



National Union Fire Insurance Company of Pittsburgh, PA

(the "Insurer")

A capital stock company

PortfolioSelectSM for Public Companies

POLICY NUMBER: [Variable]

REPLACEMENT OF POLICY NUMBER: [Variable]

DECLARATIONS

NOTICE

CERTAIN COVERAGE SECTIONS OF THIS POLICY ARE LIMITED TO LIABILITY FOR CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER AS REQUIRED BY THE TERMS OF THE POLICY. COVERED DEFENSE COSTS SHALL REDUCE THE APPLICABLE LIMITS OF LIABILITY AND SUBLIMITS OF LIABILITY AND ARE SUBJECT TO APPLICABLE RETENTIONS. THE INSURER DOES NOT ASSUME ANY DUTY TO DEFEND UNLESS SUCH COVERAGE IS EXPRESSLY PROVIDED WITHIN A COVERAGE SECTION.

PLEASE READ THIS POLICY CAREFULLY AND REVIEW IT WITH YOUR INSURANCE AGENT OR BROKER.

ITEMS			
1.	NAMED ENTITY:	Named Entity:	[Variable]
		Named Entity Address:	[Variable]
		State of Formation:	[Variable]
2.	POLICY PERIOD:	Inception Date:	[Variable]
		Expiration Date:	[Variable]
			12:01 A.M. at the address stated in Item 1
3.	PREMIUM:		\$(Variable)
4.	INSURER:		
	(a)	Insurer Address:	175 Water Street, 18 th Fl. New York, NY 10038 This Policy is issued only by the insurance company indicated above.
	(b)	Claims Address:	AIG Property Casualty Financial Lines Claims, P.O. Box 25947 Shawnee Mission, KS 66225
	(c)	By E-Mail:	c-claim@aig.com Reference the Policy Number and any applicable Coverage Section.
5.	POLICY AGGREGATE:		\$(Variable)

6. COVERAGE SUMMARY

Executive Edge® Public Company Directors & Officers Liability				
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:	\$[Variable]
	Shared Limit of Liability, if any, is shared with: [Variable]			
Retention:	(i) Securities Retention:			\$[Variable]
	(ii) Employment Practices Retention:			\$[Variable]
	(iii) All other Loss to which a Retention applies:			\$[Variable]
Continuity Date:	Outside Entity Executive Coverage: Date on which the Executive first served as an Outside Entity Executive for such Outside Entity.			
	All other Public Company D&O Coverage:			[Variable]
Coverage Section Premium:				\$[Variable]

Employment Edge® Employment Practices Liability				
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:	\$[Variable]
	Shared Limit of Liability, if any, is shared with: [Variable]			
Retention:	(i) Class Action Retention:			\$[Variable]
	(ii) Third Party Retention:			\$[Variable]
	(iii) All other Loss to which a Retention applies:			\$[Variable]
Continuity Date:	Outside Entity Executive Coverage: Date on which the Executive first served as an Outside Entity Executive for such Outside Entity.			
	All other EPL Coverage:			[Variable]
Coverage Section Premium:				\$[Variable]

Fiduciary Liability Insurance Edge® Employee Benefit Plan Fiduciary Liability			
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:
	Shared Limit of Liability, if any, is shared with: [Variable]		
Retention:	(i) Securities Retention:		\$[Variable]
	(ii) All other Loss to which a Retention applies:		\$[Variable]
Continuity Date:			[Variable]
Coverage Section Premium:			\$[Variable]

CyberEdge® Security and Privacy Liability			
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:
	Shared Limit of Liability, if any, is shared with: [Variable]		
	Regulatory Action Sublimit of Liability:		\$[Variable]
Retention:			\$[Variable]
Continuity Date:	[Variable]	Retroactive Date:	[Variable]
Coverage Section Premium:			\$[Variable]

CyberEdge® Cyber Media Liability			
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:
	Shared Limit of Liability, if any, is shared with: [Variable]		
Retention:			\$[Variable]
Continuity Date:	[Variable]	Retroactive Date:	[Variable]
Coverage Section Premium:			\$[Variable]

CyberEdge® Event Management Insurance				
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:	\$[Variable]
	Shared Limit of Liability , if any, is shared with: [Variable]			
Retention:				\$[Variable]
Coverage Section Premium:				\$[Variable]

CyberEdge® Network Interruption Insurance				
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:	\$[Variable]
	Shared Limit of Liability , if any, is shared with: [Variable]			
Waiting Hours Period:				[Variable]
Retention:				\$[Variable]
Coverage Section Premium:				\$[Variable]

CyberEdge® Cyber Extortion Insurance				
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:	\$[Variable]
	Shared Limit of Liability , if any, is shared with: [Variable]			
Retention:				\$[Variable]
Coverage Section Premium:				\$[Variable]

CrimeGuard Choice® Fidelity & Crime Insurance				
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Per Occurrence	
Deductible:				\$[Variable]
Retroactive Date:				[Variable]
Coverage Section Premium:				\$[Variable]

Corporate Counsel Premier® Corporate Counsel Professional Liability				
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:	\$[Variable]
	Shared Limit of Liability, if any, is shared with: [Variable]			
Retention:				\$[Variable]
Continuity Date:	[Variable]	Retroactive Date:	[Variable]	
Coverage Section Premium:				\$[Variable]

Kidnap & Ransom/Extortion Insurance			
KRE Insured Person(s)	[Variable]		
Limit of Insurance:	Coverage Section Aggregate Limit:		\$[Variable]
	Each Insured Event Limit		\$[Variable]
	Loss Component	Each Loss Component Limit	Annual Aggregate Limit
	A. Ransom Monies:	\$[Variable]	\$[Variable]
	B. In-Transit/Delivery:	\$[Variable]	\$[Variable]
	C. Expenses:	\$[Variable]	\$[Variable]
	D. Consultants Expenses:	\$[Variable]	\$[Variable]
	E. Judgments, Settlements and Defense Costs:	\$[Variable]	\$[Variable]
	F. Death or Dismemberment (Per Person)	\$[Variable] Per Person	\$[Variable] Per Event
Deductible (Each Loss):			\$[Variable]
Coverage Section Premium:			\$[Variable]

CrisisFund®				
Limit of Liability:	Separate Limit of Liability:	\$[Variable]	Shared Limit of Liability:	\$[Variable]
	Shared Limit of Liability, if any, is shared with: [Variable]			
Coverage Section Premium:				\$[Variable]

7. **PASSPORT:** This policy does not serve as a master Passport policy.

Each of the following **Coverage Sections** shall serve as a master Passport policy solely with respect to the coverage provided thereunder:

[Variable]

8. TRIA PREMIUM, TAXES AND SURCHARGES:	(a) <i>[TRIA Premium Var.]</i> :	\$ <i>[Variable]</i>
	(b) <i>[Variable]</i> :	\$ <i>[Variable]</i>
	(c) <i>[Variable]</i> :	\$ <i>[Variable]</i>
	(d) <i>[Variable]</i> :	\$ <i>[Variable]</i>

*["TRIA Premium" means the premium for Certified Acts of Terrorism Coverage under Terrorism Risk Insurance Act 2002. The **TRIA Premium** amount indicated above is included in premium in Item 3. A copy of the TRIA disclosure sent with the original quote is attached hereto. *[Variable]*]*

PRODUCER:
ADDRESS:

IN WITNESS WHEREOF, the **Insurer** has caused this policy to be signed on the Declarations by its President, a Secretary and its duly authorized representative.

PRESIDENT

SECRETARY

AUTHORIZED REPRESENTATIVE

COUNTERSIGNATURE

DATE

COUNTERSIGNED AT



PortfolioSelectSM for Public Companies

GENERAL TERMS AND CONDITIONS **("General Terms and Conditions")**

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. TERMS AND CONDITIONS

These **General Terms and Conditions** shall apply to all **Coverage Sections**, unless any **Coverage Section** states specifically that all or part of these **General Terms and Conditions** shall not apply to such **Coverage Section**. The definitions, terms, conditions and limitations set forth in each **Coverage Section** shall apply only to that particular **Coverage Section**.

2. RETENTION

The **Insurer** shall be liable only for the amount of **Loss** arising from each **Claim** or group of **Related Claims** that exceeds the Retention amount stated in Item 6 of the Declarations as applicable to the **Coverage Section** affording coverage to such **Claim** or group of **Related Claims**. Amounts within such Retention shall remain uninsured.

A single Retention amount shall apply to each **Claim** or group of **Related Claims**. If a **Claim** or a group of **Related Claims** triggers more than one **Coverage Section** all of which are subject to a **Shared Limit of Liability**, the highest applicable Retention amount shall apply to such **Claim** or group of **Related Claims**.

If a **Claim** or a group of **Related Claims** triggers more than one **Coverage Section** at least one of which is subject to a **Separate Limit of Liability**, the Retention applicable to **Loss** in connection with such **Claim** or group of **Related Claims** under any such **Coverage Section** subject to a **Separate Limit of Liability** shall apply separately to such **Loss**, and the applicable Retention for such **Coverage Section** shall not be satisfied by payments of **Loss** made towards the Retention required under any other **Coverage Section**.

3. LIMITS OF LIABILITY

The **Policy Aggregate** is the **Insurer's** maximum liability for all **Loss** under all **Coverage Sections** combined. Under no circumstances shall the **Insurer** be responsible to pay any **Loss** in excess of the **Policy Aggregate**. The term "**Limits of Liability**" refers to the several types of limits provided under this policy, including the **Policy Aggregate**, any **Separate Limits of Liability**, any **Shared Limits of Liability**, and any sublimits of liability set forth in any applicable **Coverage Sections**.

If **Separate Limits of Liability** are stated in Item 6 of the Declarations, then each such **Separate Limit of Liability** shall be the maximum limit of the **Insurer's** liability for all **Loss** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** or the **Discovery Period** (if applicable) with

respect to the applicable **Coverage Section** as stated on the Declarations. Each **Separate Limit of Liability** shall be part of, and not in addition to, the **Policy Aggregate** for all **Loss** under this policy and shall in no way serve to increase the **Policy Aggregate** as therein stated.

If **Shared Limits of Liability** are stated in Item 6 of the Declarations, then each such **Shared Limit of Liability** shall be the maximum limit of the **Insurer's** liability for all **Loss** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** or the **Discovery Period** (if applicable) with respect to all **Coverage Sections** for which such **Shared Limit of Liability** is applicable, as indicated on the Declarations. In the event that the amount stated as a **Shared Limit of Liability** in Item 6 of the Declarations for a **Coverage Section** is less than the amount(s) stated for the other **Coverage Section(s)** with which it shares such **Shared Limit of Liability**, such lesser amount stated in Item 6 shall serve as the limit of liability for all **Loss** in the aggregate under such **Coverage Section**, subject to reduction through any prior payments of **Loss** under such **Shared Limit of Liability**. Each **Shared Limit of Liability** shall be part of, and not in addition to, the **Policy Aggregate** for all **Loss** under this policy and shall in no way serve to increase the **Policy Aggregate** as therein stated.

Each sublimit of liability set forth in any **Coverage Section** is the maximum limit of the **Insurer's** liability for all **Loss** in the aggregate under this policy that is subject to that sublimit of liability. All sublimits of liability shall be part of, and not in addition to, the **Policy Aggregate** and any applicable **Separate Limit of Liability** or **Shared Limit of Liability**.

All **Related Claims** that pursuant to the applicable *Notice and Reporting Clause* are considered made or received during the **Policy Period** or **Discovery Period** (if applicable), shall also be subject to the applicable **Limits of Liability** set forth in this policy. Each of the **Limits of Liability** for the **Discovery Period** (if applicable) shall be part of, and not in addition to, each of the corresponding **Limits of Liability** for the **Policy Period**.

Defense Costs are not payable by the **Insurer** in addition to the **Limits of Liability**. **Defense Costs** are part of **Loss** and as such are subject to the **Limits of Liability** for **Loss**.

4. DISCOVERY

Except as indicated below, if the **Named Entity** shall cancel or the **Named Entity** or the **Insurer** shall refuse to renew this policy, the **Named Entity** shall have the right to a period of up to six (6) years following the effective date of such cancellation or nonrenewal ("**Discovery Period**"), upon payment of an **Additional Premium Amount** described in each **Coverage Section**, in which to give written notice to the **Insurer** of: (i) **Claims** first made against an **Insured**; (ii) if provided by a purchased **Coverage Section**, **Pre-Claim Inquiries** first received by an **Insured Person**; and (iii) circumstances of which an **Organization** or an **Insured** shall become aware, in any such case, during the **Discovery Period** and solely with respect to any covered acts, errors, omissions, failures or violations (including but not limited to **Wrongful Acts**, **Privacy Events** and **Security Failures**) occurring prior to the end of the **Policy Period** and otherwise covered by this policy.

In the event of a **Transaction**, the **Named Entity** shall have the right to request an offer from the **Insurer** of a **Discovery Period** with respect to covered acts, errors, omissions, failures or violations (including but not limited to **Wrongful Acts**, **Privacy Events** and **Security Failures**) occurring prior to the effective time of the **Transaction** and otherwise covered by this policy. The **Insurer** shall offer such **Discovery Period** pursuant to such terms, conditions, exclusions and additional premium as the

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

If the **Named Entity** exercises its right to purchase a **Discovery Period**, that period incept at the end of the **Policy Period** or, if purchased in the event of a **Transaction**, as of the effective time of such **Transaction**.

The right to purchase a **Discovery Period** shall terminate unless written notice of election, together with any additional premium due, is received by the **Insurer** no later than thirty (30) days after the effective date of the cancellation, nonrenewal or **Transaction**.

Any **Discovery Period** is not cancelable and the additional premium charged is non-refundable in whole or in part. This *Discovery Clause* shall not apply to any cancellation resulting from non-payment of premium.

5. TRANSACTIONS

In the event of a **Transaction**, this policy shall continue in full force and effect only as to those covered acts, errors, omissions, failures or violations (including but not limited to **Wrongful Acts**, **Privacy Events** and **Security Failures**) occurring prior to the effective time of the **Transaction** and otherwise covered by this policy, and no portion of the premium paid for this policy shall be refundable. The **Named Entity** shall also have the right to an offer by the **Insurer** of a **Discovery Period** described in Clause 4 above.

This policy may not be canceled after the effective time of the **Transaction**.

Notwithstanding the foregoing, this policy may continue in full force and effect as to those covered acts, errors, omissions, failures or violations (including but not limited to **Wrongful Acts**, **Privacy Events** and **Security Failures**) occurring subsequent to the effective time of the **Transaction** and otherwise covered by this policy, if:

- (a) within thirty (30) days subsequent to the effective time of such **Transaction** the **Insurer** has been provided with full particulars of the **Transaction**, the related entity(ies) and any other information requested by the **Insurer**; and
- (b) the **Insurer** waives the restrictions set forth above with respect to such **Transaction** by written endorsement to this policy and the **Named Entity** or its successor has paid any additional premium and accepted any amendments to this policy required by the **Insurer**.

6. EXTENSIONS

(a) *Worldwide Territory*

The coverage afforded by this policy shall apply anywhere in the world.

(b) *Passport*

If a **Coverage Section** is listed in Item 7 of the Declarations, then such **Coverage Section** and the applicable provisions of these **General Terms and Conditions** shall act as a master policy solely with respect to the coverage provided by such **Coverage Section**. The coverage afforded by such **Coverage Section** shall be provided in conjunction with the Passport foreign underlyer policy issued in each jurisdiction selected by the **Named Entity**. The specific structure of the coverage provided by such **Coverage Section** in conjunction with each Passport foreign underlyer policy is set forth in the Passport Structure Appendix for such **Coverage Section** that is attached to this policy.

(c) Spousal, Domestic Partner and Legal Representative Extension

If a **Claim** against an **Insured Person** includes a **Claim** against: (1) the lawful spouse or legally recognized domestic partner of such **Insured Person**; or (2) a property interest of such spouse or domestic partner; and in either such case, such **Claim** arises from any actual or alleged **Wrongful Acts** of such **Insured Person**, this policy shall pay covered **Loss** arising from the **Claim** made against such spouse or domestic partner or the property of such spouse or domestic partner to the extent that such **Loss** does not arise from a **Claim** for any actual or alleged act, error or omission of such spouse or domestic partner. This policy shall pay covered **Loss** arising from a **Claim** made against the estates, heirs, or legal representatives of any deceased **Insured Person**, and the legal representatives of any **Insured Person** in the event of incompetence, insolvency or bankruptcy, who was an **Insured Person** at the time the **Wrongful Acts** upon which such **Claim** is based were alleged to have been committed.

7. CANCELLATION

- (a) *By **Named Entity***: This policy may be canceled by the **Named Entity** at any time only by mailing written prior notice to the **Insurer** or by surrender of this policy to the **Insurer's** authorized agent or to the **Insurer**.
- (b) *By the **Insurer***: This policy may be canceled by the **Insurer** only in the event of non-payment of premium by delivering to the **Named Entity** by registered, certified or other first class mail, at the **Named Entity Address**, written notice stating when, not less than fifteen (15) days, the cancellation shall be effective. Proof of mailing or delivery of such notice as aforesaid shall be sufficient proof of notice and this policy shall be deemed canceled as to all **Insureds** at the date and hour specified in such notice.
- (c) *Return of Premium*: If this policy shall be canceled, the **Insurer** shall retain the pro rata proportion of the premium hereon.

8. RECOVERY OF LIMITS

In the event the **Insurer** recovers amounts it paid under this policy, the **Insurer** shall reinstate the **Limits of Liability** of this policy to the extent of such recovery, less its costs incurred in administering and obtaining such recovery. The **Insurer** assumes no duty to seek a recovery of any amounts paid under this policy.

9. NOTICE AND AUTHORITY

Except for the giving of a notice of **Claim**, which shall be governed by the *Notice and Reporting Clause* of the applicable **Coverage Section**, all notices required under this policy to be given by an **Insured** to the **Insurer** shall be given in writing to the **Insurer** at the **Insurer Address**. It is agreed that the **Named Entity** shall act on behalf of all **Insureds** with respect to the giving of notice of a **Claim**, **Pre-Claim Inquiry**, **Crisis** or circumstances, the giving and receiving of notice of conditional renewal, premium increase, nonrenewal and cancellation, the payment of premiums and the receiving of any return premiums that may become due under this policy, the receipt and acceptance of any endorsements issued to form a part of this policy, the exercising or declining of the right to tender the defense of a **Claim**, **Crisis** or circumstance to the **Insurer**, and the exercising or declining to exercise any right to a **Discovery Period**.

10. ASSIGNMENT

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

11. ACTION AGAINST INSURER

Except as provided in any *Alternative Dispute Resolution Clause* of a **Coverage Section**, no action shall lie against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of an **Insured's** obligation to pay shall have been finally determined either by judgment against such **Insured** after actual trial or by written agreement of such **Insured**, the claimant and the **Insurer**.

Any **Insured** or the legal representative thereof who has secured such judgment or written agreement shall be entitled thereafter to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the **Insurer** as a party to any action against an **Insured** or the **Named Entity** to determine an **Insured's** liability, nor shall the **Insurer** be impleaded by any **Insured** or by any spouse, domestic partner or legal representative thereof.

12. BANKRUPTCY

Bankruptcy or insolvency of any **Insured** or of their estates shall not relieve the **Insurer** of any of its obligations under this policy.

In such event, the **Insurer** and each **Insured** agree to cooperate in any efforts by the **Insurer** or any **Insured** to obtain relief for the benefit of the **Insured Persons** from any stay or injunction applicable to the distribution of the policy proceeds.

13. CONFORMANCE TO LAW

In the event that there is an inconsistency between: (i) any period of limitation in this policy relating to the giving of notice of cancellation or discovery/extended reporting election, and (ii) the minimum or maximum period required by applicable law, where such law allows, the **Insurer** will resolve the inconsistency by applying the notice period that is more favorable to the **Insureds**. Otherwise, the notice period is hereby amended to the extent necessary to conform to applicable law.

Coverage under this policy shall not be provided to the extent prohibited by any law.

14. CURRENCY

All premiums, limits, retentions, **Loss** and other amounts under this policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or other elements of **Loss** are stated or incurred in a currency other than United States of America dollars, payment of covered **Loss** due under this policy (subject to the terms, conditions and limitations of this policy) will be made either in such other currency (at the option of the **Insurer** and if agreeable to the **Named Entity**) or, in United States of America dollars, at the rate of exchange published in The Wall Street Journal on the date the **Insurer's** obligation to pay such **Loss** is established (or if not published on such date the next publication date of The Wall Street Journal).

15. HEADINGS

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

16. DEFINITIONS

(a) *Terms Appearing in **Bold** in Each **Coverage Section***

Terms appearing in **bold** in a **Coverage Section** shall have the meaning and/or value ascribed to them in the *Definitions Clause* of that **Coverage Section**. If a term appearing in **bold** in a **Coverage Section** is not defined in the *Definitions Clause* of that **Coverage Section**, then the meaning and/or value ascribed to such term in the Declarations or below in Clause 16(c) *Definitions of General Applicability* shall apply for purposes of coverage provided under that particular **Coverage Section**.

Certain terms, including without limitation the following, appear in **bold** and are defined in more than one **Coverage Section**: (1) **Claim**; (2) **Crisis**; (3) **Defense Costs**; (4) **Insured**; (5) **Insured Person**; (6) **Loss**; (7) **Pre-Claim Inquiry**; (8) **Privacy Event**; (9) **Related Claim**; (10) **Security Failure**; (11) **Wrongful Act**. Each of these terms shall have the meaning ascribed to the term in a **Coverage Section** in which the term appears, but that meaning shall apply solely for purposes of coverage provided under that particular **Coverage Section**.

(b) *Terms Appearing in **Bold** in These **General Terms and Conditions***

Terms appearing in **bold** in these **General Terms and Conditions** and not defined below in Clause 16(c) *Definitions of General Applicability* shall have the meaning and/or value ascribed to them in the Declarations or in a particular **Coverage Section** for purposes of coverage provided under that particular **Coverage Section**.

(c) *Definitions of General Applicability*

Continuity Date means the date set forth in Item 6 of the Declarations with respect to each **Coverage Section**.

Coverage Section means each **Coverage Section** that is purchased by the **Named Entity** as reflected in Item 6 of the Declarations.

E-Consultant Firm means a pre-approved e-discovery consulting firm. A list of pre-approved **E-Consultant Firms** is accessible through the online directory at <http://www.aig.com/us/panelcounseldirectory> under the "e-Consultant Panel Members" link.

E-Discovery means the development, collection, storage, organization, cataloging, preservation and/or production of electronically stored information.

E-Discovery Consultant Services means solely the following services performed by an **E-Consultant Firm**:

(1) assisting the **Insured** with managing and minimizing the internal and external

costs associated with **E-Discovery**;

- (2) assisting the **Insured** in developing or formulating an **E-Discovery** strategy which shall include interviewing qualified and cost effective **E-Discovery** vendors;
- (3) serving as project manager, advisor and/or consultant to the **Insured**, defense counsel and the **Insurer** in executing and monitoring the **E-Discovery** strategy; and
- (4) such other services provided by the **E-Discovery Consultant Firm** that the **Insured**, **Insurer** and **E-Discovery Consultant Firm** agree are reasonable and necessary given the circumstances of the **Claim**.

Enforcement Body

means: (1) any federal, state, local or foreign law enforcement authority or other governmental investigative authority (including, but not limited to, the U.S. Department of Justice, the U.S. Securities and Exchange Commission and any attorney general), or (2) the enforcement unit of any securities or commodities exchange or other self-regulatory organization.

Foreign Jurisdiction

means any jurisdiction, other than the United States of America or any of its territories or possessions.

Organization

means:

- (1) the **Named Entity**;
- (2) each **Subsidiary**; and
- (3) in the event a bankruptcy proceeding shall be instituted by or against any of the foregoing entities, the resulting debtor-in-possession (or equivalent status outside the United States of America), if any.

Policy Period

means the period of time from the **Inception Date** to the earlier of the **Expiration Date** or the effective date of cancellation of this policy. The **Policy Period** incepts and expires as of 12:01 A.M. on such dates at the **Named Entity Address**.

Retroactive Date

means the date set forth in Item 6 of the Declarations as such for each **Coverage Section**.

Separate Limit of Liability

means the applicable **Separate Limit of Liability**, if any, stated in Item 6 of the Declarations.

Shared Limit of Liability

means the applicable **Shared Limit of Liability**, if any, stated in Item 6 of the Declarations, which limit of liability shall be shared between all of the **Coverage Sections** which are listed as being subject to such **Shared Limit of Liability** in the Declarations.

Transaction

means:

- (1) the **Named Entity** consolidating with or merging into another entity such that the **Named Entity** is not the surviving entity, or selling all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert;
- (2) any person or entity or group of persons or entities acting in concert acquiring **Management Control** of the **Named Entity**; or

- (3) any additional meaning ascribed to the term **Transaction** in any **Coverage Section**, but such additional meaning shall apply solely to the coverage provided by such **Coverage Section**.

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EXECUTIVE EDGE[®] PUBLIC COMPANY DIRECTORS & OFFICERS LIABILITY

("Public D&O Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **Public D&O Coverage Section**, unless otherwise explicitly stated to the contrary in this **Public D&O Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to: (i) **Claims** first made against an **Insured**, and (ii) **Pre-Claim Inquiries** first received by an **Insured Person**, in each such event, during the **Policy Period** or any applicable **Discovery Period** and reported to the **Insurer** as required by this **Coverage Section**. Subject to the foregoing and the other terms, conditions and limitations of this policy, this **Coverage Section** affords the following coverage:

A. *Insured Person Coverage*

This policy shall pay the **Loss** of any **Insured Person** that no **Organization** has indemnified or paid, and that arises from any:

- (1) **Claim** (including any **Insured Person Investigation**) made against such **Insured Person** (including any **Outside Entity Executive**) for any **Wrongful Act** of such **Insured Person**; or
- (2) **Pre-Claim Inquiry**, to the extent that such **Loss** is **Pre-Claim Inquiry Costs**.

B. *Indemnification Of Insured Person Coverage*

This policy shall pay the **Loss** of an **Organization** that arises from any:

- (1) **Claim** (including any **Insured Person Investigation**) made against any **Insured Person** (including any **Outside Entity Executive**) for any **Wrongful Act** of such **Insured Person**; or
- (2) **Pre-Claim Inquiry**, to the extent that such **Loss** is **Pre-Claim Inquiry Costs**;

but only to the extent that such **Organization** has indemnified such **Loss** of, or paid such **Loss** on behalf of, the **Insured Person**.

C. *Organization Coverage*

This policy shall pay the **Loss** of any **Organization**:

- (1) arising from any **Securities Claim** made against such **Organization** for any **Wrongful Act** of such **Organization**;

- (2) incurred as **Derivative Investigation Costs**, subject to a \$250,000 aggregate sublimit of liability; or
- (3) incurred by an **Organization** or on its behalf by any **Executives** of the **Organization** (including through any special committee) as **Defense Costs** in seeking the dismissal of any **Derivative Suit** against an **Insured**.

2. EXTENSIONS

A. *Executive Protection Suite*

Loss shall also mean the following items, provided that they arise out of a **Claim**:

- (1) **SOX 304 Costs**;
- (2) **Extradition Costs**;
- (3) **UK Corporate Manslaughter Act Defense Costs**;
- (4) **Personal Reputation Expenses**, subject to a \$100,000 per **Executive** and a \$500,000 aggregate sublimit of liability; and
- (5) **Asset Protection Costs**, subject to a \$50,000 per **Executive** and a \$250,000 aggregate sublimit of liability.

B. *First Dollar E-Discovery Consultant Services*

For any **Securities Claim**, no Retention shall apply to the first \$25,000 in **Defense Costs** incurred as **E-Discovery Consultant Services**.

C. *Global Liberalization*

For **Loss** from that portion of any **Claim** maintained in a **Foreign Jurisdiction** or to which the law of a **Foreign Jurisdiction** is applied, the **Insurer** shall apply the terms and conditions of this **Coverage Section** as amended to include those of the **Foreign Policy** in the **Foreign Jurisdiction** that are more favorable to **Insureds** in the **Foreign Jurisdiction**. This *Global Liberalization Clause* shall not apply to any provision of any policy that has worldwide effect, including but not limited to any provision addressing limits of liability (primary, excess or sublimits), retentions, other insurance, non-renewal, duty to defend, defense within or outside the limits, taxes, conformance to law or excess liability coverage, any claims made provisions, and any endorsement to this policy that excludes or limits coverage for specific events or litigation or that specifically states that it will have worldwide effect.

3. INDEMNIFICATION PROTECTIONS

A. *Advancement*

If for any reason (including but not limited to insolvency) an **Organization** fails or refuses to advance, pay or indemnify covered **Loss** of an **Insured Person** within the applicable Retention, if any, then the **Insurer** shall advance such amounts on behalf of the **Insured Person** until either (i) an **Organization** has agreed to make such payments, or (ii) the Retention has been satisfied. In no event shall any such advancement by the **Insurer** relieve any **Organization** of any duty it may have to provide advancement, payment or indemnification to any **Insured Person**.

Advancement, payment or indemnification of an **Insured Person** by an **Organization** is deemed "failed" if it has been requested by an **Insured Person** in writing and has not been provided by, agreed to be provided by or acknowledged as an obligation by an **Organization** within sixty

(60) days of such request; and advancement, payment or indemnification by an **Organization** is deemed "refused" if an **Organization** gives a written notice of the refusal to the **Insured Person**. Advancement, payment or indemnification of an **Insured Person** by an **Organization** shall only be deemed "failed" or "refused" to the extent such advancement, payment or indemnification is not provided, or agreed to be provided, or acknowledged by and collectible from an **Organization**. Any payment or advancement by the **Insurer** within an applicable Retention shall apply towards the exhaustion of the **Limits of Liability**.

B. Order Of Payments

In the event of **Loss** arising from a covered **Claim(s)** and/or **Pre-Claim Inquiry(ies)** for which payment is due under the provisions of this **Coverage Section**, the **Insurer** shall in all events:

- (1) First, pay all **Loss** covered under Insuring Agreement A. *Insured Person Coverage*;
- (2) Second, only after payment of **Loss** has been made pursuant to subparagraph (1) above and to the extent that any amount of the applicable **Separate Limit of Liability** or **Shared Limit of Liability** shall remain available, at the written request of the chief executive officer of the **Named Entity**, either pay or withhold payment of **Loss** covered under Insuring Agreement B. *Indemnification Of Insured Person Coverage*; and
- (3) Lastly, only after payment of **Loss** has been made pursuant to subparagraphs (1) and (2) above and to the extent that any amount of the applicable **Separate Limit of Liability** or **Shared Limit of Liability** shall remain available, at the written request of the chief executive officer of the **Named Entity**, either pay or withhold payment of **Loss** covered under Insuring Agreement C. *Organization Coverage*.

In the event the **Insurer** withholds payment pursuant to subparagraphs (2) and/or (3) above, then the **Insurer** shall, at such time and in such manner as shall be set forth in instructions of the chief executive officer of the **Named Entity**, remit such payment to an **Organization** or directly to or on behalf of an **Insured Person**.

4. EXCLUSIONS

A. Full Severability Of Exclusions For Insured Persons

In determining whether any of the following Exclusions apply, the **Wrongful Acts** of any **Insured Person** shall not be imputed to any other **Insured**. For Insuring Agreement C. *Organization Coverage*, only the **Wrongful Acts** of any chief executive officer, chief financial officer or general counsel (or equivalent position) of an **Organization** shall be imputed to such **Organization**.

B. Exclusions

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

- (1) **Conduct** arising out of, based upon or attributable to any:
 - (a) remuneration, profit or other advantage to which the **Insured** was not legally entitled; or
 - (b) deliberate criminal or deliberate fraudulent act by the **Insured**;if established by any final, non-appealable adjudication in any action or proceeding other than an action or proceeding initiated by the **Insurer** to determine coverage under the policy; provided, however:
 - (i) Conduct Exclusion (a), above, shall not apply in a **Securities Claim**

- alleging violations of Section 11, 12 or 15 of the Securities Act of 1933, as amended, to the portion of any **Loss** attributable to such violations; and
- (ii) with respect to Conduct Exclusion (b), for acts or omissions which are treated as a criminal violation in a **Foreign Jurisdiction** that are not treated as a criminal violation in the United States of America, the imposition of a criminal fine or other criminal sanction in such **Foreign Jurisdiction** will not, by itself, be conclusive proof that a deliberate criminal or deliberate fraudulent act occurred;
- (2) *Pending & Prior Litigation* alleging, arising out of, based upon or attributable to, as of the **Continuity Date**, any pending or prior: (a) litigation; or (b) administrative or regulatory proceeding or investigation of which any **Insured** had notice; or alleging or derived from the same or essentially the same facts as alleged in such pending or prior litigation or administrative or regulatory proceeding or investigation;
- (3) *Personal Injury* for emotional distress or mental anguish of any person, or for injury from libel, slander, defamation or disparagement, or a violation of a person's right of privacy; provided, however, this exclusion shall not apply to an **Employment Practices Claim** or a **Securities Claim**;
- (4) *Bodily Injury & Property Damage* for bodily injury (other than emotional distress or mental anguish), sickness, disease, or death of any person, or damage to or destruction of any tangible property, including the loss of use thereof; provided, however, this exclusion shall not apply to **UK Corporate Manslaughter Act Defense Costs** or a **Securities Claim**;
- (5) *Entity v. Insured* that is brought by or on behalf of any **Organization** against any **Insured**, or by any **Outside Entity** against any **Outside Entity Executive**; provided, however, this exclusion shall not apply:
- (a) to any **Defense Costs** which constitute **Non-Indemnifiable Loss** incurred by any **Insured Person** in defending any **Claim** against that **Insured Person**;
 - (b) to any **Derivative Suit** not brought, controlled or materially assisted by any **Organization**, any **Outside Entity** or any **Executive** of the foregoing; or
 - (c) if the **Organization** or **Outside Entity** is the subject of a bankruptcy case (or the equivalent in a **Foreign Jurisdiction**), unless the **Claim** is brought, controlled or materially assisted by any **Organization** or **Outside Entity**, the resulting debtor-in-possession (or foreign equivalent) of the debtor **Organization** or **Outside Entity** or any **Executive** of the foregoing;
- (6) *ERISA* for any violation of responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or any similar provisions of any state, local or foreign statutory or common law;
- (7) *Compensation & Labor Liability* for any violation of responsibilities, obligations or duties imposed by the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification (WARN) Act, the Consolidated Omnibus Budget

Reconciliation Act (COBRA), the Occupational Safety and Health Act (OSHA), or any federal, state, local or foreign law, amendment to a law, or any rule or regulation, that imposes or expands responsibilities, obligations or duties relating to compensation, retirement, benefits, deductions, withholdings, breaks or the workplace; provided, however, this exclusion shall not apply to the extent that a **Claim** is for discrimination, sexual or other harassment, wrongful termination or hostile work environment, or for **Retaliation**, or to the extent that a **Claim** is a **Securities Claim**; or

(8) *Prior Notice*

or in connection with any **Pre-Claim Inquiry** received by an **Insured Person**, alleging, arising out of, based upon or attributable to the facts alleged, or to the same or related **Wrongful Acts** alleged or contained, in any **Claim** or investigated in any **Pre-Claim Inquiry** that has been reported, or in any circumstances of which notice has been given, under any directors and officers liability insurance policy in force prior to the **Inception Date** of this policy.

5. RETENTION

In addition to the provisions of Clause 2. RETENTION of the **General Terms and Conditions**, in no event shall a Retention be applied to the following: (i) **Non-Indemnifiable Loss**; (ii) **Derivative Investigation Costs**; or (iii) the first \$25,000 in **Defense Costs** incurred for **E-Discovery Consultant Services**.

6. LIMITS OF LIABILITY

In addition to the provisions of Clause 3. LIMITS OF LIABILITY of the **General Terms and Conditions**, each per **Executive** sublimit of liability stated in this **Coverage Section** is the maximum limit of the **Insurer's** liability for all **Loss** of each **Executive** under this **Coverage Section** that is subject to that per **Executive** sublimit of liability. All sublimits of liability shall be part of, and not in addition to, the **Policy Aggregate** and any applicable **Separate Limit of Liability** or **Shared Limit of Liability**. Each per **Executive** sublimit of liability shall be part of, and not in addition to, its corresponding aggregate sublimit of liability.

7. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

- (a) *Reporting a Claim or Pre-Claim Inquiry* An **Organization** or an **Insured** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**:

- (1) notify the **Insurer** in writing of a **Claim** made against an **Insured**; or
- (2) if an **Insured** elects to seek coverage for **Pre-Claim Inquiry Costs** in connection with any **Pre-Claim Inquiry**, notify the **Insurer** in writing of that **Pre-Claim Inquiry**;

as soon as practicable after the **Named Entity's** Risk Manager or General Counsel (or equivalent position) first becomes aware of the **Claim** or **Pre-Claim Inquiry**. In all such events, notification must be

provided no later than sixty (60) days after the end of the **Policy Period** or the **Discovery Period** (if applicable).

(b) *Relation Back to the First Reported Claim or Pre-Claim Inquiry*

Solely for the purpose of establishing whether any subsequent **Related Claim** was first made or a **Related Pre-Claim Inquiry** was first received during the **Policy Period** or **Discovery Period** (if applicable), if during any such period:

- (1) a **Claim** was first made and reported in accordance with Clause 7(a) above, then any **Related Claim** that is subsequently made against an **Insured** and that is reported in accordance with Clause 7(a) above shall be deemed to have been first made at the time that such previously reported **Claim** was first made; and
- (2) a **Pre-Claim Inquiry** was actually first received by an **Insured Person** and reported in accordance with Clause 7(a) above, then:
 - (i) any **Related Pre-Claim Inquiry** that is reported in accordance with Clause 7(a) above shall be deemed to be a **Pre-Claim Inquiry** first received at the time that such previously reported **Pre-Claim Inquiry** was first received by an **Insured Person**; and
 - (ii) any subsequent **Related Claim** that is reported in accordance with Clause 7(a) above shall be deemed to be a **Claim** first made at the time that such previously reported **Pre-Claim Inquiry** was first received by an **Insured Person**.

With respect to any subsequent **Related Pre-Claim Inquiry**, this policy shall not cover **Loss** incurred before such subsequent **Related Pre-Claim Inquiry** is actually received by an **Insured Person**, and with respect to any subsequent **Related Claim**, this policy shall not cover **Loss** incurred before such subsequent **Related Claim** is actually made against an **Insured**.

(c) *Relation Back to Reported Circumstances Which May Give Rise to a Claim*

If during the **Policy Period** or **Discovery Period** (if applicable) an **Organization** or an **Insured Person** becomes aware of and notifies the **Insurer** in writing of circumstances that may give rise to a **Claim** being made against an **Insured** and provides details as required below, then any **Claim** that is subsequently made against an **Insured** that arises from such circumstances and that is reported in accordance with Clause 7(a) above shall be deemed to have been first made at the time of the notification of circumstances for the purpose of establishing whether such subsequent **Claim** was first made during the **Policy Period** or during the **Discovery Period** (if applicable). Coverage for **Loss** arising from any such subsequent **Claim** shall only apply to **Loss** incurred after that subsequent **Claim** is actually made against an **Insured**. In order to be effective, notification of circumstances must specify the facts, circumstances, nature of the alleged **Wrongful Act** anticipated and reasons for anticipating such **Claim**, with full particulars as to dates, persons and entities involved; however, notification that includes a copy of an agreement to toll a statute of limitations shall be presumed sufficiently specific as to the potential **Claims** described within that agreement.

8. DISCOVERY PREMIUM

In the event the **Named Entity** or the **Insurer** shall cancel or refuse to renew this **Coverage Section**, the **Additional Premium Amount** for: (a) one year shall be no more than 125% of the **Full Annual Premium**; and (b) two to six years shall be an amount to be determined by the **Insurer**. As used herein, "**Full Annual Premium**" means the premium level in effect for this **Coverage Section** immediately prior to the end of the **Policy Period**.

In the event of a **Transaction**, the **Additional Premium Amount** shall be an amount to be determined by the **Insurer**.

9. DEFENSE AND SETTLEMENT

A. *For Claims And Pre-Claim Inquiries*

(1) *No Duty to Defend or Investigate* The **Insureds** shall defend and contest any **Claim** made against them. The **Insurer** does not assume any duty to defend or investigate.

(2) *Advancement* Once the **Insurer** has received written notice of a **Claim** or **Pre-Claim Inquiry** under this **Coverage Section**, it shall advance, excess of any applicable Retention, covered **Defense Costs** or **Pre-Claim Inquiry Costs**, respectively, on a current basis, but no later than ninety (90) days after the **Insurer** has received itemized bills for those **Defense Costs** or **Pre-Claim Inquiry Costs**. Such advance payments by the **Insurer** shall be repaid to the **Insurer** by each and every **Insured Person** or **Organization**, severally according to their respective interests, in the event and to the extent that any such **Insured Person** or **Organization** shall not be entitled under this **Coverage Section** to payment of such **Loss**.

(3) *Claims Participation and Cooperation* The **Insurer** shall have the right, but not the obligation, to fully and effectively associate with each and every **Organization** and **Insured Person** in the defense and prosecution of any **Claim** or **Pre-Claim Inquiry** that involves, or appears reasonably likely to involve the **Insurer**, including, but not limited to, negotiating a settlement. Each and every **Organization** and **Insured Person** shall give the **Insurer** full cooperation and such information as it may reasonably require.

The failure of any **Insured Person** to give the **Insurer** cooperation and information as required in the preceding paragraph shall not impair the rights of any other **Insured Person** under this **Coverage Section**.

The **Insureds** shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment or incur any **Defense Costs** or **Pre-Claim Inquiry Costs**, without the prior written consent of the **Insurer**. Such consent shall not be unreasonably withheld.

