

PRIVATE COMPANY MANAGEMENT LIABILITY POLICY EMPLOYED LAWYERS LIABILITY COVERAGE SECTION

In consideration of payment of the premium and subject to the Declarations, the General Terms and Conditions, and the terms, conditions and limitations of this Coverage Section, the Underwriter and the **Insureds** agree as follows:

I. INSURING AGREEMENTS

A. EMPLOYED LAWYERS PROFESSIONAL LIABILITY NON-INDEMNIFIED LOSS COVERAGE

The Underwriter shall pay on behalf of the **Insured Persons** all **Loss** for which the **Insured Persons** are not indemnified by the **Organization** and which the **Insured Persons** become legally obligated to pay on account of any **Claim** first made against them during the **Policy Period** or the **Extended Reporting Period**, if exercised, for a **Wrongful Act**.

B. EMPLOYED LAWYERS PROFESSIONAL LIABILITY INDEMNIFIED LOSS COVERAGE

The Underwriter shall pay on behalf of the **Organization** all **Loss** for which the **Organization** grants indemnification to the **Insured Persons** and which the **Insured Persons** have become legally obligated to pay on account of any **Claim** first made against them during the **Policy Period** or the **Extended Reporting Period**, if exercised, for a **Wrongful Act**.

II. COVERAGE ENHANCEMENTS

A. GENERAL COUNSEL REPLACEMENT REIMBURSEMENT COVERAGE

Upon satisfactory proof of payment by the **Named Insured**, the Underwriter will reimburse the **Named Insured**, up to the General Counsel Replacement Expenses Limit stated in ITEM 8 of the Declarations, for all **General Counsel Replacement Expenses** actually paid by the **Named Insured** in connection with a **General Counsel Injury Event** that first occurs during the **Policy Period**, subject to the Sublimit of Liability as set forth in ITEM 8 of the Declarations, for all **General Counsel Replacement Expenses**, which shall be part of and not in addition to the Aggregate Limit of Liability for this Coverage Section.

B. INTRA-ORGANIZATION CLAIMS DEFENSE COVERAGE

The Underwriter shall pay on behalf of the **Organization** all **Defense Expenses** on account of all **Intra-Organization Defense Claims** first received by the **Organization** during the **Policy Period** or the **Extended Reporting Period**, if exercised, subject to the Intra-Organization Claims Defense Sublimit of Liability set forth in ITEM 8 of the Declarations, which shall be part of and not in addition to the Aggregate Limit of Liability for this Coverage Section.

III. DEFINITIONS

When used in the Employed Lawyers Liability Coverage Section, the following terms, whether in the singular or plural, are defined as follows:

A. **Claim** means:

1. a written demand against any **Insured Person** for monetary damages or non-monetary relief, including injunctive relief, and including a written demand that the **Insured Person**

toll or waive a statute of limitations or a written demand for arbitration, mediation or other alternative dispute resolution, which shall be deemed first made upon the **Insured's** receipt of the demand;

2. a civil proceeding against any **Insured Person** commenced by a third party, and which shall be deemed first made upon the service on or other receipt by the **Insured Person** of a complaint or similar pleading;
 3. a criminal proceeding against any **Insured Person**, which shall be deemed first made upon the **Insured Person's** arrest, receipt of a return of an indictment or information, or receipt of a filing of notice of charges or similar document;
 4. a formal administrative or regulatory proceeding against any **Insured Person** commenced by a regulatory body, and which shall be deemed first made upon service upon or other receipt by the **Insured Person** of a notice of charges or similar document; or
 5. a judicial, administration, bar association or other proceeding against an **Insured Person** which concerns the eligibility or license of such **Insured Person** to practice law, which shall be deemed first made upon the **Insured Person's** receipt of notice of such proceeding.
- B. **Contract Lawyer** means a natural person admitted to practice law who provides legal services to the **Organization** pursuant to an independent contractor services agreement with the **Organization**; or as an employee of a temporary employment agency pursuant to a written service agreement with the **Organization**, but only while acting under the supervision of an **Employed Lawyer**.
- C. **Employed Lawyer** means any natural person admitted to practice law who is, was or shall become a full-time or part-time employee of the **Organization** for the purposes of providing legal services to the **Organization**.
- D. **General Counsel** means the **Employed Lawyer** who acts as the chief legal officer of the **Named Insured** and manages the **Named Insured's** legal department.
- E. **General Counsel Injury Event** means any bodily injury caused by violence, fracture or an accident that is suffered by the **General Counsel** during the **Policy Period** and that results in his or her loss of life during the **Policy Period**.
- F. **General Counsel Replacement Expenses** means the following reasonable and necessary expenses of the **Named Insured**:
1. costs of advertising a **General Counsel** employment position opening;
 2. travel, lodging and meal expenses incurred in interviewing job applicants for the **General Counsel** employment position opening;
 3. costs to verify the background and references of the applicants for the **General Counsel** position opening; and
 4. legal expenses incurred to draw up an employment contract between the **Named Insured** and the lawyer hired to fill the **General Counsel** position.

