

FIDUCIARY LIABILITY INSURANCE POLICY

TABLE OF CONTENTS

1. INSURING AGREEMENT
2. DEFINITIONS
3. COVERAGE TERRITORY
4. COVERAGE EXTENSIONS
5. EXTENDED REPORTING PERIOD
6. EXCLUSIONS
7. LIMIT OF LIABILITY
8. PRIORITY OF LOSS PAYMENTS
9. DEDUCTIBLE
10. DEFENSE OF CLAIMS
11. CLAIM AND POTENTIAL CLAIM NOTICES
12. INTERRELATED CLAIMS
13. SUBROGATION
14. OTHER INSURANCE
15. CORPORATE TRANSACTIONS
16. APPLICATION
17. SUITS AGAINST THE INSURER
18. ENTIRE AGREEMENT
19. CHANGES
20. ASSIGNMENT
21. NAMED ORGANIZATION'S AUTHORITY
22. CANCELLATION
23. BANKRUPTCY
24. NOTICES
25. TITLES
26. REFERENCES TO LAWS

FIDUCIARY LIABILITY INSURANCE POLICY

In consideration of the payment of the premium and in reliance upon the **Application**, the Insurer specified in the Declarations (the "**Insurer**") and the **Insureds** agree as follows:

1. INSURING AGREEMENTS

A. Fiduciary Liability

The **Insurer** shall pay **Loss** on behalf of the **Insureds** resulting from a **Claim** first made against the **Insureds** during the **Policy Period** or Extended Reporting Period, if applicable, for a **Wrongful Act** by the **Insureds** or by any person for whose **Wrongful Acts** the **Insureds** are legally responsible.

B. Settlement Programs

The **Insurer** shall pay a **Voluntary Settlement** and **Defense Costs** on behalf of the **Insureds** resulting from a **Settlement Program Notice** first given to the **Insurer** during the **Policy Period** or Extended Reporting Period, if applicable, provided such **Voluntary Settlement** and **Defense Costs** are incurred after such **Settlement Program Notice** is first given to the **Insurer**.

2. DEFINITIONS

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

A. "Administration" means:

1. advising, counseling or giving notice to **Employees**, participants or beneficiaries regarding any **Plan**;
2. providing interpretations regarding any **Plan**; or
3. handling records or enrolling, terminating or canceling **Employees**, participants or beneficiaries regarding any **Plan**.

B. "Application" means the application for this Policy, including any information and materials submitted therewith or incorporated therein. "Application" also means any application, including any information and materials submitted therewith or incorporated therein, for any fiduciary liability policy in an uninterrupted series of policies issued by the **Insurer**, or any insurance company controlling, controlled by or under common control with the **Insurer**, of which this Policy is a direct or indirect renewal or replacement. The **Application** shall be deemed attached to and is incorporated into this Policy.

C. "Claim" means any:

1. written demand for monetary or non-monetary relief commenced by the **Insureds**' receipt of such demand;
2. civil proceeding commenced by the service upon the **Insureds** of a complaint or similar pleading;

