages arising directly from a loss covered under this **Non-Liability Coverage Part**.
- (3)** payment of costs, fees or other expenses any **Insured** incurs in establishing either the existence of or the amount of loss under this **Non-Liability Coverage Part**, provided, however, that:
 - (a)** the Insurer will reimburse the **Insured** for **Investigative Expenses** up to \$5,000 (Five Thousand Dollars) it incurs per **Occurrence** subject to the Insurer's determination that such **Investigative Expenses** were reasonable and incurred in establishing either the existence or amount of such loss covered under this **Non-Liability Coverage Part**; and
 - (b)** the amount of direct covered loss exceeds the Retention Amount for the applicable Insuring Agreement.

Such reimbursement is part of, and not in addition to, the Limit of Insurance for the applicable Insuring Agreement.

(I) Inventory Shortages

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

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

However, where the **Insured** establishes wholly apart from such inventory computations that it has sustained a loss covered under this **Non-Liability Coverage Part**, then the **Insured** may offer its inventory records and actual physical count of inventory in support of the amount of loss claimed.

(J) Legal Expenses

Expenses related to any legal action; provided however that this shall not apply to expenses covered under Insuring Agreement 2 that meet the following conditions precedent: The **Insured** shall immediately notify the Insurer of any claim or suit generating such expenses and shall not settle such claim or suit, or incur any related costs or expenses, without the Insurer's prior written authorization, nor shall the **Insured** admit liability in any such claim or suit. The Insurer shall have no duty to defend any such claim or suit, but shall have the right to investigate, negotiate or settle any such claim or suit or to take over the conduct of the defense thereof. Moreover, if, in the Insurer's discretion, the Insurer advances payments for such suit, the Insurer may require a written undertaking, on its terms and conditions, guaranteeing the repayment of any expenses it pays that are determined to be not covered hereunder.

(K) Money Operated Devices

Loss of **Money** contained in any money operated device unless a continuous recording instrument in the device records the amount of any **Money** deposited in it.

(L) Motor Vehicles or Equipment And Accessories

Loss of or damage to motor vehicles, trailers, or semi-trailers or equipment or accessories attached to them. This exclusion shall apply only to Insuring Agreement 4.

(M) Nuclear

Loss resulting directly or indirectly from:

- (1) discharge, dispersal, release or escape of nuclear material, nuclear waste or radiation or any threat of such discharge, dispersal, release or escape; or
- (2) direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize nuclear material, nuclear waste or radiation

(N) Risks Inherent in Insurance Operations

Loss resulting directly or indirectly from contractual or extra contractual liability sustained by any **Insured** in connection with the issuance of contracts or purported contracts of insurance, indemnity or suretyship.

(O) Trading Losses

Loss resulting directly or indirectly from any authorized or unauthorized trading of **Money**, **Securities** or **Other Property**, whether in any **Insured's** name or in a genuine or fictitious account.

(P) Transfer or Surrender of Property

Loss of or damage to **Money, Securities or Other Property** after it has been transferred or surrendered to a person or place outside the **Premises or Banking Premises**

- (1) on the basis of unauthorized instructions, unless covered under Insuring Agreement 5.; or
- (2) as a result of a threat to do bodily harm to any person; or
- (3) as a result of a threat to do damage to any property.

But this Exclusion does not apply under Insuring Agreement 4. to loss of **Money, Securities and Other Property** while outside the **Premises or Banking Premises** in the care and custody of a **Messenger** if the **Insured**:

- (a) had no knowledge of any threat at the time that the conveyance began; or
- (b) had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

(Q) Vandalism

Loss from damages to the **Premises** or to the exterior of any safe, vault, cash box, cash drawer or cash register by vandalism or mischief.

(R) Voluntary Parting of Title To or Possession of Property

Loss resulting from any **Insured**, or anyone acting on its express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property. This exclusion shall apply only to Insuring Agreements 3. and 4.

