

**EMPLOYED LAWYERS PROFESSIONAL LIABILITY INSURANCE
COVERAGE SECTION FIVE
("EMPLOYED LAWYERS COVERAGE SECTION")**

In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer by application, including its attachments and the material incorporated therein, which form a part of this policy, the Insurer agrees as follows:

1. INSURING AGREEMENTS

COVERAGE A: EMPLOYED LAWYER INSURANCE

This policy shall pay on behalf of the Employed Lawyer all sums which the Employed Lawyer shall become legally obligated to pay as Damages arising from a Claim first made against the Employed Lawyer during the Policy Period or Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any Wrongful Act of the Employed Lawyer, except when and to the extent that the Employer has indemnified such Employed Lawyer.

COVERAGE B: EMPLOYER INDEMNIFICATION

This policy shall pay on behalf of the Employer all sums which the Employer may be required or permitted by law to indemnify an Employed Lawyer for any sum which the Employed Lawyer becomes legally obligated to pay as Loss arising from a Claim first made against the Employed Lawyer during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any Wrongful Act of the Employed Lawyer while acting in the course of said Employed Lawyer's employment by the Employer, but only when and to the extent that the Employer has indemnified the Employed Lawyer for such Loss pursuant to law, common or statutory, or contract, or the charter or by-laws of the Employer duly effective under such law which determines and defines such rights of indemnity.

COVERAGE C: DEFENSE COSTS, CHARGES AND EXPENSES

The Insurer shall have the right and duty to defend, subject to the applicable Retention amount and subject to and as part of the applicable Limits of Liability, any Claim against the Employed Lawyer seeking Damages which are payable under the terms of this policy, even if any of the allegations of the Claim are groundless, false or fraudulent. The Insurer shall be entitled to exercise all rights of an Employed Lawyer in the choice of arbitrators and in the conduct of any arbitration proceeding involving a Claim covered by this policy.

The Insurer shall have the right to make any investigation it deems necessary and, with the written consent of the Employed Lawyer, settle any Claim covered by this policy. If the Employed Lawyer shall refuse to consent to any settlement recommended by the Insurer and acceptable to the claimant and elects to contest the Claim, then the Insurer's liability shall not exceed the amount for which the Insurer would have been liable for Loss if the Claim had been so settled when and as recommended, and the Insurer shall have no liability for Defense Costs accruing thereafter, and the Insurer shall

have the right to withdraw from the further defense thereof by tendering control of said defense to the Employed Lawyer.

The Employed Lawyer shall not, except at the Employed Lawyer's own cost, admit liability, voluntarily make any payment, assume any obligation or incur any expenses without the written consent of the Insurer.

The Insurer shall not be obligated to pay any Loss, or to undertake or continue defense of any Claim after the applicable limit of the Insurer's liability has been exhausted by payment of Loss or after deposit of the applicable limit of the Insurer's liability in a court of competent jurisdiction, and in such a case, the Insurer shall have the right to withdraw from the further defense thereof by tendering control of said defense to the Employed Lawyer.

2. DEFINITIONS

(a) "Claim" means:

- (1) a written demand for monetary, non-monetary or injunctive relief;
- (2) a civil, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by service of a complaint or similar pleading; or
- (3) a judicial, administrative, bar association or other proceeding against an Employed Lawyer solely concerning the eligibility or license of such Employed Lawyer to practice law.

(b) "Damages" means a monetary judgment award or monetary settlement arising from a Claim, but does not include fines, sanctions or statutory penalties whether imposed by law or otherwise, nor the return of or restitution of legal fees, costs and expenses.

(c) "Employed Lawyer" means:

- (1) any person admitted to practice law who is, was or becomes employed as a lawyer full time and salaried by the Employer, but only as regards Wrongful Acts which occur during the term of such employment; and
- (2) non-lawyer employees of the Employer who are, were or become assistants of an Employed Lawyer as defined in sub-paragraph (1) above, while acting under the direction and control of such Employed Lawyer in the performance of professional services on behalf of the Employer.

(d) "Employer" means the Named Entity and any Subsidiary thereof.

(e) "Executive" means any:

- (1) past, present or future duly elected or appointed director, officer, trustee or governor of the Employer, management committee member of a joint venture and member of the management board of a limited liability company (or equivalent position) of the Employer; or
- (2) past, present or future General Counsel and Risk Manager (or equivalent position) of the Employer.

(f) "Indemnifiable Loss" means Loss for which the Company has indemnified or is permitted or required to indemnify any Individual Insureds.

(g) "Individual Insured" means any Employed Lawyer.

(h) "Insured(s)" means:

- (1) any Employed Lawyer; and
- (2) any Employer, but solely with respect to Coverage B and such Employer's indemnification of an Employed Lawyer.

This Coverage Section affords no coverage for Defense Costs incurred by, settlements by or on behalf of, contractual obligations of, or judgments against any entity whether arising out of a Claim made against an Employer, based upon any legal obligation to pay any amount that an Employer has or may have to a claimant, or derived from the acts or omissions of Employed Lawyers.

No Employer is covered in any respect under Coverage A or Coverage C of this Coverage Section. An Employer is covered, subject to this Coverage Section's terms, conditions, exclusions and other limitations only with respect to its indemnification of Employed Lawyers under Coverage B as respects a Claim against such Employed Lawyers.

