



BEAZLEY EXECUGUARD - MANAGEMENT LIABILITY INSURANCE POLICY GENERAL TERMS AND CONDITIONS

In consideration of the payment of the premium, in reliance on all statements made in the **Application**, and subject to all of the provisions of this Policy, Underwriters and the **Named Insured**, on behalf of all **Insureds**, agree as follows:

I. DEFINITIONS

The following terms whenever used in this General Terms and Conditions in boldface type shall have the meanings indicated. Terms not defined below, but appearing in boldface type shall have the meanings indicated in the applicable Coverage Section when purchased.

- A. **“Application”** means the completed and signed application, including all attachments and other materials submitted therewith or incorporated therein, and any other written documents or information submitted in connection with the underwriting of this Policy, including any endorsement or other part thereof.

Solely for the purpose of coverage afforded under the Fiduciary Liability Coverage Section (if purchased), **“Application”** shall include any publicly available documents that are filed by the **Named Insured** or any **Plan** prior to the inception date of this Policy with the Internal Revenue Service (“IRS”), Department of Labor or Pension Benefit Guaranty Corporation (or for any similar federal, state, local or foreign regulatory agency).

- B. **“Change of Control”** means:

1. the acquisition by any person or entity of more than 50% of the outstanding securities or equity interest of the **Named Insured** representing the present right to vote for the election of directors or **Managers**; or
2. the merger of the **Named Insured** into another entity such that the **Named Insured** is not the surviving entity.

Change of Control shall not be considered to have occurred in the event of **Financial Impairment**.

- C. **“Executive Officer”** means any member of the in-house general counsel or human resources department, any risk manager or any executive officer of the **Insured Organization**.
- D. **“Financial Impairment”** means the appointment by any state or federal official, agency or court of any receiver, trustee, examiner, conservator, liquidator, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Insured Organization**.
- E. **“Insured Organization”** means:

1. the **Named Insured**;
 2. any **Subsidiary**;
 3. the **Named Insured** or any **Subsidiary** as a debtor in possession within the meaning of the United States Bankruptcy Code or similar legal status under foreign law; and
 4. any foundation, charitable trust or political action committee totally funded or controlled by the **Named Insured** or any **Subsidiary**.
- F. **"Interrelated Wrongful Acts"** means any and all **Wrongful Acts** which 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.
- G. **"Management Control"** means:
1. owning interest representing more than 50% of the voting, appointment or designation power for the selection of a majority of the board of directors of a corporation, the members of the management board of a limited liability corporation, the management committee members of a joint venture or with respect to entities operating or organized outside the United States of America, persons serving in a functionally equivalent role; or
 2. having the right, pursuant to written contract or the bylaws, charter, operating agreement or similar documents of the **Insured Organization** to elect, appoint or designate a majority of the board of directors of a corporation, the management board of a limited liability corporation, the management committee members of a joint venture or with respect to entities operating or organized outside of the United States of America, persons serving in a functionally equivalent role.
- H. **"Managers"** means all persons who were, now are, or shall be managers, managing members, principals, members of the board of managers, managing partners, general partners of a limited partnership (including the board of directors of any such general partner that is a corporation) or equivalent executives of any **Insured Organization**.
- I. **"Named Insured"** means the entity designated in Item 1. of the Declarations.
- J. **"Optional Extension Period"** means the period described in Clause X.A. of the General Terms and Conditions.
- K. **"Policy Period"** means the period from the effective date and hour of this Policy to the Policy expiration date and hour as set forth in Item 2. of the Declarations, or its earlier termination, if any, or the end of the **Optional Extension Period**, **Predetermined Run-Off Period** or the **Retired and Resigned Insured Persons Extension Period**, if purchased.

- L. **"Predetermined Run-Off Period"** means the period described in Clause X.B. of the General Terms and Conditions.
- M. **"Retired and Resigned Insured Persons Extension Period"** means the period described in Clause X.C. of the General Terms and Conditions.
- N. **"Subsidiary"** means any entity, including but not limited to any limited liability company, over which the **Named Insured** directly or indirectly had or has **Management Control**, if the **Named Insured** had or has **Management Control** of such entity prior to or on the inception date of this Policy; provided, that this Policy only provides coverage for any **Wrongful Act** committed or any conduct undertaken while the **Parent Company** had or has **Management Control** of such entity.