- (4) *Full Settlement Within Retention/Consent Waived* If all **Insured** defendants are able to dispose of all **Claims** and/or **Pre-Claim Inquiries** which are subject to one Retention (inclusive of **Defense Costs**) for an amount not exceeding the Retention, then the **Insurer's** consent shall not be required for such disposition.
- (5) *Applicability* This *Defense and Settlement Clause* is not applicable to **Personal Reputation Expenses**. Nevertheless the **Insurer** does not, under this **Coverage Section**, assume any duty to defend.

B. Pre-Authorized Securities Defense Attorneys

The list of approved panel counsel law firms ("**Panel Counsel**") is accessible through the online directory at <http://www.aig.com/us/panelcounseldirectory> under the "Directors & Officers (Securities Claims)" link. The list provides the **Insureds** with a choice of law firms from which a selection of legal counsel shall be made to conduct the defense of any **Securities Claim** made against such **Insureds**. With the express prior written consent of the **Insurer**, an **Insured** may select a **Panel Counsel** different from that selected by another **Insured** defendant if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable. The list of **Panel Counsel** may be amended from time to time by the **Insurer**. However, if a firm is removed from the list during the **Policy Period**, the **Insureds** shall be entitled to select such firm to conduct the defense of any **Securities Claim** made against such **Insureds** during the **Policy Period**.

The **Insureds** shall select a **Panel Counsel** to defend the **Securities Claim** made against the **Insureds** in the jurisdiction in which the **Securities Claim** is brought. In the event the **Claim** is brought in a jurisdiction not included on the list, the **Insureds** shall select a **Panel Counsel** in the listed jurisdiction which is the nearest geographic jurisdiction to either where the **Securities Claim** is brought or where the corporate headquarters of the **Named Entity** is located. In such instance the **Insureds** also may, with the express prior written consent of the **Insurer**, which consent shall not be unreasonably withheld, select a non-**Panel Counsel** in the jurisdiction in which the **Securities Claim** is brought to function as "local counsel" on the **Claim** to assist the **Panel Counsel** which will function as "lead counsel" in conducting the defense of the **Securities Claim**. This *Pre-Authorized Securities Defense Attorneys Clause* does not apply to **Defense Costs** solely relating to **Extradition** even if the underlying **Wrongful Acts** relate to a **Securities Claim**.

C. Pre-Approved E-Consultant Firms

The list of pre-approved **E-Consultant Firms** is accessible through the online directory at <http://www.aig.com/us/panelcounseldirectory> under the "e-Consultant Panel Members" link. The list provides the **Insureds** with a choice of firms from which a selection of an **E-Consultant Firm** shall be made. Any **E-Consultant Firm** may be hired by an **Insured** to perform **E-Discovery Consultant Services** without further approval by the **Insurer**.

D. Allocation

An **Organization** is covered, subject to the policy's terms, conditions and limitations, only with respect to: (1) its indemnification of its **Insured Persons** as respects a **Claim** against or **Pre-Claim Inquiry** received by such **Insured Persons**; (2) a **Securities Claim** against such **Organization**; and (3) **Derivative Investigation Costs**. Accordingly, the **Insurer** has no obligation under this **Coverage Section** for defense or other costs incurred by, judgments against or settlements by an **Organization** arising out of a **Claim** made against an **Organization** except as respects coverage for a **Securities Claim**, or any obligation to pay loss arising out of any legal liability that an **Organization** has to a claimant, except as respects a covered **Securities Claim** against such **Organization**.

With respect to: (i) **Defense Costs** jointly incurred by; (ii) any joint settlement entered into by; and/or (iii) any judgment of joint and several liability against any **Organization** and any **Insured Person** in connection with any **Claim** other than a **Securities Claim**, such **Organization** and such **Insured Person** and the **Insurer** agree to use their best efforts to determine a fair and proper allocation of the amounts as between such **Organization**, such **Insured Person** and the **Insurer**, taking into account the relative legal and financial exposures, and the relative benefits obtained by such **Insured Person** and such **Organization**. In the event that a determination as to the amount of **Defense Costs** to be advanced under this **Coverage Section** cannot be agreed to, then the **Insurer** shall advance **Defense Costs** excess of any applicable Retention which the **Insurer** states to be fair and proper until a different amount shall be agreed upon or determined pursuant to the provisions of this policy and applicable law.

10. SUBSIDIARY COVERAGE

A. *Subsidiary Additions*

In addition to the definition of "**Subsidiary**" set forth in Clause 14. DEFINITIONS, **Subsidiary** also means any for-profit entity: (i) that is not formed as a partnership, (ii) of which the **Named Entity** first had **Management Control** during the **Policy Period**, whether directly or indirectly through one or more other **Subsidiaries**, and (iii) whose assets amount to:

- (1) less than 25% of the total consolidated assets of each and every **Organization** as reported in the **Named Entity's** most recent public filing; or
- (2) 25% or more of those total consolidated assets, but such entity shall be a "**Subsidiary**" only: (i) for a period of sixty (60) days from the date the **Named Entity** first had **Management Control** of such entity; or (ii) until the end of the **Policy Period**, whichever expires or ends first (the "**Auto-Subsidiary Period**");

provided that, with respect only to entities described in subparagraph (2) above, the **Named Entity** or any other **Insured** shall report such **Subsidiary** to the **Insurer**, in writing, prior to the end of the **Policy Period**.

The **Insurer** shall extend coverage for any **Subsidiary** described in subparagraph (2) above, and any **Insured Person** thereof, beyond its respective **Auto-Subsidiary Period** if during such **Auto-Subsidiary Period**, the **Named Entity** shall have provided the **Insurer** with full particulars of the new **Subsidiary** and agreed to any additional premium and amendment of the provisions of this policy required by the **Insurer** relating to such **Subsidiary**. Further, coverage as shall be afforded to any **Subsidiary** and any **Insured Person** thereof is conditioned upon the **Named Entity** paying when due any additional premium required by the **Insurer** relating to such **Subsidiary**.

B. *Former Subsidiaries*

In the event the **Named Entity** loses **Management Control** of a **Subsidiary** during or prior to the **Policy Period**, coverage with respect to such **Subsidiary** and its **Insured Persons** shall continue until termination of this **Coverage Section** but only with respect to **Claims** for **Wrongful Acts** that occurred or are alleged to have occurred during the time that the **Named Entity** had **Management Control** of such entity either directly or indirectly through one or more of its **Subsidiaries**.

C. *Scope Of Subsidiary Coverage*

Coverage as is afforded under this **Coverage Section** with respect to a **Claim** made against any **Subsidiary** and/or any **Insured Person** thereof shall only apply for **Wrongful Acts** committed or

allegedly committed during the time that such **Subsidiary** and such **Insured Person** meet the respective definitions of **Subsidiary** and **Insured Person** set forth in this **Coverage Section**.

11. APPLICATION AND UNDERWRITING

A. *Application And Reliance*

The **Insurer** has relied upon the accuracy and completeness of the statements, warranties and representations contained in the **Application**. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

B. *Renewal Application Procedure*

A written renewal application form is not required in order to receive a renewal quote from the **Insurer**, although the **Insurer** reserves the right to require specific information prior to renewal.

C. *Insured Person Coverage Non-Rescindable*

Under no circumstances shall the coverage provided by this **Coverage Section** for **Loss** under Insuring Agreement A. *Insured Person Coverage* be deemed void, whether by rescission or otherwise, once the premium has been paid.

D. *Severability Of The Application*

The **Application** shall be construed as a separate application for coverage by each **Insured Person**. With respect to the **Application**, no knowledge possessed by any **Organization** or any **Insured Person** shall be imputed to any other **Insured Person**.

If the statements, warranties and representations in the **Application** were not accurate and complete and materially affected either the acceptance of the risk or the hazard assumed by the **Insurer** under this **Coverage Section**, then the **Insurer** shall have the right to void coverage under this **Coverage Section**, *ab initio*, with respect to:

- (1) **Loss** under Insuring Agreement B. *Indemnification Of Insured Person Coverage* for the indemnification of any **Insured Person** who knew, as of the inception date of the **Policy Period**, the facts that were not accurately and completely disclosed; and
- (2) **Loss** under Insuring Agreement C. *Organization Coverage* if any **Insured Person** who is or was a chief executive officer or chief financial officer of the **Named Entity** knew, as of the inception date of the **Policy Period**, the facts that were not accurately and completely disclosed.

The foregoing applies even if the **Insured Person** did not know that such incomplete or inaccurate disclosure had been provided to the **Insurer** or included within the **Application**.

12. PAYMENTS AND OBLIGATIONS OF ORGANIZATIONS AND OTHERS

A. *Indemnification By Organizations*

The **Organizations** agree to indemnify the **Insured Persons** and/or advance **Defense Costs** to the fullest extent permitted by law. If the **Insurer** pays under this **Coverage Section** any indemnification or advancement owed to any **Insured Person** by any **Organization** within an applicable Retention, then that **Organization** shall reimburse the **Insurer** for such amounts and such amounts shall become immediately due and payable as a direct obligation of the **Organization** to the **Insurer**. The failure of an **Organization** to perform any of its obligations to

indemnify the **Insured Persons** and/or advance **Defense Costs** under this **Coverage Section** shall not impair the rights of any **Insured Person** under this **Coverage Section**.

B. Other Insurance And Indemnification

Such insurance as is provided by this **Coverage Section** shall apply only as excess over any other valid and collectible directors and officers liability insurance, unless such other insurance is specifically written as excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**. This **Coverage Section** shall specifically be excess of any other valid and collectible insurance pursuant to which any other insurer has a duty to defend a **Claim** for which this **Coverage Section** may be obligated to pay **Loss**. Such insurance as is provided by this **Coverage Section** shall apply as primary to any personal "umbrella" excess liability insurance purchased by an **Insured Person**.

With respect to **Employment Practices Claims**, such insurance as is provided by this **Coverage Section** shall apply only as excess of any other valid and collectible employment practices liability insurance, unless such other insurance is specifically written as excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**. If according to the terms and conditions of any employment practices liability insurance policy providing coverage for an **Employment Practices Claim** made against an **Insured**, an insurer issuing such policy is not liable for **Loss**, then the **Insurer** shall be liable for payment of the portion of such **Loss** constituting covered **Loss** under this **Coverage Section** (specifically excess of any other valid and collectible employment practices liability insurance providing coverage for such **Loss**).

In the event of a **Claim** made against an **Outside Entity Executive**, coverage as is afforded by this **Coverage Section**, whether under the *Insured Person Coverage* or the *Indemnification Of Insured Person Coverage*, shall be specifically excess of: (a) any indemnification provided by an **Outside Entity**; and (b) any insurance coverage afforded to an **Outside Entity** or its **Executives** applicable to such **Claim**. Further, in the event such other **Outside Entity** insurance is provided by the **Insurer** or any other insurance company affiliate thereof ("**Other Policy**") (or would be provided but for the application of the retention amount, exhaustion of the limit of liability or failure to submit a notice of a claim as required), then the **Insurer's** applicable **Separate Limit of Liability** or **Shared Limit of Liability** for all **Loss** under this **Coverage Section**, as respects any such **Claim**, shall be reduced by the amount recoverable under such **Other Policy** for loss incurred in connection with such **Claim**.

C. Subrogation

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Organizations'** and **Insureds'** rights of recovery. Each **Organization** and each **Insured Person** shall execute all papers reasonably required and provide reasonable assistance and cooperation in securing or enabling the **Insurer** to exercise subrogation rights or any other rights, directly or in the name of the **Organization** or any **Insured Person**.

In no event, however, shall the **Insurer** exercise its rights of subrogation against an **Insured** under this **Coverage Section** unless the Conduct Exclusion applies with regard to such **Insured**.

13. ALTERNATIVE DISPUTE RESOLUTION

ADR Options

All disputes or differences which may arise under or in connection with this **Coverage Section**, whether arising before or after termination of this policy, including any determination of the amount of **Loss**, shall be submitted to an alternative dispute resolution (ADR) process as provided in this Clause. The **Named Entity** may elect the type of ADR process discussed below; provided, however, that absent a timely election, the **Insurer** may elect the type of ADR. In that case, the **Named Entity** shall have the right to reject the **Insurer's** choice of the type of ADR process at any time prior to its commencement, after which, the **Insured's** choice of ADR shall control.

Mediation

In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least ninety (90) days shall have elapsed from the date of the termination of the mediation.

Arbitration

In the event of arbitration, the decision of the arbitrator(s) shall be final, binding and provided to both parties, and the arbitration award shall not include attorney's fees or other costs.

ADR Process

Selection of Arbitrator(s) or Mediator: The **Insurer** and the **Named Entity** shall mutually consent to: (i) in the case of arbitration, an odd number of arbitrators which shall constitute the arbitration panel, or (ii) in the case of mediation, a single mediator. The arbitrator, arbitration panel members or mediator must be disinterested and have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. In the absence of agreement, the **Insurer** and the **Named Entity** each shall select one arbitrator, the two arbitrators shall select a third arbitrator, and the panel shall then determine applicable procedural rules.

ADR Rules: In considering the construction or interpretation of the provisions of this policy, the mediator or arbitrator(s) must give due consideration to the general principles of the law of the **State of Formation** of the **Named Entity**. Each party shall share equally the expenses of the process elected. At the election of the **Named Entity**, either choice of ADR process shall be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state reflected in the **Named Entity Address**. The **Named Entity** shall act on behalf of each and every **Insured** under this *Alternative Dispute Resolution Clause*. In all other respects, the **Insurer** and the **Named Entity** shall mutually agree to the procedural rules for the mediation or arbitration. In the absence of such an agreement, after reasonable diligence, the arbitrator(s) or mediator shall specify commercially reasonable rules.

14. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

Application means:

- (1) the written statements and representations made by an **Insured** and provided to the **Insurer** during the negotiation of this policy, or contained in any application or other materials or information provided to the **Insurer** in connection with the underwriting of this policy;
- (2) all warranties executed by or on behalf of an **Insured** and provided to the **Insurer** in connection with the underwriting of this policy or the underwriting of any other directors and officers (or equivalent) liability policy issued by the **Insurer**, or any of its affiliates, of which this policy is a renewal, replacement or which it succeeds in time; and
- (3) each and every public filing by or on behalf of an **Organization** made with the SEC, including but not limited to the **Organization's** Annual Report(s), 10Ks, 10Qs, 8Ks and proxy statements, any financial information in such filings, and any certifications relating to the accuracy of the foregoing, provided that such public filing was filed during the 12 month period immediately preceding the inception of the **Policy Period**.

Asset Protection Costs means reasonable and necessary fees, costs and expenses consented to by the **Insurer** incurred by an **Executive** of an **Organization** to oppose any efforts by an **Enforcement Body** to seize or otherwise enjoin the personal assets or real property of such **Executive** or to obtain the discharge or revocation of a court order entered during the **Policy Period** in any way impairing the use thereof.

Claim means:

- (1) a written demand for monetary, non-monetary or injunctive relief, including, but not limited to, any demand for mediation, arbitration or any other alternative dispute resolution process;
- (2) a civil, criminal, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by: (i) service of a complaint or similar pleading; (ii) return of an indictment, information or similar document (in the case of a criminal proceeding); or (iii) receipt or filing of a notice of charges;
- (3) an **Insured Person Investigation**;
- (4) a **Derivative Demand**; or
- (5) an official request for **Extradition** of any **Insured Person**, or the execution of a warrant for the arrest of an **Insured Person** where such execution is an element of **Extradition**.

"**Claim**" shall include any **Securities Claim** and any **Employment Practices Claim**.

Defense Costs	<p>means reasonable and necessary fees, costs and expenses consented to by the Insurer (including the cost of E-Discovery Consultant Services and premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond) resulting solely from:</p> <ol style="list-style-type: none"> (1) the investigation, adjustment, defense and/or appeal of a Claim against an Insured; or (2) an Insured Person lawfully: (i) opposing, challenging, resisting or defending against any request for or any effort to obtain the Extradition of that Insured Person; or (ii) appealing any order or other grant of Extradition of that Insured Person. <p>Defense Costs shall not include: (a) Derivative Investigation Costs, (b) Pre-Claim Inquiry Costs, or (c) the compensation of any Insured Person.</p>
Derivative Demand	means a written demand by any shareholder of an Organization upon the board of directors (or equivalent management body) of such Organization to commence a civil action on behalf of the Organization against any Executive of the Organization for any actual or alleged wrongdoing on the part of such Executive .
Derivative Investigation	means, after receipt by any Insured of a Claim that is either a Derivative Suit or a Derivative Demand , any investigation conducted by the Organization , or on behalf of the Organization by its board of directors (or the equivalent management body) or any committee of the board of directors (or equivalent management body), as to how the Organization should respond.
Derivative Investigation Costs	<p>means reasonable and necessary costs, charges, fees and expenses consented to by the Insurer and incurred by the Organization, or on behalf of the Organization by its board of directors (or the equivalent management body) or any committee of the board of directors (or equivalent management body), in connection with a Derivative Investigation.</p> <p>Derivative Investigation Costs shall not include the compensation of any Insured Person.</p>
Derivative Suit	means a lawsuit purportedly brought derivatively on behalf of an Organization by a shareholder of such Organization against an Executive of the Organization .
Employee	means any past, present or future employee, other than an Executive of an Organization , whether such employee is in a supervisory, co-worker or subordinate position or otherwise, including any full-time, part-time, seasonal and temporary employee.
Employment Practices Claim	<p>means a Claim alleging any:</p> <ol style="list-style-type: none"> (1) Employment Practices Violation; or (2) Third-Party EPL Violation.
Employment Practices Retention	means the Retention applicable to Loss that arises out of an Employment Practices Claim .

**Employment
Practices Violation**

means any actual or alleged:

- (1) wrongful dismissal, discharge or termination (either actual or constructive) of employment, including breach of an implied contract;
- (2) harassment (including workplace bullying, sexual harassment whether “quid pro quo”, hostile work environment or otherwise);
- (3) discrimination (including, but not limited to, discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability);
- (4) **Retaliation**;
- (5) employment-related misrepresentation(s) to an **Employee** of the **Organization**;
- (6) employment-related libel, slander, humiliation, defamation or invasion of privacy;
- (7) wrongful failure to employ or promote;
- (8) wrongful deprivation of career opportunity with the **Organization**, wrongful demotion or negligent **Employee** evaluation, including the giving of negative or defamatory statements in connection with an employee reference;
- (9) wrongful discipline;
- (10) failure to grant tenure; or
- (11) with respect to any of the foregoing items (1) through (10) of this definition: negligent hiring, retention, training or supervision, infliction of emotional distress or mental anguish, failure to provide or enforce adequate or consistent corporate policies and procedures, or violation of an individual’s civil rights;

but only if the **Employment Practices Violation** relates to an **Employee** of an **Organization** or an **Outside Entity**, or an applicant for employment with an **Organization** or an **Outside Entity**, whether committed directly, indirectly, intentionally or unintentionally.

Executive

means any:

- (1) past, present and future duly elected or appointed director, officer, trustee or governor of a corporation, management committee member of a joint venture and member of the management board of a limited liability company (or equivalent position);
- (2) past, present and future person in a duly elected or appointed position in an entity organized and operated in a **Foreign Jurisdiction** that is equivalent to an executive position listed in subparagraph (1) above, or a member of the senior-most executive body (including, but not limited to, a supervisory board); and
- (3) past, present and future General Counsel and Risk Manager (or equivalent position) of the **Named Entity**.

Extradition

means any formal process by which an **Insured Person** located in any country is surrendered to any other country for trial or otherwise to answer

any criminal accusation.

Extradition Costs means **Defense Costs** incurred by an **Insured** in lawfully opposing any effort to obtain the **Extradition** of an **Insured Person**.

Foreign Policy means the standard executive managerial liability policy (including all mandatory endorsements, if any) approved by the **Insurer** or any of its affiliates to be sold within a **Foreign Jurisdiction** that provides coverage substantially similar to the coverage afforded under this **Coverage Section**. If more than one such policy exists, then "**Foreign Policy**" means the standard basic policy form most recently offered for sale for comparable risks by the **Insurer** or any of its affiliates in that **Foreign Jurisdiction**. The term "**Foreign Policy**" shall not include any partnership managerial, pension trust or professional liability coverage.

Insured means any:

- (1) **Insured Person**; or
- Organization**.

Insured Person means any:

- (1) **Executive** of an **Organization**;
- (2) **Employee** of an **Organization**; or
- (3) **Outside Entity Executive**.

Insured Person Investigation means any civil, criminal, administrative or regulatory investigation of an **Insured Person**:

- (1) once the **Insured Person** is identified in writing by an **Enforcement Body** as a target of an investigation that may lead to a criminal, civil, administrative, regulatory or other enforcement proceeding;
- (2) in the case of an investigation by the SEC or any state, local or foreign body with similar regulation or enforcement authority, after the service of a subpoena (or in a **Foreign Jurisdiction**, the equivalent legal process) upon the **Insured Person**; or
- (3) commenced by the arrest and detainment or incarceration for more than 24 hours of an **Insured Person** by any law enforcement authority in a **Foreign Jurisdiction**.

Writings which may identify an **Insured Person** as a target can include a target or "Wells" letter, whether or not labeled as such.

Liberty Protection Costs means:

- (1) reasonable and necessary fees, costs and expenses consented to by the **Insurer** and incurred by an **Insured Person** in order for an **Insured Person** to lawfully seek the release of the **Insured Person** from any pre-**Claim** arrest or confinement to a (i) specified residence or (ii) secure custodial premises operated by or on behalf of any law enforcement authority; or
- (2) reasonable and necessary premiums (but not collateral) consented to by the **Insurer** and incurred by an **Insured Person** for a bond or other financial instrument to guarantee the contingent obligation of the **Insured Person** for a specified amount required by a court that are

incurred or required outside the United States of America during the **Policy Period**, if such premiums: (i) arise out of an actual or alleged **Wrongful Act**, or (ii) are incurred solely by reason of such **Insured Person's** status as an **Executive** or **Employee** of an **Organization**.

Loss

means damages, settlements, judgments (including pre/post-judgment interest on a covered judgment), **Defense Costs**, **Derivative Investigation Costs**, **Liberty Protection Costs** and **Pre-Claim Inquiry Costs**; however, "**Loss**" (other than **Defense Costs**) shall not include: (1) civil or criminal fines or penalties; (2) taxes; (3) punitive or exemplary damages; (4) the multiplied portion of multiplied damages; (5) cleanup costs relating to hazardous materials, pollution or product defects; (6) any amounts for which an **Insured** is not financially liable or which are without legal recourse to an **Insured**; and (7) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed. Notwithstanding the foregoing subparagraph (7), the **Insurer** shall not assert that, in a **Securities Claim** alleging violations of Section 11, 12 or 15 of the Securities Act of 1933, as amended, the portion of any amounts incurred by **Insureds** which is attributable to such violations constitutes uninsurable loss, and, unless precluded from doing so in a court order, shall treat that portion of all such settlements, judgments and **Defense Costs** as constituting **Loss** under this **Coverage Section**.

Notwithstanding the foregoing paragraph, **Loss** shall specifically include (subject to this policy's other terms, conditions and limitations, including but not limited to the Conduct Exclusion): (1) civil penalties assessed against any **Insured Person** pursuant to Section 2(g)(2)(B) of the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(g)(2)(B); and (2) solely with respect to **Claims** other than **Employment Practices Claims**, punitive, exemplary and multiplied damages. Enforceability of this paragraph shall be governed by such applicable law that most favors coverage for such penalties and punitive, exemplary and multiple damages.

In the event of a **Claim** alleging that the price or consideration paid or proposed to be paid for the acquisition or completion of the acquisition of all or substantially all the ownership interest in or assets of an entity is inadequate, **Loss** with respect to such **Claim** shall not include any amount of any judgment or settlement representing the amount by which such price or consideration is effectively increased; provided, however, that this paragraph shall not apply to **Defense Costs** or to any **Non-Indemnifiable Loss** in connection therewith.

Management Control

means:

- (1) owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of: the Board of Directors of a corporation; the management committee members of a joint venture; or the members of the management board of a limited liability company; or

- (2) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an **Organization**, to elect, appoint or designate a majority of: the Board of Directors of a corporation; the management committee of a joint venture; or the management board of a limited liability company.

Non-Indemnifiable Loss means **Loss** for which an **Organization** has neither indemnified nor is permitted or required to indemnify an **Insured Person** pursuant to law or contract or the charter, bylaws, operating agreement or similar documents of an **Organization**.

Outside Entity means any: (1) not-for-profit entity; or (2) other entity listed as an “**Outside Entity**” in an endorsement attached to this policy.

Outside Entity Executive means any: (1) **Executive** of an **Organization** who is or was acting at the specific request or direction of an **Organization** as an **Executive** of an **Outside Entity**; or (2) any other person listed as an **Outside Entity Executive** in an endorsement attached to this policy.

In the event of a disagreement between the **Organization** and an **Outside Entity Executive** as to whether such **Insured** was acting “at the specific request or direction of the **Organization**,” this **Coverage Section** shall abide by the determination of the **Organization** on this issue and such determination shall be made by written notice to the **Insurer** within ninety (90) days after the **Claim** against such **Outside Entity Executive** is made. In the event no notice of any such determination is given to the **Insurer** within such period, this **Coverage Section** shall apply as if the **Organization** determined that such **Outside Entity Executive** was not acting at the **Organization’s** specific request or direction.

Personal Reputation Crisis means any negative statement that is included in any press release or published by any print or electronic media outlet regarding an **Executive** of an **Organization** made during the **Policy Period** by any individual authorized to speak on behalf of an **Enforcement Body**.

Personal Reputation Expenses means reasonable and necessary fees, costs and expenses of a **Crisis Firm** (as defined in the CrisisFund® Appendix attached to this policy) retained within 30 days of a **Personal Reputation Crisis** solely and exclusively by an **Executive** to mitigate the adverse effects specifically to such **Executive’s** reputation from a **Personal Reputation Crisis**. “**Personal Reputation Expenses**” shall not include any fees, costs or expenses of any **Crisis Firm** incurred by an **Executive** if such **Crisis Firm** is also retained by or on behalf of an **Organization**.

Pre-Claim Inquiry means any pre-**Claim**:

- (1) verifiable request for an **Insured Person** of any **Organization**: (a) to appear at a meeting or interview; or (b) produce documents that, in either case, concerns the business of that **Organization** or that **Insured Person’s** insured capacities, but only if the request came from any:
 - (i) **Enforcement Body**; or
 - (ii) **Organization**, or, on behalf of an **Organization**, by its board of directors (or the equivalent management body) or any committee of

the board of directors (or the equivalent management body):

(A) arising out of an inquiry or investigation by an **Enforcement Body** concerning the business of that **Organization** or that **Insured Person's** insured capacities; or

(B) as part of its **Derivative Investigation**; and

(2) arrest or confinement of an **Executive** of an **Organization** to a: (a) specified residence; or (b) secure custodial premises operated by or on behalf of an **Enforcement Body**, in connection with the business of any **Organization** or an **Insured Person's** capacity as an **Executive** or **Employee** of an **Organization**.

"Pre-Claim Inquiry" shall not include any routine or regularly scheduled regulatory or internal supervision, inspection, compliance, review, examination, production or audit, including any request for mandatory information from a regulated entity, conducted in an **Organization's** and/or **Enforcement Body's** normal review or compliance process.

**Pre-Claim Inquiry
Costs**

means:

(1) with respect to any **Pre-Claim Inquiry** as defined in subparagraph (1) of the Definition of such term, the reasonable and necessary pre-**Claim** fees, costs and expenses consented to by the **Insurer** and incurred by an **Insured Person** solely in connection with his/her preparation for and response to a **Pre-Claim Inquiry** directed to such **Insured Person**, including attendance at an interview or meeting requested by an **Enforcement Body**, but excluding (i) any compensation of any **Insured Person**; and (ii) the costs of complying with any formal or informal discovery or other request seeking documents, records or electronic information in the possession or control of an **Organization**, the requestor or any other third party; and

(2) with respect to any **Pre-Claim Inquiry** as defined in subparagraph (2) of the Definition of such term, any **Liberty Protection Costs**.

Related Claim

means a **Claim** alleging, arising out of, based upon or attributable to any facts or **Wrongful Acts** that are the same as or related to those that were either: (i) alleged in another **Claim** made against an **Insured**; or (ii) the subject of a **Pre-Claim Inquiry** received by an **Insured Person**.

**Related Pre-Claim
Inquiry**

means a **Pre-Claim Inquiry** involving, arising out of, based upon or attributable to any facts or **Wrongful Acts** that are the same as or related to those that were either: (i) alleged in a **Claim** made against an **Insured**; or (ii) the subject of another **Pre-Claim Inquiry** received by an **Insured Person**.

Retaliation

means a retaliatory act of an **Insured** alleged to be in response to any of the following activities: (i) the disclosure or threat of disclosure by an **Employee** of the **Organization** or an **Outside Entity** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder; (ii) the actual or attempted exercise by an **Employee** of the **Organization** or an **Outside Entity** of any right that such **Employee** has under law, including rights under worker's

compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights; (iii) the filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign "whistle-blower" law; or (iv) strikes of an **Employee** of the **Organization** or an **Outside Entity**.

Securities Claim

means a **Claim**, other than an administrative or regulatory proceeding against, or investigation of an **Organization**, made against any **Insured**:

- (1) alleging a violation of any federal, state, local or foreign regulation, rule or statute regulating securities (including but not limited to the purchase or sale or offer or solicitation of an offer to purchase or sell securities) which is:
 - (i) brought by any person or entity alleging, arising out of, based upon or attributable to the purchase or sale or offer or solicitation of an offer to purchase or sell any securities of an **Organization**; or
 - (ii) brought by a security holder of an **Organization** with respect to such security holder's interest in securities of such **Organization**; or
- (2) which is a **Derivative Suit**.

Notwithstanding the foregoing, the term "**Securities Claim**" shall include an administrative or regulatory proceeding against an **Organization** that meets the requirements of subparagraph (1) above, but only if and only during the time that such proceeding is also commenced and continuously maintained against an **Insured Person**.

Securities Retention

means the Retention applicable to **Loss** (including **Pre-Claim Inquiry Costs**) that arises out of (i) a **Securities Claim**, or (ii) **Pre-Claim Inquiry Costs** incurred in response to: (a) a **Pre-Claim Inquiry** by an **Enforcement Body** charged with the regulation of securities, or (b) a **Derivative Investigation**.

SOX 304 Costs

means the reasonable and necessary fees, costs and expenses consented to by the **Insurer** (including the premium or origination fee for a loan or bond) and incurred by the chief executive officer or chief financial officer of the **Named Entity** solely to facilitate the return of amounts required to be repaid by such **Executive** pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002. **SOX 304 Costs** do not include the payment, return, reimbursement, disgorgement or restitution of any such amounts requested or required to be repaid by such **Executive** pursuant to Section 304(a).

Subsidiary

means:

- (1) any for-profit entity that is not formed as a partnership of which the **Named Entity** has or had **Management Control** on or before the **Inception Date** of the policy either directly or indirectly through one or more of its other **Subsidiaries**; and
- (2) any not-for-profit entity sponsored exclusively by an **Organization**.

A for-profit entity ceases to be a **Subsidiary** when the **Named Entity** no longer maintains **Management Control** of such entity either directly or indirectly through one or more of its **Subsidiaries**. A not-for-profit entity ceases to be a **Subsidiary** when such entity is no longer sponsored exclusively by an **Organization**.

Third-Party EPL Violation

means any actual or alleged harassment or unlawful discrimination, as described in subparagraphs (2) and (3) of the definition of **Employment Practices Violation**, or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **Insured Person** or applicant for employment with the **Organization** or an **Outside Entity**, including, but not limited to, students, patients, members, customers, vendors and suppliers.

Transaction

means, in addition to the definition set forth in the **General Terms and Conditions**, the appointment by any **Enforcement Body** of, or where any **Enforcement Body** assumes the role of, a trustee, receiver, conservator, rehabilitator, liquidator or similar official to take control of, supervise or oversee the **Named Entity**, or to liquidate or sell all or substantially all of the assets of the **Named Entity**.

UK Corporate Manslaughter Act Defense Costs

means **Defense Costs** incurred by an **Insured Person** that result solely from the investigation, adjustment, defense and/or appeal of a **Claim** against an **Organization** for violation of the United Kingdom Corporate Manslaughter and Corporate Homicide Act of 2007 or any similar statute in any jurisdiction.

Wrongful Act

means:

- (1) any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act or any actual or alleged **Employment Practices Violation** or **Third-Party EPL Violation**:
 - (i) with respect to any **Executive** of an **Organization**, by such **Executive** in his or her capacity as such or any matter claimed against such **Executive** solely by reason of his or her status as such;
 - (ii) with respect to any **Employee** of an **Organization**, by such **Employee** in his or her capacity as such, but solely in regard to any: (a) **Securities Claim**; or (b) other **Claim** so long as such other **Claim** is also made and continuously maintained against an **Executive** of an **Organization**; or
 - (iii) with respect to any **Outside Entity Executive**, by such **Outside Entity Executive** in his or her capacity as such or any matter claimed against such **Outside Entity Executive** solely by reason of his or her status as such; or
- (2) with respect to an **Organization**, any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act by such **Organization**, but solely in regard to a **Securities Claim**.



EMPLOYMENT EDGE® EMPLOYMENT PRACTICES LIABILITY ("EPL Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **EPL Coverage Section**, unless otherwise explicitly stated to the contrary in this **EPL Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to **Claims** first made against an **Insured** during the **Policy Period** or any applicable **Discovery Period** and reported to the **Insurer** as required by this **Coverage Section**, except to the extent coverage is extended pursuant to the *Claims Savings Clause* of this **Coverage Section** to a **Claim** first made prior to the **Policy Period**. Subject to the foregoing and the other terms, conditions and limitations of this policy, this **Coverage Section** affords the following coverage:

A. Employment Practices Liability Coverage

This policy shall pay the **Loss** of each and every **Insured** arising from a **Claim** made against such **Insured** for any **Employment Practices Violation**.

B. Third Party Violation Coverage

This policy shall pay the **Loss** of each and every **Insured** arising from a **Claim** made against such **Insured** for any **Third Party Violation**.

C. Wrongful Internet Activity Coverage

This policy shall pay the **Loss** of an **Organization** arising from any **Claim** made against such **Organization** for its actual or alleged liability for any **Wrongful Internet Activity** of an **Employee**.

2. EXTENSIONS

A. First Dollar E-Discovery Consultant Services

For any **Class Action Claim**, no Retention shall apply to the first \$25,000 in **Defense Costs** incurred as **E-Discovery Consultant Services**.

B. Global Liberalization

For **Loss** from that portion of any **Claim** maintained in a **Foreign Jurisdiction** or to which the law of a **Foreign Jurisdiction** is applied, the **Insurer** shall apply the terms and conditions of this **Coverage Section** as amended to include those of the **Foreign Policy** in the **Foreign Jurisdiction**.

that are more favorable to **Insureds** in the **Foreign Jurisdiction**. This *Global Liberalization Clause* shall not apply to any provision of any policy that has worldwide effect, including but not limited to any provision addressing limits of liability (primary, excess or sublimits), retentions, other insurance, non-renewal, duty to defend, defense within or outside limits, taxes, conformance to law or excess liability coverage, any claims made provisions, and any endorsement to this policy that excludes or limits coverage for specific events or litigation or that specifically states that it will have worldwide effect.

3. EXCLUSIONS

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

- (1) *Conduct* arising out of, based upon or attributable to any deliberate criminal or deliberate fraudulent act by the **Insured** if established by any final, non-appealable adjudication in any action or proceeding other than an action or proceeding initiated by the **Insurer** to determine coverage under the policy; provided, however, the **Wrongful Act** of an **Insured** shall not be imputed to any other **Insured** for the purpose of determining the applicability of this exclusion;
- (2) *Pending & Prior Litigation* alleging, arising out of, based upon or attributable to, as of the **Continuity Date**, any pending or prior: (a) litigation; or (b) **EEOC** proceeding or investigation of which any **Insured** had notice; or alleging or derived from the same or essentially the same facts as alleged in such pending or prior litigation or proceeding or investigation;
- (3) *Prior Notice* alleging, arising out of, based upon or attributable to the facts alleged, or to the same or related **Wrongful Act** alleged or contained in any claim which has been reported, or in any circumstances of which notice has been given, under any policy providing coverage in whole or in part for **Wrongful Acts** which was in force prior to the **Inception Date** of this policy;
- (4) *Bodily Injury & Property Damage* for bodily injury (other than emotional distress or mental anguish), sickness, disease, or death of any person, or damage to or destruction of any tangible property, including the loss of use thereof;
- (5) *ERISA* for any violation of responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or any similar provisions of any state, local or foreign statutory or common law;
- (6) *Compensation & Labor Liability*
 - (a) for any violation of responsibilities, obligations or duties imposed by the Fair Labor Standards Act (except the Equal Pay Act) (FLSA), the National Labor Relations Act (NLRA), the Worker Adjustment and Retraining Notification (WARN) Act, the Consolidated Omnibus Budget Reconciliation Act (COBRA), the Occupational Safety and Health Act (OSHA), any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar federal, state, local or foreign law or amendment to a law; or

(b) alleging, arising out of, based upon or attributable to any of the circumstances described in any of the following:

(i) the refusal, failure or inability of any **Insured** to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered or time spent in connection with work related activities (as opposed to tort-based back pay or front pay damages for torts other than conversion);

(ii) improper deductions from pay taken by any **Insured** from any **Employee** or purported **Employee**; or

(iii) failure to provide or enforce legally required meal or rest break periods;

provided, however, the foregoing Exclusions 6(a) and 6(b) shall not apply to the extent that a **Claim** is for **Retaliation**;

(7) *Benefits*

for any obligation pursuant to any worker's compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law; provided, however, this exclusion shall not apply to the extent that a **Claim** is for **Retaliation**;

(8) *Contract*

alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of an **Insured** under any express contract or agreement; provided, however, that this exclusion shall not apply to:

(i) liability which would have attached in the absence of such express contract or agreement; or

(ii) **Loss** constituting **Defense Costs**; or

(9) *Securities Claim*

alleging, arising out of, based upon or attributable to any **Claim** brought by any holder of securities representing the debt or equity of the **Organization** or an **Outside Entity**, in their capacity as such, whether directly, derivatively on behalf of the **Organization** or **Outside Entity**.

4. RETENTION

In addition to the provisions in Clause 2. RETENTION of the General Terms and Conditions, in no event shall a Retention be applied to the first \$25,000 in **Defense Costs** incurred as **E-Discovery Consultant Services**.

If an **Organization** is unable to advance, pay or indemnify covered **Loss** of an **Insured Person** within the applicable Retention amount due to **Financial Insolvency**, then the **Insurer** shall advance such amounts on behalf of the **Insured Person** until either: (i) an **Organization** has agreed to make such payments, or (ii) the Retention has been satisfied. In no event shall any such advancement by the **Insurer** relieve any **Organization** of any duty it may have to provide advancement, payment or indemnification to any **Insured Person**. The **Insurer** shall be entitled to recover the amount of **Loss** advanced within the Retention from the **Organization** pursuant to the subrogation provisions of this **Coverage Section**.

5. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

- (a) *Reporting a Claim* An **Organization** or an **Insured** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, notify the **Insurer** in writing of a **Claim** made against an **Insured** as soon as practicable after the **Named Entity's** Human Resources Manager, Risk Manager or General Counsel (or equivalent position) first becomes aware of the **Claim**. In all events, notification must be provided no later than sixty (60) days after the end of the **Policy Period** or the **Discovery Period** (if applicable).
- (b) *Relation Back to the First Reported Claim* Solely for the purpose of establishing whether any subsequent **Related Claim** was first made during the **Policy Period** or **Discovery Period** (if applicable), if during any such period a **Claim** was first made and reported in accordance with Clause 5(a) above, then any **Related Claim** that is subsequently made against an **Insured** and that is reported in accordance with Clause 5(a) above shall be deemed to have been first made at the time that such previously reported **Claim** was first made.

With respect to any subsequent **Related Claim**, this policy shall not cover **Loss** incurred before such subsequent **Related Claim** is actually made against an **Insured** and reported to the **Insurer**.

- (c) *Claims Savings Clause*
1. Notwithstanding Clause 5(b), with respect to any **Claim** which (i) first becomes a **Litigated Matter** during the **Policy Period** or **Discovery Period** (if applicable); and (ii) is a **Related Claim** with respect to an **Administrative Claim** which was first made against an **Insured** prior to the **Policy Period**, the **Insurer** shall not deny coverage for such **Claim** based upon late notice of such **Claim** or based upon such **Claim** first being made prior to the **Policy Period**, provided that:
 - (a) the **Claim** was first made against the **Insured** at a time during which the **Named Entity** was insured under a **Prior AIG Policy**;
 - (b) upon the **Claim** first becoming a **Litigated Matter**, the **Claim** was reported in accordance with Clause 5(a) above; and
 - (c) no **Insured** has made a monetary settlement offer to a claimant or responded to a monetary demand from or on behalf of a claimant with respect to such **Claim**.
 2. Coverage under this **Coverage Section** for any **Claim** afforded coverage pursuant to this Clause 5(c) shall be the lesser of:

(a) the coverage which would have been provided under this **Coverage Section** for such **Claim** had the **Claim** been made during the **Policy Period** and reported to the **Insurer** as required by this **Coverage Section**; or

(b) the coverage, if any, which would have been provided under the **Prior AIG Policy** for such **Claim** if the **Insured** had properly provided notice of such **Claim** in accordance with the provisions of the **Prior AIG Policy**,

taking into account all provisions of each policy, including, without limitation, applicable limits of liability (as reduced by payments made under such policy), retentions, exclusions and other restrictions contained in each policy.

