

Policy Number:
Effective at 12:01 a.m. Standard Time:
Insurer: **Hudson Insurance Company**
Named Insured:

Endorsement Number:

DEFENDER PLUS ENDORSEMENT

It is hereby agreed that the Policy is amended as follows:

A. CHANGES TO DECLARATIONS

Item 3 of the Declarations is deleted in its entirety and replaced as follows:

ITEM 3. LIMITS OF LIABILITY (inclusive of **Defense Expenses**):

- A. \$_____ Maximum Aggregate Limit of Liability for all **Claims**
- B. \$_____ First Aggregate Reinstated Limit of Liability

Check one of the following options:
 reinstatement for **Independent Directors** only
 reinstatement for all **Insured Executives**

- C. \$_____ Second Aggregate Reinstated Limit of Liability

Check one of the following options:
 reinstatement for **Independent Directors** only
 reinstatement for all **Insured Executives**

- D. \$_____ Maximum Aggregate Limit of Liability under A through G of this Item 3,
Combined

The limits of liability in A, B and C apply separately in accordance with Section IV (A) of this Policy.

- E. \$_____ Policy Access and Director Liability
Aggregate Limit of Liability
- F. \$_____ **Extradition** and Prosecutorial Disparagement Aggregate Sublimit of Liability
- G. \$_____ Enforcement Authority Aggregate Sublimit of Liability

The amount stated for the Policy Access and Other Independent Director Liability Limit is in addition to the Limit of Liability and any applicable reinstatements set forth in this Item 3, and is the maximum amount the Insurer shall pay for such additional limit, subject always to the Limit of Liability set forth in Item 3. D.

The **Extradition** and Prosecutorial Disparagement and Enforcement Authority Sublimit are part of, and not in addition to, the Limit of Liability and any applicable reinstatements set forth in this Item 3.

Item 4 of the Declarations is deleted in its entirety and replaced as follows.

ITEM 4. Discovery Periods

- a. Standard Discovery Period: One (1) Year for an amount equal to the total premium indicated in the third line of Item 5 of the Declarations, if exercised, in accordance with Section IV. (I) (1) of this Policy.
- b. Six (6) Year Discovery Period: Six (6) Years for no additional premium, if exercised, in accordance with Section IV. (I) (2) of this Policy.
- c. Unlimited Discovery Period: Unlimited duration for no additional premium, if exercised, in accordance

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with Section IV. (I) (3) of this Policy.

Item 6 of the Declarations is deleted in its entirety and replaced as follows.

ITEM 6. ALL NOTICES TO THE INSURER AND REPORTS OF **CLAIMS** AND MATTERS PURSUANT TO SECTION IV. (D) OF THE POLICY MUST BE ADDRESSED TO THE INSURER'S REPRESENTATIVE BELOW:

Send Claims related notices to:

Hudson Financial Products
ATTN: Claims Department
100 William Street
New York, NY 10038

or

HFP-Claims@HudsonInsGroup.com

Send all other notices to:

Hudson Financial Products
ATTN: Underwriting
176 Mineola Boulevard
Mineola, NY 11501

or

HFP-Underwriting@HudsonInsGroup.com

E-MAIL NOTICE OF **CLAIMS** OR CIRCUMSTANCES WHICH MAY GIVE RISE TO A **CLAIM** SHALL BE VALID ONLY IF SENT TO THE E-MAIL ADDRESS LISTED ABOVE AND OTHERWISE PURSUANT TO SECTION IV. (Q) OF THE POLICY. **CLAIMS** INFORMATION AND DOCUMENTS SUBMITTED TO THE INSURER AND NOT PROPERLY ADDRESSED TO THE **CLAIMS** DEPARTMENT SHALL NOT CONSTITUTE A VALID FIRST NOTICE OF **CLAIM** OR SATISFY ANY SUBSEQUENT REPORTING REQUIREMENTS.

B. CHANGES TO SECTION I, INSURING AGREEMENTS

Section I, **INSURING AGREEMENTS (A)** and **(B)**, are deleted in their entirety and replaced as follows:

I. **INSURING AGREEMENTS**

(A) Insured Executives Liability Insuring Agreement

The Insurer shall pay on behalf of an **Insured Executive**, all **Non-Indemnifiable Loss** that such **Insured Executive** become legally obligated to pay by reason of any **Claim** first made against him or her during the **Policy Period** or Discovery Period, as applicable, for a **Wrongful Act** that is actually or allegedly caused, committed, or attempted prior to the end of the **Policy Period** by such **Insured Executive**, but solely when and to the extent one or more of the following events takes place:

- (1) any insurer(s) in the **Underlying Insurance**
 - (a) refuses to indemnify such **Insured Executive** as required under the terms of the **Underlying Insurance**;
 - (b) fails to indemnify such **Insured Executive** within 60 days after such **Insured Executive** requests such indemnification;
 - (c) is in receivership, liquidation, insolvent or financially unable to indemnify such **Insured Executive**;
 - (d) rescinds, voids or cancels, or attempts to rescind, void or cancel, its respective policy in the **Underlying Insurance**; or
 - (e) as a result of a liquidation or reorganization proceeding commenced by or against the **Company** pursuant to the U.S. Bankruptcy Code, as amended, or any similar federal,

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state, foreign or common law (collectively, "law"), fails or refuses to indemnify such **Insured Executive** because the proceeds of the **Underlying Insurance** are subject to the automatic stay or similar payment prohibition under law; or

- (2) any insurer(s) in the **Underlying Insurance** is not liable for its portion of the **Loss** according to the terms and conditions of the **Underlying Insurance**; or
- (3) the limit(s) of liability or any applicable sublimit(s) of liability of the **Underlying Insurance** has been exhausted by reason of:
 - (a) any insurer(s) in the **Underlying Insurance**, any **Insured Executive** or any other party paying thereunder the full amount of such underlying limit(s) of liability or applicable sublimit(s); or
 - (b) any provision(s) in the policy of an insurer in the **Underlying Insurance** which exhausts or reduces that policy's limit of liability by reason of any amount paid or payable under another policy issued by that insurer or any of its subsidiary, associated, affiliated or parent insurers.

