

HOUSTON CASUALTY COMPANY

Broadest Form Directors and Officers Liability Insurance Policy



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HOUSTON CASUALTY COMPANY

BROADEST FORM DIRECTORS AND OFFICERS LIABILITY INSURANCE POLICY

In consideration of the payment of the premium, the Insurer, the **Insured Persons** and the **Company** agree as follows:

INSURING AGREEMENTS: The Insurer will pay, to or on behalf of the **Insured Persons**:

- I. **Loss** arising from **Claims** first made against the **Insured Persons**, and
- II. **Pre-Claim Expense** arising from **Pre-Claim Inquiries** first received by the **Insured Persons**,

during the **Policy Period** or the Discovery Period (if applicable), except when and to the extent that such **Loss** or **Pre-Claim Expense** is paid by any other insurance or as indemnification from any source.

LIBERALIZATION CLAUSE (UNDERLYING INSURANCE): If a DEFINITION or EXCLUSION in this Policy is inconsistent with the same or equivalent provision in any policy of **Underlying Insurance** and is less favorable to the **Insured Persons** than such provision of **Underlying Insurance**, then such DEFINITION or EXCLUSION of this Policy will be deemed amended or deleted, as the case may be, to be no less favorable to the **Insured Persons** than such provision of **Underlying Insurance**; provided, that:

- (1) this LIBERALIZATION CLAUSE shall not apply with respect to DEFINITION (U) **Policy Period**, DEFINITION (X) **Underlying Insurance**, or EXCLUSION (C) of this Policy; and
- (2) in no event shall the **Company** or any entity be insured in any respect under this Policy.

DEFINITIONS

(A) **Asset Protection Costs** means reasonable and necessary fees, costs and expenses incurred by an **Insured Person** to:

- (1) oppose any effort by an **Enforcement Body** to seize or otherwise enjoin such **Insured Person's** personal assets or real property; or
- (2) obtain the discharge or revocation of a court order entered during the **Policy Period** which impairs the use of such **Insured Person's** personal assets or real property.

The Insurer's maximum aggregate liability for all **Asset Protection Costs** under this Policy shall not exceed \$500,000 ("**Asset Protection Costs** Sublimit").

(B) **Claim** means:

- (1) any written demand for monetary, non-monetary or injunctive relief,
- (2) any civil proceeding commenced by the service of a complaint or similar pleading,
- (3) any arbitration, mediation or other similar dispute resolution proceeding,
- (4) any criminal proceeding commenced by the return of an indictment, information or similar document,
- (5) any administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document,
- (6) the receipt by an **Insured Person** of a target letter, Wells Notice or similar document (including a subpoena) in connection with an investigation of him or her, or
- (7) any official request for extradition of an **Insured Person** (or the execution of a warrant for the arrest of an **Insured Person** where such execution is an element of extradition),

for a **Wrongful Act**. **Claim** also means any appeal from, and any written request to waive or toll any statute of limitations in connection with, any matter described in this DEFINITION (B).

