

The Executive

In consideration of the payment of the premium, the Insurer, the **Parent Company** and the **Insureds** agree as follows:

I. INSURING CLAUSE

This Policy provides follow form excess insurance coverage and difference-in-conditions insurance coverage solely for **Loss**. When this Policy provides:

- A. Excess Coverage – This Policy shall provide such coverage in accordance with the same terms, conditions and limitations of the **Followed Policy** that provide coverage for, or otherwise relate to, **Loss**, including those involving policy termination, representations and severability, notice and extended reporting period, and in accordance with the terms and conditions set forth herein; and
- B. Difference-In-Conditions (“DIC”) Coverage – This Policy shall provide such coverage in accordance with the terms, conditions and limitations of this Policy, and the Insurer shall pay on behalf of an **Insured** for **Loss** on account of a **Claim** first made during the **Policy Period** to the extent that such **Loss** has not been paid or indemnified by any **Underlying Insurance** because of a **DIC Event** or any other reason.

II. APPLICABLE TO DIC COVERAGE ONLY

A. LIBERALIZATION TO BROADER TERMS OF FOLLOWED POLICY

If the terms and conditions of the **Followed Policy**, as they relate solely to any coverage provided for **Loss**, are broader than any like terms and conditions in this Policy, then in accordance with Section III. D. ALTERATION, ASSIGNMENT AND HEADINGS, this Policy shall be amended to follow such broader terms and conditions, except with respect to limits of liability, **Policy Period** and any coverage for, or payment to, a **Company**.

B. EXCLUSIONS

No coverage shall be provided under this Policy for **Loss** on account of that portion of a **Claim**:

1. Conduct - based upon, arising out of or resulting from any deliberate fraud, deliberate criminal act or deliberate violation of any statute or regulation, or any illegal profit or remuneration, by an **Insured**, established by a final, non-appealable adjudication adverse to such **Insured** in any underlying action. However: (a) the Insurer shall not utilize a declaratory action or proceeding brought by or against the Insurer to establish such final, non-appealable adjudication or impute any conduct or knowledge of one **Insured** to another **Insured**; and (b) **Defense Costs** shall not apply to this exclusion; or
2. Prior Notice - based upon, arising out of or resulting from any claim reported, or any circumstance reported and accepted, under the insurance policy (including any policies of which such policy is a renewal policy) replaced by this Policy, provided that this exclusion shall not apply where this Policy is a renewal of a policy issued by the Insurer to the **Parent Company**.

C. ADVANCEMENT

In any **Claim** reported under this Policy because **Underlying Insurance** fails to respond to an **Insured's** request for indemnification within 60 days of the **Insured's** request to the insurer of such **Underlying Insurance** for such indemnification, then upon the reporting of the **Claim**, the Insurer shall advance **Defense Costs** and any other incurred **Loss** until such time that **Underlying Insurance** accepts the **Insured's** request for indemnification or the Limit of Liability set forth in Item 3 of the Declarations has been exhausted, whichever occurs first. In any other **Claim**, the Insurer shall advance **Defense Costs** on a current basis, but no later than 60 days after receipt of the legal bills and any supporting documentation.

D. REPORTING

1. Notice of any **Claim** described in paragraphs 1 – 3 of the definition of **Claim** is considered timely when reported to the Insurer as soon as practicable after the **Parent Company's** Risk Manager or General Counsel first becomes aware of such **Claim**. However, the Insurer shall not assert that notice of a **Claim** is untimely unless the Insurer is materially prejudiced by the untimely notice, as determined by a final adjudication rendered only after the Insurer has exhausted all other reasonable means of determining whether it has been materially prejudiced.

2. Notice of any **Claim** described in paragraph 4 of the definition of **Claim** is optional, but only **Loss** incurred after such **Claim** is reported is eligible for coverage under the Policy.
3. Notice of any circumstance which could give rise to a **Claim** under this Policy is optional. If an **Insured** elects to report any such circumstance:
 - (a) such notice shall include information regarding the nature of any **Wrongful Acts** or alleged or potential damages and the names of any actual or potential defendants;
 - (b) any **Claim** that may subsequently arise out of a reported circumstance shall be deemed to have been first made during the **Policy Period** in which the circumstance was first reported; and
 - (c) only **Loss** incurred after the **Claim** is reported is eligible for coverage under this Policy.

