

THE HARTFORD D&O PREMIER DEFENSESM POLICY 2.0

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In consideration of the payment of the premium and subject to all terms, conditions and limitations of this Policy, the Insurer and the **Insureds** agree as follows:

I. INSURING AGREEMENTS

(A) NON-INDEMNIFIED COVERAGE (INCLUDING INQUIRY COVERAGE)

- (1)** The Insurer will pay **Loss** on behalf of an **Insured Person** arising from a **Claim** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, against the **Insured Person** for a **Wrongful Act**, but only to the extent such **Loss** is not paid or indemnified by the **Entity**.
- (2)** The Insurer will pay **Inquiry Costs** on behalf of an **Insured Person**, incurred solely by such **Insured Person**, arising from an **Inquiry** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, against the **Insured Person**, but only to the extent such **Inquiry Costs** are not paid or indemnified by the **Entity**.

(B) INDEMNIFIED COVERAGE (INCLUDING INQUIRY COVERAGE)

- (1)** The Insurer will pay **Loss** on behalf of the **Entity** for which the **Entity** indemnifies an **Insured Person** arising from a **Claim** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, against the **Insured Person** for a **Wrongful Act**.
- (2)** The Insurer will pay **Inquiry Costs** on behalf of the **Entity** for which the **Entity** indemnifies an **Insured Person**, incurred solely by such **Insured Person**, arising from an **Inquiry** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, against the **Insured Person**.

(C) ENTITY COVERAGE (INCLUDING SECURITIES CLAIM, INVESTIGATION, DERIVATIVE DEMAND AND BOOKS AND RECORDS COVERAGE)

- (1)** The Insurer will pay **Loss** on behalf of the **Entity** arising from a **Securities Claim** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, against the **Entity** for a **Wrongful Act**.
- (2)** The Insurer will pay **Entity Investigation Costs** on behalf of the **Entity** arising from a **Related Entity Investigation** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, against the **Entity** for a **Wrongful Act**.
- (3)** The Insurer will pay **Derivative Demand Investigation Costs** on behalf of the **Entity** arising from a **Derivative Demand** first made during the **Policy Period** or **Extended Reporting Period**, if applicable.
- (4)** The Insurer will pay **Books and Records Costs** on behalf of the **Entity** arising from a **Books and Records Request** first made during the **Policy Period** or **Extended Reporting Period**, if applicable.

(D) REGULATORY INVESTIGATION EXPENSE REIMBURSEMENT COVERAGE

- (1)** Upon receipt of a **Final Termination Notice**, the Insurer will credit against the applicable **Retention** specified in **Item H.** of the Declarations **Cooperation Costs**, in the amount specified in **Item G.** of the Declarations, arising from a **Regulatory Event** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, that results in a **Claim** (other than a **Regulatory Event**).
- (2)** Upon receipt of a **Final Termination Notice**, the Insurer will pay **Cooperation Costs** arising from a **Regulatory Event** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, that does not result in a **Claim** (other than a **Regulatory Event**).

II. EXCLUSIONS

- (A)** The Insurer will not pay that portion of **Loss** in connection with any **Claim** made against any **Insured**:

(1) Bodily Injury/Property Damage

for any actual or alleged bodily injury, mental anguish, emotional distress, sickness, disease, death, defamation (including libel and slander), invasion of privacy, or for damage to or destruction of any tangible property, including loss of use thereof; provided, however, that this exclusion will not apply to (i) any mental anguish, emotional distress, defamation (including libel and slander) or invasion of privacy alleged in any **Claim** brought and maintained by a past, present or prospective employee of the **Entity** for an employment-related **Wrongful Act**, (ii) any **Securities Claim** or (iii) any **Corporate Manslaughter Act Defense Costs**.

(2) Violation of ERISA, FLSA and Wage & Hour Law

for any actual or alleged:

- (a)** violation of the Employee Retirement Income Security Act of 1974, or any similar law; provided, however, that this exclusion will only apply with respect to any plans, programs and trusts established or maintained in whole or in part for the benefit of employees of the **Entity**;
- (b)** violation of the Fair Labor Standards Act (except for the Equal Pay Act) or any similar law; provided, however, that this exclusion will not apply to any **Securities Claim**; or
- (c)** violation of any other federal, state, local or foreign statutory law or common law, as well as any rules or regulations promulgated thereunder, governing compensation (including overtime compensation), hours, labor, benefits or any employment or payroll policies of any **Entity** or **Outside Entity**; provided, however, that this exclusion will not apply to (i) any **Claim** under Insuring Agreement (A) or (ii) any **Securities Claim**.

(3) Entity v. Insured

brought or maintained by or on behalf of (i) an **Entity** against any **Insured** or (ii) an **Outside Entity** against an **Insured Person** serving in his or her capacity as such for such **Outside Entity**; provided, however, that this exclusion will not apply to:

- (a)** any **Derivative Action** or **Derivative Demand** brought or maintained without the solicitation, assistance or active participation of an **Insured Person**;
- (b)** in the event of **Financial Insolvency**, a **Claim** brought or maintained by or on behalf of the examiner, trustee, receiver, liquidator, conservator, rehabilitator or creditor(s) committee (or the equivalent in a **Foreign Jurisdiction**) of the **Entity**, the **Outside Entity** or any assignee thereof, or a **Claim** by the **Entity** or **Outside Entity** as **Debtor-In-Possession** after such examiner, trustee, receiver, liquidator, conservator, rehabilitator or creditor(s) committee has been appointed if such **Claim** is made without the solicitation, assistance or active participation of an **Insured Person**;
- (c)** **SOX 304 and Dodd Frank 954 Defense Costs** incurred in connection with a **Claim** brought or maintained by or on behalf of any **Entity** seeking recovery of incentive-based compensation from an **Insured Person**;
- (d)** any **Claim** brought or maintained by an **Enforcement Entity** involving cooperation by an **Entity** with such **Enforcement Entity** pursuant to (i) the Principles of Federal Prosecution of Business Organizations (USAM 9-28.000 et seq. or USAM4-4.000 et seq.) of the United States Attorney's Manual, (ii) Section 6.1.1 or Section 6.1.2 of the Enforcement Manual of the Enforcement Division of the **SEC**, including the cited Seaboard Report, or similar guidance by an **Enforcement Entity**
- (e)** **Defense Costs** covered under Insuring Agreement (A); or

- (f) any **Claim** brought or maintained in a non-common law jurisdiction outside the United States of America or any of its territories or possessions pursuant to a pleading or procedural requirement of such jurisdiction.

Neither (i) **Whistleblowing**, nor (ii) complying with a subpoena or similar legal process by providing a legally required response, alone will be deemed solicitation, assistance or active participation. The solicitation, assistance or participation of an **Insured Person** who has not served in such capacity for a period of at least three (3) years prior to the date that such **Claim** is first made will not be deemed solicitation, assistance or active participation.

(4) **Conduct**

based upon, arising from, or in any way related to:

- (a) the gaining of any personal profit, remuneration or personal financial advantage to which such **Insured** is not legally entitled if a final and non-appealable adjudication adverse to such **Insured** in the underlying proceeding establishes such **Insured** was not in fact legally entitled to such personal profit, remuneration or personal financial advantage; provided, however, that this exclusion will not apply to **Section 11, 12 and 15 Damages** or **SOX 304 and Dodd Frank 954 Defense Costs**; or
- (b) any deliberately fraudulent or deliberately criminal act or omission or any intentional violation of any statute, regulation or law by such **Insured** if a final and non-appealable adjudication adverse to such **Insured** in the underlying proceeding establishes such conduct; provided, however, that this exclusion will not apply to any **Independent Director**.

Regarding the exclusions described in Section **II.(A)(4)(a)** and **II.(A)(4)(b)** above, no **Wrongful Act** or knowledge of any **Insured Person** will be imputed to any other **Insured Person**, and, solely with respect to payment of **Loss** under Insuring Agreements (C) and (D), only the **Wrongful Acts** and knowledge of the chief executive officer or chief financial officer of the **Named Entity** will be imputed to the **Entity**.

