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## MUTUAL FUND PROFESSIONAL AND DIRECTORS & OFFICERS AND INVESTMENT ADVISORY PROFESSIONAL LIABILITY POLICY

THIS IS A CLAIMS-MADE POLICY AND, SUBJECT TO ITS PROVISIONS, APPLIES ONLY TO ANY "CLAIM" FIRST MADE AGAINST THE INSUREDS DURING THE POLICY PERIOD. NO COVERAGE EXISTS FOR CLAIMS FIRST MADE AFTER THE END OF THE POLICY PERIOD UNLESS, AND TO THE EXTENT, THE EXTENDED REPORTING PERIOD APPLIES. DEFENSE COSTS REDUCE THE LIMIT OF LIABILITY AND ARE SUBJECT TO RETENTION AMOUNTS. PLEASE REVIEW THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the Insurer designated in the Declarations, a stock insurance corporation, hereafter called the "Insurer", including the statements made in the **Application**, and subject to the provisions of this Policy, the Insurer agrees that:

### I. INSURING AGREEMENTS

#### A. DIRECTOR AND OFFICER LIABILITY

1. If during the **Policy Period** or the Extended Reporting Period any **Claim** is first made against any of the **Individual Insureds**, the Insurer shall pay on their behalf **Loss** resulting from such **Claim**, except and to the extent that an **Insured Mutual Fund** has indemnified them for such **Loss**.
2. If during the **Policy Period** or the Extended Reporting Period any **Claim** is first made against any of the **Individual Insureds**, the Insurer shall pay on behalf of an **Insured Mutual Fund Loss** resulting from such **Claim** to the extent an **Insured Mutual Fund** is required or has determined as permitted by law, to indemnify the **Individual Insureds** for such **Loss**.

#### B. INSURED MUTUAL FUND PROFESSIONAL LIABILITY

If during the **Policy Period** or the Extended Reporting Period any **Claim** is first made against any **Insured Mutual Fund** the Insurer shall pay on behalf of the **Insured Mutual Fund Loss** resulting from such **Claim**.

#### C. INSURED ADVISER PROFESSIONAL LIABILITY

If during the **Policy Period** or the Extended Reporting Period any **Claim** is first made against any **Insured Adviser**, the Insurer shall pay on behalf of the **Insured Adviser Loss** resulting from such **Claim**.



**DECLARATIONS:  
MUTUAL FUND PROFESSIONAL AND DIRECTORS  
& OFFICERS AND INVESTMENT ADVISORY  
PROFESSIONAL LIABILITY POLICY**

CNA INSURANCE COMPANIES  
CNA PLAZA  
Chicago, IL 60685

**NOTICE**

**THIS IS A CLAIMS-MADE POLICY AND, SUBJECT TO ITS PROVISIONS, APPLIES ONLY TO ANY "CLAIM" FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. NO COVERAGE EXISTS FOR CLAIMS FIRST MADE AFTER THE END OF THE POLICY PERIOD UNLESS, AND TO THE EXTENT, THE EXTENDED REPORTING PERIOD APPLIES. DEFENSE COSTS REDUCE THE LIMIT OF LIABILITY AND ARE SUBJECT TO THE RETENTION AMOUNTS. PLEASE REVIEW THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.**

<b>ACCOUNT NUMBER</b>	<b>COVERAGE PROVIDED BY</b>	
<b>POLICY NUMBER</b>		
<b>PRINCIPAL ORGANIZATION AND ADDRESS</b>		<b>PRODUCER</b>
Item 1.		
Attn:		

Item 2. **Policy Period:** \_\_\_\_\_ To \_\_\_\_\_  
12:01 a.m. Standard Time at the Principal Address stated in Item 1.

Item 3. **Limit of Liability (Inclusive of Defense Costs):**  
\$ \_\_\_\_\_ Maximum aggregate Limit of Liability under all Insuring Agreements.

