

# THE HARTFORD PREMIER ASSET MANAGEMENT PROTECTION POLICY<sup>sm</sup>

**NOTICE: THIS POLICY PROVIDES CLAIMS MADE COVERAGE. EXCEPT AS OTHERWISE SPECIFIED HEREIN, COVERAGE APPLIES ONLY TO A CLAIM FIRST MADE AGAINST THE INSUREDS DURING THE POLICY PERIOD. NOTICE OF A CLAIM MUST BE GIVEN TO THE INSURER AS SOON AS PRACTICABLE, AND IN NO EVENT LATER THAN 60 DAYS AFTER SUCH CLAIM HAS BEEN MADE. DEFENSE COSTS ARE APPLIED AGAINST THE RETENTION. PAYMENT OF DEFENSE COSTS REDUCE THE LIMIT OF LIABILITY. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.**

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

## **I. INSURING AGREEMENTS**

With respect to each of the Insuring Agreements shown in the Declarations to be included in the Policy (by having been designated with an "X"), the Insurer agrees as follows:

### **(A) Insured Persons**

The Insurer shall pay **Loss** on behalf of the **Insured Persons** resulting from a **Claim** first made against the **Insured Persons** during the **Policy Period** or Extended Reporting Period, if applicable, for a **Wrongful Act** by the **Insured Persons**, except for **Loss** that an **Insured Entity** pays to or on behalf of the **Insured Persons** as indemnification.

### **(B) Corporate Reimbursement**

The Insurer shall pay **Loss** on behalf of an **Insured Entity** that such **Insured Entity** has, to the extent permitted or required by law, indemnified the **Insured Persons** resulting from any **Claim** first made against the **Insured Persons** during the **Policy Period** or Extended Reporting Period, if applicable, for a **Wrongful Act** by the **Insured Persons**.

### **(C) Investment Adviser Professional Services**

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** in the performance of **Investment Adviser Professional Services** by the **Insureds**.

### **(D) Investment Company Professional Services**

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** in the performance of **Investment Company Professional Services** by the **Insureds**.

### **(E) Service Provider Professional Services**

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** in the performance of **Service Provider Professional Services** by the **Insureds**.

provided, with respect to each of the above Insuring Agreements:

- (1) such **Claim** is first made against any **Insured** during the **Policy Period** or applicable extended reporting period and reported in writing to us as soon as practicable, but in no event later than sixty (60) calendar days after the **Claim** is first made.
- (2) such **Claim** arises solely from a **Wrongful Act** that occurred on or after the Retroactive Date and before the end of the **Policy Period**.

## II. DEFINITIONS

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

- (A) “**Administrator**” means an entity performing the following administrative functions pursuant to a written contract with an **Investment Company**:
- (1) printing and distributing reports to shareholders and the Securities and Exchange Commission;
  - (2) calculating the **Investment Company’s** net asset value, dividends and capital gains distributions;
  - (3) maintaining the **Investment Company’s** books and records;
  - (4) selecting any **Custodian** and maintaining records with any **Custodian** for the **Investment Company**;
  - (5) providing a facility for the **Investment Company** to receive purchase and redemption orders from shareholders;
  - (6) providing statistical data to the **Investment Company**;
  - (7) providing budget and control services to the **Investment Company**;
  - (8) providing data processing and clerical support to the **Investment Company**; and
  - (9) maintaining the registration or qualification of the fund shares for sales under state security laws.
- (B) “**Affiliate**” means any insurance company controlling, controlled by or under common control with the Insurer.
- (C) “**Application**” means the application for this Policy, including any materials or information submitted therewith, which application shall be on file with the Insurer and deemed a part of and attached hereto, as if physically attached hereto. “**Application**” also means an application for any policy in an uninterrupted series of policies issued by the Insurer, or an **Affiliate**, of which this Policy is a renewal or replacement.
- (D) “**Claim**” means any:
- (1) written demand for civil damages or other civil relief from any of the **Insureds** commenced by the receipt of such demand;
  - (2) civil proceeding against any of the **Insureds** commenced by the receipt of a complaint or similar pleading; or

