

## CORPORATE IDENTITY PROTECTION

Please read the entire **policy** to determine the **insured's** rights and duties and what is and what is not covered under this **policy**. Words and phrases that appear in boldface are defined in Clause III., **DEFINITIONS**.

In consideration of the payment of the premium and in reliance upon the statements in the application and its attachments and the material incorporated therein, and made a part hereof, **we** agree as follows:

### I. INSURING AGREEMENTS

#### A. Personal Identity Liability

**We** shall pay on behalf of the **insured**, those amounts in excess of any applicable Retention, the **insured** is legally obligated to pay as **damages** resulting from a **claim** arising from a **personal identity event** first discovered by an **insured** during the **policy period** and reported to **us** within the **notice period**.

#### B. Administrative Action

**We** shall pay the **insured** for all reasonable **administrative expenses**, in excess of any applicable Retention, resulting from an **administrative action** arising from a **personal identity event** first discovered by an **insured** during the **policy period** and reported to **us** within the **notice period**.

#### C. Identity Event Services

**We** shall pay the **organization** for all reasonable **notification costs**, **crisis expenses** and **post event services expenses**, in excess of any applicable Retention, resulting from a **personal identity event** first discovered by an **insured** during the **policy period** and reported to **us** within the **notice period**.

### II. DEFENSE

Solely with respect to coverage afforded under Insuring Agreement I.A, **Personal Identity Liability**:

**A. *Our Duty To Defend Insureds*: We** have the right and the duty to defend a **suit** brought against any **insured** arising from an otherwise covered **personal identity event**, even if the **suit** is groundless or fraudulent.

**B. *Our Right to Settle Claims*: We** have the right, but not the duty, to settle any **claim**, with the written consent of the **insured**.

**C. *Defense Costs*: We** shall pay for **defense costs** any **insured** incurs with **our** prior written consent in the defense of a **suit** for covered **personal identity events** occurring during the **policy period**. **We** have the right, but not the duty, to investigate any **claim** against any **insured**. In the event **we** investigate any **claim** and the **insured** incurs **defense costs** with **our** prior written consent as a result of such investigation, **we** shall pay such **defense costs**.

**D. *Insureds' Right To Settle*: The insured** may settle any **claim** or **suit** to which this insurance applies provided that the **insured** does so (i) on behalf of all **insureds**, and (ii) for an amount not exceeding the applicable Retention (inclusive of **defense costs**).

**E. *When Our Duty to Defend Ends*: Our** duty to defend ends upon the exhaustion of the Aggregate Limit of Insurance or applicable Sublimit of Insurance set forth in the Declarations by payment of **damages** and/or **defense costs**. **Our** duty to defend also ends if any **insured** fails or refuses to consent to any settlement **we** recommend and the claimant will accept. The **insured** must then defend the **claim** at the **insured's** own expense. As a consequence of such failure or refusal, **our**

liability for all **damages** and/or **defense costs** shall not exceed the amount for which **we** could have settled the **claim** had the **insured** consented, plus **defense costs** incurred prior to the date of such failure or refusal, plus fifty percent (50%) of the **defense costs** incurred with **our** consent after the date of such failure or refusal.

### III. DEFINITIONS

**A. Administrative action** means and is limited to:

1. an investigation of the **insured** after written notice is sent to the **insured** by,
2. negotiation of a consent order against the **insured** with, or
3. formal adversarial administrative proceeding against the **insured** instituted by,

a United States or Canadian federal, state, provincial or territorial regulatory agency, arising solely out of a **personal identity event** first discovered by an **insured** during the **policy period** and reported to **us** within the **notice period**.

**B. Administrative expenses** means reasonable attorneys' fees and expenses for legal services incurred by the **insured** with **our** prior written consent, in the defense and investigation of an **administrative action**, provided that these services are not performed by employees of the **organization**. All **administrative expenses** incurred with respect to appeals and proceedings, or a series of continuous or interrelated appeals and proceedings arising out of an **administrative action** shall be considered as part of the original **administrative action**. **Administrative expenses** shall not include ongoing monitoring or the costs of implementing any changes required or consented to for regulatory compliance.