Item 4. **Retention Amount applicable to Insuring Agreements (Defense Costs are subject to Retention Amount):**  
\$ \_\_\_\_\_ each of the **Individual Insureds** each **Claim**, but in no event exceeding  
\$ \_\_\_\_\_ in the aggregate each **Claim** for all **Individual Insureds** under Insuring Agreement **I.A.1.**,  
or  
\$ \_\_\_\_\_ each **Claim** under Insuring Agreement **I.A.2.**, or  
\$ \_\_\_\_\_ each **Claim** under Insuring Agreements **I.B., I.C., or I.D.**

Item 5. **Policy Premium:** \$ \_\_\_\_\_

Item 6. **Notices to Insurer:**

Item 7. **Prior and Pending Proceeding Date (Exclusion V.F.):**

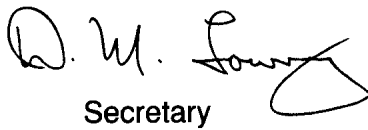
Item 8. **Item 8. Coverage for Individual Insureds of an Insured Investment Adviser or Insured Service Provider purchased** ..... Yes  No

Item 9. Endorsements forming a part of this Policy at issuance:

These Declarations, along with the completed and signed **Application** and the Policy, shall constitute the contract between the **Insureds** and the Insurer.

Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_

  
Secretary

  
Chairman of the Board

## D. INSURED SERVICE PROVIDER PROFESSIONAL LIABILITY

If during the **Policy Period** or the Extended Reporting Period any **Claim** is first made against any **Insured Service Provider**, the Insurer shall pay on behalf of the **Insured Service Provider Loss** resulting from such **Claim**.

## II. DEFINITIONS

- A. **"Application"** means all signed applications for this Policy and for any policy in an uninterrupted series of policies issued by the Insurer of which this Policy is a renewal or replacement.
- B. **"Claim"** means:
1. a civil or criminal proceeding, or
  2. a formal administrative proceeding commenced by the filing of a notice of charges or formal investigative order, or
  3. a written demand for monetary damages,
- against the **Insureds** for a **Wrongful Act**, including any appeal therefrom.
- C. **"Defense Costs"** means reasonable and necessary legal fees and expenses incurred by the **Insureds** in defense of any **Claim**, and costs of appeal, attachment or similar bonds. The Insurer shall have no obligation to provide such bonds. **Defense Costs** shall not include salaries, wages, fees, overhead or benefit expenses associated with directors, officers or employees of an **Insured Company**.
- D. **"Financial Insolvency"** means:
1. the appointment of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate an **Insured Company** or an **Insured Company** becoming a debtor in possession; and
  2. the inability of an **Insured Company** financially or under applicable law to advance **Defense Costs** or indemnify the **Individual Insureds** for **Loss**.
- E. **"Independent Security Holder"** means any security holder of the **Insured Companies**, other than any of the **Insureds**, who is acting totally independently of, and totally without the solicitation, assistance, participation, or intervention of, any of the **Insureds**.
- F. **"Individual Insureds"** mean all natural persons who were, now are, or shall be directors, officers, trustees, employees or partners of an **Insured Mutual Fund** including their estates, heirs, legal representatives or assigns.
- G. **"Insured Adviser"** means:

1. an investment adviser as defined in Section 2(a)(20) of the Investment Company Act of 1940 which is also registered under the Investment Advisers Act of 1940, and which exists as of the effective date of the Policy and is named in any endorsement to the Policy; and
  2. any past, present or future directors, officers or employees but solely with respect to their activities as directors, officers or employees of an **Insured Adviser** with respect to its activities as an investment adviser on behalf of an **Insured Mutual Fund**.
- H. **"Insured Capacity"** means the respective capacity of an **Insured Service Provider** as detailed in the **Insured Service Provider** endorsement to the Policy.
- I. **"Insured Company(ies)"** means:
1. any **Insured Mutual Fund**;
  2. any **Insured Adviser**; and
  3. any **Insured Service Provider**.
- J. **"Insured Mutual Fund"** means:
1. any investment company registered under the Investment Company Act of 1940 which exists as of the effective date of the Policy and is named in any endorsement to the Policy;
  2. any series or portfolios of any such investment company as defined in subparagraph 1. hereinabove, existing as of the effective date of the Policy or created during the **Policy Period**; and
  3. any **Newly Formed or Sponsored Mutual Fund** subject to the provisions of Section IV. **AUTOMATIC COVERAGE**.
- K. **"Insureds"** means the **Insured Companies** and the **Individual Insureds**.
- L. **"Insured Service Provider"** means:
1. any entity named in the **Insured Service Provider** endorsement to the Policy in the **Insured Capacity** identified in that endorsement; and
  2. any past, present or future employees but solely with respect to their activities as employees of an **Insured Service Provider** while acting solely within its **Insured Capacity**.
- M. **"Interrelated Wrongful Acts"** means any **Wrongful Acts** which are logically or causally connected by reason of any common fact, circumstance, situation, transaction or event.