- (3) demand for arbitration, formal administrative or regulatory proceeding against any of the **Insureds** commenced by the filing of a notice of charges, formal investigative order or similar document.
- (E) “**Custodian**” means a bank or other financial institution that keeps custody of stock certificates and other assets of an individual, corporate client or mutual fund.
- (F) “**Debtor in Possession**” means a “debtor in possession” as such term is defined in Chapter 11 of the United States Bankruptcy Code as well as any equivalent status under any similar law.
- (G) “**Defense Costs**” means reasonable and necessary legal fees and expenses incurred in the investigation, defense or appeal of a **Claim**. **Defense Costs** shall include the costs of appeal, attachment or similar bonds, provided that the Insurer shall have no obligation to furnish such bonds. **Defense Costs** shall not include salaries, wages, remuneration, overhead or benefit expenses associated with any **Insureds**.
- (H) “**Derivative Action**” means any civil proceeding against an **Insured Person** for a **Wrongful Act** of such **Insured Person** made on behalf of, or in the name or the right of, an **Insured Entity** by any security holders of such **Insured Entity**, in their capacity as such, if such proceeding is made without the assistance, participation or solicitation of any **Insured Person**.
- (I) “**Distributor**” means the principal underwriter as defined in the Investment Company Act of 1940.
- (J) “**Domestic Partner**” means any natural person qualifying as a domestic partner under the provision of any applicable federal, state or local law.
- (K) “**Financial Insolvency**” means the status of an **Insured Entity** as a result of:
- (1) the appointment of any conservator, liquidator, receiver, rehabilitator, trustee, or similar official to control, supervise, manage or liquidate such **Insured Entity**; or
  - (2) such **Insured Entity** becoming a **Debtor in Possession**.
- (L) “**First Named Entity**” means the entity listed first in ITEM 1. of the Declarations.
- (M) “**Independent Director**” means any past, present, or future director of an **Investment Company** who is not an “Interested Person” as defined in Section 2(a)(19) of the Investment Company Act of 1940.
- (N) “**Insured Entity**” means any:
- (1) entity named in ITEM 1. of the Declarations; or
  - (2) any **Investment Adviser**, **Investment Company**, **Service Provider** or other entity listed in an endorsement to this Policy.

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

- (O) “**Insured Persons**” means:
- (1) regarding all Insuring Agreements, any natural person who is a past, present or future:
    - (a) duly elected or appointed director, officer, member of the board of managers or management committee member of an **Insured Entity** or appointed Chief Compliance Officer pursuant to Rule 206(4)-7 under the Investment Advisers Act of 1940 and/or Rule 38a-1 of the Investment Company Act of 1940; or
    - (b) executive of an **Insured Entity** created outside the United States of America to the extent that such executive holds a position equivalent to those described in (1),  
  
in such person’s capacity in such position; and
  - (2) regarding Insuring Agreements (C), (D), and (E), any natural person who is a past, present or future employee of an **Insured Entity** in such person’s capacity in such position.
- (P) “**Insureds**” means:
- (1) regarding Insuring Agreement (A), any **Insured Persons**;
  - (2) regarding Insuring Agreement (B), any **Insured Entity**;
  - (3) regarding Insuring Agreement (C), any **Investment Adviser** and its **Insured Persons**;
  - (4) regarding Insuring Agreement (D), any **Investment Company** and its **Insured Persons**; and
  - (5) regarding Insuring Agreement (E), any **Service Provider** and its **Insured Persons**.
- (Q) “**Interrelated Wrongful Acts**” means **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally or logically connected facts, circumstances, situations, events, transactions or causes. Logically connected facts, circumstances, situations, events, transactions or causes shall be deemed to be those facts, circumstances, situations, events, transactions or causes which share a common and central goal, motive or methodology.
- (R) “**Investment Adviser**” means an investment adviser as defined in the Investment Advisers Act of 1940 that is listed in ITEM 1. of the Declarations or an endorsement to this Policy and who for compensation engages in the business of rendering financial, economic, and investment advice and investment management services pursuant to a written contract defining the scope of such advice and services and the compensation to be paid therefore.
- (S) “**Investment Adviser Professional Services**” means financial, economic and investment advice and investment management services rendered in the capacity of an **Investment Adviser**.
- (T) “**Investment Company**” means an investment company as defined in the Investment Company Act of 1940 which exists as of the effective date of the Policy and is listed in Item 1. of the Declarations or an endorsement to this Policy and any series or portfolios of such Investment Company. Investment Company also means any New Investment Company to the extent coverage is granted by this Policy.

(U) “**Investment Company Professional Services**” means services rendered in connection with the operation of an **Investment Company**.

(V) “**Loss**” means the amount that the **Insureds** are legally obligated to pay as a result of a **Claim**, including, without limitation, **Defense Costs**, damages, settlements, judgments, and pre- and post-judgment interest.