- (C) **Company** means the **Parent Corporation** and any **Subsidiary** thereof including, in the event a bankruptcy proceeding is instituted by or against any such entity, the resulting debtor-in-possession (or equivalent status outside the United States), if any.
- (D) **Controlling Person** means any natural person who controls the **Company** within the meaning of the Securities Act of 1933, the Securities Exchange Act of 1934, or any similar law.
- (E) **Defense Costs** means reasonable and necessary fees, costs and expenses (including expert witness fees and premiums for any appeal bond, attachment bond or similar bond) incurred by an **Insured Person** in the investigation, adjustment, defense or appeal of a **Claim**, including his or her opposition to or defense against extradition; provided, that **Defense Costs** shall not include any (i) overhead expenses, benefits, salaries or wages of **Insured Persons** or employees of the **Company**, or (ii) **Pre-Claim Expense**, **Asset Protection Costs**, **Reputation Costs** or **Facilitation Costs**.
- (F) **Derivative Investigation** means an investigation conducted by the **Company**, including its board of **Directors** (or equivalent body) or a committee thereof, as to how the **Company** should respond to:
- (1) a shareholder derivative demand that has been made upon the **Company's** board of **Directors** (or equivalent body) to bring a civil proceeding in a court of law against an **Insured Person**; or
 - (2) a shareholder derivative lawsuit that has been brought on behalf of the **Company** against an **Insured Person**.
- (G) **Detention** means the arrest or confinement of a natural person to a specific residence or a secure custodial premises operated by or on behalf of a law enforcement authority.
- (H) **Director** means any natural-person director or equivalent executive of an entity, including any trustee, manager, member of a management board or committee, governor or natural-person general partner of an entity.
- (I) **Drop-Down Event** means the non-payment of **Loss** (including any failure to advance **Defense Costs**), or the non-payment of **Pre-Claim Expense**, to or on behalf of an **Insured Person** by the issuer(s) of the **Underlying Insurance** due to:
- (1) exhaustion of the applicable limit(s) of liability of such **Underlying Insurance** (including exhaustion based on the **Insured Persons'** payments);
 - (2) exclusion of such **Loss** or **Pre-Claim Expense** from coverage under the terms and conditions of such **Underlying Insurance**;
 - (3) such issuer's wrongful refusal to provide coverage under such **Underlying Insurance**;
 - (4) such issuer's rescission or attempted rescission of such **Underlying Insurance**;
 - (5) such issuer's financial insolvency or financial inability to pay such **Loss** or **Pre-Claim Expense**;
 - (6) a stay, injunction or similar order imposed on the proceeds of such **Underlying Insurance** by a bankruptcy court or similar authority; and/or
 - (7) any other failure by such issuer to provide, agree to provide or acknowledge an obligation to provide coverage for such **Loss** or **Pre-Claim Expense** within 60 days after receiving a written request for such coverage from the **Insured Person**.
- (J) **Enforcement Body** means:
- (1) any federal, state, local or foreign law enforcement authority or other governmental investigative, regulatory or administrative authority (including the U.S. Department of Justice, the U.S. Securities and Exchange Commission and any Attorney General); or
 - (2) the enforcement unit of any securities or commodities exchange or other self-regulatory organization.
- (K) **Facilitation Costs** means reasonable and necessary fees, costs and expenses (including premiums or origination fees for any loan or bond) incurred by an **Insured Person** solely to facilitate the return of amounts required to be repaid by such **Insured Person** pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002 and/or Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

