

<Product Name>

POLICY 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**, the Underwriters and the **Named Insured**, on behalf of all **Insureds**, agree as follows:

I. DEFINITIONS

The following terms whenever used in this **Policy** in boldface type shall have the meanings indicated. Terms not defined below, but appearing in bold face type, shall have the meanings indicated in the applicable Clause.

- A. **“Application”** means all applications, including all attachments and other materials submitted therewith or incorporated therein, and any other documents or information submitted in connection with the underwriting of this **Policy**, including any endorsement or other part thereof, or any other **Policy** issued by the Underwriters of which this **Policy** is a renewal, replacement or which it succeeds in time.
- 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.
- C. **“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**.
- D. **“Insured Organization”** means the **Named Insured** and its **Subsidiaries**, including any such organization as a debtor in possession within the meaning of the United States Bankruptcy Code or having similar legal status under foreign law.
- E. **“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.
- F. **“Managers”** means all persons who were, now are, or shall be managers, managing members, members of the board of managers, managing partners, or equivalent executives of any **Insured Organization**, manager of limited liability company.
- G. **“Named Insured”** means the entity designated in Item 1. of the Declarations.
- H. **“Optional Reporting Period”** means the period described in Section IX. of the Policy Terms and Conditions.

- I. **“Policy”, “Insurance Policy” or “Insurance”** means this contract of **Insurance** including, the **Application**, any **Declarations**, and any endorsements or variations, all forming part hereof.
- J. **“Policy Period”** means the period of time between the **Inception Date** and the **Expiration Date** unless terminated earlier, and specifically excludes any **Optional Reporting Period**.
- K. **“Pollutants”** means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or any federal, state, county, municipality or locality counterpart thereof. Such substances shall include, but are not limited to, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, other air emission, acids, alkalis, mold, spores, fungi, germs, odor, waste (including infectious or medical waste, and material to be recycled, reconditioned or reclaimed), waste water, oil or oil product, noise, electric, magnetic or electromagnetic field or radiation, or chemicals.
- L. **“Subsidiary”** means:
 - 1. any entity, while more than 50% of the outstanding voting securities representing the present right to vote for the election of such entity's directors are owned by the **Named Insured** directly or indirectly;
 - 2. any limited liability corporation while the right to elect or otherwise appoint or designate more than 50% of such limited liability corporation's **Managers** is owned or controlled by the **Named Insured** directly or indirectly;
 - 3. any joint venture, which is a corporate entity, while the **Named Insured** has managerial control, or while the right to elect or otherwise appoint more than 50% of such entity's directors, trustees or other equivalent executive is owned or controlled by the **Named Insured** directly or indirectly; or
 - 4. any auxiliary, foundation or guild set up for the sole purpose of benefiting programs and services of the **Insured Organization**.

if such entity or corporation was so owned or controlled as of or prior to the **Inception Date** of this **Policy**;

II. EXCLUSIONS

The Underwriters shall not be liable to make any payment for **Loss** in connection with or resulting from any **Claim**:

- A. based upon, arising out of any advertising liability, which means injury arising out of one or more of the following, committed in the course of the **Insured's** advertising activities:
 - 1. libel, slander or defamation;
 - 2. infringement of copyright, title, slogan, trade dress, or advertising idea;
 - 3. false, deceptive or misleading labeling or advertising;

4. piracy or idea misappropriation under an implied contract; or
 5. invasion of right of privacy.
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving:
1. any demand, suit, 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, Interrelated Wrongful Act**, fact, circumstance or situation underlying or alleged therein;
 2. any **Wrongful Act** or any fact, circumstance, transaction or situation which has been the subject of any notice of a **Claim** or notice of a potential **Claim** given prior to the **Policy Period** under any other similar **Insurance** or renewal **Policy**;
 3. 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**.
- C. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any **Wrongful Act** of a **Subsidiary** or the **Insured Person** of any **Subsidiary**:
1. occurring prior to the date such entity became a **Subsidiary** or subsequent to the date such entity ceased to be a **Subsidiary**; or
 2. occurring while such entity was a **Subsidiary** which, together with a **Wrongful Act** occurring prior to the date such entity became a **Subsidiary**, would constitute **Interrelated Wrongful Acts**.
- D. based upon, arising from, or in any way attributable to the actual, potential, alleged or threatened presence, release or dispersal of any product, substance or waste which contains asbestos, silica or lead in whatever form or quantity, or any action taken by any party in response to any governmental or regulatory order, requirement, directive, mandate or decree in relation thereto.