**C. Claim** means a written demand for payment of money, including a **suit**.

**D. Crisis expenses** means the reasonable and necessary charges and fees incurred by an **organization** within six (6) months following discovery of a **personal identity event** covered under this **policy**, for:

1. the services of a public relations firm, crisis management firm, or law firm hired or appointed by **us**, or by the **organization** with **our** prior written consent, retained solely for the purpose of restoring the confidence of the **organization's** customers, investors and employees; and
2. the services of a forensic investigator or firm hired or appointed by **us**, or by the **organization** with **our** prior written consent, retained solely for the purposes of determining the extent of the **personal identity event** and the identities of those individuals whose **personally identifiable information** is, or may have been, the subject of such **personal identity event**.

**E. Damages** means any amount that the **insured** shall be legally required to pay because of civil judgments or arbitration awards rendered against the **insured**, or for settlements negotiated by **us** or the **insured** in accordance with Clause II. **DEFENSE**. **Damages** shall also include punitive, exemplary and multiple damages; provided, however, the enforceability of such coverage shall be governed by such applicable law which most favors coverage for punitive, exemplary and multiple damages.

**Damages**, however, shall not include civil or criminal fines or penalties imposed by law, liquidated damages, taxes, or any amount for which an **insured** is not financially liable or which is without legal recourse to an **insured** or matters which may be deemed uninsurable under the law pursuant to which this **policy** is construed.

**F. Defense costs** means reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without

any obligation to apply for or furnish any such bond or to appeal), charged by an attorney and incurred by **us** or by the **insured** with **our** written consent, and resulting solely from the investigation, adjustment, defense and appeal of any **claim** against the **insured**. **Defense costs** shall not include compensation or expenses of any **insured**.

- G. Information holder** means a third party that the **insured** has provided **personally identifiable information** to and with whom an **insured** has entered into a contract that requires such party to protect such **personally identifiable information**.
- H. Insured** means each and every (i) **organization**; and (ii) any partner, officer, director, trustee or employee of an **organization**, in their capacity as such and with respect to their duties as such.
- I. Named insured** means the entity indicated as such in Item 1. of the Declarations.
- J. Notification costs** means and is limited to the reasonable and necessary costs incurred by an **organization** with **our** prior written consent, within one (1) year following discovery of a **personal identity event** covered under this **policy**, for:
1. newspaper or other printed media, radio and television advertisements, or correspondence intended to inform or educate the general public, that cite a **personal identity event** and advise any individual whose **personally identifiable information** is the subject of such **personal identity event** of any available remedy; and
  2. correspondence or any other communication directed to any individual whose **personally identifiable information** is the subject of a **personal identity event** for purposes of notifying them of the **personal identity event** and any available remedy.
- K. Notice period** means the sixty (60) day period of time the **insured** shall have to notify **us** that a **personal identity event** has occurred. The **notice period** shall commence immediately upon first discovery of the **personal identity event** by an **insured**.
- L. Organization** means (1) the **named insured**; and (2) each **subsidiary**.
- M. Personally identifiable information** means any of the following: (1) information from which an individual may be uniquely and reliably identified or contacted, including without limitation, an individual's name, address, telephone number, social security number, account relationships, account numbers, account balances, account histories and passwords; (2) information concerning an individual that would be considered "nonpublic personal information" within the meaning of Title V of the Gramm-Leach Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338) (as amended) and its implementing regulations; and (3) information concerning an individual that would be considered "protected health information" within Health Insurance Portability and Accountability Act of 1996 (as amended) and its implementing regulations.
- N. Personal identity event** means any event involving an **organization** that has resulted in, or could reasonably result in, the fraudulent use of **personally identifiable information**, that is or was in the care, custody or control of an **insured** or **information holder**. All **claims, administrative actions, damages, defense costs, administrative expenses, notification costs, crisis expenses** and **post event services expenses** resulting from the same, continuous, related or repeated event or which arise from the same, related or common nexus of facts will be deemed to arise out of one **personal identity event**.
- O. Policy** means this **policy** and any endorsements attached hereto, together with the application with any attachments thereto and material incorporated therein.
- P. Policy period** means the period commencing on the effective date specified in Item 2. of the Declarations and ending on the earlier of either the expiration date specified in Item 2 of the Declarations or the effective date of cancellation of this **policy**.
- Q. Pollutants** means, but are not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs,

soot, fumes, asbestos, acids, alkalis, chemicals and waste. "Waste" includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

