

Financial Institutions Risk Protector[®]
DIRECTORS, OFFICERS AND PRIVATE FINANCIAL INSTITUTION LIABILITY
COVERAGE SECTION ONE
("D&O COVERAGE SECTION")

Notice: Pursuant to Clause 1 of the General Terms and Conditions, the General Terms and Conditions are incorporated by reference into, made a part of, and are expressly applicable to this Coverage Section, unless otherwise explicitly stated to the contrary in either the General Terms and Conditions or in this 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: INDIVIDUAL INSURED INSURANCE

This policy shall pay the **Loss** of each and every **Individual Insured** arising from a **Claim** first made against such **Individual Insureds** 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 such **Individual Insured**, except when and to the extent that the **Company** has indemnified such **Individual Insureds**. The **Insurer** shall, in accordance with Clause 5 of this **Coverage Section**, advance **Defense Costs** of such **Claim** prior to its final disposition.

COVERAGE B: PRIVATE COMPANY INSURANCE

This policy shall pay the **Loss** of the **Company** arising from a:

- (i) **Claim** first made against the **Company**, or
- (ii) **Claim** first made against an **Individual Insured**,

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**, but, in the case of (ii) above, only when and to the extent that the **Company** has indemnified the **Individual Insured** for such **Loss**. The **Insurer** shall, in accordance with Clause 5 of this **Coverage Section**, advance **Defense Costs** of such **Claim** prior to its final disposition.

COVERAGE C: INVESTIGATION COSTS FOR DERIVATIVE CLAIMS

This policy shall pay the **Investigation Costs** of the **Company** arising from an **Investigation** in response to a **Derivative Demand** first made upon the **Company** during the **Policy Period** or the **Discovery Period** (if applicable) and reported to the **Insurer** pursuant to the terms of this policy.

It shall be the duty of the **Company** and not the duty of the **Insurer** to conduct, investigate and evaluate any **Investigation** against its own **Directors and Officers**, provided that the **Insurer** shall be entitled to effectively associate in the **Investigation** and in the evaluation and negotiation of any settlement of any such **Investigation**.

Nothing in this Coverage C shall be construed to afford coverage under this policy for any **Claim** brought by the **Company** against one or more of its own **Directors or Officers** other than **Investigation Costs** incurred in a covered **Investigation**. Payment of any **Investigation Costs** under this policy shall not waive any of the **Insurer's** rights under this policy or at law.

The **Company** shall be entitled to payment under this Coverage C of its covered **Investigation Costs** ninety (90) days after: (i) it has made its final decision not to bring a civil proceeding in a court of law against any of its **Director or Officers**, and (ii) such decision has been communicated to the **Complaining Shareholders**. Such payment shall be subject to an undertaking by the **Company**, in a form acceptable to the **Insurer**, that the **Company** shall return to the **Insurer** such payment in the event any **Company** or **Complaining Shareholders** bring a **Claim** alleging, arising out of, based upon or attributable to any **Wrongful Acts** which were the subject of the **Derivative Demand**.

No Retention amount is applicable to Coverage C.

2. DEFINITIONS

(a) "**Claim**" means:

- (1) a written demand for monetary, non-monetary or injunctive relief (including any request to toll or waive any statute of limitations); or
- (2) a civil, criminal, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by:
 - (i) service of a complaint or similar pleading; or
 - (ii) return of an indictment, information or similar document (in the case of a criminal proceeding); or
 - (iii) receipt or filing of a notice of charges.
- (3) a civil, criminal, administrative or regulatory investigation of an **Individual Insured**:
 - (i) once such **Individual Insured** is identified in writing by such investigating authority as a person against whom a proceeding described in paragraph (2) of this definition, may be commenced; or
 - (ii) in the case of an investigation by the SEC or a similar state or foreign government authority, after the service of a subpoena upon such **Individual Insured**.

The term "**Claim**" shall include any **Derivative Demand**, but solely with respect to the coverage provided under Coverage C.

(b) "**Individual Insured(s)**" means any:

- (1) **Director(s) or Officer(s)** of the **Company**;
- (2) **Employee(s)** of the **Company**; and
- (3) **Outside Entity Executive(s)**.

(c) "**Insured(s)**" mean:

- (1) any **Individual Insured**; and
- (2) the **Company**.

