

# CERTIFICATE OF COVERAGE

This "Certificate of Coverage", together with the master policy to which it is attached, constitute the policy issued to the "Certificate Holder". Any coverage listed below is subject to the terms, conditions and limitations set forth below and in the master policy referenced.

<b>POLICYHOLDER NAME AND ADDRESS:</b>											
Education Support Purchasing Group c/o Association Insurance Management P.O. Box 742946 Dallas, TX 75374-2946											
<b>CERTIFICATE HOLDER (NAMED INSURED) NAME AND ADDRESS:</b>											
Cards Inc. 300 W. Granville Rd Worthington, OH 43085											
Insured # OH148887											
<b>The Certificate Holder is:</b>											
<input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Organization/Corporation <input type="checkbox"/> Trust <input checked="" type="checkbox"/> Other            Non-Profit											
Location of Business: 300 W. Granville Rd Worthington, OH 43085											
Business Description: Parent Teacher Organization											
<b>ITEM 1</b>	<b>COVERAGE PERIOD:</b> Effective: 10/18/2020    To: 10/18/2021 At 12:01 A.M. Standard Time at the mailing address of the policyholder shown above. <b>CERTIFICATE NUMBER:</b> DO2020PTA01938 <b>PRIOR CERTIFICATE NUMBER:</b> NEW										
<b>ITEM 2</b>	<b>INSURER:</b> Gotham Insurance Company  Master Policy Number: DO2020PTA00001										
<b>ITEM 3</b>	<b>PRODUCER NAME AND ADDRESS:</b> AIM Association Insurance Management P.O. Box 742946 Dallas, TX 75374-2946 Surplus Lines License #1615689										
<b>ITEM 4</b>	<b>SCHEDULE OF CHARGES:</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Directors &amp; Officers Liability Premium</td> <td style="text-align: right;">\$ 34.00</td> </tr> <tr> <td>Policy Fees</td> <td style="text-align: right;">\$ 37.53</td> </tr> <tr> <td>Surplus Lines Tax</td> <td style="text-align: right;">\$ 3.47</td> </tr> <tr> <td>Stamping Fee</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Grand Total</td> <td style="text-align: right;">\$ 75.00</td> </tr> </table>	Directors & Officers Liability Premium	\$ 34.00	Policy Fees	\$ 37.53	Surplus Lines Tax	\$ 3.47	Stamping Fee	\$	Grand Total	\$ 75.00
Directors & Officers Liability Premium	\$ 34.00										
Policy Fees	\$ 37.53										
Surplus Lines Tax	\$ 3.47										
Stamping Fee	\$										
Grand Total	\$ 75.00										
<b>ITEM 5</b>	<b>SCHEDULE OF COVERAGE AND LIMITS OF INSURANCE:</b>  <b>DIRECTORS AND OFFICERS LIABILITY INSURANCE</b> Directors And Officers Aggregate Limit    \$    1,000,000 Retention    \$    0 Prior or Pending Litigation Date    10/18/2018										
<b>ITEM 6</b>	<b>MASTER POLICY FORMS &amp; ENDORSEMENT SCHEDULE</b>  <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;">Form #</th> <th style="text-align: left;">Description</th> </tr> </thead> <tbody> <tr> <td>MLDO DS 00 0620 IL</td> <td>DIRECTORS AND OFFICERS LIABILITY DECLARATIONS</td> </tr> <tr> <td>00 01 05 19</td> <td>SIGNATURE PAGE</td> </tr> <tr> <td>IL 00 12 07 11</td> <td>SCHEDULE OF FORMS AND ENDORSEMENTS</td> </tr> </tbody> </table>	Form #	Description	MLDO DS 00 0620 IL	DIRECTORS AND OFFICERS LIABILITY DECLARATIONS	00 01 05 19	SIGNATURE PAGE	IL 00 12 07 11	SCHEDULE OF FORMS AND ENDORSEMENTS		
Form #	Description										
MLDO DS 00 0620 IL	DIRECTORS AND OFFICERS LIABILITY DECLARATIONS										
00 01 05 19	SIGNATURE PAGE										
IL 00 12 07 11	SCHEDULE OF FORMS AND ENDORSEMENTS										

IL PS 0019 10 12	SERVICE OF SUITS - GOTHAM INSURANCE COMPANY
PN 04 99 TX GOT 11 19	IMPORTANT NOTICE TO ALL TEXAS POLICYHOLDERS
IL P 001 01 04	U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC) ADVISORY NOTICE TO POLICYHOLDERS.
ML 00 01 01 19	LIABILITY COVERAGE PARTS COMMON POLICY TERMS AND CONDITIONS
ML 00 02 01 19	PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM
MLDO 0001 0620	DIRECTORS AND OFFICERS AMENDATORY ENDORSEMENT
IL 3068 0620	MINIMUM EARNED PREMIUM
ML 10 10 01 19	CONDITIONS AMENDED - TERRITORY (U.S., U.S. TERRITORIES AND POSSESSIONS, PUERTO RICO AND CANADA)
ML 10 11 01 19	NUCLEAR ENERGY LIABILITY EXCLUSION
ML 10 18 01 19	FUNGI OR BACTERIA EXCLUSION
ML 10 28 01 19	EXCLUSION OF TERRORISM
ML 20 02 01 19	FAILURE TO MAINTAIN INSURANCE EXCLUSION
ML 20 06 01 19	DEFINITION OF DAMAGES AMENDED - PUNITIVE DAMAGES EXCLUDED (D & O)
ML 10 19 01 19	PRIOR WRONGFUL ACTS EXCLUSION
IL 09 85 01 15	DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT
ML 10 23 01 19	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
ML 10 27 01 19	EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES; CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
ML 10 13 01 19	ADDITIONAL EXTENDED REPORTING PERIOD ELECTED
IL 31 14 07 20	POLICY CONDITIONS ADDED
PN 04 99 72 0620	HOW TO REPORT A CLAIM

**ITEM 7 FORMS SPECIFIC TO CERTIFICATE HOLDER SHOWN ON THIS CERTIFICATE:**

<b>Form #</b>	<b>Description</b>
ML 10 19 01 19	PRIOR WRONGFUL ACTS EXCLUSION

POLICY NUMBER:  
MEMBER CERTIFICATE NUMBER: DO2020PTA01938

MANAGEMENT PROTECTION  
ML 10 19 01 19

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRIOR WRONGFUL ACTS EXCLUSION**

This endorsement only applies to and modifies insurance provided under the checked Coverage Forms. It does not apply to Coverage Forms that are not checked.

<input checked="" type="checkbox"/>	Private Company Directors And Officers Liability Coverage Form
<input type="checkbox"/>	Employment-related Practices Liability Coverage Form
<input type="checkbox"/>	Fiduciary Liability Coverage Form

### **SCHEDULE**

<b>Prior Acts Date:</b> 10/18/2018
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to the **Exclusions** of each Coverage Form(s) checked above:

#### **Prior Acts Exclusion**

Based upon, arising out of or attributable to any "wrongful act" or "interrelated wrongful acts" that occurred before the Prior Acts Date shown in the Schedule of this endorsement.

If Private Company Directors And Officers Liability Coverage Form is checked, this exclusion is applicable to all insuring agreements.

# DIRECTORS AND OFFICERS LIABILITY DECLARATIONS

THIS POLICY CONSISTS OF THIS POLICY DECLARATIONS, THE LIABILITY COVERAGE PARTS COMMON POLICY TERMS AND CONDITIONS, PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE PART, ATTACHED ENDORSEMENTS AND THE APPLICATION(S).

THIS POLICY PROVIDES CLAIMS-MADE AND REPORTED COVERAGE. CLAIMS MUST BE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIODS OR RUN-OFF COVERAGE PERIOD, AND REPORTED TO US AS SOON AS PRACTICABLE, BUT IN NO EVENT LATER THAN 60 DAYS AFTER THE END OF THE POLICY PERIOD, OR AFTER THE END OF ANY APPLICABLE EXTENDED REPORTING PERIODS OR RUN-OFF COVERAGE PERIOD.

THE LIMIT OF LIABILITY AND ANY RETENTION SHALL BE REDUCED BY AMOUNTS INCURRED AS DAMAGES AND DEFENSE COSTS.

PLEASE READ THIS POLICY CAREFULLY.

<b>Insurer:</b> Gotham Insurance Company 412 Mt Kemble Ave, Suite 300C Morristown, NJ 07960	<b>Producer:</b> AIM Association Insurance Management P.O. Box 742946 Dallas, TX 75374-2946
<b>NAMED INSURED:</b> <u>Education Support Purchasing Group</u>	
<b>MAILING ADDRESS:</b> <u>c/o Association Insurance Management</u> <u>P.O. Box 742946, Dallas, TX 75374-2946</u>	
<b>POLICY PERIOD:</b> FROM <u>6/1/2020</u> TO <u>1/1/2022</u> AT 12:01 A.M. TIME AT YOUR MAILING ADDRESS SHOWN ABOVE	

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM AND SUBJECT TO THE DECLARATIONS AND ALL TERMS, LIMITATIONS AND CONDITIONS OF THIS POLICY, THE INSURED AND INSURER AGREE AS FOLLOWS:

PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE REFER TO CERTIFICATES OF INSURANCE	
DIRECTORS AND OFFICERS AGGREGATE LIMIT	\$ Per Coverage Certificate
RETENTION	\$ Per Coverage Certificate
PRIOR OR PENDING LITIGATION DATE	Per Coverage Certificate

EXTENDED REPORTING PERIOD AND RUN-OFF COVERAGE PERIOD REFER TO CERTIFICATES OF INSURANCE				
Extended Reporting Period:	1. Additional Premium:	\$	Per Coverage Certificate	% of Annual Premium
	2. Additional Period:		Per Coverage Certificate	Year(s)
Run-Off Coverage Period:	1. Additional Premium:	\$	Per Coverage Certificate	% of Annual Premium
	2. Additional Period:		Per Coverage Certificate	Year(s)

<b>TOTAL POLICY PREMIUM</b>	<b>\$ 1.00</b>
-----------------------------	----------------

SIGNATURE PAGE

In witness whereof, (insert writing company name) has caused this policy to be signed by its president and secretary.