- N. "Loss"** means damages, including punitive or exemplary damages, settlements, judgments and **Defense Costs**. **Loss** shall not include:
1. criminal or civil fines or penalties imposed by law, other than the 5% or less, or the 20% or less, civil penalties imposed upon an **Insured** under § 502(i) or (l) of the Employee Retirement Income Security Act of 1974, respectively;
  2. taxes;
  3. any amounts for which there is no legal recourse against the **Insureds**; or
  4. matters which may be deemed uninsurable under the law pursuant to which this Policy shall be construed.
- O. "Newly Formed or Sponsored Mutual Fund(s)"** means any investment company registered under the Investment Company Act of 1940, including any series or portfolios of any such investment company created or sponsored by an **Insured Company**, or the **Principal Organization**, after the effective date of the Policy.
- P. "Policy Period"** means the period from the effective date of this Policy to the Policy expiration date, as set forth in Item 2. of the Declarations, or its earlier cancellation date.
- Q. "Pollutants"** means any substance exhibiting hazardous characteristics as or may be defined or identified on any list of hazardous substances issued by the United States Environmental Protection Agency or any state or local or foreign counterpart. **Pollutants** also means, without limitation, any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste (including materials to be recycled, reconditioned or reclaimed), as well as any air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos, or asbestos products or any noise.
- R. "Principal Organization"** means the entity named in Item 1. of the Declarations; provided however, such entity will not be considered an **Insured** unless it is named as an **Insured Company** in any endorsement to this Policy.
- S. "Takeover"** means:
1. the acquisition of the ownership or control of more than 50% of the voting stock (if the **Principal Organization** or the **Insured Company** is a corporation) or 50% of the voting rights (if the **Principal Organization** or the **Insured Company** is a partnership) of the **Principal Organization** or an **Insured Company** by another entity or person or group of entities and/or persons acting in concert;
  2. the acquisition or control of the sponsorship of the **Principal Organization** or an **Insured Company** by another entity or person or group of entities and/or persons acting in concert;

3. the merger of the **Principal Organization** or the **Insured Company** into another entity such that the **Principal Organization** or the **Insured Company** is not the surviving entity;
4. the consolidation of the **Principal Organization** or an **Insured Company** with another entity; or
5. the appointment of a receiver, conservator, liquidator, trustee, rehabilitator, or similar official to take control of, supervise, manage, or liquidate the **Principal Organization** or an **Insured Company**, or any other taking over of, or taking control of the **Principal Organization** or an **Insured Company** by any governmental agency, body or representative, or the **Principal Organization** or an **Insured Company** becoming a debtor in possession.

T. **"Wrongful Act"** means any actual or alleged error, misstatement, misleading statement, act or omission or neglect or breach of duty:

1. by the **Individual Insureds**, in the discharge of their duties in their capacity as directors, officers, trustees, employees or partners of an **Insured Mutual Fund**; or
2. by an **Insured Mutual Fund**; or
3. by an **Insured Investment Adviser** in its capacity as an adviser to an **Insured Mutual Fund**; or
4. by an **Insured Service Provider** in its **Insured Capacity**.

**"Wrongful Act"** does not include any actual or alleged conduct by any **Individual Insureds** in the discharge of their duties as a director, officer, trustee, employee or partner of any entity other than the **Insured Mutual Fund** or the past, present or future employees of any **Insured Adviser** or **Insured Service Provider** in any capacity other than as defined in the Policy; even if directed or requested by an **Insured Company** to serve as a director, officer, trustee, partner or employee of such other entity or in such other capacity.