If **Loss** is paid under the **Underlying Insurance** or from any source of indemnification or advancement on behalf of any **Insured Executive** for his or her **Wrongful Act**, then this Policy shall only pay excess of the amounts paid under the **Underlying Insurance** or otherwise paid as indemnification or advancement from any source or party.

(B) Difference in Conditions Agreement

In the event any policy in the **Underlying Insurance** affords broader coverage to an **Insured Executive** than is afforded under this Policy, then notwithstanding anything in this Policy to the contrary, this Policy is amended to follow and be subject to the terms and conditions of such policy in the **Underlying Insurance**, as it was issued at the time of the inception date of this Policy and only in respect of and to the extent of such broader coverage for the **Insured Executive**, provided always that:

- (1) this Policy shall in no event cover any claim against the **Company** or any amounts indemnified, advanced or paid by the **Company** on behalf of an **Insured Executive**; and
- (2) the provisions of this Section I (B) shall not apply to the following sections of this Policy.
 - (a) Section IV (A), Limits of Liability;
 - (b) Section IV (F) (1) and (2);
 - (c) Section IV (H), Cancellation of Policy;
 - (d) Clause IV (L) Authorization and Notice; and
 - (e) Any and all endorsements to this Policy, unless otherwise specified in such endorsements.

(C) Extradition And Prosecutorial Disparagement Sublimit Agreement

Solely in connection with a **Claim** first made against an **Insured Executive** during the **Policy Period** or **Discovery Period**, as applicable, and as part of and not in addition to the Limit of Liability and any applicable reinstatements(s) set forth in Item 3 of the Declarations, the Insurer shall pay as a maximum the aggregate amount set forth in Item 3 F. of the Declarations, **Extradition** and Prosecutorial Disparagement Aggregate Sublimit of Liability, for reasonable costs, charges, fees and expenses incurred

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by an **Insured Executive** in connection with using a public relations firm to mitigate the adverse effects to the reputation of such **Insured Executive** from

- (1) an **Extradition** against such **Insured Executive**; or
- (2) any negative public statement regarding such **Insured Executive** by any criminal prosecutor or **Enforcement Authority** relating to or arising out of a **Claim** under this Policy; to the extent any insurer(s) in the **Underlying Insurance** or the **Company** fails, refuses or is financially unable to indemnify, advance or pay such costs, charges, fees and expenses.

(D) Enforcement Authority Sublimit Agreement

Solely in connection with a **Claim** first made against an **Insured Executive** during the **Policy Period** or Discovery Period, as applicable, and as part of and not in addition to the Limit of Liability and any applicable reinstatement(s) set forth in Item 3 of the Declarations, the Insurer shall pay as a maximum the aggregate amount set forth in Item 3 G. of the Declarations, **Enforcement Authority** Aggregate Sublimit of Liability, for **Defense Expenses** (including a premium for a bond) incurred by an **Insured Executive**

- (1) to oppose efforts by an **Enforcement Authority** to seize or otherwise enjoin the personal assets or real property of such **Insured Executive** in connection with a **Claim** under this Policy, or to revoke, overturn or set aside a court order in or relating to a **Claim** under this Policy, which in any way impairs the use of such assets or real property; or
- (2) to seek the release of such **Insured Executive** from any arrest, detention or incarceration by an **Enforcement Authority** in or relating to a **Claim** under this Policy,

provided always that such **Defense Expenses** relate to a **Wrongful Act** by such **Insured Executive**, and the Insurer shall pay solely in the event that any insurer(s) in the **Underlying Insurance** or the **Company** fails, refuses or is financially unable to indemnify, advance or pay such **Defense Expenses**.

(E) Policy Access And Director Liability Limit Agreement

Solely in connection with a **Claim** first made against an **Insured Executive** during the **Policy Period** or Discovery Period, as applicable, and in addition to the Limit of Liability and any applicable reinstatement(s) set forth in Item 3 of the Declarations, the Insurer shall pay as a maximum the aggregate amount set forth in Item 3 E. of the Declarations, reasonable costs, charges, fees and expenses incurred by any **Insured Executive**, who is also a member of the Board of Directors of the **Company**, to defend against efforts by other **Insured Executives** or third parties to seize or attach this Policy, or otherwise enjoin such **Insured Executive** from gaining access to the limits of liability afforded under this Policy, provided and to the extent that any insurer(s) in the **Underlying Insurance** or the **Company** fails, refuses or is financially unable to indemnify, advance or pay such costs, charges, fees and expenses.

In the event of any other **Claim** against such **Insured Executive**, the following limitations shall apply:

The applicable additional limit of liability set forth in Item 3 E. of the Declarations shall only apply to **Loss** other than **Defense Expenses**.

Such additional limit of liability shall only apply excess of the original Limit of Liability set forth in Item 3 A. of the Declarations and all other valid and collectible insurance available to such **Insured Executive**, including but not limited to any and all other policies that may be issued as being contractually excess over this Policy by reference to the Policy Number or other specific description of this Policy.

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C. CHANGES TO SECTION II, DEFINITIONS

The following definitions are added to **Section II, DEFINITIONS**. Where the definition already exists in Section II, the original definition is deleted in its entirety and replaced accordingly.