- (L) **Indemnification Failure** means the non-payment of **Loss** (including any failure to advance **Defense Costs**), or the non-payment of **Pre-Claim Expense**, to or on behalf of an **Insured Person** by the **Company**:
- (1) because payment of such **Loss** or **Pre-Claim Expense** by the **Company** is not legally permissible or is not possible by reason of the **Company's** financial insolvency; and/or
 - (2) due to any other failure by the **Company** to indemnify, agree to indemnify or acknowledge an obligation to indemnify the **Insured Person** for such **Loss** or **Pre-Claim Expense** within 60 days after receiving a written request for such indemnification from the **Insured Person**.
- (M) **Independent Director** means any **Director** of the **Company** who is not and has never been an officer or employee of any **Company**.
- (N) **Insured Person** means any person during any time in which he or she holds or formerly held the position of:
- (1) **Director**, officer, comptroller, general counsel or risk manager of the **Company**, and any position functionally equivalent to the foregoing with respect to the **Company** (including a **Company** located outside the United States); or
 - (2) employee of the **Company** (other than an employee included within subsection (1) above), but only with respect to:
 - (a) **Claims** involving the **Company's** securities; or
 - (b) any other **Claim**, as long as such **Claim** is made and maintained against an **Insured Person** described in subsection (1) above as well as such employee.
- (O) **Loss** means **Defense Costs**, **Asset Protection Costs**, **Reputation Costs** and **Facilitation Costs** arising from a **Claim**, and any damages, judgments, settlements or other amounts which an **Insured Person** is obligated to pay as a result of a **Claim**, including any of the following, if and to the extent insurable under applicable law:
- (1) pre- and post-judgment interest;
 - (2) punitive, exemplary and multiple damages;
 - (3) fines and penalties imposed by law, including but not limited to civil penalties assessed against an **Insured Person** under Section 308 of the Sarbanes-Oxley Act of 2002 or Section 2(g)(2)(B) of the Foreign Corrupt Practices Act of 1977; and
 - (4) taxes imposed by law, if such taxes are imposed upon an **Insured Person** in connection with his or her service with a **Company** that is financially insolvent or bankrupt.
- Loss** shall not include amounts which are uninsurable under applicable law; however, for purposes of determining the insurability of matters, including those listed in subsections (1) through (4) above, the Insurer agrees to abide by the law of any applicable jurisdiction which most favors insurability (including the jurisdiction where such amounts were awarded or imposed, the **Wrongful Acts** giving rise to the **Claim** were committed, the **Company** or Insurer is incorporated or has its principal place of business, or the **Insured Person** resides). If such matters are insurable under applicable law according to the written opinion of counsel for the **Insured Person**, the Insurer will not dispute such opinion, and nothing in this DEFINITION (O) will preclude coverage for **Defense Costs** incurred in **Claims** seeking amounts which are uninsurable under applicable law. Moreover, the Insurer will not assert that any amounts attributable to an actual or alleged violation of Section 11, 12 or 15 of the Securities Act of 1933 are uninsurable under law, and will treat such amounts as **Loss** under this Policy.
- (P) **Outside Capacity** means service by an **Insured Person** as a **Director** of an **Outside Entity** during such time that such service is at the specific request or direction of the **Company** or is part of the duties regularly assigned to such **Insured Person** by the **Company**.
- (Q) **Outside Entity** means any entity other than the **Company**.
- (R) **Parent Corporation** means the entity identified as such in ITEM 1 of the Declarations.

(S) **Pre-Claim Expense** means reasonable and necessary:

- (1) fees, costs and expenses incurred by an **Insured Person** solely to prepare for and respond to a **Pre-Claim Inquiry** directed to him or her, including costs incurred by such **Insured Person** to attend a meeting, interview or deposition requested by an **Enforcement Body** or to produce documents in his or her possession; and
- (2) fees, costs and expenses incurred by an **Insured Person** to seek his or her lawful release from any **Pre-Claim Detention**, including premiums incurred by such **Insured Person** for a bond or other financial instrument required by a court to guarantee his or her contingent obligation to pay a specified amount;

provided, that **Pre-Claim Expense** shall not include any overhead expenses, benefits, salaries or wages of **Insured Persons** or employees of the **Company**.

(T) **Pre-Claim Inquiry** means any pre-**Claim**:

- (1) request made upon an **Insured Person** (including a subpoena):
 - (a) to appear at a meeting, interview or deposition, or
 - (b) to produce documents in his or her possession,

by reason of his or her status as an **Insured Person** or service in such capacity, or otherwise in connection with the **Company's** business, but only if such request:

- a. is from an **Enforcement Body**, or
 - b. is from the **Company**, including its board of **Directors** (or equivalent body) or any committee thereof, and arises from an inquiry or investigation by an **Enforcement Body** or as part of a **Derivative Investigation**; or
- (2) **Detention** of an **Insured Person** by reason of his or her status as an **Insured Person** or service in such capacity, or otherwise in connection with the **Company's** business;

provided, that **Pre-Claim Inquiry** shall not include any regularly scheduled or routine regulatory or internal examination, inspection, review, audit, production of documents or request for information conducted as part of the normal review, supervision or compliance process of any **Enforcement Body** or **Company**.

In the event any matter described in subsection (1) or (2) above becomes a **Claim**, then effective as of the date such matter becomes a **Claim**, such matter shall no longer be treated as a **Pre-Claim Inquiry** under this Policy.