II. EXCLUSIONS

Underwriters shall not be liable to make any payment for **Loss** in connection with or resulting from that portion of any **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal** based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving:

- A. any written demand, suit, investigation or other proceeding pending, or order, decree or judgment entered, against any **Insured** on or prior to the applicable Pending or Prior Litigation Date set forth in Item 10. of the Declarations, or any **Wrongful Act**, fact, circumstance or situation underlying or alleged therein;
- B. any **Wrongful Act** or any fact, circumstance, transaction or situation which has been the subject of:
 - 1. any notice of a **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal** given prior to the **Policy Period** under any other policy; or
 - 2. any notice of a potential **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal** given prior to the **Policy Period** and accepted under any policy which this Policy is a renewal, replacement or succeeds in time; or
- C. any other **Wrongful Act** whenever occurring, which, together with a **Wrongful Act** which has been the subject of such notice, would constitute **Interrelated Wrongful Acts**.

For the purpose of determining the applicability of any of the Exclusions above, any Exclusions contained in any Coverage Section which attaches to this Policy or any Exclusions which are added by endorsement to this Policy, no **Wrongful Act** shall be imputed to any other natural person, and only the **Wrongful Acts** of any past, present or future chief executive officer or chief financial officer of the **Named Insured** shall be imputed to the **Insured Organization**.

III. LIMITS OF LIABILITY

A. Aggregate Limit(s) of Liability

The amount(s) shown in Item 4. of the Declarations shall be Underwriters' maximum aggregate limit(s) of liability under the Policy.

B. Additional Defense Limit of Liability

If purchased as indicated in Item 4. of the Declarations, the applicable amount shown in Item 4. shall be the Additional Defense Limit of Underwriters applicable only to **Defense Costs** which Limit shall be separate and in addition to any other limit shown in Item 4. of the Declarations. Payment of **Defense Costs** shall erode the Additional Defense Limit first and will not erode any other limit shown in Item 4. until the Additional Defense Limit is exhausted.

C. The payment of **Defense Costs** by Underwriters reduces and may totally exhaust the applicable Limit(s) of Liability.

D. More than one **Claim** involving the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed to constitute a single **Claim** and shall be deemed to have been made at the earliest of the following dates:

1. the date at which the earliest **Claim** involving the same **Wrongful Act** or **Interrelated Wrongful Acts** is first made; or
2. the date at which the **Claim** involving the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed to have been made pursuant to Clause VIII.D. of the General Terms and Conditions.

E. More than one **Investigation** having 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 shall be deemed to constitute a single **Investigation** and shall be deemed to have been commenced at the earliest of the following dates:

1. the date on which the earliest **Investigation** is first commenced; or
2. the date on which the **Investigation** shall be deemed to have been commenced pursuant to Clause VIII.D. of the General Terms and Conditions.

F. If an **Inquiry** is first received by the **Insured Persons** during the **Policy Period** and reported to Underwriters in accordance with Clause VIII.B. of the General Terms and Conditions, then such **Inquiry** and any subsequent **Inquiry** having 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 shall be deemed a single **Inquiry** first received at the earliest of the following dates:

1. the date the earliest **Inquiry** is first received; or

2. the date on which the **Inquiry** shall be deemed to have been received pursuant to Clause VIII.D. of the General Terms and Conditions.
- G. If a **Books and Records Demand** is first made against the **Company** during the **Policy Period** and reported to Underwriters in accordance with Clause VIII.B. of the General Terms and Conditions, then such **Books and Records Demand** and any subsequent **Books and Records Demand** having 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 shall be deemed a single **Books and Records Demand** first made at the earliest of the following dates:
1. the date the earliest **Books and Records Demand** is first made; or
 2. the date on which the **Books and Records Demand** shall be deemed to have been made pursuant to Clause VIII.D. of the General Terms and Conditions.
- H. If an **Internal Appeal** is first made against any of the **Insureds** during the **Policy Period** and reported to Underwriters in accordance with Clause VIII.C. of the General Terms and Conditions, then such **Internal Appeal** and any subsequent **Internal Appeal** having 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 shall be deemed a single **Internal Appeal** first made at the earliest of the following dates:
1. the date the earliest **Internal Appeal** is first made; or
 2. the date on which the **Internal Appeal** shall be deemed to have been made pursuant to Clause VIII.D. of the General Terms and Conditions.
- I. Any **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal** having 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 shall be deemed a single **Claim** and shall be deemed to have been made at the earliest of the following dates:
1. the date on which the **Internal Appeal, Books and Records Demand, Inquiry, Investigation** or **Claim** shall be deemed to have been first made, commenced or received pursuant to Clause VIII.D. of the General Terms and Conditions;
 2. the date on which the **Internal Appeal** is first made;
 3. the date on which the **Books and Records Demand** is first made;
 4. the date on which the **Inquiry** is first received;
 5. the date on which the **Investigation** is first commenced; or