All Definitions contained in this Section II, other than those contained in Section II (E), (I), (J), (K) and (M), all as they may be modified below, as well as the definition of **Non-Indemnifiable Loss** below, shall follow form of the same definition in the **Follow Form Policy**, but only if that policy definition results in broader coverage than would be provided in this Policy. If a term is defined in the **Follow Form Policy** and there is no definition of such term in this Policy, the definition in the **Follow Form Policy** shall apply.

"**Application**" means:

- (a) All information and documents submitted by or on behalf of the **Company** or the **Insured Executives** to the Insurer's underwriters during the twelve (12) month period preceding inception of this Policy, including but not limited to any completed form of the Insurer or other insurer denominated as a proposal or application; and
- (b) all publicly available documents filed by the **Company** with the Securities and Exchange Commission or similar state or foreign regulatory entity during the 12 months preceding inception of this Policy.

All such information and documents are deemed to be a part of this Policy and attached thereto, regardless of whether they are physically attached.

"**Claim**" means:

- (a) a written demand for monetary or non-monetary relief;
- (b) a civil or criminal judicial proceeding or alternative dispute resolution proceeding seeking monetary or non-monetary relief, including any appeal therefrom;
- (c) a formal civil, criminal, administrative, **Extradition** or regulatory proceeding (including but not limited to a proceeding brought by, on behalf of or before the Equal Employment Opportunity Commission or similar federal, state or local governmental agency), subpoena, or Wells Notice, or a formal investigation, including any appeal therefrom;
- (d) an informal investigation or request or demand from any governmental entity or a self-regulatory authority, including by way of example but not limited to the Securities Exchange Commission, a state office of the attorney general, the Department of Justice or New York Stock Exchange;
- (e) any **Preliminary Investigation** commenced against an **Insured Executive**, regardless of whether any **Wrongful Act** is at issue in such **Preliminary Investigation**; or
- (f) any request to toll or waive the statute of limitations.

A **Claim** shall be deemed to have been first made at the earliest date of receipt by the Risk Manager or General Counsel (or equivalent position) in the **Company** of a written demand, written notice or order of investigation, a target letter or similar document, criminal indictment or information, notice of charges or service of summons, subpoena or similar document commencing a proceeding or investigation against an **Insured Executive** who is the subject of such **Claim**.

"**Company**" means:

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- (a) the entity named in Item I of the Declarations;
- (b) any entity that, prior to the inception of the **Policy Period**, merged into or consolidated with the entity named in Item I of the Declarations and was not the surviving entity;
- (c) any **Subsidiary** that was acquired before or during the **Policy Period**;
- (d) any foundation, charitable trust or political action committee controlled or exclusively sponsored by one or more entities described in 1 through 3, above; or
- (e) any organization described in 1 through 4, above, while operating as a debtor-in-possession under United States Bankruptcy Code or an equivalent status under the bankruptcy law of any other country.

"**Defense Expenses**" means:

that portion of **Loss** consisting of reasonable costs, charges, fees (including but not limited to legal fees and experts' fees) and expenses incurred in the defense, investigation or appeal of a **Claim**, whether or not such **Claim** is ultimately settled or adjudicated, including but not limited to:

- (a) any **Extradition**; or
- (b) any premium for appeal, attachment or similar bonds, including a bail bond if such is available in connection with any **Extradition**, but the Insurer shall be under no obligation to provide any bond;

In no event shall **Defense Expenses** include wages, salaries, fees, benefits or office expenses of any **Insured Executives** or employees of the **Company**.

"**Enforcement Authority**" means any law enforcement or other governmental enforcement official or authority, or the enforcement unit of any self-regulatory organization.

"**Independent Director**" means any **Insured Executive** who is solely a duly elected director of the **Company**, and is not an employee or duly appointed officer of the **Company**, and who otherwise qualifies as a Non-Employee Director as that term is defined in Rule 16b-3 ("the Rule") promulgated under the Securities Exchange Act of 1934, as either the Rule or statute may be amended. The term "issuer" used in the Rule shall mean for purposes of this Policy, the **Company**.

"**Insured Executive**" means:

- (a) any past, present or future duly elected director, duly appointed officer, trustee, governor, comptroller, **Manager**, or duly elected or appointed member of a board of managers of the **Company**, including any general counsel who is also an employee of the **Company** and other employed lawyers who are both employees and duly appointed officers of the **Company**;
- (b) any natural person who is an employee, whether seasonal, temporary, part-time or full-time, of the **Company**, but solely with respect to a **Claim** otherwise brought and continuously maintained by a securities holder of the **Company** against a natural person described in subsection (a), (d), (e), (f) or (g) of this Definition;
- (c) any natural person while serving as a director, officer, trustee, governor, or functional equivalent in any **Outside Entity** but solely when:

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- i. such service is with the knowledge of the **Company** or part of their duties regularly assigned by the **Company**;
 - ii. such service is with the knowledge of the **Company** or at the specific direction or request of the **Company**; or
 - iii. such person is a member of a class of persons so directed to serve by the **Company**;
- (d) any natural person, who is the functional equivalent of such director, officer or manager of the **Company** when serving in such capacity outside the United States of America, including *de facto* or shadow directors, as defined in § 251 of the United Kingdom Companies Act 2006;
- (e) any prospective director of the **Company** named as such in any listing particulars, prospectus or similar offering document;
- (f) any natural person insured under the **Follow Form Policy** in the **Underlying Insurance**;
- (g) any director of investor relations, director of human resources, risk manager or **Manager** serving in a functionally equivalent or comparable position within the **Company**;
- (h) any lawful spouse or domestic partner of an **Insured Executive**, but solely for a **Wrongful Act** by such **Insured Executive**; or
- (i) any estate, heirs, legal representatives or assigns of an **Insured Executive**, but solely in the event of his or her death, incapacity or bankruptcy, and solely for a **Wrongful Act** by such **Insured Executive**.