- R. **Post event services expenses** means reasonable fees and expenses incurred by an **organization** with **our** prior written consent, for any service specifically approved by **us** in writing, including without limitation, identity theft education and assistance and credit file monitoring. Such services must be provided by or on behalf of an **organization** within one (1) year following discovery of a **personal identity event** covered under this **policy** to any individual whose **personally identifiable information** is the subject of that **personal identity event** for the primary purpose of mitigating the effects of such **personal identity event**.
- S. **Privacy policy** means any policy in any form regarding the collection, dissemination, storage, or treatment of information regarding customers, visitors to an Internet site, or other persons.
- T. **Subsidiary** means any entity that is specifically identified as such by endorsement to this **policy**.
- U. **Suit** means a civil proceeding seeking monetary relief that is commenced by the service of a summons and a complaint or similar pleading. **Suit** shall also include a binding arbitration proceeding in which monetary relief is alleged and to which the **insured** must submit or does submit with **our** prior written consent.
- V. **We, us** and **our** mean the insurer issuing this **policy**.

#### IV. DUTIES IN THE EVENT OF A PERSONAL IDENTITY EVENT

- A. Before coverage will apply under this **policy**, the **insured** shall notify **us** in writing as soon as practicable within the **notice period** of a **personal identity event** first discovered by an **insured** during the **policy period**. Notice must include:
  - 1. How, when, and where the **personal identity event** took place;
  - 2. The number of individuals and type of **personally identifiable information** involved in the **personal identity event**; and
  - 3. Upon request by **us**, the names and addresses of individuals affected by the **personal identity event**.
- B. The **insured** shall also provide **us** written notice of any **claim** or **administrative action** arising from such **personal identity event** reported in accordance with paragraph A above, as soon as practicable after such **claim** or **administrative action** is made.
- C. In the event of a **claim**, the **insured** shall immediately record the specifics of the **claim** and the date such **insured** first received such **claim**. The **insured** shall also:
  - 1. Immediately send **us** copies of all demands, notices, summonses or other legal documents received in connection with the **claim**;
  - 2. Authorize **us** to obtain records and other information; and
  - 3. Give **us** and any counsel **we** select to represent an **insured** in connection with a **suit** or to investigate any **claim**, full cooperation and such information as **we** or such counsel may reasonably require, including, but not limited to, assisting **us** or such counsel in:
    - (i) any investigation of a **claim**, or other matter relating to the coverage afforded under this policy (including submission to an examination by **us** or **our** designee, under oath if required by **us**);
    - (ii) making settlements;
    - (iii) enforcing any legal rights the **insured** or **we** may have against any person or entity who may be liable to the **insured**;
    - (iv) attending depositions, hearings and trials;

(v) securing and giving evidence, and obtaining the attendance of witnesses; and

(vi) any inspection or survey conducted by us.

D. In the event of an **administrative action**, the **insured** shall notify **us** whether the **insured** has any other insurance policy, prepaid legal service contract or legal practitioner retainer agreement available to him/her with respect to such **administrative action**. The **insured** shall also:

1. Send to **us**, as soon as practicable, copies of any notices, complaints or other legal papers received in connection with any **administrative action**;
2. Authorize **us** to obtain records and other information; and
3. Furnish **us**, upon **our** request, with records and other information and submit to an interview by **us** or **our** representative concerning the full extent of their knowledge of the events leading to the **administrative action**. **We** shall also be entitled to immediately receive upon request copies of any regulatory agency correspondence the **insured** received relating to such **administrative action**, including without limitation any correspondence which may have predated the date of application for coverage under this **policy**.