G. **Insured Persons** means any one or more natural persons who were, now are or shall become:

1. an **Employed Lawyer**;
2. an **Employee** who supports an **Employed Lawyer** in the performance of **Professional Services**; or while acting as a notary public, but only while acting under the supervision of an **Employed Lawyer**; or
3. a **Contract Lawyer**, but only if the **Organization** agrees to indemnify the **Contract Lawyer**;
4. a holder of an equivalent position set forth in paragraphs 1-3 above, in any **Organization** incorporated, formed or organized anywhere in the world;

provided, however, that the **Insured Person** does not include any natural person while employed by or a partner or member of an outside law firm.

H. **Insureds** means the **Insured Persons** and, solely with respect to Insuring Agreement B, the **Organization**.

I. **Intra-Organization Defense Claim** means a **Claim** brought by or on behalf of the **Organization**, any **Joint Venture** or partnership in which the **Organization** is a partner or member, or any securityholder of the **Organization**, whether directly or derivatively; provided, that **Intra-Organization Defense Claim** does not include any **Claim**:

1. brought or maintained by a securityholder of the **Organization** independently of, and without the solicitation, assistance, active participation or intervention of, any Insured or the **Organization**, or any current or former director, officer, trustee, trustee emeritus, executive director, member of the board of managers, duly constituted committee member, general counsel, risk manager or employee of the **Organization**; or
2. made against an **Insured** by a third party bankruptcy trustee, receiver, liquidator, conservator, rehabilitator, creditors' committee, or any similar official who has been appointed to take control of, supervise, manage or liquidate the **Organization**.

J. **Joint Venture** means any entity in which the **Organization**, directly or through one or more **Subsidiaries**, maintains an equity interest of fifty percent (50%) or less, and in which the **Organization** participates in the management and operation of such entity.

K. **Loss** means the total amount the **Insured Persons** become legally obligated to pay on account of a **Claim**, including, but not limited to, monetary damages (including punitive, exemplary or multiple damages, to the extent such damages are insurable under the law of any jurisdiction which has a substantial relationship to the **Insureds**, this Policy of the **Claim** giving rise to such damages and which is most favorable to the insurability of such damages), judgments, any award of pre-judgment and post-judgment interest with respect to covered damages, settlements, and **Defense Expenses**.

Loss, except with respect to **Defense Expenses**, does not include:

1. any amount not indemnified by the **Organization**, for which the **Insured Persons** are absolved from payment by reason of any covenant, agreement or court order;

2. taxes, fines or penalties imposed by law, other than civil fines or penalties referenced above;
 3. any amount that represents or is substantially equivalent to an increase in the consideration paid or proposed to be paid by an **Organization** in connection with its purchase of any securities or assets;
 4. any amount incurred by the **Insured Persons** to comply with any injunctive or other non-monetary relief or any agreement to provide such relief;
 5. matters uninsurable under the law pursuant to which this Policy is construed;
 6. any amount that represents or is substantially equivalent to salary, wages, commissions, benefits or other compensation owed to an **Insured Person** or any director, officer, employee or person serving in a functionally equivalent position with the **Organization**; or
 7. **Clean-Up Costs**.
- L. **Moonlighting Legal Services** means legal and notary services performed by an **Employed Lawyer** for natural person clients outside the scope of his or her employment with the **Organization**, including legal services rendered to a director, officer or **Employee** of the **Organization**, solely while such **Employed Lawyer** is a full-time or part-time **Employee** of the **Organization**, except with respect to services performed: (i) for compensation, (ii) in his or her capacity as an owner, principal, partner, director, officer, member, manager, employee or any equivalent position of an entity that is not the **Organization**, or (iii) in connection with a trust or estate when such **Employed Lawyer** is also a beneficiary of such trust or estate.
- M. **Personal Injury** means libel, slander, disparagement, defamation, invasion of privacy, invasion of right of publicity, wrongful entry, wrongful detention, wrongful eviction, false imprisonment, false arrest, malicious prosecution, or malicious use or abuse of process.
- N. **Professional Services** means:
1. legal services and notary public services rendered to or for the benefit of the **Organization** by an **Insured Person**;
 2. **Moonlighting Legal Services**; or
 3. pro bono legal services rendered by an **Employed Lawyer** without compensation to indigent clients or for non-profit public interest groups solely while such **Employed Lawyer** is a full-time or part-time employee of the **Organization**.
- O. **Wrongful Act** means any actual or alleged error, misstatement, misleading statement, act, omission, neglect, **Personal Injury** committed, attempted or allegedly committed or attempted, or breach of duty, by any **Insured Person** in their capacity as such in the performance of or failure to perform **Professional Services**.