"Loss" means:

judgment and settlement amounts (including pre- or post-judgment interest, punitive or exemplary damages, fines, penalties and the multiplied portion of any damages award, provided that such amounts are insurable pursuant to the law in any jurisdiction whose law may reasonably be applicable and which holds such amounts to be insurable) and **Defense Expenses** that the **Insured Executives** are legally liable to pay. In determining applicable law with respect to an award of punitive or exemplary damages, only the following factors shall be considered:

- (a) the state in which the **Company** is incorporated;
- (b) the state in which the **Company** has its principal place of business;
- (c) the state in which the litigation in which punitive or exemplary damages were awarded was filed and maintained; or
- (d) the state in which any **Wrongful Act** takes place on which the punitive or exemplary damages award is predicated.

The Insurer shall not challenge any written opinion of counsel retained by or on behalf of the **Insured Executives** asserting that the award of fines, penalties or punitive or exemplary damages and the multiplied portion of such damages at issue is insurable, provided that such counsel is duly licensed to practice law in the jurisdiction whose law is opined to be applicable and such counsel agrees in writing that the Insurer is a party that may rely upon its opinion.

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With regard to any settlement or judgment amount that an **Insured Executive** may become legally liable to pay in his or her capacity as such, the Insurer shall not contend that any portion of such settlement or judgment that is predicated on liability arising under Section 11, 12 or 15 of the Securities Act of 1933 or any amendments thereto or any other similar federal or state law applicable to the public offering or private placement of securities is uninsurable as a matter of law.

The determination of whether an Insured has incurred any **Loss** shall be made without regard to any insurance with exception of insurance purchased by the **Company** or indemnification that that an **Insured Executive** may have from any source other than from the **Company**, including without limitation from or as a result of any shareholder or investor in the **Company** or any affiliate thereof.

Loss shall also include the following:

- (a) taxes, fines and penalties imposed by law upon any **Insured Executive** in his or her capacity as such and in connection with any bankruptcy, receivership, conservatorship or liquidation of the **Company**, provided always that such taxes, fines and penalties are insurable under applicable law.
- (b) civil penalties assessed against an **Insured Executive** pursuant to Section 2(g)(2)(B) of the Foreign Corrupt Practices Act of 1977, as amended.
- (c) civil penalties assessed against any **Insured Executive** pursuant to section 308 of the Sarbanes-Oxley Act of 2002, as amended.
- (d) taxes, fines and penalties imposed on an **Insured Executive** by a foreign jurisdiction based on the Insurer's payment of damages, judgments or settlements that constitute **Loss**, as a foreign or admitted carrier.
- (e) reasonable fees and expenses incurred with the prior written consent of the Insurer and by the Chief Executive Officer or Chief Financial Officer of the **Company** solely to facilitate the return of any amounts required to be repaid by such Chief Executive Officer or Chief Financial Officer pursuant to § 304 (a) of the Sarbanes-Oxley Act of 2002, exclusive of the actual amounts required to be repaid pursuant to § 304 (a) of the Sarbanes-Oxley Act of 2002.

In no event shall **Loss**, other than **Defense Expenses**, include the following:

- (a) the cost of complying with any injunctive relief, including the cost of physical accommodations that may be required under the Americans with Disabilities Act (ADA);
- (b) taxes, fines and penalties other than as described above in this definition of **Loss**;
- (c) any matter uninsurable pursuant to law under which this Policy shall be construed, provided always that (i) the law in the jurisdiction most favorable to the insurability of such matters will be applied, and (ii) with respect to an award of taxes, punitive or exemplary damages, such insurability will be determined in the manner set forth above in this definition of **Loss**;
- (d) any amount for which an **Insured Executive** is legally absolved from liability for payment, including but not limited to as a result of any non-recourse provision in a settlement agreement; or
- (e) benefits due or to become due under the terms of any employee benefit plan.

"**Manager**" means any natural person who is, was or shall be:

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- (a) duly designated by the **Company** as a manager, member of the board of managers or functionally equivalent or comparable executive of a **Company** that is a limited liability company; or
- (b) a general partner, managing partner or functionally equivalent or comparable executive of a **Company** that is a partnership;

including without limitation any such natural person serving in a management position in such limited liability company or partnership in accordance with such organization's operating agreement or partnership agreement.

"**Non-Indemnifiable Loss**" means **Loss** for which the **Company** or, as appropriate, the **Outside Entity**, (i) refuses to indemnify or advance **Defense Expenses** or other **Loss** as required or permitted by applicable law and applicable charter, by-law or other indemnification or advancement provision, (ii) is prohibited as a matter of applicable law from so indemnifying or advancing, or (iii) is financially unable to indemnify or advance, or fails to indemnify within 60 days after an **Insured Executive** requests in writing such indemnification.

"**Outside Wrongful Act**" means an actual or alleged act, error, omission, misstatement, misleading statement, neglect, or breach of duty by an **Insured Executive**, while serving in the capacity of a director, officer, trustee, regent, or governor, or functional equivalent of the foregoing, of an **Outside Entity**, or any matter asserted against an **Insured Executive** by reason of his or her status as such, but only if serving in such capacity with the knowledge of the **Company** or at the specific request or direction of the **Company**.