E. Under all circumstances, no **insured** shall admit any liability, assume any financial obligation, pay any money, or incur any expense in connection with any **personal identity event** without **our** prior written consent. If any **insured** does, it will be at such **insured's** own expense. The foregoing sentences of this paragraph IV.C. shall not apply to a settlement pursuant to Clause II. **DEFENSE**, paragraph D. of this **policy** so long as the **insured** provides **us** written notice of such settlement as soon as practicable, but in no case later than thirty (30) days after such settlement is reached in principle.

F. The **insured** shall take reasonable steps to prevent a **personal identity event** and to mitigate the **damages** arising out of a **personal identity event**. In all events, no **insured** shall take any action, or fail to take any action, without **our** prior written consent, which prejudices **our** rights under this **policy**, except as indicated in Clause II. **DEFENSE**, paragraph D.

## V. ADDITIONAL OBLIGATIONS

In addition to all other duties and obligations contained elsewhere in this **policy**:

- A. The **organization** shall allow **us** to examine and audit all of the **organization's** records that relate to this **policy**. **We** may conduct the audits during regular business hours during the **policy period** and within three (3) years after the **policy period** ends; and
- B. The **named insured** shall pay all premium under this **policy** when due. The **named insured** shall also act on behalf of each and every **insured** with respect to the giving and receiving of any notice under this **policy**, including, but not limited to, notice of a **personal identity event** and any **claim** or **administrative action** arising out of such **personal identity event**.

## VI. EXCLUSIONS

This **policy** shall not apply to:

A. any **damages**, **defense costs**, **administrative expenses**, **notification costs**, **crisis expenses**, and **post event services expenses** arising out of or resulting, directly or indirectly, from any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law or the **privacy policy** of the **organization**, or gaining of any profit or advantage to which the **insured** is not legally entitled, if committed by any of the **organization's**:

1. directors, officers, trustees, governors, management committee members, members of the management board or partners (or the equivalent positions), whether acting alone or in collusion with other persons; or

2. employees (other than officers), if any of the **organization's** elected or appointed officers possessed knowledge of any such:
  - a) dishonest, fraudulent, criminal or malicious act, error or omission;
  - b) intentional or knowing violation of the law or the **privacy policy** of the **organization**; or
  - c) gaining of any profit or advantage to which the **insured** is not legally entitled, prior to or at the time (a), (b) or (c) above were committed;

provided, however, we will defend **suits** alleging any of the foregoing conduct, until there is a judgment against, final adjudication against, adverse finding of fact against, adverse admission by, or plea of *nolo contendere* or no contest by, the **insured** as to such conduct, at which time the **insured** shall reimburse **us** for **defense costs**;

- B.** any **personal identity event** that any of the **organization's** directors, officers, trustees, governors, management committee members, members of the management board or partners (or the equivalent positions) knew or reasonably could have foreseen prior to the occurrence of that **personal identity event**;
- C.** any **damages, defense costs, administrative expenses, notification costs, crisis expenses, and post event services expenses** arising out of or resulting, directly or indirectly, from physical injury, sickness, disease, disability, shock or mental anguish sustained by any person, including without limitation, required care, loss of services or death at any time resulting therefrom;
- D.** any **damages, defense costs, administrative expenses, notification costs, crisis expenses, and post event services expenses** arising out of or resulting, directly or indirectly, from any of the following:
  1. fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused;
  2. strikes or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions; or
  3. electrical or mechanical failures, including any electrical power interruption, surge, brownout or blackout; a failure of telephone lines, data transmission lines, satellites or other infrastructure comprising or supporting the Internet, unless such lines or infrastructure were under the **insured's** operational control;
- E.** any **damages, defense costs, administrative expenses, notification costs, crisis expenses, and post event services expenses** arising out of or resulting, directly or indirectly, from the presence of or the actual, alleged or threatened discharge, dispersal, release or escape of **pollutants** (including nuclear materials), or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **pollutants**, or in any way respond to or assess the effects of **pollutants**;
- F.** any **personal identity event** that was not properly reported to **us** during the **notice period**;
- G.** any **claim** seeking non-monetary relief, including without limitation, injunctive relief, declaratory relief, or other equitable remedies;
- H.** any expenses incurred as a result of regularly scheduled, recurring or routine regulatory examinations, inquiries or compliance activities;
- I.** any liability or obligation of any **insured** under any contract or agreement; however, this exclusion shall not apply to liability the **insured** would have in the absence of such contract or agreement;