(i) "Legal Services" means any professional legal services rendered by:

- (1) an Employed Lawyer in his or her capacity as an Employee of an Employer; and
- (2) any Employed Lawyer while a full time, permanent Employee of an Employer, including, but not limited to, any moonlighting or *pro bono* services.

(j) "Loss" means Damages and Defense Costs; provided, however, Loss shall not include: (1) civil or criminal fines or penalties; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes; (5) any amount for which the Insureds are not financially liable or which are without legal recourse to the Insureds; and (6) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

(k) "Personal Injury Peril" means the following offenses:

- (1) false arrest, detention or imprisonment, wrongful entry or eviction or other invasion of the right of private occupancy, or malicious prosecution; or
- (2) the publication or utterance of a libel or slander or other defamatory or disparaging material, or a publication or an utterance in violation of an individual's right of privacy.

(l) "Wrongful Act" means any actual or alleged:

- (1) negligent act, error, omission, breach of duty, misstatement or misleading statement; or
- (2) Personal Injury Peril;

committed or omitted in the performance of Legal Services.

3. EXCLUSIONS

The General Terms and Conditions, Exclusions Paragraph 4(a) (profit or advantage) and the paragraph following Paragraph 4(h) do not apply to this Coverage Section.

The Insurer shall not be liable to make any payment for Loss in connection with a Claim:

- (a) arising out of, based upon or attributable to the committing in fact of any criminal, fraudulent or dishonest act by an Employed Lawyer; provided, however, the Insurer shall defend such Claim alleging the foregoing conduct, until there is a judgment, final adjudication, adverse admission or finding of fact against the Employed Lawyer as to such conduct, at which time the Insured shall reimburse the Insurer for Defense Costs;
- (b) against an Employed Lawyer that is brought, directly or indirectly, by or on behalf of any: (1) Employed Lawyer; (2) Employer; (3) business entity that is controlled, managed or operated, directly or indirectly, in whole or in part, by the Employer; (4) parent company, partner, trustee, successor or assignee of the Employer, or any person or entity affiliated with the Employer; (5) receiver, conservator, trustee, creditor or assignee of creditors or for the benefit of creditors or similar representative in the event of the insolvency or bankruptcy of the Employer; or (6) security holder or member of the Employer, whether directly or derivatively, unless such security holder or member claim is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of an Employed Lawyer, the Employer or any Executive of the Employer; provided, however, this exclusion shall not apply to defense costs incurred in the defense of any Claim brought by or on behalf of the Employer;
- (c) for discrimination or other unfair employment practices; provided, however, this exclusion shall not apply to any Claim alleging a Wrongful Act in the performance of Legal Services;
- (d) arising out of any breach of fiduciary duty, responsibility, or obligation in connection with any employee benefit or pension plan, including violations of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974, as amended, or similar statutory or common law of the United States of America or any state or jurisdiction therein;
- (e) alleging, arising out of, based upon, or in connection with any offering of securities by the Company or alleging a purchase or sale of such securities subsequent to such offering;
- (f) arising out of mental anguish, emotional distress or humiliation; provided, however, this exclusion shall not apply to any Claim alleging the foregoing if such allegations result from a Personal Injury Peril;
- (g) alleging, arising out of, based upon or attributable to any actual or alleged act or omission of an Employed Lawyer serving in the capacity of a Director or Officer; provided, however, this exclusion shall not apply to alleging a Wrongful Act in the performance of Legal Services; or
- (h) against an Employed Lawyer for a Wrongful Act that was committed or allegedly committed at a time when the Employed Lawyer was not employed by the Employer.

4. DISCOVERY CLAUSE

Except as indicated below, if the Named Entity shall cancel or the Named Entity or the Insurer shall refuse to renew this Coverage Section, then solely with respect to this Coverage Section, the Named Entity shall have the right to a period of either one, two or three years following the effective date of such cancellation or nonrenewal upon payment of the respective "Additional Premium Amount" described below (herein referred to as the "Discovery Period") in which to give to the Insurer written notice of Claims first made against the Insureds during said Discovery Period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. The rights

contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within thirty (30) days of the effective date of cancellation or nonrenewal.

The Additional Premium Amount for: (1) one year shall be 75% of the "full annual premium;" (2) two years shall be 150% of the "full annual premium;" and (3) three years shall be a reasonable premium amount to be mutually agreed upon by the Named Entity and the Insurer. As used herein, "full annual premium" means the premium level in effect for this Coverage Section immediately prior to the end of the Policy Period.

In the event of a Transaction, as defined in Clause 9 of the General Terms and Conditions, the Named Entity shall have the right, within thirty (30) days before the end of the Policy Period, to request an offer from the Insurer of a Discovery Period (with respect to Wrongful Acts occurring prior to the effective time of the Transaction) for a period of no less than three (3) years or for such longer or shorter period as the Named Entity may request. The Insurer shall offer such Discovery Period pursuant to such terms, conditions and premium as the Insurer may reasonably decide. In the event of a Transaction, the right to a Discovery Period shall not otherwise exist except as indicated in this paragraph.

The Additional Premium for the Discovery Period shall be fully earned at the inception of the Discovery Period. The Discovery Period is not cancelable, except for non-payment of premium. This clause and the rights contained herein shall not apply to any cancellation resulting from non-payment of premium.

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