Notwithstanding the foregoing, nothing in this Clause 5(c) shall be construed to increase the **Limits of Liability** of this policy or to provide coverage under the **Prior AIG Policy**, nor shall this Clause 5(c) ever result in providing coverage under this policy for **Loss** for which coverage is in fact provided (or would be provided but for the exhaustion of the limit of liability) under the **Prior AIG Policy**.

3. This Clause 5(c) shall not apply to any **Claim** which:

(a) prior to the **Policy Period** was a **Litigated Matter**; or

(b) is a **Related Claim** with respect to a **Claim** which prior to the **Policy Period** was a **Litigated Matter**.

(d) *Relation Back to Reported Circumstances Which May Give Rise to a Claim*

If during the **Policy Period** or **Discovery Period** (if applicable) an **Organization** or an **Insured Person** becomes aware of and notifies the **Insurer** in writing of circumstances that may give rise to a **Claim** being made against an **Insured** and provides details as required below, then any **Claim** that is subsequently made against an **Insured** that arises from such circumstances and that is reported in accordance with Clause 5(a) above shall be deemed to have been first made at the time of the notification of circumstances for the purpose of establishing whether such subsequent **Claim** was first made during the **Policy Period** or during the **Discovery Period** (if applicable). Coverage for **Loss** arising from any such subsequent **Claim** shall only apply to **Loss** incurred after that subsequent **Claim** is actually made against an **Insured** and reported to the **Insurer**. In order to be effective, notification of circumstances must specify the facts, circumstances, nature of the alleged **Wrongful Act** anticipated and reasons for anticipating such **Claim**, with full particulars as to dates, persons and entities involved.

6. DISCOVERY PREMIUM

In the event the **Named Entity** or the **Insurer** shall cancel or refuse to renew this **Coverage Section**, the **Additional Premium Amount** for: (a) one year shall be no more than 125% of the **Full Annual Premium**; and (b) two to six years shall be an amount to be determined by the **Insurer**. As used herein, "**Full Annual Premium**" means the premium level in effect for this **Coverage Section** immediately prior to the end of the **Policy Period**.

In the event of a **Transaction**, the **Additional Premium Amount** shall be an amount to be determined by the **Insurer**.

7. DEFENSE AND SETTLEMENT

A. For Claims

(1) *No Duty to Defend*

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

(2) *Right to Tender Defense*

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

(3) *Advancement*

When the **Insurer** has not assumed the defense of a **Claim** pursuant to subparagraph (2) of this Clause 7, it shall advance, excess of any applicable Retention, covered **Defense Costs** on a current basis, but no later than ninety (90) days after the **Insurer** has received itemized bills for those **Defense Costs**. Such advance payments by the **Insurer** shall be repaid to the **Insurer** by each and every **Insured Person** or **Organization**, severally according to their respective interests, in the event and to the extent that any such **Insured Person** or **Organization** shall not be entitled under this **Coverage Section** to payment of such **Loss**.

(4) *Claims Participation and Cooperation*

When the **Insurer** has not assumed the defense of a **Claim** pursuant to subparagraph (2) of this Clause 7, the **Insurer** shall have the right, but not the obligation, to fully and effectively associate with each and every **Insured** in the defense and prosecution of any **Claim** that involves, or appears reasonably likely to involve the **Insurer**, including, but not limited to, negotiating a settlement. Each and every **Insured** shall give the **Insurer** full cooperation and such information as it may reasonably require.

The failure of any **Insured Person** to give the **Insurer** cooperation and information as required in the preceding paragraph shall not impair the rights of any other **Insured Person** under this **Coverage Section**.

The **Insureds** shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment or incur any **Defense Costs**, without the prior written consent of the **Insurer**. Such consent shall not be unreasonably withheld.

(5) *Full Settlement Within Retention/Consent Waived*

If all **Insured** defendants are able to dispose of all **Claims** which are subject to one Retention (inclusive of **Defense Costs**) for an amount not exceeding the Retention, then the **Insurer's** consent shall not be required for such disposition.

(6) *Settlement Opportunity*

In the event the **Insureds** do not consent to the first **Settlement Opportunity** within thirty (30) days of the date the **Insureds** are first made aware of the **Settlement Opportunity** (or in the case of a **Settlement Opportunity** which arises from a settlement offer by the claimant, then within the time permitted by the claimant to accept such settlement offer, but in all events no later than thirty (30) days after the settlement offer was made), then the **Insurer's** liability for all **Loss** on account of such **Claim** shall not exceed: (a) the amount for which the **Insurer** could have settled such **Claim** plus **Defense Costs** incurred as of the date such settlement was proposed in writing by the **Insurer** ("**Settlement Opportunity Amount**"), plus (b) 70% of covered **Loss** in excess of such **Settlement Opportunity Amount**, it being a condition of this insurance that the remaining 30% of such **Loss** excess of the **Settlement Opportunity Amount** shall be carried by the

Organization and the **Insureds** at their own risk and be uninsured. Notwithstanding the foregoing, this paragraph shall not apply unless the **Settlement Opportunity Amount** exceeds the remaining applicable Retention amount.

B. Pre-Authorized Defense Attorneys For Designated Employment Practices Claims

The list of approved panel counsel law firms ("**Panel Counsel**") is accessible through the online directory at <http://www.aig.com/us/panelcounseldirectory> under the "Public and Private Companies (Employment Practices Liability)" link. The list provides a choice of law firms from which a selection of legal counsel shall be made by the **Insureds** (or, in the event the **Insurer** has assumed the defense pursuant to Clause 7.A(2) of this **Coverage Section**, the **Insurer**) to conduct the defense of any **Designated Employment Practices Claim** made against the **Insureds**.

With the express prior written consent of the **Insurer**, an **Insured** may select a **Panel Counsel** different from that selected by another **Insured** defendant if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable. The list of **Panel Counsel** may be amended from time to time by the **Insurer**. However, if a firm is removed from the list during the **Policy Period**, the **Insureds** shall be entitled to select such firm to conduct the defense of any **Designated Employment Practices Claim** made against such **Insureds** during the **Policy Period**.

The **Insureds** (or, in the event the **Insurer** has assumed the defense pursuant to Clause 7.A of this **Coverage Section**, the **Insurer**) shall select a **Panel Counsel** to defend the **Designated Employment Practices Claim** made against the **Insureds** in the jurisdiction in which the **Designated Employment Practices Claim** is brought. In the event the **Claim** is brought in a jurisdiction not included on the list, **Panel Counsel** shall be selected in the listed jurisdiction which is the nearest geographic jurisdiction to either where the **Designated Employment Practices Claim** is brought or where the corporate headquarters of the **Named Entity** is located. In such instance the **Insureds** also may, with the express prior written consent of the **Insurer**, which consent shall not be unreasonably withheld, select a non-**Panel Counsel** in the jurisdiction in which the **Designated Employment Practices Claim** is brought to function as "local counsel" on the **Claim** to assist the **Panel Counsel** which will function as "lead counsel" in conducting the defense of the **Designated Employment Practices Claim**.

C. Pre-Approved E-Consultant Firms

The list of pre-approved **E-Consultant Firms** is accessible through the online directory at <http://www.aig.com/us/panelcounseldirectory> under the "e-Consultant Panel Members" link. The list provides the **Insureds** with a choice of firms from which a selection of an **E-Consultant Firm** shall be made. Any **E-Consultant Firm** may be hired by an **Insured** to perform **E-Discovery Consultant Services** without further approval by the **Insurer**.

8. SUBSIDIARY COVERAGE

A. Subsidiary Additions

In addition to the definition of "**Subsidiary**" set forth in Clause 12. DEFINITIONS of this **Coverage Section**, **Subsidiary** also means any for-profit entity: (1) of which the **Named Entity** first had **Management Control** during the **Policy Period**, whether directly or indirectly through one or more other **Subsidiaries**; and (2) whose:

- (a) total number of **Employees** is less than the lesser of: (i) 20% of the total **Employees** of each and every **Organization** as of the **Inception Date** of this policy; or (ii) five hundred (500); or

(b) total number of **Employees** does not satisfy the criteria set forth in subparagraph (a), above, but such entity shall be a "**Subsidiary**" only: (i) for a period of sixty (60) days from the date the **Named Entity** first had **Management Control** of such entity; or (ii) until the end of the **Policy Period**, whichever expires or ends first (the "**Auto-Subsidiary Period**");

provided that, with respect only to entities described in subparagraph (b) above, the **Named Entity** or any other **Insured** shall report such **Subsidiary** to the **Insurer**, in writing, prior to the end of the **Policy Period**.

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

B. Former Subsidiaries

In the event the **Named Entity** loses **Management Control** of a **Subsidiary** during or prior to the **Policy Period**, coverage with respect to such **Subsidiary** and its **Insured Persons** shall continue until termination of this policy but only with respect to **Claims** for **Wrongful Acts** that occurred or are alleged to have occurred during the time that the **Named Entity** had **Management Control** of such entity either directly or indirectly through one or more of its **Subsidiaries**.

C. Scope Of Subsidiary Coverage

Coverage as is afforded under this **Coverage Section** with respect to a **Claim** made against any **Subsidiary** and/or any **Insured Person** thereof shall only apply for **Wrongful Acts** committed or allegedly committed during the time that such **Subsidiary** and such **Insured Person** meet the respective definitions of **Subsidiary** and **Insured Person** set forth in this **Coverage Section**.

9. APPLICATION AND UNDERWRITING

A. Application And Reliance

The **Insurer** has relied upon the accuracy and completeness of the statements, warranties and representations contained in the **Application**. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

B. Severability Of The Application

The **Application** shall be construed as a separate application for coverage by each **Insured Person**. With respect to the **Application**, no knowledge possessed by any **Organization** or any **Insured Person** shall be imputed to any other **Insured Person**.

If the statements, warranties and representations in the **Application** were not accurate and complete and materially affected either the acceptance of the risk or the hazard assumed by the **Insurer** under this **Coverage Section**, then the **Insurer** shall have the right to void coverage under this **Coverage Section**, *ab initio*, with respect to:

(1) **Loss** of any **Insured Person** who knew, as of the inception date of the **Policy Period**, the facts

that were not accurately and completely disclosed; and

- (2) **Loss** of an **Organization**, if any **Insured Person** who is or was a chief executive officer, general counsel, director of human resources or risk manager (or equivalent position) of the **Named Entity** knew, as of the inception date of the **Policy Period**, the facts that were not accurately and completely disclosed.

The foregoing applies even if the **Insured Person** did not know that such incomplete or inaccurate disclosure had been provided to the **Insurer** or included within the **Application**.

10. PAYMENTS AND OBLIGATIONS OF ORGANIZATIONS AND OTHERS

A. *Other Insurance And Indemnification*

Unless expressly written to be excess over other applicable insurance, it is intended that the insurance provided by this **Coverage Section** shall be primary.

In the event a **Claim** is made against an **Outside Entity Executive**, or a **Claim** is made against an **Insured** for the **Insured's** liability with respect to a leased **Employee** or independent contractor **Employee** as described in the definition of "**Employee**", coverage as is afforded by this **Coverage Section** shall be specifically excess of any: (a) indemnification provided by such **Outside Entity** or leasing company; and (b) any other insurance provided to such **Outside Entity**, leasing company or independent contractor.

B. *Subrogation*

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Organizations'** and **Insureds'** rights of recovery. Each **Organization** and each **Insured Person** shall execute all papers reasonably required and provide reasonable assistance and cooperation in securing or enabling the **Insurer** to exercise subrogation rights or any other rights, directly or in the name of the **Organization** or any **Insured Person**.

In the event that the **Insurer** shall for any reason pay **Loss** on behalf of an **Insured Person**, the **Insurer's** subrogation rights shall include, but not be limited to, the assertion of indemnification or contribution rights with respect to any such payments it makes or advances. Additionally, upon the **Insurer** making any payment of **Loss** within the Retention on behalf of any **Insured**, the **Insurer** shall have a direct contractual right under this policy to recover from the **Organization**, or in the event of the bankruptcy of the **Organization**, from the debtor-in-possession (or equivalent status outside the United States) such **Loss** which was paid within the Retention. Such direct contractual right of recovery against the **Organization** shall be in addition to and independent of the **Insurer's** subrogation right pursuant to this Clause 10.B and any other rights the **Insurer** may have under applicable law.

In no event, however, shall the **Insurer** exercise its rights of subrogation against an **Insured** under this **Coverage Section** unless the Conduct Exclusion applies with regard to such **Insured**; provided, however, this sentence shall not apply to subrogation against the **Organization** as described in the second paragraph of this Clause 10.B.

11. ALTERNATIVE DISPUTE RESOLUTION

ADR Options

All disputes or differences which may arise under or in connection with this **Coverage Section**, whether arising before or after termination of this policy, including any determination of the amount of **Loss**, shall be submitted to an alternative dispute resolution (ADR) process as provided in this Clause. The **Named Entity** may elect the type of ADR process discussed below; provided, however, that absent a timely election, the **Insurer** may elect the type of ADR. In that case, the **Named Entity** shall have the right to reject the **Insurer's** choice of the type of ADR process at any time prior to its commencement, after which, the **Insured's** choice of ADR shall control.

Mediation

In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least ninety (90) days shall have elapsed from the date of the termination of the mediation.

Arbitration

In the event of arbitration, the decision of the arbitrator(s) shall be final, binding and provided to both parties, and the arbitration award shall not include attorney's fees or other costs.

ADR Process

Selection of Arbitrator(s) or Mediator: The **Insurer** and the **Named Entity** shall mutually consent to: (i) in the case of arbitration, an odd number of arbitrators which shall constitute the arbitration panel, or (ii) in the case of mediation, a single mediator. The arbitrator, arbitration panel members or mediator must be disinterested and have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. In the absence of agreement, the **Insurer** and the **Named Entity** each shall select one arbitrator, the two arbitrators shall select a third arbitrator, and the panel shall then determine applicable procedural rules.

ADR Rules: In considering the construction or interpretation of the provisions of this policy, the mediator or arbitrator(s) must give due consideration to the general principles of the law of the **State of Formation** of the **Named Entity**. Each party shall share equally the expenses of the process elected. At the election of the **Named Entity**, either choice of ADR process shall be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state reflected in the **Named Entity Address**. The **Named Entity** shall act on behalf of each and every **Insured** under this *Alternative Dispute Resolution Clause*. In all other respects, the **Insurer** and the **Named Entity** shall mutually agree to the procedural rules for the mediation or arbitration. In the absence of such an agreement, after reasonable diligence, the arbitrator(s) or mediator shall specify commercially reasonable rules.

12. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

Administrative Claim

means an administrative or regulatory investigation:

- (1) by the **EEOC**; or
- (2) of a violation of the Uniformed Services Employment and Reemployment Rights Act, when such investigation is conducted by the United States Department of Labor, Veterans Employment and Training Service, Justice Department or Office of Special Counsel;

which, in either case, is commenced by the filing of a notice of charges or similar document of which notice has been given to an **Insured**.

The term "**Administrative Claim**" shall not mean or include any **Litigated Matter**.

Application

means:

- (1) the written statements and representations made by an **Insured** and provided to the **Insurer** during the negotiation of this policy, or contained in any application or other materials or information provided to the **Insurer** in connection with the underwriting of this policy; and
- (2) all warranties executed by or on behalf of an **Insured** and provided to the **Insurer** in connection with the underwriting of this policy or the underwriting of any other employment practices (or equivalent) liability policy issued by the **Insurer**, or any of its affiliates, of which this policy is a renewal, replacement or which it succeeds in time.

Claim

means:

- (1) a written demand for monetary, non-monetary or injunctive relief, including, but not limited to, any demand for mediation, arbitration or any other alternative dispute resolution process, or any request to toll or waive the statute of any limitations;
- (2) a civil, criminal, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by: (a) service of a complaint or similar pleading; (b) return of an indictment, information or similar document (in the case of a criminal proceeding); or (c) receipt or filing of a notice of charges;
- (3) an administrative or regulatory investigation by the **EEOC**, which is commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to an **Insured**; or
- (4) an administrative or regulatory investigation of violations of the Uniformed Services Employment and Reemployment Rights Act when such investigation is conducted by the United States Department of Labor, Veterans Employment and Training Service, Justice Department

or Office of Special Counsel and is commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to an **Insured**.

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

Class Action Claim means any **Claim** brought: (1) by or on behalf of an actual or alleged class (whether or not certified as such); or (2) by the **EEOC** on behalf of any group of three or more complainants, plaintiffs or potentially aggrieved parties.

Class Action Retention means the Retention applicable to **Loss** that arises out of a **Class Action Claim**.

Defense Costs means reasonable and necessary fees, costs and expenses consented to by the **Insurer** (including the cost of **E-Discovery Consultant Services** and premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and/or appeal of a **Claim** against an **Insured**. **Defense Costs** shall not include the compensation of any **Insured Person**.

Designated Employment Practices Claim means a **Claim**: (1) alleging discrimination or **Retaliation**; or (2) that is a **Class Action Claim**.

EEOC means the Equal Employment Opportunity Commission, or any similar state, local or foreign agency.

Employee means any past, present or future employee, whether such employee is in a supervisory, co-worker or subordinate position or otherwise, including any full-time, part-time, seasonal and temporary employee, in his or her capacity as such. An individual who is leased to the **Organization** or is contracted to perform work for the **Organization**, or who is an independent contractor for the **Organization**, shall also be an **Employee**.

Employment Practices Violation means any actual or alleged:

- (1) wrongful dismissal, discharge or termination (either actual or constructive) of employment, including breach of an implied contract;
- (2) harassment (including workplace bullying, sexual harassment whether "quid pro quo", hostile work environment or otherwise, including "same-sex" sexual harassment);
- (3) discrimination (including, but not limited to, discrimination based upon age, gender, gender identity or expression, race, color, national origin, religion, sexual orientation or preference, genetic information, pregnancy, military status, employment status or disability);
- (4) **Retaliation**;
- (5) employment-related misrepresentation(s) to an **Employee** of any **Organization**;
- (6) employment-related libel, slander, humiliation, defamation or invasion of privacy;

- (7) false arrest or false imprisonment;
- (8) wrongful failure to employ or promote;
- (9) wrongful deprivation of career opportunity, wrongful demotion or negligent **Employee** evaluation, including the giving of negative or defamatory statements in connection with an employee reference;
- (10) wrongful discipline;
- (11) failure to grant tenure; or
- (12) with respect to any of the foregoing items (1) through (11) of this definition: negligent hiring, retention, training or supervision, infliction of emotional distress or mental anguish, failure to provide or enforce adequate or consistent corporate policies and procedures, or violation of an individual's civil rights;

but only if the **Employment Practices Violation** relates to an **Employee** of or an applicant for employment with an **Organization** or an **Outside Entity**, whether committed directly, indirectly, intentionally or unintentionally.

Executive

means any:

- (1) past, present and future duly elected or appointed director, officer, trustee or governor of a corporation, management committee member of a joint venture or member of the management board of a limited liability company (or equivalent position), in his or her capacity as such; and
- (2) past, present and future person in a duly elected or appointed position in an entity organized and operated in a **Foreign Jurisdiction** that is equivalent to an executive position listed in subparagraph (1) above, or a member of the senior-most executive body (including, but not limited to, a supervisory board), in his or her capacity as such.

Financial Insolvency

means: (1) the appointment by any government official, agency, commission, court or other governmental authority of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate an insolvent **Organization**; (2) the filing of a petition under the bankruptcy laws of the United States of America; or (3), as to both (1) or (2), any equivalent events outside the United States of America.

Foreign Policy

means the standard employment practices liability policy (including all mandatory endorsements, if any) approved by the **Insurer** or any of its affiliates to be sold within a **Foreign Jurisdiction** that provides coverage substantially similar to the coverage afforded under this **Coverage Section**. If more than one such policy exists, then "**Foreign Policy**" means the standard basic policy form most recently offered for sale for comparable risks by the **Insurer** or any of its affiliates in that **Foreign Jurisdiction**.

Insured

means any:

- (1) **Insured Person**; or

(2) **Organization.**

Insured Person

means any:

(1) **Executive** of an **Organization**;

(2) **Employee** of an **Organization**; provided, however, an individual who is leased to the **Organization** or is contracted to perform work for the **Organization**, or who is an independent contractor for the **Organization**, shall be an **Insured Person** only if the **Organization** provides indemnification to such individual in the same manner as is provided to the **Organization's** employees; or

(3) **Outside Entity Executive.**

Litigated Matter

means any civil, criminal, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by: (1) service of a complaint or similar pleading; or (2) return of an indictment, information or similar document (in the case of a criminal proceeding).

Loss

means damages, settlements, judgments (including back pay and front pay, pre/post-judgment interest on a covered judgment), and **Defense Costs**; however, "**Loss**" shall not include: (1) civil or criminal fines or penalties; (2) taxes; (3) any amounts for which an **Insured** is not financially liable or which are without legal recourse to an **Insured**; (4) employment-related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation; (5) any liability or costs incurred by any **Insured** to modify any building or property in order to make said building or property more accessible or accommodating to any disabled person; or any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar relating to a **Claim** alleging discrimination or other **Wrongful Act**; and (6) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed. **Defense Costs** shall be provided for items specifically excluded from **Loss** pursuant to subparagraphs (1) through (6) above of this Definition, subject to the other terms, conditions and exclusions of this policy.

Loss shall specifically include (subject to this policy's other terms, conditions and limitations, including but not limited to the Conduct Exclusion), punitive, exemplary and multiple damages (including the multiple or liquidated damages awards under the Age Discrimination in Employment Act and the Equal Pay Act). Enforceability of this paragraph shall be governed by such applicable law that most favors coverage for such penalties and punitive, exemplary and multiple damages.

Loss shall also include any attorney fees awarded to a prevailing plaintiff's counsel pursuant to a covered judgment against an **Insured** or which the **Insurer** has agreed to pay as part of a covered settlement of a **Claim** against an **Insured**.

Management Control

means:

- (1) owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of: the Board of Directors of a corporation; the management committee members of a joint venture; or the members of the management board of a limited liability company; or
- (2) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an **Organization**, to elect, appoint or designate a majority of: the Board of Directors of a corporation; the management committee of a joint venture; or the management board of a limited liability company.

Outside Entity

means any: (1) not-for-profit entity; or (2) other entity listed as an “**Outside Entity**” in an endorsement attached to this **Coverage Section**.

Outside Entity Executive

means any: (1) **Executive** or **Employee** of an **Organization** who is or was acting at the specific request or direction of an **Organization** as an **Executive** of an **Outside Entity**, in his or her capacity as such; or (2) any other person listed as an **Outside Entity Executive** in an endorsement attached to this **Coverage Section**, in his or her capacity as such.

In the event of a disagreement between the **Organization** and an **Outside Entity Executive** as to whether such **Insured** was acting “at the specific request or direction of the **Organization**,” this **Coverage Section** shall abide by the determination of the **Organization** on this issue and such determination shall be made by written notice to the **Insurer** within ninety (90) days after the **Claim** against such **Outside Entity Executive** is made. In the event no notice of any such determination is given to the **Insurer** within such period, this **Coverage Section** shall apply as if the **Organization** determined that such **Outside Entity Executive** was not acting at the **Organization’s** specific request or direction.

Prior AIG Policy

means a valid and collectible employment practices liability policy providing substantially the same or similar coverage as is provided by this **Coverage Section**, issued to the **Name Entity** by the **Insurer** (or any other insurance company affiliate thereof), of which this **Coverage Section** is a continuous renewal.

Related Claim

means a **Claim** alleging, arising out of, based upon or attributable to any facts or **Wrongful Acts** that are the same as or related to those that were alleged in another **Claim** made against an **Insured**.

Retaliation

means a retaliatory act of an **Insured** alleged to be in response to the actual or attempted exercise by an **Employee** of the **Organization** or an **Outside Entity** of any right that such **Employee** has under law, including, without limitation, any of the following activities: (1) the disclosure or threat of disclosure by an **Employee** of the **Organization** or an **Outside Entity** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder; (2) the exercise of rights under worker’s compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law

relating to employee rights; (3) the filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign "whistle-blower" law; or (4) strikes of an **Employee** of the **Organization** or an **Outside Entity**.

**Settlement
Opportunity**

means an **Insurer** recommended settlement that is within the **Policy Aggregate** and the applicable **Separate Limit of Liability** or **Shared Limit of Liability**, and that is acceptable to the claimant.

Subsidiary

means:

(1) any for-profit entity of which the **Named Entity** has or had **Management Control** on or before the **Inception Date** of the policy either directly or indirectly through one or more of its other **Subsidiaries**; and

(2) any not-for-profit entity sponsored exclusively by an **Organization**.

A for-profit entity ceases to be a **Subsidiary** when the **Named Entity** no longer maintains **Management Control** of such entity either directly or indirectly through one or more of its **Subsidiaries**. A not-for-profit entity ceases to be a **Subsidiary** when such entity is no longer sponsored exclusively by an **Organization**.

**Third-Party
Violation**

means any actual or alleged harassment or unlawful discrimination, as described in subparagraphs (2) and (3) of the definition of **Employment Practices Violation**, or the violation of the civil rights of an individual relating to such harassment or discrimination, when such acts are alleged to be committed against any individual other than an **Insured Person** or applicant for employment with the **Organization** or with an **Outside Entity**, including, but not limited to, students, patients, members, customers, vendors and suppliers.

**Third Party
Retention**

means the Retention applicable to **Loss** that arises out of any **Third-Party Violation** alleging a **Third-Party Violation**.

Wrongful Act

means any **Employment Practices Violation**, **Third-Party Violation** or **Wrongful Internet Activity**.

**Wrongful Internet
Activity**

means any actual or alleged:

(1) **Employment Practices Violation** alleged by an **Employee**; or

(2) **Third Party Violation**,

when committed by an **Employee** by means of the internet, including, but not limited to, social networking activities, regardless of whether such internet activity is during or after work hours or on or off the work premises. For purposes of the application of this definition, an individual shall be deemed to be an **Employee** regardless of whether such individual was acting in his or her capacity as an **Employee**.



FIDUCIARY LIABILITY INSURANCE EDGE[®] EMPLOYEE BENEFIT PLAN FIDUCIARY LIABILITY ("FLI Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **FLI Coverage Section**, unless otherwise explicitly stated to the contrary in this **FLI Coverage Section**.

In consideration of the payment of the premium and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to: (i) **Claims** first made against an **Insured**; and (ii) **Voluntary Compliance Losses** first ascertained by or assessed against an **Insured**, in each such event, during the **Policy Period** or any applicable **Discovery Period** and reported to the **Insurer** as required by this **Coverage Section**. **Claims** that are fact-finding investigations which do not allege a **Wrongful Act** and **Claims** that are **Internal Appeals** shall each be deemed first made when they are reported. Subject to the foregoing and the other terms, conditions, and limitations of this policy, this **Coverage Section** affords the following coverage:

A. *Insured Person Coverage*

This policy shall pay the **Loss** of any **Insured Person** that no **Organization** or **Plan** has indemnified or paid, and that arises from any **Claim**:

- (1) made against such **Insured Person** for any **Wrongful Act** of such **Insured Person**; or
- (2) that is a fact-finding investigation which does not allege in writing a **Wrongful Act** or that is an **Internal Appeal**, if an **Insured** elects to give notice.

B. *Indemnification of Insured Person Coverage*

This policy shall pay the **Loss** of an **Organization** or **Plan** that arises from any **Claim**:

- (1) made against any **Insured Person** for any **Wrongful Act** of such **Insured Person**; or
- (2) that is a fact-finding investigation which does not allege in writing a **Wrongful Act** or that is an **Internal Appeal**, if an **Insured** elects to give notice;

but only to the extent that such **Organization** or **Plan** has indemnified such **Loss** of, or paid such **Loss** on behalf of, the **Insured Person**.

C. *Organization And Plan Coverage*

This policy shall pay the **Loss** of any **Organization** or **Plan** arising from any **Claim**:

- (1) made against such **Organization** or **Plan** for any **Wrongful Act** of such **Organization** or **Plan** (or of any employee for whom such **Organization** is legally responsible); or
- (2) that is a fact-finding investigation which does not allege in writing a **Wrongful Act** or that is an **Internal Appeal**, if an **Insured** elects to give notice.

D. Voluntary Compliance Loss Coverage

This policy shall pay any **Voluntary Compliance Loss** first ascertained by or assessed against an **Insured**, subject to the aggregate sublimit of liability set forth in Clause 7 of this **Coverage Section**.

The payment of any **Voluntary Compliance Loss** under this policy shall not waive any of the **Insurer's** rights under this policy or at law, including in the event that circumstances giving rise to such **Voluntary Compliance Loss** result in a **Claim**.

2. EXTENSIONS

A. Settlor Capacity

Wrongful Act shall include any actual or alleged act, error or omission by an **Insured** in a settlor capacity as respects a **Plan**.

B. Disproven Allegation Protection

In the event that an allegation which triggers potential coverage under this **Coverage Section** is disproven, so that a **Claim** is outside the scope of coverage under this **Coverage Section**, the **Insurer** shall not seek recovery of amounts that it has previously paid. Situations that would trigger this protection include, but are not limited to when it is proven that:

- (1) an **Executive** or employee of the **Organization** who was alleged to be a **Plan** fiduciary was not in fact a **Plan** fiduciary;
- (2) an alleged **Plan** was not a plan or was not a covered **Plan**; or
- (3) an **Organization** alleged to be the sponsor of a **Plan** was not in fact the sponsor of such plan.

C. Independent Fiduciary Fees

Loss shall include reasonable and necessary fees and expenses of an independent fiduciary if such fiduciary is retained to review a proposed settlement of a covered **Claim**. **Loss** shall also include reasonable and necessary fees and expenses of any law firm hired by such independent fiduciary to facilitate a review of such proposed settlement.

D. Managed Care Coverage

This policy shall pay the **Loss** of an **Insured** arising from a **Claim** made against such **Insured** alleging improper or negligent selection of a **Managed Care Services** provider or denial or delay of any benefit under a health care, pharmaceutical, vision, or dental **Plan** of an **Insured**.

E. LMRA Coverage

If, and during the time that, coverage is provided under this **Coverage Section**, then this policy shall also pay the **Loss** of an **Insured** arising from an allegation that such **Insured** violated Section 301 of the Labor Management Relations Act ("LMRA") relating to alleged violations of collectively bargained contracts in connection with a **Plan**.

F. First Dollar E-Discovery Consultant Services

For any **Claim**, no Retention shall apply to the first \$25,000 in **Defense Costs** incurred as **E-Discovery Consultant Services**.

G. Global Liberalization

For **Loss** from that portion of any **Claim** maintained in a **Foreign Jurisdiction** or to which the law of a **Foreign Jurisdiction** is applied, the **Insurer** shall apply the terms and conditions of this **Coverage Section** as amended to include those of the **Foreign Policy** in the **Foreign Jurisdiction** that are more favorable to **Insureds** in the **Foreign Jurisdiction**. This *Global Liberalization Clause*

shall not apply to any provision of any policy that has worldwide effect, including but not limited to any provision addressing limits of liability (primary, excess or sublimits), retentions, other insurance, non-renewal, duty to defend, defense within or outside the limits, taxes, conformance to law or excess liability coverage, any claims made provisions, and any endorsement to this policy that excludes or limits coverage for specific events or litigation or that specifically states that it will have worldwide effect.

3. INDEMNIFICATION PROTECTIONS

A. *Advancement*

If for any reason (including, but not limited to insolvency) an **Organization** and the relevant **Plan** fail or refuse to advance, pay or indemnify covered **Loss** of an **Insured Person** within the applicable Retention, if any, then the **Insurer** shall advance such amounts on behalf of the **Insured Person** until either (i) an **Organization** or **Plan** has agreed to make such payments, or (ii) the Retention has been satisfied. In no event shall any such advancement by the **Insurer** relieve any **Organization** or any relevant **Plan** of any duty it may have to provide advancement, payment or indemnification to any **Insured Person**.

Advancement, payment or indemnification of an **Insured Person** by the **Organization** or **Plan** is deemed "failed" if it has been requested by an **Insured Person** in writing and has not: been provided by; agreed to be provided by; or acknowledged as an obligation by an **Organization** or **Plan** within sixty (60) days of such request; and advancement, payment or indemnification by the **Organization** or **Plan** is deemed "refused" if such **Organization** or **Plan** gives a written notice of the refusal to the **Insured Person**. Advancement, payment or indemnification of an **Insured Person** by the **Organization** or **Plan** shall only be deemed "failed" or "refused" to the extent such advancement, payment or indemnification is not: provided; agreed to be provided; or acknowledged by and collectible from any **Organization** or **Plan**. Any payment or advancement by the **Insurer** within an applicable Retention shall apply toward the exhaustion of the **Limits of Liability**.

B. *Order Of Payments*

In the event of a **Loss** arising from a covered **Claim** for which payment is due under the provisions of this **Coverage Section**, the **Insurer** shall in all events:

- (1) First, pay all **Loss** covered under Insuring Agreement A. *Insured Person Coverage*;
- (2) Second, only after payment of **Loss** has been made pursuant to subparagraph (1) above and to the extent that any amount of the applicable **Separate Limit of Liability** or **Shared Limit of Liability** shall remain available, at the written request of the chief executive officer of the **Named Entity**, either pay or withhold payment of **Loss** covered under Insuring Agreement B. *Indemnification Of Insured Person Coverage*; and
- (3) Lastly, only after payment of **Loss** has been made pursuant to subparagraphs (1) and (2) above and to the extent that any amount of the applicable **Separate Limit of Liability** or **Shared Limit of Liability** shall remain available, at the written request of the chief executive officer of the **Named Entity**, either pay or withhold payment of **Loss** covered under Insuring Agreement C. *Organization and Plan Coverage* and Insuring Agreement D. *Voluntary Compliance Loss Coverage*.

In the event the **Insurer** withholds payment pursuant to subparagraphs (2) and/or (3) above, then the **Insurer** shall, at such time and in such manner as shall be set forth in instructions of the chief executive officer of the **Named Entity**, remit such payment to an **Organization** or directly to or on behalf of an **Insured**.

4. DEFENSE AGREEMENTS

A. *Insurer's Duty to Defend*

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

The **Insured** shall have the right to effectively associate with the **Insurer** in the defense of any **Claim**, including, but not limited to negotiating a settlement, subject to the provisions of this Clause 4. The **Insurer** shall not, however, be obligated to defend any **Claim** after the **Policy Aggregate** or any applicable **Separate Limit of Liability** or **Shared Limit of Liability** has been exhausted.

B. *Insured's Option to Assume Defense*

Notwithstanding the above, the **Insureds** shall have the right to assume the defense of any **Claim** made against them. This right shall be exercised in writing by the **Named Entity** on behalf of all **Insureds** within sixty (60) days of the reporting of the **Claim** to the **Insurer**. Upon receipt of such written request, the **Insurer** shall tender the defense of the **Claim** to the **Insureds**. Once the defense has been so tendered, the **Insurer** cannot re-assume the defense of the **Claim**. The **Insurer** shall have the right, but not the obligation, to effectively associate with the **Insureds** in the defense of any **Claim** that involves or appears reasonably likely to involve the **Insurer**, including, but not limited to negotiating a settlement. Provided that the **Insurer** shall be permitted to effectively associate with the **Insureds** in the defense of any **Claim**, the **Insurer's** consent to settlements, stipulated judgments and **Defense Costs** shall not be unreasonably withheld.

C. *Advancement of Defense Costs*

If the **Insureds** against whom a **Claim** is made exercise their right to assume the defense of such **Claim**, the **Insurer** shall advance, excess of any applicable Retention, covered **Defense Costs**, on a current basis, but no later than ninety (90) days after the **Insurer** has received itemized bills for those **Defense Costs**. Such advance payments by the **Insurer** shall be repaid to the **Insurer** by each and every **Insured**, severally according to their respective interests, in the event and to the extent that any such **Insured** shall not be entitled under this **Coverage Section** to payment of such **Loss**.

D. *Claims Participation and Cooperation*

The **Insureds** shall give the **Insurer** full cooperation and such information as it may reasonably require.

The failure of any **Insured** to give the **Insurer** cooperation and information as it may reasonably require shall not impair the rights of any **Insured Person** under this **Coverage Section**.

The **Insureds** shall contest any **Claim** made against them and shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment or incur any **Defense Costs**, without the prior written consent of the **Insurer**.

E. *Full Settlement Within Retention/ Consent Waived*

If all **Insured** defendants are able to dispose of all **Claims** which are subject to one Retention (inclusive of **Defense Costs**) for an amount not exceeding the Retention, then the **Insurer's** consent shall not be required for such disposition.

5. EXCLUSIONS

A. Full Severability Of Exclusions

In determining whether any of the exclusions set forth in Clause 5.B below apply, the **Wrongful Acts** of any **Insured** shall not be imputed to any other **Insured**.

B. Exclusions

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

- (1) *Conduct* arising out of, based upon or attributable to any:
 - (a) profit or advantage to which the **Insured** was not legally entitled; or
 - (b) deliberate criminal or deliberate fraudulent act, or any knowing or willful violation of any statute, rule or law, including, but not limited to **Employee Benefit Law**, by the **Insured**;if established by any final, non-appealable adjudication in any action or proceeding other than an action or proceeding initiated by the **Insurer** to determine coverage under the policy;
- (2) *Pending & Prior Litigation* alleging, arising out of, based upon or attributable to, as of the **Continuity Date**, any pending or prior: (a) litigation; or (b) administrative or regulatory proceeding or investigation of which any **Insured** had notice; or alleging or derived from the same or essentially the same facts as alleged in such pending or prior litigation or administrative or regulatory proceeding or investigation;
- (3) *Discrimination* for discrimination in violation of any law, except that this exclusion shall not apply to discrimination in violation of **Employee Benefit Law**;
- (4) *Bodily Injury & Property Damage* for bodily injury, sickness, disease, or death of any person, or damage to or destruction of any tangible property, including the loss of use thereof; provided, however, this exclusion shall not apply to: (a) **Defense Costs** incurred in the defense of a **Claim** for a violation of **ERISA** by an **Insured**; or (b) the coverage afforded under Extension 2.D. *Managed Care Coverage*; or
- (5) *Prior Notice* alleging, arising out of, based upon or attributable to the facts alleged, or to the same or related **Wrongful Act** alleged or contained, in any claim which has been reported, or in any circumstances of which notice has been given under any employee benefit plan fiduciary liability insurance policy in force prior to the **Inception Date** of this policy.

6. RETENTION

In addition to the provisions of Clause 2. RETENTION of the **General Terms and Conditions**, in no event shall a Retention be applied to the following: (i) **Non-Indemnifiable Loss**; (ii) **Voluntary Compliance Loss**; (iii) **Section 502(c) Penalties**; (iv) **Pension Protection Act Penalties**; (v) **HIPAA Penalties**; (vi) **Health Care Reform Penalties**; (vii) **Section 4975 Penalties**, or (viii) the first \$25,000 in **Defense Costs** incurred for **E-Discovery Consultant Services**.

7. LIMITS OF LIABILITY

In addition to the provisions of Clause 3. LIMITS OF LIABILITY of the **General Terms and Conditions**, the following sublimits shall apply to the coverage provided by this **Coverage Section**:

<i>(a) Voluntary Compliance Loss:</i>	<i>\$250,000 or 5% of the Separate Limit of Liability or Shared Limit of Liability stated in the Declarations for this Coverage Section, whichever is less</i>
<i>(b) Section 502(c) Penalties:</i>	<i>\$250,000 or 5% of the Separate Limit of Liability or Shared Limit of Liability stated in the Declarations for this Coverage Section, whichever is less</i>
<i>(c) Pension Protection Act Penalties:</i>	<i>\$250,000 or 5% of the Separate Limit of Liability or Shared Limit of Liability stated in the Declarations for this Coverage Section, whichever is less</i>
<i>(d) HIPAA Penalties:</i>	<i>\$1.5 million or the Separate Limit of Liability or Shared Limit of Liability stated in the Declarations for this Coverage Section, whichever is less</i>
<i>(e) Health Care Reform Penalties:</i>	<i>\$250,000 or 5% of the Separate Limit of Liability or Shared Limit of Liability stated in the Declarations for this Coverage Section, whichever is less</i>
<i>(f) Section 4975 Penalties:</i>	<i>\$250,000</i>

As stated in Clause 3 of the **General Terms and Conditions**, each sublimit of liability in this policy is the maximum limit of the **Insurer's** liability for all **Loss** in the aggregate under this policy that is subject to that sublimit of liability. All sublimits of liability shall be part of, and not in addition to, the **Policy Aggregate** and this **Coverage Section's** applicable **Separate Limit of Liability** or **Shared Limit of Liability**.

8. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

A. *Reporting a Claim*

The **Insured(s)** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, notify the **Insurer** in writing of a **Claim** made against an **Insured** as soon as practicable after the **Named Sponsor's** Risk Manager or General Counsel (or equivalent position) first becomes aware of the **Claim**. In all such events, notification must be provided no later than:

- (i) sixty (60) days after the end of the **Policy Period** or the **Discovery Period** (if applicable) if this **Coverage Section** is not renewed with the **Insurer**; or
- (ii) two hundred and seventy (270) days after the end of the **Policy Period** or **Discovery Period** (if applicable) if the expiring **Coverage Section** is renewed with the **Insurer**.

As exceptions to the foregoing notice provision the **Insureds** shall have no obligation to give notice of:

- (1) a fact-finding investigation before the earliest of the time that: (i) it becomes a **Litigated Matter**; (ii) a **Wrongful Act** is alleged in writing; or (iii) any **Insured** has incurred defense costs for which coverage is being sought; or
- (2) an **Internal Appeal** before the earliest of the time that: (i) it becomes a **Litigated Matter**; (ii) any investment loss within a **Plan** is alleged; or (iii) any **Insured** has incurred defense costs for which coverage is being sought.

