

\_\_\_\_\_ ,  
 a stock insurance company, herein  
 called the Insurer

**THE HARTFORD  
 PRIORITY PROTECTION<sup>SM</sup> PLUS POLICY  
 BROAD FORM NON-INDEMNIFIABLE D&O COVERAGE  
 DECLARATIONS**

**Policy Number:**

**NOTICE: THIS POLICY PROVIDES CLAIMS MADE COVERAGE FOR INSURED PERSONS ONLY. EXCEPT AS OTHERWISE SPECIFIED HEREIN, COVERAGE APPLIES ONLY TO A CLAIM FIRST MADE DURING THE POLICY PERIOD. NOTICE OF A CLAIM MUST BE GIVEN TO THE INSURER AS SOON AS PRACTICABLE, BUT IN NO EVENT LATER THAN 60 DAYS AFTER THE END OF THE POLICY PERIOD OR THE EXTENDED REPORTING PERIOD, IF APPLICABLE. DEFENSE COSTS ERODE THE RETENTION. PAYMENT OF DEFENSE COSTS REDUCES THE LIMIT OF LIABILITY. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.**

<b>ITEM 1. Named Entity and Address:</b>	<b>ITEM 2. Producer's Name and Address:</b>		
<b>ITEM 3. Policy Period:</b> (A) Inception Date: (B) Expiration Date: 12:01 a.m. local time at the address shown in ITEM 1	<b>ITEM 4. Extended Reporting Period:</b> (A) Percentage of Policy Premium: (B) Duration:		
<b>ITEM 5:</b> Aggregate Limit of Liability: \$ _____, In the aggregate each <b>Policy Period</b> , including <b>Defense Costs</b>			
<b>ITEM 6:</b> Retention: \$ _____, Each <b>Claim</b> , Including <b>Defense Costs</b>			
<b>ITEM 7:</b> <input type="checkbox"/> <b>Coverage Feature: Excess Difference-in-Conditions Coverage</b> <i>NOTE: This Coverage Feature is included under this policy only if designated with an "X"</i> <u>Schedule of Primary Insurance Program:</u> (See Endorsement Form _____) or (Not Applicable)			
<b>ITEM 8. Address For Notices to Insurer:</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; padding-right: 20px;"> <b>(A) For Claims:</b>            The Hartford            Claims Department            Hartford Financial Products            2 Park Ave., 6<sup>th</sup> Floor            New York, New York 10016         </td> <td style="width: 50%; vertical-align: top;"> <b>(B) For other than Claims:</b>            The Hartford            Attn: Underwriting            Hartford Financial Products            2 Park Ave., 5<sup>th</sup> Floor            New York, New York 10016         </td> </tr> </table>		<b>(A) For Claims:</b> The Hartford Claims Department Hartford Financial Products 2 Park Ave., 6 <sup>th</sup> Floor New York, New York 10016	<b>(B) For other than Claims:</b> The Hartford Attn: Underwriting Hartford Financial Products 2 Park Ave., 5 <sup>th</sup> Floor New York, New York 10016
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<b>ITEM 9. Endorsements at Policy Issuance:</b>			
<b>ITEM 10. Primary Policy:</b> Company: Policy Number: Policy Period: Limit of Liability: _____ Retention: _____			

This Policy shall not be valid unless countersigned by the Insurer's duly authorized representative.

**Date of Issue:** \_\_\_\_\_

**Countersigned by:** \_\_\_\_\_

**Authorized Representative**

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In consideration of the payment of the premium, the Insurer, the **Entities** and the **Insured Persons** agree as follows:

**I. INSURING AGREEMENT**

The Insurer shall pay **Loss** on behalf of any **Insured Person** resulting from a **Claim** first made during the **Policy Period** or Extended Reporting Period, if applicable, if all **Entities** that may be required or permitted to pay, advance, or indemnify such **Loss** are in the status of **Financial Insolvency** or, after written request by such **Insured Person**, refuse to pay, advance, or indemnify such **Loss**.