(B) The Insurer will not pay **Entity Investigation Costs**:

- (1) based upon, arising from, or in any way related to any inquiry, investigation, written demand or proceeding that commenced prior to the **Entity Investigation Costs Continuity Date**, or the same or substantially similar fact(s), circumstance(s) or situation(s) underlying or alleged in such inquiry, investigation, written demand or proceeding;
- (2) incurred in connection with any **Related Entity Investigation** based upon, arising from, or in any way related to a **Wrongful Act** if, as of the **Entity Investigation Costs Continuity Date**, any **Executive** knew or could reasonably have foreseen that such **Wrongful Act** could lead to an inquiry or investigation by an **Enforcement Entity**; or
- (3) based upon, arising from, or in any way related to any actual, alleged or possible violations of any provision of the **FCPA**.

III. **INTERRELATIONSHIP OF CLAIMS**

- (A) All **Claims** involving the same **Wrongful Act** or any **Interrelated Wrongful Acts** (or solely as it pertains to **Inquiries**, the same or related, facts, circumstances, situations, transactions or events) will be deemed to be a single **Claim**, and only one **Retention** will be applicable to such single **Claim**, for all purposes under this Policy, first made on:

- (1) the date that the earliest of such **Claims** was first made or deemed to have been first made;
- (2) the earliest date that satisfactory notice of any **Wrongful Act** or **Interrelated Wrongful Act** alleged in any such **Claims** was given to the Insurer pursuant to Section **IV.(C)**; or

- (3) the earliest date that notice of any **Wrongful Act** or **Interrelated Wrongful Act** alleged in any such **Claims** (or solely as it pertains to **Inquiries**, notice of any facts, circumstances, situations, transactions or events alleged in such **Inquiry**) was given under any other directors and officers liability policy providing similar coverage commencing before the **Inception Date**, regardless of whether such policy was issued by the Insurer; provided, however, that the insurer of such policy does not reject such notice as invalid.

Under no circumstances will a single lawsuit or proceeding be considered more than one **Claim** subject to more than one **Retention**.

- (B) Solely with regard to the coverage provided under Insuring Agreement (C)(2), until there is sufficient information for the Insurer to reasonably infer or determine that such **Wrongful Act(s)** that form the basis of the **Concurrent Securities Claim** are not the same or substantially the same as the **Wrongful Act(s)** that form the basis of a **Formal Entity Investigation**, such **Wrongful Act(s)** will be presumed to be the same or substantially the same. If the **Insured** obtains such information, the **Insured** will notify the Insurer as soon as practicable. If the Insurer has already begun to advance payments and, subsequently, an **Enforcement Entity**, the **Insured** or any other source discloses sufficient information for the Insurer to reasonably infer or determine otherwise, this Policy will afford no coverage for any such **Formal Entity Investigation**.
- (C) If an **Entity** first becomes aware of a **Formal Entity Investigation** prior to the commencement of a **Concurrent Securities Claim** and notifies the Insurer in writing of such **Formal Entity Investigation** in the manner prescribed in Section IV.(C), then such **Formal Entity Investigation** will constitute notice of a **Wrongful Act** that may reasonably be expected to give rise to a **Claim** against such **Entity**; provided, however, that coverage will not be afforded for any **Formal Entity Investigation** that is not a **Related Entity Investigation**.

IV. NOTICE

(A) Notice of Claim

As a condition precedent to coverage under this Policy, the **Insureds** will give the Insurer written notice of any **Claim** as soon as practicable after the risk manager or in-house general counsel of the **Named Entity** first becomes aware of such **Claim**, but in no event later than ninety (90) days after the termination of the **Policy Period** or **Extended Reporting Period**, if applicable. This Section will not apply to any **Inquiry** that the **Insured** elects not to notice as a **Claim**. Notwithstanding the foregoing, if the Insurer terminates the policy for nonpayment of premium, the **Insured** will give the Insurer written notice of such **Claim** prior to the effective date of such termination.

(B) Late Notice – Prejudice Required

In the event that the **Insureds** fail to provide timely notice to the Insurer as specified in Section IV.(A), the Insurer will not be entitled to deny coverage based solely upon such untimely notice unless the Insurer can demonstrate its interests were materially prejudiced by reason of such untimely notice.

(C) Notice of Potential Claim

If an **Insured** becomes aware of a **Wrongful Act** occurring before or during the **Policy Period** that may reasonably be expected to give rise to a **Claim**, and if written notice of such **Wrongful Act** is given to the Insurer during the **Policy Period** or **Extended Reporting Period**, if applicable, including the nature of the **Wrongful Act** and the reasons for anticipating such **Claim**, with full particulars as to the dates, persons and entities allegedly involved, then any **Claim** subsequently arising from such **Wrongful Act** will be deemed to be a **Claim** first made during the **Policy Period** or **Extended Reporting Period**, if applicable, on the date that the Insurer receives the above notice; provided that any such **Claim** is reported to the Insurer as specified in Section IV.(A). No coverage will be provided under this Policy for fees, costs, expenses or other loss incurred as a result of such **Wrongful Act** prior to the time such subsequent **Claim** is first made.

(D) Notices to the Insurer/Insureds

Except as otherwise provided in this Policy, all notices to the Insurer under any provision of this Policy will be in writing and given by email, prepaid express courier or certified mail properly addressed to the appropriate party. Notice to the Insurer pursuant to Section IV.(A) and IV.(C) will be sent to the address specified in **Item L.(1)** of the Declarations. All other notices to the Insurer required by this Policy or in connection with this Policy will be sent to the address specified in **Item L.(2)** of the Declarations. Notice to the **Insureds** will be sent to the **Named Entity** at the address set forth in **Item A.** of the Declarations. Notice will be deemed to be received and effective on the date such notice was transmitted, subject to proof of such transmittal.

(E) Qui Tam Complaint Notice

If, during the **Policy Period**, the **Insureds** first become aware of a **Wrongful Act** by an **Insured** in connection with a qui tam complaint filed under seal pursuant to Section 3730 of The False Claims Act (31 U.S.C. § 3730) that was first made public during the **Policy Period**, and previously unbeknownst to any **Insured** other than the whistleblower who filed such complaint, then any **Claim** subsequently made that arises therefrom will be deemed to be a **Claim** first made during this **Policy Period** and therefore subject to the terms, conditions and limitations of this Policy, including, without limitation, the reporting requirements set forth in this Section; provided, however, that (i) such complaint was not the subject of any notice given under any other insurance policy for which this Policy is a renewal or replacement, and (ii) the insurer of any such other policy did not reject such notice as invalid.

V. DEFENSE, CONSENT, COOPERATION, ASSOCIATION, ADVANCEMENT AND ALLOCATION

(A) Defense of Claims, Settlement of Claims and Consent

- (1)** It will be the duty of the **Insureds**, and not the Insurer, to defend any **Claim**.
- (2)** The **Insureds** will not admit or assume any liability, make any settlement offer, enter into any settlement agreement, stipulate to any judgment or incur any **Defense Costs** or **Coverage Extension Expenses** regarding any **Claim** without the express prior written consent of the Insurer, such consent not to be unreasonably withheld or delayed. Notwithstanding the foregoing, the Insurer may, at its sole discretion, waive the requirement for prior written consent for **Defense Costs** incurred thirty (30) days prior to the reporting of a **Claim**. The Insurer will not be liable for any **Loss** incurred as a result of any admission, assumption, offer, agreement, settlement or stipulation, any **Coverage Extension Expenses**, or for any **Defense Costs** to which it has not so consented or waived the prior written consent requirement.
- (3)** Notwithstanding subsection **(2)** above, no prior written consent will be required to settle all **Claims** subject to a single **Retention** if the amount of such settlement (inclusive of **Defense Costs** and **Coverage Extension Expenses**) does not exceed the amount of the applicable **Retention**.

(B) Cooperation and Association

- (1)** The **Insureds** will, as a condition precedent to their rights under this Policy, cooperate with the Insurer and provide the Insurer with such information as the Insurer may reasonably require, and will do nothing that may prejudice the Insurer's position or its potential or actual rights of recovery. The failure of an **Insured** to give the Insurer all information and cooperation as the Insurer may reasonably require will not impair the rights of any other **Insured Person** under this Policy.
- (2)** If any documents or information requested by or to be provided to the Insurer under this Policy are subject to the attorney-client privilege, work-product doctrine or any other legal privilege, the Insurer and the **Insureds** will cooperate in good faith to preserve the privileged status of any such document or information (including by signing a joint defense or similar agreement based upon common interest acceptable to the Insurer and the **Insureds**). If, after such efforts, the **Insureds** determine in good faith that providing such documents or information would cause a loss of privilege or would cause such documents or information to no longer be protected by work-product doctrine, the **Insureds** will cooperate in good faith with the Insurer to provide the Insurer with comparable documents or information while preserving the privileged status of (or applicability of work product doctrine to) any such documents or information. The foregoing sentence does not otherwise waive or limit the **Insureds'** obligations to cooperate reasonably with the Insurer and to

do nothing that may prejudice the Insurer's position or its potential or actual rights of recovery as provided in Section V.(B)(1).