(d) "**Loss**" means damages, judgments (including pre-judgment and post-judgment interest on that part of any judgment paid under this **Coverage Section**), settlements and **Defense Costs**; however, **Loss** (other than **Defense Costs**) shall not include: (1) civil or criminal fines or penalties; (2) taxes; (3) any amount for which the **Insureds** are not financially liable or which are without legal recourse to the **Insureds**; and (4) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

Notwithstanding the foregoing paragraph, "**Loss**" shall specifically include (subject to this policy's other terms, conditions and limitations, including but not limited to Exclusions (a) and (b) of this **Coverage Section** and Exclusion (a) of the General Terms and Conditions): (1) civil penalties assessed against any **Individual Insured** pursuant to Section 2(g) (2)(B) of the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(g)(2)(B); and (2) punitive, exemplary and multiple damages. Enforceability of this paragraph shall be governed by such applicable law that most favors coverage for such penalties and punitive, exemplary and multiple damages. For purposes of such coverage, "applicable law" includes, but is not limited to, the following jurisdictions: (a) where the **Wrongful Act** actually or allegedly took place; (b) where the damages are awarded; (c) where the **Named Entity** resides, is incorporated or has its principal place of business; and (d) where the **Insurer** is incorporated or has its principal place of business.

In the event of a **Claim** alleging that the price or consideration paid or proposed to be paid for the acquisition or completion of the acquisition of all or substantially all the ownership interest in or assets of an entity is inadequate, **Loss** with respect to such **Claim** shall not include any amount of any judgment or settlement representing the amount by which such price or consideration is effectively increased; provided, however, that this paragraph shall not apply to **Defense Costs** or to any **Non-Indemnifiable Loss** in connection therewith.

The term "**Loss**" shall include **Investigation Costs**, but solely with respect to the coverage provided by Coverage C.

(e) "**Securities Claim**" means a **Claim** (including a civil lawsuit or criminal proceeding brought by the Securities & Exchange Commission) made against an **Insured** anywhere in the world alleging a violation of any law, regulation or rule, whether statutory or common law, which is:

- (1) brought by any person or entity alleging, arising out of, based upon or attributable to, in part or in whole, the purchase or sale, or offer or solicitation of an offer to purchase or sell, any securities of the **Company**, or
- (2) brought by a security holder of the **Company**, whether directly, by class action, or derivatively on the behalf of the **Company**, or otherwise, with respect to such security holder's interest in securities of such **Company**.

(f) "**Settlement Opportunity**" means an **Insurer** recommended settlement that is within the **Policy Aggregate Limit of Liability** or **Separate Limit of Liability**, if any, and that is acceptable to the claimant, provided that the **Insureds** consent to such settlement within thirty (30) days of the date the **Insureds** are first made aware of the **Settlement Opportunity**, or in the case of a

Settlement Opportunity which arises from a settlement offer by the claimant, then within the time permitted by the claimant to accept such settlement offer, but in all events no later than thirty (30) days after the settlement offer was made.

- (g) **“Wrongful Act”** means any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act:
- (1) with respect to any **Director or Officer or Employee** of the **Company**, by such **Director or Officer or Employee** in his or her capacity as such or any matter claimed against such **Director or Officer or Employee** solely by reason of his or her status as such;
 - (2) with respect to any **Outside Entity Executive**, by such **Outside Entity Executive** in his or her capacity as such or any matter claimed against such **Outside Entity Executive** solely by reason of his or her status as such; or
 - (3) with respect to Coverage B(i), by the **Company**.

3. EXCLUSIONS

In addition to the exclusions set forth in Clause 4 of the General Terms and Conditions, the **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:

- (a) arising out of, based upon or attributable to the committing of any deliberate criminal, fraudulent or dishonest act or any willful violation of any statute, rule or law by the **Insured**, if any final adjudication establishes that such deliberate criminal, fraudulent, dishonest act or willful violation of any statute, rule or law was committed;
- (b) arising out of, based upon or attributable to payments to an **Insured** of any remuneration without the previous approval of the stockholders of the **Company**, once any such unapproved payments shall be established by any final adjudication to have been illegal;
- (c) alleging, arising out of, based upon, or attributable to, directly or indirectly resulting from, in consequence of, or in any way involving, employment of any individual or any employment practice (including but not limited to wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim);
- (d) with respect to serving in a capacity as an **Outside Entity Executive**, for any **Wrongful Act** occurring prior to the **Continuity Date** if the **Insured** knew or could have reasonably foreseen that such **Wrongful Act** could lead to a **Claim** under this policy;
- (e) alleging, arising out of, based upon or attributable to, directly or indirectly, any actual or alleged act or omission of an **Individual Insured** serving in his or her capacity as a **Director or Officer or Employee** of any entity that is not the **Company** or an **Outside Entity**, or by reason of his or her status as a **Director or Officer or Employee** of such other entity;
- (f) for any **Wrongful Act** arising out of an **Individual Insured** serving in a capacity as an **Outside Entity Executive**, if such **Claim** is brought by the **Outside Entity** or a director, officer, trustee or governor thereof;
- (g) alleging, arising out of, based upon or attributable to, directly or indirectly, the purchase by the **Company** of securities of a “publicly traded entity” in a transaction which resulted, or would result, in such entity becoming an **Affiliate** or **Subsidiary** of the **Company**; provided, however, this