**II. DEFINITIONS**

The following terms, whether used in the singular or plural, shall have the meanings specified below:

- (A) “**Affiliate**” means any insurance company controlling, controlled by or under common control with the Insurer.
- (B) “**Acquiring Entity**” shall mean any person, entity, group of persons or entities, or persons and entities acting in concert that by way of merger, consolidation, or acquisition of more than 50% of the securities of the **Named Entity** is the surviving entity of such transaction.
- (C) “**Application**” means any Application submitted to procure this Policy, including any materials or information submitted therewith or made available to the Insurer during the underwriting process. The **Application** shall be on file with the Insurer and deemed a part of this Policy and deemed attached hereto.
- (D) “**Claim**” means:
- (1) a written demand for civil damages or other civil relief commenced by the receipt of such demand;
  - (2) a civil proceeding, including any arbitration proceeding, commenced by the service of a complaint, statement of claim or similar document;
  - (3) a criminal proceeding commenced by the filing of an indictment or similar document;
  - (4) formal administrative or regulatory proceeding commenced by the filing of a notice of charges or similar document,  
against an **Insured Person**, alleging a **Wrongful Act** by such **Insured Person**; or
  - (5) a formal civil, criminal, administrative, or regulatory investigation of an **Insured Person** commenced by the receipt by such **Insured Person** of written notice from such investigating authority identifying such **Insured Person** as a person against whom a proceeding alleging a **Wrongful Act** may be brought.
- (E) “**Debtor in Possession**” means a “debtor in possession” as such term is defined in Chapter 11 of the United States Bankruptcy Code as well as any equivalent status under any similar law.

- (F) **“Defense Costs”** means reasonable and necessary legal fees and expenses incurred in the investigation, defense or appeal of a **Claim**. **Defense Costs** shall include the costs of appeal, attachment or similar bonds, provided that the Insurer shall have no obligation to furnish such bonds. **Defense Costs** shall not include salaries, wages, remuneration, overhead or benefit expenses of any **Entity** or **Insured Person**.
- (G) **“Derivative Action”** means any civil proceeding against an **Insured Person** for a **Wrongful Act** of such **Insured Person** made on behalf of, or in the name or the right of, an **Entity** by any security holders of such **Entity**, in their capacity as such, if such proceeding is made without the assistance, participation or solicitation of any **Insured Person**.
- (H) **“Domestic Partner”** means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law.
- (I) **“Employment Practices Wrongful Act”** shall mean any actual or alleged wrongful dismissal, discharge or termination (either actual or constructive) of employment, sexual harassment of an employee, unlawful employment discrimination, wrongful failure to hire or promote, wrongful failure to grant tenure, or retaliation against an employee based upon their exercising any rights under law, refusing to violate a law, disclosing any violation of law to a superior or to a governmental agency, or cooperating in a proceeding or investigation alleging violation of the law by the **Entity**.

(J) **“Entity”** means any:

- (1) **Named Entity**; or
- (2) **Subsidiary**.

**Entity** shall include any such entity as a **Debtor in Possession**.

(K) **“Financial Insolvency”** means the status of an **Entity** as a result of:

- (1) the appointment of any conservator, liquidator, receiver, rehabilitator, trustee, or similar official to control, supervise, manage or liquidate such **Entity**; or
- (2) such **Entity** becoming a **Debtor in Possession**.

(L) **“Insured Person”** means:

- (1) any past, present or future duly elected or appointed director, officer, member of the board of managers or management committee member of an **Entity**; or
- (2) any executive of an **Entity** created outside the United States of America to the extent that such executive holds a position equivalent to those described in paragraph (1) above.

(M) **“Interrelated Wrongful Acts”** means **Wrongful Acts** that are based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any of the same or related, or series of related, facts, circumstances, situations, transactions, or events.

(N) **“Loss”** means:

the amount that any **Insured Person** is legally obligated to pay as a result of a **Claim**, including **Defense Costs**, compensatory damages, settlements, judgments, and pre- and post-judgment interest.

**Loss** shall include punitive and exemplary damages where insurable by law. Regarding the insurability of such damages, the Insurer shall not contend for any reason, unless appropriate to do so as a matter of law or public policy, that such damages are uninsurable. The insurability of such damages shall be governed by the laws of any applicable jurisdiction that permits coverage of such damages.