"**Preliminary Investigation**" means any request or demand for an **Insured Executive** to appear at a meeting, deposition or interview, or produce documents, relating to the business of the **Company**, regardless of whether a **Wrongful Act** is alleged in connection with such request or demand, and where such request or demand is asserted:

- (a) by any **Enforcement Authority**; or
- (b) by or on behalf of the **Company**, its board of directors (or similar management body), or any committee of its board of directors (or similar management body) arising from a request or demand set forth in 1 immediately above; or which is part of the **Company's** investigation and evaluation of a "Shareholder Derivative Demand", which term shall mean a written demand on the board of directors (or similar management body) by one or more shareholders of the **Company** to assert a **Claim** on behalf of the **Company** against an **Insured Executive** for a **Wrongful Act**.

Preliminary Investigation shall not include any routine or regularly scheduled internal or regulatory supervision, inspection, compliance, review, examination, production or audit, including any mandatory request for information conducted in the normal review or compliance process of and by the **Company** or by an **Enforcement Authority**.

"**Subsidiary**" means:

any corporation or other entity, in which and solely during the time period when, the **Company** owns, directly or through one or more other **Subsidiaries**:

- (a) more than fifty percent (50%) of the outstanding securities representing the right to vote for the election of the directors of such entity,
- (b) the right to elect, appoint or designate more than fifty percent (50%) of the members of any board of managers of such entity; or
- (c) if the entity is a partnership, it shall be a **Subsidiary** only if specifically included as such by way of an endorsement to this Policy and such partnership agrees to indemnify its **Insured Executives** to the fullest extent permitted by applicable law.

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“**Wrongful Act**” means:

- (a) an actual or alleged act, error, omission, misstatement, misleading statement, neglect, or breach of duty or **Wrongful Employment Practice** by an **Insured Executive** in his or her capacity as such, including while serving as a general or managing partner in a partnership which is deemed to be a **Subsidiary** per Section II. (L) (3) of under this Policy or as a fiduciary of an employee benefit plan sponsored by the **Company**;
- (b) any matter asserted against an **Insured Executive** by reason of his or her status as such, except that this subsection (b) of this **Wrongful Act** definition shall not apply with respect to any **Insured Executive** serving in a partnership and the matter is asserted solely based upon or arising from such partnership status; or
- (c) an **Outside Wrongful Act**.

D. CHANGES TO SECTION III, EXCLUSIONS

Section III, Exclusions, is deleted in its entirety and replaced as follows:

III. EXCLUSIONS

This Policy does not incorporate any of the exclusions contained in the Exclusions section of the **Follow Form Policy**. The following exclusions shall apply except to the extent that a substantively similar exclusion in the **Follow Form Policy** may be less restrictive in its application. In such case, the less restrictive wording shall be incorporated herein.

The Insurer shall not pay **Loss** in connection with that portion of any **Claim** made against an **Insured Executive** that is:

- (A) for, based upon, arises from, or is any way related to any fact, circumstance or situation that, before the inception of the **Policy Period**, was the subject of notice given under any other policy providing Directors’ and Officers’ or similar type of insurance to the **Insured Executives**.
- (B) for any:
 - (1) deliberate criminal or deliberate fraudulent act by such **Insured Executive**; or
 - (2) personal profit, financial advantage or remuneration gained by such **Insured Executive** to which he or she is not legally entitled.

provided that the applicability of the foregoing exclusions in this Section III. (B) are determined by a final and no longer appealable adjudication of the conduct at issue in the underlying **Claim** against such **Insured Executive**, other than an **Independent Director**, establishing that such **Insured Executive** committed such act or omission, or gained such profit, advantage or remuneration.

The exclusions in this Section III. (B) shall not apply to

- (a) that part of **Loss**, which is comprised of **Defense Expenses**;
- (b) any **Claim** against an **Independent Director**;
- (c) any **Claim** in connection with a **Wrongful Employment Practice**; or
- (d) with respect to Section III. (B) (2), any actual or alleged violation of Section 11, 12 or 15 of the Securities Act of 1933, as amended.

Neither the intent, knowledge, facts pertaining to, nor **Wrongful Act** of any **Insured Executive** or the **Company** shall

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be imputed to any other **Insured Executive** to determine the application of the exclusions set forth in this Section III (B). For acts or omissions which are deemed to be a criminal violation in a jurisdiction outside of the United States and such acts or omissions would not be deemed to be a criminal violation if such acts or omissions took place in a jurisdiction inside of the United States, the imposition of a criminal sanction or fine in such jurisdiction outside the United States will not, by itself, be conclusive proof that a deliberate fraudulent or deliberate criminal act occurred for purposes of Section III. (B) (1).

E. CHANGES TO SECTION IV, GENERAL CONDITIONS

Except as modified or deleted below, all provisions in Section IV remain in place.

1. Section IV (A), **Limit of Liability**, is deleted in its entirety and replaced as follows:

(A) Limits of Liability

The Insurer's maximum aggregate liability for all **Loss**, on account of all **Claims** first made during the **Policy Period** and Discovery Period, if duly elected and paid for, shall be as set forth in the Limits of Liability in Item 3 D. of the Declarations.

More than one demand, suit or proceeding arising out of the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed to constitute a single **Claim**, first made during the **Policy Period** in which (i) the first of such demands, suits or proceedings is made against any **Insured Executive** or (ii) in which notice of circumstances relating thereto is first given in accordance with Section IV (D) of this Policy, whichever event first takes place.