(U) **Policy Period** means the period from the Inception Date to the Expiration Date set forth in ITEM 2 of the Declarations, subject to prior cancellation pursuant to CONDITION (E)(1).

(V) **Reputation Costs** means reasonable and necessary fees, costs and expenses charged by a public relations firm, crisis management firm or law firm and incurred by an **Insured Person** solely to mitigate the adverse effects specifically to such **Insured Person's** reputation from a negative statement about him or her made by an **Enforcement Body** during the **Policy Period**, if such statement is made by an individual authorized to speak on behalf of such **Enforcement Body** and included in a press release or published by a print or electronic media outlet. The Insurer's maximum aggregate liability for all **Reputation Costs** under this Policy shall not exceed \$500,000 ("**Reputation Costs** Sublimit").

(W) **Subsidiary** means:

- (1) any corporation, limited liability company, joint venture, partnership or other entity during any time in which the **Parent Corporation**:
 - (a) owns or formerly owned more than 50% of the outstanding securities, voting rights or interests representing the right to vote for the election or appointment of such entity's **Directors**, or
 - (b) exercises or formerly exercised management control over such entity pursuant to written contract or such entity's certificate of incorporation, charter, articles of association or other organizational documents (including bylaws and resolutions thereof),

either directly or indirectly through one or more **Subsidiaries**; and

- (2) any foundation, charitable trust or political action committee during any time that such entity is or was controlled or exclusively sponsored by the **Parent Corporation**, either directly or indirectly through one or more **Subsidiaries**.

With respect to **Claims** against **Insured Persons** of a **Subsidiary**, coverage under this Policy is limited to **Wrongful Acts** committed or allegedly committed after the date such entity became a **Subsidiary** but before the date such entity ceases to be a **Subsidiary**. With respect to **Pre-Claim Inquiries** received by **Insured Persons** of a **Subsidiary**, coverage under this Policy is limited to matters which occurred or allegedly occurred after the date such entity became a **Subsidiary** but before the date such entity ceases to be a **Subsidiary**.

(X) **Underlying Insurance** means any policy(ies) scheduled in ITEM 4 of the Declarations, as such policy(ies) existed as of inception of this Policy.

(Y) **Wrongful Act** means:

- (1) any actual or alleged act, error, misstatement, misleading statement, neglect, omission or breach of duty by an **Insured Person** in his or her capacity as such, including (i) in an **Outside Capacity**, (ii) in his or her capacity as a fiduciary of the **Company's** employee benefit plans, and/or (iii) while he or she is acting as a **Controlling Person**; or
- (2) any matter claimed against an **Insured Person** by reason of his or her status as such or service in such capacity, including (i) in an **Outside Capacity**, (ii) by reason of his or her status or service as a fiduciary of the **Company's** employee benefit plans; and/or (iii) while he or she is acting as a **Controlling Person**.

EXCLUSIONS

(A) The Insurer will not be liable to make any payment of **Loss** in connection with that portion of any **Claim** for an **Insured Person** gaining any personal profit or financial advantage to which he or she was not legally entitled, if a final non-appealable adjudication in the underlying proceeding adverse to such **Insured Person** establishes that he or she gained such a profit or advantage; provided, that this EXCLUSION (A) will not apply to:

- (1) **Defense Costs**, or
- (2) **Claims** against **Independent Directors**.

(B) The Insurer will not be liable to make any payment of **Loss** in connection with that portion of any **Claim** for an **Insured Person** committing any deliberately criminal or deliberately fraudulent act, if a final non-appealable adjudication in the underlying proceeding adverse to such **Insured Person** establishes that he or she committed such an act; provided, that this EXCLUSION (B) will not apply to:

- (1) **Defense Costs**, or
- (2) **Claims** against **Independent Directors**.