6. the date on which the **Claim** is first made.
- J. If all aggregate limit(s) of liability are exhausted, Underwriters' obligations under this Policy shall be completely fulfilled and extinguished.

IV. RETENTIONS

- A. Underwriters shall be liable for only that part of **Loss** arising from a **Claim, Investigation or Internal Appeal, Inquiry Costs** arising from an **Inquiry or Books and Records Costs** arising from a **Books and Records Demand** which is excess of the applicable Retention set forth in Item 5. of the Declarations. The Retention shall not apply, however, if indemnification by the **Insured Organization** is not permitted by law or if the **Insured Organization** is not able to indemnify solely by reason of its **Financial Impairment**.
- B. In the event more than one of the Insuring Clauses are applicable to a **Claim, Investigation, Inquiry, Books and Records Demand or Internal Appeal**, the Retentions set forth in Item 5. of the Declarations shall be applied separately to that part of the **Loss** resulting from such **Claim, Investigation or Internal Appeal, Inquiry Costs** arising from such **Inquiry or Books and Records Costs** arising from such **Books and Records Demand** covered by each Insuring Clause. The sum of the Retentions so applied shall constitute the Retention applicable to such **Claim, Investigation, Inquiry, Books and Records Demand or Internal Appeal**. The total Retention as finally determined shall in no event exceed the largest of the Retentions applicable to Insuring Clauses that are applicable to such **Claim, Investigation, Inquiry, Books and Records Demand or Internal Appeal**.

V. PRESUMPTIVE INDEMNIFICATION

For all purposes under this Policy, the **Insured Organization** is presumed to indemnify the **Insured Persons** to the fullest extent permitted by law or pursuant to the by-laws or other organizational documents of the **Insured Organization** for any **Loss**, or to advance any **Defense Costs** on their behalf, except to the extent that the **Insured Organization** cannot in fact do so for reasons of **Financial Impairment**.

VI. DEFENSE, COOPERATION, SETTLEMENT AND SUBROGATION

- A. Underwriters shall have the right and duty to defend any **Claim, Investigation, Inquiry, Books and Records Demand or Internal Appeal**, including the right to select defense counsel, even if any of the allegations are groundless, false or fraudulent; provided, however, that Underwriters shall not be obligated to defend or to continue to defend any **Claim, Investigation, Inquiry, Books and Records Demand or Internal Appeal** after the applicable Limit of Liability set forth in Item 4. of the Declarations has been exhausted.
- B. The **Insureds** agree to:
 1. provide Underwriters with such information, assistance and cooperation as Underwriters or their counsel may reasonably request,

2. assist Underwriters in the investigation, settlement and defense of **Claims, Investigations, Inquiries, Books and Records Demands and Internal Appeals**,
3. enforce all rights of contribution or indemnity against any person or entity which may be liable to the **Insureds**, and
4. attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

The **Insureds** further agree that, after a **Claim, Books and Records Demand** or **Internal Appeal** has been made, an **Investigation** has been commenced or an **Inquiry** has been received, they shall not take any action which in any way increases Underwriters' exposure under this Policy. The failure of any **Insured Persons** to comply with the foregoing shall not impair the rights of any other **Insured Person** under this Policy.