Larry Hannon  
President



Frank D. Papalia  
Secretary

---

Named Insured: Education Support Purchasing Group  
Policy #: DO2020PTA00001  
Policy Period: 6/1/2020-1/1/22

IL 0001 (0519)

## SCHEDULE OF FORMS AND ENDORSEMENTS

<b>NAMED INSURED</b> Education Support Purchasing Group	<b>EFFECTIVE DATE</b> 6/1/2020-1/1/2022	<b>POLICY NUMBER</b> DO2020PTA00001																																																																					
IF THIS ENDORSEMENT IS LISTED IN THE POLICY DECLARATIONS, IT IS IN EFFECT FROM THE TIME COVERAGE UNDER THIS POLICY COMMENCES. OTHERWISE, THE EFFECTIVE DATE OF THIS ENDORSEMENT IS AS SHOWN ABOVE AT THE SAME TIME OR HOUR OF THE DAY AS THE POLICY BECAME EFFECTIVE.		COUNTERSIGNED BY:  <hr style="width: 100%;"/> AUTHORIZED REPRESENTATIVE																																																																					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; padding: 2px;">MLDO DS 00</td> <td style="width: 10%; padding: 2px;">06 20</td> <td style="padding: 2px;">PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY DECLARATIONS</td> </tr> <tr> <td style="padding: 2px;">IL 00 01</td> <td style="padding: 2px;">05 19</td> <td style="padding: 2px;">SIGNATURE PAGE</td> </tr> <tr> <td style="padding: 2px;">IL 00 12</td> <td style="padding: 2px;">07 11</td> <td style="padding: 2px;">SCHEDULE OF FORMS AND ENDORSEMENTS</td> </tr> <tr> <td style="padding: 2px;">IL PS 0019</td> <td style="padding: 2px;">10 12</td> <td style="padding: 2px;">SERVICE OF SUITS - GOTHAM INSURANCE COMPANY</td> </tr> <tr> <td style="padding: 2px;">PN 04 99 TX GOT</td> <td style="padding: 2px;">11 19</td> <td style="padding: 2px;">IMPORTANT NOTICE TO ALL TEXAS POLICYHOLDERS</td> </tr> <tr> <td style="padding: 2px;">IL P 001</td> <td style="padding: 2px;">01 04</td> <td style="padding: 2px;">U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC) ADVISORY NOTICE TO POLICYHOLDERS</td> </tr> <tr> <td style="padding: 2px;">ML 00 01</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">LIABILITY COVERAGE PARTS COMMON POLICY TERMS AND CONDITIONS</td> </tr> <tr> <td style="padding: 2px;">ML 00 02</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM.</td> </tr> <tr> <td style="padding: 2px;">MLDO 0001</td> <td style="padding: 2px;">06 20</td> <td style="padding: 2px;">DIRECTORS AND OFFICERS AMENDATORY ENDORSEMENT</td> </tr> <tr> <td style="padding: 2px;">IL 30 68</td> <td style="padding: 2px;">06 20</td> <td style="padding: 2px;">MINIMUM EARNED PREMIUM</td> </tr> <tr> <td style="padding: 2px;">ML 10 10</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">CONDITIONS AMENDED – TERRITORY (U.S., U.S. TERRITORIES AND POSSESSIONS, PUERTO RICO AND CANADA)</td> </tr> <tr> <td style="padding: 2px;">ML 10 11</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">NUCLEAR ENERGY LIABILITY EXCLUSION</td> </tr> <tr> <td style="padding: 2px;">ML 10 18</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">FUNGI OR BACTERIA EXCLUSION</td> </tr> <tr> <td style="padding: 2px;">ML 10 28</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">EXCLUSION OF TERRORISM</td> </tr> <tr> <td style="padding: 2px;">ML 20 02</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">FAILURE TO MAINTAIN INSURANCE EXCLUSION</td> </tr> <tr> <td style="padding: 2px;">ML 20 06</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">DEFINITION OF DAMAGES AMENDED – PUNITIVE DAMAGES EXCLUDED (D&amp;O)</td> </tr> <tr> <td style="padding: 2px;">ML 10 19</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">PRIOR WRONGFUL ACTS EXCLUSION</td> </tr> <tr> <td style="padding: 2px;">IL 09 85</td> <td style="padding: 2px;">01 15</td> <td style="padding: 2px;">DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT</td> </tr> <tr> <td style="padding: 2px;">ML 10 23</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM</td> </tr> <tr> <td style="padding: 2px;">ML 10 27</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES; CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM</td> </tr> <tr> <td style="padding: 2px;">ML 10 13</td> <td style="padding: 2px;">01 19</td> <td style="padding: 2px;">ADDITIONAL EXTENDED REPORTING PERIOD ELECTED</td> </tr> <tr> <td style="padding: 2px;">IL 31 14</td> <td style="padding: 2px;">07 20</td> <td style="padding: 2px;">POLICY CONDITIONS ADDED</td> </tr> <tr> <td style="padding: 2px;">PN 04 99 72</td> <td style="padding: 2px;">06 20</td> <td style="padding: 2px;">HOW TO REPORT A CLAIM</td> </tr> </table>			MLDO DS 00	06 20	PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY DECLARATIONS	IL 00 01	05 19	SIGNATURE PAGE	IL 00 12	07 11	SCHEDULE OF FORMS AND ENDORSEMENTS	IL PS 0019	10 12	SERVICE OF SUITS - GOTHAM INSURANCE COMPANY	PN 04 99 TX GOT	11 19	IMPORTANT NOTICE TO ALL TEXAS POLICYHOLDERS	IL P 001	01 04	U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC) ADVISORY NOTICE TO POLICYHOLDERS	ML 00 01	01 19	LIABILITY COVERAGE PARTS COMMON POLICY TERMS AND CONDITIONS	ML 00 02	01 19	PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM.	MLDO 0001	06 20	DIRECTORS AND OFFICERS AMENDATORY ENDORSEMENT	IL 30 68	06 20	MINIMUM EARNED PREMIUM	ML 10 10	01 19	CONDITIONS AMENDED – TERRITORY (U.S., U.S. TERRITORIES AND POSSESSIONS, PUERTO RICO AND CANADA)	ML 10 11	01 19	NUCLEAR ENERGY LIABILITY EXCLUSION	ML 10 18	01 19	FUNGI OR BACTERIA EXCLUSION	ML 10 28	01 19	EXCLUSION OF TERRORISM	ML 20 02	01 19	FAILURE TO MAINTAIN INSURANCE EXCLUSION	ML 20 06	01 19	DEFINITION OF DAMAGES AMENDED – PUNITIVE DAMAGES EXCLUDED (D&O)	ML 10 19	01 19	PRIOR WRONGFUL ACTS EXCLUSION	IL 09 85	01 15	DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT	ML 10 23	01 19	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM	ML 10 27	01 19	EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES; CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM	ML 10 13	01 19	ADDITIONAL EXTENDED REPORTING PERIOD ELECTED	IL 31 14	07 20	POLICY CONDITIONS ADDED	PN 04 99 72	06 20	HOW TO REPORT A CLAIM
MLDO DS 00	06 20	PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY DECLARATIONS																																																																					
IL 00 01	05 19	SIGNATURE PAGE																																																																					
IL 00 12	07 11	SCHEDULE OF FORMS AND ENDORSEMENTS																																																																					
IL PS 0019	10 12	SERVICE OF SUITS - GOTHAM INSURANCE COMPANY																																																																					
PN 04 99 TX GOT	11 19	IMPORTANT NOTICE TO ALL TEXAS POLICYHOLDERS																																																																					
IL P 001	01 04	U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC) ADVISORY NOTICE TO POLICYHOLDERS																																																																					
ML 00 01	01 19	LIABILITY COVERAGE PARTS COMMON POLICY TERMS AND CONDITIONS																																																																					
ML 00 02	01 19	PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM.																																																																					
MLDO 0001	06 20	DIRECTORS AND OFFICERS AMENDATORY ENDORSEMENT																																																																					
IL 30 68	06 20	MINIMUM EARNED PREMIUM																																																																					
ML 10 10	01 19	CONDITIONS AMENDED – TERRITORY (U.S., U.S. TERRITORIES AND POSSESSIONS, PUERTO RICO AND CANADA)																																																																					
ML 10 11	01 19	NUCLEAR ENERGY LIABILITY EXCLUSION																																																																					
ML 10 18	01 19	FUNGI OR BACTERIA EXCLUSION																																																																					
ML 10 28	01 19	EXCLUSION OF TERRORISM																																																																					
ML 20 02	01 19	FAILURE TO MAINTAIN INSURANCE EXCLUSION																																																																					
ML 20 06	01 19	DEFINITION OF DAMAGES AMENDED – PUNITIVE DAMAGES EXCLUDED (D&O)																																																																					
ML 10 19	01 19	PRIOR WRONGFUL ACTS EXCLUSION																																																																					
IL 09 85	01 15	DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT																																																																					
ML 10 23	01 19	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM																																																																					
ML 10 27	01 19	EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES; CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM																																																																					
ML 10 13	01 19	ADDITIONAL EXTENDED REPORTING PERIOD ELECTED																																																																					
IL 31 14	07 20	POLICY CONDITIONS ADDED																																																																					
PN 04 99 72	06 20	HOW TO REPORT A CLAIM																																																																					

# SERVICE OF SUITS

## Service of Suit

It is agreed that in the event of our failure to pay any amount claimed to be due under this policy, we agree to submit to the jurisdiction of any court of competent jurisdiction within the United States in which a suit for those amounts may be brought. Nothing in this condition constitutes or should be understood to constitute a waiver of our right to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States.

It is further agreed that service of process in such suit may be made upon:

Gotham Insurance Company  
412 Mt Kemble Avenue, Suite 300C  
Morristown, NJ 07960  
Attn: General Counsel

and in any suit instituted against such person upon this policy, the insurer will abide by the final decision of such court or of any Appellate Court in the event of an appeal.

Pursuant to any provision of any statute of any state, territory, or district of the United States, we hereby designate the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his successor or successors in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by you or on your behalf or any beneficiary hereunder arising out of this policy, and we hereby designate the above named Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

All other terms and conditions of this policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

## IMPORTANT NOTICE TO ALL TEXAS POLICYHOLDERS

### HAVE A COMPLAINT OR NEED HELP?

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appear through your insurance company or HMO. If you don't, you may lose your right to appeal.

#### **Gotham Insurance Company**

To get information or file a complaint with your insurance company or HMO:

**Toll-free: 1-800-PSI-2755**

Email: [CustomerInquiries@prosightspecialty.com](mailto:CustomerInquiries@prosightspecialty.com)

Mail: 412 Mt. Kemble Avenue, Ste 300C

Morristown, NJ 07960

Attn: General Counsel

#### **The Texas Department of Insurance**

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439

File a complaint: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Email: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Mail: MC 111-1A, P.O. Box 149091,

Austin, TX 78714-9091

### ¿TIENE UNA QUEJA O NECESITA AYUDA?

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre, en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

#### **Gotham Insurance Company**

Para obtener información o para presentar una queja ante su compañía de seguros o HMO:

**Teléfono gratuito: 1-800-PSI-2755**

En línea: [CustomerInquiries@prosightspecialty.com](mailto:CustomerInquiries@prosightspecialty.com)

Dirección postal: 412 Mt. Kemble Avenue,

Ste 300C

Morristown, NJ 07960

Attn: General Counsel

#### **El Departamento de Seguros de Texas**

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439

Presente una queja en: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Correo electrónico:

[ConsumerProtection@tdi.state.tx.gov](mailto:ConsumerProtection@tdi.state.tx.gov)

Dirección postal: MC 111-1A, P.O. Box 149091,

Austin, TX 78714-9091



# U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

# LIABILITY COVERAGE PARTS COMMON POLICY TERMS AND CONDITIONS

UNDER ALL LIABILITY COVERAGE PARTS, CLAIMS MUST BE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD OR RUN-OFF COVERAGE PERIOD, AND REPORTED TO US AS SOON AS PRACTICABLE, BUT IN NO EVENT LATER THAN 60 DAYS AFTER THE END OF THE POLICY PERIOD, OR AFTER THE END OF ANY APPLICABLE EXTENDED REPORTING PERIOD OR RUN-OFF COVERAGE PERIOD.