**Loss** shall not include:

- (1) taxes, fines or penalties imposed by law, the multiple portion of any multiplied damage award, or

matters that may be deemed uninsurable under the law pursuant to which this Policy shall be construed; or

- (2) non-monetary relief.
- (O) **“Named Entity”** means the entity listed first in **ITEM 1** of the Declarations.
- (P) **“Outside Capacity”** means service by any **Insured Person** as a director, officer, trustee, or equivalent executive of an **Outside Entity** at the specific written request of an **Entity**.
- (Q) **“Outside Entity”** means any:
  - (1) not-for-profit corporation that is not an **Entity** and that is exempt from federal income tax as an organization described in Section 501(c) of the Internal Revenue Code of 1986; or
  - (2) entity listed as an **Outside Entity** in a written endorsement issued by the Insurer to form a part of this Policy.
- (R) **“Policy Period”** means the period from the Inception Date to the Expiration Date set forth in **ITEM 3** of the Declarations or any earlier cancellation date.
- (S) **“Primary Insurance Program”** means the primary policy listed in **ITEM 10** of the Declarations and all policy(ies) listed in the Schedule of Primary Insurance Program in **ITEM 7** of the Declarations and/or referenced in a written endorsement issued by the Insurer to form part of this Policy.
- (T) **“Subsidiary”** means any:
  - (1) corporation in which and so long as the **Named Entity** owns or controls, directly or indirectly, more than 50% of the outstanding securities representing the right to vote for the election of the board of directors of such corporation;
  - (2) limited liability company in which and so long as the **Named Entity** owns or controls, directly or indirectly, the right to elect, appoint or designate more than 50% of such entity’s managers;
  - (3) entity listed as a **Subsidiary** in a written endorsement issued by the Insurer to form a part of this Policy; or
  - (4) not-for-profit corporation that is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 so long as such entity or organization is sponsored exclusively by the **Named Entity** or any **Subsidiary** as defined in (1) or (2) above.
- (U) **“SOX Whistleblowing”** means the lawful act of an **Insured Person**, in which such **Insured Person** provides information, causes information to be provided, or otherwise assists in an investigation regarding any conduct which the **Insured Person** reasonably believes constitutes:
  - (1) a violation of any rule or regulation of the Securities and Exchange Commission, or
  - (2) any provision of federal law relating to fraud against shareholders,when the information or assistance is provided to, or the investigation is conducted by:
  - (a) a federal regulatory or law enforcement agency;
  - (b) any member of congress or any committee of congress; or
  - (c) a person with supervisory authority over the **Insured Person** (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct).
- (V) **“Wrongful Act”** means any actual or alleged:

- (1) error, misstatement, misleading statement, act, omission, neglect or breach of duty by an **Insured Person** in his or her capacity as such; or
- (2) **Employment Practices Wrongful Act**; or
- (3) matter claimed against an **Insured Person** solely by reason of his or her service in such capacity, including service in an **Outside Capacity**.

### III. OTHER INSURANCE AND INDEMNIFICATION

- (A) The **Insured Persons** and the **Entity** understand and agree that coverage for all **Loss** under this Policy shall be specifically excess over and not contribute with (1) the amount of any deductibles, retentions and limits of liability of any other valid and collectible 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 or policies to this Policy's Policy Number; or (2) all indemnification to which an **Insured Person** may be entitled from any source, including but not limited to the **Entity** or any **Outside Entity**.
- (B) In the event that the Excess Difference-In-Conditions Coverage Feature is elected in **ITEM 7** of the Declarations, this Policy shall also be specifically excess of the total limits of liability under the **Primary Insurance Program**.

However, if any of the participating insurers in the **Primary Insurance Program**, after written request:

- (1) refuse to pay, advance or indemnify any **Loss**; or
- (2) are precluded from paying, advancing or indemnifying such **Loss** due to
  - (a) **Financial Insolvency** of all **Entities**, or
  - (b) such participating insurer(s)' financial inability to pay, advance or indemnify;

then this Policy, subject to all of its terms, conditions and exclusions, shall respond in place of the lowest attaching policy in the **Primary Insurance Program** that has refused to or is otherwise precluded from paying, advancing or indemnifying such **Loss** including the primary policy.

The **Insured Persons** shall be obligated to maintain the **Primary Insurance Program**, in terms consistent with those in force at the inception date of this Policy, for as long as this Policy remains in effect and shall do nothing to otherwise prejudice the Insurer's excess position. If the **Entity** or the **Insured Persons** fail to maintain in effect the **Primary Insurance Program**, the **Insured Persons** shall be deemed to have retained any **Loss** that would have been covered under such **Primary Insurance Program**.