B. *Reporting Voluntary Compliance Loss and Covered Penalties*

The **Insured(s)** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, notify the **Insurer** in writing of a **Voluntary Compliance Loss** or of **Covered Penalties** as soon as practicable after such **Voluntary Compliance Loss** is first ascertained by or assessed against an **Insured**, or such **Covered Penalties** are first imposed, respectively, but in all such events no later than sixty (60) days after the end of the **Policy Period** or the **Discovery Period** (if applicable).

C. *Relation Back to the First Reported Claim*

Solely for the purpose of establishing whether any subsequent **Related Claim** was first made during the **Policy Period** or **Discovery Period** (if applicable), if during any such period a **Claim** was first made and reported in accordance with Clause 8.A. above, then any **Related Claim** which is subsequently made against an **Insured** and that is reported to the **Insurer** shall be deemed to have been first made at the time that such previously reported **Claim** was first made.

With respect to any subsequent **Related Claim**, this policy shall only cover **Loss** incurred after such subsequent **Related Claim** is actually made against an **Insured**.

D. *Relation Back to Reported Circumstances Which May Give Rise to a Claim*

If during the **Policy Period** or **Discovery Period** (if applicable) an **Insured** becomes aware of and notifies the **Insurer** in writing of circumstances that may give rise to a **Claim** being made against an **Insured** and provides details as required below, then any **Claim** that is subsequently made against an **Insured** that arises from such circumstances and that is reported in accordance with Clause 8.A. above shall be deemed to have been first made at the time of the

notification of circumstances for the purpose of establishing whether such subsequent **Claim** was first made during the **Policy Period** or during the **Discovery Period** (if applicable). Coverage for **Loss** arising from any such subsequent **Claim** shall only apply to **Loss** incurred after that subsequent **Claim** is actually made against an **Insured**. In order to be effective, notification of circumstances must specify the facts, circumstances, nature of the anticipated alleged **Wrongful Act** and reasons for anticipating such **Claim**, with dates, persons and entities potentially involved; however, notification that includes a copy of an agreement to toll a statute of limitations shall be presumed sufficiently specific as to the potential **Claims** described within that agreement.

9. DISCOVERY PREMIUM

In the event the **Named Entity** shall cancel or the **Named Entity** or the **Insurer** shall refuse to renew this **Coverage Section**, the **Additional Premium Amount** for: (a) one year shall be no more than 125% of the **Full Annual Premium**; and (b) two to six years shall be an amount to be determined by the **Insurer**. As used herein, "**Full Annual Premium**" means the premium level in effect for this **Coverage Section** immediately prior to the end of the **Policy Period**.

In the event of a **Transaction**, the **Additional Premium Amount** shall be an amount to be determined by the **Insurer**.

10. PANEL COUNSEL AND E-CONSULTANT FIRMS

A. Pre-Authorized Defense Attorneys

The list of approved panel counsel law firms ("**Panel Counsel**") is accessible through the online directory at <http://www.aig.com/us/panelcounseldirectory> under the "Fiduciary Liability (ERISA & Non-ERISA)" link. The list provides **Insureds** with a choice of law firms from which a selection of legal counsel shall be made to conduct the defense of any: (1) **Claim** brought by any government entity, or (2) **Claim** brought in the form of a class or representative action (collectively "**Designated Claim**").

In the event the **Insurer** is operating under a duty to defend pursuant to Clause 4.A. of this **Coverage Section**, then the **Insurer** shall select a **Panel Counsel** to defend the **Insureds** in a **Designated Claim**. Upon the written request of the **Named Entity**, the **Insurer** may consent to a different **Panel Counsel** selected by the **Named Entity** to defend the **Insureds**, which consent shall not be unreasonably withheld.

In the event the **Insureds** have assumed the defense of the **Claim** pursuant to Clause 4.B. of this **Coverage Section**, then the **Insureds** shall select a **Panel Counsel** to defend the **Insured** in a **Designated Claim**. In addition, with the express prior written consent of the **Insurer**, an **Insured** may select a **Panel Counsel** different from that selected by another **Insured** defendant if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable.

The selection of a **Panel Counsel** to defend a **Designated Claim** shall not be restricted to the jurisdiction in which the **Designated Claim** is brought.

The list of **Panel Counsel** may be amended from time to time by the **Insurer**. However, if a firm is removed from the list during the **Policy Period**, the **Insureds** shall be entitled to select such firm to conduct the defense of any **Designated Claim** made against such **Insureds** during the **Policy Period**.

B. Pre-Approved E-Consultant Firms

The list of pre-approved **E-Consultant Firms** is accessible through the online directory at <http://www.aig.com/us/panelcounseldirectory> under the "e-Consultant Panel Members" link.

The list provides the **Insureds** with a choice of firms from which a selection of an **E-Consultant Firm** shall be made. Any **E-Consultant Firm** may be hired by an **Insured** to perform **E-Discovery Consultant Services** without further approval by the **Insurer**.

11. SUBSIDIARY AND PLAN COVERAGE

A. *Former Subsidiaries*

In the event the **Named Sponsor** loses **Management Control** of a **Subsidiary** during or prior to the **Policy Period**, coverage with respect to such **Subsidiary** and its **Insured Persons** shall continue until termination of this policy, but only with respect to **Claims** for **Wrongful Acts** that occurred or are alleged to have occurred during the time that the **Named Sponsor** had **Management Control** of such entity either directly or indirectly through one or more of its **Subsidiaries**.

B. *Scope Of Subsidiary Coverage*

Coverage as is afforded under this policy with respect to a **Claim** made against any **Subsidiary** and/or any **Insured Person** thereof shall only apply for **Wrongful Acts** committed or allegedly committed during the time that such **Subsidiary** and such **Insured Person** meet the respective definitions of **Subsidiary** and **Insured Person** set forth in this **Coverage Section**.

C. *Scope Of Plan Coverage*

Coverage as is afforded under this **Coverage Section** with respect to a **Claim** made against any **Plan** shall only apply for **Wrongful Acts** that occurred or that are alleged to have occurred prior to the date any such **Plan** was sold, spun-off, transferred or terminated or prior to the date that the **Sponsor Organization** or **Insured Person** ceases to be a fiduciary or ceases his, her or its **Administration** of a sold, spun-off or transferred **Plan**, or in the case of a terminated **Plan**, prior to the final date of asset distribution of such **Plan**.

12. APPLICATION AND UNDERWRITING

A. *Application And Reliance*

The **Insurer** has relied upon the accuracy and completeness of the statements, warranties and representations contained in the **Application**. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

B. *Insured Person Coverage Non-Rescindable*

Under no circumstances shall the coverage provided by this **Coverage Section** for **Loss** under Insuring Agreement A. *Insured Person Coverage* be deemed void, whether by rescission or otherwise, once the premium has been paid.

C. *Severability Of The Application*

The **Application** shall be construed as a separate application for coverage by each **Insured Person**. With respect to the **Application**, no knowledge possessed by any **Organization** or any **Insured Person** shall be imputed to any other **Insured Person**.

If the statements, warranties and representations in the **Application** were not accurate and complete and materially affected either the acceptance of the risk or the hazard assumed by the **Insurer** under this **Coverage Section**, then the **Insurer** shall have the right to void coverage under this **Coverage Section**, *ab initio*, with respect to:

- (1) **Loss** under Insuring Agreement B. *Indemnification Of Insured Person Coverage* for the indemnification of any **Insured Person** who knew, as of the inception date of the **Policy Period**,

- the facts that were not accurately and completely disclosed; and
- (2) **Loss** under Insuring Agreement C. *Organization and Plan Coverage* if:
- (i) the person who executed the **Application**; or
 - (ii) any past or present chief executive officer or chief financial officer of the **Named Entity**,
- knew, as of the inception date of the **Policy Period**, the facts that were not accurately and completely disclosed.

The foregoing applies even if the **Insured Person** did not know that such incomplete or inaccurate disclosure had been provided to the **Insurer** or included within the **Application**.

13. PAYMENTS AND OBLIGATIONS OF ORGANIZATIONS AND OTHERS

A. *Indemnification By Organizations*

The **Organizations** agree to indemnify the **Insured Persons** and/or advance **Defense Costs** to the fullest extent permitted by law. If the **Insurer** pays under this **Coverage Section** any indemnification or advancement owed to any **Insured Person** by any **Organization** within an applicable Retention, then that **Organization** shall reimburse the **Insurer** for such amounts and such amounts shall become immediately due and payable as a direct obligation of the **Organization** to the **Insurer**. The failure of an **Organization** to perform any of its obligations to indemnify the **Insured Persons** and/or advance **Defense Costs** under this **Coverage Section** shall not impair the rights of any **Insured Person** under this **Coverage Section**.

B. *Other Insurance And Indemnification*

Such insurance as is provided by this **Coverage Section** shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**. This **Coverage Section** shall specifically be excess of any other valid and collectible insurance pursuant to which any other insurer has a duty to defend a **Claim** for which this **Coverage Section** may be obligated to pay **Loss**. Such insurance as is provided by this **Coverage Section** shall apply as primary to any personal "umbrella" excess liability insurance purchased by an **Insured Person**.

C. *Subrogation and Waiver of Recourse*

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Organizations'** and **Insureds'** rights of recovery. Each **Organization** and each **Insured Person** shall execute all papers reasonably required and provide reasonable assistance and cooperation in securing or enabling the **Insurer** to exercise subrogation rights or any other rights, directly or in the name of the **Organization** or any **Insured Person**.

In no event, however, shall the **Insurer** exercise its rights of subrogation against an **Insured** under this **Coverage Section** unless the Conduct Exclusion applies with regard to such **Insured**.

In the event that this **Coverage Section** has been purchased by an **Insured** other than a **Plan**, it is agreed that the **Insurer** waives its right of recourse against the **Insured** under Section 410(b)(1) of ERISA as amended.

14. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

Administration means, with respect to a **Plan**, counseling employees, participants, and beneficiaries; providing interpretations; handling of records; determining and calculating benefits; preparing, distributing or filing required notices or documents; or activities affecting enrollment, termination or cancellation of employees, participants, and beneficiaries under the **Plan**.

Application means:

- (1) the written statements and representations made by an **Insured** and provided to the **Insurer** during the negotiation of this policy, or contained in any application or other materials or information provided to the **Insurer** in connection with the underwriting of this policy;
- (2) all warranties executed by or on behalf of an **Insured** and provided to the **Insurer** in connection with the underwriting of this policy or the underwriting of any other employee benefit plan fiduciary liability policy (or equivalent) issued by the **Insurer**, or any of its affiliates, of which this policy is a renewal, replacement or which it succeeds in time; and
- (3) each and every public filing by or on behalf of an **Organization** made with any federal, state, local or foreign regulatory agency (including, but not limited to the U.S. Securities and Exchange Commission and the U.S. Department of Labor ("DOL"), CPA-audited financial statements for all **Plans**, with investment portfolios, Form 5500's and any attachments thereto for all **Plans**, any financial information in such filings, and any certifications relating to the accuracy of the foregoing), provided that such public filing was filed during the twelve (12) month period immediately preceding the inception of the **Policy Period**.

Benefits means any obligation under a **Plan** to a **Plan** participant or beneficiary that is a payment of money or property; or any privilege, right, option or perquisite.

Claim means:

- (1) a written demand for monetary, non-monetary or injunctive relief, other than an initial application for benefits;
- (2) a civil, criminal or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by:
 - (i) service of a complaint or similar pleading (in the case of a civil proceeding);
 - (ii) return of an indictment, information or similar document (in the case of a criminal proceeding); or
 - (iii) receipt or filing of a notice of charges; or
- (3) a formal agency or regulatory adjudicative proceeding to which an

Insured is subject;

- (4) any fact-finding investigation, whether or not a **Wrongful Act** is alleged, by the DOL or the Pension Benefit Guaranty Corporation ("PBGC") or any similar governmental authority located outside the United States, including, but not limited to the United Kingdom's Pensions Ombudsman or Pensions Regulator;
- (5) any written request to toll a statute of limitations which may be applicable to any Claim that may be made for any **Wrongful Act** of any **Insured**; or
- (6) any **Internal Appeal**.

"**Claim**" shall include any **Securities Claim**.

Corporate Trustee Company

means any corporation formed and operating outside of the United States of America established by the **Organization** and duly appointed to act as a trustee of a **Plan**.

Covered Penalties

means solely in connection with a **Plan**:

- (i) *Section 502(i)* the 5% or less civil penalty imposed upon an **Insured** under Section 502(i) of **ERISA**;
- (ii) *Section 502(l)* the 20% or less civil penalty imposed upon an **Insured** under Section 502(l) of **ERISA**, with respect to a covered settlement or judgment;
- (iii) *United Kingdom* the civil fines and penalties assessed against an **Insured** by either the United Kingdom's Pensions Ombudsman or the Pensions Regulator or any successor body thereto;
- (iv) *Voluntary Compliance Loss* **Voluntary Compliance Loss** subject to the aggregate sublimit of liability set forth in Clause 7 of this **Coverage Section**;
- (v) *Section 502(c)* the civil penalties under Section 502(c) of **ERISA**, other than penalties under the Pension Protection Act, subject to the aggregate sublimit of liability set forth in Clause 7 of this **Coverage Section** ("**Section 502(c) Penalties**");
- (vi) *Pension Protection Act* the civil penalties under the Pension Protection Act of 2006, subject to the aggregate sublimit of liability set forth in Clause 7 of this **Coverage Section** ("**Pension Protection Act Penalties**");
- (vii) *HIPAA* the civil penalties for violations of the privacy provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), subject to the aggregate sublimit of liability set forth in Clause 7 of this **Coverage Section** ("**HIPAA Penalties**");

- (viii) *Health Care Reform* the civil penalties imposed under rules and regulations (including interim final rules and regulations) provided by governmental agencies (including the U.S. Department of Health and Human Services, the U.S. Department of the Treasury, the U.S. Internal Revenue Service ("IRS"), and the DOL, the Office of Consumer Information and Insurance Oversight, and the Employee Benefits Security Administration), for inadvertent violations by an **Insured of Health Care Reform Law**, subject to the aggregate sublimit of liability set forth in Clause 7 of this **Coverage Section ("Health Care Reform Penalties")**; and
- (ix) *Section 4975* the 15% or less tax penalty imposed upon an **Insured** under Section 4975 of the Internal Revenue Code of 1986, with respect to covered judgments, subject to the aggregate sublimit of liability set forth in Clause 7 of this **Coverage Section ("Section 4975 Penalties")**.

Defense Costs means reasonable and necessary fees, costs, and expenses consented to by the **Insurer** (including the cost of **E-Discovery Consultant Services** and premiums for any appeal bond, attachment bond or similar bond, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and/or appeal of a **Claim** against an **Insured**.

Defense Costs shall not include the compensation of any **Insured Person** or any employee of an **Insured**.

Employee Benefit Law means:

- (1) **ERISA** and any similar common or statutory law anywhere in the world (including, but not limited to the United Kingdom's Pensions Act 2004, Pensions Act 1995, and Pension Schemes Act 1993; and the Pension Benefit Standards Act, 1985 of Canada), as amended, and any rules and regulations promulgated thereunder to which a **Plan** is subject; and
- (2) the privacy regulations under HIPAA; and solely with respect to subparagraph (2) of the definition of **Wrongful Act**, unemployment insurance, Social Security, government-mandated disability benefits or similar law.

In no event shall **Employee Benefit Law**, other than as set forth in subparagraph (2) above, include any law other than **ERISA** which concerns workers' compensation, unemployment insurance, Social Security, government-mandated disability benefits or similar law.

ERISA means the Employee Retirement Income Security Act of 1974, as amended, including, but not limited to amendments pursuant to:

- (1) COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1985);
- (2) HIPAA;
- (3) the Newborns' and Mothers' Health Protection Act of 1996;
- (4) the Mental Health Parity Act of 1996;
- (5) the Women's Health and Cancer Rights Act of 1998;
- (6) the Pension Protection Act of 2006; and

(7) **Health Care Reform Law;**

and including any amendments thereto and regulations thereunder.

Executive

means any past, present and future duly elected or appointed director, officer, trustee or governor of a corporation, management committee member of a joint venture and member of the management board of a limited liability company (or equivalent position).

Foreign Policy

means the standard employee benefit plan fiduciary liability insurance policy (including all mandatory endorsements, if any) approved by the **Insurer** or any of its affiliates to be sold within a **Foreign Jurisdiction** that provides coverage substantially similar to the coverage afforded under this **Coverage Section**. If more than one such policy exists, then "**Foreign Policy**" means the standard basic policy form most recently offered for sale for comparable risks by the **Insurer** or any of its affiliates in that **Foreign Jurisdiction**. The term "**Foreign Policy**" shall not include any directors and officers, executive or partnership managerial, or professional liability insurance coverage.

Health Care Reform Law

means the Patient Protection and Affordable Care Act ("PPACA") and the Health Care and Education Reconciliation Act of 2010.

Insured

means any:

- (1) **Insured Person;**
- (2) **Plan;**
- (3) **Organization;**
- (4) **Plan Committee** of an **Organization**, in its capacity as a fiduciary, trustee or settlor of a **Plan**, or in its **Administration** of a **Plan**; or
- (5) **Corporate Trustee Company.**

Insured Person

means, solely with respect to a **Plan**, any past, present or future:

- (1) **Executive** or employee of an **Organization** or of a **Plan** in his or her **Administration** of a **Plan** or in his or her capacity as a fiduciary or trustee of a **Plan**;
- (2) member of a pension committee of an **Organization** in his, her, or its capacity as a fiduciary or in his, her, or its **Administration** of a **Plan**;
- (3) natural person in a position equivalent to a position listed in subparagraph (1) or (2) above in the event that the **Organization** is operating in a **Foreign Jurisdiction**; or
- (4) former **Executive** or employee currently serving in a consulting or advisory capacity to a **Plan** if the **Organization** provides indemnification to such individual in the same manner as is provided to other **Insured Persons**.

"**Insured Person**" also means, solely with respect to a **Plan**, any past, present or future **Executive** or employee of an **Organization** in his or her settlor capacity as respects a **Plan**.

"**Insured Person**" shall not include any individual in his or her capacity as an employee of any third party, including a service provider, other than a

Corporate Trustee Company.

Internal Appeal	means an appeal of an adverse benefits determination by an Insured pursuant to the DOL's claim procedure regulation at 29 C.F.R. Section 2560.503-1(h) or similar claim procedures pursuant to applicable law.
Litigated Matter	means any civil, criminal, or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by: (1) service of a complaint or similar pleading (in the case of a civil proceeding); or (2) return of an indictment, information or similar document (in the case of a criminal proceeding).
Loss	<p>means damages, settlements, judgments (including pre/post-judgment interest on a covered judgment), Defense Costs, Voluntary Compliance Loss and Covered Penalties; however, "Loss" shall not include:</p> <ol style="list-style-type: none">(1) civil or criminal fines or penalties other than Covered Penalties;(2) taxes or tax penalties other than Covered Penalties;(3) cleanup costs relating to hazardous materials, pollution or product defects;(4) any amounts for which an Insured is not financially liable or which are without legal recourse to an Insured;(5) wages, tips, and commissions;(6) Benefits, or that portion of any settlement or award in an amount equal to such Benefits, unless and to the extent that recovery of such Benefits is based upon a covered Wrongful Act and is payable as a personal obligation of an Insured Person; provided, however, that Loss shall include a monetary award, or fund for settling, a Claim against any Insured to the extent it alleges a loss to a Plan and/or loss in the actual accounts of participants in a Plan by reason of a change in value of the investments held by that Plan, including, but not limited to the securities of the Organization, regardless of whether the amounts sought in such Claim have been characterized by plaintiffs as "benefits" or held by a court to be "benefits"; and(7) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed. <p>Where permitted by law, Loss shall include punitive, exemplary and multiplied damages imposed upon any Insured (subject to this policy's other terms, conditions, and limitations, including, but not limited to the Conduct Exclusion). Enforceability of this paragraph shall be governed by the applicable law that most favors coverage for such penalties and punitive, exemplary, and multiplied damages.</p> <p>Defense Costs shall be provided for items specifically excluded from Loss pursuant to subparagraphs (1) – (7) above, subject to the other terms, conditions, and exclusions of this policy.</p>
Managed Care Services	means the administration or management of a health care, pharmaceutical, vision or dental Plan utilizing cost control mechanisms, including, but not limited to utilization review, case management, disease management,

pharmacy management, the use of a preferred provider medical, vision or dental network, or a health maintenance organization.

Management Control

means:

- (1) owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of: the Board of Directors of a corporation; the management committee of a joint venture; or the management board of a limited liability company; or
- (2) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of a **Sponsor Organization**, to elect, appoint or designate a majority of: the Board of Directors of a corporation; the management committee of a joint venture; or the management board of a limited liability company.

Multiemployer Plan

means any multiemployer plan, as defined by **ERISA**, which is operated jointly by the **Organization**, a labor organization, and one or more other employers for the benefit of the employees of the **Organization** among others.

Non-Indemnifiable Loss

means **Loss** that has not been indemnified by either an **Organization** or a **Plan**, and for which an **Organization** is not permitted or required to indemnify an **Insured Person** pursuant to law or contract or the charter, by-laws, operating agreement or similar documents of an **Organization**.

Organization

has the meaning set forth in the **General Terms and Conditions**.

Additionally, solely for purposes of this **Coverage Section**, "**Organization**" also means a **Corporate Trustee Company** in any **Foreign Jurisdiction**.

Plan

means any:

- (1) qualified or non-qualified plan, fund, trust or program, including, but not limited to any pension plan, welfare plan, health savings account plan, IRA-based plan, stock option plan, stock purchase plan, deferred compensation program, supplemental executive retirement program, top-hat plan, excess benefit plan, cafeteria plan, dependent care assistance program, fringe benefit plan or voluntary employees' beneficiary association as defined in the Internal Revenue Code of 1986, as amended ("VEBA") established anywhere in the world, which is sponsored solely by an **Organization**, and with respect to a collectively bargained **Plan**, operated jointly by an **Organization** and a labor organization, in each case solely for the benefit of such **Organization's** current or former employees or **Executives**, and which was in existence on or before the **Inception Date** of this policy.
- (2) plan described in subparagraph (1) above acquired during the **Policy Period**. However, if such plan is a pension plan:
 - (a) acquired as a result of the **Organization's** acquisition of a **Subsidiary** whose assets total more than 25% of the total consolidated assets of the **Organization** as of the **Inception Date** of this policy; or

- (b) with assets that total more than 25% of the total consolidated assets of all covered pension plans as of the **Inception Date** of this policy;

then this policy shall apply to such plan (solely with respect to a **Wrongful Act(s)** occurring after the date of such acquisition), but only upon the condition that within ninety (90) days of its acquisition, the **Named Entity** shall have provided the **Insurer** with information and agreed to any additional premium or amendment of the provisions of the policy required by the **Insurer** relating to such new **Plan**. The ninety (90) day reporting condition shall not apply if such new plan is not one of the five largest pension plans (by asset size) of the **Organization**, if the failure to report such **Plan** within the ninety (90) day reporting period was due to inadvertent omission by the **Named Entity**, and if upon discovery of such omission the **Named Entity** notifies the **Insurer** as soon as practicable and provides any information and pays any premium required by the **Insurer** relating to such **Plan**.

- (3) plan or program described in subparagraph (1) above that was created, considered, developed or proposed during the **Policy Period**.

The definition of **Plan** shall also include the following government-mandated programs: unemployment insurance, Social Security, or disability payments, but solely with respect to a **Wrongful Act** defined in subparagraph (2) of the definition of **Wrongful Act** in this **Coverage Section**.

Coverage under this **Coverage Section** shall not extend to a **Multiemployer Plan** itself, its contributing employer(s) or, except as set forth in subparagraph (4) of the definition of **Wrongful Act**, any fiduciary or administrator of a **Multiemployer Plan**.

Plan Committee	means any employee benefit committee, including, but not limited to any plan investment or administration committee, that is established by an Organization and that is comprised entirely of Insured Persons .
Related Claim	means a Claim alleging, arising out of, based upon or attributable to any facts or Wrongful Acts that are the same as or related to those that were alleged in another Claim made against an Insured .
Securities Claim	<p>means any Claim in which a plaintiff alleges a loss or seeks damages of more than the Securities Retention amount or \$1,000,000, whichever is less, based upon a change in or challenge to the price or valuation of securities of or issued by: (i) the Organization, (ii) the parent of the Organization, (iii) any company that is acquired in whole or in part by the Organization, or (iv) any former parent of any company that is acquired in whole or in part by the Organization (hereinafter (i) through (iv) collectively referred to as "Employer Securities"), even if such Claim also contains unrelated allegations.</p> <p>The definition of Securities Claim shall not be triggered by any Claim in which plaintiffs allege a loss or seek damages as a result of a Plan's allegedly excessive fees or excessive cash holdings within an investment fund designed to hold Employer Securities as long as there is no allegation based upon a drop in the price or decrease in the valuation of the Employer</p>

Securities.

**Securities
Retention**

means the Retention applicable to **Loss** that arises out of a **Securities Claim**.

Subsidiary

means any past, present or future:

- (1) for-profit entity of which the **Named Sponsor** has or had **Management Control** either directly or indirectly through one or more of its other **Subsidiaries**; and
- (2) not-for-profit entity sponsored exclusively by a **Sponsor Organization**.

The term **Subsidiary** shall automatically apply to any new **Subsidiary** acquired or created during the **Policy Period**.

A for-profit entity ceases to be a **Subsidiary** when the **Named Sponsor** no longer maintains **Management Control** of such entity either directly or indirectly through one or more of its **Subsidiaries**. A not-for-profit entity ceases to be a **Subsidiary** when such entity is no longer sponsored exclusively by a **Sponsor Organization**.

**Voluntary
Compliance Loss**

means fines, penalties, sanctions, and reasonable and necessary fees, costs or expenses related to the assessment of or correction of a **Plan's** non-compliance in accordance with any **Voluntary Compliance Program** and which are incurred during the **Policy Period** (or during the policy period of a policy issued by the **Insurer** of which this **Coverage Section** is a continuous renewal).

"Voluntary Compliance Loss" shall not include any compensation of any **Insured Persons** or any employee of an **Insured**.

**Voluntary
Compliance
Program**

means any voluntary compliance resolution program or similar voluntary settlement program administered by the DOL, IRS, PBGC or other similar governmental authority or any similar program administered by any governmental authority located outside the United States of America, to correct any inadvertent non-compliance by a **Plan**, including, but not limited to:

- (1) Employee Plans Compliance Resolution System;
- (2) Delinquent Filer Voluntary Compliance Program;
- (3) Voluntary Fiduciary Correction Program;
- (4) Premium Compliance Evaluation Program; and
- (5) Participant Notice Voluntary Correction Program.

Wrongful Act

means:

- (1) any actual or alleged violation by an **Insured** of any of the responsibilities, obligations or duties imposed upon fiduciaries by **Employee Benefit Law** with respect to a **Plan**, including, but not limited to the actual or alleged improper selection of or inadequate monitoring of third-party service providers; or any allegation made against an **Insured** solely by reason of his, her or its actual or alleged status as a fiduciary, but only with respect to a **Plan**;
- (2) any actual or alleged act, error or omission by an **Insured** in the

Administration of any **Plan**, including, but not limited to the actual or alleged failure to properly and timely provide COBRA notices or other required notices, the alleged failure to make timely determinations of eligibility for benefits; or any allegation made against an **Insured** solely by reason of his, her or its actual or alleged **Administration** of a **Plan**;

- (3) any negligent act, error or omission by an **Organization**, its **Executives** or employees in facilitating the administration of a **Multiemployer Plan**; and
- (4) if a plan identified as a **Multiemployer Plan** is referenced by specific written endorsement attached to this policy and any required premium is paid, any matter arising out of an **Insured Person's** actual or alleged service as a fiduciary of, or actual or alleged **Administration** of, such **Multiemployer Plan** when such service or **Administration** is at the specific written request or direction of the **Organization**.

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CYBEREDGE® SECURITY AND PRIVACY LIABILITY
("Security and Privacy Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **Security and Privacy Coverage Section**, unless otherwise explicitly stated to the contrary in this **Security and Privacy Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to **Claims** first made against an **Insured** during the **Policy Period** or any applicable **Discovery Period** and reported to the **Insurer** as required by this **Coverage Section**. Subject to the foregoing and the other terms, conditions and limitations of this policy, this **Coverage Section** affords the following coverage:

SECURITY AND PRIVACY INSURING AGREEMENT

This policy shall pay on an **Insured's** behalf all **Loss** that such **Insured** is legally obligated to pay resulting from a **Claim** alleging a **Security Failure** or a **Privacy Event**.

DEFENSE AND SETTLEMENT

- (a) *The **Insurer's** Duty to Defend:* The **Insurer** has the right and duty to defend a **Suit** or **Regulatory Action** alleging a **Security Failure** or a **Privacy Event**, even if the **Suit** or **Regulatory Action** is groundless, false or fraudulent. The **Insurer** has the right, but not the duty, to investigate any **Claim** that is not a **Suit** or a **Regulatory Action**.
- (b) *When the **Insurer's** Duty to Defend Ends:* The **Insurer's** duty to defend ends if an **Insured** refuses to consent to a settlement that the **Insurer** recommends pursuant to the *Settlement* provision below and that the claimant will accept. As a consequence of such **Insured's** refusal, the **Insurer's** liability shall not exceed the amount for which the **Insurer** could have settled such **Claim** had such **Insured** consented, plus **Defense Costs** incurred prior to the date of such refusal, plus 50% of **Defense Costs** incurred with the **Insurer's** prior written consent after the date of such refusal. This Clause shall not apply to any settlement where the total incurred **Loss** does not exceed the applicable Retention amount.

- (c) **Settlement:** The **Insurer** has the right, with the written consent of an **Insured**, which consent shall not be unreasonably withheld, to settle any **Claim** if the **Insurer** believes that it is proper. An **Insured** may settle any **Claim** on behalf of all **Insureds** to which this insurance applies and which are subject to one Retention amount where the total incurred **Loss** does not exceed the Retention amount.

2. EXCLUSIONS

This policy shall not cover **Loss** in connection with a **Claim** made against an **Insured**:

- (a) alleging, arising out of, based upon or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law, if committed by:

- (1) past or present directors, officers, trustees, general or managing partners or principals (or the equivalent positions) of an **Organization**, whether acting alone or in collusion with other persons; or
- (2) past or present employees or independent contractors employed by an **Organization** or an **Information Holder** if any person referenced in subparagraph (1) above knew or had reason to know prior to the act of, participated in, approved of or acquiesced to the dishonest, fraudulent, malicious, or criminal act committed by such employee or independent contractor that caused a direct loss to an **Insured**, **Information Holder** or any other person;

provided, however, the **Insurer** will defend **Suits** that allege any of the foregoing conduct by such person, and that are not otherwise excluded, until there is a final, non-appealable judgment or adjudication as to such conduct in any action or proceeding other than an action or proceeding initiated by the **Insurer** to determine coverage under this policy, at which time the **Insureds** shall reimburse the **Insurer** for **Defense Costs**.

- (b) alleging, arising out of, based upon or attributable to any infringement of patent, or any misappropriation of trade secret by any **Insured**.

- (c) alleging, arising out of, based upon or attributable to any: (1) presence of **Pollutants**; (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.

- (d) alleging, arising out of, based upon or attributable to any:

- (1) physical injury, sickness or disease and, if arising out of the foregoing, mental anguish, mental injury, shock, humiliation or death at any time; or
- (2) damage to, loss of use of or destruction of any tangible property. (For purposes of this Exclusion, "tangible property" shall not include electronic data.)

- (e) alleging, arising out of, based upon or attributable to any:

- (1) fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event, however caused;
 - (2) strikes or similar labor action, war, invasion, military action (whether war is declared or not), civil war, mutiny, popular or military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against any of these events;
 - (3) electrical or mechanical failures of infrastructure not under the control of an **Insured**, including any electrical power interruption, surge, brownout or blackout;
 - (4) failure of telephone lines, data transmission lines or other telecommunications or networking infrastructure not under the control of an **Insured**; provided, however, this subparagraph (4) shall not apply to a **Security Failure** or a **Privacy Event** that is caused by such failure of telephone lines, data transmission lines or other infrastructure comprising or supporting the Internet; or
 - (5) satellite failure.
- (f) alleging, arising out of, based upon or attributable to any:
- (1) purchase, sale, or offer or solicitation of an offer to purchase or sell securities;
 - (2) violation of any securities law, including the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or any regulation promulgated under the foregoing statutes, or any federal, state or local laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law; provided, however, this exclusion does not apply to a **Claim** alleging a **Privacy Event** in violation of Regulation S-P (17 C.F.R. § 248); provided further, however, this exclusion does not apply to a **Claim** alleging a failure to disclose a **Security Failure** or **Privacy Event** in violation of any **Security Breach Notice Law**; or
 - (3) violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act, or "RICO"), as amended, or any regulation promulgated thereunder or any federal, state or local law similar to the foregoing, whether such law is statutory, regulatory or common law;
- (g) alleging, arising out of, based upon or attributable to an **Insured's** employment of any individual or any of an **Insured's** employment practices (including, without limitation, wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim); provided, however, this exclusion shall not apply to any **Claim** by an individual to the extent such individual is alleging a **Privacy Event** in connection with such individual's employment or application for employment with an **Organization** or a failure to disclose a **Security Failure** or **Privacy Event** in violation of any **Security Breach Notice Law**.
- (h) alleging, arising out of, based upon or attributable to antitrust, unfair competition, restraint of trade, including, without limitation, the violations of any local, state or federal law regulating such conduct, or that is brought by or on behalf of the Federal Trade Commission ("FTC") or any other federal, state or local government agency, or foreign government agency; provided, however, solely with respect to unfair competition, this Exclusion shall not apply to any **Loss** arising out of a covered **Regulatory Action**.
- (i) brought by or on behalf of:

- (1) any **Insured**;
- (2) any business entity that is controlled, managed or operated, directly or indirectly, in whole or in part, by an **Insured**; or
- (3) any parent company, **Subsidiary**, successor or assignee of an **Insured**, or any person or entity affiliated with an **Insured** or such business entity through common **Management Control**;

provided, however, this exclusion shall not apply to: (i) an **Insured** as described in subparagraph (3) of the definition of **Insured**; or (ii) an **Insured** as described in subparagraph (2) of the definition of **Insured** but only to the extent such **Insured** is alleging a **Privacy Event** or a failure to disclose a **Security Failure** or **Privacy Event** in violation of any **Security Breach Notice Law**.

(j) for any of the following:

- (1) the return of an **Insured's** fees or compensation;
- (2) any profit or advantage to which an **Insured** is not legally entitled;
- (3) an **Insured's** expenses or charges, including employee compensation and benefits, overhead, over-charges or cost over-runs;
- (4) an **Insured's** cost of providing, correcting, re-performing or completing any services;
- (5) civil or criminal fines or penalties imposed against an **Insured** and any matters deemed uninsurable under the law pursuant to which this policy shall be construed; provided, however, this subparagraph (5) shall not apply to (a) any monetary amounts an **Insured** is required by law or has agreed to by settlement to deposit into a consumer redress fund, or (b) any civil fine or penalty imposed by a governmental agency arising from a **Regulatory Action**, but only to the extent insurable under the law of the jurisdiction imposing such civil fine or penalty;
- (6) an **Insured's** costs and expenses of complying with any injunctive or other form of equitable relief;
- (7) taxes incurred by an **Insured**;
- (8) the amounts for which an **Insured** is not financially liable or which are without legal recourse to any **Insured**; or
- (9) amounts an **Insured** agrees to pay pursuant to a contract, including without limitation, liquidated damages, setoffs or penalties; provided, however, this exclusion shall not apply to any **PCI-DSS Assessment**.

(k) alleging, arising out of, based upon or attributable to any obligation an **Insured** has under contract; provided, however, this exclusion shall not apply to:

- (1) the obligation to prevent a **Security Failure** or a **Privacy Event**, including without limitation, whether same is in violation of an implied or statutory standard of care;
- (2) liability an **Insured** would have in the absence of such contract or agreement; or
- (3) with respect to a **Privacy Event**, any liability or obligation under the confidentiality or non-disclosure provisions of any agreement;

(l) alleging, arising out of, based upon or attributable to any **Security Failure** or **Privacy Event**, or any **Related Acts** thereto, alleged or contained in any **Claim** which has been reported, or in any

circumstances of which notice has been given, under any policy of which this **Coverage Section** is a renewal or replacement or which it may succeed in time.

- (m) alleging, arising out of, based upon or attributable to any **Security Failure** or **Privacy Event** occurring prior to the **Retroactive Date** or any **Related Acts** thereto, regardless of when such **Related Act** occurs.
- (n) alleging, arising out of, based upon or attributable to any **Security Failure** or **Privacy Event** occurring prior to the **Continuity Date**, or any **Related Act** thereto (regardless of when such **Related Act** occurs), if, as of the **Continuity Date**, an **Insured** knew or could have reasonably foreseen that such **Security Failure** or a **Privacy Event** did or would result in a **Claim** against an **Insured**.
- (o) alleging, arising out of, based upon or attributable to any seizure, confiscation, nationalization, or destruction of a **Computer System** by order of any governmental or public authority.
- (p) for: (1) the theft of money or securities from an **Insured**; or (2) the transfer or loss of money or securities from or to an **Insured's** accounts or accounts under an **Insured's** control, including customer accounts. For purposes of this subparagraph (p), the term "accounts" shall include, but are not limited to, deposit, credit, debit, prepaid and securities brokerage accounts.

3. LIMIT OF LIABILITY

In addition to the provisions Clause 3. LIMITS OF LIABILITY of the **General Terms and Conditions**, the maximum liability of the **Insurer** for all **Loss** arising from a **Regulatory Action** shall be the **Regulatory Action Sublimit of Liability** set forth in Item 6 of the Declarations. This amount shall be part of and not in addition to the **Policy Aggregate** and any applicable **Separate Limit of Liability** or **Shared Limit of Liability**.

4. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

- (a) The **Insureds** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, give written notice to the **Insurer** of any **Claim** made against an **Insured** as soon as practicable after any personnel in an **Organization's** office of the: (i) Chief Executive Officer, (ii) Chief Financial Officer, (iii) Chief Security Officer, (iv) Chief Technology Officer, (v) Chief Information Officer, (vi) Risk Manager, or (vii) General Counsel (or equivalent positions) first becomes aware of the **Claim**.

Notwithstanding the foregoing and regardless of whether any personnel described in paragraph (a) above has become aware of any **Claim**, in all events each **Claim** under this **Coverage Section** must be reported no later than either:

- (1) forty-five (45) days after the end of the **Policy Period**; or
- (2) the end of any applicable **Discovery Period**.

- (b) If written notice of a **Claim** has been given to the **Insurer** pursuant to paragraph (a) above, then any subsequent **Claim** made against an **Insured** arising out of, based upon or attributable to the facts giving rise to such **Claim** for which such notice has been given, or alleging any **Related Act** thereto, shall be considered made at the time such notice was given.
- (c) If during the **Policy Period** or during the **Discovery Period** (if applicable), an **Insured** shall become aware of any circumstances which may reasonably be expected to give rise to a **Claim** being made against an **Insured** and shall choose to give written notice to the **Insurer** of such circumstances, the **Security Failure** or **Privacy Event**, allegations anticipated and the reasons for anticipating such a **Claim**, with full particulars as to dates, persons and entities involved, then any **Claim** which is subsequently made against an **Insured** and reported to the **Insurer** alleging, arising out of, based upon or attributable to such circumstances or alleging any **Related Act** to that alleged or contained in such circumstances, shall be considered made at the time such notice of such circumstances was given.

5. DISCOVERY PREMIUM

In the event the **Named Entity** or the **Insurer** shall cancel or refuse to renew this **Coverage Section**, the **Named Entity** shall have the right following the effective date of such cancellation or nonrenewal to a **Discovery Period** of sixty (60) days for no additional premium. The **Named Entity** shall have the right to a period of up to six (6) years for an **Additional Premium Amount** of up to:

- (a) 100% of the **Full Annual Premium** for one year;
- (b) 175% of the **Full Annual Premium** for two years;
- (c) 200% of the **Full Annual Premium** for three years; or
- (d) an amount to be determined by the **Insurer** for a period of four to six years.

As used herein, "**Full Annual Premium**" means the premium level in effect for this **Coverage Section** immediately prior to the end of the **Policy Period**.

In the event of a **Transaction**, the **Additional Premium Amount** shall be an amount to be determined by the **Insurer**.

6. INSURED'S OBLIGATIONS

In connection with all **Claims** under this **Coverage Section**, each **Insured** agrees to the following:

- (a) such **Insured** shall send the **Insurer** copies of all demands, suit papers, other related legal documents and invoices for **Defense Costs** received by such **Insured**, as soon as practicable;
- (b) such **Insured** shall immediately record the specifics of any **Claim** and the date such **Insured** first received such **Claim**;

(c) such **Insured** shall cooperate with and assist the **Insurer** and/or any counsel appointed pursuant to the terms of this policy, including, without limitation, as follows:

- (1) by not admitting liability;
- (2) in making settlements;
- (3) in enforcing any legal rights any **Insured** may have against anyone who may be liable to any **Insured**;
- (4) by attending depositions, hearings and trials;
- (5) by securing and giving evidence, and obtaining the attendance of witnesses;
- (6) by furnishing any and all documentation within the possession of such **Insured** that may be required; and
- (7) by taking such actions that such **Insured** and the **Insurer** agree are necessary and practicable to prevent or limit **Loss** arising from any **Privacy Event** or **Security Failure**.

(d) unless required to do so by law, **Insureds** shall not, without the **Insurer's** prior written consent:

- (1) assume any financial obligation or incur any cost unless specifically allowed to settle any **Claim** on behalf of all **Insureds** within the retention pursuant to this **Coverage Section**.
- (2) take any action, or fail to take any required action which prejudices the **Insurer's** rights under this policy.