**Loss** shall include punitive and exemplary damages where insurable by law. Regarding the insurability of such damages, the Insurer shall not contend for any reason, unless appropriate to do so as a matter of law or public policy, that such damages are uninsurable. The insurability of such damages shall be governed by the laws of any applicable jurisdiction that permits coverage of such damages, after taking into account the venue of the underlying **Claim**, the residences of the parties or other relevant matters without regard to conflicts of law principles.

**Loss** shall not include:

- (1) taxes, fines or penalties imposed by law, the multiple portion of any multiplied damage award, or matters that may be deemed uninsurable under the law pursuant to which this Policy shall be construed;
- (2) non-monetary relief awarded against any **Insureds**; or
- (3) fees, compensation or charges earned by or paid to any **Insured Entity**.

(W) “**Named Entity**” shall mean the entity named in ITEM 1. of the Declarations.

(X) “**New Investment Company**” means an investment company as defined in the Investment Company Act of 1940 first sponsored by an **Insured Entity** or newly formed after the inception of the **Policy Period**.

(Y) “**Outside Capacity**” means service by any **Insured Persons** as defined above in paragraph O. (1) as a director, officer, trustee, regent, governor or equivalent executive of an **Outside Entity** with the knowledge and consent of or at the request of an **Insured Entity**.

(Z) “**Outside Entity**” means any:

- (1) not-for-profit corporation, community chest, fund or foundation that is not an **Insured Entity** and that is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986;
- (2) entity organized for a religious or charitable purpose under any not-for-profit statute; or
- (3) entity listed as an **Outside Entity** in a written endorsement issued by the Insurer to form a part of this Policy.

(aa) “**Policy Period**” means the period from the Inception Date to the Expiration Date set forth in ITEM 3. of the Declarations or any earlier cancellation date.

(bb) “**Pollutants**” means any solid, liquid, gaseous or thermal irritant or contaminant, including, without limitation, smoke, vapor, soot, fumes, acids, alkalies, chemicals, odors, noise, lead, oil or oil product, radiation, asbestos or asbestos-containing product, waste and any electric,

magnetic or electromagnetic field of any frequency. Waste includes, but is not limited to, material to be recycled, reconditioned or reclaimed.

- (cc) “**Service Provider**” means any entity listed in ITEM 1. of the Declarations or in an endorsement to this Policy that provides services as a **Distributor or Administrator** to an **Investment Company** pursuant to a written contract defining the scope of such services and the compensation to be paid therefore.
- (dd) “**Service Provider Professional Services**” means services rendered in the capacity of a **Service Provider**.
- (ee) “**Wrongful Act**” means:
  - (1) regarding Insuring Agreements (A) and (B):
    - (a) any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty, committed or attempted by the **Insured Persons**, in their capacity as such, or any matter claimed against the **Insured Persons** solely by reason of their serving in such capacity; or
    - (b) if Outside Directorship Liability Coverage is included in the Declarations, any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty, committed or attempted by the **Insured Persons** in an outside position, or any matter claimed against the **Insured Persons** solely by reason of their serving in such capacity; or
  - (2) regarding Insuring Agreements (C), (D) and (E) any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty by the **Insureds** in the performance of **Investment Adviser, Investment Company or Service Provider Professional Services**.

### III. COVERAGE EXTENSIONS

#### (A) Spousal Liability Coverage

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

- (1) such **Claim** arises solely out of:
  - (a) such person’s status as the spouse or **Domestic Partner** of an **Insured Person**; or
  - (b) such spouse’s or **Domestic Partner’s** ownership of property sought as recovery for a **Wrongful Act**;
- (2) the **Insured Person** is named in such **Claim** together with the spouse or **Domestic Partner**; and
- (3) coverage of the spouse or **Domestic Partner** shall be on the same terms and conditions, including any applicable Retention, as apply to coverage of the **Insured Person** for such **Claim**.

No coverage shall apply to any **Claim** for a **Wrongful Act** of such spouse or **Domestic Partner**.

**(B) Estates and Legal Representatives**

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

**(C) Outside Directorship Liability**

If Outside Directorship Liability Coverage is included in the Declarations, coverage is afforded under Insuring Agreements (A) and (B) for any **Wrongful Act** of an **Insured Person** while serving in an **Outside Capacity** subject to the terms and conditions of this Policy. Such coverage shall be specifically excess of any indemnity and insurance available from or provided by the **Outside Entity**. Payment by the Insurer or any **Affiliate** under any other policy as a result of a **Claim** against an **Insured Person** in an **Outside Capacity** shall reduce, by the amount of such payment, the Insurer's Limit of Liability under this Policy for such **Claim**.