IV. EXCLUSIONS

The Underwriter shall not be liable under this Coverage Section to pay any **Loss** on account of that portion of any **Claim** made against any **Insured Person**:

A. **PRIOR NOTICE**

based upon, arising out of, or attributable to any fact, circumstance or **Wrongful Acts** which have been the subject of any written notice given prior to inception of this Policy and accepted under any employed lawyers liability or comparable insurance policy or coverage part.

B. **PENDING OR PRIOR LITIGATION**

based upon, arising out of, or attributable to any **Claim** against any **Insured** which was pending on or existed prior to the respective Pending or Prior Date for this Coverage Section set forth in the Coverage Schedule in ITEM 8 of the Declarations, or the same or substantially the same fact, circumstance or **Wrongful Acts** alleged in or underlying such prior **Claim**.

C. **CONDUCT**

based upon, arising out of or attributable to:

1. any deliberately fraudulent act or omission, or any willful violation of any law, statute or regulation, committed by such **Insured**; or
2. such **Insured** gaining any personal financial profit, remuneration or financial advantage to which such **Insured** was not legally entitled;

if evidenced by a final, non-appealable adjudication adverse to such **Insured** in the underlying proceeding; provided that, with respect to subsection IV.C.1 above, any acts or omissions which are treated as criminal violations in a foreign jurisdiction that are not treated as criminal violations 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 deliberately criminal or fraudulent acts occurred.

For the purposes of determining the applicability of this exclusion, the **Wrongful Act**, knowledge of, or facts pertaining to any **Insured Person** shall not be imputed to any other **Insured Person** and only the **Wrongful Acts**, knowledge of or facts pertaining to the chief executive officer or chief financial officer of the **Named Insured** shall be imputed to an **Organization**.

D. **BODILY INJURY OR PROPERTY DAMAGE**

for any actual or alleged bodily injury, sickness, disease or death, mental anguish, emotional distress or humiliation of any person or damage to or destruction of any tangible property including loss of use of such damaged or destroyed property; provided that this exclusion shall not apply to any **Loss** for emotional distress, mental anguish or humiliation resulting from **Personal Injury** or a **Claim** covered under Insuring Agreement A.

E. **POLLUTION**

for:

1. the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants** at any time; or

2. any request, demand, order, or statutory or regulatory requirement, that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **Pollutants**;

provided that this exclusion shall not apply to Insuring Agreement A, or a **Claim** by one or more shareholders of the **Organization** in their capacity as such.

F. **INSURED VS. INSURED**

by or on behalf of an **Insured Person** in any capacity or an **Organization**, provided this exclusion shall not apply to:

1. a **Claim** that is a derivative action on behalf of the **Organization** by one or more persons who are not directors or officers of the **Organization**, if the **Claim** is brought and maintained without the active assistance or active participation of the **Organization** or any such directors or officers, or if the only such assistance or participation by the **Organization** and such directors and officers is (i) solely pursuant to, or in compliance with, a subpoena or similar legal process, or (ii) protected pursuant to any whistleblower statute;
2. a **Claim** by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver, conservator, liquidator, similar official or creditors committee for such **Organization**, or any assignee of such trustee, examiner, receiver, conservator, liquidator, similar official or creditors committee; or
3. **Defense Expenses** incurred in connection with any such **Claim** if such **Claim** is in the form of a cross-claim, third party claim or other claim for contribution or indemnity which is part of or results directly from a **Claim** which is not otherwise excluded by the terms of this Coverage Section.

G. **SECURITIES**

based upon, arising out of or attributable to (i) the actual, alleged or attempted purchase or sale, or offer or solicitation of an offer to purchase or sell, any securities, or (ii) the actual or alleged violation of any federal, state, local or common or foreign law relating to securities.

H. **VIOLATIONS OF LAW**

for an actual or alleged violation of the responsibilities, obligations or duties imposed by:

1. any law governing workers' compensation, unemployment insurance, social security, disability benefits or similar law;
2. **ERISA**, provided that this subsection III H.2 shall not apply to **Claims** arising out of **Professional Services** provided to a fiduciary of a plan sponsored by the **Organization**;
3. any **Wage and Hour Law**; provided that notwithstanding anything in this Policy to the contrary it shall be the duty of the **Insureds** and not the duty of the Underwriter to defend any **Claim** which is in part excluded from coverage pursuant to this subsection ion III H.3;
4. the National Labor Relations Act;

5. the Worker Adjustment and Retraining Notification Act;
6. the Consolidated Omnibus Budget Reconciliation Act of 1985;
7. the Occupational Safety and Health Act; or
8. rules or regulations promulgated under any such statutes or laws, amendments thereto; or similar provisions of any federal, state, local or foreign statutory law or common law.