Defense Expenses shall be part of and not in addition to any and all Limits of Liability set forth in Item 3 of the Declarations and shall reduce and may exhaust the applicable Limits of Liability. The Insurer shall have no obligation to pay **Loss**, including **Defense Expenses**, related to any **Claim** that is covered solely under a sublimit of liability under any other insurance policy, and not otherwise covered under this Policy. Notwithstanding the foregoing, the Insurer shall recognize erosion or exhaustion of such other insurance policy's limits by virtue of payments pursuant to such sublimit of liability. The Insurer shall have no obligation to pay **Loss**, including **Defense Expenses**, after the Limits of Liability have been exhausted, except as follows:

- (a) In the event the aggregate Limit of Liability set forth in Item 3 A. of the Declarations is exhausted, this Limit of Liability shall be reinstated in the amounts set forth in Item 3 B., solely for **Loss** incurred by any **Insured Executives** or by **Independent Directors**, in accordance with the option elected pursuant to that Item 3 B. of the Declarations. Such amounts, however, shall not apply to any **Claim** for which there has been any payment of **Loss** under a Limit of Liability set forth in Item 3 A. of the Declarations and any other **Claim** based upon, arising from or related in any way to the same **Wrongful Act** or **Interrelated Wrongful Acts** at issue in such **Claim**, and such amounts shall be excess of amounts payable under all other insurance policies that are specifically excess of this Policy and all policies in the **Underlying Insurance** providing a similar reinstated limit of liability.
- (b) In the event the aggregate Limit of Liability set forth in Item 3. B of the Declarations is exhausted, such Limit of Liability shall be reinstated a second time in the amounts set forth in Item 3 C. of the Declarations, solely for **Loss** incurred by any **Insured Executives** or by **Independent Directors**, in accordance with the option elected pursuant to that Item 3 C. of the Declarations. Such amounts, however, shall not apply to any **Claim** for which there has been any payment of **Loss** under the Limit of Liability set forth in Item 3 A. of the Declarations or the Limit of Liability set forth in Item 3. B. of the Declarations and any other **Claim** based upon, arising from or related in any way the same **Wrongful Act** or **Interrelated Wrongful Acts** at issue in such **Claim**, and such amounts shall be excess of amounts payable under all other insurance policies that are specifically excess of this Policy and all policies in the **Underlying Insurance** providing a similar reinstated limit of liability.
- (c) Upon exhaustion of the aggregate Limit of Liability set forth in Item 3 A. of the Declarations and, if applicable, the aggregate Limits of Liability set forth in Items 3 B. through 3 G. of the Declarations, for the **Policy Period** by reason of payment of **Loss** by the Insurer, the Insurer shall have no further payment obligations or other

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liability under this Policy, other than pursuant to Item 3 E. of the Declarations and Insuring Agreement I. (E), and subject always to the maximum aggregate Limit of Liability set forth in Item 3 D. of the Declarations.

- (d) With respect to exhaustion for purposes of applying the Limits of Liability set forth in Items 3. B. or 3. C. of the Declarations, the limits of liability under any policies in the **Underlying Insurance** and any insurance policies excess of this Policy shall be reduced or exhausted by payments by an insurer (including any insurer under a policy issued in a foreign jurisdiction), an **Insured Executive**, the **Company** and/or a third party in connection with the **Claim(s)** at issue.

2. Section IV (B), **Other Insurance, Indemnification and Advancement**, is deleted in its entirety and replaced as follows:

(B) Other Insurance, Indemnification and Advancement

- (1) This Policy shall only apply specifically excess of and in no event shall be contributory with:

- (a) any indemnification and advancement to which an **Insured Executive** may be entitled from the **Company**, an **Outside Entity** or any other source; and
- (b) any valid and collectible policy of insurance that may provide coverage to an **Insured Executive**, regardless of whether such other insurance is stated to be primary, contributory, excess or otherwise, unless such other insurance is
- (i) written as specific excess insurance over the Limits of Liability in this Policy by reference to the policy number for this Policy; or
 - (ii) a personal umbrella or personal director liability insurance policy issued to an **Insured Executive**.

However, if after a specific written request is made by or on behalf of the **Insured Executives**, such other insurance or source of indemnification or advancement responds in writing that it will not pay any amount that constitutes **Loss** under this Policy or otherwise fails to respond to such written request after sixty (60) days from the date of such request, the Insurer, pursuant to this Policy, shall respond on behalf of the **Insured Executives** and, if the amount is otherwise covered, pay all reasonable amounts constituting **Loss** as soon as is practicable, but in no event later than sixty (60) days after the Insurer has received written and itemized documentation of such **Loss** by means of invoices or otherwise, and be subrogated to the rights of such **Insured Executives** pursuant to Section IV. (F) and otherwise subject to Section IV. (E) (2) of this Policy.

Further, if after a specific written request is made by or on behalf of the **Insured Executives**, such other insurance or source of indemnification or advancement fails to respond to such written request after sixty (60) days from the date of such request, the Insurer shall make payment in conformance with this Section IV. (B) and all other applicable provisions of the Policy and be subrogated to all rights of any and all **Insured Executives** on whose behalf such payment is made.

- (2) Other than the **Follow Form Policy**, this Policy shall neither follow form nor be subject to the terms or conditions of any indemnification or advancement agreements, insurance policies, contracts, by-laws or charter provisions.

3. Section IV. (C), **Transactions and Change in Control During the Policy Period**, subsections (1) and (2) are deleted and replaced as follows:

- (1) If, prior to or during the **Policy Period**, the **Company** consummates any of the following transactions:
- (a) makes an asset acquisition;
 - (b) acquires any entity, including one that is a **Subsidiary**; or

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(c) assumes the liability of another entity,

then, insurance under this Policy shall only apply to a **Claim** for a **Wrongful Act** made against an **Insured Executive** of such entity, provided that such **Wrongful Act** is committed or alleged to have been committed after the time such **Insured Executive** first became an **Insured Executive** of the **Company**.

(2) If, prior to or during the **Policy Period**, any entity ceases to be a **Subsidiary**, the **Insured Executives** of such **Subsidiary** shall only be covered under this Policy with respect to a **Claim** for a **Wrongful Act** that occurred or allegedly occurred prior to the time such entity ceased to be a **Subsidiary**.