- (3) The Insurer will at all times have the right, but not the duty, to effectively associate in the investigation, defense and settlement of any **Claim**, even if such **Claim** is groundless, false or fraudulent.

(C) Advancement and Allocation

- (1) If regarding any **Claim**, the **Insureds** (i) incur **Loss** jointly with persons or entities (including other **Insureds**) who are not covered under this Policy for such **Claim**, or (ii) incur both **Loss** covered under this Policy and other amounts not covered under this Policy, then the **Insureds** and the Insurer agree to use their best efforts to fairly and reasonably allocate such amounts between covered **Loss** and uncovered loss on the basis of the relative legal and financial exposures of the covered and non-covered parties and/or to the covered and non-covered portions of such **Claim**.
- (2) Upon written request by any **Insured**, the Insurer will advance **Litigation Expenses** in excess of the applicable **Retention** amount, incurred in the defense of a **Claim** covered under this Policy. If the Insurer and the **Insureds** agree on the amount of such **Litigation Expenses** that constitute covered **Litigation Expenses**, the Insurer will advance such **Litigation Expenses** on a current basis, but no later than sixty (60) days after the Insurer receives itemized invoices for such **Litigation Expenses**; provided, however, that to the extent it is finally established that any such **Litigation Expenses** are not covered by this Policy, the **Insureds**, severally according to their interests, will repay such **Litigation Expenses** to the Insurer.
- (3) If the Insurer and the **Insureds** cannot agree on the amount of defense costs (inclusive of all litigation expenses) that constitute covered **Litigation Expenses**, then the Insurer will advance on a current basis **Litigation Expenses** that it believes to be covered under this Policy until a different allocation is negotiated, arbitrated or judicially determined. Any negotiated, arbitrated or judicially determined allocation of **Litigation Expenses** on account of a **Claim** will be applied retroactively to all **Litigation Expenses** incurred on account of such **Claim**, notwithstanding any prior advancement to the contrary. Any allocation or advancement of **Litigation Expenses** on account of a **Claim** will not apply to or create any presumption with respect to the allocation of **Loss** (other than **Litigation Expenses**) on account of such **Claim**.

VI. AGGREGATE LIMIT OF LIABILITY AND PRIORITY OF PAYMENTS

- (A) The **Limit of Liability** in **Item E.** of the Declarations will be the maximum aggregate amount the Insurer will pay under this Policy for all **Loss** covered under this Policy under all Insuring Agreements and any extensions thereto combined. Each respective **Sublimit of Liability** enumerated in **Item F.** of the Declarations will be the maximum aggregate amount the Insurer will pay for any such **Sublimit of Liability**. Payment of **Loss** by the Insurer will reduce the **Limit of Liability** and each applicable **Sublimit of Liability**.
- (B) **Defense Costs** will be subject to, part of, and not in addition to, the **Limit of Liability** and each applicable **Sublimit of Liability**. Payment of **Defense Costs** by the Insurer will reduce the **Limit of Liability** and each applicable **Sublimit of Liability**.
- (C) Unless otherwise specified by an endorsement to this Policy, all **Sublimits of Liability** will be part of, and not in addition to, the maximum aggregate **Limit of Liability** and payment under any **Sublimit of Liability** by the Insurer will reduce both the **Limit of Liability** and such **Sublimit of Liability**.
- (D) The **Books and Records Sublimit of Liability** will be part of, and not in addition to, the maximum aggregate **Limit of Liability** and the **Derivative Demand Sublimit of Liability** and payment under the **Books and Records Sublimit of Liability** by the Insurer will reduce the **Limit of Liability**, **Derivative Demand Sublimit of Liability** and **Books and Records Sublimit of Liability**.
- (E) The Insurer will be entitled to pay **Loss** as it becomes due and payable under this Policy without consideration of other future payment obligations.

- (F) In the event that **Loss** covered under Insuring Agreement (A) becomes due and payable concurrently with any other covered **Loss**, the Insurer will first pay, subject to the applicable **Limit of Liability**, **Loss** covered under Insuring Agreement (A) prior to paying such other covered **Loss**.

VII. RETENTION AND INDEMNIFICATION

- (A) The Insurer will only pay **Loss** in excess of the **Retention** applicable to each **Claim** as specified in **Item H.** of the Declarations. **Loss** is applied against the **Retention**, which will be borne by the **Entity** uninsured under this Policy. Notwithstanding the foregoing sentence, (i) for any **Securities Claim**, **Defense Costs** incurred as **Class Certification Event Study Costs** will not be subject to the applicable **Retention** and (ii) no **Retention** will apply to the first \$25,000 incurred as **Electronic Discovery Defense Costs**.
- (B) If **Loss** arising from any **Claim** is covered in whole or in part under more than one Insuring Agreement, the applicable **Retention** will be applied separately to that portion of **Loss** covered by each Insuring Agreement and the sum of the **Retentions** so applied will constitute the **Retention** applicable to such **Claim**; provided, however, that the largest applicable **Retention** amount specified in **Item H.** of the Declarations will be the maximum retention applicable to such **Claim**.
- (C) Notwithstanding subsection (A) above, if an **Entity** refuses or fails within sixty (60) days of an **Insured Person's** request to advance, pay or indemnify such **Insured Person** for covered **Loss** or if an **Entity** is unable to advance, pay or indemnify such **Insured Person** for covered **Loss** due to such **Entity's Financial Insolvency**, then the Insurer will advance such amounts for covered **Loss** on behalf of such **Insured Person** without applying the applicable **Retention**. If the Insurer pays under this Policy any **Loss** incurred by an **Insured Person** for which the **Entity** is legally permitted or required and is financially able to advance, pay or indemnify, then the **Entity** will reimburse the Insurer for such amounts up to the applicable **Retention**, and such amounts will become due and payable as a direct obligation of the **Entity** to the Insurer. In no event will any such advancement, payment or indemnification by the Insurer relieve any **Entity** of any duty it may have to advance, pay or indemnify any **Insured Person**. Any such advancement, payment or indemnification by the Insurer within an applicable **Retention** will apply toward the exhaustion of the applicable **Limit of Liability**.
- (D) The **Entity** agrees to indemnify the **Insured Persons**, including the advancement of **Defense Costs** incurred by **Insured Persons**, to the fullest extent permitted by law.

VIII. SPOUSAL/DOMESTIC PARTNER LIABILITY, ESTATE AND LEGAL REPRESENTATIVES COVERAGE

- (A) Coverage will apply to the **Domestic Partner** of an **Insured Person**, but only for a **Claim** made against such **Domestic Partner**, arising out of any actual or alleged **Wrongful Acts** of such **Insured Person**. No coverage will apply to any **Loss** directly resulting from any **Wrongful Act** of such **Domestic Partner**.
- (B) In the event of the death, incapacity, insolvency or bankruptcy of an **Insured Person**, any **Claim** made against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** will be deemed to be a **Claim** made against such **Insured Person**. No coverage will apply to any **Loss** directly resulting from any **Wrongful Act** of such estate, heirs, legal representatives or assigns.

IX. REPRESENTATIONS AND SEVERABILITY OF THE APPLICATION

- (A) The **Insureds** represent and acknowledge that the statements, representations, and information contained in the **Application** are accurate and complete. This Policy is issued in reliance upon the **Application**, which will be construed as a separate **Application** for coverage by each **Insured**.
- (B) In the event that any statements, representations or information contained in the **Application** (i) were not accurate and complete and (ii) either were made with the intent to deceive or were material to the acceptance of the risk by the Insurer, no coverage will be afforded to:
- (1) any **Insured Person** who had actual knowledge, and any **Insured Entity** under Insuring Agreement (B) to the extent that it indemnifies any such **Insured Person**, as of the **Inception**

Date, of the facts that were not accurately and completely disclosed if, as of the **Inception Date**, a reasonable person would have believed such facts were likely to give rise to a **Claim**; or

- (2) solely with respect to payment of **Loss** under Insuring Agreements (C) and (D), any **Entity**, if the chief executive officer or chief financial officer of the **Named Entity** had actual knowledge, as of the **Inception Date**, of the facts that were not accurately and completely disclosed if, as of the **Inception Date**, a reasonable person would have believed such facts were likely to give rise to a **Claim**;

whether or not such **Insured Person** knew the **Application** contained such inaccurate and incomplete information. For purposes of Section IX.(B), (i) the actual knowledge possessed by any **Insured Person** will not be imputed to any other **Insured Person**, and (ii) only the actual knowledge possessed by the chief executive officer or chief financial officer of the **Named Entity** will be imputed to the **Entity**.