exclusion shall not apply in the event that within thirty (30) days prior to it becoming an **Affiliate** or **Subsidiary**, the **Named Entity** gives written notice of the transaction to the **Insurer** together with full particulars and underwriting information required and agrees to any additional premium or amendment of the provisions of this policy required by the **Insurer** relating to the transaction. Further, coverage as shall be afforded to the transaction is conditioned upon the **Named Entity** paying when due any additional premium required by the **Insurer** relating to the transaction. An entity is a "publicly traded entity" if any securities of such entity have previously been subject to a public offering;

(h) with respect to Coverage B(i) only:

- (1) for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, trade secret or any other intellectual property rights;
- (2) alleging, arising out of, based upon or attributable to, directly or indirectly, any actual or alleged contractual liability of any **Insured** under any contract or agreement (either oral or written);
- (3) seeking fines or penalties or non-monetary relief against the **Company**; provided, however, that this subsection (3) shall not apply to any **Securities Claim**;

(i) which is brought by, on behalf of or in the right of, the **Company** or any **Individual Insured** other than an **Employee** who is not a **Director or Officer**; or which is brought by any security holder or member of the **Company**, whether directly or derivatively, unless such security holder's or member's **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any **Individual Insured** of the **Company** or the **Company**; provided, however, this exclusion shall not apply to:

- (1) any **Claim** brought by an **Individual Insured** in the form of a cross-claim or third-party claim for contribution or indemnity which is part of, and results directly from a **Claim** that is covered by this policy;
- (2) any bankruptcy proceeding by or against a **Company**, any **Claim** brought by the examiner, trustee, receiver, liquidator or rehabilitator (or any assignee thereof) of such **Company**, if any;
- (3) any **Claim** brought by any past **Director or Officer** of a **Company** who has not served as a duly elected or appointed director, officer, trustee, governor, management committee member, member of the management board, general counsel or risk manager (or equivalent position) of or consultant for a **Company** for at least four (4) years prior to such **Claim** being first made against any person;
- (4) any **Claim** brought by a **Director or Officer** of a **Company** formed and operating in a **Foreign Jurisdiction** against such **Company** or any **Director or Officer** thereof, provided that such **Claim** is brought and maintained outside the United States, Canada or any other common law country (including any territories thereof); or
- (5) any **Securities Claim**, provided that such **Securities Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any **Company** or any **Director or Officer** of the **Company**; provided, however, solely with respect to this subsection (5), a **Director or Officer** of the **Company** engaging in any protected activity specified in 18 U.S.C. 1514A(a) ("whistleblower" protection pursuant to the Sarbanes-Oxley Act of 2002) or any protected activity specified in any other "whistleblower" protection pursuant to any similar state, local or foreign securities laws shall not be deemed to trigger this exclusion.

Notwithstanding the forgoing exception, this Exclusion (i) shall apply where the actions of any **Director or Officer** of the **Company** includes the filing of any proceeding or voluntarily testifying, voluntarily participating in or voluntarily assisting (other than de minimis assistance) in the filing or prosecution of any proceeding against an **Insured** relating to any violation of any rule or regulation of the Securities and Exchange Commission or any similar provision of any federal, state, local or foreign rule or law relating to fraud against shareholders, other than such actions in connection with a proceeding that is brought by the Securities and Exchange Commission, any similar state, local or foreign regulatory body that regulates securities, or any state, local or foreign law enforcement authority;

- (j) alleging, arising out of, based upon or attributable to, directly or indirectly, any **Insured(s)**' performance of or failure to perform professional services for others for a fee, or any act(s), error(s) or omission(s) relating thereto;
- (k) for emotional distress, or for injury from libel or slander, or defamation or disparagement, or for injury from a violation of a person's right of privacy; provided, however, that this exclusion shall not apply to any **Securities Claim**; or
- (l) alleging, arising out of, based upon or attributable to, directly or indirectly, any public offering of securities by the **Company**, an **Outside Entity** or an **Affiliate** or alleging a purchase or sale of such securities subsequent to such public offering;

provided, however, that this exclusion shall not apply to:

- (1) any purchase or sale of securities exempted pursuant to Section 3(b) of the Securities Act of 1933. Coverage for such purchase or sale transaction shall not be conditioned upon payment of any additional premium; however, the **Named Entity** shall give the **Insurer** written notice of any public offering exempted pursuant to Section 3(b), together with full particulars and as soon as practicable, but not later than thirty (30) days after the effective date of the public offering; or
- (2) any public offering of securities (other than a public offering described in subsection (1) above), as well as any purchase or sale of such securities subsequent to such public offering, in the event that within thirty (30) days prior to the effective time of such public offering: (i) the **Named Entity** shall give the **Insurer** written notice of such public offering together with full particulars and underwriting information required thereto, and (ii) the **Named Entity** accepts such terms, conditions and additional premium required by the **Insurer** for such coverage. Such coverage is also subject to the **Named Entity** paying when due any such additional premium. In the event the **Company** gives written notice with full particulars and underwriting information pursuant to (i) above, then the **Insurer** must offer a quote for coverage under this subsection (2).

For the purpose of determining the applicability of the foregoing Exclusions 3(a) and 3(b): (1) the facts pertaining to and knowledge possessed by any **Insured** shall not be imputed to any other **Individual Insured**; and (2) facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer or general counsel (or equivalent positions) of the **Company** shall be imputed only to the **Company**.

4. LIMIT OF LIABILITY

Clause 5 of the General Terms and Conditions is modified to the extent necessary to provide the following:

The maximum limit of the **Insurer's** liability for **Investigation Costs** arising from all **Investigations** combined occurring during the **Policy Period** or the **Discovery Period** (if applicable), in the aggregate, shall be the amount stated in Item 5(b) of the Declarations (hereinafter, "**Derivative Investigation Sublimit of Liability**"). The **Derivative Investigation Sublimit of Liability** shall be the aggregate limit of the **Insurer's** liability under this policy regardless of the number of such **Investigations** occurring during the **Policy Period** or the **Discovery Period** (if applicable), or the number of **Directors or Officers** subject to such **Investigations**. Provided, however, that the **Derivative Investigation Sublimit of Liability** shall be part of and not in addition to the **Policy Aggregate Limit of Liability** stated in Item 5(a) of the Declarations or any **Separate Limit of Liability** or **Shared Limit of Liability** applicable to this **Coverage Section** as stated in Item 3 of the Declarations, and will in no way serve to increase the **Insurer's Policy Aggregate Limit of Liability** or any **Separate Limit of Liability** or **Shared Limit of Liability** as stated therein.

5. DEFENSE COSTS, SETTLEMENTS, JUDGMENTS (INCLUDING THE ADVANCEMENT OF DEFENSE COSTS)

The **Insurer** does not assume any duty to defend. The **Insureds** shall defend and contest any **Claim** made against them.

Notwithstanding the foregoing, the **Insureds** shall have the right to tender the defense of any **Claim** to the **Insurer**, which right shall be exercised in writing by the **Named Entity** on behalf of all **Insureds** to the **Insurer** pursuant to the notice provisions of Clause 7 of the General Terms and Conditions. This right shall terminate if not exercised within thirty (30) days of the date the **Claim** is first made against an **Insured**, pursuant to Clause 7 of the General Terms and Conditions. Further, from the date the **Claim** is first made against the **Insureds** to the date when the **Insurer** accepts the tender of the defense of such **Claim**, the **Insureds** shall take no action, or fail to take any required action, that prejudices the rights of the **Insureds** or the **Insurer** with respect to such **Claim**. Provided that the **Insureds** have complied with the foregoing, the **Insurer** shall be obligated to assume the defense of the **Claim**, even if such **Claim** is groundless, false or fraudulent. The assumption of the defense of the **Claim** shall be effective upon written confirmation sent thereof by the **Insurer** to the **Named Entity**. Once the defense has been so tendered, the **Insured** shall have the right to effectively associate with the **Insurer** in the defense and negotiation of any settlement of any **Claim**, subject to the provisions of this Clause 5. However, the **Insurer** shall not be obligated to defend such **Claim** after the **Policy Aggregate Limit of Liability** or **Separate Limit of Liability** or **Shared Limit of Liability**, if any, has been exhausted, or after an **Insured's** rejection of a **Settlement Opportunity**.