E. DEFENSE AND SETTLEMENT

With respect to any **Claim**, the **Insured** shall:

1. have the duty to defend;
2. not agree to any settlement, stipulate to any judgment, incur any **Defense Costs**, admit any liability or assume any contractual obligation, without the Insurer's prior written consent, which consent shall not be unreasonably withheld, and the Insurer shall not be liable for any such settlement, stipulation, incurred **Defense Costs**, admission or assumed obligation to which it has not given its prior written consent;
3. not do anything that could prejudice the Insurer's position or its potential or actual rights of recovery; and
4. agree to provide the Insurer with all information, assistance and cooperation which the Insurer may reasonably require;

provided that the failure of any **Insured** to comply with any of the requirements in paragraphs 1 – 4 above, shall not impair the rights of any other **Insured** under this Policy.

F. TREATMENT OF RELATED CLAIMS

All **Related Claims** shall be deemed a single **Claim** first made during the policy period in which the earliest of such **Related Claims** was either first made or deemed to have been first made in accordance with Section II.D. REPORTING.

G. OTHER INSURANCE

1. With the exception of insurance which is written specifically as excess of the Limit of Liability of this Policy, this Policy shall be excess of and shall not contribute with any valid and collectible insurance providing coverage for **Loss** for which this Policy also provides coverage, including any insurance maintained by an **Outside Entity**. However, in no event shall any insurance policy be considered "other insurance" for the purpose of this paragraph where the insurer of such insurance experiences a **DIC Event**.
2. Any personal umbrella excess liability insurance, independent directors liability insurance or any other similar personal liability insurance available to an **Insured** shall be specifically excess of this Policy.

H. SUBROGATION

1. In the event of any payment of **Loss** under this Policy, the Insurer shall be subrogated to the extent of such payment to all of the **Insureds'** rights of recovery with respect to such **Loss**, and the **Insureds** shall take all reasonable actions to secure and preserve the Insurer's subrogation rights.
2. In no event shall the Insurer exercise any subrogation right against an **Insured**. In any subrogation action against a **Company**, it is agreed that each **Company** agrees to fulfill its indemnification obligations to each **Insured** to the fullest extent permitted by law and any contract or agreement providing an indemnification obligation exceeding any such law.
3. If the Insurer is successful in its subrogation efforts in recovering any portion of an amount paid for **Loss** under this Policy, the Insurer shall reinstate the Limit of Liability set forth in Item 3 of the Declarations with any amounts recovered up to such amount paid, less any costs incurred by the Insurer in its recovery efforts.

I. EXTENDED REPORTING PERIOD

1. If this Policy does not renew or terminates for any reason other than for non-payment of premium, the **Parent Company** or the **Insureds** shall have the right to purchase an Extended Reporting Period ("ERP") for the premium and time period specified in Item 7 of the Declarations. This right shall lapse, however, unless written notice of election to purchase such ERP, together with payment of the specified premium, is received by the Insurer within 60 days after the effective date of non-renewal or termination of the Policy. In the event the **Parent Company** elects not to purchase an ERP and an individual **Insured** or group of **Insureds** elects

to purchase such ERP, in accordance with paragraph 1 above, such ERP shall only apply to **Claims** against such **Insured** or group of **Insureds**.

2. The premium for the ERP shall be deemed fully earned at the inception of the ERP.
3. Any ERP purchased shall become part of the **Policy Period**, extending such **Policy Period** to the expiration of the time period set forth in Item 7 of the Declarations, but with respect to a **Claim** described in paragraphs 1 - 3 of the definition of **Claim**, the **Wrongful Act** which gives rise to such **Claim** must have occurred prior to the effective date of non-renewal or termination.

J. CHANGES IN EXPOSURE

1. New Companies and Old Companies

Any **Insured** of a **Subsidiary**:

- (a) acquired before or during the **Policy Period** is eligible for coverage under this Policy, but only for a **Wrongful Act**, or a request or sworn statement described in paragraph 4 of the definition of **Claim**, which occurred after the date of such acquisition; or
- (b) ceasing to be a **Subsidiary** before or during the **Policy Period** is eligible for coverage under this Policy, but only for a **Wrongful Act**, or a request or sworn statement described in paragraph 4 of the definition of **Claim**, which occurred while such entity was a **Subsidiary**.