- C. The **Insureds** shall not settle any **Claim, Investigation** or **Internal Appeal**, select any defense counsel, incur any **Defense Costs, Inquiry Costs** or **Books and Records Costs**, admit or assume any liability, stipulate to any judgment or otherwise assume any contractual obligation without Underwriters' prior written consent, which shall not be unreasonably withheld. Underwriters shall not be liable for any settlement, **Defense Costs, Inquiry Costs** or **Books and Records Costs**, assumed obligation, admission or stipulated judgment to which they have not consented or for which the **Insureds** are not legally obligated as a result of a **Claim** for a **Wrongful Act** or an **Investigation, Inquiry, Books and Records Demand** or **Internal Appeal**. Notwithstanding the foregoing, if all **Insureds** are able to fully and finally dispose of, with prejudice, all **Claims, Investigations, Inquiries, Books and Records Demands** and **Internal Appeals** that are subject to one Retention for an amount not exceeding such Retention, including **Defense Costs**, then Underwriters' consent shall not be required for such disposition.
- D. Underwriters may, with the consent of the **Insureds**, settle or compromise any **Claim, Investigation** or **Internal Appeal** as they deem expedient. If the **Insureds** withhold consent to a settlement or compromise acceptable to the claimant and Underwriters, then Underwriters' liability for such **Claim, Investigation** or **Internal Appeal** shall not exceed:
 1. the amount for which the **Claim, Investigation** or **Internal Appeal** could have settled or compromised and the **Defense Costs** incurred as of the date such settlement or compromise was proposed to the **Insureds**; plus
 2. 80% of any **Loss** incurred after the date such settlement or compromise was proposed to the **Insureds**, with the remaining 20% of such **Loss** to be borne by the **Insureds** at their own risk and uninsured or the applicable limit of liability whichever is less.
- E. In the event of any payment under this Policy, Underwriters shall be subrogated to the **Insureds'** rights of recovery against any person or entity. The **Insureds** shall execute all papers required and shall do everything that may be necessary

to secure and preserve such rights including the execution of such documents as are necessary to enable Underwriters effectively to bring suit in their name, and shall provide all other assistance and cooperation which Underwriters may reasonably require.

Notwithstanding the foregoing, Underwriters agree to waive their rights of subrogation against any of the **Insured Persons** except where a final non-appealable adjudication in the underlying action adverse to the relevant **Insured Persons** establishes that the relevant **Insured Persons** have committed a deliberately fraudulent or deliberately criminal act or omission.

VII. ALLOCATION

If both **Loss** covered by this Policy and non-covered loss are incurred, either because the **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal** includes both covered and non-covered matters and/or covered and non-covered parties, then such covered **Loss** and non-covered loss shall be allocated as follows:

- A. 100% of **Defense Costs** shall be allocated to covered **Loss**; and
- B. Settlements, judgments, verdicts, awards, inquiry costs and books and records costs shall be allocated between covered **Loss** and non-covered loss based upon the relative legal and financial exposures of, and the relative benefits obtained in connection with the resolution of the **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal** as between the **Insureds'** or non-**Insureds'** exposure to non-covered loss, and the **Insureds'** exposure to covered **Loss**. In making such allocation determination, the **Insureds** and Underwriters agree to use their best efforts to determine a fair and proper allocation. In the event that an allocation cannot be agreed to, then Underwriters shall make an interim payment of the amount of **Loss** that the parties agree is not in dispute until a final amount is agreed upon or judicially determined.

VIII. NOTIFICATION

- A. In the event any **Executive Officer** becomes aware that a **Claim** has been made against any of the **Insureds** or an **Investigation** has been commenced against any of the **Insureds**, the **Insureds** shall, as a condition precedent to their rights to payment under this Policy, give to Underwriters notice in writing of such **Claim** or **Investigation** as soon as practicable but in no event later than:
 - 1. 60 days after the end of the **Policy Period** or the last day of the **Optional Extension Period**, if purchased; or
 - 2. in the event this Policy is renewed with Underwriters, 120 days after the end of the **Policy Period** or the last day of the **Optional Extension Period**, if purchased.
- B. If the **Insureds** elect to seek coverage for **Inquiry Costs** in connection with an **Inquiry** of the **Insured Persons** or the **Insured Organization** elects to seek coverage for **Books and Records Costs** in connection with a **Books and**

Records Demand, the **Insureds** shall give to Underwriters notice in writing of such **Inquiry** or **Books and Records Demand** but in no event later than:

1. 60 days after the end of the **Policy Period** or the last day of the **Optional Extension Period**, if purchased; or
2. in the event this Policy is renewed with Underwriters, 120 days after the end of the **Policy Period** or the last day of the **Optional Extension Period**, if purchased.