**(D) Automatic New Investment Company Coverage**

Coverage is afforded under Insuring Agreements (A), (B), and (D) for any **New Investment Company** and its **Insured Persons**. This extension shall apply to **Loss** resulting from a **Claim** first made against such **Insureds** during the extension for a **Wrongful Act** during such extension. This extension shall commence on the date that the registration of the **New Investment Company** is declared effective by the United States Securities and Exchange Commission (the "SEC Effective Date"). This extension shall expire upon the earlier of the expiration of the **Policy Period** or 60 days from the SEC Effective Date unless the Insurer in its absolute discretion agrees to extend coverage for such **New Investment Company** beyond such date.

To request a continuation of coverage beyond this extension, the **New Investment Company** shall provide the Insurer with all underwriting information and additional premium as shall be required by the Insurer.

**(E) Independent Director Reinstatement**

If Independent Director Reinstatement Coverage is included in the Declarations, then if there is a full exhaustion of the Limit of Liability stated in ITEM 5. of the Declarations (the "Original Limit") by reason of payment of **Loss**, the Independent Director Reinstatement Limit of Liability stated in ITEM 6. of the Declarations shall become effective (the "Reinstated Limit"). The Reinstated Limit shall:

- (1) apply to **Loss** covered under Insuring Agreement (A) for **Claims** against **Independent Directors** only;
- (2) be excess of all excess insurance for which this Policy is underlying insurance and available only upon exhaustion of such excess insurance by payment of **Loss**;
- (3) not increase the Insurer's maximum aggregate Limit of Liability for any single **Claim**, as described in Section V. Limit of Liability, beyond the Original Limit;
- (4) not be available to pay any **Loss** arising from a **Claim** until the Original Limit is exhausted; and

- (5) otherwise be subject to the same terms and conditions as the Original Limit.

#### IV. EXCLUSIONS APPLICABLE TO ALL INSURING AGREEMENTS

The Insurer shall not pay **Loss** for any **Claim**:

- (A) for bodily injury, sickness, disease, emotional distress, mental anguish, death, or for damage to or destruction of any tangible property, including loss of use thereof;
- (B) based upon, arising from, or in any way related to any prior or pending demand, suit or proceeding against any **Insureds** as of the applicable Prior or Pending Date in ITEM 6. of the Declarations or the same or any substantially similar fact, circumstance or situation underlying or alleged in such demand, suit or proceeding;
- (C) based upon, arising from, or in any way related to any fact, circumstance or situation that, before the Inception Date in ITEM 3. of the Declarations, was the subject of any notice given under any other insurance policy;
- (D) based upon, arising from, or in any way related to any:
  - (1) discharge, dispersal, release, or escape of **Pollutants**, nuclear material, nuclear radiation or nuclear waste or any threat of such discharge, dispersal, release or escape; or
  - (2) direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, nuclear material, nuclear radiation or nuclear waste,

provided that this exclusion shall not apply to any **Derivative Action** otherwise covered under Insuring Agreement (A);

- (E) based upon, arising from, or in any way related to any pension or employee benefit plan or trust sponsored or established by an **Insured Entity** for the benefit of its **Insured Persons**;
- (F) by or on behalf of any **Insureds**, provided that this exclusion shall not apply to any **Claim**:
  - (1) that is a **Derivative Action**;
  - (2) made by any **Insured Person** for wrongful termination;
  - (3) for contribution or indemnification if such **Claim** directly results from a **Claim** that is otherwise covered under this Policy;
  - (4) where, in the opinion of independent counsel selected by and at the expense of the **Insured** making such **Claim**, failure to make such **Claim** would result in direct liability upon the **Insured** making the **Claim**. Selection of such independent counsel shall be subject to approval by the **Insurer** which approval shall not be unreasonably withheld by the Insurer; or
  - (5) that is a bonafide, non-collusive **Claim** brought or maintained by an **Insured** against an **Independent Director** or against an **Insured Investment Company** that is a codefendant in a **Claim** with such **Independent Director**;