### IV. DEFENSE, SETTLEMENT AND COOPERATION

- (A) It shall be the duty of the **Insured Persons**, and not the duty of the Insurer, to defend any **Claim**.
- (B) The Insurer shall have the right to effectively associate in the defense and settlement of any **Claim**. The **Insured Persons** shall give to the Insurer all information and cooperation as the Insurer may reasonably request.
- (C) The **Insured Persons** shall not admit nor assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any **Defense Costs** regarding any **Claim** without the prior written consent of the Insurer, such consent not to be unreasonably withheld. The Insurer shall not be liable for any admission, assumption, settlement, stipulation, or **Defense Costs** to which it has not consented.
- (D) Notwithstanding Section III. **OTHER INSURANCE AND INDEMNIFICATION (A) (2)** of this Policy, upon written request by any **Insured Person**, the Insurer shall advance on a current basis **Defense Costs** for any **Claim** otherwise covered by this Policy. As a condition of the advancement of **Defense Costs**, the Insurer

may require a written undertaking, in a form satisfactory to the Insurer, which will guarantee the repayment of any **Loss**, including **Defense Costs** paid to or on behalf of the **Insured Persons**, if it is finally determined that the **Loss** incurred is not covered under this Policy and the **Insured Persons** are in compliance with all other conditions of this Policy.

- (E) If all **Entities** that may be required or permitted to pay, advance, or indemnify any **Loss** covered by this Policy refuse to do so, it shall be a condition precedent to any payment of such **Loss** by the Insurer under this Policy that the **Insured Persons** cooperate with the Insurer in pursuing mitigation of such **Loss**, at the Insurer's written direction to be exercised in its sole but reasonable discretion and at the Insurer's sole but reasonable expense (that shall not erode the available limits of liability under this Policy), from any and all **Entities** that the Insurer deems to have an obligation to pay, advance or indemnify such **Loss**.
- (F) In the event that the Excess Difference-In-Conditions Coverage Feature is elected in **ITEM 7** of the Declarations, if the participating insurers in the **Primary Insurance Program**, after written request, refuse to pay, advance or indemnify any **Loss**, or are otherwise precluded from paying, advancing or indemnifying such **Loss**, it shall be a condition precedent to any payment of such **Loss** by the Insurer under this Policy that the **Insured Persons** cooperate with the Insurer in pursuing mitigation of such **Loss**, at the Insurer's written direction to be exercised in its sole but reasonable discretion and at the Insurer's sole but reasonable expense (that shall not erode the available limits of liability under this Policy), from such participating insurer(s) of the **Primary Insurance Program** that the Insurer deems to have an obligation to pay, advance or indemnify such **Loss**.

## V. EXCLUSIONS

The Insurer shall not pay **Loss**:

- (A) for bodily injury, sickness, disease, death, false arrest or imprisonment, invasion of privacy, assault or, battery, or for damage to or destruction of any tangible property, including loss of use thereof;
  - (B) in connection with any **Claim** for, based upon, arising from, or in any way related to any fact, circumstance or situation that, before the Inception Date in **ITEM 3** of the Declarations, was the subject of any notice given under any other directors and officers, management liability, or similar insurance policy;
  - (C) in connection with any **Claim**, brought by or on behalf of any **Entity**, provided that this exclusion shall not apply to any **Claim**:
    - (1) that is a **Derivative Action**;
    - (2) in the event of **Financial Insolvency**, by the **Debtor in Possession** or any bankruptcy examiner, trustee, or assignee thereof, if such **Claim** is made without the assistance, participation or solicitation of any **Insured Person**; or
    - (3) brought by or on behalf of any **Entity** at the direction of the **Acquiring Entity**, first made on or after a takeover of **Named Entity** (as fully described in Section **XVI. CHANGES IN EXPOSURE (B)** of this Policy).
- With respect to (1) and (2) above, **SOX Whistleblowing** alone shall not constitute assistance, participation or solicitation.
- (D) of an **Insured Person**, based upon, arising from, or in any way related to:
    - (1) the gaining of any personal profit, remuneration or advantage to which such **Insured Person** is not legally entitled, established by way of a final adjudication adverse to such **Insured Person** in the underlying action or in a separate action or proceeding; or
    - (2) any criminal or deliberately fraudulent act or omission or willful violation of law attempted or committed by such **Insured Person**, established by way of a final adjudication adverse to such **Insured Person** in the underlying action or in a separate action or proceeding.

Regarding exclusion (D) above, no **Wrongful Act** of any **Insured Person** shall be imputed to any other **Insured Person**.