The heading of Section IV. (C) is changed to **Transactions and Change in Control Prior to or During the Policy Period**.

4. Section IV. (D), Awareness Provision, is deleted in its entirety and replaced as follows.

(D) AWARENESS PROVISION

If, during the **Policy Period** or Discovery Period, if purchased, but in no event later than sixty (60) days after the termination of such period, as appropriate, any **Insured Executive** first becomes aware of a **Wrongful Act** or circumstances that take place during or prior to the **Policy Period** and that could reasonably give rise to a **Claim** for a **Wrongful Act** and if, during the **Policy Period** or Discovery Period, if purchased, the **Insured Executives**, or the **Company** on their behalf, provides the Insurer with written notice of the specific circumstances and actual, alleged or potential **Wrongful Act**, the consequences which have resulted or may result therefrom (including but not limited to actual or potential damages), the identities or descriptions of potential claimants, and the manner in which the **Insured Executives** first became aware of such circumstances or **Wrongful Act**, then, any **Claim** subsequently made arising from such **Wrongful Act** or circumstances will be treated as if it had been first made during the **Policy Period**.

5. Section IV. (E), **No Duty to Defend by Insurer and Settlement and Payment Obligations**, subsections (1) and (2) are deleted and replaced as follows:

(1) It shall be the duty of the **Insured Executive** and not the duty of the Insurer to defend **Claims**. No **Insured Executive** may incur any **Defense Expenses** or admit liability for, make any settlement offer with respect to, or settle any **Claim** without the Insurer's consent, such consent not to be unreasonably withheld.

(2) the Insurer will pay on a current basis all reasonable and necessary **Defense Expenses** before the disposition of any **Claim** for which this Policy provides coverage. In the event of such advancement, the **Insured Executives** agree that they shall repay the Insurer, any **Loss**, including **Defense Expenses** paid to or on behalf of the **Insured Executives** pursuant to a written reservation of the Insurer's rights, if it is finally determined in any judicial or alternative dispute resolution proceeding that the **Loss** incurred is not covered under this Policy.

6. Section IV. (F), **Assistance and Cooperation of Insured Executives and Company and Subrogation Rights of Insurer**, subsections (1) (2) and (3) are deleted in their entirety and replaced as follows:

(1) The **Insured Executives** and the **Company** agree to provide the Insurer with all information, assistance and cooperation that the Insurer may reasonably request, and agree that they will knowingly do nothing which in any way increases the Insurer's exposure under this Policy or in any way prejudices the Insurer's potential or actual rights of recovery against any party, including the **Company** or any **Outside Entity**, after a **Claim** is first made against the **Insured Executives**. The failure of any **Insured Executive** or the **Company** to provide information, assistance and cooperation shall not impair the rights of any other **Insured Executive** under this Policy.

(2) In the event of any payment under this Policy, the Insurer shall be subrogated to all of the **Insured Executives'** rights of recovery, and the **Company** and **Insured Executives** shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents as may be necessary to enable the Insurer to effectively bring suit in the name of any **Insured Executives** or the **Company**.

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In the event, the Insurer recovers amounts paid as **Loss** under this Policy through its subrogation efforts, such recovery shall restore to the extent of the recovery net of subrogation costs and expenses, the appropriate Limit(s) of Liability. To the extent such recovery exceeds the **Loss** paid amounts, payment from such recovery shall be made to the **Insured Executives** severally according to their interests.

In no event, however, shall the insurer exercise its rights of subrogation against an **Insured Executive** unless there has been determined by a final and no longer appealable adjudication of the conduct at issue in the underlying **Claim** against such **Insured Executive** other than an **Independent Director**, establishing that such **Insured Executive** committed such act or omission, or gained such personal profit, advantage or remuneration.

Section IV. (F) (4) is renumbered as Section IV. (F) (3) and shall read as follows.

Neither the **Company** nor any **Insured Executive** shall, after the inception of this Policy, cancel or modify the **Underlying Insurance** in any manner to the detriment of the Insurer. However, any such cancellation or modification that does not result in detriment to the Insurer, shall not otherwise affect the **Insured Executives'** rights under this Policy.

7. Section IV., (H), **Cancellation or Non-Renewal of Policy**, is amended as follows:

The heading is changed to **Cancellation of Policy** and subsection IV. (H) (3) is deleted in its entirety. Section IV. (H) (1) is deleted in its entirety and replaced as follows:

- (1) The Chief Executive Officer or Chief Financial Officer of the entity listed in Item 1 of the Declarations or any duly authorized party acting on their behalf (the "Notice Agent") shall have the exclusive right to cancel this Policy on behalf of any or all **Insured Executives**. Any insurance broker or agent for this Policy shall be presumed to be duly authorized as a Notice Agent. Such cancellation may be effected by mailing to the Insurer written notice stating when such cancellation shall be effective, provided the date of cancellation is not later than the Expiration Date set forth in Item 2 of the Declarations. In such event, the Insurer shall retain the pro-rata portion of the earned premium. Return or tender of the unearned premium is not a condition of cancellation.

8. Section IV. (I), **Discovery Period**, is deleted in its entirety and replaced as follows:

(I) **Discovery Periods**

(1) Standard Discovery Period

- (a) If either the **Insured Executives** or the Insurer does not renew this Policy, the **Insured Executives** shall have the right, upon payment of the additional premium set forth in Item 4 of the Declarations, to an extension of the coverage provided by this Policy with respect only to any **Claim** first made during the Discovery Period set forth in Item 4 of the Declarations and duly reported in accordance with Section I. (A), but only with respect to a **Wrongful Act** occurring prior to the Policy Expiration Date.
- (b) As a condition precedent to the right to purchase the Discovery Period, the total premium for this Policy must have been paid in full. The right of the **Insured Executives** to purchase the Discovery Period will be immediately terminated if the Insurer does not receive written notice from the **Insured Executives** or their Notice Agent advising they wish to purchase the Discovery Period together with full payment of the premium for the Discovery Period on a non-refundable basis within sixty (60) days after the Policy Expiration Date.