3. criminal proceeding commenced by the return of an indictment, information or similar pleading;
 4. formal civil administrative, regulatory adjudicatory or investigative proceeding (including a fact-finding investigation by the Department of Labor, Pension Benefit Guaranty Corporation or similar authority) commenced by the service of a complaint or similar document upon the **Insureds**, the filing of a notice of charges against the **Insureds** or the receipt by the **Insureds** of a written notice from the investigating authority identifying any **Insured** as a target against whom a formal proceeding may be commenced; or
 5. solely regarding Insuring Agreement B, a **Settlement Program Notice**.
- D. "**Debtor in Possession**" means a "debtor in possession" as such term is defined in Chapter 11 of the United States Bankruptcy Code or any similar law.
- E. "**Defense Costs**" means reasonable and necessary fees and expenses incurred in the defense or appeal of a **Claim**. **Defense Costs** shall include the premium for any appeal, attachment or similar bond, provided that the **Insurer** shall have no obligation to issue such bond. **Defense Costs** shall not include any compensation, benefit expenses, or overhead of any **Insureds**.
- F. "**Domestic Partner**" means any natural person qualifying as a domestic partner under any federal, state or local law or under the provisions of any formal program established by any **Insured Organization**.
- G. "**Employee**" means any natural person whose labor or service was, is or shall be engaged by and directed by any **Insured Organization** or **Plan**, including fulltime, part-time, seasonal, leased and temporary employees as well as volunteers. **Employee** shall not include any independent contractor.
- H. "**ERISA**" means the Employee Retirement Income Security Act of 1974, English Pension Scheme Act 1993, English Pensions Act 1995, or any similar law.
- I. "**Insolvency**" means the status of any **Insured Organization** due to:
1. the appointment of any conservator, liquidator, receiver, trustee, or similar official to control, supervise, or liquidate such **Insured Organization**; or
 2. such **Insured Organization** becoming a **Debtor in Possession**.
- J. "**Insured Organization**" means:
1. the **Named Organization**; or
 2. any **Subsidiary**,
- including any such organization as a **Debtor in Possession**.
- K. "**Insured Person**" means any natural person who was, is or shall be:
1. a duly elected or appointed director, officer, general counsel, risk manager, natural person trustee, or in the case of a limited liability

company, member of the management board (or equivalent position), of any **Insured Organization** or **Plan**;

2. an **Employee**; or
3. a fiduciary of a **Plan** if such person is specifically included as an **Insured Person** in a written endorsement issued by the **Insurer**.

L. "**Insureds**" means any:

1. **Insured Organization**;
2. **Plan**; or
3. **Insured Persons**.

M. "**Interrelated Wrongful Acts**" means **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally connected facts, circumstances, situations, events, transactions or causes.

N. "**Loss**" means an amount that the **Insureds** are legally obligated to pay, including, without limitation, damages, settlements, judgments, pre- and post-judgment interest, and **Defense Costs**. Regarding Insuring Agreement B, "**Loss**" means **Voluntary Settlements** and **Defense Costs**.

Loss shall include punitive and exemplary damages where insurable by law. The insurability of such damages shall be governed by the laws of any applicable jurisdiction that permits coverage of such damages.

Loss shall exclude any:

1. taxes, fines or penalties imposed by law other than any:
 - a. five percent (5%) or less, or twenty percent (20%) or less, civil penalties imposed under Section 502(i) or (l), respectively, of **ERISA**;
 - b. civil penalties imposed by the Pension Ombudsman appointed by the United Kingdom Secretary of State for Social Services or by the Occupational Pensions Regulatory Authority in the United Kingdom or any successor thereto; provided any coverage for such civil penalties applies only if the funds or assets of the subject **Plan** are not used to fund, pay or reimburse the premium for this Policy;
 - c. civil money penalties imposed upon an **Insured** for violation of the privacy provisions of the Health Insurance Portability and Accountability Act of 1996, provided that the **Insurer's** maximum aggregate liability for all such civil money penalties under this Policy shall be subject to a sublimit of \$25,000 that shall be the maximum aggregate amount that the **Insurer** shall pay for all such penalties and shall be part of, and not in addition to, the Limit of Liability stated in Item 3.A of the Declarations; or
 - d. solely with respect to Insuring Agreement B, **Voluntary Settlements**;