- J.** any **claim** alleging, arising out of or resulting, directly or indirectly, from any purchase, sale, or offer or solicitation of an offer to purchase or sell securities, or any violation of any securities law, including the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or any regulation promulgated under the foregoing statutes, or any federal, state or local laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law;
- K.** any **personal identity event** resulting from failure of the **insured**:
1. to use, maintain and update at a minimum every ninety (90) days, when necessary, anti-virus software, firewall software on all broadband or high-speed connections to the Internet and software security patches; or
  2. to comply with all data security standards issued by credit card issuers or financial institutions with whom the **insured** transacts business, if the **insured** processes, stores or handles credit card information;
- L.** any **personal identity event** that first occurred prior to the Retroactive Date set forth in Item 6. of the Declarations;
- M.** any **damages, defense costs, administrative expenses, notification costs, crisis expenses, and post event services expenses** arising out of or resulting, directly or indirectly, from the infringement of copyright, patent, trademark, trade secret or other intellectual property rights;
- N.** any **damages, defense costs, administrative expenses, notification costs, crisis expenses, and post event services expenses** alleging, arising out of or resulting, directly or indirectly, from any discrimination against any person or entity on any basis, including but not limited to: race, creed, color, religion, ethnic background, national origin, age, handicap, disability, sex, sexual orientation or pregnancy; or
- O.** any **claim** against an **insured** that is brought, directly or indirectly, by or on behalf of:
1. any **insured**;
  2. any entity that is owned, managed or operated, directly or indirectly, in whole or in part, by an **insured**; or
  3. any parent company, subsidiary, director, officer, partner, trustee, successor or assignee of an **insured**, or anyone affiliated with an **insured** or such business entity through common majority ownership or control,

provided, however, this exclusion shall not apply to any **claim** brought by or on behalf of an **insured** whose **personally identifiable information** is the subject of an otherwise covered **personal identity event**. Notwithstanding the foregoing, there shall be no coverage for any counterclaims against such **insured**.

Provided further, however, this **policy** shall apply to **defense costs** incurred in connection with any cross claim for contribution or indemnity that is part of an otherwise covered **claim** and is brought by one **insured** against another **insured**.

## VII. LIMITS OF INSURANCE

- A.** The Aggregate Limit of Insurance indicated in Item 3 of the Declarations of this **policy** will be the most **we** shall pay for all coverages combined, regardless of the number of **personal identity events**, persons, entities, **claims** or **administrative actions** covered by this **policy**, or claimants, **claims** or **administrative actions** made and regardless of the total of all **damages, defense costs, administrative expenses, notification costs, crisis expenses** and **post event services expenses** resulting from all **personal identity events** first discovered by an **insured** during the **policy period** and reported to us within the **notice period**.

**B. All claims, administrative actions, damages, defense costs, administrative expenses, notification costs, crisis expenses and post event services expenses** resulting from the same, continuous, related or repeated **personal identity event** shall be subject to the terms, conditions, exclusions and Aggregate Limit of Insurance of the Corporate Identity Protection policy issued by **us** to the **named insured** in effect at the time the first such **personal identity event** is first discovered by an **insured**.

**C. The most we shall pay for the total of all:**

1. **damages and defense costs** is the Sublimit of Insurance indicated in Item 4.A. of the Declarations;
2. **administrative expenses** is the Sublimit of Insurance indicated in Item 4.B. of the Declarations; and
3. **notification costs, crisis expenses and post event services expenses** Sublimit of Insurance indicated in Item 4.C. of the Declarations;

regardless of the number of **personal identity events** first discovered by an **insured** during the **policy period** and reported to **us** within the **notice period**. The applicable Sublimits of Insurance shall be part of, and not in addition to the Aggregate Limit of Insurance, and shall be excess of any applicable Retention, resulting from all **personal identity events** first discovered by an **insured** during the **policy period** and reported to **us** within the **notice period**.