(C) The Insurer will not be liable to make any payment of:

- (1) **Loss** in connection with any **Claim**, or
- (2) **Pre-Claim Expense** in connection with any **Pre-Claim Inquiry**,

arising out of, based upon or attributable to facts or circumstances alleged or contained, or the same or related **Wrongful Acts** alleged or contained, in any matter which has been reported, or with respect to which any notice has been accepted, under any directors and officers liability policy or equivalent insurance before inception of this Policy.

For purposes of determining the application of the above EXCLUSIONS, no **Wrongful Act**, conduct or knowledge of any **Insured Person** will be imputed to any other **Insured Person**.

DISCOVERY PERIOD: If the Insurer or the **Parent Corporation** fails or refuses to renew this Policy, any **Insured Person** will have the right, upon payment of the applicable Discovery Period Premium set forth in ITEM 7 of the Declarations, to an extension of the coverage granted by this Policy for the respective period set forth in ITEM 7 of the

Declarations following the effective date of such non-renewal (the "Discovery Period"). The Discovery Period will operate as an extension of coverage only with respect to:

- (i) **Claims** first made or deemed first made during the Discovery Period for **Wrongful Acts** committed or allegedly committed before the effective date of such non-renewal, and
- (ii) **Pre-Claim Inquiries** first received or deemed first received during the Discovery Period pertaining to matters which occurred or allegedly occurred before the effective date of such non-renewal.

A written request to purchase the Discovery Period, together with payment of the applicable Discovery Period Premium, must be made within 60 days after the effective date of non-renewal. Such Discovery Period Premium will be deemed fully earned as of inception of the Discovery Period. No Discovery Period will be available if this Policy is cancelled for non-payment of premium.

EXTENSIONS

- (A) Estates, Heirs and Legal Representatives: Subject to its terms and conditions, this Policy will afford coverage for **Claims** for **Wrongful Acts** of an **Insured Person** if such **Claims** are made against the estates, heirs, legal representatives or assigns of an **Insured Person** who is deceased or against the legal representatives or assigns of an **Insured Person** who is incompetent, insolvent or bankrupt, to the extent that such **Claims**, if brought against the **Insured Person**, would have been covered in the absence of such **Insured Person's** death, incompetence, insolvency or bankruptcy.
- (B) Spouse or Domestic Partner: Subject to its terms and conditions, this Policy will afford coverage for **Claims** for **Wrongful Acts** of an **Insured Person** if such **Claims** are made against such **Insured Person's** lawful spouse or domestic partner solely by reason of such person's status as an **Insured Person's** spouse or domestic partner or such person's ownership interest in property which the claimant seeks as recovery for **Wrongful Acts** of such **Insured Person**. Accordingly, amounts which the **Insured Person's** lawful spouse or domestic partner becomes legally obligated to pay by reason of such **Claims** will be treated as **Loss** which the **Insured Person** is legally obligated to pay.

CONDITIONS

- (A) Limit of Liability: The Limit of Liability set forth in ITEM 3 of the Declarations shall be the Insurer's maximum aggregate liability for all **Loss** and **Pre-Claim Expense** under this Policy, whether or not a Discovery Period is purchased, and regardless of the number of **Insured Persons**, **Claims** or **Pre-Claim Inquiries** or any other circumstance. **Defense Costs** are a part of **Loss**; accordingly, the Insurer's payment of **Defense Costs** will reduce and may exhaust the Limit of Liability. Moreover, the **Asset Protection Costs** Sublimit and **Reputation Costs** Sublimit are part of, and not in addition to, the Limit of Liability. If the Limit of Liability is exhausted, the Insurer shall have no further obligation of any kind or nature under this Policy.
- (B) Notice and Reporting
 - (1) The **Insured Persons** or the **Company** must give the Insurer written notice of any **Claim** as soon as practicable after the **Parent Corporation's** general counsel or risk manager (or functionally equivalent position) becomes aware of such **Claim**. If notice of a **Claim** is not provided as specified in the foregoing sentence, the Insurer will not be entitled to deny coverage for such **Claim** based solely on late notice unless the Insurer can demonstrate that its interests were materially prejudiced by reason of such late notice.
 - (2) If an **Insured Person** elects to seek coverage under INSURING AGREEMENT II in connection with a **Pre-Claim Inquiry**, the **Insured Persons** or the **Company** must give the Insurer written notice of such **Pre-Claim Inquiry** as soon as practicable after the **Parent Corporation's** general counsel or risk manager (or functionally equivalent position) becomes aware of such **Pre-Claim Inquiry**.
 - (3) If, during the **Policy Period** or the Discovery Period (if applicable), the **Insured Persons** or the **Company** becomes aware of any circumstances which may reasonably be expected to give rise to a **Claim** against an **Insured Person** and if, before the end of the **Policy Period** or the Discovery Period (if applicable), the **Insured Persons** or the **Company** gives the Insurer written notice of such circumstances, with full particulars as to how the **Insured Persons** or the **Company** became aware of