III. LIMITS OF LIABILITY

A. Aggregate Limit(s) of Liability

The amount(s) shown in Item 4. of the Declarations shall be the 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 the 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. If any **Claim** against the **Insureds** gives rise to an obligation both under this **Policy** and any other coverage, line slip or **Policy of Insurance** issued by Underwriters or any of its affiliates to any **Outside Entity**, the Underwriters' maximum aggregate limit of liability under all such coverage, line slips or policies for all **Loss** from such **Claim** shall not exceed the greater of:
 - 1. the applicable maximum aggregate limit(s) of liability of this **Policy**; or
 - 2. the maximum aggregate limit of liability under any such other coverage, line slip or **Policy**.
- D. The payment of **Defense Costs** by the Underwriters reduces and may totally exhaust the applicable Limit(s) of Liability.
- E. 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 times:
 - 1. the time at which the earliest **Claim** involving the same **Wrongful Act** or **Interrelated Wrongful Acts** is first made; regardless of whether a **Policy** underwritten by Underwriters was in force; or
 - 2. the time at which the **Claim** involving the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed to have been made pursuant to Section VII.B.
- F. Any amount described as a sublimit in Item 4. of the Declarations shall be the Underwriter's maximum aggregate limit of liability for all **Claims** falling within the applicable Insuring Clause, which amount shall be part of and not in addition to the applicable aggregate limit of liability in Item 4. of the Declarations.
- G. If all aggregate limit(s) of liability are exhausted, Underwriters' obligations under this **Policy** shall be completely fulfilled and extinguished.

IV. RETENTIONS

- A. The Underwriters shall be liable for only that part of **Loss** arising from a **Claim** which is excess of the applicable Retention set forth in Item 5. of the Declarations, and such Retention shall be borne by the **Insureds** uninsured and at their own risk. The Retention is in addition to the Underwriters' Limit of Liability and not part thereof. The **Insured** shall make direct payments within the Retention to appropriate parties designated by the Underwriters. Any payments made to satisfy the retention or deductible under another policy of insurance shall not satisfy or apply towards the applicable Retention, or any portion thereof, under this **Policy**. 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. If more than one of the Insuring Clauses are applicable to a **Claim**, the Retentions set forth in Item 5. of the Declarations shall be applied separately to that part of the **Loss** resulting from such **Claim** covered by each Insuring Clause. The sum of the Retentions



so applied shall constitute the Retention applicable to such **Claim**. 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**.

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. SPOUSAL AND DOMESTIC PARTNER EXTENSION

Coverage under this **Policy** will apply to an **Insured Person's** lawful spouse, including any natural person qualifying as a domestic partner under the provisions of any applicable federal, state, or local law in the United States, but solely by reason of such spousal status or such spouse's ownership interest in property or assets that are sought as recovery for **Wrongful Acts**.

VII. NOTIFICATION

- A. If any **Executive Officer** becomes aware that a **Claim** has been made against any of the **Insureds**, the **Insureds** shall, as a condition precedent to their rights to payment under this **Policy**, give to the Underwriters notice in writing of such **Claim** as soon as practicable provided, further, all **Claims** must be reported no later than the end of the **Policy Period**, in accordance the requirements of the **Optional Reporting Period** (if applicable), or sixty (60) days after the expiration date of the **Policy Period** only in the case of **Claims** first made against the **Insured** during the last sixty (60) days of the **Policy Period**.
- B. If during the **Policy Period**, except for the **Optional Reporting Period**, the **Insureds** first become aware of a specific **Wrongful Act** and if the **Insureds** during the **Policy Period**, except for the **Optional Reporting Period**, give written notice to the Underwriters as soon as practicable of:
1. the specific **Wrongful Act**;
 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** made subsequently arising out of such **Wrongful Act** shall be deemed for the purposes of this **Policy** to have been made at the time such notice was first given.

The Underwriters shall have no obligation to cover any amounts, including, but not limited to, any legal fees or expenses, incurred prior to the time such circumstances result in a **Claim**.

- C. Notice to the Underwriters provided for in Section VII.A. and B. shall be given to the firm shown in Item 9.(a) of the Declarations. All other notices to the Underwriters under this **Policy** shall be given to the entity 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, or certified mail notices given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee.

VIII. GENERAL CONDITIONS

A. Representations:

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

1. the statements in the **Application** are their representations, and that this **Policy** is issued in reliance upon the truth of such representations;
2. 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 those **Insureds** who made such misrepresentations, were aware of such misrepresentations, or were aware at the time of **Policy** inception of the true facts not truthfully disclosed; except that the knowledge of such misrepresentations and true facts by an **Insured** will not be imputed to any other **Insured Person**;
3. this **Policy** shall not afford any coverage for amounts paid by the **Insured Organization** as indemnification of any of the **Insureds** who made or had knowledge of the misrepresentations or the true facts, as set forth in Section VIII. A.2.;

The Policy shall not afford any coverage for the **Insured Organization** if the Chief Executive Officer or the Chief Financial Officer made or had knowledge of such misrepresentations as set forth in VIII.A.2. above.