- (C) Under no circumstances will the Insurer be entitled to rescind or void this Policy in whole or in part.

X. GENERAL CONDITIONS

(A) CANCELLATION

- (1) The Insurer may cancel this Policy solely for non-payment of premium by sending not less than fifteen (15) days written notice to the **Named Entity**.
- (2) Except as provided in Section X.(E)(2), the **Named Entity** may cancel this Policy by sending written notice of cancellation to the Insurer. Such notice will be effective upon receipt by the Insurer unless a later cancellation time is specified therein.
- (3) If this Policy is cancelled per subsections (1) or (2) above, the unearned premium will be calculated on a pro rata basis, unless Section X.(E)(2) applies, in which case the entire premium for this Policy will be deemed fully earned. Payment of any unearned premium will not be a condition precedent to the effectiveness of a cancellation. The Insurer will make payment of any unearned premium as soon as practicable.

(B) EXTENDED REPORTING PERIOD

- (1) If the Insurer or the **Named Entity** cancels or non-renews this Policy for any reason other than non-payment of premium, then the **Named Entity** or **Insured Persons** will have the right, upon payment of the additional premium described in (2) and (3) below, to elect an extension of coverage granted by this Policy for the **Extended Reporting Period**, but only with respect to: (a) any **Claim** (other than an **Inquiry**) first made during the **Extended Reporting Period** for a **Wrongful Act** occurring before or during the **Policy Period**; or (b) any **Inquiry** first made during the **Extended Reporting Period** based upon or arising out of matters or circumstances that occurred before or during the **Policy Period**.
- (2) The premium for the **Extended Reporting Period** will be the percentage, specified in **Item I.** of the Declarations, of the sum of the annual premium plus the annualized amount of any additional premium charged by the Insurer during the **Policy Period**. Such premium will be deemed fully earned at the inception of the **Extended Reporting Period**.
- (3) As a condition precedent to the right to purchase the **Extended Reporting Period**, the **Named Entity** or **Insured Persons** will send a written notice to elect the **Extended Reporting Period** to the Insurer together with the premium therefore. The right to elect the **Extended Reporting Period** will end unless the Insurer receives such notice and premium within sixty (60) days of the effective date of such cancellation or non-renewal.
- (4) There is no separate or additional limit of liability for the **Extended Reporting Period**.

(C) OTHER INSURANCE

- (1) If any amount payable under this Policy is insured under any other valid and collectible policy or policies, then this Policy will apply only in excess of, and will not contribute with, the amount of any deductibles, retentions and limits of liability under such other policy or policies (other than any personal umbrella excess liability insurance policy or personal directors and officers liability policy purchased by an **Insured Person**), whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other policy or policies to this Policy's policy number.
- (2) Coverage for a **Claim** in connection with an **Executive** acting in his or her capacity as such for an **Outside Entity** will be specifically excess of, and not contribute with: (a) any insurance provided for the benefit of the **Executives** or other directors, officers, managers, trustees, regents, governors or equivalent executives of the **Outside Entity** and (b) any indemnity available from or provided by the **Outside Entity**.

(D) SUBROGATION

- (1) The Insurer will be subrogated to all of the **Insureds'** rights of recovery regarding any payment of **Loss** by the Insurer under this Policy. The **Insureds** will execute all papers required and do everything necessary to secure and preserve such rights, including the execution of any documents necessary to enable the Insurer to effectively bring suit in the name of the **Insureds**. Notwithstanding the above, the Insurer will not exercise its rights of subrogation against an **Insured Person** under this Policy.
- (2) If any amounts paid by the Insurer under this Policy are recovered by the Insurer, the amount of such recovery, less the costs incurred by the Insurer in obtaining such recovery, will be reinstated to the **Limit of Liability** and any applicable **Sublimit of Liability**. The Insurer assumes no duty to seek a recovery of any amounts paid under this Policy.

(E) CHANGES IN EXPOSURE

(1) Mergers or Acquisitions of New Subsidiaries

If, during the **Policy Period**, any **Entity**:

- (a) merges with another entity such that the **Entity** is the surviving entity; or
- (b) acquires a **Subsidiary**;

then such surviving entity or **Subsidiary** and its **Insured Person(s)** will be **Insureds** under this Policy, but only for (i) **Claims** (other than **Inquiries**) for **Wrongful Acts** occurring or allegedly occurring after the effective date of such transaction, and (ii) **Inquiries** based upon or arising out of matters or circumstances occurring or allegedly occurring after the effective date of such transaction.

If the fair value of the assets of, or total consideration paid for, any newly merged or acquired entity or **Subsidiary** exceeds thirty percent (30%) of the total consolidated assets of the **Named Entity** as reflected in its most recent consolidated audited financial statements as of the **Inception Date**, the **Named Entity** as a condition precedent to coverage with respect to such new **Insureds** will give the Insurer full details of the transaction in writing as soon as practicable but in no event later than ninety (90) days after the effective date of such transaction, together with such information as the Insurer may require, and will pay any additional premium so required by the Insurer. If the **Named Entity** fails to comply with such condition precedent, coverage otherwise afforded by this Section will terminate ninety (90) days after the effective date of such transaction.

(2) Merger or Acquisition of the Named Entity

If, during the **Policy Period**:

- (a) the **Named Entity** merges into or consolidates with another entity such that the **Named Entity** is not the surviving entity; or

- (b) another person or entity, group of persons or entities, or persons and entities acting in concert acquire **Management Control** of the **Named Entity**;

then coverage under this Policy will continue, but only for (i) **Claims** (other than **Inquiries**) for **Wrongful Acts** that occurred prior to the effective date of such transaction, and (ii) **Inquiries** based upon or arising out of matters or circumstances that occurred prior to the effective date of such transaction. This Policy will not be cancelled and the entire premium for this Policy will be deemed fully earned as of the effective date of such transaction.

The **Named Entity** will give the Insurer written notice of such transaction as soon as practicable, but not later than ninety (90) days after the effective date of such transaction.

(3) **Loss of Subsidiary Status**

If, during or prior to the Policy Period, any **Entity** ceases to be a **Subsidiary**, then coverage will be available under this Policy for such former **Subsidiary** and its **Insured Person(s)**, subject to all other terms, conditions and limitations of this Policy, but only for (i) **Claims** (other than **Inquiries**) for **Wrongful Acts** occurring or allegedly occurring during the time that such entity was a **Subsidiary**, and (ii) **Inquiries** based upon or arising out of matters or circumstances occurring or allegedly occurring during the time that such entity was a **Subsidiary**.

(4) **Bankruptcy**

- (a) In the event of **Financial Insolvency**, the **Insureds** hereby:

- (i) waive and release any automatic stay or injunction which may apply to this Policy, or the proceeds therefrom, in any corresponding bankruptcy proceeding or under any bankruptcy code or law; and
- (ii) agree not to oppose or object to any efforts by the Insurer or any **Insureds** to obtain relief from any such stay or injunction.

- (b) Bankruptcy or insolvency of any **Insured**, or any **Insured's** estate, will not relieve the Insurer of any of its obligations under this Policy.

(F) **AUTHORIZATION OF THE NAMED ENTITY**

The **Named Entity** will act on behalf of all **Insureds** with respect to all matters under this Policy (except the giving of notice to apply for any **Extended Reporting Period**), including, without limitation, the giving and receiving of notices regarding **Claims**, cancellation, payment of premiums, receipt of any return premiums and acceptance of any endorsements to this Policy.

(G) **WORLDWIDE COVERAGE TERRITORY**

- (1) **Worldwide Coverage.** Coverage under this Policy applies to **Claims** made and **Wrongful Acts** committed or allegedly committed anywhere in the world.
- (2) **Currency.** All amounts under this Policy are and will be expressed and payable in the currency of the United States of America. If a judgment is rendered, settlements are denominated or other elements of **Loss** are stated or incurred in a currency other than United States of America dollars, payment of covered **Loss** under this Policy (subject to the terms, conditions and limitations of this Policy) will be made either in such other currency (at the option of the Insurer and if agreeable to the **Named Entity**) or in United States of America dollars at the rate of exchange published in the *Wall Street Journal* on the date the Insurer's obligation to pay such **Loss** is established (or, if not published on that date, on the date of next publication). This clause is not intended to, and will not be interpreted to, narrow the scope of coverage otherwise provided under this Policy.