THE LIMIT OF LIABILITY AND ANY RETENTION SHALL BE REDUCED BY AMOUNTS INCURRED AS DAMAGES AND DEFENSE COSTS. PLEASE READ THIS POLICY CAREFULLY.

Throughout the Liability Coverage Parts, the words "we", "us" and "our" refer to the company providing this insurance.

Words and phrases that appear in quotation marks have special meaning. Refer to Section IX – Definitions of the Liability Coverage Parts Common Policy Terms And Conditions and to the Definitions section of each Coverage Part.

## SECTION I – TERMS AND CONDITIONS

The Liability Coverage Parts Common Policy Terms And Conditions shall only apply to "Liability Coverage Parts". If any term or condition in the Liability Coverage Parts Common Policy Terms And Conditions is inconsistent with any term or condition in a "Liability Coverage Part", the language in that "Liability Coverage Part" shall apply. The agreements, terms, conditions, exclusions and definitions stated in each "Liability Coverage Part" shall only apply to that "Liability Coverage Part".

## SECTION II – LIMITS OF LIABILITY

### A. Liability Coverage Parts

Each "Liability Coverage Part" Limit Of Liability shown in the Declarations is the most that we will pay for "loss" under each "Liability Coverage Part" that is not subject to the Shared Limit of Liability.

### B. Shared Limit Of Liability

The Shared Limit of Liability is the most that we will pay for all "loss" incurred for all "Liability Coverage Parts" that have a Shared Limit Of Liability as shown in the Declarations. The Shared Limit of Liability shall be reduced by all "loss" paid under each "Liability Coverage Part" that is subject to the Shared Limit of Liability. If the Shared Limit of Liability is exhausted by the payment of "loss", we will have no further obligations or liability of any kind for all "Liability Coverage Parts" under which the Shared Limit of Liability is applicable. If a "Liability Coverage Part" is subject to a Shared Limit of Liability and that "Liability Coverage Part's" Limit of Liability is exhausted, but the Shared Limit of Liability is not exhausted, we will have no further obligations or liability of any kind for that "Liability Coverage Part".

## SECTION III – DEFENSE AND SETTLEMENT

### A. Defense

We have the right and duty to defend any covered "claim", including the right to select defense counsel, even if such "claim" is groundless, false or fraudulent. We also have the right to investigate any "claim". We will not be obligated to defend, or to continue to defend, any "claim" after the applicable Limit of Liability has been exhausted by payment of "loss".

### B. Settlement

1. We shall have the right to negotiate and settle any "claim", but will not enter into any settlement without "your" consent. If "you" withhold consent to a settlement recommended by us and acceptable to the claimant, our duty to defend ends, and the most we will pay for that "claim", in an amount not to exceed the applicable Coverage Part Limit of Liability, is the sum of:
  - a. The amount that we could have settled the "claim" for;
  - b. "Defense costs" incurred up to the date of "your" refusal to settle the "claim";
  - c. 50% of all "defense costs" incurred after the date of "your" refusal; and

- d. 50% of all "damages" in excess of the settlement amount recommended by us.
2. We shall not be liable for any settlement or "defense costs", assumed obligations or admissions to which we have not consented. "You" may, however, settle any "claim" on behalf of all "insureds" to which this insurance applies and which are subject to one retention amount where the total incurred "loss" does not exceed the retention amount.

#### **SECTION IV – RETENTION**

The Retentions shown in the Declarations are separate retentions applying only to the corresponding "Liability Coverage Part" shown in the Declarations. The application of a retention under one "Liability Coverage Part" shall not reduce the retention under any other "Liability Coverage Part". "We" will only pay for "loss" once the amount of "loss" exceeds the Retention shown in the Declarations for each "claim". The terms of this Policy, including those with respect to "our" right and duty to defend "claims" and "your" duties under the Policy, apply irrespective of the application of the retention amount. Such retention amount must be borne by the "insured" and remain uninsured. No retention shall apply to "loss" that is a "non-indemnifiable loss" nor to Insuring Agreement A. Insured Person Liability of the Private Company Directors And Officers Liability Coverage Form.

#### **SECTION V – RELATED CLAIMS**

Under each "Liability Coverage Part", all "claims" arising out of the same "wrongful act" or any combination of "interrelated wrongful acts" shall be considered a single "claim" subject to the applicable Retention shown in the Declarations. Such single "claim" will be deemed to have been made at the time the first "claim" was made in accordance with the provisions of Section VII, Paragraph L. Reporting, Notice And Duties In The Event Of A Claim Or A Wrongful Act That May Result In A Claim.

If a "claim" is made and coverage is provided under one "Liability Coverage Part", all "claims" reported under any "Liability Coverage Part" arising out of the same "wrongful act" or any combination of "interrelated wrongful acts" will be deemed to have been made at the time the first "claim" was made.

If "claims" arising out of the same "wrongful act" or any combination of "interrelated wrongful acts" are made and are covered by more than one "Liability Coverage Part" and are all subject to the Shared Limit of Liability, the highest applicable retention amount, as well as the applicable terms and conditions related to the applicable retention, shall apply to such "claim".

If "claims" arising out of the same "wrongful act" or any combination of "interrelated wrongful acts" are made and covered by more than one "Liability Coverage Part" and at least one "Liability Coverage Part" is not subject to the Shared Limit of Liability, the retention for the "claim" made under the "Liability Coverage Part" that does not share limits shall apply separately to such "claim". The applicable retention for this "Liability Coverage Part" shall not be satisfied by payments of "loss" made towards the retention required under any other "Liability Coverage Part".

#### **SECTION VI – COVERAGE EXTENSION**

Coverage shall extend to "claims" for "wrongful acts" of an "insured person" made against:

- A. The lawful spouse or domestic partner of such "insured person" solely by reason of such spouse or domestic partner's status as a spouse or domestic partner, or such spouse or domestic partner's ownership interest in property which the claimant seeks as recovery for an actual or alleged "wrongful act" of such "insured person";
- B. The estate, heirs, legal representatives or assigns of such "insured person" who is deceased, or the legal representatives or assigns of such "insured person" who is legally incompetent, insolvent or bankrupt; or
- C. A trust of such "insured person" and any legally approved trustees of such trust.

This extension shall not afford coverage for any actual or alleged "wrongful act" committed by or directly involving the spouse or domestic partner, estate, heirs, legal representatives, trustees or assigns but shall apply only to "claims" arising out of any actual or alleged "wrongful acts" committed by or directly involving an "insured person".

#### **SECTION VII – CONDITIONS**

##### **A. Allocation**

1. If in any "claim" the "insureds" incur "loss" that is covered by a "Liability Coverage Part" and loss that is not covered by such "Liability Coverage Part", either because a "claim" against the "insureds" includes both covered and uncovered matters, or because a "claim" is made against both "insureds" who are afforded coverage and others, including "insureds" who are not afforded coverage, then we and the "insureds" shall use our best efforts to agree upon fair and reasonable allocation of such amount between covered "loss" and uncovered loss. Notwithstanding the foregoing, 100% of any such "defense costs" shall be allocated to covered "loss" if and to the extent such "defense costs" are incurred by covered "insureds", provided that at least one allegation triggers coverage under such "Liability Coverage Part".

2. If it is determined by negotiation, arbitration or adjudication that at least one allegation triggers coverage, payment of "defense costs" will be applied retroactively to all "defense costs" on account of such covered allegation. Any allocation or advancement of "defense costs" on account of a "claim" shall not apply to or create any presumption with respect to the allocation of other "loss" on account of such "claim".

#### **B. Assignment**

No change in, modification of or assignment of interest under this Policy will be effective without our written consent.

#### **C. Bankruptcy**

Bankruptcy or insolvency of the "insured" or of the "insured's" estate will not relieve us of our obligations under this Policy.

#### **D. Cancellation And Nonrenewal**

##### **1. Cancellation**

- a. The "named insured" shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this Policy by mailing or delivering to the "named insured" written notice of cancellation at least:
  - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail or deliver our notice to the "named insured's" last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The "policy period" will end on that date.
- e. If this Policy is cancelled, we will send the "named insured" any premium refund due. If we cancel, the refund will be pro rata. If the "named insured" cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

##### **2. Nonrenewal**

If we decide not to renew this Policy, we will mail or deliver to the "named insured" written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

#### **E. Changes**

This Policy contains all the agreements between the "insured" and insurer concerning the insurance afforded. The "named insured" is authorized to make changes in the terms of this Policy with our consent. This Policy's terms can be amended or waived only by endorsement issued by us and made a part of this Policy.

#### **F. Changes In Exposure**

##### **1. Merger Or Acquisition Of Named Insured**

If during the "policy period":

- a. The "named insured" merges into or consolidates with another entity such that the "named insured" is not the surviving entity; or
- b. Another entity, or person or group of entities and/or persons acting in concert, acquires securities or voting rights which result in ownership or voting control by the other entities or persons of more than 50% of the outstanding securities representing the present right to vote for the election of directors of the "named insured";

then coverage under the "Liability Coverage Parts" will continue until the end of the "policy period", or the expiration of a Run-Off Coverage Period shown in the Declarations, if purchased, but only with respect to "claims" arising out of "wrongful acts" which occurred prior to such merger, consolidation or acquisition.

The full annual premium for the "policy period" will be deemed fully earned immediately upon the occurrence of such merger, consolidation or acquisition of the "named insured". The "named insured" must give written notice of such merger, consolidation or acquisition to us within 60 days of such merger, consolidation or acquisition.

## **2. Acquisition By The Named Insured Or Creation Of Another Entity**

If during the "policy period" the "organization" acquires:

- a. Securities or voting rights in another entity or creates another entity resulting in a "subsidiary"; or
- b. Any entity by merger into or consolidation with the "named insured" or an existing "subsidiary";

the "named insured" must:

- (1) Give us written notice of the acquisition or creation of such entity within 60 days after the effective date of such action; and
- (2) Pay any additional premium that we may require if we agree in writing to add such entity as a "subsidiary".

The newly acquired or created entity will then be covered under the "Liability Coverage Parts", but only with respect to "wrongful acts" which occurred after the effective date of such acquisition or creation.