## VI. INTERRELATIONSHIP OF CLAIMS

All **Claims** arising from the same **Wrongful Acts** or **Interrelated Wrongful Acts** shall be deemed to be a single **Claim** for all purposes under this Policy, first made on the earliest date that:

- (A) any of such **Claim** was first made, regardless of whether such date is before or during the **Policy Period**;
- (B) notice of any **Wrongful Act** was given to the Insurer under this Policy pursuant to Section XI. **NOTICE OF CLAIM OR WRONGFUL ACT**; or
- (C) notice of any **Wrongful Act** or circumstance was given under any other directors and officers, management liability or similar insurance policy commencing before the Inception Date in **ITEM 3** of the Declarations.

## VII. LIMIT OF LIABILITY

- (A) The Limit of Liability in **ITEM 5** of the Declarations shall be the maximum aggregate amount that the Insurer shall pay under this Policy for all **Loss** from all **Claims** covered under this Policy.
- (B) **Defense Costs** shall be part of, and not in addition to, the Limit of Liability. Payment of **Defense Costs** by the Insurer shall reduce the Limit of Liability.

## VIII. RETENTION

- (A) The Insurer shall pay **Loss** in excess of the Retention applicable to each **Claim** as specified in **ITEM 6** of the Declarations. **Defense Costs** are applied against the Retention.
- (B) The Retention shall be borne by the **Insured Persons** uninsured at the **Insured Persons'** own risk.

## IX. SUBROGATION

The Insurer shall be subrogated to all of the **Insured Persons'** rights of recovery regarding any payment of **Loss** by the Insurer under this Policy. The **Insured Persons** shall execute all papers required and do everything necessary to secure and preserve such rights, including the execution of any documents necessary to enable the Insurer to effectively bring suit in the name of the **Insured Persons**. The **Insured Persons** shall do nothing to prejudice the Insurer's position or any potential or actual rights of recovery.

## X. NOTICES AND AUTHORIZATION OF NAMED ENTITY

- (A) All notices to the **Insured Persons** shall be sent to the **Named Entity** at the address specified in **ITEM 1** of the Declarations.
- (B) All notices to the Insurer shall be sent to the appropriate address specified in **ITEM 8** of the Declarations.
- (C) The **Named Entity** shall act on behalf of all **Insured Persons** with respect to all matters under this Policy, including, without limitation, giving notices of **Claims** or **Wrongful Acts**, cancellation, election of the Extended Reporting Period, payment of premiums, receipt of any return premiums, and acceptance of any endorsements to this Policy.
- (D) In the event that the **Named Entity** fails to act on behalf of the **Insured Persons**, the **Insured Persons** may act individually on their own behalf only with respect to giving notices of **Claims**, election of the Extended Reporting Period or payment of premiums.

## XI. NOTICE OF CLAIM OR WRONGFUL ACT

- (A) It shall be a condition precedent to any right of payment under this Policy with respect to any **Claim** that the **Insured Persons** or the **Entity** give written notice to the Insurer of any such **Claim** as soon as practicable, but not later than sixty days after the end of the **Policy Period** or Extended Reporting Period, if applicable.

- (B) If, during the **Policy Period**, any **Insured Person** becomes aware of a **Wrongful Act** that may reasonably be expected to give rise to a **Claim**, and, if written notice of such **Wrongful Act** is given to the Insurer during the **Policy Period**, including the reasons for anticipating such a **Claim**, the nature and date of the **Wrongful Act**, the identity of the **Insured Person** allegedly involved, the alleged injuries or damages sustained, the names of potential claimants, and the manner in which such **Insured Person** first became aware of the **Wrongful Act**, then any **Claim** subsequently arising from such **Wrongful Act** shall be deemed to be a **Claim** first made during the **Policy Period** on the date that the Insurer receives the above notice.