(3) **Claims in Foreign Jurisdictions**

- (a) Loss incurred in a Foreign Jurisdiction by an Entity. Any **Loss** incurred in a **Foreign Jurisdiction** by an **Entity** may be deemed a **Loss** of the **Named Entity** payable by the Insurer to the **Named Entity** at the address listed at **Item A.** of the Declarations. Any such payment by the Insurer to the **Named Entity** pursuant to this paragraph will fully discharge the Insurer's liability under this Policy for such **Loss** to such **Entity**.
- (b) Loss incurred in a Foreign Jurisdiction by an Insured Person covered under Insuring Agreement (A). Any **Loss** incurred in a **Foreign Jurisdiction** by an **Insured Person** covered under Insuring Agreement (A) will be paid to such **Insured Person** in a jurisdiction mutually acceptable to such **Insured Person** and the Insurer, to the extent that doing so would not violate any applicable law.

(H) ACTION AGAINST THE INSURER

- (1) No action will be taken against the Insurer unless, as a condition precedent thereto, there will have been full compliance with all the terms, conditions and limitations of this Policy.
- (2) No person or organization will have any right under this Policy to join the Insurer as a party to any **Claim** against any **Insured Person** nor will the Insurer be impleaded by any **Insured Person** or their legal representative in any such **Claim**.

(I) ASSIGNMENT

Assignment of interest under this Policy will not bind the Insurer without its prior consent as specified in a written endorsement issued by the Insurer to form a part of this Policy.

(J) HEADINGS

The headings and Table of Contents of this Policy are intended for reference only and will not be part of the terms, conditions and limitations of coverage.

(K) REFERENCES TO LAWS

Wherever this Policy mentions any law, including, without limitation, any statute, Act or Code of the United States of America, such mention will be deemed to include all amendments of, and all rules or regulations promulgated under, such law.

Wherever this Policy mentions any law, including, without limitation, any statute, Act or Code of the United States of America, and such mention is followed by the phrase "or any similar law", such phrase will be deemed to include all similar laws of any jurisdiction throughout the world, including, without limitation, statutes and any rules or regulations promulgated thereunder as well as common law.

(L) ENTIRE AGREEMENT AND CHANGES

This Policy, including the Declarations, **Application** and any written endorsements attached hereto, constitute the entire agreement between the **Insureds** and the Insurer relating to this insurance. This Policy will not be waived, changed or modified except in a written endorsement issued by the Insurer to form a part of this Policy.

XI. DEFINITIONS

The following terms appearing in bold type, whether used in the singular or plural, will have the meanings specified below:

"Application" means the application for this Policy, including any written materials or information submitted therewith or made available to the Insurer by the **Insured** during the underwriting process. **Application** will include any publicly available materials or information filed by an **Entity** with the **SEC** (or any state, local or foreign equivalent) within the one year preceding the **Inception Date**. All such applications, materials and information are the basis of, and will be deemed incorporated into and constitute a part of, this Policy.

“Books and Records Action” means any civil proceeding, by or on behalf of any shareholder(s) of an **Entity** in his, her or its capacity as such, against an **Insured** for a **Wrongful Act** of such **Insured** seeking an order to compel inspection of an **Entity’s** stock ledger, list of stockholders and other books and records of such **Entity** pursuant to Title 8, Chapter 1, Section 220 of the Delaware General Corporation Law or any similar law.

“Books and Records Costs” means reasonable fees, costs and expenses incurred by an **Entity** in response to a **Books and Records Request** from the date that such **Books and Records Request** is received by the **Insured**; provided, however, that the Insurer will only pay such **Books and Records Costs** once a **Derivative Demand** based upon, arising from or in any way related to such **Books and Records Request** is first made against such **Insured**. **Books and Records Costs** will not include compensation (including overtime compensation), wages, remuneration, overhead, operating expenses, benefits or benefit expenses associated with any **Insureds**.

“Books and Records Request” means a written demand, by or on behalf of any shareholder(s) of an **Entity** in his, her or its capacity as such, to inspect the stock ledger, list of stockholders and other books and records of such **Entity** pursuant to Title 8, Chapter 1, Section 220 of the Delaware General Corporation Law or any similar law.

“Claim” means:

- (1) a written demand (other than a **Derivative Demand**) for monetary damages or for other non-monetary (including injunctive or other equitable) relief, including a demand to toll or waive the running of the statute of limitations, which is deemed to be first made when an **Insured** receives such demand;
- (2) a civil proceeding (other than any investigation or any administrative or regulatory proceeding), including an arbitration proceeding, mediation proceeding or any other alternative dispute resolution proceeding, for civil monetary damages or other civil non-monetary (including injunctive or other equitable) relief, which is deemed to be first made when an **Insured** receives service of a complaint or similar pleading;
- (3) a regulatory or administrative proceeding (other than any investigation), which is deemed to be first made when an **Insured** receives service of a complaint or similar pleading, a filed notice of charges or, with respect to a foreign proceeding, any similar document; or
- (4) a criminal proceeding (other than any investigation or any administrative or regulatory proceeding), which is deemed to be first made when an **Insured** is arrested, made the subject of an indictment that has been returned by a grand jury or has been served with an accusation, information, complaint, summons or similar charging document filed in a criminal court;

against an **Insured Person** or, with respect to Insuring Agreement (C)(1), the **Entity**, subject to following subparagraphs.

Claim will also mean:

- (5) an investigation of an **Insured Person** by an **Enforcement Entity**, which is deemed to be first made when such **Insured Person** receives or is served with a written document identifying such **Insured Person** by name as a target of such **Enforcement Entity**, including a formal order of investigation, a Wells Notice from the **SEC** indicating that it may commence an enforcement action against such **Insured Person**, a target letter or similar document, provided that such **Claim** is only covered under Insuring Agreements (A)(1) and (B)(1);
- (6) an official request for (a) the **Extradition** of an **Insured Person** or (b) the execution of a warrant for the arrest of an **Insured Person** where such execution is an element of **Extradition**, which is deemed to be first made when an **Insured Person** receives such request or warrant, provided that such **Claim** is only covered under Insuring Agreements (A)(1) and (B)(1);
- (7) an **Inquiry**, provided that: (a) an **Inquiry** will only be considered a **Claim** under this Policy if the **Insured** elects to give the Insurer notice thereof pursuant to Section **IV.(A)**, at which point such **Inquiry** is deemed to be first made, and (b) such **Claim** is only covered under Insuring Agreements (A)(2) and (B)(2);

- (8) a **Related Entity Investigation**, provided that: (a) a **Related Entity Investigation** is deemed to be first made when the **Insured** receives written notice of a **Related Entity Investigation**, and (b) such **Claim** is only covered under Insuring Agreement (C)(2);
- (9) a **Derivative Demand**, which is deemed to be first made when an **Executive** receives such demand, provided that such **Claim** is only covered under Insuring Agreement (C)(3);
- (10) a **Books and Records Request**, which is deemed to be first made when an **Executive** receives such demand, provided that such **Claim** is only covered under Insuring Agreement (C)(4); or
- (11) a **Regulatory Event**, provided that: (a) a **Regulatory Event** is deemed to be first made when the **Insured** self-reports the **Regulatory Violation** to the **SEC** in accordance with the sequence of events described in Section XI. **DEFINITIONS**, “**Regulatory Event**”, and (b) such **Claim** is only covered under Insuring Agreement (D);

“**Class Certification Event Study Costs**” means reasonable fees, costs and expenses of an expert witness incurred by an **Insured** to create, conduct, and produce an admissible event study regarding any issues of fact relevant to the determination of whether to grant class certification in a **Securities Claim**.

“**Concurrent Securities Claim**” means a **Securities Claim**:

- (1) first made against the **Entity**, or first made against one of the **Executives** of such **Entity** as a **Derivative Action**, that is the subject of a **Formal Entity Investigation**;
- (2) that is maintained against such **Entity** at the same time that such **Entity** is the subject of such **Formal Entity Investigation**; and
- (3) that is first made or deemed first made against such **Entity**, or such **Executives** of such **Entity** as a **Derivative Action**, after the **Entity Investigation Costs Continuity Date**.