## **3. Cessation Of Subsidiaries**

If an entity ceases to be a "subsidiary" during the "policy period", then coverage for such former "subsidiary" will continue until the end of the "policy period", or the expiration of a Run-Off Coverage Period, if purchased, but only for "claims" arising out of "wrongful acts" occurring on or after the date such entity became a "subsidiary" and prior to the date it ceased to qualify as a "subsidiary", subject to all other terms and conditions of this Policy.

## **G. Examination Of Your Books And Records**

We may examine and audit the "insured's" books and records as they relate to this Policy at any time during the "policy period" and up to three years afterward.

## **H. Legal Action Against Us**

No person or entity has a right under this Policy:

1. To join us as a party or otherwise bring us into a suit asking for "damages" from an "insured"; or
2. To sue us under this Policy unless all of its terms have been fully complied with.

A person or entity may sue us to recover on an agreed settlement or on a final judgment against an "insured", 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 Liability shown in the Declarations. An agreed settlement means a settlement and release of liability signed by us, the "insured" and the claimant or the claimant's legal representative.

## **I. Other Insurance**

Such insurance as is provided by these "Liability Coverage Parts" shall apply only as excess over any other valid and collectible insurance, unless such other insurance is expressly written to be excess over the applicable Limit of Liability provided by this Policy.

## **J. Premiums**

The "named insured":

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

## **K. Priority Order Of Payments**

In the event payment of "loss", if any, under a "Liability Coverage Part" exceeds the remaining Limit of Liability applicable to such Coverage Part, then we shall pay such "loss", subject to the applicable Limit of Liability, in the following order:

1. First, pay the "loss" for which coverage is provided under Insuring Agreement A. Insured Person Liability of the Private Company Directors And Officers Liability Coverage Form;
2. Second, pay "non-indemnifiable loss" under any other "Liability Coverage Part"; and
3. Third, pay "loss" not described in Paragraph K.1. or 2. for which coverage is provided under any other applicable Insuring Agreement or coverage.

#### **L. Reporting, Notice And Duties In The Event Of A Claim Or A Wrongful Act That May Result In A Claim**

1. "You" must give us written notice of any "claim" made against "you" within the "policy period" as soon as practicable, but in no event later than 60 days after the end of the "policy period". If an Extended Reporting Period or Run-Off Coverage Period applies, "you" must provide us written notice of any "claim" made against "you" within the applicable Extended Reporting Period or Run-Off Coverage Period as soon as practicable, but in no event later than 60 days after the end of the applicable Extended Reporting Period or Run-Off Coverage Period.

If "you" receive a "claim", "you" must also:

- a. Immediately record the specifics of the "claim" and the date received;
  - b. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
  - c. Authorize us to obtain records and other information;
  - d. Cooperate with us in the investigation, defense or settlement of the "claim"; and
  - e. Assist us, upon our request, in the enforcement of any right against any person or entity which may be liable to "you" because of a "wrongful act" to which this insurance may also apply.
2. If during the "policy period" "you" become aware of any circumstances potentially involving a "wrongful act" that could reasonably be expected to give rise to a "claim", "you" must provide us with written notice of the circumstances as soon as practicable, but no later than the end of the "policy period". If "you" become aware of any circumstances during any applicable Extended Reporting Period or Run-Off Coverage Period, "you" must provide us with written notice of the circumstances as soon as practicable, but no later than the end of any applicable Extended Reporting Period or Run-Off Coverage Period.

Such notice of any circumstances potentially involving a "wrongful act" must provide:

- a. A description, including all relevant dates;
- b. The names of the persons involved, including names of the potential claimants;
- c. Particulars as to the reasons for anticipating a "claim" which may result;
- d. The nature of the alleged or potential "damages"; and
- e. The circumstances by which the "insured" first became aware of the potential "wrongful act".

If a "claim" develops from the same circumstances or from any "interrelated wrongful act", then we will treat that "claim" as if it had first been made against "you" on the date "you" notified us of it as a potential "claim". We will do so even if that "claim" is first made against "you" after the "policy period" or applicable Extended Reporting Period or purchased Run-Off Coverage Period has ended.

3. All notifications made to us under this paragraph must either be in writing and submitted to the designated mailing address or sent to the e-mail address identified in the Declarations and should reference the policy number.
4. No "insured" will, except at that "insured's" own cost, voluntarily make a payment, assume any obligation or incur any expense without our written consent.

#### **M. Representations And Severability Of The Application**

##### **1. Representations**

By accepting this Policy, of which the "application" is a part, "you" agree that:

- a. The statements in the Declarations and "application" are accurate and complete;
- b. Those statements are based upon representations "you" made to us; and
- c. We have issued this Policy in reliance upon "your" representations.

## 2. Severability Of The Application

The "application" shall be considered as a separate "application" by each "insured person". With respect to the "application", no knowledge possessed by an "insured person" shall be imputed to any other "insured person". However, if we learn that any of the representations or materials were untrue, inaccurate or misleading in any material respect, then we are entitled to treat the "Liability Coverage Parts" as if they had never existed with respect to:

- a. Any "insured person" who knew of such misrepresentations if such individual was aware that the "application" included the misrepresentations; or
- b. Any "organization" if any past or present chief financial officer, chief executive officer, in-house general counsel, managing partner or any person in any equivalent positions of the foregoing, regardless of title, knew of such misrepresentations, even if such individual was not aware that the "application" included the misrepresentations.

## N. Subrogation

With respect to any payments made under the "Liability Coverage Parts" of this Policy on behalf of any "insured", we shall be subrogated to "your" rights of recovery to the extent of those payments. "You" shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable us to bring suit in "your" name.

## O. Territory

Where legally permissible, this insurance applies to "claims" made or "wrongful acts" that take place anywhere in the world.

## P. Valuation

All premiums, Limits of Liability, retention amounts, "loss" and any other monetary amounts under this Policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another component of "loss" under this Policy is expressed in any currency other than United States of America 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 final judgment is entered, settlement amount is agreed upon, or the other component of "loss" is due, respectively.

## SECTION VIII – EXTENDED REPORTING PERIODS AND RUN-OFF COVERAGE PERIOD

### A. Extended Reporting Periods

Each "Liability Coverage Part" provides a Basic Extended Reporting Period without an additional charge that starts at the end of the "policy period" and lasts for 60 days if this Policy is cancelled, other than for failure to pay premium, or not renewed by us or the "named insured".

For each "Liability Coverage Part", the "named insured" will have the right to purchase an Additional Extended Reporting Period for the period of time and at the percentage of the expiring premium as stated in the Declarations if this Policy is cancelled, other than for failure to pay premium, or not renewed by us or the "named insured". If the Additional Extended Reporting Period is purchased, it will start when the Basic Extended Reporting Period ends.

The Basic or Additional Extended Reporting Period will apply only to "claims" that:

1. Are first made against "you" and reported to us during the applicable Extended Reporting Period; and
2. Arise from "wrongful acts" occurring prior to the expiration date of the "policy period".

### B. Run-Off Coverage Period

For each "Liability Coverage Part", the "named insured" will have the right to purchase a Run-Off Coverage Period for the requested period which shall not exceed six years, in the event of the merger, consolidation or acquisition of the "named insured" or cessation of a "subsidiary".

1. In the event of a merger, consolidation or acquisition of the "named insured", the Run-Off Coverage Period will apply only to "claims" that:
  - a. Are first made against "you" and reported to us during the Run-Off Coverage Period; and

- b. Arise from "wrongful acts" occurring prior to the merger, consolidation or acquisition of the "named insured".
- 2. In the event of a cessation of a "subsidiary", the Run-Off Coverage Period will apply only to "claims" that:
  - a. Are first made against the "subsidiary" or any "insured persons" of such "subsidiary" and reported to us during the Run-Off Coverage Period; and
  - b. Arise from "wrongful acts" occurring on or after such entity became a "subsidiary" and prior to the cessation of such "subsidiary".

If Run-Off Coverage is purchased in the event of the cessation of a "subsidiary" and a "claim" is made that is also covered by another policy issued by us or a related company, the maximum we will pay under both policies combined shall not be greater than the Limit of Liability available under either policy, whichever is greater.

Notice of election of the Additional Extended Reporting Period and the Run-Off Coverage Period and full payment of any applicable additional premiums must be received by us within 30 days after the expiration of the "policy period", along with any premium or retention "you" owe for coverage provided under this Policy, otherwise any right to purchase an Additional Extended Reporting Period or Run-Off Coverage Period will lapse at that time. Provided the additional premium and any amount owed are paid in full, the Additional Extended Reporting Period and Run-Off Coverage Period are noncancellable and their additional premiums will be fully earned at the inception of the Additional Extended Reporting Period or the Run-Off Coverage Period.

There is no reinstatement of or separate or additional Limit of Liability for any Extended Reporting Period or Run-Off Coverage Period. The Limit of Liability available during any purchased Additional Extended Reporting Period or Run-Off Coverage Period shall be the remaining amount of the Limit of Liability available at the time the "Liability Coverage Part" was cancelled or nonrenewed. Any applicable Extended Reporting Period or Run-Off Coverage Period does not apply to "claims" that are covered under any subsequent insurance "you" purchase, or that would be covered but for the exhaustion of the amount of insurance applicable to such "claims".

## SECTION IX - DEFINITIONS

Words and phrases that appear in quotation marks that are not defined in this section are defined in the Definitions section of the related "Liability Coverage Part".