7. OTHER INSURANCE

Such insurance as is provided by this **Coverage Section** shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**.

8. SUBROGATION

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery. Each **Insured** must do all that is possible to preserve any such rights of recovery and do whatever is necessary, including signing documents to help the **Insurer** obtain that recovery. Notwithstanding the above, an **Organization** may waive an **Insured's** rights to recovery against others if it does so in writing and before the occurrence of a **Security Failure** or **Privacy Event**.

9. ALTERNATIVE DISPUTE RESOLUTION

ADR Options

All disputes or differences which may arise under or in connection with this **Coverage Section**, whether arising before or after termination of this policy, including any determination of the amount of **Loss**, shall be submitted to an alternative dispute resolution (ADR) process as provided in this Clause. The **Named Entity** may elect the type of ADR process discussed below; provided, however, that absent a timely election, the **Insurer** may elect the

type of ADR process. In that case, the **Named Entity** shall have the right to reject the **Insurer's** choice of the type of ADR process at any time prior to its commencement, after which, the **Named Entity's** choice of ADR shall control.

Mediation

In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least ninety (90) days shall have elapsed from the date of the termination of the mediation.

Arbitration

In the event of arbitration, the decision of the arbitrator(s) shall be final, binding and provided to both parties, and the arbitration award shall not include attorney's fees or other costs.

ADR Process

Selection of Arbitrator(s) or Mediator: The **Insurer** and the **Named Entity** shall mutually consent to: (i) in the case of arbitration, an odd number of arbitrators which shall constitute the arbitration panel, or (ii) in the case of mediation, a single mediator. The arbitrator, arbitration panel members or mediator must be disinterested and have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. In the absence of agreement, the **Insurer** and the **Named Entity** each shall select one arbitrator, the two arbitrators shall select a third arbitrator, and the panel shall then determine applicable procedural rules.

ADR Rules: In considering the construction or interpretation of the provisions of this policy, the mediator or arbitrator(s) must give due consideration to the general principles of the law of the **State of Formation** of the **Named Entity**. Each party shall share equally the expenses of the process elected. At the election of the **Named Entity**, either choice of ADR process shall be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state reflected in the **Named Entity Address**. The **Named Entity** shall act on behalf of each and every **Insured** under this *Alternative Dispute Resolution Clause*. In all other respects, the **Insurer** and the **Named Entity** shall mutually agree to the procedural rules for the mediation or arbitration. In the absence of such an agreement, after reasonable diligence, the arbitrator(s) or mediator shall specify commercially reasonable rules.

10. APPLICATION

The **Insurer** has relied upon the accuracy and completeness of the statements, warranties and representations contained in the **Application**. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

11. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage**

Section. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

Application means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other statements, information, representations of any **Insured** or documents submitted by any **Insured** in connection with the underwriting of this policy and **Coverage Section** or the underwriting of any other policy providing the same or similar coverage issued by the **Insurer**, or any of its affiliates, of which this policy is in whole or part a renewal or replacement or which it succeeds in time.

Claim means:
(1) a written demand for money, services, non-monetary relief or injunctive relief;
(2) a written request for mediation or arbitration, or to toll or waive an applicable statute of limitations;
(3) a **Suit**; or
(4) a **Regulatory Action**.

Computer System means any computer hardware, software or any components thereof that are linked together through a network of two or more devices accessible through the Internet or internal network or that are connected through data storage or other peripheral devices (including, without limitation, wireless and mobile devices), and are under the ownership, operation or control of, or leased by, an **Organization**.

For this **Coverage Section**, "**Computer System**" also means "cloud computing" and other hosted resources operated by a third party service provider for the purpose of providing hosted computer resources to an **Organization** as provided in a written contract between such third party and an **Organization**.

Confidential Information means any of the following in an **Organization's** or **Information Holder's** care, custody or control or for which an **Organization** or **Information Holder** is legally responsible:

- (1) information from which an individual may be uniquely and reliably identified or contacted, including, without limitation, an individual's name, address, telephone number, social security number, account relationships, account numbers, account balances, account histories and passwords;
- (2) information concerning an individual that would be considered "nonpublic personal information" within the meaning of Title V of the Gramm-Leach Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338) (as amended) and its implementing regulations, or protected personal information under any similar federal, state, local or foreign law;
- (3) information concerning an individual that would be considered "protected health information" or "electronic protected health information" within the Health Insurance Portability and Accountability Act of 1996 (as amended) (HIPAA) or the Health Information Technology for Economic and Clinical Health Act (HITECH Act), and their implementing regulations, or protected

health-related information under any similar federal, state, local or foreign law;

(4) information used for authenticating customers for normal business transactions; or

(5) any third party's trade secrets, data, designs, interpretations, forecasts, formulas, methods, practices, processes, records, reports or other item of information that is not available to the general public.

Defense Costs

means all reasonable and necessary fees charged by an attorney appointed by the **Insurer** (unless otherwise provided for by this policy) in connection with any **Suit** or **Regulatory Action** brought against an **Insured**, as well as all other reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond) incurred in the defense or investigation of a **Claim** by the **Insurer** or by an **Insured** with the **Insurer's** written consent. **Defense Costs** shall not include: (i) compensation of any natural person **Insured**; or (ii) any fees, costs or expenses incurred prior to the time that a **Claim** is first made against an **Insured**.

Information Holder

means a third party that:

(1) an **Organization** has provided **Confidential Information** to; or

(2) has received **Confidential Information** on behalf of an **Organization**.

Insured

means:

(1) an **Organization**;

(2) any past, present or future officer, director, trustee or employee of an **Organization** acting in their capacity as such (and in the event an **Organization** is a partnership, limited liability partnership or limited liability company, then any general or managing partner or principal thereof acting in their capacity as such); and

(3) any entity which an **Organization** is required by contract to add as an **Insured** under this **Coverage Section**, but only for the acts of such **Organization** that result in a **Security Failure** or a **Privacy Event**.

Loss

means compensatory damages, judgments, settlements, pre-judgment and post-judgment interest and **Defense Costs**, including without limitation:

(1) punitive, exemplary and multiple damages where insurable by the applicable law which most favors coverage for such punitive, exemplary and multiple damages;

(2) civil fines or penalties imposed by a governmental agency and arising from a **Regulatory Action**, but only to the extent insurable under the law of the jurisdiction imposing such civil fines or penalties; and

(3) any monetary amounts an **Insured** is required by law or has agreed to by settlement to deposit into a consumer redress fund.

Management Control

means: (i) owning interests representing more than fifty percent (50%) of the voting, appointment or designation power for the selection of a majority of: the board of directors of a corporation, the management committee members of a joint venture or partnership, or the members of the management board of a limited liability company; or (ii) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an **Organization**, to elect, appoint or designate a majority of: the board of directors

	of a corporation, the management committee of a joint venture or partnership, or the management board of a limited liability company.
PCI-DSS Assessment	means any written demand received by an Insured from a Payment Card Association (e.g., MasterCard, Visa, American Express) or bank processing payment card transactions (i.e., an "Acquiring Bank") for a monetary assessment (including a contractual fine or penalty) in connection with an Insured's non-compliance with PCI Data Security Standards which resulted in a Security Failure or Privacy Event .
PCI Data Security Standards	means generally accepted and published Payment Card Industry standards for data security (commonly referred to as "PCI-DSS").
Pollutants	means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
Privacy Event	means the following occurring on or after the Retroactive Date and prior to the end of the Policy Period : <ol style="list-style-type: none"> (1) any failure to protect Confidential Information (whether by "phishing," other social engineering technique or otherwise) including, without limitation, that which could result in an identity theft or other wrongful emulation of the identity of an individual or corporation; (2) any failure to disclose an event referenced in subparagraph (1) above in violation of any Security Breach Notice Law; (3) any unintentional failure of an Insured to comply with those parts of an Organization's privacy policy that: (a) prohibit or restrict the disclosure or sale of Confidential Information by an Insured; or (b) require an Insured to allow an individual to access or correct Confidential Information about such individual; or (4) any violation of a federal, state, foreign or local privacy statute alleged in connection with a Claim for a failure described in subparagraphs (1) or (2) above.
Regulatory Action	means a request for information, civil investigative demand or civil proceeding brought by or on behalf of a governmental agency, including requests for information related thereto.
Related Acts	means Security Failures or Privacy Events which are the same, related or continuous, or Security Failures or Privacy Events which arise from a common nucleus of facts. All Related Acts shall be considered to have occurred at the time the first such Related Act occurred.
Security Breach Notice Law	means any federal, state, local or foreign statute or regulation that requires an entity collecting or storing Confidential Information , or any entity that has provided Confidential Information to an Information Holder , to provide notice of any actual or potential unauthorized access by others to such Confidential Information , including but not limited to, the statute known as California SB 1386 (§1798.82, <i>et. seq.</i> of the California Civil Code).
Security Failure	means the following occurring on or after the Retroactive Date and prior to the end of the Policy Period :

- (1) a failure or violation of the security of a **Computer System** including, without limitation, that which results in or fails to mitigate any unauthorized access, unauthorized use, denial of service attack or receipt or transmission of a malicious code;
- (2) physical theft of hardware controlled by an **Organization** (or components thereof) on which electronic data is stored, by a person other than an **Insured**, from a premises occupied and controlled by an **Organization**; or
- (3) failure to disclose an event referenced in subparagraphs (1) or (2) above in violation of any **Security Breach Notice Law**.

Security Failure includes any such failure or violation, resulting from the theft of a password or access code from an **Insured's** premises, the **Computer System**, or an officer, director or employee of an **Organization** by non-electronic means.

Subsidiary

means:

- (1) any for-profit entity of which the **Named Entity** has or had **Management Control** ("**Controlled Entity**") on or before the **Inception Date** of this policy, either directly or indirectly through one or more other **Controlled Entities**;
- (2) any for-profit entity of which the **Named Entity** acquires **Management Control** during the **Policy Period**, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the **Inception Date** of this policy do not exceed ten percent (10%) of the aggregate gross revenues of the **Organizations** for the most recent fiscal year prior to the **Inception Date** of this policy;
- (3) any for-profit entity of which the **Named Entity** acquires **Management Control** during the **Policy Period**, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the **Inception Date** of this policy exceed ten percent (10%) of the aggregate gross revenues of the **Organizations** for the most recent fiscal year prior to the **Inception Date** of this policy, but only once: (a) the **Named Entity** shall have provided the **Insurer** with full particulars of such entity and agreed to any additional premium and amendments to this policy relating to such entity; and (b) the **Insurer** has ratified its acceptance of such entity as a **Subsidiary** by endorsement to this policy; and
- (4) any not-for-profit entity under section 501(c)(3) of the Internal Revenue Code of 1986 (as amended) sponsored exclusively by an **Organization**.

Notwithstanding the foregoing, coverage afforded under this **Coverage Section** shall only apply to **Loss** arising out of **Privacy Events** or **Security Failures** occurring or allegedly occurring after the effective time that the **Named Entity** obtained **Management Control** of such **Subsidiary** and prior to the time that such **Named Entity** ceased to have **Management Control** of such **Subsidiary**.

Suit

means a civil proceeding for monetary, non-monetary or injunctive relief, which is commenced by service of a complaint or similar pleading. **Suit** includes a binding arbitration proceeding to which an **Insured** must submit or does submit with the **Insurer's** consent.

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CYBEREDGE® CYBER MEDIA LIABILITY
("Cyber Media Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **Cyber Media Coverage Section**, unless otherwise explicitly stated to the contrary in this **Cyber Media Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to **Claims** first made against an **Insured** during the **Policy Period** or any applicable **Discovery Period** and reported to the **Insurer** as required by this **Coverage Section**. Subject to the foregoing and the other terms, conditions and limitations of this policy, this **Coverage Section** affords the following coverage:

CYBER MEDIA INSURING AGREEMENT

This policy shall pay on an **Insured's** behalf all **Loss** that such **Insured** is legally obligated to pay resulting from a **Claim** alleging a **Wrongful Act**.

DEFENSE AND SETTLEMENT

- (a) *The **Insurer's Duty to Defend**:* The **Insurer** has the right and duty to defend a **Suit** alleging a **Wrongful Act**, even if the **Suit** is groundless, false or fraudulent. The **Insurer** has the right, but not the duty, to investigate any **Claim** that is not a **Suit**.
- (b) *When the **Insurer's Duty to Defend Ends**:* The **Insurer's** duty to defend ends if an **Insured** refuses to consent to a settlement that the **Insurer** recommends pursuant to the *Settlement* provision below and that the claimant will accept. As a consequence of such **Insured's** refusal, the **Insurer's** liability shall not exceed the amount for which the **Insurer** could have settled such **Claim** had such **Insured** consented, plus **Defense Costs** incurred prior to the date of such refusal, plus 50% of **Defense Costs** incurred with the **Insurer's** prior written consent after the date of such refusal. This Clause shall not apply to any settlement where the total incurred **Loss** does not exceed the applicable Retention amount.
- (c) *Settlement:* The **Insurer** has the right, with the written consent of an **Insured**, which consent shall not be unreasonably withheld, to settle any **Claim** if the **Insurer** believes that it is proper. An **Insured** may settle any **Claim** on behalf of all **Insureds** to which this insurance applies and which are subject to one Retention amount where the total incurred **Loss** does not exceed the Retention amount.

2. EXCLUSIONS

This policy shall not cover **Loss** in connection with a **Claim** made against an **Insured**:

- (a) alleging, arising out of, based upon or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law; provided, however, the **Insurer** will defend **Suits** that allege any of the foregoing conduct, and that are not otherwise excluded, until there is a final, non-appealable judgment or adjudication as to such conduct in any action or proceeding other than an action or proceeding initiated by the **Insurer** to determine coverage under this policy, at which time the **Insureds** shall reimburse the **Insurer** for **Defense Costs**.
- (b) alleging, arising out of, based upon or attributable to any infringement of patent or misappropriation of trade secrets.
- (c) alleging, arising out of, based upon or attributable to any: (1) presence of **Pollutants**; (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.
- (d) alleging, arising out of, based upon or attributable to any:
 - (1) physical injury, sickness or disease and, if arising out of the foregoing, mental anguish, mental injury, shock, humiliation or death at any time; or
 - (2) damage to, loss of use of or destruction of any tangible property. (For purposes of this Exclusion, "tangible property" shall not include electronic data.)
- (e) alleging, arising out of, based upon or attributable to any:
 - (1) fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event, however caused;
 - (2) strikes or similar labor action, war, invasion, military action (whether war is declared or not), civil war, mutiny, popular or military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against any of these events;
 - (3) electrical or mechanical failures of infrastructure not under the control of an **Insured**, including any electrical power interruption, surge, brownout or blackout;
 - (4) failure of telephone lines, data transmission lines or other telecommunications or networking infrastructure not under the control of an **Insured**; or
 - (5) satellite failure.
- (f) alleging, arising out of, based upon or attributable to any:
 - (1) purchase, sale, or offer or solicitation of an offer to purchase or sell securities;
 - (2) violation of any securities law, including the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or any regulation promulgated under the

foregoing statutes, or any federal, state or local laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law; or

- (3) violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act, or "RICO"), as amended, or any regulation promulgated thereunder or any federal, state or local law similar to the foregoing, whether such law is statutory, regulatory or common law;
- (4) antitrust violations, restraint of trade, unfair competition or violations of the Sherman Act, Clayton Act or the Robinson-Patman Act, as amended; provided, however, that this exclusion shall not apply to unfair competition as referenced in subparagraph (1), (2) or (4) of the definition of **Wrongful Act**; or
- (5) violation of the Telephone Consumer Protection Act of 1991, as amended.

(g) alleging, arising out of, based upon or attributable to an **Insured's** employment of any individual or any of an **Insured's** employment practices (including, without limitation, wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim).

(h) alleging, arising out of, based upon or attributable to any unfair or deceptive business practices, including, without limitation, the violations of any local, state or federal consumer protection laws.

(i) brought by or on behalf of:

- (1) any **Insured**;
- (2) any business entity that is controlled, managed or operated, directly or indirectly, in whole or in part, by an **Insured**; or
- (3) any parent company, **Subsidiary**, successor or assignee of an **Insured**, or any person or entity affiliated with an **Insured** or such business entity through common **Management Control**;

provided, however, this exclusion shall not apply to an **Insured** as described in subparagraph (4) of the Definition of **Insured**.

(j) for any of the following:

- (1) the return of an **Insured's** fees or compensation;
- (2) any profit or advantage to which an **Insured** is not legally entitled;
- (3) an **Insured's** expenses or charges, including employee compensation and benefits, overhead, over-charges or cost over-runs;
- (4) civil or criminal fines or penalties imposed against an **Insured** and any matters deemed uninsurable under the law pursuant to which this policy shall be construed;
- (5) an **Insured's** costs and expenses of complying with any injunctive or other form of equitable relief;
- (6) taxes incurred by an **Insured**;
- (7) the amounts for which an **Insured** is not financially liable or which are without legal recourse to any **Insured**;
- (8) production costs or the cost of recall, reproduction, reprinting, return or correction of **Material** by any person or entity; or
- (9) amounts an **Insured** agrees to pay pursuant to a contract, including without limitation,

liquidated damages, setoffs or penalties.

- (k) alleging, arising out of, based upon or attributable to any obligation an **Insured** has under contract; other than liability from a **Wrongful Act** where such liability has been assumed by an **Insured** in the form of a written hold harmless or indemnity agreement that predates the first such **Wrongful Act**.
- (l) alleging, arising out of, based upon or attributable to any **Wrongful Act**, or any **Related Acts** thereto, alleged or contained in any **Claim** which has been reported, or in any circumstances of which notice has been given, under any policy of which this **Coverage Section** is a renewal or replacement or which it may succeed in time.
- (m) alleging, arising out of, based upon or attributable to any **Wrongful Act** occurring prior to the **Retroactive Date** or any **Related Acts** thereto, regardless of when such **Related Act** occurs.
- (n) alleging, arising out of, based upon or attributable to any **Wrongful Act** occurring prior to the **Continuity Date**, or any **Related Act** thereto (regardless of when such **Related Act** occurs), if, as of the **Continuity Date**, an **Insured** knew or could have reasonably foreseen that such **Wrongful Act** did or would result in a **Claim** against an **Insured**.
- (o) alleging, arising out of, based upon or attributable to any breach of fiduciary duty, responsibility, or obligation in connection with any employee benefit or pension plan, including violations of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, or similar statutory or common law of the United States of America or any state or jurisdiction therein.
- (p) alleging, arising out of, based upon or attributable to: (1) false advertising or misrepresentation in advertising; (2) any failure of goods, products or services to conform with an advertised quality or performance; or (3) any infringement of trademark or trade dress by any goods, products or services displayed or contained in any **Material**.
- (q) brought by or on behalf of: (i) ASCAP, SESAC, BMI, RIAA or other music licensing organizations; (ii) the Federal Trade Commission; (iii) the Department of Health and Human Services or Office of Civil Rights; (iv) the Federal Communications Commission; or (v) any other federal, state, local or foreign government, agency or office.
- (r) brought by or on behalf of any independent contractor, third-party distributor, licensee, sub-licensee, joint venturer, venture partner, any employee of the foregoing, or any employee or agent of an **Insured** alleging, arising out of, based upon or attributable to disputes over the: (i) ownership or exercise of rights in **Material**; or (ii) services supplied by such independent contractor, third-party distributor, licensee, sub-licensee, joint venturer, venture partner or employee or agent.
- (s) alleging, arising out of, based upon or attributable to any infringement of copyright related to software, source code or software license.
- (t) alleging, arising out of, based upon or attributable to the failure to protect information used for

authenticating or identifying an **Insured's** customers, vendors, suppliers or independent contractors in the normal course of an **Insured's** business.

(u) alleging, arising out of, based upon or attributable to: (1) corporate financial data of an **Organization**; (2) infringement of copyright, trademark, trade dress or other intellectual property right by an **Organization's** name or by a product manufactured or sold by an **Organization**; or (3) **Material** posted on an **Organization's** internal system or intranet.

(v) alleging, arising out of, based upon or attributable to any:

- (1) accounting or recovery of profits, royalties, fees or other monies claimed to be due from an **Insured**, or any **Claim** brought by any such party against an **Insured** claiming excessive or unwarranted fees, compensation or charges of any kind made by an **Insured**; or
- (2) licensing fees or royalties ordered, directed or agreed to be paid by an **Insured** pursuant to a judgment, arbitration award, settlement agreement or similar order or agreement, for the continued use of a person or entity's copyright, title, slogan, trademark, trade name, trade dress, service mark, service name, or other intellectual property right.

3. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

(a) The **Insureds** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, give written notice to the **Insurer** of any **Claim** made against an **Insured** as soon as practicable after any personnel in an **Organization's** office of the: (i) Chief Executive Officer, (ii) Chief Financial Officer, (iii) Chief Security Officer, (iv) Chief Technology Officer, (v) Chief Information Officer, (vi) Risk Manager, or (vii) General Counsel (or equivalent positions) first becomes aware of the **Claim**.

Notwithstanding the foregoing and regardless of whether any personnel described in (a) above has become aware of any **Claim**, in all events each **Claim** under this **Coverage Section** must be reported no later than either:

- (1) forty-five (45) days after the end of the **Policy Period**; or
- (2) the end of any applicable **Discovery Period**.

(b) If written notice of a **Claim** has been given to the **Insurer** pursuant to paragraph (a) above, then any subsequent **Claim** made against an **Insured** arising out of, based upon or attributable to the facts giving rise to such **Claim** for which such notice has been given, or alleging any **Related Act** thereto, shall be considered made at the time such notice was given.

(c) If during the **Policy Period** or during the **Discovery Period** (if applicable), an **Insured** shall become aware of any circumstances which may reasonably be expected to give rise to a **Claim** being

made against an **Insured** and shall choose to give written notice to the **Insurer** of such circumstances, the **Wrongful Act(s)**, allegations anticipated and the reasons for anticipating such a **Claim**, with full particulars as to dates, persons and entities involved, then any **Claim** which is subsequently made against an **Insured** and reported to the **Insurer** alleging, arising out of, based upon or attributable to such circumstances or alleging any **Related Act** to that alleged or contained in such circumstances, shall be considered made at the time such notice of such circumstances was given.

4. DISCOVERY PREMIUM

In the event the **Named Entity** or the **Insurer** shall cancel or refuse to renew this **Coverage Section**, the **Named Entity** shall have the right following the effective date of such cancellation or nonrenewal to a **Discovery Period** of sixty (60) days for no additional premium. The **Named Entity** shall have the right to a period of up to six (6) years for an **Additional Premium Amount** of up to:

- (a) 100% of the **Full Annual Premium** for one year;
- (b) 175% of the **Full Annual Premium** for two years;
- (c) 200% of the **Full Annual Premium** for three years; or
- (d) an amount to be determined by the **Insurer** for a period of four to six years.

As used herein, "**Full Annual Premium**" means the premium level in effect for this **Coverage Section** immediately prior to the end of the **Policy Period**.

In the event of a **Transaction**, the **Additional Premium Amount** shall be an amount to be determined by the **Insurer**.

5. INSURED'S OBLIGATIONS

In connection with all **Claims** under this **Coverage Section**, each **Insured** agrees to the following:

- (a) such **Insured** shall send the **Insurer** copies of all demands, suit papers, other related legal documents and invoices for **Defense Costs** received by such **Insured**, as soon as practicable;
- (b) such **Insured** shall immediately record the specifics of any **Claim** and the date such **Insured** first received such **Claim**;
- (c) such **Insured** shall cooperate with and assist the **Insurer** and/or any counsel appointed pursuant to the terms of this policy, including, without limitation, as follows:
 - (1) by not admitting liability;
 - (2) in making settlements;
 - (3) in enforcing any legal rights any **Insured** may have against anyone who may be liable to any **Insured**;
 - (4) by attending depositions, hearings and trials;
 - (5) by securing and giving evidence, and obtaining the attendance of witnesses;
 - (6) by furnishing any and all documentation within the possession of such **Insured** that may be required; and

(7) by taking such actions that such **Insured** and the **Insurer** agree are necessary and practicable to prevent or limit **Loss** arising from any **Wrongful Act**.

(d) unless required to do so by law, **Insureds** shall not, without the **Insurer's** prior written consent:

- (1) assume any financial obligation or incur any cost unless specifically allowed to settle any **Claim** on behalf of all **Insureds** within the retention pursuant to this **Coverage Section**.
- (2) take any action, or fail to take any required action which prejudices the **Insurer's** rights under this policy.

6. OTHER INSURANCE

Such insurance as is provided by this **Coverage Section** shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**.

7. SUBROGATION

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery. Each **Insured** must do all that is possible to preserve any such rights of recovery and do whatever is necessary, including signing documents to help the **Insurer** obtain that recovery. Notwithstanding the above, an **Organization** may waive an **Insured's** rights to recovery against others if it does so in writing and before the occurrence of a **Wrongful Act**.

8. ALTERNATIVE DISPUTE RESOLUTION

ADR Options

All disputes or differences which may arise under or in connection with this **Coverage Section**, whether arising before or after termination of this policy, including any determination of the amount of **Loss**, shall be submitted to an alternative dispute resolution (ADR) process as provided in this Clause. The **Named Entity** may elect the type of ADR process discussed below; provided, however, that absent a timely election, the **Insurer** may elect the type of ADR process. In that case, the **Named Entity** shall have the right to reject the **Insurer's** choice of the type of ADR process at any time prior to its commencement, after which, the **Named Entity's** choice of ADR shall control.

Mediation

In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least ninety (90) days shall have elapsed from the date of the termination of the mediation.

Arbitration

In the event of arbitration, the decision of the arbitrator(s) shall be final, binding and provided to both parties, and the arbitration award shall not include attorney's fees or other costs.

ADR Process

Selection of Arbitrator(s) or Mediator: The **Insurer** and the **Named Entity** shall mutually consent to: (i) in the case of arbitration, an odd number of arbitrators which shall constitute the arbitration panel, or (ii) in the case of mediation, a single mediator. The arbitrator, arbitration panel members or mediator must be disinterested and have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. In the absence of agreement, the **Insurer** and the **Named Entity** each shall select one arbitrator, the two arbitrators shall select a third arbitrator, and the panel shall then determine applicable procedural rules.

ADR Rules: In considering the construction or interpretation of the provisions of this policy, the mediator or arbitrator(s) must give due consideration to the general principles of the law of the **State of Formation** of the **Named Entity**. Each party shall share equally the expenses of the process elected. At the election of the **Named Entity**, either choice of ADR process shall be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state reflected in the **Named Entity Address**. The **Named Entity** shall act on behalf of each and every **Insured** under this *Alternative Dispute Resolution Clause*. In all other respects, the **Insurer** and the **Named Entity** shall mutually agree to the procedural rules for the mediation or arbitration. In the absence of such an agreement, after reasonable diligence, the arbitrator(s) or mediator shall specify commercially reasonable rules.

9. APPLICATION

The **Insurer** has relied upon the accuracy and completeness of the statements, warranties and representations contained in the **Application**. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

10. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

Application means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other statements, information, representations of any **Insured** or documents submitted by any **Insured** in connection with the underwriting of this policy and **Coverage Section** or the underwriting of any other policy providing the same or similar coverage issued by the **Insurer**, or any of its affiliates, of which this policy is in whole or part a renewal or replacement or which it succeeds in time.

Claim means:

- (1) a written demand for money, services, non-monetary relief or injunctive relief;
- (2) a written request for mediation or arbitration, or to toll or waive an applicable statute of limitations; or
- (3) a **Suit**.

Defense Costs

means all reasonable and necessary fees charged by an attorney appointed by the **Insurer** (unless otherwise provided for by this policy) in connection with any **Suit** brought against an **Insured**, as well as all other reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond) incurred in the defense or investigation of a **Claim** by the **Insurer** or by an **Insured** with the **Insurer's** written consent. **Defense Costs** shall not include: (i) compensation of any natural person **Insured**; or (ii) any fees, costs or expenses incurred prior to the time that a **Claim** is first made against an **Insured**.

Insured

means:

- (1) an **Organization**;
- (2) any past, present or future officer, director, trustee or employee of an **Organization** acting in their capacity as such (and in the event an **Organization** is a partnership, limited liability partnership or limited liability company, then any general or managing partner or principal thereof acting in their capacity as such); and
- (3) any independent contractors and agents, but only:
 - (i) with respect to **Material** that they provide to a **Company**; and
 - (ii) when such **Company** has, prior to the commission of a **Wrongful Act**, expressly agreed in writing to indemnify and defend such party against liability arising out of such **Wrongful Act**.
- (4) any person or entity that an **Organization** has expressly agreed in writing, prior to the commission of a **Wrongful Act**, to add as an **Insured** under the policy, but only for the **Wrongful Acts** of an **Organization**.

Loss

means compensatory damages, judgments, settlements, pre-judgment and post-judgment interest and **Defense Costs**, including punitive, exemplary and multiple damages where insurable by the applicable law which most favors coverage for such punitive, exemplary and multiple damages.

Management Control

means: (i) owning interests representing more than fifty percent (50%) of the voting, appointment or designation power for the selection of a majority of: the board of directors of a corporation, the management committee members of a joint venture or partnership, or the members of the management board of a limited liability company; or (ii) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an **Organization**, to elect, appoint or designate a majority of: the board of directors of a corporation, the management committee of a joint venture or partnership, or the management board of a limited liability company.

Material

means electronic, digital or digitized media content displayed on an **Organization's** website, including advertising, audio, video and written content. **Material** does not include any software or any physical goods, products or

	services displayed.
Pollutants	means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
Related Acts	means Wrongful Acts which are the same, related or continuous, or Wrongful Acts which arise from a common nucleus of facts. All Related Acts shall be considered to have occurred at the time the first such Related Act occurred.
Subsidiary	means: <ol style="list-style-type: none"> (1) any for-profit entity of which the Named Entity has or had Management Control ("Controlled Entity") on or before the Inception Date of this policy, either directly or indirectly through one or more other Controlled Entities; (2) any for-profit entity of which the Named Entity acquires Management Control during the Policy Period, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the Inception Date of this policy do not exceed ten percent (10%) of the aggregate gross revenues of the Organizations for the most recent fiscal year prior to the Inception Date of this policy; (3) any for-profit entity of which the Named Entity acquires Management Control during the Policy Period, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the Inception Date of this policy exceed ten percent (10%) of the aggregate gross revenues of the Organizations for the most recent fiscal year prior to the Inception Date of this policy, but only once: (a) the Named Entity shall have provided the Insurer with full particulars of such entity and agreed to any additional premium and amendments to this policy relating to such entity; and (b) the Insurer has ratified its acceptance of such entity as a Subsidiary by endorsement to this policy; and (4) any not-for-profit entity under section 501(c)(3) of the Internal Revenue Code of 1986 (as amended) sponsored exclusively by an Organization. <p>Notwithstanding the foregoing, coverage afforded under this Coverage Section shall only apply to Loss arising out of Wrongful Acts occurring or allegedly occurring after the effective time that the Named Entity obtained Management Control of such Subsidiary and prior to the time that such Named Entity ceased to have Management Control of such Subsidiary.</p>
Suit	means a civil proceeding for monetary, non-monetary or injunctive relief, which is commenced by service of a complaint or similar pleading. Suit includes a binding arbitration proceeding to which an Insured must submit or does submit with the Insurer's consent.
Wrongful Act	any act, error, omission, negligent supervision of an employee, misstatement or misleading statement by an Insured in connection with Material occurring on or after the Retroactive Date and prior to the end of the Policy Period that results solely in: <ol style="list-style-type: none"> (1) infringement of copyright, title, slogan, trademark, trade name, trade dress, mark, service mark, service name, infringement of domain name, deep-linking or framing, including, without limitation, unfair competition in connection with

such conduct;

- (2) plagiarism, piracy or misappropriation or theft of ideas under implied contract or other misappropriation or theft of ideas or information; including, without limitation, unfair competition in connection with such conduct;
- (3) invasion, infringement or interference with rights of privacy or publicity, false light, public disclosure of private facts, intrusion and commercial appropriation of name, persona or likeness; including, without limitation, emotional distress or mental anguish in connection with such conduct; or
- (4) defamation, libel, slander, product disparagement or trade libel or other tort related to disparagement or harm to character or reputation; including, without limitation, unfair competition, emotional distress or mental anguish in connection with such conduct.

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CYBEREDGE® EVENT MANAGEMENT INSURANCE
("Event Management Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **Event Management Coverage Section**, unless otherwise explicitly stated to the contrary in this **Event Management Coverage Section**.

In consideration of the payment of the premium and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to a **Security Failure** or **Privacy Event** first discovered during the **Policy Period** and reported to the **Insurer** as required by this **Coverage Section**. Subject to the foregoing and the other terms, conditions and limitations of this policy, this **Coverage Section** affords the following coverage:

EVENT MANAGEMENT INSURING AGREEMENT

This policy shall pay all **Loss** that an **Insured** incurs solely as a result of an alleged **Security Failure** or **Privacy Event** that has actually occurred or is reasonably believed by such **Insured** to have occurred.

2. EXCLUSIONS

The **Insurer** shall not be liable to make any payment for **Loss**:

- (a) arising out of, based upon or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law, if committed by any of an **Insured's**:
 - (1) past or present directors, officers, trustees, general or managing partners or principals (or the equivalent positions), whether acting alone or in collusion with other persons; or
 - (2) past or present employees (other than those referenced in subparagraph (1) above) or independent contractors employed by an **Insured** if any of those referenced in Sub-paragraph (1) above participated in, approved of, acquiesced to, or knew or had reason to know prior to the act of, the dishonest, fraudulent, malicious, or criminal act committed by such employee or independent contractor that caused a direct loss to an **Insured** or any other person.
- (b) arising out of, based upon or attributable to any misappropriation of an **Insured's** trade secret, any misappropriation of trade secrets by any **Insured** or any employee of an **Insured**, or any infringement of patent, copyright, trademark or trade dress.

(c) arising out of, based upon or attributable to any (1) presence of **Pollutants**; (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.

(d) for any:

- (1) physical injury, sickness, disease, mental anguish, mental injury, shock, humiliation or death at any time; or
- (2) damage to, loss of use of, or destruction of any tangible property. (For purposes of this exclusion, "tangible property" shall not include electronic data.)

(e) arising out of, based upon or attributable to any:

- (1) fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event, however caused;
- (2) war, invasion, military action (whether war is declared or not), civil war, mutiny, popular or military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against any of these events; or
- (3) satellite failure.

(f) arising out of, based upon or attributable to any seizure, confiscation, nationalization, or destruction of a **Computer System** or **Electronic Data** by order of any governmental or public authority.

(g) arising out of, based upon or attributable to any **Security Failure** or **Privacy Event**, or any **Related Acts** thereto, which has been reported, or in any circumstances of which notice has been given, under any policy of which this **Coverage Section** is a renewal or replacement or which it may succeed in time.

(h) for any profit or advantage to which any **Insured** is not legally entitled.

(i) arising out of, based upon or attributable to any amounts for: (i) the original creation of; (ii) diminution of value of; (iii) lost profits of; (iv) or loss of use of, a trade secret, patent, copyright, trademark, trade dress or any other intellectual property.

3. RETENTION

In addition to the provisions of Clause 2. RETENTION of the **General Terms and Conditions**, the **Insurer** shall be liable only for the amount of **Loss** arising from each **Security Failure** or **Privacy Event** that exceeds the Retention amount stated in Item 6 of the Declarations as applicable to this **Event Management Coverage Section**. Amounts within such Retention shall remain uninsured.

4. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

- (a) The **Insureds** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, give written notice to the **Insurer** of any **Privacy Event** or **Security Failure** as soon as practicable after such **Privacy Event** or **Security Failure** is discovered.
- (b) If written notice of a **Privacy Event** or **Security Failure** has been given to the **Insurer** pursuant to paragraph (a) above, then any subsequent **Privacy Event** or **Security Failure** arising out of, based upon or attributable to the facts giving rise to such **Privacy Event** or **Security Failure** for which such notice has been given, or any **Related Act** thereto, shall be considered to have been reported at the time such notice was given.

5. INSURED'S OBLIGATIONS

In addition to providing notice as provided in the *Notice and Reporting* Clause of this **Coverage Section**, and before coverage will apply for **Loss** under this **Coverage Section**, each **Insured** must also:

- (a) complete and sign a written, detailed and affirmed proof of loss within ninety (90) days after the discovery of any **Loss** (unless such period has been extended by the **Insurer** in writing) which shall include, among any other pertinent information:
 - (1) a full description of such **Loss** and the circumstances surrounding such **Loss**, which shall include, among any other necessary information, the time, place and cause of the **Loss**;
 - (2) a detailed calculation of any **Loss**; and
 - (3) all underlying documents and materials that reasonably relate to or form any part of the proof of such **Loss**.
- (b) upon the **Insurer's** request, submit to an examination under oath.
- (c) immediately record the specifics of any **Loss**, **Security Failure** or **Privacy Event** and the date such **Insured** first became aware of such **Loss**, **Security Failure** or **Privacy Event**.
- (d) provide the **Insurer** with any cooperation and assistance that the **Insurer** may request, including assisting the **Insurer** in:
 - (1) any investigation of a **Security Failure**, **Privacy Event**, **Loss** or circumstance;
 - (2) enforcing any legal rights an **Insured** or the **Insurer** may have against anyone who may be liable to an **Insured**; and
 - (3) executing any documents that the **Insurer** deems necessary to secure its rights under this policy.

All adjusted claims shall be due and payable thirty (30) days after the presentation and written acceptance by the **Insurer** of satisfactory proof of **Loss** to the **Claims Address**. The costs and expenses of establishing or proving an **Insured's Loss** under this **Event Management Coverage Section**, including, without limitation, those connected with preparing a proof of loss, shall be such **Insured's** obligation, and are not covered under this policy.

6. OTHER INSURANCE

Such insurance as is provided by this **Coverage Section** shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**.

7. SUBROGATION

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery. Each **Insured** must do all that is possible to preserve any such rights of recovery and do whatever is necessary, including signing documents to help the **Insurer** obtain that recovery. Notwithstanding the above, an **Organization** may waive an **Insured's** rights to recovery against others if it does so in writing and before the occurrence of a **Security Failure** or **Privacy Event**.

8. ALTERNATIVE DISPUTE RESOLUTION

- 1. ADR Options* All disputes or differences which may arise under or in connection with this **Coverage Section**, whether arising before or after termination of this policy, including any determination of the amount of **Loss**, shall be submitted to an alternative dispute resolution (ADR) process as provided in this Clause. The **Named Entity** may elect the type of ADR process discussed below; provided, however, that absent a timely election, the **Insurer** may elect the type of ADR process. In that case, the **Named Entity** shall have the right to reject the **Insurer's** choice of the type of ADR process at any time prior to its commencement, after which, the **Named Entity's** choice of ADR shall control.
- 2. Mediation* In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least ninety (90) days shall have elapsed from the date of the termination of the mediation.
- 3. Arbitration* In the event of arbitration, the decision of the arbitrator(s) shall be final, binding and provided to both parties, and the arbitration award shall not include attorney's fees or other costs.
- 4. ADR Process* **Selection of Arbitrator(s) or Mediator:** The **Insurer** and the **Named Entity** shall mutually consent to: (i) in the case of arbitration, an odd number of arbitrators which shall constitute the arbitration panel, or (ii) in the case of

mediation, a single mediator. The arbitrator, arbitration panel members or mediator must be disinterested and have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. In the absence of agreement, the **Insurer** and the **Named Entity** each shall select one arbitrator, the two arbitrators shall select a third arbitrator, and the panel shall then determine applicable procedural rules.

ADR Rules: In considering the construction or interpretation of the provisions of this policy, the mediator or arbitrator(s) must give due consideration to the general principles of the law of the **State of Formation** of the **Named Entity**. Each party shall share equally the expenses of the process elected. At the election of the **Named Entity**, either choice of ADR process shall be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state reflected in the **Named Entity Address**. The **Named Entity** shall act on behalf of each and every **Insured** under this *Alternative Dispute Resolution Clause*. In all other respects, the **Insurer** and the **Named Entity** shall mutually agree to the procedural rules for the mediation or arbitration. In the absence of such an agreement, after reasonable diligence, the arbitrator(s) or mediator shall specify commercially reasonable rules.

9. APPLICATION

The **Insurer** has relied upon the accuracy and completeness of the statements, warranties and representations contained in the **Application**. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

10. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

Application means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other statements, information, representations of any **Insured** or documents submitted by any **Insured** in connection with the underwriting of this policy and **Coverage Section** or the underwriting of any other policy providing the same or similar coverage issued by the **Insurer**, or any of its affiliates, of which this policy is in whole or part a renewal or replacement or which it succeeds in time.

Computer System means any computer hardware, software or any components thereof that are linked together through a network of two or more devices accessible through the Internet, internal network or that are connected through data storage or other peripheral devices (including, without limitation, wireless and mobile devices), and are under the ownership, operation or control of, or leased by, an

Organization.

For this **Coverage Section**, "**Computer System**" also means "cloud computing" and other hosted resources operated by a third party service provider for the purpose of providing hosted computer resources to an **Organization** as provided in a written contract between such third party and an **Organization**.

Confidential Information

means any of the following in an **Organization's** or **Information Holder's** care, custody or control or for which an **Organization** or **Information Holder** is legally responsible:

- (1) information from which an individual may be uniquely and reliably identified or contacted, including, without limitation, an individual's name, address, telephone number, social security number, account relationships, account numbers, account balances, account histories and passwords;
- (2) information concerning an individual that would be considered "nonpublic personal information" within the meaning of Title V of the Gramm-Leach Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338) (as amended) and its implementing regulations, or protected personal information under any similar federal, state, local or foreign law;
- (3) information concerning an individual that would be considered "protected health information" or "electronic protected health information" within the Health Insurance Portability and Accountability Act of 1996 (as amended) (HIPAA) or the Health Information Technology for Economic and Clinical Health Act (HITECH Act), and their implementing regulations, or protected health-related information under any similar federal, state, local or foreign law;
- (4) information used for authenticating customers for normal business transactions; or
- (5) any third party's trade secrets, data, designs, interpretations, forecasts, formulas, methods, practices, processes, records, reports or other item of information that is not available to the general public.