- (G) based upon, arising from, or in any way related to any **Insured Person** serving as a director, officer, trustee, regent, governor or equivalent executive or as an employee of any entity other than an **Insured Entity** even if such service is at the direction or request of the **Insured Entity**, provided that this exclusion shall not apply to a **Claim** for a **Wrongful Act** by an **Insured Person** if Outside Director Liability coverage is elected in ITEM 6. of the Declarations;
- (H) by or on behalf of any **Outside Entity**, or any directors, officers, trustees, regents, governors or equivalent executives of any **Outside Entity**, provided that this exclusion shall not apply to any **Claim**:
- (1) that is a **Derivative Action** made on behalf of an **Outside Entity** by any persons who are not:
- (a) **Insured Persons**; or
- (b) directors, officers, trustees, regents, governors or equivalent executives of the **Outside Entity**,
- and who make such **Claim** without the solicitation, assistance or participation of any such persons; or
- (2) by any:
- (a) **Insured Persons**; or
- (b) directors, officers, trustees, regents, governors or equivalent executives of an **Outside Entity**,
- for contribution or indemnification if such **Claim** directly results from a **Claim** that is otherwise covered under this Coverage Part;
- (I) based upon, arising from, or in any way related to false arrest or imprisonment, abuse of process, malicious prosecution, defamation (including libel and slander), invasion of privacy, trespass, nuisance or wrongful entry or eviction, assault, battery or loss of consortium;
- (J) based upon, arising from, or in any way related to the inability by any bank or banking firm or broker and/or dealer in securities or commodities to make any payment or settle or effect any transaction of any kind;
- (K) based upon, arising from, or in any way related to any **Wrongful Act** arising prior to the Continuity Date set forth in ITEM 6. of the Declarations if on or before such date an **Insureds** knew or could have reasonably foreseen that such **Wrongful Act** could lead to a **Claim**;
- (L) based upon, arising from, or in any way related to the rendering of any investment banking services, including but not limited to any advice in connection with, corporate mergers, acquisitions, restructurings, divestitures, issuance of securities, syndication or similar activities;
- (M) based upon, arising from, or in any way related to the purchase or sale of securities for which the **Insureds** received commission or other remuneration or where the **Insureds** had an equity interest in the issuer of such securities, provided this exclusion shall not apply with respect to shares issued by an **Investment Company**;

- (N) based upon, arising from, or in any way related to the activities of an **Insureds** as a Broker, Dealer or Underwriter, as those terms are defined in the Securities Act of 1933 and the Securities Exchange Act of 1934, provided, however, if Insuring Agreement (E) is granted, this exclusion shall not apply to the distribution, underwriting or resale of securities purchased directly from the **Investment Company** by a **Distributor** for resale to any broker or dealer;
- (O) based upon, arising from, or in any way related to data processing and programming, including but not limited to, the compilation or development of any data, programs or records of others, provided, however, if Insuring Agreement (E) is granted, this exclusion shall not apply to coverage afforded pursuant to Section II. Definitions, (A)(1);
- (P) based upon, arising from, or in any way related to any activities as property managers;
- (Q) based upon, arising from, or in any way related to any activities as printers/publishers, including but not limited to, composing, revising, preparing for publication, editing, proof reading, designing, arranging of style and appearance, typesetting, printing, engraving, issuing or circulating of any printed manner; provided, however, if Insuring Agreement (E) is granted, this exclusion shall not apply to coverage afforded pursuant to Section II. Definitions, (A)(8);
- (R) based upon, arising from, or in any way related to the **Insureds'** activities as a **Custodian**;
- (S) for an accounting of profits made from the purchase or sale of securities of any **Insured Entity** within the meaning of Section 16(b) of the Securities Exchange Act of 1934 of any similar provisions of any federal, state, local or common law;
- (T) for failure to maintain insurance;
- (U) regarding any **Investment Company** and its **Insured Persons**, for any **Wrongful Act** occurring prior to the registration of such **Investment Company** being declared effective by the United States Securities and Exchange Commission;
- (V) disputes as to fees and other compensation including but not limited to brokerage fees, or commissions, or investment management fees;
- (W) based upon, arising from, or in any way related to the gaining, in fact, of any personal profit, remuneration or advantage to which the **Insureds** are not legally entitled; or
- (X) based upon, arising from, or in any way related to any deliberately fraudulent or criminal act or omission or any willful violation of law by the **Insureds** if a judgment or other final adjudication establishes such an act, omission or violation;

Regarding exclusions (W) and (X) above, no **Wrongful Act** of any **Insured Person** shall be imputed to any other **Insured Person**. Exclusion (W) and (X) shall apply only if the gain or conduct described therein is established by: (i) a final adjudication in a judicial, arbitration, administrative or regulatory proceeding, regardless of whether such proceeding is the underlying proceeding constituting such **Claim** or a separate proceeding; or (ii) a written admission of an **Insured Person** or the **Insured Entity**.