(S) War and Similar Actions

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

(T) Warehouse Receipts Losses

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

VI. GENERAL CONDITIONS

(A) ARMORED MOTOR VEHICLE COMPANIES

Under Insuring Agreement 4. the Insurer will pay only for the amount of loss the **Insured** cannot recover:

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

(B) CANCELLATION AS TO ANY EMPLOYEE

Insuring Agreement 1. is cancelled as to any **Employee**:

- (1) immediately upon discovery by a member of the Risk Management Department or any officer, manager, or supervisor of an **Insured's** not in collusion with the **Employee of Theft** or any dishonest act in excess of \$1,000 committed by the **Employee** whether before or after becoming employed by the **Insured**; or
- (2) on the date specified in a notice mailed to an **Insured**. The date will be at least 30 days after the date of the mailing. The mailing of notice to the **Insured** at the last mailing address known to us will be sufficient proof of notice. Delivery of notice is the same as mailing.

(C) CONCEALMENT, MISREPRESENTATION OR FRAUD

This **Non-Liability Coverage Part** is void in any case of fraud by any **Insured** as it relates to this **Non-Liability Coverage Part** at any time. It is also void if any **Insured** at any time intentionally conceals or misrepresents a material fact, whether in the **Application** or otherwise, concerning:

- (1) this **Non-Liability Coverage Part**;
- (2) the property covered under this **Non-Liability Coverage Part**;
- (3) any **Insured's** interest in the property covered under this **Non-Liability Coverage Part**; or
- (4) a loss under this **Non-Liability Coverage Part**.

(D) CONSOLIDATION OR MERGER

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

- (1) an **Insured** must give us written notice within 90 days after the effective date of such consolidation or merger, or purchase or acquisition of assets or liabilities, and obtain the Insurer's written consent to extend this insurance to such additional **Employees** or **Premises**. The Insurer may condition its consent upon payment of an additional premium; but there shall only be a premium charge if such merger or acquisition results in a 15%, or greater, increase in the number of **Employees**, assets or revenues acquired through the merger or acquisition.
- (2) For the first 90 days after the effective date of such consolidation or merger, or purchase or acquisition of assets or liabilities, any insurance afforded for **Employees** or **Premises** also applies to these additional **Employees** or **Premises** for acts committed within this 90-day period.

(E) DISCOVERY

- (1) The Insurer will pay for loss which an **Insured** sustains through acts or events committed or occurring at any time and which are discovered by the **Insured** during the **Policy Period** or during the period provided in General Condition G. DISCOVERY – EXTENDED PERIOD TO DISCOVER LOSS.
- (2) Discovery of loss occurs when a member of the Risk Management Department or any officer, manager, or supervisor of an **Insured's** first becomes aware of facts which would cause a reasonable person to assume that a loss covered by this **Non-Liability Coverage Part** has been, or may be incurred even though the exact amount or details of the loss may not then be known.
- (3) Discovery also occurs when an **Insured** receives notice of an actual or potential claim against it alleging facts, which if true, would constitute a covered loss under this policy.

- (4) No coverage will be available under this **Non-Liability Coverage Part** for any loss of which an **Insured** was aware prior to the inception date of this **Non-Liability Coverage Part**.

(F) DISCOVERY SUPERSEDING LOSS SUSTAINED COVERAGE – LIABILITY FOR PRIOR LOSSES

- (1) If this **Non-Liability Coverage Part** has replaced similar prior insurance written by a company other than the Insurer, and such other insurance provided a period of time to discover loss occurring prior to the termination or cancellation of that coverage, and a loss is discovered within the period provided by prior insurance to discover losses, the Insurer will not pay for such loss unless the amount exceeds the Limit of Insurance under said prior Policy. The Insurer will then only pay the **Insured** for any excess loss subject to the Insuring Agreements, Exclusions and General Conditions of this **Non-Liability Coverage Part**.
- (2) Any payment that the Insurer makes to an **Insured** under this insurance shall not exceed the difference between the amount of insurance under the **Insured's** prior Policy and the Limit of Insurance shown in the Declarations and the Insurer will not apply its Retention Amount to any excess loss payment.

(G) DISCOVERY – EXTENDED PERIOD TO DISCOVER LOSS

The Insurer will pay for loss that an **Insured** sustained prior to the effective date of termination or cancellation of this **Non-Liability Coverage Part**, which is discovered by the **Insured**:

- (1) no later than 60 days from the date of the termination, cancellation or non-renewal; and
- (2) as respects any **Employee Benefit Plan(s)**, no later than 1 year from the date of that termination, cancellation or non-renewal.