2. multiple portion of any multiplied damage award;
 3. matters that are uninsurable under the law pursuant to which this Policy shall be construed;
 4. amount for which the **Insureds** are not financially liable or for which the claimants are without legal recourse to the **Insureds**; or
 5. non-monetary relief.
- O. "Named Organization"** means the organization named in Item 1 of the Declarations.
- P. "Non-Indemnifiable Loss"** means any **Loss** incurred by **Insured Persons** that all **Insured Organizations** cannot indemnify because of:
1. legal prohibition; or
 2. **Insolvency**.
- In determining **Non-Indemnifiable Loss**, all **Insured Organizations** shall be deemed to provide indemnification to the **Insured Persons** to the fullest extent permitted or required by law.
- Q. "Plan"** means any:
1. **Sponsored Plan**; or
 2. government-mandated insurance program for workers compensation, unemployment, social security or disability benefits for **Employees**.
- R. "Policy Period"** means the period specified in Item 2 of the Declarations, subject to any cancellation prior to the scheduled expiration date.
- S. "Pollutants"** means any solid, liquid, gaseous, biological, radiological or thermal contaminant or irritant, including, without limitation, smoke, vapor, soot, fumes, acids, alkalis, chemicals, mold, fungi, odors, noise, lead, oil or oil products, radiation, asbestos or asbestos containing products, waste or any electric, magnetic, or electromagnetic field of any frequency. "Waste" includes, without limitation, material to be recycled, reconditioned, or reclaimed.
- T. "Settlement Program"** means any voluntary compliance resolution program or similar voluntary settlement program administered by the United States Internal Revenue Service, United States Department of Labor or any other domestic or foreign governmental authority. Such programs include, without limitation, the Employee Plans Compliance Resolution System, Audit Closing Agreement Program, Voluntary Compliance Resolution Program, Walk-in Closing Agreement Program, Administrative Policy Regarding Self-Correction, Tax Sheltered Annuity Voluntary Correction Program, Delinquent Filer Voluntary Compliance Program, and Voluntary Fiduciary Correction Program.
- U. "Settlement Program Notice"** means prior written notice to the **Insurer** by any **Insured** of the **Insured's** intent to enter into a **Settlement Program**.
- V. "Sponsored Plan"** means any:

1. Employee Benefit Plan, Pension Benefit Plan or Welfare Benefit Plan, as each is defined in **ERISA**, operated solely by any **Insured Organization**, or jointly by any **Insured Organization** and a labor organization, solely for the benefit of **Employees**;
2. employee benefit plan or program not subject to **ERISA** sponsored solely by any **Insured Organization** for the benefit of **Employees**, including any fringe benefit or excess benefit plan;
3. employee benefit plan or program otherwise described in paragraphs 1. or 2. above while such plan or program is being actively developed, formed or proposed by any **Insured Organization** prior to the formal creation of such plan or program; provided, however, no coverage is afforded under this Policy for any **Claim** against an **Insured** in a settlor or similar capacity with respect to any plan or program; or
4. other plan, fund, or program specifically included as a **Sponsored Plan** in a written endorsement issued by the **Insurer**.

Sponsored Plan shall not include any multi-employer plan or employee stock ownership plan, unless such plan is specifically included as a **Sponsored Plan** in a written endorsement issued by the **Insurer**.

W. "Subsidiary" means any:

1. corporation in which, and for as long as, the **Named Organization** owns or controls, either directly or indirectly, more than 50% of the outstanding securities representing a present right to vote for the election of the board of directors of such corporation;
2. limited liability company in which, and for as long as, the **Named Organization** owns or controls, either directly or indirectly, the right to elect, appoint or designate more than 50% of the members of the board of managers or management committee of such limited liability company; or
3. foundation, charitable trust, or political action committee in which, and for as long as, the **Named Organization** exclusively sponsors such entity or organization.

X. "Voluntary Settlement" means any fees, fines, or penalties paid by an Insured to a governmental authority pursuant to a Settlement Program for the actual or alleged inadvertent non-compliance by a Plan with any statute, rule or regulation; provided Voluntary Settlement shall not include (i) any costs to correct the non-compliance, or any other charges, expenses, taxes or damages; or (ii) any fees, fines, or penalties relating to a Plan which, as of the earlier of inception date of this Policy or the inception date of the first policy in an uninterrupted series of policies issued by the Insurer of which this Policy is a direct or indirect renewal or replacement, any Insured Person knew to be actually or allegedly non-compliant.