“**Cooperation**” means the cooperation of the **Insured** with the **SEC** consistent with the favorable behaviors referenced in Section 6.1.1 and Section 6.1.2 of the Enforcement Manual of the Division of Enforcement of the **SEC**, including the cited Seaboard Report.

“**Cooperation Costs**” means reasonable fees, costs and expenses incurred by the **Insured** (other than **Inquiry Costs**) to respond to **SEC** inquiries and requests specific to a **Regulatory Violation** from the date the **Regulatory Violation** is self-reported to the **SEC** to the date of issuance of a **Final Termination Notice**; provided, however, that the Insurer will pay such **Cooperation Costs** only: (i) if any **Insured** engages in **Cooperation**, (ii) if such **Cooperation** results in **Cooperation Credit** and (iii) upon receipt of a **Final Termination Notice** of all inquiries applicable to all **Insureds** relating to the **Regulatory Violation**. **Cooperation Costs** will not include any compensation (including overtime compensation), remuneration, overhead, operating expenses, benefits or benefit expenses associated with any **Insured**.

“**Cooperation Credit**” means **Cooperation** that results in cooperation credit and leniency being recommended and authorized by the Division of Enforcement of the **SEC**, as evidenced by receipt of a **Final Termination Notice** of all inquiries applicable to all **Insureds** relating to the **Regulatory Violation**.

“**Corporate Manslaughter Act Defense Costs**” means reasonable fees, costs and expenses incurred by an **Insured Person** that result solely from investigating and defending a **Claim** against an **Entity** for violation of the United Kingdom Corporate Manslaughter and Corporate Homicide Act of 2007 or any similar law.

“**Coverage Extension Expenses**” mean any **SOX 1103 Escrow Costs**, **Reputation Costs**, **Enforcement Entity Seizure Protection Costs**, **Inquiry Costs**, **Entity Investigation Costs**, **Derivative Demand Investigation Costs**, **Books and Records Costs** and **Cooperation Costs**.

“**Debtor-in-Possession**” means a “debtor in possession” as such term is defined in Chapter 11 of the United States Bankruptcy Code or the equivalent in any **Foreign Jurisdiction**.

“**Defense Costs**” means that part of **Loss** consisting of:

(1) reasonable fees, costs and expenses incurred by:

- (a) the **Insureds** in defending or appealing a **Claim** (other than a **Derivative Demand, Books and Records Request, Inquiry, Regulatory Event** or **Related Entity Investigation**), including expert fees and the costs of appeal, attachment or similar bonds, provided that the Insurer will have no obligation to apply for or furnish such bonds; and
- (b) the **Insureds** at the Insurer's request to assist the Insurer in investigating a **Claim** (other than a **Derivative Demand, Books and Records Request, Inquiry, Regulatory Event** or **Related Entity Investigation**);

(2) **Corporate Manslaughter Act Defense Costs**;

(3) **Electronic Discovery Defense Costs**;

(4) **Class Certification Event Study Costs**; and

(5) **SOX 304 and Dodd Frank 954 Defense Costs**; provided that under no circumstances will the Insurer assert that **SOX 304 and Dodd Frank 954 Defense Costs** constitute uninsurable damages.

Defense Costs will not include any compensation (including overtime compensation), remuneration, overhead, operating expenses, benefits or benefit expenses associated with any **Insured**.

"Derivative Action" means any civil proceeding made on behalf of, or in the name or the right of, an **Entity** by a securities holder of such **Entity** in his, her or its capacity as such, against an **Insured Person** (and/or **Entity** in its capacity as a nominal defendant) for a **Wrongful Act** of such **Insured Person**.

"Derivative Demand" means any written demand by one or more securities holder(s) of an **Entity** in his, her or its capacity as such, upon the board of directors or board of managers (or equivalent management body) of such **Entity** to bring a **Derivative Action**.

"Derivative Demand Investigation Costs" means reasonable fees, costs and expenses incurred solely by an **Entity**, including its board of directors or board of managers (or equivalent management body), or any committee thereof, in its investigation and evaluation of a **Derivative Demand**. **Derivative Demand Investigation Costs** will not include compensation (including overtime compensation), remuneration, overhead, operating expenses, benefits or benefit expenses associated with any **Insureds**.

"DOJ" means the United States Department of Justice.

"Domestic Partner" means any natural person qualifying as a legal spouse, domestic partner or party to a civil union under the provisions of any applicable federal, state, local or foreign statutory law or common law, or under the provisions of any human resource policy of the **Entity**.

"Electronic Discovery Defense Costs" means reasonable costs incurred by the **Insured** to hire a consulting firm to assist the **Insured** with managing the costs associated with the collection, development, preservation and production of electronically stored information, provided such costs are incurred in a **Securities Claim**.

"Employed Lawyer" means any employee of an **Entity** in his or her capacity as legal counsel to an **Entity**.

"Enforcement Entity" means any federal, state, local or foreign law enforcement authority or other governmental regulatory authority (including the **DOJ, SEC**, or similar authority in any **Foreign Jurisdiction**, and any federal or state attorney general) or the enforcement unit of any securities or commodities exchange or similar self-regulatory entity.

"Enforcement Entity Seizure Protection Costs" means reasonable fees, costs and expenses incurred by an **Executive** to defend against any actions taken by an **Enforcement Entity** to seize or otherwise enjoin the personal assets or real property of such **Executive** or to obtain the discharge or revocation of a court order entered during the **Policy Period** in any way impairing the use of such assets or property.

“Entity” means the **Named Entity** and any **Subsidiary**. **Entity** will include any such **Entity** as a **Debtor-in-Possession**.

“Entity Investigation Costs” means reasonable fees, costs and expenses incurred by the **Entity** solely to respond to requests from an **Enforcement Entity** for information, documentation, interviews or testimony in response to any **Related Entity Investigation**. **Entity Investigation Costs** include those fees, costs and expenses incurred by an **Entity** in conducting any internal or external investigation, but only if such investigation is both (1) necessary in order to respond to such requests from the **Enforcement Entity**; and (2) performed by or at the direction of counsel that either (i) represents an **Executive** from whom, or an **Entity** from which, the **Enforcement Entity** requests a response or (ii) serves as counsel of record to an **Executive** or an **Entity** named as a defendant in any **Concurrent Securities Claim**.

Entity Investigation Costs will not include any:

- (1) fees, costs or expenses incurred by an **Entity** in conducting any independent investigation or any routine or regularly scheduled supervision, oversight, inspection, compliance activity, review, examination or audit, including any request for mandatory information produced in an **Entity’s** and/or **Enforcement Entity’s** normal review or compliance process;
- (2) fees, costs or expenses incurred prior to the subject investigation becoming a **Related Entity Investigation** first made against an **Entity**;
- (3) settlements, fines, penalties, disgorgement, damages or restitution, or the cost of compliance; or
- (4) compensation (including overtime compensation), remuneration, overhead, operating expenses, benefits or benefit expenses associated with any **Insured**.

“Executive” means any natural person who was, is now, or will become a duly elected or appointed director (including any *de facto* director, Shadow Director (as defined in Section 251 of the United Kingdom Companies Act of 2006) or prospective director identified in an **Entity’s** prospectus or similar offering document), officer, risk manager, **Manager**, **Employed Lawyer**, controller, trustee (other than a bankruptcy trustee), regent or governor, or, with respect to any **Subsidiary** incorporated in a **Foreign Jurisdiction**, any functionally equivalent position, of an **Entity**, or any such natural person acting in such capacity as an **Executive** for an **Outside Entity** with the knowledge and consent of, or at the specific direction or request of, an **Entity**.

“Extended Reporting Period” means the electable period of time set forth in **Item I.** of the Declarations following the effective date of any cancellation or nonrenewal of this Policy.

“Extradition” means any formal process (including without limitation an extradition proceeding pursuant to the U.K. Extradition Act of 2003 or the equivalent in any other jurisdiction) by which an **Insured Person** located in any country is or is sought to be surrendered to any other country for trial or otherwise to answer any criminal accusation.

“FCPA” means the Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, et seq. or the equivalent in any **Foreign Jurisdiction**.

“Financial Insolvency” means the status of an **Entity** as a result of:

- (1) the court appointment, pursuant to federal or state law, of any conservator, liquidator, receiver, rehabilitator, trustee or similar official to control, supervise, manage or liquidate such **Entity**; or
- (2) such **Entity** becoming a **Debtor in Possession**.