2. Acquisition of the **Parent Company**

In the event of a **Change in Control** of the **Parent Company** during the **Policy Period**:

- (a) this Policy shall remain in force until the expiration of the **Policy Period**, but only for any **Claim** for a **Wrongful Act**, or request or sworn statement described in paragraph 4 of the definition of **Claim**, which occurred prior to such acquisition;
- (b) the entire premium for this Policy shall be deemed fully earned as of the effective date of such **Change in Control**; and
- (c) the **Parent Company** shall be entitled to receive a quote for up to a 6 year extension of coverage ("Run-Off Coverage") solely for **Claims** for a **Wrongful Act**, or a request or sworn statement described in paragraph 4 of the definition of **Claim**, which occurred prior to a **Change in Control**. Coverage offered pursuant to such quote shall be subject to additional or different terms and conditions and payment of additional premium. Any Run-off Coverage purchased shall replace the Extended Reporting Period that would be available to an **Insured** pursuant to Section II.I. EXTENDED REPORTING PERIOD.

K. NOTICE

1. All notices to the Insurer under this Policy of a **Claim** or circumstances which could give rise to a **Claim** shall be given in writing to the address listed in Item 6A of the Declarations.
2. All other notices to the Insurer under this Policy shall be given in writing to the address listed in Item 6B of the Declarations.
3. Any notice under this Policy shall be effective on the date of mailing or receipt by the Insurer, whichever is earlier.

L. TERMINATION OF POLICY

This Policy shall terminate at the earlier of:

1. 20 days after receipt by the **Parent Company** of written notice from the Insurer of termination for non-payment of premium; or
2. expiration of the **Policy Period**.

M. NON-RESCINDABLE COVERAGE

The Insurer shall not be entitled under any circumstances to void or rescind this Policy with respect to any **Insured**.

N. BANKRUPTCY

1. Bankruptcy or insolvency of any **Company** or **Insured** shall not relieve the Insurer of its obligations nor deprive the Insurer of its rights or defenses under this Policy.
2. The coverage provided by this Policy is intended solely for the benefit and protection of **Insureds**. In the event a liquidation or reorganization proceeding is commenced by or against a **Company** pursuant to United States bankruptcy law:

- (a) the **Company** and the **Insureds** hereby agree not to oppose or object to any efforts by the Insurer, the **Company** or an **Insured** to obtain relief from any stay or injunction issued in such proceeding; and
- (b) the Insurer shall first pay **Loss** on account of a **Claim** for a **Wrongful Act** occurring prior to the date such liquidation or reorganization proceeding commences, and then pay **Loss** in connection with a **Claim** for a **Wrongful Act** occurring after the date such liquidation or reorganization proceeding commences.

O. WORLDWIDE TERRITORY AND APPLICATION OF LAW

This Policy shall apply anywhere in the world, and any reference to United States law shall include all U.S. federal, state and local statutory laws, rules and regulations and common law, and any equivalent body of law anywhere in the world.

P. ROLE OF THE PARENT COMPANY

The **Parent Company** shall act on behalf of each **Insured** with respect to paying premiums, receiving any return premiums, agreeing to endorsements to this Policy and the giving or receiving of any notice provided for in this Policy (except notices of a **Claim** and circumstances which could give rise to a **Claim** or notices to apply for an Extended Reporting Period).

Q. VALUATION AND FOREIGN 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 any element of **Loss** under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States of America dollars at the exchange rate published in The Wall Street Journal on the date the element of **Loss** is due.

III. APPLICABLE TO EXCESS COVERAGE AND DIC COVERAGE

A. LIMIT OF LIABILITY

The Limit of Liability stated in Item 3 of the Declarations represents the maximum amount payable under this Policy during the **Policy Period** for all **Loss. Defense Costs** (or when this Policy is providing Excess Coverage, as such term is defined in the **Followed Policy**) are part of and not in addition to the Limit of Liability. The Limit of Liability shall be the limit of liability available during any applicable Extended Reporting Period.