## V. LIMIT OF LIABILITY

- (A) The Limit of Liability in ITEM 5. of the Declarations shall be the maximum aggregate amount that the Insurer shall pay under this Policy for all **Loss** from all **Claims** covered under all Insuring Agreements combined.

- (B) **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 Limit of Liability.

## VI. RETENTION

- (A) The Insurer shall pay **Loss** in excess of the Retention applicable to each **Claim** as specified in ITEM 6. of the Declarations.
- (B) The Retention shall be borne by the **Insureds** uninsured at the **Insureds'** own risk.
- (C) Any **Defense Costs** incurred by the Insurer shall apply to the Retention. The **Insureds** shall reimburse the Insurer upon request for any amounts paid regarding a **Claim** that are within the applicable Retention for such **Claim**.
- (D) If a **Claim** is covered under more than one Insuring Agreement, the applicable Retention for each Insuring Agreement shall be applied separately to such **Claim**, provided that the maximum Retention applied to such **Claim** shall not exceed the highest applicable Retention.
- (E) Solely with respect to Insuring Agreement (A), no Retention shall apply to **Loss** incurred by any **Insured Person** that an **Insured Entity** is not permitted by common or statutory law to indemnify, or is permitted or required to indemnify, but is not able to do so by reason of **Financial Insolvency**.
- (F) If an **Insured Entity** is permitted or required by common or statutory law to indemnify an **Insured Person** for any **Loss**, or to advance **Defense Costs** on their behalf, and does not do so other than because of **Financial Insolvency**, then such **Insured Entity** shall reimburse and hold harmless the Insurer for the Insurer's payment or advancement of such **Loss** up to the amount of the Retention that would have applied if such indemnification had been made.
- (G) If an **Insured Entity** is unable to indemnify an **Insured Person** for any **Loss**, or to advance **Defense Costs** on their behalf, because of **Financial Insolvency**, then the **Named Entity** shall reimburse and hold harmless the Insurer for the Insurer's payment or advancement of such **Loss** up to the amount of the applicable Retention that would have applied if such indemnification had been made.

## VII. DEFENSE AND SETTLEMENT

- (A) It shall be the duty of the **Insureds**, and not the Insurer, to defend any **Claim**.
- (B) The Insurer shall have the right, but not the duty, to associate with, or to assume entirely, the defense of any **Claim**.
- (C) The Insurer's defense of any **Claim** shall cease upon exhaustion of any applicable Limit of Liability. If any Limit of Liability is exhausted, the premium for this Policy shall be deemed fully earned.
- (D) The **Insureds** shall not admit nor assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any **Defense Costs** regarding any **Claim** without the prior written consent of the Insurer, such consent not to be unreasonably withheld. The Insurer shall not be liable for any admission, assumption, settlement, stipulation, or **Defense Costs** to which it has not consented.

- (E) The Insurer may, with the written consent of the **Insureds**, settle any **Claim** for a monetary amount that the Insurer deems reasonable. If the **Insureds** refuse or fail to consent to a settlement recommended by the Insurer and acceptable to the claimant, then the Insurer's liability for such **Claim** shall be limited to the amount for which the **Claim** could have been settled and **Defense Costs** incurred up to the time of such refusal or failure.
- (F) Upon written request by the **First Named Entity**, the Insurer shall advance **Defense Costs** incurred prior to the final disposition of any **Claim**, provided that to the extent it is finally established that any such **Defense Costs** are not covered under this Policy, the **Insureds** shall repay the Insurer such non-covered **Defense Costs**.
- (G) The **Insureds** shall give to the Insurer all information and cooperation as the Insurer may reasonably request.

#### VIII. NOTICE OF CLAIM

- (A) As a condition precedent to coverage under this Policy, the **Insureds** shall give the Insurer written notice of any **Claim** as soon as practicable, provided that such notice shall be given not later than 60 days after such **Claim** has been made. Such notice shall specify the Insuring Agreement under which notice is being given.
- (B) If, during the **Policy Period**, the **Insureds** first become aware of a **Wrongful Act** that may reasonably be expected to give rise to a **Claim**, and, if written notice of such **Wrongful Act** is given to the Insurer during the **Policy Period**, including the reasons for anticipating such a **Claim**, the nature and date of the **Wrongful Act**, the identity of the **Insureds** allegedly involved, the alleged injuries or damages sustained, the names of potential claimants, and the 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 during the **Policy Period** on the date that the Insurer receives the above notice.