Electronic Data

means any software or electronic data stored electronically on a **Computer System**, including without limitation **Confidential Information**.

Information Holder

means a third party that:

- (1) an **Insured** has provided **Confidential Information** to; or
- (2) has received **Confidential Information** on behalf of an **Insured**.

Insured

means an **Organization**.

Loss

means the following reasonable and necessary expenses and costs incurred by an **Insured** within one year of the discovery of the **Security Failure** or **Privacy Event**:

- (1) to conduct an investigation (including a forensic investigation) to determine the cause of the **Security Failure** or **Privacy Event**;
- (2) for a public relations firm, crisis management firm, law firm or breach coach agreed to by the **Insurer** to advise an **Insured** on minimizing the harm to such **Insured** (including, without limitation, maintaining and restoring public confidence in such **Insured**);

- (3) to notify those whose **Confidential Information** is the subject of the **Security Failure** or **Privacy Event** and advise of any available remedy in connection with the **Security Failure** or **Privacy Event** (including, without limitation, those expenses and costs for printing, advertising and mailing of materials);
- (4) for identity theft education and assistance, identity theft call center services, credit file or identity monitoring and victim reimbursement insurance made available to those persons notified about a **Security Failure** or **Privacy Event** pursuant to subparagraph (3) above;
- (5) for any other services approved by the **Insurer** at the **Insurer's** sole and absolute discretion;
- (6) to restore, recreate or recollect **Electronic Data**; or
- (7) to determine whether **Electronic Data** can or cannot be restored, recollected or recreated.

Provided, however, **Loss** shall not include compensation, fees, benefits, overhead or internal charges of any **Insured**.

Management Control

means: (i) owning interests representing more than fifty percent (50%) of the voting, appointment or designation power for the selection of a majority of: the board of directors of a corporation, the management committee members of a joint venture or partnership, or the members of the management board of a limited liability company; or (ii) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an **Organization**, to elect, appoint or designate a majority of: the board of directors of a corporation, the management committee of a joint venture or partnership, or the management board of a limited liability company.

Pollutants

means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

Privacy Event

means any failure to protect **Confidential Information** (whether by "phishing," other social engineering technique or otherwise), including, without limitation, that which results in an identity theft or other wrongful emulation of the identity of an individual or corporation.

Related Acts

means **Security Failures** or **Privacy Events** which are the same, related or continuous, or **Security Failures** or **Privacy Events** which arise from a common nucleus of facts. All **Related Acts** shall be considered to have occurred at the time the first such **Related Act** occurred.

Security Failure

means a failure or violation of the security of a **Computer System**, including, without limitation, that which results in or fails to mitigate any unauthorized access, unauthorized use, denial of service attack or receipt or transmission of a malicious code. "**Security Failure**" includes any such failure or violation resulting from the theft of a password or access code from an **Insured's** premises, the **Computer System**, or an officer, director or employee of an **Organization** by non-electronic means.

Subsidiary

means:

- (1) any for-profit entity of which the **Named Entity** has or had **Management**

Control ("**Controlled Entity**") on or before the **Inception Date** of this policy, either directly or indirectly through one or more other **Controlled Entities**;

- (2) any for-profit entity of which the **Named Entity** acquires **Management Control** during the **Policy Period**, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the **Inception Date** of this policy do not exceed ten percent (10%) of the aggregate gross revenues of the **Organizations** for the most recent fiscal year prior to the **Inception Date** of this policy;
- (3) any for-profit entity of which the **Named Entity** acquires **Management Control** during the **Policy Period**, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the **Inception Date** of this policy exceed ten percent (10%) of the aggregate gross revenues of the **Organizations** for the most recent fiscal year prior to the **Inception Date** of this policy, but only once (a) the **Named Entity** shall have provided the **Insurer** with full particulars of such entity and agreed to any additional premium and amendments to this policy relating to such entity; and (b) the **Insurer** has ratified its acceptance of such entity as a **Subsidiary** by endorsement to this policy; and
- (4) any not-for-profit entity under section 501(c)(3) of the Internal Revenue Code of 1986 (as amended) sponsored exclusively by an **Organization**.

Notwithstanding the foregoing, coverage afforded under this **Coverage Section** shall only apply to **Loss** arising out of **Privacy Events** or **Security Failures** occurring or allegedly occurring after the effective time that the **Named Entity** obtained **Management Control** of such **Subsidiary** and prior to the time that such **Named Entity** ceased to have **Management Control** of such **Subsidiary**.

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CYBEREDGE® NETWORK INTERRUPTION INSURANCE
("Network Interruption Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **Network Interruption Coverage Section**, unless otherwise explicitly stated to the contrary in this **Network Interruption Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to a **Security Failure** first occurring during the **Policy Period** and reported to the **Insurer** as required by this **Coverage Section**. Subject to the foregoing and the other terms, conditions and limitations of this policy, this **Coverage Section** affords the following coverage:

NETWORK INTERRUPTION INSURING AGREEMENT

This policy shall pay all **Loss** that an **Insured** incurs after the **Waiting Hours Period** and solely as a result of a **Security Failure**.

2. EXCLUSIONS

The **Insurer** shall not be liable to make any payment for **Loss**:

- (a) arising out of, based upon or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law, if committed by any of an **Insured's**:
 - (1) past or present directors, officers, trustees, general or managing partners or principals (or the equivalent positions), whether acting alone or in collusion with other persons; or
 - (2) past or present employees (other than those referenced in subparagraph (1) above) or independent contractors employed by an **Insured** if any of those referenced in Sub-paragraph (1) above participated in, approved of, acquiesced to, or knew or had reason to know prior to the act of, the dishonest, fraudulent, malicious, or criminal act committed by such employee or independent contractor that caused a direct loss to an **Insured** or any other person.
- (b) arising out of, based upon or attributable to any misappropriation or theft of trade secret or infringement of patent, copyright, trademark, trade dress or any other intellectual property right.

- (c) arising out of, based upon or attributable to any (1) presence of **Pollutants**; (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.
- (d) arising out of, based upon or attributable to any:
 - (1) physical injury, sickness, disease, mental anguish, mental injury, shock, humiliation or death at any time; or
 - (2) damage to, loss of use of, or destruction of any tangible property. (For purposes of this exclusion, "tangible property" shall not include electronic data.)
- (e) arising out of, based upon or attributable to any:
 - (1) fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, act of God or any other physical event, however caused;
 - (2) war, invasion, military action (whether war is declared or not), civil war, mutiny, popular or military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against any of these events; or
 - (3) satellite failure.
- (f) arising out of, based upon or attributable to any seizure, confiscation, nationalization, or destruction of a **Computer System** by order of any governmental or public authority.
- (g) arising out of, based upon or attributable to any **Security Failure** or **Related Act** thereto which has been reported, or in any circumstances of which notice has been given, under any policy of which this **Coverage Section** is a renewal or replacement or which it may succeed in time.
- (h) for any profit or advantage to which any **Insured** is not legally entitled.
- (i) arising out of, based upon or attributable to: (1) any liability to third-parties for whatever reason; (2) legal costs or legal expenses of any type; (3) updating, upgrading, enhancing, or replacing any **Computer System** to a level beyond that which existed prior to sustaining **Loss**; (4) unfavorable business conditions; or (5) the removal of software program errors or vulnerabilities.

3. RETENTION

In addition to the provisions of Clause 2. RETENTION of the **General Terms and Conditions**, the **Insurer** shall be liable only for the amount of **Loss** arising from each **Security Failure** that exceeds the **Remaining Retention**. Amounts within such Retention shall remain uninsured.

4. LIMITS OF LIABILITY

In addition to the provisions of Clause 3. LIMITS OF LIABILITY of the **General Terms and Conditions**, the maximum liability of the **Insurer** for all **Loss** arising from a **Security Failure** of the **Computer System** of an **Outsource Provider** shall be \$100,000. This amount shall be part of, and not in addition to, the **Policy Aggregate** and any applicable **Separate Limit of Liability** or **Shared Limit of Liability**.

5. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

- (a) The **Insureds** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, give written notice to the **Insurer** of any **Security Failure** as soon as practicable after such **Security Failure** commences.
- (b) If written notice of a **Security Failure** has been given to the **Insurer** pursuant to paragraph (a) above, then any subsequent **Security Failure** arising out of, based upon or attributable to the facts giving rise to such **Security Failure** for which such notice has been given, or any **Related Act** thereto, shall be considered to have been reported at the time such notice was given.

6. INSURED'S OBLIGATIONS

In addition to providing notice as provided in the *Notice and Reporting* Clause of this **Coverage Section**, and before coverage will apply for **Loss** under this **Coverage Section**, each **Insured** must also:

- (a) complete and sign a written, detailed and affirmed proof of loss within ninety (90) days after the discovery of any **Loss** (unless such period has been extended by the **Insurer** in writing) which shall include, among any other pertinent information:
 - (1) a full description of such **Loss** and the circumstances surrounding such **Loss**, which shall include, among any other necessary information, the time, place and cause of the **Loss**;
 - (2) a detailed calculation of any **Loss**; and
 - (3) all underlying documents and materials that reasonably relate to or form a part of the basis of the proof of such **Loss**.
- (b) upon the **Insurer's** request, submit to an examination under oath.
- (c) immediately record the specifics of any **Loss** or **Security Failure** and the date such **Insured** first became aware of such **Loss** or **Security Failure**.
- (d) provide the **Insurer** with any cooperation and assistance that the **Insurer** may request, including

assisting the **Insurer** in:

- (1) any investigation of a **Security Failure, Loss** or circumstance;
- (2) enforcing any legal rights an **Insured** or the **Insurer** may have against anyone who may be liable to an **Insured**;
- (3) executing any documents that the **Insurer** deem necessary to secure its rights under this policy; and
- (4) any calculation or appraisal conducted by or on behalf of the **Insurer** pursuant to this **Coverage Section**.

All adjusted claims shall be due and payable thirty (30) days after the presentation and written acceptance by the **Insurer** of satisfactory proof of **Loss** to the **Claims Address**. The costs and expenses of establishing or proving an **Insured's Loss** under this **Coverage Section**, including, without limitation, those connected with preparing a proof of loss, shall be such **Insured's** obligation, and are not covered under this policy.

7. NET PROFIT CALCULATIONS

In determining the amount of net profit (or net loss) and charges and expenses covered hereunder for the purpose of ascertaining the amount of **Loss** (and otherwise) under this **Coverage Section**, due consideration shall be given to the prior experience of an **Insured's** business before the beginning of the **Security Failure** and to the probable business an **Insured** could have performed had no **Security Failure** occurred. Provided, however, that such net profit (or net loss) calculations shall not include, and this policy shall not cover, net income that would likely have been earned as a result of an increase in volume of business due to favorable business conditions caused by the impact of **Security Failures** on other businesses. All such net profit (or net loss) and charges and expenses shall be calculated on an hourly basis and based on such an **Insured's** actual net profit (or net loss) and charges and expenses.

8. APPRAISAL

If any **Insured** and the **Insurer** disagree on the amount of **Loss**, either may make a written demand for an appraisal of such **Loss**. If such demand is made, each party will select a competent and impartial appraiser. The appraisers will then jointly select an umpire. If the appraisers cannot agree on an umpire, they may request that selection be made by a judge of a court having jurisdiction. Each appraiser will separately state the amount of **Loss**. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two of these three will be binding.

Such **Insured** and the **Insurer** will:

- (1) pay their respective chosen appraiser; and
- (2) bear the expenses of the umpire equally.

Any appraisal of **Loss** shall be calculated in accordance with all terms, conditions and exclusions of this policy.

9. OTHER INSURANCE

Such insurance as is provided by this **Coverage Section** shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**.

10. SUBROGATION

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery. Each **Insured** must do all that is possible to preserve any such rights of recovery and do whatever is necessary, including signing documents to help the **Insurer** obtain that recovery. Notwithstanding the above, an **Organization** may waive an **Insured's** rights to recovery against others if it does so in writing and before the occurrence of a **Security Failure**.

11. ALTERNATIVE DISPUTE RESOLUTION

- 1. ADR Options* Except as provided in Clause 8 of this **Coverage Section**, all disputes or differences which may arise under or in connection with this **Coverage Section**, whether arising before or after termination of this policy, shall be submitted to an alternative dispute resolution (ADR) process as provided in this Clause. The **Named Entity** may elect the type of ADR process discussed below; provided, however, that absent a timely election, the **Insurer** may elect the type of ADR process. In that case, the **Named Entity** shall have the right to reject the **Insurer's** choice of the type of ADR process at any time prior to its commencement, after which, the **Named Entity's** choice of ADR shall control.
- 2. Mediation* In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least ninety (90) days shall have elapsed from the date of the termination of the mediation.
- 3. Arbitration* In the event of arbitration, the decision of the arbitrator(s) shall be final, binding and provided to both parties, and the arbitration award shall not include attorney's fees or other costs.
- 4. ADR Process* **Selection of Arbitrator(s) or Mediator:** The **Insurer** and the **Named Entity** shall mutually consent to: (i) in the case of arbitration, an odd number of arbitrators which shall constitute the arbitration panel, or (ii) in the case of mediation, a single mediator. The arbitrator, arbitration panel members or mediator must be disinterested and have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. In the absence of agreement, the **Insurer** and the **Named Entity** each shall select one arbitrator, the two arbitrators shall select a third arbitrator, and the panel shall then determine applicable procedural rules.

ADR Rules: In considering the construction or interpretation of the provisions of this policy, the mediator or arbitrator(s) must give due

consideration to the general principles of the law of the **State of Formation** of the **Named Entity**. Each party shall share equally the expenses of the process elected. At the election of the **Named Entity**, either choice of ADR process shall be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state reflected in the **Named Entity Address**. The **Named Entity** shall act on behalf of each and every **Insured** under this *Alternative Dispute Resolution Clause*. In all other respects, the **Insurer** and the **Named Entity** shall mutually agree to the procedural rules for the mediation or arbitration. In the absence of such an agreement, after reasonable diligence, the arbitrator(s) or mediator shall specify commercially reasonable rules.

11. APPLICATION

The **Insurer** has relied upon the accuracy and completeness of the statements, warranties and representations contained in the **Application**. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section** of this policy.

12. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

Application means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other statements, information, representations of any **Insured** or documents submitted by any **Insured** in connection with the underwriting of this policy and **Coverage Section** or the underwriting of any other policy providing the same or similar coverage issued by the **Insurer**, or any of its affiliates, of which this policy is in whole or part a renewal or replacement or which it succeeds in time.

Computer System means any computer hardware, software or any components thereof that are linked together through a network of two or more devices accessible through the Internet, internal network or that are connected through data storage or other peripheral devices (including, without limitation, wireless and mobile devices), and are under the ownership, operation or control of, or leased by, an **Organization**.

For this **Coverage Section**, "**Computer System**" also means computer hardware, software or any components thereof that are under the ownership, operation or control of an **Outsource Provider**.

Insured means an **Organization**.

Loss	<p>means the below listed costs incurred from the beginning of a Material Interruption through the 120th day after the end of the Material Interruption (or 120 days after the Material Interruption would have ended if an Insured exercised due diligence and dispatch):</p> <p>(1) costs that would not have been incurred but for a Material Interruption; and</p> <p>(2) the sum of all of following, which shall be calculated on an hourly basis:</p> <p>(a) Net Income (Net Profit or Loss before income taxes) that would have been earned; and</p> <p>(b) Continuing normal operating expenses incurred, including payroll.</p>
Material Interruption	means the actual and measurable interruption or suspension of an Insured's business directly caused by a Security Failure .
Management Control	means: (i) owning interests representing more than fifty percent (50%) of the voting, appointment or designation power for the selection of a majority of: the board of directors of a corporation, the management committee members of a joint venture or partnership, or the members of the management board of a limited liability company; or (ii) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an Organization , to elect, appoint or designate a majority of: the board of directors of a corporation, the management committee of a joint venture or partnership, or the management board of a limited liability company.
Outsource Provider	means an entity not owned, operated or controlled by an Insured that such Insured depends on to conduct its business.
Pollutants	means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
Related Acts	means Security Failures which are the same, related or continuous, or Security Failures which arise from a common nucleus of facts. All Related Acts shall be considered to have occurred at the time the first such Related Act occurred.
Remaining Retention	means the Retention set forth in Item 6 of the Declarations for this Network Interruption Coverage Section less the amount of Loss incurred by any Insured during the Waiting Hours Period . If the Loss incurred by any Insured during the Waiting Hours Period is greater than the applicable Retention set forth in the Declarations, the Remaining Retention equals zero.
Security Failure	means a failure or violation of the security of a Computer System , including, without limitation, that which results in or fails to mitigate any unauthorized access, unauthorized use, denial of service attack or receipt or transmission of a malicious code. " Security Failure " includes any such failure or violation resulting from the theft of a password or access code from an Organization's premises, an Organization's Computer System , or an officer, director or employee of an Organization by non-electronic means.
Subsidiary	<p>means:</p> <p>(1) any for-profit entity of which the Named Entity has or had Management Control ("Controlled Entity") on or before the inception date of the Policy Period, either directly or indirectly through one or more other Controlled</p>

Entities;

- (2) any for-profit entity of which the **Named Entity** acquires **Management Control** during the **Policy Period**, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the inception of this policy do not exceed ten percent (10%) of the aggregate gross revenues of the **Organizations** for the most recent fiscal year prior to the inception date of this policy;
- (3) any for-profit entity of which the **Named Entity** acquires **Management Control** during the **Policy Period**, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the inception of this policy exceed ten percent (10%) of the aggregate gross revenues of the **Organizations** for the most recent fiscal year prior to the inception date of this policy, but only once (a) the **Named Entity** shall have provided the **Insurer** with full particulars of such entity and agreed to any additional premium and amendments to this policy relating to such entity; and (b) the **Insurer** has ratified its acceptance of such entity as a **Subsidiary** by endorsement to this policy; and
- (4) any not-for-profit entity under section 501(c)(3) of the Internal Revenue Code of 1986 (as amended) sponsored exclusively by an **Organization**.

Notwithstanding the foregoing, coverage afforded under this **Coverage Section** shall only apply to **Loss** arising out of **Security Failures** occurring after the effective time that the **Named Entity** obtained **Management Control** of such **Subsidiary** and prior to the time that such **Named Entity** ceased to have **Management Control** of such **Subsidiary**.

**Waiting Hours
Period**

means the number of hours set forth in Item 6 of the Declarations that must elapse once a **Material Interruption** has begun.

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CYBEREDGE® CYBER EXTORTION INSURANCE
("Cyber Extortion Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **Cyber Extortion Coverage Section**, unless otherwise explicitly stated to the contrary in this **Cyber Extortion Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to **Security Threats** and **Privacy Threats** first occurring during the **Policy Period** and reported to the **Insurer** as required by this **Coverage Section**. Subject to the foregoing and the other terms, conditions and limitations of this policy, this **Coverage Section** affords the following coverage:

CYBER EXTORTION INSURING AGREEMENT

This policy shall pay all **Loss** that an **Insured** incurs solely as a result of a **Security Threat** or **Privacy Threat**.

2. EXCLUSIONS

The **Insurer** shall not be liable to make any payment for **Loss**:

- (a) arising out of, based upon or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law, if committed by any of the **Insured's**:
 - (1) past or present directors, officers, trustees, general or managing partners or principals (or the equivalent positions), whether acting alone or in collusion with other persons; or
 - (2) past or present employees (other than those referenced in subparagraph (1) above) or independent contractors employed by the **Insured** if any of those referenced in Sub-paragraph (1) above participated in, approved of, acquiesced to, or knew or had reason to know prior to the act of, the dishonest, fraudulent, malicious, or criminal act committed by such employee or independent contractor that caused a direct loss to an **Insured** or any other person.
- (b) arising out of, based upon or attributable to any misappropriation of an **Insured's** trade secret or any infringement of patent, copyright, trademark, trade dress or any other intellectual property right.

- (c) arising out of, based upon or attributable to any (1) presence of **Pollutants**; (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.
- (d) for any:
 - (1) physical injury, sickness, disease, mental anguish, mental injury, shock, humiliation or death at any time; or
 - (2) damage to, loss of use of, or destruction of any tangible property. (For purposes of this exclusion, "tangible property" shall not include electronic data.)
- (e) arising out of, based upon or attributable to any war, invasion, military action (whether war is declared or not), civil war, mutiny, popular or military uprising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against any of these events.
- (f) arising out of, based upon or attributable to any **Security Threat** or **Privacy Threat** made by any government entity or public authority.
- (g) arising out of, based upon or attributable to any **Security Threat** or **Privacy Threat** or **Related Act** thereto which has been reported, or in any circumstances of which notice has been given, under any policy of which this **Coverage Section** is a renewal or replacement or which it may succeed in time.

3. RETENTION

In addition to the provisions of Clause 2. RETENTION of the **General Terms and Conditions**, the **Insurer** shall be liable only for the amount of **Loss** arising from each **Security Threat** or **Privacy Threat** that exceeds the Retention amount stated in Item 6 of the Declarations as applicable to this **Cyber Extortion Coverage Section**. Amounts within such Retention shall remain uninsured.

4. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

- (a) The **Insureds** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, give written notice to the **Insurer** of any **Security Threat** or **Privacy Threat** as soon as practicable after such **Security Threat** or **Privacy Threat** commences.
- (b) If written notice of a **Security Threat** or **Privacy Threat** has been given to the **Insurer** pursuant to paragraph (a) above, then any subsequent **Security Threat** or **Privacy Threat** made against an **Insured** arising out of, based upon or attributable to the facts giving rise to such **Security Threat** or **Privacy Threat** for which such notice has been given, or any **Related Act** thereto, shall be considered to have been reported at the time such notice was given.

5. INSURED'S OBLIGATIONS

In connection with all **Security Threats** and **Privacy Threats** under this **Coverage Section**, each **Insured** agrees to the following:

- (a) such **Insured** shall send the **Insurer** copies of all demands and other legal documents and invoices received by such **Insured**, as soon as practicable;
- (b) such **Insured** shall immediately record the specifics of any **Security Threat** or **Privacy Threat** and the date and time such **Insured** first received such **Security Threat** or **Privacy Threat**;
- (c) such **Insured** shall cooperate with and assist the **Insurer**, including, without limitation, as follows:
 - (1) in enforcing any legal rights any **Insured** may have against anyone who may be liable to any **Insured**;
 - (2) by furnishing any and all documentation within the possession of such **Insured** that may be required; and
 - (3) by taking such actions that such **Insured** and the **Insurer** agree are necessary and practicable to prevent or limit **Loss** arising from any **Security Threat** or **Privacy Threat**.
- (d) unless required to do so by law, **Insureds** shall not, without the **Insurer's** prior written consent:
 - (1) assume any financial obligation or incur any cost.
 - (2) take any action, or fail to take any required action which prejudices the **Insurer's** rights under this policy.

6. OTHER INSURANCE

Such insurance as is provided by this **Coverage Section** shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**.

7. SUBROGATION

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery. Each **Insured** must do all that is possible to preserve any such rights of recovery and do whatever is necessary, including signing documents to help the **Insurer** obtain that recovery.

8. ALTERNATIVE DISPUTE RESOLUTION

- 1. *ADR Options* All disputes or differences which may arise under or in connection with this **Coverage Section**, whether arising before or after termination of this policy, including any determination of the amount of **Loss**, shall be submitted to an alternative dispute resolution (ADR) process as provided in this Clause. The **Named Entity** may elect the type of ADR process discussed below;

provided, however, that absent a timely election, the **Insurer** may elect the type of ADR process. In that case, the **Named Entity** shall have the right to reject the **Insurer's** choice of the type of ADR process at any time prior to its commencement, after which, the **Named Entity's** choice of ADR shall control.

2. *Mediation* In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least ninety (90) days shall have elapsed from the date of the termination of the mediation.

3. *Arbitration* In the event of arbitration, the decision of the arbitrator(s) shall be final, binding and provided to both parties, and the arbitration award shall not include attorney's fees or other costs.

4. *ADR Process* *Selection of Arbitrator(s) or Mediator:* The **Insurer** and the **Named Entity** shall mutually consent to: (i) in the case of arbitration, an odd number of arbitrators which shall constitute the arbitration panel, or (ii) in the case of mediation, a single mediator. The arbitrator, arbitration panel members or mediator must be disinterested and have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. In the absence of agreement, the **Insurer** and the **Named Entity** each shall select one arbitrator, the two arbitrators shall select a third arbitrator, and the panel shall then determine applicable procedural rules.

ADR Rules: In considering the construction or interpretation of the provisions of this policy, the mediator or arbitrator(s) must give due consideration to the general principles of the law of the **State of Formation** of the **Named Entity**. Each party shall share equally the expenses of the process elected. At the election of the **Named Entity**, either choice of ADR process shall be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state reflected in the **Named Entity Address**. The **Named Entity** shall act on behalf of each and every **Insured** under this *Alternative Dispute Resolution Clause*. In all other respects, the **Insurer** and the **Named Entity** shall mutually agree to the procedural rules for the mediation or arbitration. In the absence of such an agreement, after reasonable diligence, the arbitrator(s) or mediator shall specify commercially reasonable rules.

8. APPLICATION

The **Insurer** has relied upon the accuracy and completeness of the statements, warranties and representations contained in the **Application**. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

9. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the

meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

Application	means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other statements, information, representations of any Insured or documents submitted by any Insured in connection with the underwriting of this policy and Coverage Section or the underwriting of any other policy providing the same or similar coverage issued by the Insurer , or any of its affiliates, of which this policy is in whole or part a renewal or replacement or which it succeeds in time.
Computer System	means any computer hardware, software or any components thereof that are linked together through a network of two or more devices accessible through the Internet, internal network or that are connected through data storage or other peripheral devices (including, without limitation, wireless and mobile devices), and are under the ownership, operation or control of, or leased by, an Organization .
Confidential Information	<p>means any of the following in an Organization's care, custody or control or for which an Organization is legally responsible:</p> <ol style="list-style-type: none">(1) information from which an individual may be uniquely and reliably identified or contacted, including, without limitation, an individual's name, address, telephone number, social security number, account relationships, account numbers, account balances, account histories and passwords;(2) information concerning an individual that would be considered "nonpublic personal information" within the meaning of Title V of the Gramm-Leach Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338) (as amended) and its implementing regulations, or protected personal information under any similar federal, state, local or foreign law;(3) information concerning an individual that would be considered "protected health information" or "electronic protected health information" within the Health Insurance Portability and Accountability Act of 1996 (as amended) (HIPAA) or the Health Information Technology for Economic and Clinical Health Act (HITECH Act), and their implementing regulations, or protected health-related information under any similar federal, state, local or foreign law;(4) information used for authenticating customers for normal business transactions; or(5) any third party's trade secrets, data, designs, interpretations, forecasts, formulas, methods, practices, processes, records, reports or other item of information that is not available to the general public.
Insured	means an Organization .
Loss	<p>means:</p> <ol style="list-style-type: none">(1) monies paid by an Insured with the Insurer's prior written consent to terminate or end a Security Threat or Privacy Threat that would otherwise result in harm to an Insured; and(2) the costs to conduct an investigation to determine the cause of a Security Threat or Privacy Threat.
Management	means: (i) owning interests representing more than fifty percent (50%) of the

Control	voting, appointment or designation power for the selection of a majority of: the board of directors of a corporation, the management committee members of a joint venture or partnership, or the members of the management board of a limited liability company; or (ii) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of an Organization , to elect, appoint or designate a majority of: the board of directors of a corporation, the management committee of a joint venture or partnership, or the management board of a limited liability company.
Pollutants	means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
Privacy Threat	means any threat or connected series of threats to unlawfully use or publicly disclose Confidential Information misappropriated from an Insured for the purpose of demanding money, securities or other tangible or intangible property of value from an Insured .
Related Acts	means Security Threats or Privacy Threats which are the same, related or continuous, or Security Threats or Privacy Threats which arise from a common nucleus of facts. All Related Acts shall be considered to have occurred at the time the first such Related Act occurred.
Security Threat	means any threat or connected series of threats to commit an intentional attack against a Computer System for the purpose of demanding money, securities or other tangible or intangible property of value from an Insured .

Subsidiary

means:

- (1) any for-profit entity of which the **Named Entity** has or had **Management Control** ("**Controlled Entity**") on or before the **Inception Date** of this policy, either directly or indirectly through one or more other **Controlled Entities**;
- (2) any for-profit entity of which the **Named Entity** acquires **Management Control** during the **Policy Period**, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the **Inception Date** of this policy do not exceed ten percent (10%) of the aggregate gross revenues of the **Organizations** for the most recent fiscal year prior to the **Inception Date** of this policy;
- (3) any for-profit entity of which the **Named Entity** acquires **Management Control** during the **Policy Period**, either directly or indirectly, whose gross revenues for the most recent fiscal year prior to the **Inception Date** of this policy exceed ten percent (10%) of the aggregate gross revenues of the **Organizations** for the most recent fiscal year prior to the **Inception Date** of this policy, but only once (a) the **Named Entity** shall have provided the **Insurer** with full particulars of such entity and agreed to any additional premium and amendments to this policy relating to such entity; and (b) the **Insurer** has ratified its acceptance of such entity as a **Subsidiary** by endorsement to this policy; and
- (4) any not-for-profit entity under section 501(c)(3) of the Internal Revenue Code of 1986 (as amended) sponsored exclusively by an **Organization**.

Notwithstanding the foregoing, coverage afforded under this policy shall only apply to **Loss** arising out of **Security Threats** and **Privacy Threats** occurring after the effective time that the **Named Entity** obtained **Management Control** of such **Subsidiary** and prior to the time that such **Named Entity** ceased to have **Management Control** of such **Subsidiary**.

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CRIMEGUARD CHOICE[®] FIDELITY & CRIME INSURANCE

("Crime Coverage Section")

Notice: The **General Terms and Conditions** are not applicable to this **Crime Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENT

The **Insurer** will indemnify the **Insured** for the **Loss of Assets**, excess of any applicable Deductible, resulting directly from **Agent Theft, Computer Fraud, Dishonesty, Forgery, Funds Transfer Fraud, Impairment, or Non-Payment of Money Order/Counterfeit Paper Currency**, which is first discovered by the **Insured** during the **Policy Period** or applicable discovery period pursuant to Clause 6(a) *Discovery of Loss* of this **Coverage Section**.

2. LIMIT OF LIABILITY

Any payment under this **Coverage Section** for a covered loss shall not reduce the **Insurer's** liability for other covered loss arising from unrelated acts, except as noted in the Declarations. The maximum liability of the **Insurer** for any single loss shall not exceed the applicable **Limit of Liability** amount stated in Item 6 of the Declarations for this **Coverage Section**.

The **Limit of Liability** stated in Item 6 of the Declarations for this **Coverage Section** shall be the maximum liability of the **Insurer** for all loss arising from a single act or series of related acts under this **Coverage Section**.

Regardless of the number of years this **Coverage Section** is in force and the number of premiums paid, the limit of the **Insurer's** liability as specified in the Declarations shall not be cumulative over policy periods.

3. DEDUCTIBLE AND OTHER INSURANCE

For each covered loss, coverage under this **Coverage Section** will be in excess of the greater of the following amounts:

- the Deductible amount set forth in Item 6 of the Declarations for this **Coverage Section**, and

- the amount of any other valid and collectible insurance or indemnity available to the **Insured**.

If a loss is covered partly under this **Coverage Section** and partly under a prior policy written by another carrier, the Deductible amount under this **Coverage Section** applicable to the loss will be reduced by the amount of any deductible amount actually applied to loss under such prior policy. If the amount of any deductible amount actually applied to loss under such other carrier's prior policy is greater than the Deductible amount under this **Coverage Section**, then no deductible shall apply to the amount of covered loss under this **Coverage Section**.

4. EXCLUSIONS

The coverage afforded by this **Coverage Section** does not apply to:

- loss or damage caused by fire, other than loss of or damage to **Money, Securities, safes or vaults**;
- loss resulting from **Theft** or any other fraudulent, dishonest or criminal act by the **Insured**, or any partner, owner, trustee, governor, management committee members, members of the management board, or director, of the **Insured**, except while any director is acting within the scope of the usual duties of an employee whether acting alone or in collusion with others;
- loss of potential income, including interest and dividends, of the **Insured**, a **Client** or any third party;
- loss or damage arising out of war, whether or not declared, civil war, insurrection, rebellion or revolution, or any act or condition incident to the foregoing;
- loss resulting from the loss of or damage to manuscripts, books of account or records maintained in any format or medium; provided, however, this Exclusion shall not apply to the cost of the manuscripts, books of account or records plus the cost of labor and computer time for the actual transcription or copying of data maintained in any format or medium in order to reproduce such manuscripts, books of account or records;
- loss resulting from, arising out of, based upon, attributable to, related to, in connection with, or from, directly or indirectly, the loss of or damage to proprietary information, trade secrets, confidential processing methods, patents, service marks, trademarks, copyrights, or other confidential information or intellectual property of any kind, or infringement of copyright, patent, service mark, trademark, trade secret or other intellectual property rights;

g. loss resulting from the surrendering of **Assets** away from the **Premises** or any other location resulting from a threat to do:

- bodily harm to any person; or
- damage to the **Premises** or property owned or held or utilized by the **Insured**;

provided, however, this Exclusion does not apply to loss resulting from **Impairment** while being conveyed by a **Messenger** when the **Insured** had no knowledge of any threat at the time of the incident;

h. loss, the proof of which is dependent solely upon:

- a profit and loss computation or comparison, or
- a comparison of inventory records with an actual physical count;

provided, however, where an **Employee** is involved, inventory records and actual physical count of inventory can be submitted as supporting documentation;

i. loss caused by any **Employee** from the time that an individual, as described in Clause 6(a) *Discovery of Loss*, not in collusion with the **Employee** shall have knowledge or information that the **Employee** has committed any **Theft** or fraudulent or dishonest act;

j. loss or damage to **Assets** while in the custody of any armored car company unless loss or damage is in excess of the amount recovered, recoverable or received by the **Insured** under:

- the **Insured's** contract with the armored car company; and
- any indemnity or insurance carried by the armored car company;

k. loss or damage resulting from **Impairment** of **Money** or **Securities** which benefits any party (other than the **Insured's** bank) acting in the capacity of a broker, factor, commission merchant, consignee, contractor or other agent or representative of the **Insured** except an **Agent**;

l. loss or damage to other tangible property while in the custody of any party other than the **Insured** or a **Messenger**;

m. loss or damage resulting from **Impairment** as a result of the unauthorized access and use of the **Insured's** telephone system or service or other communications system or service;

- n. the costs of defending any legal proceeding brought against the **Insured**, or the fees, costs or expenses incurred or paid by the **Insured** in prosecuting or defending any legal proceeding;
- o. loss or damage resulting from nuclear reaction, nuclear radiation or radioactive contamination, or to any act or condition incident to any of the foregoing;
- p. fines, penalties, consequential damages, punitive damages, expenses as a result of regularly scheduled recurring or routine regulatory examinations, or compliance activities or non-monetary relief, including without limitation, injunctive relief, or other equitable remedies of any type for which the **Insured** is legally liable;
- q. loss or damage resulting from **Impairment** or **Computer Fraud** arising out of the giving or surrendering of **Assets** in any exchange or purchase, whether legitimate or fraudulent;
- r. loss resulting from **Impairment** or **Computer Fraud** which induces the **Insured** to make any purchase or sale, whether legitimate or fraudulent;
- s. loss caused by **Forgery** or the alteration of **Assets** received by the **Insured** in purported payment for property or services sold and delivered on credit;
- t. loss or damage resulting from **Impairment** relating to the **Theft** of other tangible property within the **Premises**, while the **Premises** are not open for business, except other tangible property found within a safe, vault, cash box, locked cash drawer or cash register;
- u. loss or damage resulting from **Computer Fraud** arising out of unintentional errors or omissions;
- v. loss of computer time or use due to **Computer Fraud**;
- w. loss or damage resulting from **Funds Transfer Fraud** caused by a **Financial Institution**, or any electronic funds transfer system, or electronic data processor, except to the extent that such loss or damage exceeds any indemnity or other insurance provided for the benefit of customers of any of the aforesaid;
- x. loss resulting directly or indirectly from any authorized or unauthorized trading of **Money, Securities** or other tangible property whether or not in the name of the **Insured** and whether or not in a genuine or fictitious account; provided, however, this exclusion shall not apply to direct losses caused by **Dishonesty**. Direct losses as used herein shall mean only the amount of improper financial gain to the **Employee**;
- y. loss caused by any **Agent** from the time the **Insured** or any owner, partner or officer not in collusion with the **Agent** shall have knowledge or information that the **Agent** has committed any **Agent Theft**, or fraudulent or dishonest act;

z. loss or damage resulting from **Credit Card Forgery**;

aa. loss resulting directly or indirectly from the: (i) **Theft**, disappearance or destruction of; (ii) unauthorized use or disclosure of; (iii) unauthorized access to; or (iv) failure to protect any:

(1) confidential or non-public; or

(2) personal or personally identifiable;

information that any person or entity has a duty to protect under any law, rule or regulation, any agreement or any industry guideline or standard.

This Exclusion shall not apply to loss of any **Money**, **Securities** or tangible property of the **Insured** or that the **Insured** is holding for a third party that was the subject of a **Theft**, disappearance, damage or destruction resulting directly from the unauthorized use or disclosure of such information;

bb. loss that is an indirect or consequential result of an **Occurrence**, including but not limited to loss resulting from payment of damages of any type for which the **Insured** is legally liable.

5. WORLDWIDE TERRITORY

This **Crime Coverage Section** shall apply to loss incurred by an **Insured** anywhere in the world unless prohibited by law.

6. LOSS PROVISIONS

(a) *Discovery of Loss*

Discovery of loss by the **Insured** occurs when the **Insured's** Corporate Insurance Risk Management Department, Internal Audit Department, Human Resources/Personnel Department or General Counsel, or any officer to whom they report, or any partner or owner of the **Insured**, first becomes aware of facts which would cause a reasonable person to believe that a loss covered by this insurance has been or will be incurred, even though the exact amount or details may not then be known.

The **Insurer** will pay the **Insured** for loss sustained as a direct result of acts committed prior to the effective date of termination or cancellation of this **Coverage Section** (except when cancellation is due to non-payment of premium), which is discovered by the **Insured** during the **Policy Period** or within ninety (90) days after the effective date of such termination or cancellation; provided, however, the ninety (90)-day extended period set forth herein to discover loss terminates immediately upon the effective date of any other fidelity and crime insurance obtained by the **Insured**.

(b) Notification & Proof of Loss

Upon knowledge or discovery of loss by the **Insured** or of an occurrence which would cause a reasonable person to believe that such loss or occurrence would give rise to a covered loss in the amount of 50% of the applicable deductible or more, the **Named Entity** shall, on behalf of any **Insured**:

- give notarized written notice to the **Insurer** of such loss or occurrence, at the **Claims Address** stated in Item 4 of the Declarations, no later than ninety (90) days after such discovery or first obtaining such knowledge, on the form provided;
- give notice to the police if loss results from **Agent Theft, Computer Fraud, Forgery, Funds Transfer Fraud, Impairment, or Non-Payment of Money Order/Counterfeit Paper Currency**;
- provide all requested information and documents and cooperate with the **Insurer** in all matters pertaining to such loss or occurrence; and
- give written notice to the **Insurer** of the **Insured's** election to apply to such loss either Loss Settlement Clause 1 or Loss Settlement Clause 2, as set forth below, no later than thirty (30) days after the submission of the notarized written notice of such loss to the **Insurer** and no later than 90 days after knowledge or discovery of such loss. If the **Named Entity** fails to give written notice to the **Insurer** of such election, this **Coverage Section** shall apply as if the **Insured** had elected to apply Loss Settlement Clause 2 to such loss.

1) **LOSS SETTLEMENT CLAUSE 1: Election of the Fidelity Research & Investigative Settlement Clause (FRISC)**

An independent investigative specialist will investigate the facts and determine the quantum of loss. The **Named Entity** and the **Insurer** shall jointly task and budget the investigative specialist regarding the scope and cost of the investigation to be performed. The final report issued by the investigative specialist will be definitive as respects the facts and the quantum of loss and shall be provided to both the **Insured** and the **Insurer**.

Upon receipt and acceptance of written notification by the **Insurer**, the **Named Entity** shall choose an investigative specialist from the attached endorsement, provided the choice does not present a clear conflict of interest. The **Insurer** and the **Named Entity** will share equally the cost of the investigative specialist. The Deductible amount is not applicable to the cost of the investigative specialist, and the expense paid by the **Insurer** will be a part of, and not in addition to, the applicable **Limit of Liability**.

After a joint review of the investigative report, if the **Named Entity** disputes the **Insurer's** coverage determination, the **Insurer**, at the **Named Entity's** request, will submit the dispute to mediation and/or arbitration (if applicable). The rules of the American Arbitration Association shall apply to this proceeding except for the selection of the mediator and/or arbitrator.

Upon receipt and acceptance of written notification by the **Insurer**, the **Named Entity** shall choose a mediator and/or arbitrator from the attached endorsement, provided the choice does not present a clear conflict of interest. The **Insurer** and the **Named Entity** will bear their own costs, in the event of a mediation and/or arbitration.