C. If the **Insureds** elect to seek coverage for **Loss** in connection with an **Internal Appeal**, the **Insureds** shall give to Underwriters notice in writing of such **Internal Appeal** but in no event later than:

1. 60 days after the end of the **Policy Period** or the last day of the **Optional Extension Period**, if purchased; or
2. in the event this Policy is renewed with Underwriters, 120 days after the end of the **Policy Period** or the last day of the **Optional Extension Period**, if purchased.

D. If the **Insureds** become aware of a specific fact, circumstance or situation which could reasonably give rise to a **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal** and if the **Insureds** during the **Policy Period** give written notice to Underwriters of:

1. the specific fact, circumstance or situation;
2. the consequences which have resulted or may result therefrom; and
3. the circumstances by which the **Insureds** first became aware thereof,

then any **Claim, Books and Records Demand** or **Internal Appeal** made, **Investigation** commenced or **Inquiry** received subsequently arising out of such fact, circumstance or situation shall be deemed for the purposes of this Policy to have been made at the time such notice was first given.

Underwriters shall have no obligation to cover any amounts, including any legal fees or expenses, incurred prior to the time such circumstances result in a **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal**.

E. Notice to Underwriters provided for in Clause VIII.A., B., C. and D. of the General Terms and Conditions shall be sent to the address shown in Item 9.a. of the Declarations. All other notices to Underwriters under this Policy shall be sent to the address shown in Item 9.b. of the Declarations. All notices under any provision of this Policy must be made in writing and delivered by electronic mail, prepaid express courier, certified mail or fax. Notices given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee.

IX. GENERAL CONDITIONS

A. Representations.

By acceptance of this Policy, the **Insureds** agree:

1. that the statements in the **Application** are their representations, and that this Policy is issued in reliance upon the truth of such representations; and
2. that in the event that the **Application** contains misrepresentations made with the actual intent to deceive, or contains misrepresentations which materially affect either the acceptance of the risk or the hazard assumed by Underwriters under this Policy, this Policy shall not afford any coverage with respect to:
 - a) those **Insured Persons** who made or had knowledge as at the inception date of this Policy of such misrepresentations; and
 - b) the **Insured Organization** if such misrepresentations were made by any **Executive Officer** of the **Named Entity**.

Notwithstanding the above:

- (i) the **Application** shall be construed as a separate application for coverage by each of the **Insured Persons** and no knowledge possessed by any **Insured Persons** shall be imputed to any other **Insured Person**; and
- (ii) solely with respect to the coverage afforded under Insuring Clause I.A. and I.B. of the Private Organization Directors, Officers and Entity Liability Coverage Section, Underwriters shall not be entitled to rescind the Policy.

B. Run-Off

1. In the event any entity ceases to be a **Subsidiary** as defined herein after the inception date of this Policy, or of any policy issued by Underwriters of which this Policy is a renewal or replacement, this Policy, subject to its terms, shall continue to apply to any of the **Insured Persons** who were covered under this Policy because of their service with such entity and to such **Subsidiary**.
2. Except if a **Predetermined Run-Off Period** is purchased in accordance with Clause X.B. of the General Terms and Conditions, in the event of a **Change of Control** after the inception date of this Policy or of any policy issued by Underwriters of which this Policy is a renewal or replacement, this Policy, subject to its terms, shall continue to apply to the **Insureds** but only with respect to any **Wrongful Act** committed or allegedly committed or any conduct undertaken or allegedly undertaken prior to the **Change of Control**.

C. Cancellation/Nonrenewal

1. By acceptance of this Policy, the **Insureds** hereby confer the exclusive power and authority to cancel this Policy on their behalf to the **Named Insured**. Such entity may cancel this Policy by surrender thereof to Underwriters, or by mailing to Underwriters written notice stating when thereafter such cancellation shall be effective. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice shall be equivalent to mailing.
2. Underwriters may cancel this Policy only for nonpayment of premium by mailing to the **Named Insured** written notice stating when, not less than 10 days thereafter, such cancellation shall be effective. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice by Underwriters shall be equivalent to mailing.
3. If this Policy is cancelled pursuant to 1. hereinabove, Underwriters shall retain the customary short rate proportion of the premium hereon. If this Policy is cancelled pursuant to 2. hereinabove, Underwriters shall retain the pro rata proportion of the premium hereon. Payment or tender of any unearned premium by Underwriters shall not be a condition precedent to the effectiveness of cancellation.
4. Underwriters may nonrenew this Policy by mailing to the **Named Insured** written notice of nonrenewal not less than 60 days before the end of the **Policy Period**. The mailing of such notice shall be sufficient notice. Delivery of such written notice by Underwriters shall be equivalent to mailing.