I. EMPLOYMENT PRACTICES

based upon, arising out of or attributable to any employment practice not otherwise excluded in this Section IV, including discrimination, harassment, retaliation, breach of employment contract, or wrongful dismissal, discharge or termination; provided that this exclusion shall not apply to **Loss** for any such employment practice committed by an entity or person other than an **Employed Lawyer**, to the extent that such employment practice was committed in reliance upon **Professional Services** performed by an **Insured Person**.

J. INTELLECTUAL PROPERTY

based upon, arising out of or attributable to any actual or alleged infringement of copyright, patent, trademark, trade name, trade dress or service mark, or the actual or alleged misappropriation of ideas or trade secrets or the unauthorized disclosure of or access to confidential information.

K. NOTARY

based upon, arising out of or attributable to any **Insured Person** notarizing any signature not made in the presence of such **Insured Person** at the time of such notarization.

L. OTHER INSURANCE

for which an **Insured Person** has coverage under any valid and collectible directors and officers liability policy, employment practices liability policy, errors and omission policy, media liability policy, lawyers professional liability policy or any similar insurance, whether or not the retention (or deductible) of such policy has been exhausted, and regardless as to whether such policy is stated to be primary, contributory, excess, contingent or otherwise; provided that this exclusion shall not apply to the amount of **Loss** that is in excess of both the amount of any retention (or deductible) and the limit or remaining limit of liability of such other policy.

The Underwriter shall not be liable under this Coverage Section to pay any **Loss**, other than **Defense Expenses**, from any **Intra-Organization Defense Claim**.

V. SEVERABILITY OF EXCLUSIONS

For the purpose of determining the applicability of any Exclusion set forth in Section IV, the **Wrongful Act** or knowledge of any **Insured Person** shall not be imputed to any other **Insured Person**.

VI. NOTICE OF CLAIM AND CIRCUMSTANCES

A. NOTICE OF CLAIM

The **Insureds** shall give to the Underwriter written notice of any **Claim** made against an **Insured** as soon as practicable after a risk manager or general counsel of an **Organization** (or the functional equivalent) first learns of such **Claim**, but in no event later than ninety (90) days after the expiration of the **Policy Period** or the end of the **Extended Reporting Period**, if exercised. The failure of the **Insureds** to provide notice of a **Claim** as soon as practicable as required by this Section VI.A. shall not constitute a coverage defense with respect to such **Claim** unless the Underwriter establishes it was materially prejudiced by such failure.

B. NOTICE OF CIRCUMSTANCES

If during the **Policy Period** or the **Extended Reporting Period**, if exercised, the **Insured** first becomes aware of circumstances that could give rise to a **Claim** against the **Insureds** and gives written notice of such circumstances to the Underwriter during the **Policy Period** or the **Extended Reporting Period**, if exercised, then any **Claims** subsequently arising from such circumstances shall be considered to have been made during the **Policy Period**. No coverage is afforded under this Coverage Section for fees, expenses or other loss incurred in connection with such circumstances prior to the time a **Claim** is actually made and reported to the Underwriter.

The **Insureds** shall include with any such notice of circumstance a description of the circumstances, the nature of any potential **Wrongful Act(s)**, the nature of the alleged or potential damage, the names of actual or potential claimants, and the manner in which the **Insureds** first became aware of the **Wrongful Act(s)**.

VII. CLAIM SETTLEMENT

The **Insureds** agree not to admit any liability for any **Claim**, offer to settle or settle any **Claim**, incur any **Defense Expenses** or otherwise assume any contractual obligation, without the Underwriter's prior written consent, such consent shall not be unreasonably withheld. The Underwriter shall not be liable for or as a result of any offer to settle, settlement, **Defense Expenses**, assumed obligation, admission or stipulated judgment to which it has not given its prior consent; provided, however, that if the **Insured** is able to fully and finally settle all **Claims** in their entirety, which are subject to a single retention, for an aggregate amount including **Defense Expenses** not exceeding fifty percent (50%) of such retention, the Underwriter's consent will not be required for the settlement of such **Claims**.

The Underwriter shall have the right to make investigations and conduct negotiations and, with the consent of the **Insureds**, enter into such settlement of any **Claim** as the Underwriter deems appropriate.

VIII. CLAIM DEFENSE

The Underwriter shall have the right and duty to defend any **Claim** covered this Coverage Section, even if any of the allegations are groundless, false or fraudulent. The Underwriter's duty to defend any **Claim** shall cease upon exhaustion of the applicable limit of liability applicable to such **Claim**.

The Underwriter shall have the right to select and appoint counsel to defend against any **Claim**. The Underwriter may appoint different defense counsel to represent different **Insureds**, but only if required due to an actual conflict of interest.