When the **Insurer** has not assumed the defense of a **Claim** pursuant to this Clause 5, the **Insurer** shall advance nevertheless, at the written request of the **Insured**, **Defense Costs** prior to the final disposition of a **Claim**. Such advanced payments by the **Insurer** shall be repaid to the **Insurer** by the **Insureds** or the **Company**, severally according to their respective interests, in the event and to the extent that the **Insureds** or the **Company** shall not be entitled under the terms and conditions of this policy to payment of such **Loss**.

The **Insureds** shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any **Defense Costs** without the prior written consent of the **Insurer**. Only those settlements, stipulated judgments and **Defense Costs**, which have been consented to by the

Insurer, in writing, shall be recoverable as Loss under the terms of this policy. The Insurer's consent shall not be unreasonably withheld, provided that the Insurer, when it has not assumed the defense of a Claim pursuant to this Clause 5, shall be entitled to fully and effectively associate in the defense and negotiation of any settlement of any Claim, and provided further that in all events the Insurer may withhold consent to any settlement, stipulated judgment or Defense Costs, or any portion thereof, to the extent such Loss is not covered under the terms of this policy.

The **Insurer** shall have the right to fully and effectively associate with the **Company** in the defense of any **Claim** that appears reasonably likely to involve the **Insurer**, including but not limited to negotiating a settlement. The **Company** and the **Insureds** shall give the **Insurer** full cooperation and such information as it may reasonably require.

In the event the **Insureds** do not consent to the first **Settlement Opportunity**, then, subject to the **Policy Aggregate Limit of Liability** and **Separate Limit of Liability** or **Shared Limit of Liability**, if any, the **Insurer's** liability for all **Loss** on account of such **Claim** shall not exceed: (1) the amount for which the **Insurer** could have settled such **Claim** plus **Defense Costs** incurred as of the date such settlement was proposed in writing by the **Insurer** ("**Settlement Opportunity Amount**"), plus (2) 60% of covered **Loss** in excess of such **Settlement Opportunity Amount**, it being a condition of this insurance that the remaining 40% of such **Loss** excess of the **Settlement Opportunity Amount** shall be carried by the **Company** and the **Insureds** at their own risk and be uninsured. Notwithstanding the foregoing, this paragraph shall not apply until the **Settlement Opportunity Amount** exceeds the applicable Retention amount stated in Item 3 of the Declarations.

With respect to: (i) **Defense Costs** jointly incurred by, (ii) any joint settlement entered into by, or (iii) any judgment of joint and several liability against the **Company** and any **Individual Insured** in connection with any **Claim**, there shall be a fair and equitable allocation as between the **Company** and any such **Individual Insured**, taking into account the relative legal and financial exposures and the relative benefits obtained by any such **Individual Insured** and the **Company**, without any presumption that the coverage afforded to the **Individual Insured** shall in any way reduce the allocation to the **Company** which shall not be insured for such allocation. In the event that a determination as to the amount of **Defense Costs** to be advanced under the policy cannot be agreed to, then the **Insurer** shall advance **Defense Costs** excess of any applicable Retention amount which the **Insurer** states to be fair and equitable until a different amount shall be agreed upon or determined pursuant to the provisions of this policy and applicable law.

This Clause 5 shall not be applicable to **Costs of Investigation**.

6. PRE-AUTHORIZED DEFENSE ATTORNEYS

This Clause 6 applies only to **Securities Claims**. Affixed as Appendix DO-1 hereto and made a part of this policy is a list of panel counsel law firms (herein "**Panel Counsel Firms**") from which a selection of legal counsel shall be made to conduct the defense of any **Securities Claim** against any **Insured** pursuant to the terms set forth below.

In the event the **Insurer** has assumed the defense pursuant to Clause 5, then the **Insurer** shall select a **Panel Counsel Firm** to defend the **Insureds**. In the event the **Insureds** are already defending a **Claim**, then the **Insureds** shall select a **Panel Counsel Firm** to defend the **Insureds**.