Y. "Wrongful Act" means any actual or alleged:

1. breach of the responsibilities, obligations or duties imposed by **ERISA** upon fiduciaries of the **Sponsored Plan** in their capacity as such fiduciaries;

2. act, error or omission in **Administration** by any **Insured** in their capacity as such; or
3. matter claimed against any **Insured Persons** solely by reason of their service as a fiduciary of any **Sponsored Plan**.

3. **COVERAGE TERRITORY**

This Policy shall apply on a worldwide basis.

4. **COVERAGE EXTENSIONS**

A. **Spousal Coverage**

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

1. such **Claim** arises solely out of:
 - a. such person's status as the spouse or **Domestic Partner** of an **Insured Person**; or
 - b. such person's ownership of property sought as recovery for a **Wrongful Act**;
2. the **Insured Person** is named in such **Claim** along with the spouse or **Domestic Partner**; and
3. no coverage shall apply to any **Claim** for a **Wrongful Act** of such spouse or **Domestic Partner**.

Coverage for such **Claim** shall be on the same terms and conditions (including, without limitation, the Deductible) as apply to the **Claim** made against the **Insured Person**.

B. **Estate Coverage**

If an **Insured Person** dies, becomes incapacitated, or files for bankruptcy, any **Claim** made against such person's estate, heirs, assigns or legal representatives for a **Wrongful Act** of such **Insured Person** shall be deemed a **Claim** made against such **Insured Person**. No coverage shall apply to any **Claim** for a **Wrongful Act** of such estate, heirs, assigns or legal representatives.

5. **EXTENDED REPORTING PERIOD**

- A. If the **Insurer** or **Named Organization** shall refuse to renew this Policy, or if the **Named Organization** shall cancel this Policy, the **Insureds** shall have the right, upon payment of the additional premium stated in Item 5 of the Declarations, to a continuation of the coverage afforded by this Policy for the additional period stated in Item 5 of the Declarations (the "Extended Reporting Period"). If elected, the Extended Reporting Period shall commence upon the effective date of such nonrenewal or cancellation. Such continuation of coverage shall apply only to a **Claim** first made against the **Insureds** during the Extended Reporting Period for:

1. any **Wrongful Act** occurring prior to the end of the **Policy Period**; and
 2. otherwise covered by this Policy.
- B.** The rights contained in this section shall terminate unless written notice of the election of the Extended Reporting Period together with the additional premium due is received by the **Insurer** within thirty (30) days after the effective date of nonrenewal or cancellation.
- C.** The additional premium for the Extended Reporting Period shall be fully earned at the inception of the Extended Reporting Period. The Extended Reporting Period is not cancelable.
- D.** There is no separate limit of liability for the Extended Reporting Period.

6. EXCLUSIONS

- A.** The **Insurer** shall not pay **Loss** resulting from any **Claim** against an **Insured**:
1. arising from, based upon, or attributable to any fact, circumstance or situation that, before the inception date of this Policy, was the subject of any notice given under any other insurance policy;
 2. arising from, based upon, or attributable to:
 - a. any demand, suit or proceeding made or initiated against any **Insured** on or prior to the applicable Pending and Prior Litigation Date in Item 6 of the Declarations; or
 - b. any **Wrongful Act** specified in such prior demand, suit or proceeding or any **Interrelated Wrongful Acts** thereto;
 3. for bodily injury, sickness, disease, emotional distress, mental anguish, or death of any person, or damage to or destruction of any tangible property, including loss of use thereof;
 4. arising from, based upon, or attributable to any:
 - a. discharge, dispersal, release, escape, seepage, migration or disposal of **Pollutants**, nuclear material or nuclear waste or any threat of such discharge, dispersal, release, escape, seepage, migration or disposal; or
 - b. direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, nuclear material or nuclear waste,

provided that this exclusion shall not apply to any (i) **Claim** by or on behalf of a beneficiary or participant in any **Sponsored Plan** for diminution in value of any securities owned by the **Sponsored Plan** in any organization other than any **Insured Organization**; or (ii) **Non-Indemnifiable Loss**;