Whether singular or plural, the following definitions apply to this Policy:

- A. "Application" means all signed "applications" for this Policy, including any attachments, addenda and other materials submitted in conjunction with such signed "applications".
- B. "Defense costs" means all reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses incurred in investigating, defending, opposing or appealing any "claim" and the premium for appeal, attachment or similar bonds. "Defense costs" shall not include any salaries, wages, fees or benefits of "insured persons".
- C. "Discrimination" means any violation of a person's civil rights with respect to race, color, national origin, religion, gender, gender identity, genetic information, marital status, age, sexual orientation or preference, physical or mental condition, disability, military status or any other protected class or characteristic established by any federal, state or local statutes, rules or regulations.
- D. "Employee" means any natural person whose labor or service is, was or will be engaged and directed by the "organization" and includes part-time, seasonal or temporary workers, interns, volunteers and leased workers. "Employee" does not include "independent contractors".
- E. "Employment-related practices wrongful act" means any of the following actual or alleged acts, errors, omissions or violations committed by the "organization" or by any "insured person", in their capacity as such against any "employee", "independent contractor" or applicant for employment:
  1. Wrongful discipline, dismissal, discharge or termination of employment whether actual or constructive;
  2. Breach of an implied employment contract;
  3. "Discrimination";
  4. Harassment, which includes, but is not limited to, sexual harassment, workplace bullying, intimidation or any other behavior that creates a hostile or offensive work environment;
  5. Employment-related misrepresentation;



6. Wrongful deprivation of career opportunity, including:
    - a. Wrongful failure to employ or promote;
    - b. Wrongful failure to grant tenure;
    - c. Wrongful or negligent employee evaluation; or
    - d. The giving of negative or defamatory statements regarding references for any current or former "employee";
  7. Violation of any federal, state, or local statute, regulation, ordinance, or common law concerning employment that is not otherwise excluded in this "Liability Coverage Part";
  8. Employment-related libel, slander, invasion of privacy, defamation, humiliation or false imprisonment;
  9. "Retaliation"; or
  10. Negligent hiring, training or supervision, failure to adopt or enforce adequate workplace or employment policies and procedures, infliction of emotional distress or mental anguish or violation of an individual's civil rights, but only if the actual or alleged "employment-related practices wrongful act" results from any of the offenses listed in 1. – 9. of this paragraph.
- F. "Financial insolvency" means the status of an "organization" resulting from:
1. The appointment of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the "organization"; or
  2. The "organization" becoming a debtor in possession under the United States of America bankruptcy law or the equivalent of a debtor in possession under the laws of any other country.
- G. "Independent contractor" means a natural person who is paid by the "organization" pursuant to a contract or agreement to provide labor or services to or on behalf of the "organization".
- H. "Interrelated wrongful act" means all causally connected "wrongful acts" arising out of the same or substantially the same facts, circumstances or allegations which are the subject of or the basis for any "claim".
- I. "Liability Coverage Part" means any Coverage Part that is purchased by the "named insured" and shown on the Declarations as being a "Liability Coverage Part".
- J. "Loss" means "damages" and "defense costs".
- K. "Named insured" means the individual or entity specified in the Declarations.
- L. "Non-indemnifiable loss" means "loss" incurred by any "insured person" for which indemnification by the "insured" is not permitted by common or statutory law; or is permitted or required by statutory law, but the "organization" does not do so by reason of "financial insolvency".
- M. "Non-liability Coverage Part" means any coverage form or policy that is purchased by the "named insured" and shown in the Declarations as being a "non-liability Coverage Part".
- N. "Organization" means:
1. The "named insured" and any "subsidiary"; and
  2. Any entity that is a debtor in possession under United States bankruptcy law or that is the equivalent of a debtor in possession under the law of any other country.
- O. "Policy period" means the period of time from the inception date of the Policy shown in the Declarations to the expiration date specified in the Declarations or its earlier cancellation or termination date.
- P. "Retaliation" means any action taken against an "employee" by an "insured" because the "employee" has:
1. Exercised any right or filed a claim under the Federal False Claims Act, Section 806 of the Sarbanes Oxley Act or any other federal, state, local or foreign whistleblower statute, rule or regulation;
  2. Notified or threatened to notify a proper authority of any aspect of "your" business operation which the "employee" believes is illegal;
  3. Exercised any right under any law relating to employee rights, including any worker's compensation law, the Americans with Disabilities Act and the Family and Medical Leave Act;
  4. Declined to perform any act the "employee" believes is illegal or unethical;
  5. Filed a complaint with a governmental authority or a suit or demand letter against "you"; or

6. Assisted, participated, cooperated or testified in any investigation or legal proceeding regarding any actual or alleged violation of any statute, rule or regulation by the "insured".

Q. "Subsidiary" means any entity in which:

1. More than 50% of the outstanding securities or voting rights representing the present right to vote for the election of directors or an equivalent position is owned, in any combination, by the "organization"; or
2. The "organization" has the right, pursuant to a written contract or the bylaws, charter, operating agreement or similar documents of an entity, including a limited liability company or joint venture, to elect, appoint or designate a majority of the board of directors or equivalent executives of such entity.

R. "Third-party wrongful act" means any actual or alleged:

1. Harassment, which includes:
  - a. Sexual harassment, including unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature; or
  - b. Any other harassment, including, but not limited to, bullying or intimidation;
2. "Discrimination"; or
3. Violation of civil rights relating to such harassment or "discrimination";  
committed by the "organization", or an "insured person" while acting in the capacity as an "insured person" against a natural person who is not an "insured", including any customer, client, vendor, service provider or other business invitee of the "organization".

# PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM

**THIS FORM PROVIDES CLAIMS-MADE AND REPORTED COVERAGE.  
PLEASE READ THE ENTIRE FORM CAREFULLY.**

Words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions of this Coverage Form and to Section IX – Definitions of the Liability Coverage Parts Common Policy Terms And Conditions.

## **SECTION I – PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE INSURING AGREEMENTS**

### **A. Insured Person Liability**

We will pay on behalf of any "insured person" all "loss" that an "insured person" is legally obligated to pay for each covered "claim" that was not indemnified by the "organization":

1. First made against any "insured person" during the "policy period" or any applicable Extended Reporting Period or Run-Off Coverage Period;
2. Alleging a "wrongful act" that first occurred before the end of the "policy period"; and
3. Reported to us in accordance with the terms of this Coverage Part.

### **B. Organization Reimbursement**

We will pay on behalf of the "organization" all "loss" for which the "organization" has indemnified any "insured person", as permitted or required by law, which the "insured person" is legally obligated to pay, in excess of the Retention shown in the Declarations for each covered "claim":

1. First made against "insured persons" during the "policy period" or any applicable Extended Reporting Period or Run-Off Coverage Period;
2. Alleging a "wrongful act" that first occurred before the end of the "policy period"; and
3. Reported to us in accordance with the terms of this Coverage Part.

### **C. Organization Liability**

We will pay on behalf of the "organization" all "loss" that the "organization" is legally obligated to pay in excess of the Retention shown in the Declarations for each covered "claim":

1. First made against the "organization" during the "policy period" or any applicable Extended Reporting Period or Run-Off Coverage Period;
2. Alleging a "wrongful act" that first occurred before the end of the "policy period"; and
3. Reported to us in accordance with the terms of this Coverage Part.

If the "organization" is permitted or required by law to indemnify an "insured person" for "loss", but fails or refuses, other than for reason of "financial insolvency", then our payment for such "loss" under Coverage A will be subject to the Retention Amount applicable to Coverage B as shown in the Declarations. For purposes of this paragraph, the shareholder and board of director resolutions, operating agreement, organizing agreement, limited liability company agreement, articles of organization, certificate of formation, and other provisions providing indemnification to the "insured persons", shall be deemed to provide indemnification for such "loss" to the fullest extent permitted or required by law.

## **SECTION II – LIMIT OF LIABILITY**

The Private Company Directors And Officers Liability Coverage Part Limit Of Liability shown in the Declarations is the most that we will pay for all "loss" under this Coverage Part, regardless of the number of claimants. All Sublimits Of Liability shown in the Declarations for this Coverage Part are part of, not in addition to, the Private Company Liability Coverage Part Limit of Liability. The purchase of an Extended Reporting Period or Run-Off Coverage Period shall not increase or reinstate the applicable Limit of Liability for the "policy period" and shall be part of, and not in addition to, any Limit of Liability applicable to the "policy period".

## SECTION III – COVERAGE ENHANCEMENTS

### A. Shareholder Derivative Investigation Costs

We will pay on behalf of the "organization", in an amount not to exceed the Sublimit For Investigation Expenses shown in the Declarations, "investigation costs" that it incurs as a result of a "shareholder derivative demand" that is first made against the "organization" during the "policy period" or the Extended Reporting Period or Run-Off Coverage Period, for "wrongful acts" by an "executive" taking place before or during the "policy period".

The Sublimit For Investigation Expenses is part of, not in addition to, the Aggregate Policy Limit of Liability and the Private Company Directors And Officers Liability Coverage Part Limit of Liability and is not subject to any retention amount.

### B. Additional Limit Of Liability For Executives

1. An Additional Limit Of Liability For Executives is available in the amount shown in the Declarations. This Additional Limit Of Liability For Executives shall be in addition to the Limit Of Liability shown in the Declarations applicable to Insuring Agreement A. Insured Person Liability.
2. The Additional Limit Of Liability For Executives is only available for "loss" for which an "executive" becomes legally obligated to pay as a result of a "claim" made against any "executive" covered under Insuring Agreement A. Insured Person Liability and applies once the Limit of Liability applicable to Insuring Agreement A. Insured Person Liability is exhausted. However, once this Additional Limit Of Liability For Executives is exhausted, we will have no further obligations of any kind under this Policy.

### C. Outside Position Coverage

This Policy will afford coverage for "loss" resulting from a "claim" made against any "insured person" serving in an "outside position". Coverage afforded for "insured persons" in an "outside position" shall be excess of indemnification or insurance available from, or provided by, such "outside entity".

## SECTION IV – EXCLUSIONS

### A. Applicable To All Insuring Agreements

We shall not be liable for "loss" or obligated to defend any "claim" made against any "insured":

#### 1. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Based upon, arising out of or attributable to:

- a. Any access to or disclosure of any person's or entity's confidential or personal information, including, but not limited to, patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- b. The loss of, loss of use of, damage to, corruption of, inability to access or inability to manipulate "electronic data".

This exclusion applies even if "damages" are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by "you" or others arising out of that which is described in Paragraph a. or b. above.

#### 2. Biological, Chemical Or Nuclear Material

Based upon, arising out of or attributable to the dispersal or application of pathogenic or poisonous biological or chemical materials, nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident, however caused.

#### 3. Bodily Injury Or Property Damage

- a. For bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. It also means mental injury, mental anguish, mental tension, emotional distress, pain or suffering or shock sustained by any person, resulting from injury to the body, sickness, disease or death of any person; or
- b. Based upon, arising out of or attributable to physical injury to tangible property, including all resulting loss of use of that property or loss of use of tangible property that is not physically injured.

This exclusion shall not apply to "defense costs" incurred from a "claim" against an "insured person" for violation of the United Kingdom Corporate Manslaughter and Corporate Homicide Act of 2007 or any similar law in any other jurisdiction.

#### **4. Employment-related Practices Violations And Discrimination**

Based upon, arising out of or attributable to any "employment-related practices wrongful act" or "third-party wrongful act".

#### **5. Fraudulent, Criminal, Malicious, Dishonest Or Intentional Acts**

Based upon, arising out of or attributable to any deliberately fraudulent, criminal, malicious or dishonest act, error, omission or any willful violation of any statute or regulation by an "insured". This exclusion shall not apply to "defense costs" or terminate our duty to defend such "claim" unless and until there is a final, nonappealable judgment or adjudication against "you" that establishes such conduct.

a. This exclusion shall apply to the "organization" only if:

- (1) The conduct was committed or allegedly committed by any past, present or future chief executive officer, chief financial officer, chief operating officer, general counsel, partner or member of the board, or equivalent position; or
- (2) The chief executive officer, chief financial officer, chief operating officer, general counsel, partner or member of the board or equivalent position of the "organization" knew, or had reason to know, of such conduct by any "employee".

b. This exclusion shall only apply to an "insured person" who:

- (1) Personally committed;
- (2) Personally participated in;
- (3) Personally acquiesced to; or
- (4) Remained passive after having personal knowledge of; any such acts, errors or omissions.