### III. EXTENDED REPORTING PERIOD

- A. If the **Insureds** cancel or non-renew or if the Insurer decides not to renew this Policy by not offering any terms of insurance, the **Insureds** shall have the right to purchase, upon payment of an additional premium of 100% of the Policy premium, an extension of this Policy for a period of 12 calendar months immediately following the end of the **Policy Period**, but only with respect to any **Wrongful Act** committed before the earlier of the end of the **Policy Period** or the effective date of any **Takeover**. This period shall be referred to as the Extended Reporting Period.
- B. As a condition precedent to the right to purchase the Extended Reporting Period, the total premium for this Policy must have been paid. The right to purchase the Extended Reporting Period shall end unless written notice and full payment of the premium for such period is received by the Insurer within 30 days after the Policy expiration date.

- C. If the Extended Reporting Period is purchased, the entire premium shall be deemed earned at its commencement without any obligation by the Insurer to return any portion thereof.
- D. There is no separate or additional Limit of Liability for the Extended Reporting Period.

#### IV. AUTOMATIC COVERAGE

Subject to Section V. **EXCLUSIONS E.**, if after the effective date of this Policy any **Newly Formed or Sponsored Mutual Fund** is sponsored by any **Insured Company** or the **Principal Organization** then the insurance afforded hereunder shall automatically apply to any **Claim** first made against such **Newly Formed or Sponsored Mutual Fund** for a period of 60 days following the formation or sponsorship of such entity.

The insurance afforded pursuant to the paragraph hereinabove shall automatically expire at the end of such 60 day period unless the Insurer at its sole option upon submission of such information as it may require, agrees to extend coverage by endorsement for such entity.

#### V. EXCLUSIONS

The Insurer shall not be liable to pay any **Loss** in connection with any **Claim**:

- A. where it is established in fact that the **Insureds** gained any profit, remuneration or pecuniary advantage to which they were not legally entitled or committed any fraudulent or criminal **Wrongful Act** with actual knowledge of its wrongful nature or with intent to cause damage;
- B. for any actual or alleged libel, slander or other defamation, invasion of privacy, bodily injury, sickness, disease, emotional distress, mental anguish or death of any person, or damage to or destruction of any tangible property including loss of use;
- C. based upon, directly or indirectly arising out of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974 and its amendments (or any regulations promulgated thereunder) or similar provisions of any federal, state, or local statutory law or common law in connection with the **Insured Companies'** own pension, employee benefit or welfare plan(s);
- D. based upon, directly or indirectly arising out of, or in any way involving:
  - 1. any **Wrongful Act** or any matter, fact, circumstance, situation, transaction, or event which has been the subject of any claim made prior to the effective date of this Policy or of any notice given during any prior policy of which this Policy is a successor; or
  - 2. any other **Wrongful Act** whenever occurring, which, together with a **Wrongful Act** which has been the subject of such claim or such notice, would constitute **Interrelated Wrongful Acts**;