## XII. EXTENDED REPORTING PERIOD

- (A) If this Policy is cancelled or non-renewed for any reason other than non-payment of premium, the **Named Entity** or **Insured Persons** shall have the right to elect an extension of time to report **Claims** under this Policy (the "Extended Reporting Period").
- (B) To elect the Extended Reporting Period, the **Named Entity** or **Insured Persons** shall send a written notice of election of the Extended Reporting Period to the Insurer together with the premium therefore. The right to elect the Extended Reporting Period shall end unless the Insurer receives such notice and premium within thirty days of cancellation or non-renewal. There shall be no right to elect the Extended Reporting Period after such time.
- (C) The premium for the Extended Reporting Period shall be that percentage specified in **ITEM 4 (A)** of the Declarations of the sum of the original annual premium plus the annualized amount of any additional premium charged by the Insurer during the **Policy Period**. Such premium shall be deemed fully earned at the inception of the Extended Reporting Period.
- (D) The Extended Reporting Period shall be for the duration specified in **ITEM 4 (B)** of the Declarations following the end of the **Policy Period**.
- (E) Coverage during the Extended Reporting Period shall apply to **Claims** made for **Wrongful Acts** occurring prior to the earlier of the end of the **Policy Period** or the time of any transaction described in Section **XVI. CHANGES IN EXPOSURE (B)**. No coverage shall apply for any **Wrongful Act** occurring after such time.
- (F) There is no separate or additional Limit of Liability for the Extended Reporting Period.

## XIII. ALLOCATION

If **Loss** is incurred that is partially covered and partially not covered by this Policy because a **Claim** includes both covered and uncovered matters and/or both **Insured Persons** and other parties, the **Insured Persons** and the Insurer shall fairly and reasonably allocate such amount between covered and uncovered **Loss**.

## XIV. CANCELLATION

- (A) The Insurer may cancel this Policy for non-payment of premium by sending not less than ten days written notice to the **Named Entity**. This Policy may not otherwise be cancelled by the Insurer.
- (B) Except as provided in Section **XVI. CHANGES IN EXPOSURE (B)**, the **Named Entity** may cancel this Policy by sending written notice of cancellation to the Insurer. Such notice shall be effective upon receipt by the Insurer unless a later cancellation time is specified therein.
- (C) If the Insurer cancels this Policy, unearned premium shall be calculated on a pro rata basis. If the **Named Entity** cancels this Policy, unearned premium shall be calculated at the Insurer's customary short rates. Payment of any unearned premium shall not be a condition precedent to the effectiveness of a cancellation. The Insurer shall make payment of any unearned premium as soon as practicable.

## XV. COVERAGE EXTENSIONS

### (A) Spousal Liability Coverage

Coverage shall apply to the lawful spouse or **Domestic Partner** of an **Insured Person** for a **Claim** made against such spouse or **Domestic Partner**, provided that:

- (1) such **Claim** arises solely out of:
  - (a) such person's status as the spouse or **Domestic Partner** of an **Insured Person**; or
  - (b) such spouse's or **Domestic Partner's** ownership interest in property sought to satisfy claimed damages for a **Wrongful Act**;
- (2) such **Claim** is made against both an **Insured Person** and his or her spouse or **Domestic Partner**; and
- (3) such coverage as is made available to the spouse shall be on the same terms and conditions, including any applicable Retention, as apply to coverage for the **Insured Person** for such **Claim**.

No coverage shall apply to that portion of any **Claim** alleging a **Wrongful Act**, error or omission by such spouse or **Domestic Partner**.

**(B) Estates and Legal Representatives**

In the event of the death, incapacity or bankruptcy of an **Insured Person**, any **Claim** made against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** shall be deemed to be a **Claim** made against such **Insured Person**. No coverage shall apply to any **Claim** for a **Wrongful Act** of such estate, heirs, legal representatives or assigns.

**(C) Outside Directorship Liability**

Subject to the terms and conditions of this Policy, coverage is afforded for **Loss** resulting from any **Claim** against an **Insured Person** for a **Wrongful Act** in an **Outside Capacity**. Such coverage shall be specifically excess of any indemnity and insurance available from or provided by the **Outside Entity**. Payment by the Insurer or any **Affiliate** under any other directors, officers and/or company liability, employment practices liability, fiduciary liability, or other similar management liability insurance policy issued for the benefit of such **Outside Entity** and/or its insured persons as a result of such **Claim** shall reduce, by the amount of such payment, the Insurer's Limit of Liability available under this Policy for such **Claim**.

**XVI. CHANGES IN EXPOSURE**

**(A) Mergers and New Subsidiaries**

If, before or during the **Policy Period**, any **Entity**:

- (1) merges with another entity such that the **Entity** is the surviving entity; or
- (2) acquires a **Subsidiary**,

then any natural person of such merged entity or acquired **Subsidiary** who becomes an **Insured Person** as a result of such transaction shall be covered under this Policy, but only for a **Wrongful Act** occurring after such merger or acquisition. No coverage shall be available for any **Wrongful Act** of such **Insured Person** occurring before such transaction or for any **Interrelated Wrongful Acts** thereto.