such circumstances, the identity of the parties involved and the anticipated **Wrongful Acts** allegations, then any **Claim** subsequently made against an **Insured Person** and reported to the Insurer alleging, arising out of, based upon or attributable to such circumstances or alleging any **Wrongful Act** which is the same as or related to any **Wrongful Act** described in such notice of circumstances will be considered to have been made at the time such notice of circumstances was given.

- (4) All notices under this CONDITION (B) must refer to the policy number set forth on the Declarations, must request coverage under the Policy, and must be given by prepaid express courier or certified mail (or the equivalent) or facsimile or electronic mail to the street address, facsimile number, or e-mail address set forth in ITEM 6 of the Declarations. The date of the Insurer's receipt of such notice will constitute the date of notice.

(C) Interrelationship of Claims and Pre-Claim Inquiries

- (1) All **Claims** alleging, arising out of, based upon or attributable to the same facts, circumstances, situations, transactions or events, or series of related facts, circumstances, situations, transactions or events, will be considered a single **Claim** and will be considered to have been first made at the time the earliest such **Claim** was made against an **Insured Person**. All **Pre-Claim Inquiries** alleging, arising out of, based upon or attributable to the same facts, circumstances, situations, transactions or events, or series of related facts, circumstances, situations, transactions or events, will be considered a single **Pre-Claim Inquiry** and will be considered to have been first received at the time the earliest such **Pre-Claim Inquiry** was received by an **Insured Person**.
- (2) If a **Pre-Claim Inquiry** is first received by an **Insured Person** during the **Policy Period** or the Discovery Period (if applicable) and is reported to the Insurer in accordance with CONDITION (B)(2) above, then any subsequent **Pre-Claim Inquiry** received by an **Insured Person** and reported to the Insurer alleging, arising out of, based upon or attributable to the same or related circumstances or matters as alleged or contained in the previously reported **Pre-Claim Inquiry** will be considered to have been received at the time the previously reported **Pre-Claim Inquiry** was first received.
- (3) If a **Pre-Claim Inquiry** is first received by an **Insured Person** during the **Policy Period** or the Discovery Period (if applicable) and is reported to the Insurer in accordance with CONDITION (B)(2) above, then any **Claim** subsequently made against an **Insured Person** and reported to the Insurer alleging, arising out of, based upon or attributable to the same or related circumstances or matters as alleged or contained in the **Pre-Claim Inquiry** will be considered to have been made at the time the **Pre-Claim Inquiry** was first received.