- E. made against any **Insured Company** or the **Individual Insureds** for:
  - 1. any **Wrongful Act** occurring before such entity became owned, controlled or sponsored by another **Insured Company** or by the **Principal Organization**, or for any **Wrongful Act** occurring on or after the date such entity became owned, controlled or sponsored by another **Insured Company** or by the **Principal Organization** which, together with a **Wrongful Act** occurring before the date such entity became owned, controlled or sponsored by another **Insured Company** or by the **Principal Organization** would constitute **Interrelated Wrongful Acts**; or
  - 2. any **Wrongful Act** occurring after the date such entity ceased to be owned, controlled or sponsored by another **Insured Company** or by the **Principal Organization**;
- F. based upon, directly or indirectly arising out of, or in any way involving any civil, criminal or formal administrative proceeding commenced by the filing of a notice of charges or formal investigation order prior to or pending on the date set forth in Item 7. of the Declarations, or any fact, circumstance, situation, transaction or event underlying or alleged in such proceeding;
- G. based upon, directly or indirectly arising out of, or in any way involving: any nuclear reaction, radiation or contamination, or any actual, alleged or threatened discharge, release escape, or disposal of or exposure to **Pollutants**; any request, direction or order that any of the **Insureds** or the **Principal Organization** test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to or assess the effect of **Pollutants** or nuclear reaction, radiation or contamination, or any voluntary decision to do so; or any actual or alleged property damage, or bodily injury, sickness, disease or death of any person, or financial loss to the **Insured Companies**, their security holders, or their creditors resulting from any of the aforementioned matters;
- H. by or on behalf of any of the **Individual Insureds**, or any natural person who is a past, present or prospective director, officer, trustee, employee, or partner of an **Insured Adviser** or **Insured Service Provider**, except and to the extent that such **Claim** is in the form of a cross-claim, third party claim or otherwise for contribution or indemnity which is part of and results directly from a **Claim** which is not otherwise excluded under this policy;
- I. by, on behalf of, or for the benefit of the **Insured Companies**, or by any security holder of the **Insured Companies**, whether directly or derivatively, except:
  - 1. where such **Claim** is made by an **Independent Security Holder**; or
  - 2. where, in the opinion of independent counsel jointly selected by the **Insured Company** making the **Claim** and the Insurer, failure to make such **Claim** would result in liability upon such **Insured** for such failure;
- J. for liability:
  - 1. under contract or agreement, except liability which attaches to the **Insureds** even in the absence of such contract or agreement; or

2. under any agreement under which any **Insured Company** indemnifies any party to such agreement for acts or omissions other than those of such **Insured Company**, or otherwise assumes the liability of any other party;
- K. based upon, directly or indirectly arising out of, or in any way involving the giving of financial, economic or investment advice and/or investment management services relating to or in connection with any aspect of corporate mergers, acquisitions, restructuring, divestitures or investment banking; provided, however, this exclusion shall not apply with respect to shares issued by an **Insured Mutual Fund**, or other restructuring of an **Insured Mutual Fund** or the voting of shares held in portfolios of an **Insured Mutual Fund** or under management by the **Insured Adviser**;
- L. for liability involving the activities of any **Insured** as a "broker" or "dealer" in securities, as defined in Sections 3(a)(4), 3(a)(5), and 3(a)(6) respectively, of the Securities Exchange Act of 1934; provided however, this exclusion shall not apply to the distribution, underwriting or resale of securities purchased directly from the **Insured Mutual Fund** by a distributor for resale to any broker or dealer;
- M. for any **Wrongful Act** occurring on or after the effective date of a **Takeover**; provided, however, this exclusion shall not apply if the Insurer is notified in writing of the **Takeover** prior to the **Takeover** date, agrees in writing to provide such coverage and the **Principal Organization** or **Insured Company** accepts any special terms, conditions, exclusions or additional premium charge required by the Insurer;
- N. asserting liability under any federal or state securities laws arising from the selling of the securities of any **Insured Mutual Fund** in a particular jurisdiction without registering or in excess of the number registered for sale in such jurisdiction; provided, however, this exclusion shall not be applicable to the difference between the net asset value at which the securities of any such **Insured Mutual Fund** were sold and the net asset value of such securities at the time of their repurchase; or
- O. based upon, directly or indirectly arising out of or in any way involving the forming, syndicating, operating, administering, advising or rolling-up of a limited partnership or real estate investment trust; provided, however, this exclusion shall not apply to the advising of a limited partnership, other than a real estate limited partnership, where the **Insureds** do not act as a general partner to the limited partnership and such limited partnership is not otherwise owned, managed, operated or in any way affiliated with the **Insureds**.

The **Wrongful Act** of any of the **Insureds** shall not be imputed to any of the other **Insureds** for the purposes of Exclusion **A.** above.

## **VI. LIMIT OF LIABILITY**

- A. The amount set forth in Item 3. of the Declarations shall be the maximum aggregate Limit of Liability of the Insurer for all **Loss** under this Policy, regardless of the number of **Claims** made against the **Insureds**.

- B. If the Limit of Liability is exhausted by payment of **Loss**, the Insurer's obligations shall be completely fulfilled and extinguished.