**D. Solely with respect to Insuring Agreement I.A, Personal Identity Liability, we shall also pay all interest on that amount of any judgment for a covered personal identity event that is within the applicable Sublimit of Insurance:**

1. which accrues after entry of judgment; and
2. before **we** have paid, offered to pay, or deposited in court that part of the judgment within **our** applicable Limit of Insurance.

Any such payment shall be part of, and not in addition to, the Aggregate Limit of Insurance.

## VIII. RETENTION

The **insured** shall be responsible for the Retention set forth in the Declarations and such Retention amount must remain uninsured. The Retention applies to each **personal identity event**. In **our** sole and absolute discretion without prior notice to the **insured, we** may advance all or part of the Retention in which case the **insured** agrees to repay **us** promptly after **we** notify the **insured** of that payment.

## IX. OTHER PROVISIONS AFFECTING COVERAGE

### A. Coverage Territory

Subject to its terms, conditions and exclusions, this **policy** applies to a **personal identity event** occurring anywhere in the world, but **we** shall only pay for **damages, defense costs, administrative expenses, notification costs, crisis expenses and post event services expenses** incurred in the United States of America, its territories and possessions, or Canada.

### B. Legal Action Against Us

1. With respect to Insuring Agreement I. A., no person or organization has a right under this **policy**:
  - a) to join **us** as a party or otherwise bring **us** into a **suit** asking for **damages** from an **insured**; or
  - b) to sue **us** on this **policy** unless all of its terms have been fully complied with.

A person or organization may sue **us** to recover on an agreed settlement or on a final judgment against an **insured** obtained after an actual trial; but **we** will not be liable for

**damages** that are not payable under the terms of this **policy** or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by **us**, the **insured** and the claimant or the claimant's legal representative.

2. Except as provided in paragraph IX.H. of this **policy**, with respect to Insuring Agreements I.B. and I.C., no legal action may be brought or made against **us** under this **policy** unless:
  - a) there has been full compliance with all of the terms of this **policy**; and
  - b) with respect to Insuring Agreement I. C., the action is brought within two (2) years after the date on which a **personal identity event** is first discovered by an **insured**.

### C. Subrogation

In the event of any payment under this **policy**, **we** shall be subrogated to the extent of such payment, to all rights of recovery of all **insureds** arising out of a covered **personal identity event**. The **insureds** shall do whatever is necessary, including signing documents, to help **us** obtain that recovery.

### D. Other Insurance

This **policy** shall be primary with respect to any other valid and collectible insurance available to any **insured**, unless such other valid and collectible insurance is also stated to be primary. In that case, **we** will share with all other insurance by the method described below.

1. If all of the other insurance permits contribution by equal shares, **we** will follow this method also. Under this approach, each insurer shall contribute equal amounts in excess of the applicable Retention until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.
2. If any of the other insurance does not permit contribution by equal shares, **we** will contribute by limits. Under this method, each insurer's share shall be based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### E. Assignment

This **policy** and any rights provided by this insurance are not assignable without **our** written consent.

### F. Changes

Changes to the provisions of this **policy** shall be made only by written endorsement issued by **us** and made a part of this **policy**.

### G. Reimbursement

Payments made under this **policy** to or on behalf of any **insureds** shall be repaid to **us** by such **insureds**, severally according to their respective interests, in the event and to the extent that such **insureds** shall not be entitled to such payment.

### H. Alternative Dispute Resolution

It is hereby understood and agreed that all disputes or differences which may arise under or in connection with this policy, whether arising before or after termination of this policy, including any determination of the amount of **damages**, **defense costs**, **administrative expenses**, **notification costs**, **crisis expenses** and **post event services expenses**, must first be submitted to the non-binding mediation process as set forth in this clause.