5. arising from, based upon, or attributable to any liability under any contract or agreement, provided that this exclusion shall not apply to the extent that liability:
 - a. would have been incurred in the absence of such contract or agreement; or
 - b. was assumed in accordance with or under an agreement or declaration of trust pursuant to which a **Plan** was established;
6. for the failure of the **Insured** to comply with any workers' compensation, unemployment insurance, social security, or disability benefits law or any similar law except:
 - a. the Consolidated Omnibus Budget Reconciliation Act of 1985; or
 - b. the Health Insurance Portability and Accountability Act of 1996;
7. for discrimination in violation of any law other than **ERISA**;
8. arising from, based upon, or attributable to the gaining, in fact, of any personal profit, remuneration or advantage to which such **Insured** is not legally entitled; or
9. arising from, based upon, or attributable to any deliberately fraudulent or criminal act or omission or willful violation of law by the **Insureds** if a judgment or other final adjudication in such **Claim** or another proceeding establishes that such act, omission or violation occurred.

Regarding exclusions 8 and 9 above: (i) no **Wrongful Act** of any **Insured Person** shall be imputed to any other **Insured Person**; and (ii) only a **Wrongful Act** by a past, present or future chairman of the board, chief executive officer, president, chief operating officer, chief financial officer, general counsel or limited liability company manager of any **Insured Organization** or a past, present or future **Plan** trustee shall be imputed to an **Insured Organization** or **Plan**.

- B. Other than **Defense Costs**, the **Insurer** shall not pay **Loss** resulting from any **Claim** against an **Insured** for:
 1. failure to fund, or collect contributions owed to, any **Plan**;
 2. return or reversion to an employer of any contribution or asset of any **Plan**; or
 3. benefits under any **Plan**, including benefits that would be due under any **Plan** if such **Plan** complied with all applicable laws, provided that this exclusion shall not apply to the extent that an **Insured** is a natural person and the benefits are payable by such **Insured** as a personal obligation.

7. LIMIT OF LIABILITY

- A. The Limit of Liability specified in Item 3.A of the Declarations is the maximum aggregate amount that the **Insurer** shall pay for all **Loss** under this Policy for all

coverages combined resulting from all **Claims** first made against the **Insureds** during the **Policy Period** and the Extended Reporting Period, if applicable.

- B. The Sublimit of Liability stated in Item 3.B of the Declarations is the maximum aggregate amount of the **Insurer's** liability for all **Loss** under Insuring Agreement B. Settlement Programs resulting from all **Settlement Program Notices** first given to the **Insurer** during the **Policy Period** and the Extended Reporting Period, if applicable. The Sublimit of Liability stated in item 3.B of the Declarations shall be part of, and not in addition to, the Limit of Liability stated in Item 3.A of the Declarations.
- C. **Defense Costs** shall be part of, and not in addition to, each applicable Limit of Liability. Payment of **Defense Costs** by the **Insurer** shall reduce each applicable Limit of Liability.