#### IX. EXTENDED REPORTING PERIOD

- (A) If this Policy is cancelled or non-renewed for any reason other than non-payment of premium, the **Insureds** shall have the right to elect an extension of time to report **Claims** under this Policy (the "Extended Reporting Period").
- (B) To elect the Extended Reporting Period, the **Insureds** shall send a written notice of election of the Extended Reporting Period to the Insurer together with the premium therefore. The right to elect the Extended Reporting Period shall end unless the Insurer receives such notice and premium within 30 days of cancellation or non-renewal. There shall be no right to elect the Extended Reporting Period after such time.
- (C) The premium for the Extended Reporting Period shall be that percentage specified in ITEM 7. of the Declarations of the sum of the original annual premium plus the annualized amount of any additional premium charged by the Insurer during the **Policy Period**. Such premium shall be deemed fully earned at the inception of the Extended Reporting Period.
- (D) The Extended Reporting Period shall be for the duration specified in ITEM 7. of the Declarations following the end of the **Policy Period**.
- (E) Coverage during the Extended Reporting Period shall apply to **Claims** made for **Wrongful Acts** occurring prior to the earlier of the end of the **Policy Period** or the time of any transaction described in Section XIV. Changes In Exposure (B). No coverage shall apply for any **Wrongful Act** occurring after such time.

(F) There is no separate or additional Limit of Liability for the Extended Reporting Period.

#### X. INTERRELATIONSHIP OF CLAIMS

All **Claims** based upon, arising from or in any way related 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, regardless of whether such date is before or during the **Policy Period**;
- (B) notice of any **Wrongful Act** described above was given to the Insurer under this Policy pursuant to Section VIII. Notice of Claim; or
- (C) notice of any **Wrongful Act** described above was given under any prior insurance policy.

#### XI. ALLOCATION

If **Loss** is incurred that is partially covered and partially not covered by this Policy, either because a **Claim** includes both covered and uncovered matters or because a **Claim** is made against both covered and uncovered parties, the **Insureds** and the Insurer shall fairly and reasonably allocate such amount between covered and uncovered **Loss**. **Loss** shall be allocated between covered and non-covered **Loss** based upon the relative legal exposure of the parties to such matters.

If the Insurer and the **Insureds** can agree on the amount of **Defense Costs** that constitute covered **Loss**, the Insurer shall advance such **Defense Costs**.

If the Insurer and the **Insureds** cannot agree on the amount of **Defense Costs** that constitute covered **Loss**, then:

- (A) the Insurer shall advance **Defense Costs** that it believes to be covered until a different allocation is negotiated, arbitrated or judicially determined;
- (B) the Insurer, if requested by the **Insureds**, shall submit the dispute to binding arbitration. The rules of the American Arbitration Association shall apply except with respect to the selection of the arbitration panel, which shall consist of one arbitrator selected by the **Insureds**, one arbitrator selected by the Insurer and a third independent arbitrator selected by the first two arbitrators; and
- (C) in any arbitration, suit or other proceeding, no presumption shall exist concerning what is a fair and reasonable allocation.

Any negotiated, arbitrated or judicially determined allocation of **Defense Costs** on account of a **Claim** shall be applied retroactively to all **Defense Costs** on account of such **Claim**, notwithstanding any prior advancement to the contrary. Any allocation or advancement of **Defense Costs** on account of a **Claim** shall not apply to or create any presumption with respect to the allocation of other **Loss** on account of such **Claim**.

#### XII. OTHER INSURANCE

If **Loss** arising from any **Claim** is insured under any other valid policy or policies, then this Policy shall apply only in excess of the amount of any deductibles, retentions and limits of liability under such other policy or policies, whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other policy or policies to this Policy's Policy Number.

### XIII. CANCELLATION

- (A) The Insurer may cancel this Policy for non-payment of premium by sending not less than 10 days notice to the **First Named Entity**. This Policy may not otherwise be cancelled by the Insurer.
- (B) Except as provided in Section XIV. Changes in Exposure (B), the **Insureds** may cancel this Policy by sending written notice of cancellation to the Insurer. Such notice shall be effective upon receipt by the Insurer unless a later cancellation time is specified therein.
- (C) If the Insurer cancels this Policy, unearned premium shall be calculated on a pro rata basis. If the **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.