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- (c) The purchase of the Discovery Period will not in any way increase the Limits of Liability set forth in Item 3 of the Declarations, and the Limits of Liability with respect to **Claims** made during the Discovery Period duly reported in accordance with Section I. (A) shall be part of and not in addition to the Limits of Liability for the **Policy Period** with respect to all **Claims** made and duly reported in accordance with Section I. (A).
- (d) If the Insurer offers to renew this Policy at a total premium amount different from the total premium amount for this Policy, such renewal on those premium terms shall not entitle the **Insured Executives** to elect any Discovery Period.
- (e) The Limits of Liability applicable for any Discovery Period are part of and not in addition to the Limits of Liability for this Policy. In no event shall there be any separate or additional Limits of Liability applicable to **Claims** made during the Discovery Period.

(2) Six (6) Year Discovery Period

Solely if this Policy is non-renewed following the initiation of liquidation or reorganization proceedings under the United States Bankruptcy Code or functionally equivalent foreign law, the Discovery Period otherwise described in Section IV. (I) (1) shall be increased to duration of six (6) years. All terms and conditions in Section IV. (I) (1) shall apply, except that no additional premium shall be required for this extended Discovery Period.

(3) Unlimited Discovery Period

Solely with respect to any **Insured Executives** who have voluntarily resigned or retired from the **Company** or its Board of Directors, and if the Insurer does not renew this Policy, the Discovery Period otherwise described in Section IV. (I) (1) shall be increased to a period of unlimited duration. All terms and conditions in Section IV. (I) (1) shall apply, except that no additional premium shall be required for this extended Discovery Period and this unlimited Discovery Period shall not be available when such **Insured Executives** leave the **Company** as a result of a "change in control" as described in Section IV. (C) (3).

9. Section IV. (J), **Representations of Insured Executives, Non-Rescindability and Full Severability**, is deleted in its entirety and replaced as follows:

(J) Representations of Insured Executives, Non-Rescindability and Full Severability

This Policy shall not be rescindable or voidable, in whole or in part, as to any **Insured Executive** under any circumstances.

The application(s) for coverage shall be construed as a separate application(s) for each **Insured Executive**. Each **Insured Executive** represents that, to the best of his or her knowledge, the statements and particulars contained in the application(s) are true, accurate and complete, and each **Insured Executive** agrees that this Policy is issued in reliance on the truth of that representation and that such particulars and statements, which are deemed to be incorporated into and constitute a part of this Policy, are the basis of this Policy. No knowledge or information possessed by the **Company** or any **Insured Executive** will be imputed to any other **Insured Executive** for the purposes of determining the availability of coverage with respect to **Claims** made against such other **Insured Executive**.

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10. Section IV. (O), **Insolvency of the Company and Waiver of Automatic Stay in Bankruptcy**, second paragraph only, is deleted in its entirety and replaced as follows:

However, the rights of an **Insured Executive** under this Policy shall not be affected by the bankruptcy or insolvency of the **Company**, any other **Insured Executive** or any insurer within the **Underlying Insurance**.

The following subsections are added to **Section IV, GENERAL CONDITIONS**.

(Q) Notice of Claims and Matters under Awareness Provision

With respect to and provided always that when any **Claim** is first made against an **Insured Executive** per Section I and Section II. (B) of the Policy, the **Insured Executives**, or the **Company** on their behalf, shall give written notice to the Insurer of any **Claim** as soon as practicable after either the in-house general counsel, risk manager or functional equivalent of either of the foregoing (including where, in the absence of such positions, such functions are the responsibility of a higher level executive officer of the **Company**) within the entity named in Item I of the Declarations first becomes aware of it, but in no event later than one hundred eighty (180) days after the end of the **Policy Period**.

If the **Insured Executives** or the **Company** fails to provide notice of any such **Claim** to the Insurer as required under this Section IV (Q), the Insurer shall not be entitled to deny coverage for the **Claim** based solely upon late notice unless the Insurer can demonstrate that its interests were materially prejudiced by reason of such late notice.

It is the sole option of the **Insured Executive** or the **Company** on his or her behalf to report (i) any matter arising under Section IV (D), Awareness Provision, (ii) any arrest, detainment or incarceration as described in subsection 3 of the **Claim** definition, (iii) any request or demand to toll or waive a statute of limitation as described in subsection 6 of the **Claim** definition, or (iv) any **Preliminary Investigation**.

No coverage is afforded for any **Loss** incurred in connection with any of the matters described in the immediately preceding paragraph, prior to the time written notice of same is given to the Insurer. In the case of a matter arising under Section IV (D), Awareness Provision, the Insurer shall have no obligation to pay any **Defense Expenses** or other **Loss** amounts unless and until an actual **Claim** ensues, which is duly reported to the Insurer pursuant to this Section IV (Q).

(R) State Amendatory Inconsistency

If there is an inconsistency between a state amendatory endorsement attached to this Policy and any other term or condition of this Policy, the Insurer shall apply, where permitted by law, those terms and conditions either of such state amendatory endorsement or the Policy form, whichever are more favorable to coverage for the **Insured Executive**.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED. THE TITLE OR HEADING TO THIS ENDORSEMENT IS INCLUDED SOLELY FOR EASE OF REFERENCE AND DOES NOT IN ANY WAY LIMIT, EXPAND, INTERPRET OR OTHERWISE EFFECT THE PROVISIONS OF THIS ENDORSEMENT.