#### **6. Insured Versus Insured**

Brought by or on behalf of:

a. An "organization" against another "organization";

b. An "organization" against an "insured person" of such "organization", except for a "claim" brought:

- (1) Outside the United States of America (including its territories and possessions), Puerto Rico or Canada;
- (2) In the event of "financial insolvency" of the "organization"; or
- (3) As a derivative suit brought on behalf of the "organization" without the solicitation, assistance or participation of the "organization", "executives" or an "outside entity"; or

c. An "insured person" against any "insured", except for:

- (1) A derivative suit brought on behalf of the "organization" without the solicitation, assistance or participation of the "organization", "executives" or an "outside entity";
- (2) A "claim" for contribution or indemnity brought by an "insured person", if the "claim" directly results from another "claim" that is otherwise covered under this Coverage Part;
- (3) A "claim" brought by an "executive" who has ceased serving in such capacity for at least one year from the date the "claim" is first made and who brings the "claim" without the solicitation, assistance or participation of another "executive" currently serving in such capacity;
- (4) A "claim" brought by an "employee", other than an "executive" in his or her capacity as a shareholder of the "organization";
- (5) A "claim" brought by or on behalf of an "insured person" who is a whistleblower and is protected by any federal, state, local or foreign whistleblower statute; or
- (6) A "claim" brought or maintained by or on behalf of a bankruptcy or insolvency receiver, trustee, examiner, conservator, liquidator, rehabilitator or creditors' committee of the "organization".

## 7. Outside Entity Versus Insured Persons

Based upon, arising out of or attributable to any "wrongful act" committed by any "insured person" while serving in an "outside position" where such "claim" is brought by or on behalf of:

- a. The "outside entity" against that "insured person" who is serving in his or her "outside position" for the "outside entity" at the time such "claim" is first made, except for a "claim" brought as a "shareholder derivative demand"; or
- b. A director, officer, trustee, "manager" or person serving in an equivalent position of the "outside entity" against an "insured", except for a "claim" for contribution or indemnity arising from another "claim" otherwise covered under this Coverage Part.

## 8. Pollution

Based upon, arising out of or attributable to:

- a. The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
- b. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- c. A "claim" or suit by or on behalf of any governmental authority for "damages" because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

This exclusion shall not apply to Insuring Agreement A. Insured Person Liability and "shareholder derivative demands".

## 9. Prior Notice

Based upon, arising out of or attributable to any fact, circumstance, "wrongful act" or "interrelated wrongful act" alleged or contained in any "claim", for which notice has been given and accepted under any other prior insurance policy providing similar coverage for "wrongful acts".

## 10. Prior Or Pending Litigation

Based upon, arising out of or attributable to:

- a. Any "claim", administrative or regulatory proceeding or investigation filed or commenced against "you" on or prior to the Prior Or Pending Litigation Date shown in the Declarations; or
- b. The same or substantially the same "wrongful act", "interrelated wrongful act", fact or circumstance alleged in or underlying such "claim" or proceeding.

## 11. Professional Service

Based upon, arising out of or attributable to the rendering of or failure to render any professional service performed for another person or organization by any "insured", provided that this exclusion shall not apply to any "shareholder derivative demand".

## 12. Recording And Distribution Of Material In Violation Of Law

Based upon, arising out of or attributable to any violation of the following statutes:

- a. Telephone Consumer Protection Act (TCPA);
- b. CAN-SPAM Act of 2003;
- c. Fair Debt Collection Practices Act (FDCPA); or
- d. Fair Credit Reporting Act (FCRA), including the Fair and Accurate Credit Transactions Act (FACTA);

and any amendments of or additions to such law, or any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003, FDCPA, FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmission, communication or distribution of material or information.

### 13. Securities Transactions

Based upon, arising out of or attributable to:

- a. Any public offering of securities issued by any "organization" or "outside entity", including, but not limited to, any offering subject to the Jumpstart Our Business Startups Act (JOBS Act) of 2012, including Title III (Crowdfunding) and Title IV (Small Company Capital Formation) or any similar foreign, federal, state or local statute, rule or regulation; or
- b. The purchase or sale of or offer to purchase or sell any publicly traded securities or any violation of the Securities Exchange Act of 1934 and any amendments thereto or any other foreign, federal, state or local statute, rule or regulation promulgated under such statutes that regulates the offering, sale or purchase of securities.

This exclusion shall not apply to:

- a. Any "claim" relating to an offering, sale or purchase of securities that is not required to be registered under the Securities Act of 1933 or any similar law that regulates the offering, sale or purchase of securities; or
- b. Any "claim" made by a shareholder of the "organization" for the failure of the "organization" to undertake or complete the initial public offering or sale of securities.

### 14. Statutory Violations

Based upon, arising out of or attributable to any actual or alleged violation of the following statutes:

- a. Employee Retirement Income Security Act of 1974 (ERISA);
- b. Racketeer Influenced and Corrupt Organizations Act (RICO);
- c. National Labor Relations Act (NLRA);
- d. Worker Adjustment and Retraining Notification Act (WARN);
- e. Consolidated Omnibus Budget Reconciliation Act (COBRA);
- f. Occupational Safety and Health Act (OSHA);
- g. Sarbanes-Oxley Act of 2002 (SOX); or
- h. Foreign Corrupt Practices Act of 1977 (FCPA);

including any amendments thereto or any rules or regulations promulgated under such statutes, or any similar foreign, federal, state or local statutes, rules or regulations.

### 15. Wage, Hour And Compensation Violations

- a. Based upon, arising out of or attributable to any actual or alleged violation of the Fair Labor Standards Act (FLSA), except the Equal Pay Act, including any amendments thereto or any rules or regulations promulgated thereof, or any similar foreign, federal, state or local statute, rule or regulation, including any statute, rule or regulation that governs wage, hour and payroll policies and practices; or
- b. Based upon, arising out of or attributable to:
  - (1) The failure of any "insured" to pay wages or overtime pay, including the failure to compensate for any unpaid off the clock or remote work or for any employer-sponsored activities;
  - (2) Any improper calculation of overtime pay, maintenance of records relating to wages earned or hours worked, improper deductions from pay or the improper classification of "employees" as exempt or non-exempt or as "independent contractors" or the failure to provide or enforce any legally required rest breaks, meal breaks or rest days;
  - (3) The misuse of federal or state tip credits or the establishment or maintenance and distribution of tip pools; or
  - (4) The failure to reimburse any work-related expense to any "insured person" or any other natural person providing services or labor to or on behalf of the "organization".

## **B. Applicable To Insuring Agreement C. Organization Liability**

We shall not be liable for "loss" or obligated to defend any "claim" made against the "organization":

### **1. Antitrust**

Based upon, arising out of or attributable to any actual or alleged restraint of trade, monopolization, unfair trade, price fixing, violation of the Federal Trade Commission Act, the Sherman Anti-Trust Act, the Clayton Act, or any of their amendments thereto, or any similar foreign, federal, state or local statutes, rules or regulations or similar laws.

### **2. Breach Of Contract And Assumed Liability**

Based upon, arising out of or attributable to the actual or alleged breach of any contract or agreement or any liability of others assumed under a contract or agreement by any "insured". This exclusion shall not apply to "loss" that an "insured" would have been liable for in the absence of such contract or agreement.

### **3. Intellectual Property**

Based upon, arising out of or attributable to any infringement, violation or misappropriation of any idea, including any advertising idea, slogan, copyright, patent, trademark, trade dress, trade name or trade secret or any violation of any foreign, federal, state, local or foreign intellectual property law, or a rule or regulation promulgated under such intellectual property law.

### **4. Personal Injury**

Based upon, arising out of or attributable to:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or entity or disparages the goods, products or services of any person or entity; or
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy.

### **5. Product Defect**

Based upon, arising out of or attributable to any defect, malfunction or failure of any goods or product to perform in the manner intended in its design or manufacture.

## **SECTION V – DEFINITIONS**

Whether singular or plural, the following definitions apply to this Coverage Part:

### **A. "Claim" means any of the following received by an "insured":**

1. A written demand (other than a "shareholder derivative demand") for monetary damages or nonmonetary relief, including injunctive relief;
2. A civil proceeding against any "insured" commenced by the receipt of a complaint or similar pleading;
3. A criminal proceeding against any "insured" commenced by a return of an indictment;
4. A formal administrative or regulatory proceeding against any "insured" commenced by the filing of a notice of charges, formal investigative order or similar document;
5. A civil, criminal or regulatory investigation of any "insured person" commenced by the service upon or other receipt by the "insured person" of a subpoena, Wells Notice, target letter, search warrant or other written demand from the investigating authority identifying by name the "insured person";
6. A "shareholder derivative demand" but only with respect to "investigation costs";
7. An official request for extradition of an "insured person" to another country for trial or otherwise to answer any criminal accusation, or the execution of a warrant for the arrest of an "insured person" where such execution is an element of extradition;
8. An arbitration or mediation proceeding commenced by receipt of a demand for arbitration, demand for mediation or similar proceeding; or
9. A written request to toll or waive a statute of limitations relating to a potential "claim" described in Paragraph A.1. through 8.



**B. "Damages":**

1. Means any of the following that "you" are legally obligated to pay:
  - a. Compensatory awards or judgments, including prejudgment and post-judgment interest;
  - b. Monetary settlements;
  - c. Punitive, exemplary and multiple "damages" where insurable under the applicable law which most favors coverage for such "damages"; or
  - d. Civil fines or civil penalties assessed against an "insured person" pursuant to Section 2(g)(2)(B) of the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(g)(2)(B), if and to the extent such fines and penalties are insurable under the law of the jurisdiction in which the fines and or penalties are assessed.
2. Shall not include:
  - a. Taxes, fines or penalties imposed by law, other than punitive, exemplary or multiple damages that are considered insurable under the applicable law which most favors coverage for such damages;
  - b. Liquidated damages;
  - c. Any amounts that are uninsurable under the law pursuant to which this Coverage Part shall be construed;
  - d. Restitution, disgorgement, unjust enrichment or any profits or advantage "you" were not legally entitled to;
  - e. The cost to comply with any order or agreement to provide any equitable relief, including injunctive relief; or
  - f. Any amount incurred by "you" that represents or is substantially equivalent to an increase in the consideration paid or proposed to be paid by an "insured" in connection with its purchase of securities or assets.

**C. "Electronic data"** means information, facts, images or sounds stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software) on electronic storage devices, including, but not limited to, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices, or any other media which are used with electronically controlled equipment. "Electronic data" is not tangible property.

"Electronic data" does not include "your" "electronic data" that is licensed, leased, rented or loaned to others.

**D. "Executive"** means any natural person who was, is now or will be a duly elected or appointed director, officer, trustee or "manager" of any "organization" incorporated in the United States of America. If the "organization" operates outside of the United States of America, the term "executive" applies to any person serving in an equivalent position.