(D) Defense and Settlement of Claims: Insurer's Consent

- (1) The Insurer has no duty to defend under this Policy. It shall be the duty of the **Insured Persons** to defend **Claims** and to defend (or otherwise prepare for and respond to) **Pre-Claim Inquiries**.
- (2) The **Insured Persons** may not admit or assume any liability, enter into any settlement, stipulate to any judgment or incur any **Facilitation Costs** in connection with any **Claim** which involves or appears reasonably likely to involve this Policy without the Insurer's prior consent, which will not be unreasonably withheld or delayed. If an **Insured Person** elects to seek coverage under INSURING AGREEMENT II in connection with a **Pre-Claim Inquiry**, no **Pre-Claim Expense** arising from such **Pre-Claim Inquiry** may be incurred without the Insurer's prior consent, which will not be unreasonably withheld or delayed. Only settlements, stipulated judgments, **Facilitation Costs** and **Pre-Claim Expense** to which the Insurer has consented will be payable under this Policy.
- (3) An **Insured Person** may incur **Defense Costs**, **Asset Protection Costs** and/or **Reputation Costs** arising from a **Claim** against him or her without the Insurer's consent for 30 days following the date such **Claim** is first made. Thereafter, no **Defense Costs**, **Asset Protection Costs** or **Reputation Costs** may be incurred without the Insurer's prior consent, which will not be unreasonably withheld or delayed, and only **Defense Costs**, **Asset Protection Costs** and **Reputation Costs** to which the Insurer has consented will be payable under this Policy.
- (4) The Insurer will advance **Defense Costs** and **Pre-Claim Expense** for which this Policy provides coverage no later than 60 days after the Insurer has received itemized bills or invoices for such amounts.

(E) Cancellation and Non-Renewal

- (1) The Insurer may cancel this Policy for non-payment of premium by sending not less than 20 days notice to the **Parent Corporation** at its last known address. Except as provided in the foregoing sentence, this Policy shall be non-cancellable by any party.
- (2) The Insurer will not be required to renew this Policy upon its expiration. If the Insurer elects not to renew this Policy, the Insurer must give the **Parent Corporation** notice of non-renewal no less than 60 days before the end of the **Policy Period**.
- (3) If any notice period referenced in this CONDITION (E) is prohibited or made void by any law controlling the construction thereof, such period will be deemed amended to be equal to the minimum period permitted by such law.

(F) Change in Control: If, during the **Policy Period**, either of the following events occurs (a “Change in Control”):

- (1) the **Parent Corporation** merges into or consolidates with another entity such that the **Parent Corporation** is not the surviving entity, or
- (2) any person or entity (or group of persons or entities acting in concert) acquires securities, voting rights or interests representing the right to vote for the election or appointment of more than 50% of the **Parent Corporation’s Directors**, or acquires the right to exercise management control over the **Parent Corporation** pursuant to written contract or the **Parent Corporation’s** certificate of incorporation, charter, articles of association or other organizational documents (including bylaws and resolutions thereof),

then coverage under this Policy will continue in full force and effect until the end of the **Policy Period**, but only with respect to **Claims for Wrongful Acts** committed or allegedly committed, and **Pre-Claim Inquiries** pertaining to matters which occurred or allegedly occurred, before the effective date of the Change in Control. Coverage shall cease with respect to **Claims for Wrongful Acts** committed or allegedly committed, and **Pre-Claim Inquiries** pertaining to matters which occurred or allegedly occurred, after the effective date of the Change in Control. The premium for this Policy will be deemed fully earned as of such date.

(G) Nature of Coverage; Other Insurance and Indemnification

- (1) Except for insurance written specifically excess over this Policy, and personal umbrella policies maintained by the **Insured Persons**, all coverage under this Policy shall apply excess over, and shall not contribute with (i) any other valid and collectible insurance, including but not limited to the **Underlying Insurance**, and (ii) any indemnification to which an **Insured Person** may be entitled from any source, including but not limited to the **Company**. The premium for this Policy has been calculated accordingly. However, if **Loss** or **Pre-Claim Expense** is not paid by such other insurance or as indemnification for any reason, including occurrence of a **Drop-Down Event** and/or **Indemnification Failure**, then this Policy will respond on behalf of the **Insured Persons** as if it were primary, subject to this Policy’s terms and conditions and without prejudice to the Insurer’s excess position (Except as expressly stated in the LIBERALIZATION CLAUSE, this Policy shall not be subject to the provisions of any other insurance). By so responding, the Insurer does not waive, compromise or release its right to recover **Loss** or **Pre-Claim Expense** paid under this Policy from the issuers of any other insurance under which coverage may be owed, or from any person or entity from which an **Insured Person** may be entitled to indemnification.
- (2) The **Company** agrees to fulfill its obligations, if any, to indemnify **Insured Persons** (including any obligation to advance **Defense Costs**). If the Insurer makes payment under this Policy for any amounts owed by the **Company** to an **Insured Person**, the **Company** will reimburse the Insurer for all such amounts, which shall become immediately due and payable as a direct obligation of the **Company** to the Insurer.