The selection of the **Panel Counsel Firm**, whether done by the **Insurer** or the **Insureds**, shall be from the list of **Panel Counsel Firms** and be from the jurisdiction in which the **Claim** is brought. In the

event a **Securities Claim** is brought in a jurisdiction not included on the appropriate list, the selection shall be made from a listed jurisdiction which is the nearest geographic jurisdiction to either where the **Securities Claim** is maintained or where the corporate headquarters or state of formation of the **Named Entity** is located. In such instance, however, the **Insurer** shall, at the written request of the **Named Entity** assign a non-Panel Counsel Firm of the **Insurer's** choice in the jurisdiction in which the **Securities Claim** is brought to function as "local counsel" on the **Claim** to assist the **Panel Counsel Firm**, which will function as "lead counsel" in conducting the defense of the **Securities Claim**.

With the express prior written consent of the **Insurer**, an **Insured** may select (in the case of the **Insured** defending the **Securities Claim**), or cause the **Insurer** to select (in the case of the **Insurer** defending the **Securities Claim**), a **Panel Counsel Firm** different from that selected by other **Insured** defendants if such selection is required due to an actual conflict of interest.

The list of **Panel Counsel Firms** may be amended from time to time by the **Insurer**. However, no change shall be made to the specific list attached to this policy during the **Policy Period** without the consent of the **Named Entity**.

7. REPRESENTATIONS AND SEVERABILITY

In granting coverage under this **Coverage Section**, it is agreed that the **Insurer** has relied upon the statements, warranties and representations contained in the application for this policy (including materials submitted thereto and, if this is a renewal application, all such previous policy applications for which this policy is a renewal) as being accurate and complete. All such statements, warranties and representations are the basis for this **Coverage Section** and are to be considered as incorporated into this **Coverage Section**.

The **Insureds** agree that in the event that such statements, warranties and representations are not accurate and complete and materially affect either the acceptance of the risk or the hazard assumed by the **Insurer** under the policy, then this **Coverage Section** shall be void *ab initio* solely with respect to any of the following **Insureds**:

- (a) solely with respect to **Loss** other than **Non-Indemnifiable Loss**, any **Individual Insured** who knew as of the inception date of the **Policy Period** the facts that were not accurately and completely disclosed in the application;
- (b) a **Company**, under Clause 1. Insuring Agreements, COVERAGE B(ii), to the extent it indemnifies any **Individual Insured** referenced in (a) above; and
- (c) a **Company**, under Clause 1. Insuring Agreement, COVERAGE B(i), if any past or present chief executive officer, chief financial officer or general counsel (or any equivalent position) of the **Company** knew as of the inception date of the **Policy Period**, the facts that were not accurately and completely disclosed in the application;

whether or not such **Individual Insured** knew that such facts were not accurately and completely disclosed in the application.

Except as provided in (a) through (c) above, no **Individual Insured's** knowledge shall be imputed to any other **Insured**.

Solely with respect to any **Non-Indemnifiable Loss** of any **Individual Insured**, under no circumstances shall the coverage provided by this **Coverage Section** be deemed void, whether by rescission or

otherwise, but such coverage will be subject to all other terms, conditions and exclusions of the policy.

8. ORDER OF PAYMENTS

In the event of **Loss** arising from a covered **Claim** for which payment is due under the provisions of this **Coverage Section**, then the **Insurer** shall in all events:

- (a) first, pay **Loss** for which coverage is provided under Coverage A of this **Coverage Section**; then
- (b) only after payment of **Loss** has been made pursuant to Clause 8(a) above, with respect to whatever remaining amount of the **Policy Aggregate Limit of Liability** or **Separate Limit of Liability** or **Shared Limit of Liability**, if any, is available after such payment, at the written request of the **Named Entity**, either pay or withhold payment of such other **Loss** for which coverage is provided under Coverage B(ii) of this **Coverage Section**; and then
- (c) only after payment of **Loss** has been made pursuant to Clause 8(a) and Clause 8(b) above, with respect to whatever remaining amount of the **Policy Aggregate Limit of Liability** or **Separate Limit of Liability** or **Shared Limit of Liability**, if any, is available after such payment, at the written request of the **Named Entity**, either pay or withhold payment of such other **Loss** for which coverage is provided under Coverages B(i) and C of this **Coverage Section**.

In the event the **Insurer** withholds payment pursuant to Clause 8(b) and/or Clause 8(c) above, then the **Insurer** shall at such time and in such manner as shall be set forth in written instructions of the **Named Entity** remit such payment to the **Company** or directly to or on behalf of an **Individual Insured**.

The bankruptcy or insolvency of any **Company** or any **Individual Insured** shall not relieve the **Insurer** of any of its obligations to prioritize payment of covered **Loss** under this policy pursuant to this Clause 8.

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