2) LOSS SETTLEMENT CLAUSE 2: Waiver of FRISC

(A) The **Insured** shall be required to meet the following conditions in presenting loss to the **Insurer**: (i) the **Insured** shall give notarized written notice to the **Insurer** no later than ninety (90) days after knowledge or discovery of the loss; (ii) the **Insured** shall give notice to the police if the loss results from **Agent Theft, Computer Fraud, Forgery, Funds Transfer Fraud, Impairment, or non-Payment of Money Order/Counterfeit Paper Currency**; (iii) the **Insured** shall file a detailed proof of loss, duly sworn to, with the **Insurer** within one hundred twenty (120) days after knowledge or discovery of the loss; and (iv) the **Insured** shall provide all requested information and documents and cooperate with the **Insurer** in all matters pertaining to the loss.

Upon the **Insurer's** request, the **Insured** shall submit to examination by the **Insurer**, subscribe the same, under oath if required, and produce for the **Insurer's** examination all pertinent records, all at such reasonable times and places as the **Insurer** shall designate, and shall cooperate with the **Insurer** in all matters pertaining to the loss or the claim.

(B) Claims Expense: Coverage is extended to include reasonable expenses (excluding the cost of services rendered by **Employees** of the **Insured**) incurred by the **Insured** for producing and certifying particulars or details of the **Insured's** business required by the **Insurer** in order to arrive at a covered loss payable under this **Coverage Section** ("Claims Expense Coverage"). If no covered loss is established hereunder, then the **Insured** will bear all such expenses. The Limit of Liability for all Claims Expense Coverage provided hereunder shall be \$10,000, which shall be part of and not in addition to the applicable **Limit of Liability** for this **Coverage Section**. There shall be no coverage hereunder for any expenses arising out of any legal dispute, suit or arbitration with the **Insurer**. The Claims Expense Coverage afforded hereunder shall be subject to a deductible in the amount of \$1,000.

(C) No action shall lie against the **Insurer** unless, as a condition precedent thereto: (i) the **Insured** has complied with all the terms and conditions of this policy; (ii) ninety (90) days have elapsed after the date the required proof of

loss was filed with the **Insurer**; and (iii) such action is commenced within two (2) years after knowledge or discovery of the loss.

If any limitation is prohibited by any law controlling the construction of this policy, the limitation shall be deemed to be amended to comply with the minimum period of limitation permitted by law.

Any dispute between the **Insured** and the **Insurer** involving the amount or valuation of the covered loss will be submitted to mediation or arbitration for resolution.

(c) Settlement of Loss

The **Insurer** may, with the **Insured's** consent, settle any claim for covered loss of property with the owner. Any property for which the **Insurer** has made indemnification shall become the property of the **Insurer**. At its discretion, the **Insurer** may pay the actual cash value or make applicable repairs or replacements.

(d) Basis of Valuation

In no event shall the **Insurer** be liable for more than:

- at the sole discretion of the **Insurer**, the actual cash value of **Securities** at the close of business on the day the covered loss was discovered subject to the **Limit of Liability**, or the actual cost of replacing the **Securities**, whichever is less, plus the cost to post any required lost instrument bonds. The costs of posting any required lost instrument bonds and replacing the **Securities** shall be paid by the **Insured** and the **Insurer**. The **Insured** shall pay the costs related to the value of covered loss within its deductible and the costs related to any amount of covered loss in excess of the **Limit of Liability** and the **Insurer** shall pay the costs related to the covered loss in excess of the Deductible and up to the **Limit of Liability**;
- the cost of blank books, blank pages or other materials plus the cost of labor and computer time for the actual transcription or copying of data maintained in any format or medium in order to reproduce books and records;
- the cost of labor for the actual transcription or copying of electronic data, furnished by the **Insured**, in order to reproduce such electronic data;
- the actual cash value of other tangible property at the time of loss or the actual cost of repairing or replacing the other tangible property with other tangible property or material of like quality or value, whichever is less. The actual cash value of other tangible property if held by the **Insured** as a pledge, or as collateral for an advance or a loan, shall be considered

not to exceed the value of the other tangible property as determined and recorded by the **Insured** when making the advance or loan, or in the absence of a record, the unpaid portion of the advance or loan plus accrued interest at legal rates;

- if a foreign currency (a currency other than the currency in which this policy is written) is involved in a covered loss sustained by the **Insured**, then for the purpose of any required calculation in the settlement of covered loss, the rate of exchange shall be the rate as published in the Wall Street Journal on the date of discovery;
- the selling price of inventory that is held for sale or the cost of the inventory plus 5%, whichever is less; and
- if the loss of the value of services provided by the **Insured** is the subject of loss, then the actual cost to the **Insured** of providing such services.

7. CANCELLATION CLAUSE

A. This **Coverage Section** shall be canceled:

- upon receipt by the **Insurer** of written notice of cancellation from the **Named Entity**;
- in the event the **Named Entity** shall consolidate with or merge into another entity such that the **Named Entity** is not the surviving parent entity, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert;
- for reason of non-payment of premium, ten (10) days after the receipt by the **Named Entity** of written notice from the **Insurer**; or
- for reasons other than non-payment, sixty (60) days after the receipt by the **Named Entity** of a written notice from the **Insurer**.

Upon cancellation by either the **Named Entity** or the **Insurer** for any reason other than non-payment of premium, the **Insurer** shall refund any applicable unearned premium computed pro rata. Upon cancellation by the **Insurer** for non-payment of premium, the **Insurer** shall be due the premium computed at customary short rates for the time period that this **Coverage Section** was in effect.

B. This **Coverage Section** shall be canceled as respects any **Employee** or **Agent**:

- immediately upon discovery of any dishonesty by an individual, as described in Clause 6(a) *Discovery of Loss*, not in collusion with the **Employee**; or

- immediately from the time the **Insured** or any owner, partner or officer not in collusion with the **Agent** shall have knowledge or information that the **Agent** has committed any **Agent Theft** or fraudulent or dishonest act; or
- sixty (60) days after the receipt by the **Named Entity** of written notice of cancellation from the **Insurer**.

C. This **Coverage Section** shall be canceled as respects any **Subsidiary** immediately as of:

- the time that such entity, firm, company, organization or association no longer meets the definition of "**Subsidiary**" in this **Coverage Section**;
- the effective time of any sale of all or substantially all of such **Subsidiary's** assets; or
- the effective time of any liquidation or dissolution of such **Subsidiary**.

Notice of cancellation will be mailed or delivered to the **Insurer Address** shown on the Declarations. Proof of mailing or delivery will be sufficient proof of notice.

8. CONSOLIDATION, MERGER OR ACQUISITION

If the total assets of the **Insured** (as stated in the application for this **Coverage Section**) increase more than 15%, through any consolidation or merger with, purchase of assets of, or acquisition of the majority stock ownership of an organization, then the **Named Entity** shall:

- within ninety (90) days of the effective date of the transaction give the **Insurer** written notice of the transaction;
- within ninety (90) days of the effective date of the transaction provide to the **Insurer** any additional information it may request;

and shall pay the **Insurer** any additional premium calculated pro rata from the date of the transaction to the end of the **Policy Period**.

Notwithstanding the above, any entity acquired during the **Policy Period** shall be subject to coverage only for covered loss sustained as a direct result of acts committed subsequent to the effective date of the acquisition and during the **Policy Period**. There is no coverage for loss incurred prior to the acquisition of any said entity. If an entity was acquired before the **Inception Date** of this policy, then there is no coverage for loss incurred prior to the acquisition of any said entity. Such insurance as is provided by this **Coverage Section** to a **Subsidiary** acquired by an **Insured** shall apply only as

specifically excess over any representations and warranties insurance issued in connection with such acquisition.

9. SUBROGATION

In the event of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to the extent of the payment to all of the **Insured's** rights of recovery. The **Insured** shall execute all papers required and shall do everything necessary to secure and preserve the rights, including the execution of the documents necessary to enable the **Insurer** effectively to bring suit in the name of the **Insured**. And, the **Insured** shall do nothing after discovery of loss to prejudice the rights of recovery.

Recoveries (except from sureties, insurance, reinsurance or indemnity), less the actual cost of recovery, made after a covered loss will be distributed as follows:

- first, the **Insured** shall be reimbursed for covered loss exceeding the applicable **Limit of Liability** and the Deductible amount (if applicable);
- second, the **Insurer** shall be reimbursed for the settlement made; and
- third, the **Insured** shall be reimbursed for covered loss equal to the Deductible amount.

10. JOINT INSURED

If more than one **Insured** is covered under this **Coverage Section**, the **Named Entity** shall act for itself and for every other **Insured** for all purposes of this **Coverage Section**.

If any **Insured** or officer of that **Insured** has knowledge of any information relevant to this **Coverage Section**, that knowledge is considered knowledge of every **Insured**.

An **Employee** of any **Insured** is considered to be an **Employee** of every **Insured**.

If this **Coverage Section** is cancelled or terminated as to any **Insured**, loss sustained by such **Insured** is subject to coverage only if discovered prior to the effective date of cancellation or termination.

The **Insurer** will not pay more for loss sustained by more than one **Insured** than the amount the **Insurer** would pay if all the loss had been sustained by one **Insured**.

11. ASSIGNMENT AND CHANGES

No changes, modifications or assignments of interest of this **Coverage Section** shall be effective except when made by a written endorsement to this **Coverage Section** which is signed by an authorized representative of the **Insurer**. Additionally, notice to any agent or knowledge possessed by any agent or by any other person shall not effect a

waiver or a change in any part of this **Coverage Section** or estop the **Insurer** from asserting any right under the terms of this **Coverage Section**.

By acceptance of this **Coverage Section**, the **Named Entity** agrees the **Coverage Section** embodies all agreements existing between the **Insured** and the **Insurer** or any of its agents relating to this insurance.

12. ACTION AGAINST THE INSURER

The **Insured** cannot bring an action against the **Insurer** unless:

- the **Insured** has complied with all the terms and conditions of this **Coverage Section**; and
- the action is brought within ninety (90) days after the **Named Entity's** receipt of the issued investigative specialist's report outlining a loss, or within ninety (90) days after the **Insurer's** receipt of the proof of loss.

If any limitation listed above is prohibited by any law controlling the construction of this **Coverage Section**, the limitation shall be deemed to be amended to comply with the minimum period of limitation permitted by law. This **Coverage Section** is for the sole benefit of the **Insured**. No suit, action or legal proceedings shall be brought hereunder by anyone other than the **Insured**.

13. HEADINGS

The headings of the various clauses and paragraphs of this **Coverage Section** and endorsements, if any, attached to this **Coverage Section**, are inserted solely for convenience or reference and are not to be deemed in any way to limit or expand the provisions to which they relate, and are not part of this **Coverage Section**.

14. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**.

Agent means a natural person, entity, firm, company, organization or association duly authorized by written contract to hold **Money** or **Securities** for the **Insured**.

Agent Theft means loss of **Money** or **Securities** resulting directly from **Theft** by an **Agent** in excess of the amount of the **Agent's** contracted indemnity obligation or in excess of any insurance provided by the **Agent**. It shall be a condition precedent to the **Insurer's** obligation to

pay any amount for such loss of **Money** or **Securities** that the **Insured** shall exhaust all remedies against the **Agent** and any other responsible parties and be paid under all such **Agent's** contracts, indemnities or insurance, first, then the **Insurer's** liability for **Agent Theft** shall be only the excess over the amount of such contracts, indemnities or insurance.

Assets	means Money , Securities or other tangible property owned by the Insured or held by the Insured , whether pursuant to a written contract or not. Assets do not include income, interest or dividends that was not in fact earned or that potentially could have been earned by the Insured on such Money , Securities or other tangible property.
Computer Fraud	means the unlawful taking of Assets under the direct or indirect control of a Computer System by means of: <ol style="list-style-type: none">1. the fraudulent accessing of such Computer System;2. the insertion of fraudulent data or instructions into such Computer System; or3. the fraudulent alteration of data, programs, or routines in such Computer System.
Computer System	means any computer hardware, software or any components thereof that are linked together through a network of two or more devices accessible through the internet or internal network or that are connected through data storage or other peripheral devices (including, without limitation, wireless and mobile devices) and are under the ownership, operation or control (whether or not leased) of the Insured , provided that the Insured's security standards, procedures and controls are established and adhered to for operation of the Computer System . Computer System shall also include those written policies and procedures applicable to the security of a computer network.
Consultant	means a natural person professional consultant under contract, either directly or through such Consultant's company or firm, with the Insured to provide solely expert or professional advice regarding the improved operation of the Insured's business (" Consulting Services "). Consultant shall not mean any individual or entity providing professional services, including but not limited to legal or accounting services, to the Insured , in whole or in part, other than Consulting Services .
Counterfeit Paper Currency	means an imitation of a paper currency in actual use as a medium of exchange, and which is intended to deceive.

Dishonesty

means the **Theft** by an **Employee** of the **Insured** acting alone or in collusion with others. If a loss is alleged to have been caused by the **Dishonesty** of any one or more **Employees** and the **Insured** is unable to designate the specific **Employee** or **Employees** causing such loss, the **Insured** shall nevertheless have the benefit of this **Coverage Section**, provided that the evidence submitted reasonably proves that the loss was in fact due to the **Dishonesty** of one or more of the said **Employees**, and provided further that the aggregate liability of the **Insurer** for any such loss shall not exceed the **Limit of Liability** for this **Coverage Section** as set forth in Item 6 of the Declarations.

Employee

means any natural person while in the regular service of the **Insured** (and the first ninety (90) days following termination) in the ordinary course of the **Insured's** business during the **Policy Period** whom the **Insured** compensates by salary, wages or commissions and has the right to govern and direct in the performance of service.

Additionally, **Employee** shall also include:

1. part-time and temporary **Employees** of the **Insured**;
2. students and volunteers gaining work experience with the **Insured**;
3. any individual assigned to perform **Employee's** duties for the **Insured** by any agency furnishing either temporary personnel on a contingent or part-time basis of leased personnel on a full-time basis; provided this **Coverage Section** will be excess of any other insurance or suretyship held by the agency furnishing the temporary or leased personnel to the **Insured**;
4. an independent contractor with whom the **Insured** has a written services contract in effect to perform **Employee's** duties for the **insured**, who is working within the **Insured's Premises**, and who is performing acts within the scope of such services contract under the supervision of the **Insured**; provided, however, that such independent contractor is not a **Consultant**; and provided further that this **Coverage Section** will be excess of any other insurance or suretyship held by or providing coverage for such independent contractor;
5. a director, trustee or non-compensated officer of the **Insured** while performing acts within the scope of the usual duties of an **Employee**;
6. any natural person while acting as fiduciary, trustee, administrator, officer or **Employee** while servicing any Employee Benefit Plan sponsored by the **Insured**;
7. an **Employee** of the **Insured** on military leave of absence; and

8. a **Consultant**, but only while: 1) a consultancy agreement is in effect between the **Insured** and such consultant or between the **Insured** and such consultant's company or firm; 2) such consultant is performing acts within the scope of such consultancy agreement; and 3) such consultant is working within the **Insured's** premises and under the supervision, direction and control of the **Insured**; provided, however, that this **Coverage Section** will be excess of any other insurance or suretyship held by or providing coverage for such **Consultant**.

Employee shall include any natural person holding a position with an **Insured** organized and operating in a jurisdiction outside the United States or any of its territories or possessions that is equivalent to a position listed in subparagraphs 1 through 8 above.

Employee does not mean any **Agent**, broker, factor, commission merchant, consignee, or other agent or representative who performs services for the **Insured**.

Financial Institution

means:

1. a banking, savings or thrift institution; or
2. a stockbroker, mutual fund, liquid assets fund or similar investment institution;

at which the **Insured** maintains a **Transfer Account**.

Financial Instrument

means any check, draft, promissory note, bill of exchange, or similar written promise, order or direction to pay a sum certain in **Money**; provided, however, **Financial Instrument** shall not mean any written instructions to a **Financial Institution** to debit a **Transfer Account** and to transfer, pay or deliver **Funds** from said **Transfer Account** through an electronic funds transfer system.

Forgery

means the unauthorized signing of another person's name upon, counterfeiting of or alteration of any **Financial Instrument** made or drawn by, upon, to the order of or for the benefit of the **Insured**. Additionally, mechanically or electronically reproduced signatures are treated the same as handwritten signatures.

Funds

means a credit balance in a **Transfer Account** maintained by the **Insured** at a **Financial Institution**.

Funds Transfer Fraud

means:

1. fraudulent electronic, e-mail, telegraphic, cable, teletype, telefacsimile or telephone instructions issued to a **Financial Institution** to debit a **Transfer Account** and to transfer, pay or deliver **Funds** from said **Transfer Account** which instructions purport to have been transmitted by the **Insured** or by a person

- duly authorized by the **Insured** to issue such instructions but which have been fraudulently transmitted by another; and
2. fraudulent written instructions to a **Financial Institution** to debit a **Transfer Account** and to transfer, pay or deliver **Funds** from said **Transfer Account** through an electronic funds transfer system at specified times or under specified conditions, which written instructions purport to have been duly issued by the **Insured** but which have been fraudulently issued, forged or altered by another.

Impairment

means:

1. the actual destruction or disappearance of **Money** or **Securities** owned or held by the **Insured**; or
2. the wrongful abstraction of **Assets** resulting from **Theft** by any natural person other than an **Employee**.

Insured

means the **Named Entity** and any **Subsidiary**.

Loss of Assets

means the direct deprivation of the **Insured** of **Assets** by a single act or a series of related acts resulting directly from **Agent Theft, Computer Fraud, Dishonesty, Forgery, Funds Transfer Fraud, Impairment, or Non-Payment of Money Order/Counterfeit Paper Currency** that occurred prior to the effective date of termination or cancellation of this **Coverage Section**.

Messenger

means:

1. the **Insured** or a partner of the **Insured**;
2. any **Employee** who is duly authorized by the **Insured** to have the care and custody of the insured property outside the **Premises**; and
3. any armored motor vehicle company under contract with the **Insured** to transport the insured property outside the **Premises**, but solely while transporting **Assets** of the **Insured** outside of the **Premises**.

Money

means currency, coins, bank notes and bullion, traveler's checks, registered checks and money orders held for sale to the public.

Money Order

means any post office or express money order.

Non-Payment of Money Order/Counterfeit Paper Currency

means the acceptance of any **Money Order** in good faith, in exchange for merchandise, **Money** or services, which **Money Order** has been issued or is purported to have been issued by any post office or express company, if such **Money Order** is not paid upon presentation, or due to the acceptance in good faith in the regular course of business of **Counterfeit Paper Currency**.

Occurrence	means Agent Theft, Computer Fraud, Dishonesty, Forgery, Funds Transfer Fraud, Impairment, Non-Payment of Money Order/Counterfeit Paper Currency, Loss of Client Assets, Personal Identity Event, Loss of Employee Benefit Plan Assets or Credit Card Forgery.
Policy Period	means the period of time from the Inception Date to the earlier of the Expiration Date or the effective date of cancellation of this Coverage Section . The Policy Period incepts and expires as of 12:01 A.M. at the Named Entity Address .
Premises	means the portion of the interior of any enclosed building occupied by the Insured in conducting its business, including the office of the corporate registrar or transfer agent.
Securities	means all negotiable and non-negotiable instruments or contracts representing either money or property and includes revenue and other stamps in current use, tokens and tickets, but does not include Money .
Subsidiary	<p>means any entity, firm, company, organization or association, other than a financial institution, investment bank, hedge fund, private equity fund, exchange traded fund, insurance or reinsurance company or a holding company with insurance or reinsurance subsidiaries or operations, or any similar institution engaged in the exchange or investment of assets, whether or not owned or held by an Insured, in which the Named Entity on the inception date of this policy:</p> <ol style="list-style-type: none"> 1. owns more than a 50% financial interest; or 2. has an ownership interest of less than 50% through outstanding securities or voting rights, but where the Named Entity's policies and procedures and internal audit controls are established and adhered to for the operation of the entity; or 3. the Named Entity (i) has the largest interest of any owner of the entity, (ii) is contractually obligated to manage and supervise the operation, and (iii) the Named Entity's policies and procedures and internal audit controls are established and adhered to for the operation of the entity. <p>With regard to a Subsidiary as defined in subparagraphs (2) and (3) above, the Named Entity shall be entitled to indemnification of loss under this Coverage Section to the extent of the Named Entity's interest in such Subsidiary, unless the Named Entity is contractually required to provide fidelity insurance for the entire Subsidiary.</p>
Theft	means the unlawful taking to the deprivation of the Insured , including by violence or threat of violence, of Assets (other than any

salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment).

**Transfer
Account**

means an account, maintained by the **Insured** at a **Financial Institution**, from which the **Insured** or the **Insured's** authorized representatives may cause the transfer, payment or delivery of **Funds**:

1. by means of electronic, e-mail, telegraphic, cable, teletype, telefacsimile or telephone instructions (communicated directly or through a cash management service or funds transfer system); or
2. by means of written instructions establishing the conditions under which such transfers are to be initiated by such **Financial Institution** through an electronic funds transfer system.

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CORPORATE COUNSEL PREMIER®

("CCP Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **CCP Coverage Section**, unless otherwise explicitly stated to the contrary in this **CCP Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

All coverage granted for **Loss** under this **Coverage Section** is provided solely with respect to **Claims** first made against an **Insured** during the **Policy Period** or any applicable **Discovery Period** and reported to the **Insurer** as required by this **Coverage Section**. Subject to the foregoing and the other terms, conditions and limitations of this policy, this **Coverage Section** affords the following coverage:

A. Corporate Counsel Professional Liability

This policy shall pay amounts an **Insured Person** is legally obligated to pay as **Loss** arising from any **Claim** made against such **Insured Person** for **Wrongful Acts**, except when and to the extent that the **Organization** has indemnified the **Insured Person** for such **Loss**.

B. Organization Indemnification of Insured Persons

This policy shall pay amounts the **Organization** is legally obligated to pay as **Loss** arising from any **Claim** made against an **Insured Person** for **Wrongful Acts**, but only to the extent that the **Organization** has indemnified the **Insured Person** for such **Loss**.

2. DEFENSE AND SETTLEMENT

(a) **The Insurer's Duty To Defend:** The **Insurer** has the right and duty to defend a **Claim** brought against an **Insured Person** for **Wrongful Acts**, even if the **Claim** is groundless, false or fraudulent. The **Insurer** shall pay for **Defense Costs** incurred in the defense of a **Claim** for **Wrongful Acts**. The **Insurer** shall have no duty to defend a **Claim** insured by **D&O Coverage** or a **Securities Claim**.

(b) **Defense Costs:** The **Insurer** shall indemnify for **Defense Costs** incurred in: (i) any **Securities Claim**; or (ii) in any **Claim** where the coverage afforded by this **Coverage Section** is excess of **D&O Coverage**, provided that such **Defense Costs** are incurred with the **Insurer's** prior written

consent in the defense of **Wrongful Acts**.

(c) *When the **Insurer's Duty Ends**:* The **Insurer's** duty to defend and any obligation to indemnify an **Insured Person** shall end:

- (i) once the **Policy Aggregate** or any applicable **Separate Limit of Liability** or **Shared Limit of Liability** has been exhausted by payment of **Defense Costs** or **Loss**; or
- (ii) if the **Insured Person** or, if applicable, an **Organization**, fails or refuses to consent to a settlement that the **Insurer** recommends and the claimant will accept. The **Insured Person** must then defend the **Claim** at their own expense. As a consequence of such failure or refusal to consent, the **Insurer's** liability for **Loss** shall not exceed the amount for which the **Insurer** could have settled such **Claim** had the **Insured Person** or, if applicable, an **Organization**, consented, plus **Defense Costs** incurred prior the time the **Insurer** made such recommendation, plus seventy percent (70%) of **Defense Costs** incurred with the **Insurer's** consent after the date of the **Insured Person's** or, if applicable, an **Organization's** refusal.

Provided, however, this subparagraph (c)(ii) shall not apply to the settlement of the following proceedings that are brought in connection with a **Securities Claim** when such settlement would require an **Insured Person** to enter into a plea of guilty:

- (1) criminal proceeding commenced by a return of an indictment, information, notice of charges or similar document; or
- (2) a civil, administrative or regulatory investigation of an **Insured Person** by the Securities and Exchange Commission, Department of Justice or a similar state or foreign government authority, commenced by the service of a subpoena on such **Insured Person**.

(d) ***Insured's Obligations in the Event of a Claim:***

(1) In addition to providing notice as required under this **Coverage Section**, each and every **Insured Person** and **Organization** must also:

- (i) send the **Insurer** copies of all demands, suit papers, other legal documents and invoices for **Defense Costs** received by such **Insured Person**, as soon as practicable;
- (ii) immediately record the specifics of any **Claim** and the date such **Insured Person** first received such **Claim**;
- (iii) upon the **Insurer's** request, furnish to the **Insurer** any and all documentation within the possession of the **Insured Person**; and
- (iv) give to the **Insurer**, and to any counsel the **Insurer** selects to represent an **Insured Person** in connection with a **Claim**, full cooperation and such information as the **Insurer** or the counsel may require, including, but not limited to, assisting the **Insurer** or the counsel in:
 - (1) any investigation of a **Claim**, or other matter relating to the coverage afforded under this **Coverage Section** (including submission to an examination by the **Insurer** or the **Insurer's** designee, under oath if required by the **Insurer**);
 - (2) making settlements;
 - (3)

enforcing any legal rights any **Insured Person** or the **Insurer** may have against any person or entity who may be liable to an **Insured Person**; (4) attending depositions, hearings and trials; (5) securing and giving evidence, and obtaining the attendance of witnesses; and (6) any inspection or survey conducted by the **Insurer**.

- (2) No **Insured Person** or **Organization** shall admit any liability, settle any **Claim**, assume any financial obligation or pay any money in connection with any **Claim** without the **Insurer's** prior written consent. If any **Insured Person** or **Organization** does, it will be at their own expense and such amounts shall not be applied to the applicable Retention.
- (3) The **Insurer** shall have the right to associate fully and effectively with each and every **Insured Person** and, with respect to Insuring Agreement B. *Organization Indemnification of Insured Persons*, the **Organization**, in the defense of any **Claim** or any matter that involves or appears reasonably likely to involve, the **Insurer**, including, but not limited to, negotiating a settlement.
- (4) This **Coverage Section** affords no coverage for **Defense Costs** incurred by, settlements by or on behalf of, contractual obligations of, or judgments against any entity whether arising out of a **Claim** made against the **Organization**, based upon any legal obligation to pay any amount that the **Organization** has or may have to a claimant, or derived from the acts or omissions of **Insured Persons**.

No **Organization** is covered in any respect under Insuring Agreement A. *Corporate Counsel Professional Liability* or under Clause 2. DEFENSE AND SETTLEMENT. The **Organization** is covered, subject to this **Coverage Section's** terms, conditions, exclusions and other limitations only with respect to its indemnification of **Insured Persons** under Insuring Agreement B. *Organization Indemnification of Insured Persons* as respects a **Claim** against such **Insured Person**.

- (5) *Panel Counsel*: The following shall only apply to a **Securities Claims** and related **Claims** for which there is no other **D&O Coverage**:

The list of approved panel counsel law firms ("**Panel Counsel**") is accessible through the online directory at <http://www.aig.com/us/panelcounseldirectory> under the "Directors & Officers (Securities Claims)" link. The list provides the **Insureds** with a choice of law firms from which a selection of legal counsel shall be made to conduct the defense of any **Securities Claim** made against such **Insureds**. With the express prior written consent of the **Insurer**, an **Insured** may select a **Panel Counsel** different from that selected by another **Insured** defendant if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable. The list of **Panel Counsel** may be amended from time to time by the **Insurer**. However, if a firm is removed from the list during the **Policy Period**, the **Insureds** shall be entitled to select such firm to conduct the defense of any **Securities Claim** made against such **Insureds** during the **Policy Period**.

The **Insureds** shall select a **Panel Counsel** to defend the **Securities Claim** made against the **Insureds** in the jurisdiction in which the **Securities Claim** is brought. In the event the **Claim** is brought in a jurisdiction not included on the list, the **Insureds** shall select a **Panel Counsel** in the listed jurisdiction which is the nearest geographic jurisdiction to either where the **Securities Claim** is brought or where the corporate headquarters of the **Named Entity** is located. In such instance the **Insureds** also may, with the express prior written consent of the

Insurer, which consent shall not be unreasonably withheld, select a non-**Panel Counsel** in the jurisdiction in which the **Securities Claim** is brought to function as “local counsel” on the **Claim** to assist the **Panel Counsel** which will function as “lead counsel” in conducting the defense of the **Securities Claim**.

(6) In all events, no **Insured Person** shall intentionally take any action, or fail to take any required action, which prejudices the **Insurer’s** rights.

3. EXCLUSIONS

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

(a) arising out of, based upon or attributable to:

- (i) with respect to all **Claims** other than **Securities Claims**, any: (1) dishonest, fraudulent, criminal or malicious act or omission (other than malicious prosecution), (2) intentional or knowing violation of the law, (3) profit, remuneration or pecuniary advantage to which an **Insured Person** was not legally entitled, or (4) commingling, misappropriation, or improper use of funds; provided, however, the **Insurer** will defend a **Claim** against an **Insured Person** alleging any of the foregoing conduct until there is a final judgment against, final adjudication against, adverse finding of fact against in a binding arbitration proceeding or plea of guilty or no contest by an **Insured Person** as to such conduct, at which time the **Insured Person** shall reimburse the **Insurer** for **Defense Costs**; or
- (ii) with respect to **Securities Claims**, any: (1) deliberate criminal or deliberate fraudulent act; or (2) profit, remuneration or pecuniary advantage to which an **Insured Person** was not legally entitled; provided, however, the **Insurer** will defend a **Securities Claim** against an **Insured Person** alleging any of the foregoing conduct until there is a final judgment against, final adjudication against, adverse finding of fact against or plea of guilty or no contest by an **Insured Person** as to such conduct, at which time the **Insured Person** shall reimburse the **Insurer** for **Defense Costs**;

For the purpose of determining the applicability of the foregoing Exclusion 3(a): (1) the facts pertaining to and knowledge possessed by any **Insured Person** shall not be imputed to any other **Insured Person**; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer or General Counsel (or equivalent positions) of an **Organization** shall be imputed to an **Organization**.

(b) alleging, arising out of, based upon, or attributable to employment of any individual or any employment practice (including but not limited to wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim); provided, however, this exclusion shall not apply to the **Legal Services** provided by an **Insured Person** in connection with the employment of any individual or any employment practice, whether such **Legal Services** are provided to a third party or to an **Organization**;

(c) alleging, arising out of, based upon or attributable to any **Wrongful Act** committed or omitted

prior to the **Retroactive Date** or any related **Wrongful Act** thereto, regardless of when such related **Wrongful Act** is committed or omitted;

- (d) alleging, arising out of, based upon or attributable to the facts alleged, or to the same or related **Wrongful Act(s)** alleged or contained in any claim which has been reported, or in any circumstances of which notice has been given, under any policy of which this **Coverage Section** is a renewal or replacement of in whole or in part or which it may succeed in time;
- (e) alleging, arising out of, based upon or attributable to, as of the **Continuity Date**, any pending or prior: (i) litigation; or (ii) administrative or regulatory proceeding or investigation of which an **Insured** had notice, or alleging any **Wrongful Act** which is the same or related **Wrongful Act(s)** to that alleged in such pending or prior litigation or administrative or regulatory proceeding or investigation;
- (f) alleging, arising out of, based upon or attributable to any bodily injury, sickness, disease or death of any person, or damage to, loss of use of or destruction of any tangible property;
- (g) against an **Insured Person** that is brought, directly or indirectly, by or on behalf an **Organization**; provided, however, this exclusion shall not apply to **Defense Costs** incurred in connection with such **Claim**;
- (h) that is brought by a security holder or member of an **Organization**, whether directly or derivatively, unless such security holder or member **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of an **Insured Person**, an **Organization** or any **Executive** of an **Organization**; provided, however, this exclusion shall not apply to:
 - (i) any **Claim** brought by any past **Executive** of an **Organization** who has not served as a duly elected or appointed director, officer, trustee, governor, management committee member, member of the management board, General Counsel or Risk Manager (or equivalent position) of or consultant for an **Organization** for at least four (4) years prior to such **Claim** being first made against any person; or
 - (ii) any **Claim** brought by an **Executive** of an **Organization** formed and operating in a **Foreign Jurisdiction** against such **Organization** or any **Executive** thereof, provided that such **Claim** is brought and maintained outside the United States of America, Canada or any other common law country (including any territories thereof);
- (i) for any violation of responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or any similar provisions of any state, local or foreign statutory or common law; provided, however, this exclusion shall not apply to **Claims** arising out of a **Corporate Counsel** providing **Legal Services** to an ERISA fiduciary;
- (j) for violation(s) of any of the responsibilities, obligations or duties imposed by the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated

thereunder, and amendments thereto or any similar federal, state, local or foreign statutory law or common law;

It is further understood and agreed that the **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against an **Insured Person** alleging, arising out of, based upon, attributable to or in any way relating to:

- (i) the refusal, failure or inability of any **Insured Person(s), Employee, Executive** of the **Organization** or **Organization** to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered (as opposed to tort-based back pay or front pay damages for torts other than conversion);
- (ii) improper payroll deductions taken by any **Insured Person(s), Employee, Executive** of the **Organization** or **Organization** from any **Employee(s)** or purported **Employee(s)**; or
- (iii) the failure to provide or enforce legally required meal or rest break periods;
- (k) alleging, arising out of, based upon or attributable to any actual or alleged breach of duty, neglect, error, misstatement, misleading statement or omission by an **Insured Person** in any capacity other than when providing **Legal Services**;
- (l) alleging, arising out of, based upon or attributable to; (i) any actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (ii) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**; provided, however, this exclusion shall not apply to **Claims** alleging any of the foregoing where the underlying **Legal Services** performed by an **Insured Person** giving rise to such **Claim** were not the direct immediate cause of the foregoing;
- (m) alleging, arising out of, based upon or attributable to any misappropriation of a trade secret;
- (n) alleging, arising out of, based upon or attributable to any services performed by any contract, seasonal, part-time or leased lawyer other than **Legal Services** provided for the **Organization** at the direction of **Corporate Counsel**;
- (o) alleging, arising out of, based upon or attributable to any **Insured Person** notarizing, certifying or acknowledging any signature not signed by such **Insured Person** at the time of such notarization, certification or acknowledgment;
- (p) alleging, arising out of, based upon or attributable to the return or restitution of fees, expenses or costs, or other disgorgement;
- (q) alleging, arising out of, based upon or attributable to the price or consideration paid or proposed to be paid for the acquisition or completion of the acquisition of all or substantially all of the ownership interest in or assets of any entity is inadequate; provided, however, this exclusion shall not apply to **Defense Costs** or to any **Non-Indemnifiable Loss** in connection therewith; or
- (r) for compensation, salary, wages, fees, benefits, overhead, charges or expenses of any: (i) **Insured Person**; (ii) **Employee**; (iii) **Executive** of the **Organization**; or (iv) **Organization**.

4. RETENTION

In addition to the provisions of Clause 2. RETENTION of the **General Terms and Conditions**, in no event shall a Retention be applied to: (i) **Non-Indemnifiable Loss**; or (ii) **Securities Claims** to which, pursuant to Clause 6. OTHER INSURANCE, this **Coverage Section** applies only as excess.

5. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

- (a) *Reporting a Claim* An **Organization** or an **Insured** shall, as a condition precedent to the obligations of the **Insurer** under this policy notify the **Insurer** in writing of a **Claim** made against an **Insured** as soon as practicable after the **Named Entity's** Risk Manager or General Counsel (or equivalent position) first becomes aware of the **Claim**. In all such events, notification must be provided no later than 90 days after the end of the **Policy Period** or the **Discovery Period** (if applicable).
- (b) *Relation Back to the First Reported Claim* Solely for the purpose of establishing whether any subsequent **Related Claim** was first made during the **Policy Period** or **Discovery Period** (if applicable), if during any such period a **Claim** was first made and reported in accordance with Clause 5(a) above, then any **Related Claim** that is subsequently made against an **Insured** and that is reported in accordance with Clause 5(a) above shall be deemed to have been first made at the time that such previously reported **Claim** was first made.
- With respect to any subsequent **Related Claim**, this policy shall not cover **Loss** incurred before such subsequent **Related Claim** is actually made against an **Insured**.
- (c) *Relation Back to Reported Circumstances Which May Give Rise to a Claim* If during the **Policy Period** or **Discovery Period** (if applicable) an **Organization** or an **Insured Person** becomes aware of and notifies the **Insurer** in writing of circumstances that may give rise to a **Claim** being made against an **Insured** and provides details as required below, then any **Claim** that is subsequently made against an **Insured** that arises from such circumstances and that is reported in accordance with Clause 5(a) above shall be deemed to have been first made at the time of the notification of circumstances for the purpose of establishing whether such subsequent **Claim** was first made during the **Policy Period** or during the **Discovery Period** (if applicable). Coverage for **Loss** arising from any such subsequent **Claim** shall only apply to **Loss** incurred after that subsequent **Claim** is actually made against an **Insured**. In order to be effective, notification of circumstances must specify the facts, circumstances, nature of the alleged **Wrongful Act** anticipated and reasons for anticipating such **Claim**, with full particulars as to dates, persons and entities involved; however, notification that includes a copy of an agreement to toll a statute of limitations shall be presumed sufficiently specific as to the potential **Claims** described within that agreement.

6. OTHER INSURANCE

Such insurance as is provided by this **Coverage Section** shall apply only as excess over any other valid and collectible insurance available to any **Insured Person** unless such other insurance is written only as specific excess insurance over the applicable **Separate Limit of Liability** or **Shared Limit of Liability** provided by this **Coverage Section**. Further, this **Coverage Section** shall apply specifically as excess to any **D&O Coverage** and the **Insurer** shall have no duty to defend or obligation to pay **Loss** or **Defense Costs** until the applicable limits of all such **D&O Coverage** have been exhausted.

7. SUBROGATION

To the extent of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to all of the **Organizations'** and **Insureds'** rights of recovery. Each **Organization** and each **Insured Person** shall execute all papers reasonably required and provide reasonable assistance and cooperation in securing or enabling the **Insurer** to exercise subrogation rights or any other rights, directly or in the name of the **Organization** or any **Insured Person**.

In no event, however, shall the **Insurer** exercise its rights of subrogation against an **Insured** under this **Coverage Section** unless Exclusion (a) applies with regard to such **Insured**.

8. REPRESENTATIONS AND SEVERABILITY

In granting coverage under this **Coverage Section**, it is agreed that the **Insurer** has relied upon the statements and representations contained in the **Application** as being accurate and complete. All such statements and representations shall be deemed to be the basis of this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

- (a) *Coverage A Non-Rescindable*: The **Insurer** shall not be entitled, under any circumstances, to rescind Insuring Agreement A. *Corporate Counsel Professional Liability* of this **Coverage Section**.
- (b) *Full Application Severability*: With respect to the statements, warranties and representations contained in the **Application**, no knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person**.

9. ORDER OF PAYMENTS

In the event of **Loss** arising from any **Claim** for which payment is due under the provisions of this **Coverage Section** but which **Loss**, in the aggregate, exceeds the remaining available **Separate Limit of Liability** or **Shared Limit of Liability** applicable to this **Coverage Section**, then the **Insurer** shall:

- (a) first pay such **Loss** for which coverage is provided under Insuring Agreement A. *Corporate Counsel Professional Liability* of this **Coverage Section**, then with respect to whatever remaining amount of the applicable **Separate Limit of Liability** or **Shared Limit of Liability** is available after payment of such **Loss**,
- (b) then pay such **Loss** for which coverage is provided under Insuring Agreement B. *Organization Indemnification of Insured Persons* of this **Coverage Section**.

In the event of **Loss** arising from a **Claim** for which payment is due under the provisions of this **Coverage Section** (including those circumstances described in the first paragraph of this Clause 9),

the **Insurer** shall at the written request of the **Named Entity**:

- (i) first pay such **Loss** for which coverage is provided under Insuring Agreement A. *Corporate Counsel Professional Liability* of this **Coverage Section**, then
- (ii) either pay or hold payment for such **Loss** for which coverage is provided under Insuring Agreement B. *Organization Indemnification of Insured Persons* of this **Coverage Section**.

In the event that the **Insurer** withholds payment under Insuring Agreement B. *Organization Indemnification of Insured Persons* of this **Coverage Section** pursuant to the above request, then the **Insurer** shall at any time in the future, at the request of the **Named Entity**, release such **Loss** payment to the **Organization**, or make such **Loss** payment directly to the **Insured Person** in the event of covered **Loss** under any **Claim** covered under this **Coverage Section** pursuant to Insuring Agreement A. *Corporate Counsel Professional Liability* of this **Coverage Section**.

The **Financial Insolvency** of any **Organization** or any **Insured Person** shall not relieve the **Insurer** of any of its obligations to prioritize payment of covered **Loss** under this **Coverage Section** pursuant to this Clause 9.

10. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

- Administrative Proceeding Claim** means a judicial, administrative, bar association or other proceeding against a **Corporate Counsel** solely concerning the eligibility or license of such **Corporate Counsel** to practice law, or compliance with the Sarbanes-Oxley Act of 2002, as amended, and any rule or regulations promulgated thereunder or pursuant thereto.
- Application** means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other statements, information, representations of any **Insured** or documents submitted by any **Insured** in connection with the underwriting of this policy or the underwriting of any other policy providing the same or similar coverage issued by the **Insurer**, or any of its affiliates, of which this policy is in whole or part a renewal or replacement or which it succeeds in time.
- Claim** means:
- (i) a written demand for monetary, non-monetary or injunctive relief;
 - (ii) a written request to toll or waive a statute of limitations relating to a potential **Claim** against an **Insured Person**;
 - (iii) a **Suit**;
 - (iv) an **Administrative Proceeding Claim**; or
 - (v) a **Securities Claim**.