**E. "Insured", "you" or "your"** means the "organization" and "insured persons".

**F. "Insured person"** means any "executive" or "employee" of any "organization".

**G. "Investigation costs"** means reasonable and necessary costs, fees and other expenses incurred by the "organization" with our prior written consent, in connection with the investigation or evaluation of a "shareholder derivative demand".

**H. "Manager"** means any natural person who was, is now or will be a member of the Board of Managers or equivalent position of an "organization" that is a limited liability company.

**I. "Outside entity" means:**

1. Any not-for-profit corporation, entity, or foundation that is exempt from federal income tax as an organization described in Section 501(c)(3), 501(c)(4) or 501(c)(10) of the Internal Revenue Code of 1986, as amended;
2. Any entity organized for a religious or charitable purpose under any not-for-profit corporation act or statute; or
3. Any entity specifically added as an "outside entity" by endorsement to this Coverage Part; that is not an "organization".

- J. "Outside position" means service by an "insured person" in an "outside entity" as a director, officer, trustee, "manager" or in an equivalent position, but only during the time that such service is with the knowledge, consent and at the specific request of an "organization".
- K. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- L. "Shareholder derivative demand" means a written demand brought by one or more shareholders of the "organization" in their capacity(ies) as such upon the board of directors or equivalent management body of the "organization" to bring a civil proceeding in a court of law on behalf of, or in the name or right of, the "organization" against any "insured person" for a "wrongful act" committed by such "insured person", but only if such demand is asserted without the solicitation, assistance or participation of any "executive" or functional equivalent thereof.
- M. "Wrongful act" means:
  1. Any actual or alleged error, misstatement, misleading statement, neglect or breach of duty, omission or act, committed by any "insured person" in his or her insured position or capacity for the "organization" or "outside entity", or any matter claimed against any "insured person" solely by reason of his or her serving in such "insured's" position or capacity;
  2. With respect to an "organization", any actual or alleged error, misstatement, misleading statement, neglect or breach of duty, omission or act committed by the "organization".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DIRECTORS AND OFFICERS LIABILITY AMENDATORY**

This endorsement modifies insurance provided under the following:

LIABILITY COVERAGE PARTS COMMON POLICY TERMS AND CONDITIONS  
PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM

- A.** The initial lead-in language contained in the Liability Coverage Parts Common Policy Terms And Conditions Form before **Section I – Terms And Conditions** is deleted and replaced by the following:

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy, the word “insured”, “you”, “your”, “organization” and “insured persons” refers to the “Certificate Holder” in a “Certificate of Coverage” issued by us to such “Certificate Holder” and any other person or organization qualifying as a “Certificate Holder” under this Policy. The words “we”, “us” and “our” refer to the company providing insurance.

Any “organization” who is a “Certificate Holder” of the Education Support Risk Purchasing Group will qualify as an “Insured” under this policy during the term noted within the “Certificate of Coverage”, provided that the “Certificate Holder” is an individual, partnership, joint venture, limited liability company, organization or trust incorporated or organized under the laws of the United States of America.

However:

- a. No coverage applies under this provision that results from a “wrongful act” that occurred before the organization was issued a “Certificate of Coverage” for this policy;
- b. No person or “organization” is an “insured” with respect to the conduct of any current or past individual, partnership, joint venture, limited liability company, organization or trust that is not shown as “Certificate Holder” on a “Certificate Of Coverage” issued by us;
- c. No coverage is provided prior to the Coverage Period Effective Date shown on the “Certificate of Coverage” issued by us;
- d. Coverage only applies to “Certificate Holders” shown as such on a “Certificate of Coverage” issued by us; and
- e. No Coverage is provided to the Education Support Risk Purchasing Group.

Other words and phrases that appear in quotation marks have special meaning. Refer to **Section IX – Definitions** of the Liability Coverage Parts Common Policy Terms and Conditions and **Section V – Definitions** of the Private Company Directors And Officers Liability Coverage Form.

- C.** **Section II – Limits Of Liability** in the Liability Coverage Parts Common Policy Terms And Conditions is deleted.
- D.** **Section II – Limits Of Liability** in the Private Company Directors And Officers Liability Coverage Form is deleted and replaced with the following:

### **SECTION II – LIMITS OF INSURANCE**

1. The Directors And Officers Aggregate Limit is the most we will pay for all “loss” to which this insurance applies.
2. Except with respect to any rights or duties specifically assigned in this Coverage Part to the “Certificate Holder”, this insurance applies as if all “Certificate Holders” who are “insureds” per Paragraph A of this endorsement and listed on an individual “Certificate Of Coverage” issued by us during the policy period, were the only “Certificate Holder” and “insured” under this policy with respect to the Directors And Officers Aggregate Limit.

However, regarding such Limits Of Insurance afforded by this policy, separate Limits Of Insurance shown in each individual "Certificate of Coverage" apply to all the "Certificate Holders" listed on a "Certificate of Coverage".

3. The Aggregate Limit Of Insurance shown on a "Certificate Of Coverage" issued by us applies individually to such "Certificate Holder" and is the most we will pay in any 12 month policy period for coverages provided under this Coverage Part regardless of the number of "claims", suits, "wrongful acts" or circumstances during the policy period.
4. The purchase of an Extended Reporting Period shall not increase or reinstate the applicable Limit Of Insurance for the policy period and shall be part of, and not in addition to, any Limit of Liability applicable to the policy period.

**B. Section III – Coverage Enhancements** in the Private Company Directors And Officers Liability Coverage Form is deleted.

**C.** The following is added Paragraph **A. Applicable To All Insuring Agreements** in **Section IV – Exclusions** in the Private Company Directors And Officers Liability Coverage Form:

**16. Communicable Disease**

"Wrongful act" caused by the actual or alleged transmission of communicable disease. This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- a. Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a communicable disease;
- b. Testing for a communicable disease;
- c. Failure to prevent the spread of the disease; or
- d. Failure to report the disease to the authorities.

**17. Fungi or Bacteria**

- a. Any actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. The abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any "insured" or by any other person or entity.

**18. Prior Knowledge**

Any actual or alleged act, error or omission, breach of duty or circumstance that an insured:

- a. Had knowledge of prior to the effective date of the policy; and
- b. Had a reasonable belief the actual or alleged act, error or omission, breach of duty or circumstance could result in a "claim";

If this policy is a renewal of a policy or policies previously issued by us and if the coverage provided by us was continuous from the effective date of the first policy, the reference in this exclusion to the effective date will mean the effective date of the first policy under which we first provided continuous coverage to you.

**19. Unauthorized Access**

Security or system attack, unauthorized access to, unauthorized use of, tampering with or introduction of malicious code into firmware, data, software, system or networks.

**D.** Paragraph **I. of Section VII – Conditions** in the Liability Coverage Parts Common Policy Terms and Conditions is deleted and replaced by the following:

**I. Other Insurance:**

This insurance is excess over any other insurance available to the "Certificate Holder", whether such insurance is stated to be primary, prorata, contributory, excess, contingent or otherwise.

- E. Throughout this policy, the word **Declarations** is replaced with **"Certificate of Coverage"**, except in the following in the **Liability Common Policy Terms And Conditions Form**:
1. Paragraph **D. Cancellation And Nonrenewal in Section VII – Conditions**;
  2. Paragraph **L.3. Reporting, Notice And Duties In The Event Of A Claim Or A Wrongful Act That May Result In A Claim in Section VII – Conditions**; and
  3. Paragraph **K. in Section IX – Definitions**.
- F. Throughout this policy, the words **"Named Insured"** are replaced with **"Certificate Holder"**, except in the following in the **Liability Common Policy Terms And Conditions Form**:
1. Paragraph **D. Cancellation And Nonrenewal in Section VII – Conditions**; and
  2. Paragraph **K. in Section IX – Definitions**.
- G. **Section IX – Definitions** in the **Liability Common Policy Terms And Conditions Form** is amended as follows:
1. Paragraph **N.** is deleted and replaced with the following:
    - N. Organization** means:
      1. The **"Certificate Holder"** and any **"subsidiary"**; and
      2. Any entity that is a debtor in possession under United States Bankruptcy law or that is the equivalent of a debtor in possession under the law of any other country.
  2. The following are added:
    - S. "Certificate Holder"** means a person or organization to whom a **"Certificate of Coverage"** is issued.
    - T. "Certificate of Coverage"** means the document issued by us to the **"Certificate Holder"** as part of the Policy that shows the limits and applicable coverages for that **"Certificate Holder"**.
    - U. "Fungi"** means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **MINIMUM EARNED PREMIUM**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL UMBRELLA LIABILITY COVERAGE PART  
COMMERCIAL EXCESS LIABILITY COVERAGE PART  
DIRECTORS AND OFFICERS LIABILITY COVERAGE PART  
MISCELLANEOUS PROFESSIONAL LIABILITY COVERAGE PART  
LAWYERS PROFESSIONAL LIABILITY COVERAGE PART  
ACCOUNTANTS PROFESSIONAL LIABILITY COVERAGE PART  
COMMERCIAL CRIME COVERAGE PART

The following condition is added:

This policy is subject to a Minimum Earned Premium calculated as follows:

- A. If this policy is cancelled, the Minimum Earned Premium is 100% of the full Policy Term Premium (including all taxes, fees and surcharges, if applicable) shown in the Declarations in the policy to which this endorsement attaches to.
- B. This Minimum Earned Premium is not subject to short rate or pro rata rate adjustment.
- C. In no event will the premium we retain be less than the Minimum Earned Premium regardless of the duration of coverage and regardless of any audit return premium, if applicable.

All other terms and conditions remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CONDITIONS AMENDED – TERRITORY  
(U.S., U.S. TERRITORIES AND POSSESSIONS,  
PUERTO RICO AND CANADA)**

This endorsement only applies to and modifies insurance provided under the checked Coverage Parts. It does not apply to Coverage Parts that are not checked.

<input checked="" type="checkbox"/>	Private Company Directors And Officers Liability Coverage Part
<input type="checkbox"/>	Employment-related Practices Liability Coverage Part
<input type="checkbox"/>	Fiduciary Liability Coverage Part

Paragraph O. Territory of Section VII – Conditions of the Liability Coverage Parts Common Policy Terms And Conditions is replaced by the following:

**O. Territory**

This insurance will apply to any "wrongful act" that takes place anywhere in the world, provided that the "claim" is brought within the United States of America (including its territories or possessions), Puerto Rico and Canada.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NUCLEAR ENERGY LIABILITY EXCLUSION**

This endorsement modifies insurance provided under the following:

EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE FORM  
FIDUCIARY LIABILITY COVERAGE FORM  
PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM

### **SCHEDULE**

<b>Effective Date Of Endorsement:</b> 6/1/2020
--

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.
--

**A. This insurance does not apply:**

**1. To liability:**

- a. With respect to which the "insureds", "insured persons" and/or the "organization" under the Policy are also insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be insured under any such policy but for its termination upon exhaustion of its Limit of Liability; or
- b. Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "organization" is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

**2. To liability resulting from "hazardous properties" of "nuclear material", if:**

- a. The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, any "insured", "insured person" and/or the "organization"; or (b) has been discharged or dispersed therefrom;
- b. The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of the "insureds", "insured persons" and/or the "organization"; or
- c. The liability arises out of the furnishing by any "insured", "insured person" and/or the "organization" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion c. applies only to "property damage" to such "nuclear facility" and any property thereat.