“Final Termination Notice” means any written final termination notice or similar written notification, as evidenced by a settlement or disposition agreement, cooperation agreement, non-prosecution agreement or other extrinsic evidence, issued to the **Insured** by the Division of Enforcement of the **SEC**, pursuant to Section 2.6.2 of the Enforcement Manual of the Enforcement Division of the **SEC**, in which it has determined not to recommend to the **SEC** that an enforcement action be brought against the **Insured**; provided that there is no criminal prosecution of any **Insured**.

“Foreign Jurisdiction” means any jurisdiction, other than the United States of America or any of its territories or possessions.

“Formal Entity Investigation” means an investigation of an **Entity** by an **Enforcement Entity** into whether such **Entity** has violated any securities laws, rules or regulations, in which such **Entity** is identified by name in writing as a target of such **Enforcement Entity** in a formal order of investigation, a Wells Notice from the **SEC** indicating that it may commence an enforcement action against such **Entity**, a target letter or similar document. **Formal Entity Investigation** will not include any investigation into whether an **Insured** has violated any provision of the **FCPA**.

“Independent Director” means any natural person who was, is now, or will become a duly elected or appointed director (including any *de facto* director, Shadow Director (as defined in Section 251 of the United Kingdom Companies Act of 2006) or prospective director identified in an **Entity’s** prospectus or similar offering document) of the **Entity** who is not currently, and has never been previously, an **Executive** or employee of the **Entity**.

“Inquiry” means a request, demand or summons made to an **Insured Person** by:

- (1) an **Enforcement Entity** in connection with either (i) such **Insured Person** acting in his or her capacity as such or (ii) the business of an **Entity**;
- (2) an **Entity** (including its board of directors or any committee of its board of directors, or their respective functional equivalents) in connection with either (i) an investigation of an **Entity** by an **Enforcement Entity** or (ii) a **Derivative Demand**; or
- (3) a court-appointed conservator, liquidator, receiver, rehabilitator, trustee, or similar official of an **Entity** in connection with any bankruptcy proceeding by or against such **Entity**,

to appear at an interview, meeting or requisite place of confinement or detention, to provide sworn testimony, or to produce documents. **Inquiry** will not include (a) any routine or regularly scheduled supervision, oversight, inspection, compliance activity, review, examination or audit, including any request for mandatory information produced in an **Entity’s** and/or **Enforcement Entity’s** normal review or compliance process, or (b) any request by an **Enforcement Entity** that is part of an employment-related investigation or claim.

“Inquiry Costs” means (a) reasonable fees, costs and expenses incurred by an **Insured Person** solely in connection with his or her preparation for and response to an **Inquiry**, and (b) reasonable fees, costs and expenses incurred by an **Insured Person** to lawfully seek the release of such **Insured Person** from any arrest or confinement to a specified residence or secure custodial premises operated by or on behalf of any law enforcement authority, including the reasonable premium (but not collateral) incurred by an **Insured Person** for a bail bond or other similar financial instrument to guarantee the contingent obligation of the **Insured Person** for a specified amount required by a court that is incurred or required outside the United States of America during the **Policy Period**; provided, however, that no **Claim** (other than an **Inquiry**) has been made. Coverage for such premiums will be afforded only if such premiums arise out of an actual or alleged **Wrongful Act**, or are incurred solely by reason of such **Insured Person’s** status as an **Insured Person**. **Inquiry Costs** will not include (i) the costs of complying with discovery or other requests seeking documents (including electronic information) in the possession or control of the **Entity** or any other third party, or (ii) any compensation (including overtime compensation), remuneration, overhead, operating expenses, benefits or benefit expenses associated with any **Insured**.

“Insured” means any **Insured Person** or **Entity**.

“Insured Person” means any natural person who was, is now, or will become:

- (1) an **Executive**; or
- (2) any other employee of an **Entity**, but solely with respect to (i) **Securities Claims** or (ii) any other **Claim** brought against such employee, but solely to the extent and while such other **Claim** is brought and maintained against both such employee and an **Executive**.

“Interrelated Wrongful Acts” means all **Wrongful Acts** that are based upon, arising out of, directly or

indirectly resulting from, in consequence of, or in any way involving any of the same or related facts, circumstances, situations, transactions, events or causes, or series of related facts, circumstances, situations, transactions, events or causes, whether such **Wrongful Acts** are alleged in a single or multiple **Claim(s)**.

"Litigation Expenses" mean any **Defense Costs**, **Inquiry Costs**, **Entity Investigation Costs** and **Derivative Demand Investigation Costs**.

"Loss" means the following amounts any **Insured** is legally obligated or required to pay as a result of any **Claim** insured by this Policy:

- (1) settlements and judgments, including costs awarded pursuant to covered judgments and appeals and pre-judgment and post-judgment interest on that portion of a covered judgment; provided that if any such settlement or judgment includes **Section 11, 12 and 15 Damages**, under no circumstances will the Insurer assert that such **Section 11, 12 and 15 Damages** constitute uninsurable damages;
- (2) compensatory damages;
- (3) punitive or exemplary damages, or the multiple portion of any multiplied damage award, where insurable pursuant to applicable law;
- (4) **SOX 1103 Escrow Costs**;
- (5) **Defense Costs**;
- (6) where permissible by law and otherwise covered under this Policy, those civil fines or penalties assessed against an **Insured Person** for an unintentional and non-willful violation of any federal, state, local or foreign law, including without limitation any such fines or penalties assessed pursuant to Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)), Section 2(g)(2)(B) of the **FCPA** (15 U.S.C. §§ 78dd-2(g)(2)(B)) or Section 11(1)(a) of the United Kingdom Bribery Act of 2010 (Chapter 23);
- (7) taxes imposed on an **Entity** for which an **Insured Person** is legally obligated to pay solely by reason of such **Entity's Financial Insolvency**, with respect to Insuring Agreement (A)(1) only;
- (8) **Plaintiffs' Attorneys' Fees**;
- (9) **Reputation Costs**, with respect to Insuring Agreements (A)(1) and (B)(1) only;
- (10) **Enforcement Entity Seizure Protection Costs**, with respect to Insuring Agreements (A)(1) and (B)(1) only;
- (11) **Inquiry Costs**, with respect to Insuring Agreements (A)(2) and (B)(2) only;
- (12) **Entity Investigation Costs**, with respect to Insuring Agreement (C)(2) only;
- (13) **Derivative Demand Investigation Costs**, with respect to Insuring Agreement (C)(3) only;
- (14) **Books and Records Costs**, with respect to Insuring Agreement (C)(4) only; or
- (15) **Cooperation Costs**, with respect to Insuring Agreement (D) only.

Loss (other than **Defense Costs**) will not include:

- (i) fines or penalties, other than as provided in subsection (6) above;
- (ii) taxes, other than as provided in subsection (7) above;
- (iii) amounts for which an **Insured** is legally absolved from payment;

- (iv) costs incurred by an **Insured** to comply with any order for non-monetary (including injunctive or other equitable) relief, any agreement to provide such relief or any regulatory or administrative directive;
- (v) amounts incurred to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, nuclear material or nuclear waste;
- (vi) Except with respect to Insuring Agreement (A), any portion of damages, judgments, fees, costs or settlements that represents or is substantially equivalent to an increase in the amount of the purchase price or consideration paid or proposed to be paid in connection with the purchase of any securities, assets or entity; or
- (vii) amounts for matters uninsurable under the law pursuant to which this Policy will be construed.

The insurability of matters otherwise included in this definition of **Loss** will be determined under the law of the applicable jurisdiction most favorable to such insurability, including, without limitation, the jurisdiction in which the **Named Entity**, the **Insured Person**, the Insurer or such **Claim** is located.

“Management Control” means:

- (1) owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the board of directors, members of the management board, members of the board of governors, management committee or advisory committee of any corporation or limited liability company (including any joint venture structured as a corporation or limited liability company), or any functionally equivalent position; or
- (2) having the right, pursuant to a written contract or the by-laws, charter, operating agreement or similar documents of any corporation or limited liability company (including any joint venture structured as a corporation or limited liability company), to elect, appoint or designate a majority of the board of directors, members of the management board, members of the board of governors, management committee or advisory committee of any corporation or limited liability company (including any joint venture structured as a corporation or limited liability company), or any functionally equivalent position.