8. PRIORITY OF LOSS PAYMENTS

- A. If **Loss** is incurred that is acknowledged by the **Insurer** to be covered under this Policy except that such **Loss** exceeds the remaining Limit of Liability for this Policy, the **Insurer** shall pay **Non-Indemnifiable Loss** before paying any other **Loss**.
- B. If **Loss** other than **Non-Indemnifiable Loss** is incurred that is acknowledged by the **Insurer** to be covered under this Policy, the **Named Organization** shall have the right to direct the **Insurer** to delay payment of such **Loss** until such time as the **Named Organization** specifies. Any such direction by the **Named Organization** to delay or make payment of **Loss** shall be by written notice to the **Insurer**. The **Insurer's** liability and the aggregate Limit of Liability under this Policy shall not be increased, and the **Insurer** shall not be liable for any interest, as a result of any such delayed **Loss** payment. Any such delayed payment of **Loss** shall be available to the **Insurer** to pay **Non-Indemnifiable Loss** covered under this Policy. Any payment of **Non-Indemnifiable Loss** by the **Insurer** out of funds withheld pursuant to this provision shall terminate the **Insurer's** liability to make a delayed payment of **Loss** other than **Non-Indemnifiable Loss**.

9. DEDUCTIBLE

- A. The **Insurer** shall pay covered **Loss** resulting from each **Claim** covered under this Policy only to the extent that such **Loss** is in excess of the applicable Deductible specified in Item 4 of the Declarations.
- B. The Deductible shall be uninsured.
- C. Any **Defense Costs** paid by the **Insurer** pursuant to a duty to defend that are within any applicable Deductible shall be reimbursed by any **Insured Organization** upon the **Insurer's** request.
- D. No Deductible shall apply to **Non-Indemnifiable Loss**.

10. DEFENSE OF CLAIMS

- A. The **Insurer** shall have the right and duty to defend each **Claim** covered under this Policy for which the **Insurer** receives notice, even if such **Claim** is groundless, false or fraudulent. The **Insurer** may make any investigation it deems appropriate.
- B. The **Insurer's** duty to defend any **Claim** shall end upon exhaustion of any applicable Limit of Liability. If any applicable Limit of Liability is exhausted, the premium for this Policy shall be fully earned.
- C. The **Insureds** shall have the option to defend any **Claim** covered under this Policy. If the **Insureds** assume the defense of any **Claim**, the **Insurer** shall:
1. at the written request of the **Insureds**, advance **Defense Costs** excess of the applicable Deductible prior to the final disposition of such **Claim**, provided that the **Insureds** shall repay such **Defense Costs** if it is subsequently determined that such **Defense Costs** are not covered under this Policy; and
 2. have the right to effectively associate with the **Insureds** in the defense of such **Claim**.
- D. The **Insureds** shall not admit nor 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 not to be unreasonably withheld. The **Insurer** shall not be liable for any admission, assumption, settlement, stipulation, or **Defense Costs** to which it has not consented.
- E. The **Insurer** may, with the written consent of the **Insureds**, settle any **Claim** for a monetary amount that the **Insurer** deems reasonable. If any **Insureds** refuse to consent to the settlement of a **Claim** recommended by the **Insurer** and acceptable to a claimant, then the **Insurer** shall not pay **Loss** resulting from such **Claim** in excess of the sum of:
1. The amount of the proposed settlement plus **Defense Costs** incurred prior to such refusal; and
 2. 75% of **Loss** incurred for such **Claim** in excess of the amount specified in 1 above.
- F. The **Insureds** shall give to the **Insurer** all information and cooperation as the **Insurer** may reasonably request. Upon the **Insurer's** request, the **Insureds** shall attend proceedings, hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in conducting the defense of any **Claim**.

11. CLAIM AND POTENTIAL CLAIM NOTICES

- A. As a condition precedent to coverage, the **Insureds** shall give the **Insurer** written notice of any **Claim** against an **Insured** as soon as practicable, but no later than 60 days after the end of the **Policy Period** or Extended Reporting Period, if applicable.

- B. If, during the **Policy Period** or Extended Reporting Period, if applicable, the **Insureds** become aware of a **Wrongful Act** that may reasonably be expected to give rise to a **Claim** against an **Insured**, and if written notice of such **Wrongful Act** is given to the **Insurer** during the **Policy Period** or Extended Reporting Period, if applicable, specifying the (i) reasons for anticipating such **Claim**, (ii) nature and date of the **Wrongful Act**, (iii) identity of the **Insureds** involved, (iv) injuries or damages sustained, (iv) names of potential claimants, and (vi) manner in which the **Insureds** first became aware of the **Wrongful Act**, then any **Claim** subsequently arising from such **Wrongful Act** shall be deemed to be a **Claim** first made at the time that the **Insurer** receives such notice.