However, this extended period to discover loss terminates immediately upon the effective date of any other insurance obtained by the **Insured** to replace, in whole or in part, the insurance afforded by this **Non-Liability Coverage Part**, whether or not such other insurance provides coverage for loss sustained prior to its effective date.

(H) DUTIES IN THE EVENT OF LOSS

After a member of the Risk Management Department or an officer, manager or supervisor of an **Insured's** discovers a loss or a situation which may result in a loss of or damage to **Money, Securities** or **Other Property**, the Risk Management Department member or officer, manager or supervisor must:

- (1) notify the Insurer as soon as possible but no later than 90 days after discovery of loss;
- (2) submit to an examination under oath at the Insurer's request and give it a signed statement;
- (3) give the Insurer a detailed, sworn proof of loss within 120 days;
- (4) cooperate with the Insurer in the investigation and settlement of any claim; and
- (5) with respect to Insuring Agreements 3. and 4., notify the police if an **Insured** has reason to believe that its loss involves a violation of the law.

(I) EMPLOYEE BENEFIT PLANS PROVISION

- (1) The Insurer will pay for loss of or damage to **Money, Securities** or **Other Property** of any **Employee Benefit Plan(s)** sponsored exclusively by any **Insured** resulting directly from **Theft** by an **Employee**. The Limit of Insurance applicable to any **Employee Benefit Plan** shall equal the lesser of ten percent (10%) of the **Employee Benefit Plan** assets as of the beginning of such **Employee Benefit Plan** fiscal year or five hundred thousand dollars (\$500,000). Such Limit

shall be part of and not in addition to the Limit of Insurance for Employee Theft stated on the Declarations.

- (2) Any payments the Insurer makes to an **Insured** for loss sustained by any **Employee Benefit Plan** will be held by that **Insured** for the use and benefit of the **Employee Benefit Plan** sustaining the loss.
- (3) If two or more **Employee Benefit Plans** are insured under this **Non-Liability Coverage Part**, any payment which the Insurer makes for loss sustained by two or more **Employee Benefit Plans**, or of commingled funds or **Other Property** of two or more **Employee Benefit Plans**, which arises out of one **Occurrence**, is to be shared by each **Employee Benefit Plan** sustaining loss in the proportion that the Limit of Insurance required for each **Employee Benefit Plan** bears to the total of those limits.
- (4) The Retention Amount which applies to the Employee Theft Insuring Agreement shall not apply to loss sustained by any **Employee Benefit Plans** subject to **ERISA** and which plan is covered under this insurance.

(J) JOINT INSURED

- (1) The **Named Entity** will act for itself and for every other **Insured** for all purposes of this **Non-Liability Coverage Part**.
- (2) If any **Insured**, partner, member or officer of an **Insured** has knowledge of any information relevant to this **Non-Liability Coverage Part**, that knowledge is considered to be knowledge of every **Insured**.
- (3) An **Employee** of any **Insured** is considered to be an **Employee** of every **Insured**.
- (4) If this **Non-Liability Coverage Part** or any of its Insuring Agreements is cancelled, terminated or non-renewed as to any **Insured**, loss sustained by that **Insured** is covered only if discovered by the **Insured** during the period of time provided in General Condition G. DISCOVERY – EXTENDED PERIOD TO DISCOVER LOSS. This extended period to discover loss also terminates in accordance with paragraph 2 of that condition.
- (5) The Insurer will not pay a greater amount for loss sustained by more than one **Insured** than the Insurer would pay if all of the loss had been sustained by one **Insured**.

(K) OWNERSHIP OF PROPERTY; INTERESTS COVERED

- (1) The property covered under this **Non-Liability Coverage Part** is limited to **Money, Securities or Other Property**:
 - (a) that an **Insured** owns or leases; or
 - (b) owned by an **Insured's** client and which the **Insured** holds on its **Premises** or which is in the custody of one acting as the **Insured's Messenger** and while such **Money, Securities or Other Property** is in transit; or
 - (c) for which an **Insured** is legally liable excepting loss of client **Money, Securities or Other Property** occurring on such client's premises.
- (2) However, this **Non-Liability Coverage Part** is for the **Insureds'** benefit alone and no other person or organization has any rights or benefits. Any claim for a loss of client **Money, Securities or Other Property** occurring on an **Insured's Premises** or while in transit in the custody of a **Messenger** may only be made by an **Insured** in its proof of loss.