B. EXCESS AND DIC ATTACHMENT

1. Coverage under this Policy shall attach only after exhaustion of the limits of liability of the **Underlying Insurance**. The Insurer shall recognize monetary contribution by or on behalf of an **Insured** (or when this Policy is providing Excess Coverage, an **Insured Person**, as defined in the **Followed Policy**) to such exhaustion of the limits of liability of the **Underlying Insurance**. However, where the Policy provides DIC Coverage, such coverage shall be:

- (a) subject to the Limit of Liability of this Policy, attach only for the amount of the unexhausted portion of the limit of liability of the policy of **Underlying Insurance** for which this Policy provides DIC Coverage, unless there is no other policy of valid and collectible **Underlying Insurance** available to provide coverage, in which case, such coverage shall attach up to the available Limit of Liability; and
- (b) without prejudice to the Insurer's excess position or attachment point.

2. If the limits of liability of the **Underlying Insurance** are reduced, this Policy shall continue in force as excess insurance for the remaining amount of the limits of liability of the **Underlying Insurance**. If the limits of liability of the **Underlying Insurance** are exhausted, this Policy shall continue in force as primary insurance, subject to any applicable retention.

C. TREATMENT OF SUBLIMITS

The Policy does not provide excess insurance above any sub-limit of liability available under any **Underlying Insurance**, unless the Insurer has agreed to provide such excess coverage by separate endorsement to this Policy. However, where payment of amounts subject to a sublimit erode or reduce the limits of liability of the **Underlying Insurance**, this Policy shall recognize such erosion or reduction of the limits of liability of the **Underlying Insurance**.

D. ALTERATION, ASSIGNMENT AND HEADINGS

- 1. Any change in or modification to **Underlying Insurance** or this Policy or assignment of interest under this Policy must be agreed to in writing by the Insurer, and in no event shall any such change, modification or assignment affect this Policy's excess position or attachment point.
- 2. The descriptions and headings and sub-headings of this Policy are solely for convenience, and form no part of the terms, conditions and limitations of coverage.

E. RIGHT TO ASSOCIATE IN ANY CLAIM

The Insurer shall have the right to effectively associate in the investigation, defense and settlement of any claim reasonably likely to be covered under this Policy.

IV. GLOSSARY

The following definitions (with the exception of **Followed Policy**, **Loss**, **Policy Period** and **Underlying Insurance** which apply to both coverages under the Policy) apply only to DIC Coverage:

A. **Change in Control** means:

1. the **Parent Company's** merger with, or acquisition by, another entity or the acquisition of all or substantially all of its assets by another entity, such that the **Parent Company** is not the surviving entity; or
2. when a person or entity or group of persons or entities acting in concert, acquires securities or voting rights which result in ownership or voting control by such person(s) or entity(ies) of more than 50% of the outstanding securities or voting rights representing the present right to vote for or appoint directors or **Managers** of the **Parent Company**.

B. **Claim** means:

1. any investigation evidenced by any written document, including a Wells Notice, subpoena, target letter or search warrant;
2. any written demand for monetary or non-monetary (including injunctive) relief, including demands for arbitration, mediation, waiving or tolling of a statute of limitations or **Extradition**; or
3. any civil, criminal, administrative or regulatory proceeding,

against an **Insured** for a **Wrongful Act**, including any appeal therefrom;

4. any request to interview, depose or otherwise meet with, or a sworn statement obtained from, an **Insured** or any request for an **Insured** to produce documents or information in connection with:

(a) an **Insured** acting in his capacity as such;

(b) a **Company's** business activities;

(c) an **Insured** or a **Company** responding to or cooperating with an inquiry or investigation by an **Investigative Body**; or

(d) a **Company** or its legal counsel investigating a securityholder derivative demand or any alleged violation of law,

provided that any such request or sworn statement included in this paragraph shall not include any request by an **Investigative Body** that is part of any routine or regularly scheduled **Investigative Body** oversight, compliance, audit, inspection or examination;

The time when a **Claim** shall be deemed first made for the purposes of the DIC Coverage provided by this Policy shall be: (i) with respect to any **Claim** described in paragraphs 1, 2 and 3 above, the date on which the **Claim** is first made against, served upon or received by the **Insured**; and (ii) with respect to any **Claim** described in paragraph 4 above, the date on which notice of such **Claim** is provided to the Insurer in accordance with the Reporting and Notice provisions in this Policy.