12. INTERRELATED CLAIMS

All **Claims** arising from, based upon, or attributable to the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed to be a single **Claim** first made on the earliest date that:

- A. any of such **Claims** was first made, even if such date is before the **Policy Period**;
- B. proper notice of such **Wrongful Act** or any **Interrelated Wrongful Act** was given to the **Insurer** pursuant to Section 11.B above; or
- C. notice of such **Wrongful Act** or any **Interrelated Wrongful Act** was given under any prior insurance policy.

13. SUBROGATION

The **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery regarding any payment of **Loss** under this Policy. The **Insureds** shall do everything necessary to secure and preserve such rights, including, without limitation, the execution of any documents necessary to enable the **Insurer** to effectively bring suit in the name of the **Insureds**. The **Insureds** shall do nothing to prejudice the **Insurer's** position or any rights of recovery.

14. OTHER INSURANCE

Coverage under this Policy shall apply only in excess of any other valid and collectible insurance regardless of whether such other insurance is stated to be excess, contributory, contingent or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other insurance to this Policy's Policy Number.

15. CORPORATE TRANSACTIONS

A. Takeover of Named Organization

If, during the **Policy Period**:

1. any person or entity or group of persons and/or entities acting in concert acquires securities resulting in ownership by such person(s) and/or entity(ies) of more than 50% of the outstanding securities representing

the present right to vote for the election of directors or equivalent positions of the **Named Organization**; or

2. the **Named Organization** merges into or consolidates with another organization such that the **Named Organization** is not the surviving organization,

then coverage shall continue under this Policy, but only for covered **Wrongful Acts** occurring before such transaction. No coverage shall be available for any **Wrongful Act** occurring after such transaction. Upon such transaction, this Policy shall not be cancelled and the entire premium for this Policy shall be deemed fully earned. The **Insureds** shall give the Insurer written notice of such transaction as soon as practicable, but not later than 90 days after the effective date of such transaction.

B. Acquisition or Creation of Subsidiary

If, before or during the **Policy Period**, any **Insured Organization**:

1. creates or acquires a **Subsidiary**; or
2. merges with another organization such that the **Insured Organization** is the surviving entity,

then such newly created, acquired or merged organization and its **Insureds** (including any employee benefit plan) shall be covered for **Wrongful Acts** occurring after such acquisition, merger or creation. No coverage shall be available for any **Wrongful Act** occurring before such transaction or for any **Interrelated Wrongful Acts** thereto.

If the fair value of the assets of all employee benefit plans sponsored by any newly acquired or merged organization exceed 15% of the total consolidated assets of all **Plans** immediately prior to such acquisition or merger, then as a condition precedent to coverage for such new **Insureds**, the **Named Organization** shall give the **Insurer** written notice of the transaction as soon as practicable and shall pay any reasonable additional premium, and shall agree to any additional terms and conditions, required by the **Insurer**. The **Insureds** shall furnish all information regarding such transaction as the **Insurer** shall request.

C. Loss of Subsidiary Status

If, before or during the **Policy Period**, any organization ceases to be a **Subsidiary**, then coverage shall be available under this Policy for such **Subsidiary** and its **Insureds**, but only for covered **Wrongful Acts** occurring before such transaction. No coverage shall be available for any **Wrongful Act** occurring after such transaction.

D. Termination of Plan

If, before or during the **Policy Period**, any **Plan** is terminated, coverage for such **Plan** and its **Insureds** shall continue until termination of this Policy. Such coverage continuation shall apply with respect to covered **Claims for Wrongful Acts** taking place before or after the date the **Plan** was terminated.