## VII. SETTLEMENT/RETENTIONS/ADVANCEMENT OF DEFENSE COSTS/ALLOCATION

### A. Insurer's Consent

The **Insureds** shall not admit liability, consent to any judgment, agree to any settlement or incur any **Defense Costs** without the Insurer's prior written consent, such consent not to be unreasonably withheld. There shall be no coverage for any **Loss** resulting from any admission of liability, consent to any judgment, agreement to settle or incurrance of **Defense Costs** without the Insurer's prior written consent. The **Insureds** agree that they shall not knowingly take any action which increases the Insurer's exposure for **Loss** under this Policy resulting from any **Claim**.

### B. Defense of Claims

The **Insureds** and not the Insurer have the duty to defend **Claims**. The Insurer shall have the right, but not the duty, to associate itself in the defense and settlement of any **Claim**.

### C. Payment of Loss in Excess of Retentions

The Insurer shall be liable to pay **Loss** resulting from each **Claim** made against the **Insureds** in excess of the amount of the applicable Retention Amount which shall be uninsured. The maximum Retention Amount applicable to any **Claim** under Insuring Agreements **I.A.**, **I.B.**, **I.C.** or **I.D.** shall not exceed the amount of the highest of the applicable Retention Amounts.

### D. Advancement of Defense Costs and Payment of Loss on Behalf of the Insured Mutual Fund

1. The **Insured Mutual Fund** agrees that it shall advance **Defense Costs** and indemnify the **Individual Insureds** for **Loss** in connection with any **Claim** made against the **Individual Insureds** to the fullest extent required or permitted under applicable law. If the **Insured Mutual Fund** advances **Defense Costs** or is required or has determined to indemnify the **Individual Insureds** for **Loss** in connection with any **Claim**, then, the Insurer on behalf of the **Insured Mutual Fund** shall advance prior to the final disposition of such **Claim** all such **Defense Costs** and pay **Loss** in excess of the Retention Amount applicable to Insuring Agreement **I.A.2**.
2. The Insurer on behalf of the **Insured Mutual Fund** shall advance, prior to the final disposition of a **Claim** made against the **Insured Mutual Fund**, all **Defense Costs** and pay **Loss** in excess of the Retention Amount applicable to Insuring Agreement **I.B**.

### E. Advancement of Defense Costs and Payment of Loss on Behalf of the Individual Insureds

1. If an **Insured Mutual Fund** does not advance **Defense Costs** or indemnify the **Individual Insureds** for **Loss** in connection with any **Claim** made against the **Individual Insureds** by reason of (a) **Financial Insolvency** or (b) a good faith determination by the **Insured Mutual Fund** that such advancement or indemnification is not required or permitted even under the broadest construction of applicable law, then the Insurer on behalf of the **Individual Insureds** shall advance prior to the final disposition of such **Claim** all such **Defense Costs** and pay **Loss** in excess of the Retention Amount applicable to Insuring Agreement **I.A.1**.
2. If an **Insured Mutual Fund** fails to advance **Defense Costs** or to indemnify the **Individual Insureds** for **Loss** in connection with any **Claim** for any reason other than 1.(a) or (b.) hereinabove, or where an **Insured Mutual Fund** is required or has determined to indemnify the **Individual Insureds** but has failed to do so, then, the Insurer on behalf of the **Individual Insureds** shall advance prior to the final disposition of such **Claim** all such **Defense Costs** and pay **Loss** in excess of the Retention Amount applicable to Insuring Agreement **I.A.1.**, but the **Insured Mutual Fund** shall be responsible for, and shall hold the Insurer harmless from the Retention Amount applicable to Insuring Agreement **I.A.2**.

**F. Advancement of Defense Costs and Payment of Loss on Behalf of an Insured Adviser or Insured Service Provider**

The Insurer on behalf of an **Insured Adviser** or **Insured Service Provider** shall advance, prior to the final disposition of a **Claim** made against such **Insured Adviser** or **Insured Service Provider**, all **Defense Costs** and pay **Loss** in excess of the Retention Amount applicable to Insuring Agreements **I.C.** or **I.D.**

**G. Allocation of Loss**

If a **Claim** made against the **Insureds** includes both covered and uncovered matters or is made against both covered and uncovered parties, the **Insureds** recognize that there must be an allocation between insured and uninsured **Loss**. The **Insureds** and the Insurer shall exert their best efforts to agree upon a fair and proper allocation between insured and uninsured **Loss**.