### XIV. CHANGES IN EXPOSURE

#### (A) Mergers

If, during the **Policy Period**, any **Insured Entity**, acquires an entity or merges with another entity such that the **Insured Entity** is the surviving entity, then such newly acquired or merged entity and its subsidiaries, managers, directors, officers, and employees shall be **Insureds** to the extent such entities and persons would otherwise qualify as **Insureds** under this Policy, but only for a **Wrongful Act** occurring after such acquisition or merger. No coverage shall be available for any **Wrongful Act** of such **Insureds** occurring before such transaction or for any **Interrelated Wrongful Acts** thereto.

If the fair value of the assets or assets under management of any newly acquired or merged entity exceed 20% of the total assets or assets under management of the **Named Entity** as reflected in its most recent consolidated audited financial statements prior to such merger or acquisition, the **Insureds** shall give the Insurer full details of the transaction in writing as soon as practicable and the Insurer shall be entitled to impose such additional terms, conditions, and premium as the Insurer, in its absolute discretion, chooses. There shall be no coverage for any newly merged or acquired entity or any of its subsidiaries, managers, directors, officers, or employees unless the **Insureds** comply with the terms of this provision.

#### (B) Takeover of Named Entity

If, during the **Policy Period**:

- (1) the **Insured Entity** merges into or consolidates with another entity or liquidates such that the **Insured Entity** is not the surviving entity; or
- (2) more than 50% of the securities representing the right to vote for the **Insured Entity's** board of directors or managers is acquired by another person or entity, group of persons or entities, or persons and entities acting in concert,

then coverage shall continue under this Policy, but only for a **Wrongful Act** occurring before such transaction. No coverage shall be available for any **Wrongful Act** occurring after such transaction, regardless of whether such **Wrongful Act** is alleged to be an **Interrelated Wrongful Act**. 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.

#### XV. SUBROGATION

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

#### XVI. APPLICATION

(A) The **Insureds** represent that the declarations and statements contained in the **Application** are true, accurate and complete. This Policy is issued in reliance upon the **Application**. If the **Application** contains intentional misrepresentations or misrepresentations that materially affect the acceptance of the risk by the Insurer, no coverage shall be afforded under this Policy for any **Insureds** who knew on the Inception Date of this Policy of the facts that were so misrepresented.

(B) For the purpose of determining coverage:

- (1) knowledge possessed by any **Insured Person** shall not be imputed to any other **Insured Person**; and
- (2) knowledge possessed by the **Named Entity's** chairman of the board, chief executive officer, chief operating officer, or chief financial officer or anyone signing the **Application** shall be imputed to all **Insured Entities**. No other person's knowledge shall be imputed to an **Insured Entity**.

#### XVII. ACTION AGAINST THE INSURER

(A) No action shall be taken against the Insurer unless there shall have been full compliance with all the terms and conditions of this Policy.

(B) No person or organization shall have any right under this Policy to join the Insurer as a party to any **Claim** against the **Insureds** nor shall the Insurer be impleaded by the **Insureds** in any such **Claim**.

#### XVIII. ASSIGNMENT

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

#### XIX. BANKRUPTCY OR INSOLVENCY

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

#### XX. AUTHORIZATION OF FIRST NAMED ENTITY

The **First Named Entity** shall act on behalf of all **Insureds** with respect to all matters under this Policy, including, without limitation, giving and receiving of notices regarding **Claims**, cancellation,

election of the Extended Reporting Period, payment of premiums, receipt of any return premiums, and acceptance of any endorsements to this Policy.

**XXI. CHANGES**

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

**XXII. ENTIRE AGREEMENT**

This Policy, including the Declarations, Common Terms and Conditions, included Coverage Part(s), **Application** and any written endorsements attached hereto, constitute the entire agreement between the **Insureds** and the Insurer relating to this insurance.

**XXIII. NOTICES**

(A) All notices to the **Insureds** shall be sent to the **First Named Entity** at the address specified in ITEM 1. of the Declarations.

(B) All notices to the Insurer shall be sent to the address specified in ITEM 9. of the Declarations. Any such notice shall be effective upon receipt by the Insurer at such address.

**XXIV. HEADINGS**

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

**XXV. REFERENCES TO LAWS**

(A) Wherever this Policy mentions any law, including, without limitation, any statute, Act or Code of the United States of America, such mention shall be deemed to include all amendments of, and all rules or regulations promulgated under, such law.

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

**XXVI. COVERAGE TERRITORY**

Coverage under this Policy applies worldwide.