(H) Cooperation and Subrogation

- (1) In the event of any notice under CONDITION (B), the **Insured Persons** will give the Insurer all information, assistance and cooperation as the Insurer may reasonably request. The failure of an **Insured Person** to provide information, assistance or cooperation as required in the preceding sentence will not impair the rights of any other **Insured Person** under this Policy.

(2) In the event of any payment under this Policy, the Insurer will be subrogated to the extent of such payment to all of the **Insured Persons'** rights of recovery, including but not limited to any right to indemnification from the **Company**. The **Insured Persons** will do nothing intentional that may prejudice the Insurer's position, and they must execute all papers and do everything reasonably necessary to secure the Insurer's rights and enable the Insurer to bring suit in their name. In no event, however, will the Insurer seek subrogation from an **Insured Person**.

(I) Bankruptcy or Insolvency

(1) The bankruptcy or insolvency of an **Insured Person** (or his or her estate) will not relieve the Insurer of any obligation under this Policy.

(2) If a bankruptcy court or similar authority imposes a stay, injunction or similar order on the proceeds of this Policy, the **Insured Persons** and the **Company** will waive and release such stay, injunction or order and agree not to oppose any effort by the Insurer, the **Insured Persons** or the **Company** to obtain relief from such stay, injunction or order.

(3) In the event the **Company** becomes a debtor-in-possession (or equivalent status), and the amount of all **Loss** and **Pre-Claim Expense** payable under this Policy appears reasonably likely to exceed the Limit of Liability set forth in ITEM 3 of the Declarations, the Insurer will first pay **Loss** arising from **Claims** for **Wrongful Acts** committed or allegedly committed, and **Pre-Claim Expense** arising from **Pre-Claim Inquiries** pertaining to matters which occurred or allegedly occurred, before the **Company** became a debtor-in-possession (or equivalent status). If any of the Limit of Liability remains after such payment, the Insurer will then pay **Loss** arising from **Claims** for **Wrongful Acts** committed or allegedly committed, and **Pre-Claim Expense** arising from **Pre-Claim Inquiries** pertaining to matters which occurred or allegedly occurred, after the **Company** became a debtor-in-possession (or equivalent status). In no event, however, shall the Insurer be liable for any amount in excess of the Limit of Liability.

(J) Representations, Severability and Non-Rescindability: This Policy is issued in reliance on the truth of the representations, particulars and statements contained in the application for coverage, and such information is incorporated into this Policy; however:

(1) such application shall be construed as a separate application by each **Insured Person**,

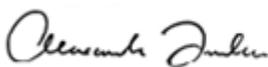
(2) no knowledge or information possessed by any **Insured Person** will be imputed to any other **Insured Person**, and

(3) the Insurer may not rescind or void this Policy, in whole or in part.

(K) Entire Agreement; Amendments; Authorization: This Policy, including the application and any endorsements hereto, constitutes the entire agreement between the parties relating to this insurance (The headings and titles to various provisions of the Policy are solely for convenience and form no part of the terms and conditions of coverage). This Policy cannot be amended or assigned, and no provision of it may be waived, except by written endorsement issued to form a part of the Policy. The **Parent Corporation** shall act on behalf of the **Insured Persons** with respect to this Policy.

(L) Territory: This Policy applies worldwide.

In witness whereof the Insurer has caused this Policy to be executed by its authorized officers, but this Policy will not be valid unless countersigned on the Declarations Page by a duly authorized representative of the Insurer.



Secretary



President