C. **Company** means the **Parent Company** and any **Subsidiary**, any foundation, political action committee or charitable trust controlled or sponsored by the **Parent Company** or any **Subsidiary**, and the **Parent Company** or any **Subsidiary** in its capacity as a debtor in possession under United States bankruptcy law.

D. **Defense Costs** means that part of **Loss** consisting of reasonable costs, charges, fees (including, attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of any **Insured**) incurred in investigating, defending, opposing or appealing any **Claim** and the premium for appeal, attachment or similar bonds (but the Insurer shall be under no obligation to furnish any bond).

E. **DIC Event** means when one or more of the insurers of **Underlying Insurance**:

1. fails or refuses to pay **Loss** as required by the terms and conditions of the **Underlying Insurance**, including a failure or refusal to provide any response to an **Insured's** request for indemnification within 60 days of such request.
2. is not liable to pay for all or any portion of **Loss** pursuant to the applicable terms and conditions of **Underlying Insurance**;
3. rescinds or voids any **Underlying Insurance** or refuses to provide coverage while seeking to rescind or void any **Underlying Insurance**; or

4. fails or refuses to pay **Loss** because the proceeds of **Underlying Insurance** are subject to an injunction or other order prohibiting such payment or an automatic stay under any applicable bankruptcy law, and an **Insured** or a **Company** has requested that an insurer of **Underlying Insurance** seek relief from the automatic stay, injunction or order.
- F. **Extradition** means any formal process by which an **Insured** located in any country is or is sought to be surrendered to any other country for trial or otherwise to answer any criminal accusation, including the execution of an arrest warrant where such execution is an element of such process.
- G. **Followed Policy** means the insurance policy set forth in Item 4A of the Declarations.
- H. **Insured** means:
1. any natural person who was, now is or shall become:
 - (a) a duly elected or appointed director, officer, **Manager**, trustee, regent, governor, risk manager, comptroller or in-house general counsel of any **Company** organized in the United States of America, or in a functionally equivalent or comparable role to any of the foregoing;
 - (b) a holder of a functionally equivalent position or comparable role to those described in paragraph (a) above in a **Company** that is organized in a jurisdiction other than the United States of America;
 - (c) a shadow director pursuant to the United Kingdom Companies Act, as amended or any equivalent statute;
 - (d) any full or part-time employee of a **Company**, but only with respect to a **Claim**: (i) brought by a securityholder of a **Company** in his capacity as such; or (ii) that is also brought and maintained against an **Insured** included in paragraphs (a), (b) or (c) above; or
 - (e) a holder of an equivalent position to those included in paragraph (a) or (b) above in an **Outside Entity**, while serving at the specific request or direction of the **Company**;
 2. the estate, heirs, legal representatives or assigns of any **Insured** included in paragraph 1(a) above, if such **Insured** is deceased, legally incompetent, insolvent or bankrupt; or
 3. the lawful spouse or domestic partner of any **Insured** included in paragraph 1(a) above solely by reason of such spouse's or domestic partner's: (a) status as such; or (b) ownership interest in property which a claimant seeks as recovery for an alleged **Wrongful Act** of an **Insured** included in paragraph 1(a) above,
- provided that, no coverage shall apply with respect to loss arising from an act, error or omission by any estate, heirs, legal representatives, assigns, spouse or domestic partner included in paragraph 2 or 3 above.
- I. **Investigative Body** means any federal, state, local or provincial law enforcement or governmental regulatory authority worldwide or the enforcement unit of any securities exchange or similar self-regulatory organization.
- J. **Loss** means:
1. with respect to the Excess Coverage provided by this Policy, as described in Section I.A. Excess Coverage, as defined in the **Followed Policy**, but only with respect to the coverage described in the **Followed Policy** as coverage for non-indemnified or non-indemnifiable loss of an Insured Person (as defined in the **Followed Policy**) in his capacity as such, and in no event shall this Policy's Excess Coverage provide coverage to any **Company**, including for any loss for which a **Company** grants indemnification to an **Insured**; and
 2. with respect to the DIC Coverage provided by this Policy, as described in Section I.B. DIC Coverage, the amount that an **Insured** becomes legally obligated to pay on account of any **Claim** for which a **Company** (or, if applicable, an **Outside Entity**) refuses, fails, is financially unable, or is not permitted, to indemnify an **Insured** for any reason, including:
 - (a) compensatory damages;
 - (b) judgments and settlements, including a judgment or settlement awarding plaintiffs' attorneys fees, provided that with respect to any settlement including plaintiffs' attorney fees, that portion of the settlement can be demonstrated to be reasonable, taking into consideration the nature of legal action, time and expense involved in prosecuting such action, and the likelihood of a court awarding a similar amount as part of a judgment;
 - (c) pre and post-judgment interest;
 - (d) **Defense Costs**;
 - (e) taxes imposed by law upon an **Insured** in his capacity as such in connection with any bankruptcy, receivership, conservatorship or liquidation of a **Company**, to the extent such taxes are insurable by law;