“Manager” means, with respect to any **Entity** that is a limited liability company (including any joint venture structured as a limited liability company), a natural person who was, is now, or will become a duly elected, appointed or designated manager, member of the management board, member of the board of governors, member of the management committee or member of the advisory committee, or any functionally equivalent position, of such **Entity**.

“Named Entity” means the entity named in **Item A.** of the Declarations.

“Outside Entity” means any:

- (1) non-profit organization that is exempt from federal income tax as described in the United States Internal Revenue Code of 1986;
- (2) for-profit entity, but only if the securities of such for-profit entity are neither publicly owned nor publicly traded; or
- (3) entity listed as an **Outside Entity** in a written endorsement issued by the Insurer to form a part of this Policy;

provided that such entity is not otherwise an **Entity** under this Policy.

“Plaintiffs’ Attorneys’ Fees” means:

- (1) the plaintiffs’ attorneys’ fees (including mootness fees) awarded or approved by a court for which the **Insured** is responsible pursuant to a covered settlement or judgment, regardless of whether monetary consideration is received by the security holders of an **Entity** or the **Entity** itself, other

than a **Derivative Action**; and

- (2) the plaintiffs' attorneys' fees (including mootness fees) awarded or approved by a court for which the **Insured** is responsible pursuant to a covered settlement or judgment, regardless of whether monetary consideration is received by the security holders of an **Entity** or the **Entity** itself, in a **Derivative Action**, with respect to Insuring Agreement (C)(1) only.

"Policy Period" means the period from the **Inception Date** to the **Expiration Date** at the local time of the address specified in **Item A.** of the Declarations, or any earlier cancellation date, in accordance with Section **X. (A)**.

"Pollutants" means any solid, liquid, gaseous, biological or thermal irritant, nuisance or contaminant, including, without limitation, smoke, vapor, soot, dust, fibers, mold, spores, fungi, germs, fumes, acids, alkalis, chemicals, odors, noise, lead, oil or oil product, radiation, asbestos or asbestos-containing product, waste and any electric, magnetic or electromagnetic field of any frequency. Waste includes, without limitation, material to be recycled, reconditioned or reclaimed. **Pollutants** will include any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on any list of hazardous substances issued by any federal agency (including, nonexclusively, the Environmental Protection Agency) or any state, county, municipality or locality or counterpart thereof, or any foreign equivalent thereof, including, but not limited to, nuclear material or nuclear waste.

"Regulatory Event" means the sequence of events where an **Insured**:

- (1) discovers an actual or alleged **Regulatory Violation**; and
- (2) self-reports such **Regulatory Violation** to the **SEC** when it is discovered and prior to:
 - (a) a **Whistleblowing** notice of such **Regulatory Violation**;
 - (b) the discovery of an inquiry into such **Regulatory Violation** by any **Enforcement Entity**; and
 - (c) such violation resulting in a **Claim** (other than a **Regulatory Event**).

"Regulatory Violation" means a violation of the Securities Act of 1933 or the Securities Exchange Act of 1934 by an **Insured**, in his or her capacity as such, related to financial statement reporting and disclosure to investors including violations of Generally Accepted Accounting Principles ("GAAP"). **Regulatory Violation** will not include any investigation into whether an **Insured** has violated any provision of the **FCPA**.

"Related Entity Investigation" means any **Formal Entity Investigation** of an **Entity** involving the same or substantially the same **Wrongful Acts** that form the basis of a **Concurrent Securities Claim**, but solely to the extent that such **Formal Entity Investigation** and **Concurrent Securities Claim** are pending simultaneously; provided that, if such **Concurrent Securities Claim** ends prior to the conclusion of such **Formal Entity Investigation**, then coverage for **Entity Investigations Costs** will be afforded until the conclusion of such **Formal Entity Investigation**.

"Reputation Costs" means reasonable fees, costs and expenses of a firm retained by an **Executive** solely to mitigate the negative impact upon such **Executive's** reputation as a result of a negative statement made by any individual authorized to speak on behalf of an **Enforcement Entity**; provided that such firm is retained within thirty (30) days of such negative statement. Such negative statement must have been included in a press release or published by any print or electronic media outlet during the **Policy Period**. Such **Executive** will retain a firm of his or her choosing but will, as a condition precedent to coverage for such costs, obtain the prior approval of the Insurer within thirty (30) days of such negative statement. In no event will the Insurer pay the fees of a firm if such firm is also retained by or on behalf of an **Entity**.

"SEC" means the United States Securities and Exchange Commission.

"Section 11, 12 and 15 Damages" means the portion of any judgment or settlement of a **Securities Claim** allocable to alleged violations of Sections 11, 12 or 15 of the Securities Act of 1933.

"Securities Claim" means any **Claim** that:

- (1) is brought by one or more securities holders of an **Entity**, in their capacity as such, including any **Derivative Action** or **Books and Records Action**;
- (2) is brought by any person or entity, based upon or arising from the purchase or sale of, or offer to purchase or sell, any securities issued by the **Entity**, whether such purchase, sale or offer involves a transaction with the **Entity** or occurs in the open market; or
- (3) is brought by any federal, state, local or foreign governmental agency (including without limitation the **SEC**) as a formal proceeding (other than an investigation) to enforce securities laws with respect to securities issued by an **Entity**, but only where such formal proceeding (other than an investigation) is also made and continuously maintained against an **Insured Person**.

“SOX 1103 Escrow Costs” means any standard base pay compensation to which an **Insured Person** would otherwise be entitled, but which an **Entity** is legally obligated to pay into an escrow account pursuant to Section 1103(a) of the Sarbanes-Oxley Act of 2002 solely as a result of a temporary order issued by a federal court requiring the issuer to escrow, subject to court supervision and pursuant to a petition by the **SEC**, any such standard base pay compensation to such **Insured Person**. As a condition of the advancement of **SOX 1103 Escrow Costs**, the Insurer may require a written undertaking, in a form satisfactory to the Insurer, which will guarantee the repayment of any **SOX 1103 Escrow Costs** to the Insurer, upon the release of such **SOX 1103 Escrow Costs** from escrow.

“SOX 304 and Dodd Frank 954 Defense Costs” means reasonable fees, costs and expenses (including the premium or origination fee for a loan or bond) incurred by an **Insured Person** solely to investigate or defend any **Claim** pursuant to, or to facilitate the return of amounts required to be repaid by such **Insured Person** pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002, Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or any rules or regulations promulgated thereunder. **SOX 304 and Dodd Frank 954 Defense Costs** do not include the payment, return, reimbursement, disgorgement or restitution of any such amounts requested or required to be repaid by an **Insured Person** pursuant to such sections, rules or regulations.

“Subsidiary” means any:

- (1) for-profit entity in which, and so long as, the **Named Entity**, directly or indirectly through one or more **Subsidiaries**, has **Management Control**; or
- (2) not-for-profit entity as described in Section 501(c) of the Internal Revenue Code of 1986 in which, and so long as, the **Named Entity** has **Management Control**.

“Whistleblowing” means the lawful act of an **Insured Person**, in which such **Insured Person** provides information, causes information to be provided, or otherwise assists in an investigation regarding any conduct which the **Insured Person** reasonably believes constitutes a violation of any federal, state, local or foreign law (including, but not limited to, Section 806 of the Sarbanes-Oxley Act of 2002), when the information or assistance is provided to, or the investigation is conducted by (i) a federal, state, local or foreign regulatory or law enforcement agency, (ii) any member of Congress or any committee of Congress or (iii) a person with supervisory authority over the **Insured Person** (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct).

“Wrongful Act” means:

- (1) any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty by an **Insured Person** in his or her capacity as such, or, with respect to Insuring Agreements (C), an **Entity**;
- (2) any matter claimed against an **Insured Person** solely by reason of his or her serving in such capacity;
- (3) solely with respect to Insuring Agreement (D), a **Regulatory Violation**; or
- (4) solely for the purposes of determining whether a **Derivative Action** which names the **Entity** as a

defendant (including as a nominal defendant) is a **Securities Claim** against such **Entity** for the purposes of Insuring Agreement (C)(1), any **Wrongful Act** by an **Insured Person** as described in subsection **(1)** above will also be deemed to be a **Wrongful Act** of such **Entity**; provided, however, that this provision will not be deemed to create coverage for **Derivative Demand Investigation Costs** under Insuring Agreement (C)(1). Coverage for such costs is available solely under Insuring Agreement (C)(3).

All other bolded and capitalized terms are defined as set forth in the Declarations.