None of the foregoing provisions in Clause VIII.A. shall in any other way limit or void Underwriters' rights to rescind this Policy; provided, that the Underwriters shall not rescind this Policy as to any **Insured Person**, where coverage is being provided to such **Insured Person**, and where indemnification by the **Insured Organization** is not permitted by law or the **Insured Organization** is not able to indemnify solely by reason of its **Financial Impairment**.

B. Run-Off

1. In the event any entity ceases to be a **Subsidiary** after the Inception Date of this **Policy**, or of any **Policy** issued by the Underwriters of which this **Policy** is a renewal or replacement, this **Policy**, subject to its terms including, but not limited to, Exclusion B. above, 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. In the event of a **Change of Control** after the Inception Date of this **Policy** or of any **Policy** issued by the 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 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 the Underwriters, or by mailing to the 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. The Underwriters may cancel this **Policy** only for nonpayment of premium, by mailing or delivering to the **Named Insured** written notice of cancellation stating when, not less than ten (10) days thereafter, such cancellation shall be effective. The mailing or delivery 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**.
3. If this **Policy** is cancelled, the Underwriters shall retain the pro rata proportion of the premium hereon. Payment or tender of any unearned premium by the Underwriters shall not be a condition precedent to the effectiveness of cancellation. If the **Named Insured** has reported a **Claim** or circumstance likely to give rise to a **Claim** under this **Policy**, the premium will be deemed to be fully earned.
4. The Underwriters may nonrenew this **Policy** by mailing to the **Named Insured** written notice of nonrenewal not less than sixty (60) days before the end of the **Policy Period**. The mailing or delivery of such notice shall be sufficient notice.

D. Other Insurance

This **Policy** shall apply in excess of any other existing valid and collectible policy not issued by the Underwriters including, but not limited to, 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**.

IX. OPTIONAL REPORTING PERIOD

- A. If this **Policy** is cancelled by the **Named Insured** or if the Underwriters non renew this **Policy**, then the **Named Insured** shall have the right, upon payment of an additional premium calculated at that percentage shown in Item 8.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** first made 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 before the effective date of cancellation or nonrenewal.
- B. As a condition precedent to the right to purchase the **Optional Reporting Period**, the total premium for this **Policy** must have been paid. The right to purchase the **Optional Reporting Period** shall terminate unless written notice together with full payment of the premium for the **Optional Reporting Period** is given to the Underwriters within thirty (30) days after the effective date of cancellation or nonrenewal. If such notice and

premium payment is not so given to the Underwriters, there shall be no right to purchase the **Optional Reporting Period**.

- C. In the event of the purchase of the **Optional Reporting Period**, the entire premium for the **Optional Reporting Period** shall be deemed earned at its commencement.
- D. The exercise of the **Optional Reporting Period** shall not in any way increase the Limit(s) of Liability of Underwriters.
- E. The offer of renewal terms, conditions or premiums different from those in effect prior to renewal shall not constitute a refusal to renew for purposes of this Section IX.
- F. The right to the **Optional Reporting Period** shall not be available to the **Named Insured** where cancellation or non-renewal by the Underwriters is due to non-payment of premium or failure of an **Insured** to pay such amounts within the applicable Retention.

X. ASSISTANCE, COOPERATION AND SUBROGATION

The **Insureds** agree to provide the Underwriters with such information, assistance and cooperation as the Underwriters or their counsel may reasonably request, and they further agree that they shall not take any action which in any way increases the Underwriters' exposure under this **Policy**.

In the event of any payment under this **Policy**, the 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, but not limited to, the execution of such documents as are necessary to enable the Underwriters effectively to bring suit in their name, and shall provide all other assistance and cooperation which Underwriters may reasonably require.

Any amount recovered after payment under this **Policy** shall be applied and apportioned in the inverse order of payment (i.e., to Underwriters first, then to the **Insured**) and to the extent of actual payment, after reimbursement of actual expenses of any such recovery.

XI. ACTION AGAINST UNDERWRITERS

No action shall lie against the 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 the Underwriters. Nothing contained herein shall give any person or organization any right to join the Underwriters as a party to any **Claim** against the **Insureds** to determine their liability, nor shall the 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 the 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 the Underwriters shall not effect a waiver or a change in any part of this **Policy** or estop the 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 the Underwriters to form a part of this **Policy**.

XIII. TERRITORY

This **Policy** shall apply to **Claims** made against the **Insureds** anywhere in the world.

XIV. VALUATION AND CURRENCY

All premiums, limits, Retentions, **Loss** and other amounts under this **Policy** are expressed and payable in the currency of the United States. 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, payment under this **Policy** shall be made in United States dollars at 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.

XV. BANKRUPTCY

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

XVI. 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.

XVII. 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.

XVIII. ASSIGNMENT

The interest hereunder of any **Insured** is not assignable except as requested by the Underwriters. If the **Insured** shall die or be adjudged incompetent, such **Insurance** shall cover the **Insured's** legal representative as the **Insured**, to the extent permitted by this **Policy**.