If the fair value of the assets of, or total consideration paid for, any newly merged or acquired entity exceeds 20% of the total assets of the **Named Entity** as reflected in its most recent consolidated audited financial statements prior to such merger or acquisition, the **Named Entity** shall give the Insurer full details of the transaction in writing as soon as practicable and the Insurer shall be entitled to impose such additional terms, conditions, and premium as the Insurer, in its absolute discretion, chooses. There shall be no coverage for any natural persons of any newly merged or acquired entity unless the **Named Entity** complies with the terms of this provision.

**(B) Takeover of Named Entity**

If, during the **Policy Period**:

- (1) the **Named Entity** merges into or consolidates with another entity such that the **Named Entity** is not the surviving entity; or
- (2) 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 shall continue under this Policy, but only for a **Wrongful Act** occurring before such transaction. No coverage shall be available for any **Wrongful Act** occurring after such transaction. Upon such transaction, this Policy shall not be cancelled and the entire premium for this Policy shall be deemed fully earned.

The **Named Entity** shall give the Insurer written notice of such transaction as soon as practicable, but not later than ninety days after the effective date of such transaction.

Any indemnification for **Loss** provided by an **Acquiring Entity** shall be considered to be indemnification provided by the **Named Entity**. However, in no event shall the **Acquiring Entity** be deemed an **Entity** under the Policy.

**(C) Loss of Subsidiary Status**

If, before or during the **Policy Period**, any entity ceases to be a **Subsidiary**, then coverage shall be available under this Policy for any **Insured Person** of such **Subsidiary**, but only for a **Wrongful Act** occurring before such transaction. No coverage shall be available for any **Wrongful Act** of such **Insured Person** occurring after such transaction.

**XVII. APPLICATION – REPRESENTATIONS AND SEVERABILITY**

- (A) The **Insured Persons** each individually represent that the declarations, statements, and information in the **Application** are true, accurate and complete. This Policy is issued in reliance upon the **Application**. If the **Application** contains intentional misrepresentations or misrepresentations that materially affect the acceptance of the risk by the Insurer, no coverage shall be afforded under this Policy for any **Insured Person** who knew on the Inception Date of this Policy the facts that were so misrepresented. For the purpose of determining coverage, knowledge possessed by any **Insured Person** shall not be imputed to any other **Insured Person**.
- (B) The above subparagraph (A) is the Insurer's sole remedy with respect to misrepresentations in the **Application**. Under no circumstances shall the Insurer be entitled to rescind this Policy.

**XVIII. ACTION AGAINST THE INSURER**

- (A) No action shall be taken against the Insurer unless there shall have been full compliance with all the terms and conditions of this Policy.
- (B) No person or organization shall have any right under this Policy to join the Insurer as a party to any **Claim** against any **Insured Person** nor shall the Insurer be impleaded by any **Insured Person** in any such **Claim**.

**XIX. ASSIGNMENT**

Assignment of interest under this Policy shall not bind the Insurer without its consent as specified in a written endorsement issued by the Insurer to form a part of this Policy.

**XX. BANKRUPTCY OR INSOLVENCY**

Bankruptcy or insolvency of any **Insured Person** shall not relieve the Insurer of any of its obligations under this Policy.

**XXI. CHANGES**

This Policy shall not be changed or modified except in a written endorsement issued by the Insurer to form a part of this Policy.

## **XXII. ENTIRE AGREEMENT**

This Policy, including the Declarations, **Application** and any written endorsements attached hereto, constitute the entire agreement between the **Entities, Insured Persons** and the Insurer relating to this insurance.

## **XXIII. HEADINGS**

The headings of this Policy are intended for reference only and shall not be part of the terms and conditions of coverage.

## **XXIV. REFERENCES TO LAWS**

- (A) Wherever this Policy mentions any law, including, without limitation, any statute, act or code of the United States of America, such mention shall be deemed to include all amendments of, and all rules or regulations promulgated under, such law.
- (B) Wherever this Policy mentions any law or laws, including, without limitation, any statute, act or code of the United States of America, and such mention is followed by the phrase "or any similar law", such phrase shall be deemed to include all similar laws of all jurisdictions throughout the world, including, without limitation, statutes and any rules or regulations promulgated under such statutes as well as common law.