- (f) punitive, exemplary or multiplied damages, fines or penalties, if and to the extent that any such damages, fines or penalties are insurable under the law of the jurisdiction most favorable to the insurability of such damages, fines or penalties; and
- (g) reasonable fees, costs and expenses (including the premium or origination fee for a loan or bond), incurred with the Insurer's consent, to facilitate the return of amounts required to be repaid by an **Insured** pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002 or Section 954 of the Dodd-Frank Act of 2010 or other similar laws requiring the return of incentive based compensation, provided that no coverage shall be provided for the return of any actual compensation or remuneration required by any such laws.

In determining the most favorable jurisdiction as set forth in paragraph (f) above, due consideration shall be given to the jurisdiction with a substantial relationship to the relevant **Insureds**, to the **Company**, or to the **Claim** giving rise to such damages, fines or penalties, and the Insurer shall not challenge any opinion of independent legal counsel (mutually agreed to by the Insurer and the **Insured**) that such damages, fines or penalties are insurable under applicable law.

Loss does not include any portion of such amount that constitutes any:

- (i) amount not insurable under the law pursuant to which this Policy is construed, provided that the Insurer shall not assert that any **Loss** attributable to violations of Sections 11, 12, or 15 of the Securities Act of 1933 is uninsurable;
- (ii) any costs incurred to comply with any order for injunctive or other non-monetary relief, or to comply with an agreement to provide such relief; or
- (iii) taxes, other than taxes described in paragraph (e) above.

K. **Manager** means any natural person, who was, now is, or shall become, a manager, member of the Board of Managers or equivalent executive of a **Company** that is a limited liability company.

L. **Outside Entity** means:

1. any non-profit entity, community chest, fund or foundation; or
2. any other entity specifically added as an **Outside Entity** by endorsement to this Policy, that is not a **Company**.

M. **Parent Company** means the entity named in Item 1 of the Declarations.

N. **Policy Period** means the period of time set forth in Item 2 of the Declarations (subject to any termination in accordance with Section II.L. TERMINATION OF POLICY) and the Extended Reporting Period, if applicable.

O. **Related Claims** means all **Claims** based upon, arising out of or resulting from the same or related, or having a common nexus of, facts, circumstances or **Wrongful Acts**.

P. **Subsidiary** means:

1. any entity while more than 50% of the outstanding securities or other equity ownership, representing the present right to vote for election of, or to appoint, directors, **Managers**, or the foreign equivalent of any such directors or **Managers** of such entity, are owned or controlled by the **Parent Company** directly or indirectly through one or more **Subsidiaries**; or
2. any entity while the **Parent Company** has the right, pursuant to written contract or the bylaws, charter, operating agreement or similar documents of a **Company**, to elect or appoint a majority of the Board of Directors of a corporation or **Managers**.

Q. **Underlying Insurance** means the **Followed Policy** and any other insurance policies listed in Item 4B of the Declarations.

R. **Wrongful Act** means:

1. any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted by an **Insured** in his capacity as such; or
2. any other matter claimed against an **Insured** solely by reason of serving in his capacity as such.