D. Other Insurance

1. This Policy shall apply in excess of any other existing valid and collectible insurance policy including any self insured retention or deductible portion thereof, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other policy is written only as specific excess insurance over the Limits of Liability of this Policy. However, the coverage under this Policy shall apply as primary to any personal directorship liability insurance of any of the **Insured Persons** or any Directors and Officers Liability insurance issued to any equity holder of the **Insured Organization**.
2. Notwithstanding the foregoing and solely in respect of the Employment Practices Liability Coverage Section, this Policy shall apply as primary insurance, except with respect to:
 - a) any **Claim** for a **Third Party Wrongful Act**; or

- b) any **Claim** which include allegations covered under both a fiduciary liability policy and this Policy; or
- c) any **Claim** brought by or on behalf of an **Independent Contractor** or leased or temporary **Employee**,

in which case the provisions of Clause IX.D.1. above shall apply.

X. EXTENSIONS TO THE POLICY PERIOD

A. Optional Extension Period

If this Policy is cancelled by the **Named Insured** or if the **Named Insured** or Underwriters nonrenew this Policy, then the **Named Insured** shall have the right, upon payment of an additional premium calculated at that percentage shown in Item 7.a. of the Declarations of the total annual premium for this Policy, to an extension of the coverage granted by this Policy with respect to any **Claim, Books and Records Demand** or **Internal Appeal** first made, **Investigation** first commenced or **Inquiry** first received during the period of time set forth in Item 7.b. of the Declarations after the end of the **Policy Period**, but only with respect to any **Wrongful Act** committed or any conduct undertaken before the effective date of cancellation or nonrenewal.

B. Predetermined Run-Off Period

In the event of a **Change of Control**, the **Named Insured** shall have the right, upon payment of an additional premium calculated at that applicable percentage shown in Item 8.a. of the Declarations of the total annual premium for this Policy (less any unearned premium calculated at pro rata for the period from the date of such **Change of Control**), to an extension of the coverage granted by this Policy with respect to any **Claim, Books and Records Demand** or **Internal Appeal** first made, **Investigation** first commenced or **Inquiry** first received during the period of time set forth in Item 8.b. of the Declarations after the end of the **Policy Period**, but only with respect to any **Wrongful Act** committed or any conduct undertaken before the effective date of such **Change of Control**.

C. Retired and Resigned Insured Persons Extension Period

If this Policy is cancelled by the **Named Insured** or if the **Named Insured** or Underwriters nonrenew this Policy, then any of the **Insured Persons** who have retired or resigned prior to or during the **Policy Period** shall have an automatic extension of the coverage granted by this Policy with respect to any **Claim** or **Internal Appeal** first made, **Investigation** first commenced or **Inquiry** first received during the 72-month period following the end of the **Policy Period**, but only with respect to any **Wrongful Act** committed or any conduct undertaken before the effective date of cancellation or nonrenewal.

The above automatic extension of coverage shall not apply in the event the **Named Insured** has purchased other insurance to replace, in whole or in part, the insurance provided under this Policy.

D. **Extension Conditions**

1. As a condition precedent to the right to purchase the **Optional Extension Period, Predetermined Run-Off Period** or the **Retired and Resigned Insured Persons Extension Period**, the total premium for this Policy must have been paid. The right to purchase the **Optional Extension Period** or **Predetermined Run-Off Period** shall terminate unless written notice together with full payment of the premium for the **Optional Extension Period** or **Predetermined Run-Off Period** is given to Underwriters within 30 days after the effective date of cancellation, nonrenewal or **Change of Control**. If such notice and premium payment is not so given to Underwriters, there shall be no right to purchase the **Optional Extension Period** or **Predetermined Run-Off Period**.
2. In the event of the purchase of the **Optional Extension Period** or **Predetermined Run-Off Period**, the entire premium for the **Optional Extension Period** or **Predetermined Run-Off Period** shall be deemed earned at its commencement.
3. The exercise of the **Optional Extension Period, Predetermined Run-Off Period** or the **Retired and Resigned Insured Persons Extension Period** shall not in any way increase the Limit(s) of Liability of Underwriters.
4. In the event the **Optional Extension Period** or **Predetermined Run-Off Period** is purchased or the **Retired and Resigned Insured Persons Extension Period** is exercised, and the law in any foreign country imposes a requirement for a minimum extension period, then the applicable period of time under this Policy shall be extended in order to comply with any such minimum extension period but solely with respect to any **Claim, Investigation, Inquiry** or **Internal Appeal** first brought and maintained in such country.