**H. Conditions for Advancement of Defense Costs**

Any advancement by the Insurer of **Defense Costs** in connection with any **Claim** pursuant to Clauses **D.**, **E.** or **F.** above shall be on the following conditions:

1. if the **Insureds** and the Insurer agree on an allocation of insured and uninsured **Defense Costs**, the Insurer shall advance the amount of insured **Defense Costs**;
2. if the **Insureds** and the Insurer cannot after exerting their best efforts agree on an allocation of insured and uninsured **Defense Costs**:
  - a. the Insurer then shall advance the percentage of **Defense Costs** proposed by the Insurer to be insured until a different allocation is negotiated, arbitrated or judicially determined;

- b. the Insurer, if requested by the **Insureds** shall submit the dispute to binding arbitration. The rules of the American Arbitration Association shall apply except with respect to the selection of the arbitration panel, which shall consist of one arbitrator selected by the **Insureds**, one arbitrator selected by the Insurer, and a third independent arbitrator selected by the first two arbitrators;
  - c. no presumption as to allocation shall exist in any arbitration, suit or other proceeding;
  - d. any negotiated, arbitrated or judicially determined allocation of **Defense Costs** on account of a **Claim** shall be applied retroactively to all **Defense Costs** previously advanced;
3. any advancement of **Defense Costs** shall be subject to the **Insureds** providing a satisfactory written undertaking to repay the Insurer any **Defense Costs** finally established not to be insured; and
  4. 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**.

#### **VIII. NOTICE AND INTERRELATED CLAIM CLAUSE**

- A. If during the **Policy Period** or the Extended Reporting Period any **Claim** is first made against the **Insureds**, the **Insureds** shall, as a condition precedent to the obligations of the Insurer under this Policy, give written notice to the Insurer as soon as practicable but in no event later than 90 days after such **Claim** is first made.
- B. If during the **Policy Period** or the Extended Reporting Period the **Insureds** first become aware of a specific **Wrongful Act** and during such period give written notice to the Insurer as soon as practicable of:
  1. the names of the potential claimants and a description of the specific **Wrongful Act** which forms the basis of their potential claim,
  2. the consequences which have resulted or may result from such specific **Wrongful Act**,
  3. the nature of the alleged or potential damages arising from such specific **Wrongful Act**, and
  4. the circumstances by which the **Insureds** first became aware of the specific **Wrongful Act**, then any **Claim** otherwise covered under this Policy subsequently made arising out of such **Wrongful Act** shall be deemed to have been made at the time such written notice was given.
- C. More than one **Claim** involving the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be considered as one **Claim** which shall be deemed to have been made on the earlier of:

1. the date on which the earliest **Claim** was first made, or
  2. the first date notice was given under this Policy or any prior policy of which this Policy is a successor of any **Wrongful Act** or any fact, circumstance, situation, event or transaction which underlies any such **Claim**.
- D. The **Insureds** shall give notice to the Insurer under this Section as specified in Item 6. of the Declarations.
- E. The **Insureds** shall furnish the Insurer with copies of reports, investigations, pleadings, and all related papers, and such other information, assistance and cooperation as the Insurer may reasonably request.

## **IX. CANCELLATION**

- A. The Insurer may not cancel this Policy except for non-payment of any premium when due. In such event, the Insurer may cancel this Policy by providing the **Principal Organization** written notice stating when, not less than 20 days thereafter, such cancellation shall be effective.
- B. The **Insureds** grant the exclusive authority to cancel this Policy to the **Principal Organization**. The **Principal Organization** may cancel this Policy by providing the Insurer written notice stating when thereafter such cancellation shall be effective. The mailing or delivery of such notice shall be sufficient. The unearned premium shall be computed pro rata and premium adjustment may be made at the time cancellation is effected or as soon as practicable.