Corporate Counsel	<p>means any attorney at law admitted to the bar in or otherwise licensed to the practice of law in the United States of America or any of its territories, Canada or any other foreign jurisdiction, but solely while an Employee of an Organization.</p> <p>Notwithstanding the foregoing, "Corporate Counsel" shall not mean a Secondment Attorney.</p>
Defense Costs	<p>means all reasonable and necessary fees charged by attorneys designated by the Insurer and all other reasonable and necessary fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a Claim if incurred by the Insurer, or by an Insured Person with the Insurer's prior written consent, including the costs of appeal, attachment or similar bonds arising out of a covered judgment. The Insurer shall have no obligation to provide such bonds. Defense Costs shall not include compensation, fees, overhead or benefit expenses associated with an Insured Person or an Executive or Employee of an Organization in connection with the investigation, adjustment, defense and appeal of a Claim.</p>
D&O Coverage	<p>means any valid and collectible directors and officers liability insurance coverage available to an Insured Person (or any excess coverage thereto), including, but not limited to, such coverage as provided under any policy or self insurance program for managerial liability, directors and officers liability, general partner liability, employment practices liability, catastrophe coverage or similar insurance.</p>
Employee	<p>means any past, present or future employee, including any part-time, seasonal and temporary employee of an Organization.</p>
Executive	<p>means any:</p> <ul style="list-style-type: none"> (i) past, present or future duly elected or appointed director, officer, partner, trustee or governor of an Organization, management committee member of a joint venture and member of the management board of a limited liability Organization (or equivalent position) of an Organization; (ii) past, present or future General Counsel or Risk Manager (or equivalent position) of the Named Entity; or (iii) past, present or future person in a duly elected or appointed position in an entity organized and operated in a Foreign Jurisdiction that is equivalent to an executive position listed in subparagraph (i) of this Definition.
Financial Insolvency	<p>means the: (i) appointment by any government official, agency, commission, court or other governmental authority of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate an insolvent Organization; (ii) the filing of a petition under the bankruptcy laws of the United States of America; or (iii) as to both (i) or (ii), any equivalent events outside the United States of America.</p>

**Indemnifiable
Loss**

means **Loss** for which an **Organization** has indemnified or is permitted or required to indemnify an **Insured Person** pursuant to law or contract or the charter, bylaws, operating agreement or similar documents of an **Organization**.

For the purposes of determining whether **Loss** constitute **Indemnifiable Loss**, unless an **Organization** is unable to do so due to **Financial Insolvency**, an **Organization** shall be conclusively deemed to have indemnified the **Insured Person** to the maximum extent that an **Organization** is permitted or required to provide such indemnification pursuant to law, common or statutory, or contract, or by the charter or by-laws of an **Organization**, which are hereby deemed to incorporate the broadest provisions of the law which determines or defines such rights of indemnity.

Insured Person

means any:

- (i) **Corporate Counsel**;
- (ii) **Employee** of an **Organization** who supports a **Corporate Counsel** in the performance of **Legal Services**;
- (iii) licensed attorney provided by an employment contractor or agency under a written agreement between an **Organization** and the employment contractor or agency to perform **Legal Services** for or on behalf of an **Organization**; and
- (iv) any independent contractor that is an attorney at law admitted to the bar in or otherwise licensed to the practice of law in any of the United States of America or its territories, Canada or any other foreign jurisdiction, who, pursuant to a written agreement with an **Organization**, has been retained to provide **Legal Services** for or on behalf of an **Organization**.

Notwithstanding the foregoing, "**Insured Person**" shall not mean a **Secondment Attorney**.

Insured

means:

- (i) an **Insured Person**; or
- (ii) an **Organization**.

Legal Services

means any professional legal services that are rendered by:

- (i) a **Corporate Counsel** but solely in his or her capacity as an **Employee** of an **Organization**;
- (ii) a **Corporate Counsel** but solely while a full time, permanent **Employee** of an **Organization** (including **Moonlighting Services** and *pro bono* services); and
- (iii) any **Insured Person** but solely while acting under the supervision of and at the direction of a **Corporate Counsel**.

Legal Services shall also include notarizing, certifying or acknowledging any signature rendered in connection with subparagraphs (i) through (iii) above.

Loss

means any amount that an **Insured Person** shall be legally required to pay because of judgments, arbitration awards or settlements negotiated by the **Insurer** or by an **Insured Person** in accordance with Clause 2. DEFENSE AND SETTLEMENT.

Loss also means with respect to a covered judgment:

- (i) pre-judgment interest;
- (ii) post-judgment interest that accrues after entry of judgment and before the **Insurer** has paid, offered to pay or deposited in court that covered part of the judgment within the applicable **Separate Limit of Liability** or **Shared Limit of Liability**; and
- (iii) subject to this **Coverage Section's** other terms, conditions, exclusions and other limitations, including, but not limited to, exclusions relating to profit or advantage, fraud or criminal acts:
 - (1) punitive damages;
 - (2) exemplary damages; and
 - (3) multiple damages;the enforceability of this subparagraph (iii) of this definition shall be governed by the applicable law that most favors coverage for such punitive, exemplary and multiple damages.

Provided, however, **Loss** shall not mean, and this **Coverage Section** shall not cover:

- (i) civil or criminal fines or penalties;
- (ii) taxes;
- (iii) any amounts for which an **Insured Person** is not financially liable or which are without legal recourse to an **Insured Person**;
- (iv) the costs and expenses of complying with any injunctive or other form of non-monetary relief; and
- (v) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

Moonlighting Services

means professional legal services, including, but not limited to, notarizing, certifying or acknowledging any signature, that are rendered by a **Corporate Counsel** outside the scope of their employment with an **Organization**; provided, however, **Moonlighting Services** shall not include such services performed by a **Corporate Counsel** in their capacity as owner, principal, partner or employee of an entity that is not an **Organization**.

Non-Indemnifiable Loss

means **Loss** for which an **Organization** has not indemnified an **Insured Person**, either because of **Financial Insolvency** or because such **Organization** is not permitted or required to indemnify the **Insured Person** pursuant to law or contract or the charter, bylaws, operating agreement or similar documents of an **Organization**.

Personal Injury Peril

means any:

- (i) false arrest, detention or imprisonment;
- (ii) malicious prosecution;
- (iii) libel or slander or other defamatory or disparaging materials;
- (iv) publication or an utterance in violation of an individual's right to privacy;
- (v) wrongful entry or eviction, or other invasion of the right to private occupancy; and

(vi) if arising out of (i) through (v) above, mental anguish, mental injury, shock, humiliation or emotional distress.

Pollutants means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and **Waste**. "**Waste**" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

Retroactive Date means the date set forth as such in Item 6 of the Declarations.

Secondment Attorney means a non-**Employee** attorney that is employed by an outside law firm and is temporarily assigned by agreement between such law firm and an **Organization** to perform **Legal Services** at the direction of an **Organization**.

Securities Claim means a **Claim** made against an **Insured Person** arising from **Legal Services**:

- (i) alleging a violation of any federal, state, local or foreign regulation, rule or statute regulating securities (including, but not limited to, the purchase or sale or offer or solicitation of an offer to purchase or sell securities) which is:
 - (1) brought by any person or entity alleging, arising out of, based upon or attributable to the purchase or sale or offer or solicitation of an offer to purchase or sell any securities of an **Organization**; or
 - (2) brought by a security holder, purchaser or seller of securities of an **Organization** with respect to such security holder's, purchaser's or seller's interest in securities of such **Organization**; or
- (ii) brought derivatively on behalf of the **Organization** by a security holder of such **Organization**.

Securities Claim shall also mean the following in connection with subparagraphs (i) or (ii) above:

- (A) a criminal proceeding which is commenced by indictment, information, notice of charges or similar document; or
- (B) a civil, administrative or regulatory investigation of an **Insured Person** by the Securities and Exchange Commission, Department of Justice or a similar state or foreign government authority, commenced by the service of a subpoena upon such **Insured Person**.

Suit means:

- (i) a civil proceeding for monetary, non-monetary or injunctive relief which is commenced by service of a complaint or similar pleading; or
- (ii) a binding arbitration proceeding in which **Loss** are alleged and to which an **Insured Person** must submit or does submit with the **Insurer's** prior consent.

Wrongful Act

means any actual or alleged:

(i) negligent act, error, omission, breach of duty, misstatement or misleading statement; or

(ii) **Personal Injury Peril**;

committed by an **Insured Person** in the performance of **Legal Services**.

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KIDNAP AND RANSOM/EXTORTION INSURANCE ("KRE Coverage Section")

Notice: Pursuant to Clause 1 of the **General Terms and Conditions**, the **General Terms and Conditions** are not applicable to this **KRE Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. COVERAGE FOR INSURED EVENTS

The **Insurer** will reimburse the **Named Entity** for **Loss** due to one or more of the following **Insured Events** or series of related **Insured Events** arising out of the same event, occurrence or series of facts that first occur during the **Policy Period**:

Insured Events are:

(a) Kidnap and Ransom/Extortion Event (Corporate and Personal Assets)

- (i) **Kidnapping** or alleged **Kidnapping** of an **Insured Person(s)**;
- (ii) **Personal Extortion** upon the **Insured Person(s)**; and
- (iii) **Property Damage Extortion** upon an **Insured Person(s)**.

(b) Wrongful Detention Event

The **Wrongful Detention** of an **Insured Person(s)**.

(c) Hijacking Event

The **Hijacking** of any aircraft, motor vehicle or waterborne vessel on which an **Insured Person(s)** is traveling.

2. EXCLUSIONS

This **Coverage Section** does not apply to any **Loss** arising out of, based upon, attributable to or involving, directly or indirectly any of the following:

- (a) The fraudulent, dishonest, or criminal acts of **Insured Person(s)**, or any person authorized by the **Named Entity** to have custody of **Ransom Monies**. This exclusion will not apply to the payment of **Ransom Monies** by an **Insured Person(s)** in a situation where local authorities have declared such payment illegal.
- (b) Monies or property surrendered away from the **Premises** in any face to face encounter involving the use or threat of force or violence unless surrendered by a person in possession of such monies at the time of such surrender for the sole purpose of conveying it to pay an **Extortion** or demand for **Ransom Monies** previously communicated to an **Insured Person(s)**.
- (c) Monies or property surrendered on the **Premises** unless brought onto the **Premises** after receipt of the **Extortion** or demand for **Ransom Monies** for the purpose of paying such demand.
- (d) As respects **Wrongful Detention** only:
 - (i) Any actual or alleged violation of the laws of the host country by **Insured Person(s)**, or failure of an **Insured Person(s)** to maintain and possess duly authorized and issued required documents and visas, unless the **Insurer** determines that such allegations were intentionally false, fraudulent and malicious and made solely to achieve a political, propaganda or coercive effect upon or at the expense of the **Insured Person(s)**;
 - (ii) Failure of an **Insured Person(s)** to evacuate from the host country within ten (10) days after issuance of an **Advisory** by the **Appropriate Authorities**;
 - (iii) Travel to country(ies) after an **Advisory** has been issued; or
 - (iv) Any **Insured Person(s)** who is an active member of any governmental organization, official law enforcement or military force.

The **Named Entity** agrees to reimburse the **Insurer** for any payments the **Insurer** made which are ultimately determined not to be covered because of the application of this exclusion.

3. LIMITS OF INSURANCE

- (a) The Limits of Insurance applicable to this **Coverage Section** stated in Item 7 of the Declarations and the provisions of this Clause 3 are the most the **Insurer** will reimburse the **Named Entity**, less the amount of any Deductible, regardless of the number of:
 - (i) **Insured Persons**;
 - (ii) Claims made or suits brought; or

- (iii) Persons or organizations making claims or bringing suits.
- (b) The Coverage Section Aggregate stated in Item 7 of the Declarations of this policy is the most the **Insurer** will reimburse the **Named Entity** for the sum of all **Loss** covered under this **Coverage Section**.
- (c) Subject to paragraph (b) above, each Annual Aggregate Limit stated in Item 7 of the Declarations of this policy is the most the **Insurer** will reimburse the **Named Entity** for the sum of all **Loss** resulting from each Loss Component of such **Loss** for the **Policy Period**.
- (d) Subject to paragraph (c) above, the Each Insured Event Limit stated in Item 7 of the Declarations of this policy is the most the **Insurer** will reimburse the **Named Entity** for the sum of all **Loss** covered under this **Coverage Section** relating to any one **Insured Event** or series of related **Insured Events** arising out of the same event, occurrence or series of facts.
- (e) Subject to paragraph (d) above, the Each Loss Component Limit stated in Item 7 of the Declarations of this policy is the most the **Insurer** will reimburse the **Named Entity** for **Loss** from each Loss Component relating to any one **Insured Event** or series of related **Insured Events** arising out of the same event, occurrence or series of facts.

4. DEDUCTIBLE

The Kidnap and Ransom/Extortion Deductible stated in Item 7 of the Declarations of this policy will apply separately to each **Loss** for **Ransom Monies** arising out of any Kidnap and Ransom/Extortion Event under this **Coverage Section**. The Deductible shall be borne by the **Named Entity** and remain uninsured.

5. CONDITIONS PRECEDENT TO LIABILITY

- (a) As a condition precedent to the **Insurer's** liability under Clause 1. COVERAGE FOR INSURED EVENTS, the **Named Entity** will have approved the payment of **Ransom Monies**.
- (b) In the event of any **Insured Event** first occurring during the **Policy Period**, the **Named Entity** will make every reasonable effort to:
 - (i) Determine that the **Insured Event** has actually occurred;
 - (ii) Give immediate oral and written notice to the **Insurer** with periodic and timely updates concurrent with activity occurring during the **Insured Event**; and
 - (iii) If it appears to be in the best interest of an **Insured Person(s)**, notify the national or other appropriate law enforcement agency having jurisdiction over the matter.

6. KRE COVERAGE SECTION CONDITIONS

(a) Coverage Territory

This **Coverage Section** applies to **Loss** arising out of **Insured Event(s)** occurring anywhere in the world.

(b) Confidentiality

The **Insured Person(s)** will use all reasonable efforts not to disclose the existence of the insurance under this **Coverage Section**. This condition will also apply to any excess insurance or other insurance.

(c) Cancellation

This **Coverage Section** may be canceled by the **Named Entity** at any time by mailing written prior notice to the **Insurer** stating when thereafter such cancellation shall be effective or by surrender thereof to the **Insurer** or its authorized agent. The mailing of such notice shall be sufficient notice and the effective date of cancellation shall be the date the **Insurer** received such notice or any later date specified in the notice, and such effective date shall become the end of this **Coverage Section**.

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

If this **Coverage Section** shall be canceled by the **Named Entity**, the **Insurer** shall retain the pro rata proportion of the premium herein. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation.

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

(d) Due Diligence

The **Insured Person(s)** will use due diligence and do, and concur in doing, all things reasonably practicable to avoid or diminish any **Loss** insured under this **Coverage Section**.

(e) Other Insurance

- (i) The insurance provided under this **Coverage Section** is primary except if the **Named Entity** has other valid and collectible bond or insurance in which case this insurance will be excess over the total of any other valid and collectible bond or insurance, plus any deductible and/or self-insured amounts under such other bond or insurance, with the exception of **Loss** for **Death or Dismemberment**, for which this insurance will be primary.
- (ii) If the **Named Entity** has other insurance against a **Loss** covered under this **Coverage Section** which specifically applies on an excess basis and is pre-notified in accordance with Excess Insurance condition contained in the General Conditions of this **Coverage Section**, or which due to an other insurance clause also applies on an excess basis, then the **Insurer** shall not be liable under this **Coverage Section** for a greater proportion of such **Loss** (and claims expenses, if applicable) than the amount the applicable Limits of Insurance stated in Item 7 of the Declarations bears to the total applicable limits of all insurance available plus any deductible and/or self-insured amounts.
- (iii) If this **Coverage Section** and other Kidnap and Ransom/Extortion insurance provided by an affiliate of the **Insurer** cover the same **Loss**, then the Limits of Insurance under this **Coverage Section** and such affiliate's insurance, when combined, will not exceed the highest applicable limits available under any one of the applicable coverage(s) or policy(ies).

(f) Excess Insurance

The **Named Entity** may purchase excess insurance over the Limits of Insurance stated in Item 7 of the Declarations without prejudice to this Policy, provided that the **Insurer** is notified in writing of the details of such other insurance at the time such other insurance is acquired. The existence of such insurance, if any, will not reduce the **Insurer's** liability under this **Coverage Section**.

(g) Non-Accumulation of Liability

Regardless of the number of years this policy and this **Coverage Section** continue in force, and of the number of premiums payable or paid or of any other circumstances whatsoever, liability under this **Coverage Section** with respect to any **Loss** will not be cumulative from year to year or **Policy Period** to **Policy Period**. When there is more than one **Named Entity** stated on the Declarations and/or more than one **Insured Person(s)** stated in Item 7 of the Declarations, the **Insurer's** Limits of Insurance for **Loss** sustained by any or all of them will not exceed the amount for which the **Insurer** would be liable if all **Loss** were sustained by any one of them.

(h) Statement of Loss

The **Named Entity** will file a detailed, sworn Statement of Loss with the **Insurer** as soon as practicable after the date of **Loss**.

(i) Non-Employee Directors

In the event that any of the **Named Entity's** director(s), who is not an **Employee** of the **Named Entity**, is an **Insured Person(s)** under any other Kidnap and Ransom/Extortion or similar policy or

policies issued by the **Insurer** or an affiliate of the **Insurer** and a **Loss** as respects such director is reported under this **Coverage Section** and one or more such other policies, then the Limits of Insurance under this **Coverage Section** and such affiliate's insurance when combined will not exceed the highest applicable limits available under any one of the applicable coverage(s) or policy(ies).

(j) Assignment

This policy and any and all rights hereunder are not assignable without the written consent of the **Insurer**, which shall be in the sole and absolute discretion of the **Insurer**.

(k) Notice and Authority

It is agreed that the **Named Entity** shall act on behalf of its subsidiaries and all **Insured Persons** with respect to the giving of notice of claim or giving and receiving notice of cancellation, the payment of premiums and the receiving of any return premiums that may become due under this **Coverage Section** and the receipt and acceptance of any endorsements issued to form a part of this **Coverage Section**.

(l) Consolidation-Merger

If, through either (1) consolidation of merger with, (2) acquisition of the majority stock ownership of, or (3) acquisition of the assets of, some other entity, exposures are created which are covered by this Policy and not originally party of the **Named Entity** based on the original description at the time of Policy issuance, the **Named Entity** will give the **Insurer** written notice of consolidation, merger, or acquisition within ninety (90) days of such consolidation, merger, acquisition and upon the **Insurer's** acceptance of such additional exposure, will pay the **Insurer** an additional premium computed from the date of the consolidation, merger or acquisition to the end of the current premium period.

(m) Appraisal

If the **Named Entity** and the **Insurer** fail to agree as to the amount of **Loss**, each will, on the written demand of the other made within sixty (60) days after the **Insurer's** rejection of a Statement of Loss submitted by the **Named Entity**, select a competent and disinterested appraiser. The appraisers will appraise the **Loss** stating the amount of **Loss**. If the appraisers fail to agree they will select a competent and disinterested umpire, and failing for fifteen (15) days to agree upon such umpire, then, on the request of the **Named Entity** or the **Insurer**, such umpire will be selected by a judge of any competent court in the United States, and the appraisers will submit their differences to the umpire. An award in writing of any two will determine the amount of **Loss**. The **Named Entity** and the **Insurer** will each pay its chosen appraiser and will bear equally the other expenses of the appraisal and umpire. The **Insurer** will not be held to have waived any of the **Insurer's** rights by any act relating to appraisal.

(n) Assistance and Cooperation

Insured Person(s) will cooperate with the **Insurer** in all matters relating to this **Coverage Section**. This may include attending hearings and trials, securing and giving evidence, obtaining the attendance of witnesses, assisting in effecting settlements, and in conducting litigation, arbitration, or other proceedings.

(o) Inspection and Audit

The **Insurer** may examine and audit the **Named Entity's** business documents, relating to the subject matter of this **Coverage Section**, until three (3) years after this **Coverage Section** has expired or has been cancelled. Any premium due for exposures which exist but were not reported to the **Insurer** will be determined by audit.

(p) Subrogation

In the event of any payment under this **Coverage Section**, the **Insurer** shall be subrogated to the extent of such payment to all the **Insured Persons'** rights of recovery thereof, and the **Insured Persons** shall execute all papers required and shall do everything that may be necessary to secure such rights including the execution of such documents necessary to enable the **Insurer** to effectively bring suit in the name of any **Insured Person**. In no event, however, shall the **Insurer** exercise its rights of subrogation against an **Insured Person(s)** under this policy unless such **Insured Persons** has been convicted of a criminal act, or been determined to have committed a dishonest or fraudulent act, or obtained any profit or advantage to which such **Insured Person** was not legally entitled.

(q) Recoveries

In the event of any payment under this **Coverage Section**, all recoveries, less the actual cost to the **Insurer** of recovery, will be distributed firstly to the **Insurer** for all amounts paid by the **Insurer** under this **Coverage Section** and any remainder will be paid to the **Named Entity**.

(r) Actions Against the **Insurer**

No suit, action or proceeding for recovery of any **Loss** under this **Coverage Section** will be sustainable in any court of law, equity or other tribunal unless all of the requirements of this **Coverage Section** and the policy are complied with and the same be commenced within twelve (12) months next after a Statement of Loss has been filed with the **Insurer** by the **Named Entity**.

(s) Choice of Law and Forum

The construction, validity and performance of this **Coverage Section** will be governed by the laws of the United States of America and the State of New York. The **Insurer** and the **Named Entity** hereby expressly agree that all claims and disputes will be brought for adjudication either in the Supreme Court of the State of New York in and for the County of New York or in the U.S. District Court for the Southern District of New York.

(t) Concealment, Misrepresentation or Fraud

Coverage under this **Coverage Section** is null and void in case of fraud, concealment, or misrepresentation by an **Insured Person(s)** of a material fact concerning:

- (i) This insurance or the procurement thereof; or
- (ii) An **Insured Person(s)**; or
- (iii) The **Named Entity's** interest in the **Insured Person(s)**; or
- (iv) Any **Loss** or claim presented to the **Insurer** under this **Coverage Section**.

(u) Representations

In granting coverage under this **Coverage Section**, it is agreed that the **Insurer** has relied upon the statements, warranties and representations contained in the **Application** as being accurate and complete. All such statements, warranties and representations are the basis for this policy, are material to the risk assumed by the **Insurer** and are to be considered as incorporated into this policy.

The **Named Entity** agrees that in the event that the statements, warranties and representations contained in the **Application** are not accurate and complete, then the coverage provided by this policy shall be deemed void *ab initio* solely with respect to any **Insured Person** who knew as of the inception date of the **Policy Period** the facts that were not accurately and completely disclosed in the **Application**, whether or not such **Insured Person** knew that such facts were not accurately and completely disclosed in the **Application**.

(v) Changes

Notice to any representative of the **Insurer** or knowledge possessed by any representative or by any person will not effect a waiver or a change in any part of this **Coverage Section** or estop the **Insurer** from asserting any right under the terms of this **Coverage Section**, nor will the terms of this **Coverage Section** be waived or changed, unless agreed to in writing by the **Insurer**.

(w) Notices

Except as indicated to the contrary herein, all notices, applications, demands and requests provided for in this **Coverage Section** will be in writing and will be given to or made upon either party at its address shown in the Declarations.

(x) Headings

The descriptions in the headings of this **Coverage Section** are solely for convenience and form no part of the terms and conditions of coverage.

7. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**.

Advisory	means a formal recommendation of the Appropriate Authorities that the Insured Person(s) specifically leave a host country or generally that a class of person(s) which includes an Insured Person(s) leave the host country.
Application	means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other documents submitted in connection with the underwriting of this Coverage Section or the underwriting of any other kidnap and ransom/extortion (or equivalent) liability policy issued by the Insurer , or any of its affiliates, of which this policy is in whole or part a renewal or replacement or which it succeeds in time.
Appropriate Authorities	means the Department of State of the United States of America, the Foreign Office of the United Kingdom, the Foreign Office of Canada or similar authority of the Named Entity's country of residence.
Bodily Injury	means bodily injury, sickness or disease sustained by an Insured Person(s) , including death resulting from any of these at any time.
Death or Dismemberment	means the death or permanent total physical disablement of an Insured Person(s) including but not limited to paralysis or loss, or loss of use of any body part.
Domestic Partner	means any natural person legally recognized as a domestic or civil union partner under: (1) the provisions of any applicable federal, state or local law; or (2) the provisions of any formal program established by the Named Entity .
Earnings	means net profit plus payroll expense, taxes, interest, rents and all other operating expenses earned and incurred by the Named Entity .
Employee	means any salaried personnel in the Named Entity's employ. Employee does not include independent contractors, leased or temporary employees, volunteers or students.
Extortion	means Personal Extortion or Property Damage Extortion .
Guest(s)	means any person visiting the Premises , or traveling in a motor vehicle, aircraft or watercraft with any director, officer or Employee of the Named Entity who is stated as an Insured Person(s) in Item 7 of the Declarations, for social or business purposes.
Hijacking	means the illegal holding under duress, for a period in excess of six hours, of an Insured Person(s) while traveling on any aircraft, motor vehicle or waterborne vessel.
Informant	means any person, other than an Insured Person(s) , providing information not otherwise obtainable, solely in return for a reward offered by the Named Entity .
Insured Person(s)	means the Named Entity , and includes any of the Named Entity's directors, officers or Employees who are stated in Item 7 of the Declarations, together with any Guest(s) , or Relative , who is a resident in the same household of such

Insured Person(s) and who is financially dependent on any **Employee** who undertakes any travel at the written request and direction of the **Named Entity** for which the **Named Entity** has previously authorized, in writing, the reimbursement of travel expenses incurred.

Kidnapping means any event or connected series of events of seizing, detaining or carrying away by force or fraud, of one or more **Insured Person(s)**, (except a minor by the parent(s) thereof) by person(s) for the purpose of demanding **Ransom Monies**.

Loss means one or more of the following Loss Components which are reasonable and necessary expenses or costs incurred by the **Named Entity** directly and solely as the result of an **Insured Event**:

(i) **Ransom Monies**

Ransom Monies paid by the **Named Entity** resulting directly from a **Kidnapping** or **Extortion** first occurring during the **Policy Period**.

Ransom Monies means any monies which the **Named Entity** or other **Insured Person(s)** have paid or lost under circumstances described in paragraph (a) of Clause 1. COVERAGE FOR INSURED EVENTS. The term monies as used herein includes cash, monetary instruments, bullion or the fair market value of any securities, property or services.

(ii) **In-Transit/Delivery**

In-Transit/Delivery means **Loss** due to destruction, disappearance, confiscation or wrongful appropriation of **Ransom Monies** while being delivered to person(s) demanding the **Ransom Monies** by anyone who is authorized by the **Named Entity** or other **Insured Person(s)** to have custody thereof; provided, however, that the **Kidnapping** or **Extortion** which gave rise to the delivery is insured hereunder.

(iii) **Expenses**

Expenses means any reasonable and necessary expenses incurred and paid by the **Named Entity** or other **Insured Person(s)** solely and directly as a result of an **Insured Event** provided that such **Insured Event** is insured hereunder, including, but not limited to:

- (1) the amount paid by the **Named Entity** or other **Insured Person(s)** as reward to an **Informant** for information relevant to any **Insured Event**;
- (2) interest costs for a loan from a financial institution made to the **Named Entity** or other **Insured Person(s)** for the purpose of paying **Ransom Monies**;
- (3) reasonable costs of travel and accommodations will be covered as follows:
 - (a) costs incurred by the **Named Entity** or other **Insured Person(s)** while attempting to negotiate an incident covered under any **Insured Event**;

- (b) travel costs of a **Kidnapping, Wrongful Detention or Hijacking** victim to join their immediate family upon their release, and the travel costs of an **Employee** to replace the **Kidnapping, Wrongful Detention or Hijack** victim; or
 - (c) travel costs to evacuate, or hotel costs of, an **Insured Person(s)** and/or **Relative** living in the same household as the **Insured Person(s)** who is the victim of a **Kidnapping or Extortion** threat covered under this **Coverage Section**;
- (4) **Salary**, which means the following:
- (a) the amount of compensation paid by the **Named Entity** to the **Insured Person(s)** at an annual rate including but not limited to the average bonuses, commissions, cost of living adjustments or foreign tax reimbursements the **Insured Person(s)** would normally receive, including contributions to pension and benefit programs (at the level in effect on the date of the **Kidnapping, Wrongful Detention or Hijacking**) which the **Named Entity** continues to pay to or on behalf of the **Insured Person(s)** for the duration of the **Kidnapping, Wrongful Detention or Hijacking** of the **Insured Person(s)**.
Such compensation will be paid until the earliest of the following:
 - (i) up to thirty (30) days after the release of the **Insured Person(s)** from a **Kidnapping, Wrongful Detention or Hijacking** if the **Insured Person(s)** has not yet returned to work;
 - (ii) discovery of the death of the **Insured Person(s)**;
 - (iii) one hundred and twenty (120) days after the **Insurer** receives the last credible evidence that the **Insured Person(s)** is still alive; or
 - (iv) sixty (60) months after the date of the **Kidnapping, Wrongful Detention or Hijacking**;
 - (b) the amount of compensation paid by the **Named Entity** at an annual rate, of an individual newly hired to conduct the specific duties of the **Insured Person(s)** while he/she is held by the kidnappers or wrongfully detained, and will continue only until the earliest of the conditions set forth in subsection (4)(a)(i)–(iv) above with respect to **Salary** are satisfied; and
 - (c) the amount of compensation normally received by a **Relative** of a **Kidnapping, Wrongful Detention or Hijacking Victim**, and paid by the **Named Entity**, who leaves their employment in order to assist in the negotiations for the release of the victim.
- Coverage under this subparagraph (4) will continue only until the earliest of the conditions set forth in subsection (4)(a)(i)–(iv) above with respect to **Salary** are satisfied;
- (5) medical services and hospitalization costs incurred by an **Insured Person(s)** and paid by the **Named Entity** as the result of an incident covered under any **Insured Event** within thirty-six (36) months either following the release of the victim(s) or the last credible **Extortion** threat occurring during the **Policy Period**, including but not limited to any costs for treatment by a neurologist or psychiatrist, costs for cosmetic surgery, and expense of confinement for such treatment. Coverage

under this paragraph is also extended to any other person(s) involved in the handling or negotiating of an **Insured Event** and/or the handling of **Ransom Monies**;

- (6) fees and expenses of independent forensic analysts engaged by the **Named Entity**;
- (7) personal financial loss suffered by an **Insured Person(s)** solely and directly as the result of the physical inability of such person(s) to attend to personal financial matters while a **Kidnapping, Wrongful Detention or Hijacking** victim. Coverage will include but not be limited to loss(es) which result from such person's failure to renew insurance contracts, failure to exercise stock options, failure to respond to margin or loan calls by financial institutions and failure to pay off personal loans or a mortgage. Claims will be payable to the **Named Entity** where applicable;
- (8) rest and rehabilitation expenses including travel, lodging, meals and recreation of the **Kidnapping, Wrongful Detention or Hijacking** victim and a spouse and/or children;
- (9) reasonable and necessary fees and expenses of a qualified interpreter assisting the **Named Entity** or other **Insured Person(s)** in the event of an incident covered under any **Insured Event**;
- (10) increased costs of security due to **Kidnapping, Extortion, threats or Hijacking** including but not limited to hiring of security guards, hiring of armored vehicles and overtime pay to existing security staff, for a period of up to ninety (90) days, provided however that the **Insurer's** approved Kidnap and Ransom/Extortion consultant, or other independent security consultant, has specifically recommended such security measures; and
- (11) job retraining costs for the **Kidnapping, Wrongful Detention or Hijacking** victim, including but not limited to **Salary** of such victim while being retrained, and costs of external training courses.

(iv) **Consultants Expenses**

Consultants Expenses means:

- (1) Reasonable fees and expenses of the **Insurer's** approved Kidnap and Ransom/Extortion consultant, or other independent security consultant, provided the **Insurer** has given prior consent to the use of such other independent security consultant to act on the **Named Entity's** behalf; and
- (2) Reasonable fees and expenses of the **Insurer's** approved public relations consultant or other public relations consultant, provided the **Insurer** has given prior consent to the use of such other public relations consultants to act on the **Named Entity's** behalf.

Consultants Expenses are incurred after an **Insured Event** first became known to the **Named Entity**.

(v) **Death or Dismemberment**

Death or Dismemberment means:

- (1) The **Death or Dismemberment** sustained by an **Insured Person(s)** during an **Insured Event** or any other **Insured Person(s)** involved in the handling or negotiation of the **Insured Event**.
- (2) The amounts stated Item 7.F. **Death or Dismemberment** of the Declarations will be the total Limit of Insurance for all **Death or Dismemberment** benefits arising out of **Bodily Injury** sustained by the **Insured Person(s)** during any one **Insured Event**.
- (3) The **Insurer** will have the right and opportunity to examine the person of any individual whose **Bodily Injury** is the basis of the claim when and as often as the **Insurer** may reasonably require during the pendency of a claim hereunder and to make an autopsy, in case of death, where it is not forbidden by law. This will be done at the **Insurer's** own expense.
- (4) All claims under this subparagraph (v) will be payable to the **Named Entity** upon receipt and acceptance by the **Insurer** of a Statement of Loss. The Statement of Loss may include a death certificate, coroner's report, police report or other evidence of the **Death or Dismemberment** of the **Insured Person(s)**, that the **Insurer** deems sufficient.

(vi) **Judgments, Settlements And Defense Costs**

Judgments, Settlements and Defense Costs means:

- (1) **Judgments, Settlements and Defense Costs** that are incurred with the **Insurer's** consent, as a result of any claim or suit brought by or on behalf of an **Insured Person(s)** (or the heirs, estate or legal representatives of an **Insured Person(s)**) against the **Named Entity** solely and directly as a result of an **Insured Event** provided such suit or claim is brought within twelve (12) months of the release or death of a **Kidnapping, Wrongful Detention or Hijacking** victim, or the last credible **Extortion** threat occurring during the **Policy Period**, but in no event longer than sixty (60) months after the **Insured Event**. As additional conditions precedent to the **Insurer's** liability, the **Named Entity** will:
 - (a) immediately notify the **Insurer** of any such claim or suit;
 - (b) not admit liability in any such claim or suit; and
 - (c) cooperate with the **Insurer** in conducting the defense of any such claim or suit.
- (2) The **Insurer** will have the right to investigate, negotiate or settle any such claim or suit or to take over the conduct of the defense thereof, and the **Named Entity** will cooperate with the **Insurer** to these ends.

**Personal
Extortion**

means any threat or connected series of threats for the purpose of demanding **Ransom Monies** communicated to the **Named Entity** or other **Insured Person(s)** to:

- (i) kill, physically injure or **Kidnap** an **Insured Person(s)**, provided that **Ransom Monies** are not in the possession of an **Insured Person(s)** at the time of the threat; or

- (ii) divulge any confidential, private or secret information unique to the **Insured Person(s)**.

Policy Period	means the period of time from the Inception Date shown in Item 2 of the Declarations to the earlier of the Expiration Date shown in Item 2 of the Declarations or the effective date of cancellation of this Coverage Section . The Policy Period incepts and expires as of 12:01 A.M. at the Named Entity Address .
Premises	means that portion of any building occupied by the Named Entity as a place to conduct business or a residence occupied by any of the Named Entity directors, officers or Employees stated in Item 7 of the Declarations as an Insured Person(s) .
Product Tampering	means any actual or threatened, intentional, malicious and wrongful alteration or contamination of any goods or products manufactured, handled or distributed by the Named Entity .
Property Damage Extortion	<p>means any threat or connected series of threats for the purpose of demanding Ransom Monies communicated to the Named Entity or other Insured Person(s) to:</p> <ul style="list-style-type: none">(i) damage physically or pollute any Premises or other real or personal property owned by the Named Entity, leased by the Named Entity, or for which the Named Entity is legally liable, including fixtures, livestock, fine art, machinery or equipment;(ii) commit a Product Tampering; or(iii) reveal a Trade Secret of the Named Entity.
Relative	means a spouse, child, step-child, legally adopted child, foster child, spouse of a married child, parent, parent-in-law, step-parent, Domestic Partner and of any Insured Person(s) stated in Item 7 of the Declarations who is a resident in the same household of such Insured Person(s) and who is financially dependent on any Employee .
Trade Secret	means a secret process, formula, tool, mechanism, compound belonging to the Named Entity , or any other confidential information unique to the business of the Named Entity . Trade Secret does not include nonpublic personal or health information or any confidential information belonging to a third party.
Wrongful Detention	means the arbitrary or capricious act of involuntary confinement of an Insured Person(s) by others who are acting as agent(s) of or with the tacit approval of any government or governmental entity, or acting or purporting to act on behalf of any insurgent party, organization or group. A connected series of Wrongful Detentions will be considered one Wrongful Detention .



CRISISFUND®

("CrisisFund Coverage Section")

Notice: Pursuant to Clause 1. **TERMS AND CONDITIONS** of the **General Terms and Conditions**, the **General Terms and Conditions** are incorporated by reference into, made a part of, and are expressly applicable to this **CrisisFund Coverage Section**, unless otherwise explicitly stated to the contrary in this **CrisisFund Coverage Section**.

In consideration of the payment of the premium, and each of their respective rights and obligations in this policy, the **Insureds** and the **Insurer** agree as follows:

1. INSURING AGREEMENTS

Solely with respect to a **Crisis** first occurring during the **Policy Period** and reported to the **Insurer** as required by this **Coverage Section**, this **Coverage Section** affords the following coverage:

The **Insurer** shall pay all **Crisis Loss** that an **Insured** incurs solely as a result of a **Crisis**; provided that payment of any **Crisis Loss** under this policy shall not waive any of the **Insurer's** rights under this policy or at law.

2. OTHER CRISISFUND INSURANCE

In the event that an **Insured** has purchased another insurance policy from the **Insurer** providing similar coverage to this **Coverage Section**, then the highest applicable limit of insurance for such coverage among this policy and such other policies shall apply, and in all circumstances, the **Insurer's** maximum liability for such coverage shall not be greater than the highest limit of insurance for such coverage among all such policies.

3. LIMITS OF LIABILITY

In addition to the provisions of Clause 3. **LIMITS OF LIABILITY** of the **General Terms and Conditions**, the **CrisisFund** is the **Insurer's** maximum liability for all **Crisis Loss** in the aggregate arising from any and all **Crises** first occurring during the **Policy Period**, regardless of the number of **Crises** reported during the **Policy Period**. Coverage under this **Coverage Section** shall also be subject to a \$100,000 per **Crisis** sublimit of liability, which is the maximum limit of the **Insurer's** liability for all **Crisis Loss** that **Insureds** incur as a result of a single **Crisis** and any related **Crises**. The per **Crisis** sublimit of liability shall be part of, and not in addition to, both the **Policy Aggregate** and the **CrisisFund**. The **Insurer** shall not be responsible to pay any **Crisis Loss** upon exhaustion of the **Policy Aggregate**, the **CrisisFund** or the applicable per **Crisis** sublimit of liability.

4. RETENTION

In no event shall a Retention be applied to **Crisis Loss**.

5. EXCLUSIONS

The **Insurer** shall not be liable to make any payment for **Crisis Loss**:

- (a) arising out of, based upon or attributable to any **Crises** related to: (1) any pending or prior litigation as of the **Continuity Date** for this **Coverage Section**; or (2) any act or event which has been reported, or in any circumstances of which notice has been given, under any policy of which this **Coverage Section** is a renewal or replacement or which it may succeed in time.
- (b) arising out of, based upon or attributable to any: (1) presence of **Pollutants**; (2) actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.

6. NOTICE AND REPORTING

Notice hereunder shall be given in writing to the **Insurer** at the **Claims Address** indicated in the Declarations. If mailed or transmitted by electronic mail, the date of such mailing or transmission shall constitute the date that such notice was given and proof of mailing or transmission shall be sufficient proof of notice.

An **Organization** or an **Insured** shall, as a condition precedent to the obligations of the **Insurer** under this **Coverage Section**, notify the **Insurer** in writing of a **Crisis** as soon as practicable after the **Named Entity's** Risk Manager or General Counsel (or equivalent position) first becomes aware of the **Crisis**. In all such events, notification must be provided no later than 60 days after the end of the **Policy Period**.

7. DEFINITIONS

The following definitions shall apply only for purposes of coverage provided under this **Coverage Section**. Terms appearing in **bold** in this **Coverage Section** but not defined herein shall have the meaning and/or value ascribed to them in the Declarations or in the *Definitions Clause* of the **General Terms and Conditions**.

CrisisFund Appendix	means the appendix or appendices, as applicable, attached to this policy and entitled "CrisisFund Appendix," which is/are hereby incorporated by reference into, made a part of and are expressly applicable to this CrisisFund Coverage Section , unless otherwise explicitly stated to the contrary in this CrisisFund Coverage Section .
Crisis	has the meaning as defined in the applicable CrisisFund Appendix . A Crisis shall first commence when the Insured shall first become aware of such Crisis . A Crisis shall conclude once a Crisis Firm advises an Insured that such Crisis no longer exists or when the CrisisFund has been exhausted.
Crisis Firm	means any public relations firm, crisis management firm or law firm on the list of approved firms that is accessible through the online directory at http://www.aig.com/us/panelcounseldirectory under the "CrisisFund®" link. Any Crisis Firm may be hired by an Insured to perform Crisis Services without further approval by the Insurer .
Crisis Services	has the meaning as defined in the applicable CrisisFund Appendix .

Crisis Loss	has the meaning as defined in the applicable CrisisFund Appendix .
CrisisFund	means the Separate Limit of Liability or Shared Limit of Liability stated in Item 6 of the Declarations, which shall be the Insurer's maximum liability for all Crisis Loss in the aggregate arising from any and all Crises first occurring during the Policy Period , regardless of the number of Crises reported during the Policy Period .
Insured	means an Organization .
Pollutants	means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

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