16. APPLICATION

- A.** The **Insureds** represent that the information contained in the **Application** is true, accurate and complete. This Policy is issued in reliance upon the **Application**. If the **Application** contains misrepresentations or omissions made with intent to deceive or that materially affect the acceptance of the risk or the hazard assumed by the **Insurer**, this Policy shall be void *ab initio* and shall not afford any coverage for any **Insured** who knew on the inception date of this Policy the facts that were not truthfully disclosed in the **Application**, whether or not the **Insured** knew the **Application** contained such misrepresentation or omission.
- B.** For the purpose of determining coverage, knowledge possessed by:
1. any **Insured Person** shall not be imputed to any other **Insured Person**; and
 2. the **Named Organization's** chairman of the board, chief executive officer, president, chief operating officer, chief financial officer, general counsel, limited liability company manager, or any **Plan** trustees or anyone signing the **Application** shall be imputed to all **Insureds** other than **Insured Persons**.

17. SUITS AGAINST THE INSURER

- A.** No suit or other proceeding shall be commenced by the **Insureds** against the **Insurer** unless there shall have been full compliance with all the terms and conditions of this Policy.
- B.** No person or organization shall have any right under this Policy to join the **Insurer** as a party to any **Claim** against the **Insureds** nor shall the **Insurer** be impleaded by the **Insureds** in any **Claim**.

18. ENTIRE AGREEMENT

This Policy, including the Declarations, written endorsements, and the **Application** shall constitute the entire agreement between the **Insurer** and the **Insureds** regarding the insurance provided hereunder.

19. CHANGES

This Policy shall not be changed in any manner except by a written endorsement issued by the **Insurer**.

20. ASSIGNMENT

Assignment of any interest under this Policy shall not bind the **Insurer** unless such assignment is acknowledged by a written endorsement issued by the **Insurer**.

21. NAMED ORGANIZATION'S AUTHORITY

The **Named Organization** shall act on behalf of all **Insureds** regarding all matters under this Policy, including, without limitation, cancellation, election of the Extended Reporting Period, transmission and receipt of notices, reporting of **Claims**, acceptance of endorsements, payment of premiums, and receipt of return premiums.

22. CANCELLATION

- A.** The **Insurer** may cancel this Policy for non-payment of premium by sending not less than 10 days notice to the **Named Organization**. This Policy may not otherwise be cancelled by the **Insurer**.
- B.** Except as otherwise provided, the **Named Organization** may cancel this Policy by sending written notice of cancellation to the **Insurer**. Such notice shall be effective upon receipt by the **Insurer** unless a later cancellation date is specified therein.
- C.** If the **Insurer** cancels this Policy, unearned premium shall be calculated on a pro rata basis. If the **Insureds** cancel this Policy, unearned premium shall be calculated at the **Insurer's** customary short rates. Payment of any unearned premium shall not be a condition precedent to the effectiveness of a cancellation. The **Insurer** shall make payment of any unearned premium as soon as practicable.

23. BANKRUPTCY

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

24. NOTICES

- A.** Notices to the **Insureds** shall be sent to the **Named Organization** at the address specified in the Declarations.
- B.** Notices to the **Insurer** shall be sent to the applicable address specified in the Declarations and become effective upon receipt at such address.

25. TITLES

The titles of the sections of, and endorsements to, this Policy are for reference only. Such titles shall not be part of the terms and conditions of coverage.

26. REFERENCES TO LAWS

- A.** Any statute, act, or code mentioned in this Policy shall be deemed to include all amendments of, and rules and regulations promulgated under, such statute, act, or code.

- B.** Any statute, act, or code mentioned in this Policy that is followed by the phrase "or any similar law" shall be deemed to include all similar laws of all jurisdictions throughout the world, including, without limitation, any common law.

SAMPLE