## **X. NON-RENEWAL**

If the Insurer decides not to renew this Policy by not offering any terms of insurance, the Insurer shall provide written notice to the **Principal Organization** at least 60 days prior to the end of the **Policy Period**. The notice shall include the reason for such non-renewal.

## **XI. NOTICES TO THE PRINCIPAL ORGANIZATION**

Any notices required under Clause **IX. CANCELLATION A.** and Clause **X. NON-RENEWAL** shall be provided to the **Principal Organization** at the last known address or the address in Item 1. of the Declarations and to its insurance agent or broker. The mailing by certified mail or delivery of such notice shall be sufficient.

## **XII. OTHER INSURANCE**

If any **Loss** resulting from any **Claim** is insured under any other policy(ies), this Policy shall apply only to the extent the **Loss** exceeds the amount paid under such other insurance whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over this Policy.

### **XIII. APPLICATION**

It is represented by the **Insureds** and it is agreed by and among the **Insureds** and the Insurer as follows:

1. the particulars and statements contained in the **Application**, a copy of which is attached hereto, and any materials submitted or required, (which shall be maintained by reference by the Insurer and be deemed attached as if physically attached) are true and are the basis of this Policy and are to be considered as incorporated into and constituting a part of this Policy;
2. the statements in the **Application** and in any materials submitted or required are the **Insureds'** representations and shall be deemed material to the acceptance of this risk or the hazard assumed by the Insurer under this Policy and this Policy is issued in reliance upon the truth of such representations; and
3. in the event the **Application**, including materials submitted or required, contains any misrepresentation:
  - a. made with the intent to deceive, or
  - b. which materially affects either the acceptance of the risk or the hazard assumed by the Insurer under the Policy;

this Policy shall be void and of no effect whatsoever only as to any of the **Insureds** who are responsible for or who had knowledge of such misrepresentation. Such responsibility or knowledge shall not be imputed to any other **Insureds** for the purposes of determining the availability of coverage.

### **XIV. SUBROGATION AND RECOVERY**

The Insurer shall be subrogated to the extent it pays any **Loss** to all the **Insureds'** rights of recovery, and the **Insureds** shall:

1. execute all papers necessary to secure such rights, including executing any documents necessary to enable the Insurer effectively to bring suit in their name; and
2. take no action which impairs the Insurer's rights of subrogation or recovery.

### **XV. CHANGES**

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Insurer shall not effect a waiver or a change in any part of this Policy or estop the Insurer from asserting any right under the provisions of this Policy, nor shall the provisions be waived or changed except by written endorsement issued to form a part of this Policy.

## **XVI. ENTITY AUTHORIZATION**

The **Insureds** agree that the **Principal Organization** will act on behalf of the **Insureds** with respect to giving of all notice to the Insurer (except notices provided in Section **VIII.A.** or **B**), the receipt of notices from the Insurer, the payment of the premiums, and the receipt of any return premiums that may become due under this Policy.

## **XVII. NO ACTION AGAINST INSURER**

No action shall be taken against the Insurer unless, as a condition precedent, there shall have been full compliance with all the provisions of this Policy nor until the amount of the **Insureds'** obligation to pay shall have been finally determined either by final and nonappealable judgment against the **Insureds** after trial, or by written agreement of the **Insureds**, the claimant and the Insurer.

No person or organization shall have any right under this Policy to join the Insurer as a party to any **Claim** against the **Insureds** to determine the **Insureds'** liability, nor shall the Insurer be impleaded by the **Insureds** or their legal representatives in any such **Claim**.

## **XVIII. ASSIGNMENT OF INTEREST**

Assignment of interest under this Policy shall not bind the Insurer unless its consent is endorsed.

## **XIX. TERRITORY**

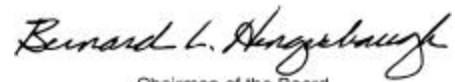
Coverage shall apply worldwide.

## **XX. ENTIRE AGREEMENT**

The **Insureds** agree that this Policy, including the **Application** and any materials submitted or required, and any written endorsement attached, constitute the entire agreement existing between them and the Insurer or any of its agents relating to this insurance.



Secretary



Chairman of the Board