XI. ACTION AGAINST UNDERWRITERS

No action shall lie against Underwriters unless, as a condition precedent thereto, the **Insureds** shall have fully complied with all of the terms of this Policy and the amount of the **Insureds'** obligation to pay shall have been fully and finally determined either by judgment against them or by written agreement between them, the claimant and Underwriters. Nothing contained herein shall give any person or organization any right to join Underwriters as a party to any **Claim** against the **Insureds** to determine their liability, nor shall Underwriters be impleaded by the **Insureds** or their legal representative in any **Claim**.

XII. ENTIRE AGREEMENT

By acceptance of this Policy, the **Insureds** agree that this Policy embodies all agreements existing between them and Underwriters or any of their agents relating to this insurance. Notice to any agent or knowledge possessed by any agent or other person acting on behalf of Underwriters shall not effect a waiver or a change in any part of this Policy or estop Underwriters from asserting any right under the terms of this Policy, nor shall the terms be waived or changed except by written endorsement or rider issued by Underwriters to form a part of this Policy.

XIII. TERRITORY

This Policy shall apply to **Claims** (except **Wage and Hour Claims**), **Books and Records Demands** or **Internal Appeals** made against the **Insureds**, **Investigations** of the **Insureds** and **Inquiries** received by the **Insured Persons** and **Wrongful Acts** committed and conduct undertaken anywhere in the world.

Coverage under the Employment Practices Liability Coverage Section of this Policy for **Wage and Hour Claims** (if purchased) shall only apply if such **Wage and Hour Claim** is made against the **Insureds** in the United States of America, its territories or possessions alleging violations of any **Wage and Hour Law** committed in the United States of America, its territories or possessions.

XIV. VALUATION AND CURRENCY

All premiums, limits, retentions, and **Loss** under this Policy are expressed in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of **Loss** under this Policy is stated in a currency other than United States dollars or if **Defense Costs** are due in a currency other than United States dollars, payment under this Policy shall be made, at the **Insureds** election, either:

- A. in United States dollars; or
- B. in the foreign jurisdiction at issue and in the foreign currency at issue, to the extent legally permissible.

The rate of exchange published in the Wall Street Journal on the date the judgment becomes final or payment of the settlement or other element of **Loss** is due or the date

Defense Costs are due shall be used to calculate erosion of the limits of liability and retentions of this Policy.

XV. BANKRUPTCY

Bankruptcy or insolvency of the **Insureds** shall not relieve Underwriters of their obligations nor deprive Underwriters of their rights or defenses under this Policy.

If a liquidation or reorganization proceeding is commenced by the **Insured Organization** (whether voluntarily or involuntarily) under Title 11 of the United States Code (as amended), or any similar state, local or foreign law, then, in regard to a covered **Claim, Investigation, Inquiry, Books and Records Demand** or **Internal Appeal** under this Policy, Underwriters and the **Insureds** hereby agree not to oppose or object to any efforts by Underwriters or any of the **Insureds** to obtain relief from any stay or injunction applicable to the proceeds of this Policy as a result of the commencement of such liquidation or reorganization proceeding.

XVI. RECOVERY CLAUSE

In the event Underwriters recover amounts they have paid under this Policy, Underwriters will reinstate the Limit(s) of Liability of this Policy to the extent of such recovery, less their costs incurred in administering and obtaining such recovery. Underwriters assume no duty to seek a recovery of any amounts paid under this Policy.

XVII. AUTHORIZATION

By acceptance of this Policy, the **Named Insured** agrees to act on behalf of the **Insureds** with respect to the giving and receiving of any notice provided for in this Policy, the payment of premiums and the receipt of any return premiums that may become due under this Policy, and the agreement to and acceptance of endorsements, and the **Insureds** agree that the **Named Insured** shall act on their behalf.

XVIII. HEADINGS

The descriptions in the headings and subheadings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.