The non-binding mediation will be administered by any mediation facility to which **we** and the **named insured** mutually agree, in which all implicated **insureds** and **we** shall try in good faith to settle the dispute by mediation in accordance with the American Arbitration Association's ("AAA") then-prevailing Commercial Mediation Rules. The parties shall mutually agree on the selection of a mediator. The mediator shall have knowledge of the legal, corporate management,

or insurance issues relevant to the matters in dispute. The mediator shall also give due consideration to the general principles of the law of the state where the **named insured** is incorporated in the construction or interpretation of the provisions of this policy. In the event that such non-binding mediation does not result in a settlement of the subject dispute or difference:

1. either party shall have the right to commence a judicial proceeding; or
2. either party shall have the right, with all other parties consent, to commence an arbitration proceeding with the AAA that will be submitted to an arbitration panel of three (3) arbitrators as follows: (a) the **insured** shall select one (1) arbitrator; (b) **we** shall select one (1) arbitrator; and (c) said arbitrators shall mutually agree upon the selection of the third arbitrator. The arbitration shall be conducted in accordance with the AAA's then prevailing Commercial Arbitration Rules.

provided, however, that no such judicial or arbitration proceeding shall be commenced until at least ninety (90) days after the date the non-binding mediation shall be deemed concluded or terminated. Each party shall share equally the expenses of the non-binding mediation.

The non-binding mediation may be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state indicated in Item 1 of the Declarations as the mailing address for the **named insured**. The **named insured** shall act on behalf of each and every **insured** in connection with any non-binding mediation under this clause, the selection of arbitration or judicial proceeding and/or the selection of mediators or arbitrators.

#### I. Title of Paragraphs

The titles of the various clauses and paragraphs of this **policy** and endorsements, if any, attached to this **policy**, are inserted solely for convenience or reference and are not to be deemed in any way to limit or expand the provisions to which they relate, and are not part of this **policy**.

#### J. Cancellation

There shall be no coverage for any **personal identity event** first discovered by an **insured** after the effective date and time of the expiration, cancellation or non-renewal of this **policy**.

This **policy** may be canceled by the **named insured** by surrender of this **policy** to **us** or by giving written notice to **us** stating when thereafter such cancellation shall be effective. This **policy** may also be canceled by **us** by mailing to the **named insured** by registered, certified, or other first class mail sent to the **named insured's** address set forth in Item 1 of the Declarations, or by delivering to the **named insured**, written notice, stating when, not less than thirty (30) days thereafter, or ten (10) days thereafter in the event of nonpayment of premium, the cancellation shall be effective. The mailing of such notice, as aforesaid, shall be sufficient proof of notice. This **policy** shall be deemed canceled at the date and hour specified in such notice.

If this **policy** shall be canceled by the **named insured**, **we** shall retain the customary short rate proportion of the premium herein. If this **policy** shall be canceled by **us**, **we** shall retain the pro rata proportion of the premium herein. Payment or tender of the unearned premium by **us** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable. If the period of limitation relating to the giving of notice for cancellation by **us**, as set forth above, is also set forth in any controlling law, the period set forth above shall be deemed to be amended so as to be equal to the minimum period of limitation set forth in such controlling law if it is a longer period.

#### K. Organizational Changes

If during the policy period:

- (1) the **named insured** shall consolidate with, merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or
- (2) any person or entity or group of persons or entities acting in concert shall acquire securities or voting rights which result in ownership or voting control by other entities or persons of more than fifty percent (50%) of the outstanding securities representing the rights to vote for the election of the **named insured's** directors;

(any of such events being a "**transaction**"), then this **policy** shall continue in full force and effect as to **personal identity events** occurring on or after the Retroactive Date and prior to the effective time of the **transaction**; provided that such **personal identity event** is first discovered prior to the effective time of the **transaction** and otherwise reported to us during the **notice period** and in accordance with the terms and conditions of this **policy**. There shall be no coverage afforded by any provision of this **policy** for any **personal identity event** that is first discovered, or that occurs, on or after the effective time of the **transaction**, unless (i) within thirty (30) days of such **transaction we** have been provided with full particulars of the **transaction**, the related entities and any other information requested by **us**, and (ii) the **named insured** or its successor, has agreed to any additional premium and amendments to this policy required by **us**.

Post-**transaction** coverage as described above is conditioned upon the **named insured** or its successor paying when due any additional premium required by **us**. This policy may not be canceled after the effective time of a **transaction** and the entire premium for this **policy** shall be deemed earned as of such time.

<End>

SPECIMEN