**B. As used in this endorsement:**

1. "Hazardous properties" includes radioactive, toxic or explosive properties.
2. "Nuclear material" means "source material", "special nuclear material" or "by-product material".
3. "Source material", "special nuclear material" and "by-product material" have the meanings given them in the Atomic Energy Act of 1954, or in any law amendatory thereof.



4. "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".
5. "Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".
6. "Nuclear facility" means:
  - a. Any "nuclear reactor";
  - b. Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";
  - c. Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of any "insured", "insured person" and/or the "organization" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233, or any combination thereof, or more than 250 grams of uranium 235; or
  - d. Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.
7. "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
8. "Property damage" includes all forms of radioactive contamination of property.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## FUNGI OR BACTERIA EXCLUSION

This endorsement only applies to and modifies insurance provided under the checked Coverage Forms. It does not apply to Coverage Forms that are not checked.

<input checked="" type="checkbox"/>	Private Company Directors And Officers Liability Coverage Form
<input type="checkbox"/>	Fiduciary Liability Coverage Form

### SCHEDULE

<b>Effective Date Of Endorsement:</b> 6/1/2020
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A.** The following is added to the **Exclusions** of each Coverage Form(s) checked above:

**Fungi Or Bacteria**

Based upon, arising out of or attributable to the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing, or in any way responding to, or assessing the effects of, "fungi" or bacteria by any "insured person" or the "organization".

If Private Company Directors And Officers Liability Coverage Form is checked, this exclusion is applicable to all insuring agreements.

**B.** The following is added to the **Definitions** of each Coverage Form(s) checked above:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION OF TERRORISM**

This endorsement modifies insurance provided under the following:

EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
FIDUCIARY LIABILITY COVERAGE PART  
PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE PART

- A. The following definition is added to the **Definitions** section and applies under this endorsement wherever the term terrorism is enclosed in quotation marks:
1. "Terrorism" means activities against persons, organizations or property of any nature:
    - a. That involve the following or preparation for the following:
      - (1) Use or threat of force or violence; or
      - (2) Commission or threat of a dangerous act; or
      - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
    - b. When one or both of the following applies:
      - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
      - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.
- B. The following exclusion is added to the **Exclusions** section:

### **Exclusion Of Terrorism**

We will not pay for any "loss" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Any "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such "loss". **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
  - a. Physical injury that involves a substantial risk of death; or

- b. Protracted and obvious physical disfigurement; or
- c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraph **B.5.** or **B.6.** are exceeded.

With respect to this Exclusion, Paragraphs **B.5.** and **B.6.** describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Part.

In the event of any incident of "terrorism" that is not subject to this Exclusion, coverage does not apply to any "loss" that is otherwise excluded under this Coverage Part.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **FAILURE TO MAINTAIN INSURANCE EXCLUSION**

This endorsement modifies insurance provided under the following:

PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM

The following is added to Paragraph A. of **Section IV – Exclusions**:

### **Failure To Maintain Insurance**

Based upon, arising out of or attributable to any actual or alleged failure or omission on the part of any "insured person" or the "organization" to effect or maintain insurance.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DEFINITION OF DAMAGES AMENDED – PUNITIVE DAMAGES EXCLUDED (D&O)**

This endorsement modifies insurance provided under the following:

PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM

Paragraph B. "Damages" of **Section V – Definitions** is replaced by the following:

**B. "Damages":**

1. Means any of the following that "you" are legally obligated to pay:
  - a. Compensatory awards or judgments, including prejudgment and post-judgment interest;
  - b. Monetary settlements;
  - c. Civil fines or civil penalties assessed against an "insured person" pursuant to Section 2(g)(2)(B) of the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(g)(2)(B), if and to the extent such fines and penalties are insurable under the law of the jurisdiction in which the fines and or penalties are assessed.
2. Shall not include:
  - a. Taxes, fines or penalties imposed by law;
  - b. Punitive, exemplary or multiple damages;
  - c. Liquidated damages;
  - d. Any amounts that are uninsurable under the law pursuant to which this Coverage Part shall be construed;
  - e. Restitution, disgorgement, unjust enrichment or any profits or advantage "you" were not legally entitled to;
  - f. The cost to comply with any order or agreement to provide any equitable relief, including injunctive relief; or
  - g. Any amount incurred by "you" that represents or is substantially equivalent to an increase in the consideration paid or proposed to be paid by an "insured" in connection with its purchase of securities or assets.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRIOR WRONGFUL ACTS EXCLUSION**

This endorsement only applies to and modifies insurance provided under the checked Coverage Forms. It does not apply to Coverage Forms that are not checked.

<input checked="" type="checkbox"/>	Private Company Directors And Officers Liability Coverage Form
<input type="checkbox"/>	Employment-related Practices Liability Coverage Form
<input type="checkbox"/>	Fiduciary Liability Coverage Form

### **SCHEDULE**

<b>Prior Acts Date:</b> Per Coverage Certificate	/	/
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

The following is added to the **Exclusions** of each Coverage Form(s) checked above:

#### **Prior Acts Exclusion**

Based upon, arising out of or attributable to any "wrongful act" or "interrelated wrongful acts" that occurred before the Prior Acts Date shown in the Schedule of this endorsement.

If Private Company Directors And Officers Liability Coverage Form is checked, this exclusion is applicable to all insuring agreements.

**THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.**

## **DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT**

### **SCHEDULE**

<b>SCHEDULE – PART I</b>	
Terrorism Premium (Certified Acts)	\$ Included
This premium is the total Certified Acts premium attributable to the following Coverage Part(s), Coverage Form(s) and/or Policy(ies):	
PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE FORM	
Additional information, if any, concerning the terrorism premium:	
<b>SCHEDULE – PART II</b>	
Federal share of terrorism losses	<u>80</u> % Year: 20 <u>20</u>
(Refer to Paragraph B. in this endorsement.)	
Federal share of terrorism losses	<u>80</u> % Year: 20 <u>21</u>
(Refer to Paragraph B. in this endorsement.)	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

#### **A. Disclosure Of Premium**

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.



**B. Disclosure Of Federal Participation In Payment Of Terrorism Losses**

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals a percentage (as shown in Part II of the Schedule of this endorsement or in the policy Declarations) of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

**C. Cap On Insurer Participation In Payment Of Terrorism Losses**

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
FIDUCIARY LIABILITY COVERAGE PART  
PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE PART

- A. If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
  2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
- B. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any "loss" that is otherwise excluded under this Coverage Part.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES; CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
FIDUCIARY LIABILITY COVERAGE PART  
PRIVATE COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE PART

**A. The following exclusion is added to the Exclusions section:**

We will not pay for any "loss" resulting from any "claim" based upon, attributable to, or arising directly or indirectly, out of an "other act of terrorism" that is committed outside of the United States (including its territories and possessions and Puerto Rico). However, this exclusion applies only when one or more of the following are attributed to such act:

1. The total of insured damage to all types of property exceeds \$25,000,000 (valued in US dollars). In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
2. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
  - a. Physical injury that involves a substantial risk of death; or
  - b. Protracted and obvious physical disfigurement; or
  - c. Protracted loss of or impairment of the function of a bodily member or organ; or
3. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
4. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

With respect to this exclusion, Paragraphs 1. and 2. describe the thresholds used to measure the magnitude of an incident of an "other act of terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

**B. The following definitions are added to the Definitions section:**

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
  - a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act;
  - b. The act resulted in damage:
    - (1) Within the United States (including its territories and possessions and Puerto Rico); or

(2) Outside of the United States in the case of:

(a) An air carrier (as defined in Section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or

(b) The premises of any United States mission; and

c. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

2. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".

Multiple incidents of an "other act of terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

C. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any "loss" resulting from any "claim" that is otherwise excluded under this Coverage Part.

D. If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL EXTENDED REPORTING PERIOD –  
ELECTED**

This endorsement only applies to and modifies insurance provided under the checked Coverage Parts. It does not apply to Coverage Parts that are not checked.

<input checked="" type="checkbox"/>	Private Company Directors And Officers Liability Coverage Part
<input type="checkbox"/>	Employment-related Practices Liability Coverage Part
<input type="checkbox"/>	Fiduciary Liability Coverage Part

**SCHEDULE**

**Extended Reporting Period – Number Of Years Elected:** Per Coverage Certificate

**Premium:** \$ Per Coverage Certificate

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A.** The Additional Extended Reporting Period described in Paragraph **A**. Extended Reporting Periods of Section **VIII** – Extended Reporting Periods And Run-Off Coverage Period of the Liability Coverage Parts Common Policy Terms And Conditions is provided.

"Your" purchase of this optional endorsement entitles "you" to an Additional Extended Reporting Period that lasts for the number of years shown in the Schedule of this endorsement.

**B.** The Limit of Liability applies to "claims" first made during the Additional Extended Reporting Period. The Limit of Liability for any "claim" first made during the Additional Extended Reporting Period shall be equal to the remaining amount, if any, of the applicable Coverage Part Limits of Liability or Shared Limit of Liability, if applicable, available at the time the Policy was cancelled or nonrenewed.

**C.** This endorsement will not take effect unless the additional premium for it, as set forth in Section **VIII** – Extended Reporting Periods And Run-Off Coverage Period and shown in the Schedule of this endorsement, is paid when due along with any premium or retention "you" owe for coverage provided under this Policy. If the additional premium for this endorsement and any retention or premium "you" owe are paid when due, this endorsement may not be cancelled.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **POLICY CONDITIONS ADDED**

If the Common Policy Conditions form is attached to this policy, then the following paragraphs are added to the Common Policy Conditions form and nothing is deleted or replaced from such form. If the Common Policy Conditions form is not attached to this policy, then the following is added to every Coverage Part attached to this policy and also added to any Coverage Form shown in the Schedule Of Forms attached to this policy.

**A. Conformance:**

Any terms of this policy that are in conflict with Federal Law, State law, statutes or regulations applicable to this policy, are amended to conform to such laws, statutes and regulations.

**B. Titles And Headings:**

The titles and headings of the various paragraphs and of the forms attached to this policy are inserted solely for convenience or reference and are not to be deemed in any way to limit, alter or affect the provisions to which they relate.

**C. Compliance With Economic Or Trade Sanctions:**

Whenever coverage provided by this policy would be in violation of any U.S. economic or trade sanctions or any other applicable economic or trade sanctions, such coverage shall be null and void.

All other terms and conditions of this policy remain unchanged.