(L) VALUATION

- (1) Subject to the applicable Limit of Insurance, the Insurer will pay for:
- (a) loss of **Money** but only up to and including its face value. The Insurer may, at its option, pay for a loss of **Money** issued by any country other than the United States of America in either the face value in the **Money** issued in that country, or, in the United States of America dollar equivalent determined by the rate of exchange as stated in the *Wall Street Journal* on the day that the loss occurred.
 - (b) loss of **Securities** but only up to and including their value as stated in the *Wall Street Journal* at the close of business on the day that the loss was discovered. However, the Insurer may, at its option, 1) pay the value of such **Securities**, 2) replace them in kind in which event an **Insured** must assign to the Insurer all its rights, title and interest in and to those **Securities** or 3) pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the **Securities**. However, the Insurer will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of
 - i. the value of the **Securities** as stated in the *Wall Street Journal* at the close of the business on the day the loss was discovered; or
 - ii. the Limit of Insurance.
 - (c) loss of or damage to **Other Property** or loss from damage to the **Premises** or its exterior for the replacement cost of the property without deduction for depreciation, subject to 2. below. However, the Insurer will not pay for more than the lesser of:
 - i. the Limit of Insurance applicable to the lost or damaged property; or
 - ii. the cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose; or
 - iii. the amount that any **Insured** actually spends that is necessary to repair or replace the lost or damaged property.
- (2) The Insurer will not pay on a replacement cost basis for any loss or damage:
- (a) until the lost or damaged property is actually repaired or replaced; and
 - (b) unless the repair or replacement is made as soon as reasonably possible after the loss or damage.

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

- (3) The Insurer may, at its option, pay for loss of or damage to property other than **Money** in the **Money** of the country in which the loss occurred; or in the United States of America dollar equivalent of the **Money** of the country where the loss occurred determined by the rate of exchange on the day the loss was discovered. Any property that the Insurer pays for or replaces becomes its property.
- (4) Loss of or loss from damage to any books or records of account or other records, tapes, disks, or electronic media used by an **Insured** in the business but only if such books, records, tapes or disks are actually reproduced and then only for not more than the blank books, pages, tapes and disks or other materials plus the cost of labor for the actual transcription or copying of data which an **Insured** shall furnish to reproduce such books, records, tapes or disks.

(M) RECORDS

The **Insured** must keep records of all property covered under this **Non-Liability Coverage Part** so that the Insurer can verify the amount of any loss.

(N) RECOVERIES

- (1) Any recoveries made before the resolution of all or any part of a claim under this policy shall be distributed/applied in the following order of priority:
 - (a) to the party (either the **Insured** or Insurer) to reimburse it for the reasonable and necessary costs of obtaining the recovery; and then
 - (b) to the **Insured** to reduce the amount of covered loss.
- (2) Any recoveries made after the resolution of all or any part of a claim under this policy shall be distributed/applied in the following order of priority:
 - (a) to reimburse the party (either the **Insured** or Insurer) for the reasonable and necessary costs of obtaining the recovery; and then
 - (b) to the **Insured**, until reimbursed for any excess covered loss sustained that exceeds the Limit of Insurance and the Retention Amount, if any; and then
 - (c) to the Insurer, until reimbursed for the amount paid; and then
 - (d) to the **Insured**, until reimbursed for that part of the loss equal to the Retention Amount, if any; and then
 - (e) to the **Insured** for any loss not covered.
- (3) Recoveries do not include any recovery:
 - (a) from insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
 - (b) of original securities after duplicates of them have been issued.

(O) Takeover of Named Entity

- (1) the **Named Entity** merges into or consolidates with another entity such that the **Named Entity** is not the surviving entity; or
- (2) all, or substantially all of the assets of the **Named Entity** are acquired by another person or entity, group of persons or entities, or persons and entities acting in concert such that the **Named Entity** is not the surviving entity; or
- (3) more than 50% of the securities representing the right to vote for the **Named Entity's** board of directors or managers is acquired by another person or entity, group of persons or entities, or persons and entities acting in concert,

then coverage under this **Non-Liability Coverage Part** shall immediately terminate as of the date of such transaction and any incident occurring upon or after such date shall not be covered hereunder.