



## Directors & Officers Liability Coverage Part

In consideration of the payment of the premium and subject to all terms, conditions and limitations of this Coverage Part and the **General Terms and Conditions for Liability Coverage Parts**, the **Insureds** and **Insurer** agree:

### Section I Insuring Agreements

#### A. Side A Coverage: Non-indemnified Loss of Insured Persons

The **Insurer** shall pay on behalf of the **Insured Persons** all **Loss** as a result of a **Claim** first made against the **Insured Persons** during the **Policy Period** for a **Wrongful Act** and reported to the **Insurer** as required by this Coverage Part, but only to the extent such **Loss** is not paid or indemnified by the **Insured Entity**.

#### B. Side B Coverage: Insured Entity Indemnification of Insured Persons Loss

The **Insurer** shall pay on behalf of the **Insured Entity** all **Loss** for which the **Insured Entity** indemnifies the **Insured Persons**, as a result of a **Claim** first made against the **Insured Person** during the **Policy Period** for a **Wrongful Act** and reported to the **Insurer** as required by this Coverage Part.

#### C. Side C Coverage: Insured Entity Claim

The **Insurer** shall pay on behalf of the **Insured Entity** all **Loss** as a result of a **Claim** first made against the **Insured Entity** during the **Policy Period** for a **Wrongful Act** and reported to the **Insurer** as required by this Coverage Part.

### Section II Coverage Extensions

#### A. Insured Entity Sublimit for Derivative Demand Investigation Costs

The **Insurer** shall pay on behalf of the **Insured Entity** all **Security Holder Derivative Demand Investigation Costs** as a result of any:

1. **Security Holder Derivative Demand**; or
2. lawsuit by a security holder of the **Insured Entity** brought derivatively on behalf of the **Insured Entity** against any **Insured Person** for a **Wrongful Act** without first making a demand as described in the definition of **Security Holder Derivative Demand**;

first made or brought during the **Policy Period** and reported to the **Insurer** as required by this Coverage Part. No retention shall apply to this coverage.

The maximum liability of the **Insurer** for all **Derivative Demand Investigation Costs** shall be the amount shown on the Declarations. Such amount is a sublimit that is part of and not in addition to the Aggregate Limit of Liability for this Coverage Part.

#### B. Side A Additional Limits of Liability for Directors and Officers

Notwithstanding anything to the contrary in this Coverage Part and if **Included** as shown on the Declarations, the Side A Additional Limit of Liability shall be available solely for **Loss** resulting from

any **Claim** made against an **Insured Person** as defined in **Section III Definitions 7.a.** and covered under **Section I Insuring Agreements A.**

Such Side A Additional Limit of Liability shall be in addition to, and not part of, the Aggregate Limit of Liability for this Coverage Part, and shall attach only after the exhaustion of such Aggregate Limit of Liability and any amounts payable under any other insurance policies that are specifically written to apply in excess of this Coverage Part.

### Section III Definitions

For purposes of this Coverage Part:

1. **"Claim"** shall mean:
  - a. a written demand against an **Insured** (other than a **Security Holder Derivative Demand**):
    - i. for monetary or non-monetary (including injunctive) relief, including a request to toll any statute of limitations, or
    - ii. to engage in arbitration or mediation,which shall be deemed first made upon receipt by the **Insured** of such demand;
  - b. a civil or criminal proceeding against an **Insured**, which shall be deemed first made upon:
    - i. the service of a complaint or similar pleading upon the **Insured**, or
    - ii. in the case of a criminal proceeding, an arrest, the return of an indictment or information, or the receipt or filing of notice of charges or similar document;
  - c. an administrative or regulatory proceeding (other than an investigation) against an **Insured** which shall be deemed first made upon receipt of a notice of charges, complaint or similar document by the **Insured**;
  - d. an investigation of an **Insured Person** by an **Enforcement Authority** which shall be deemed first made upon service on or receipt by the **Insured Person** of a written document from such **Enforcement Authority** identifying such **Insured Person** as a target of the investigation, including a notice of investigation, target letter, Wells Notice or similar document;
  - e. an official request for the **Extradition** of an **Insured Person**, or the execution of a warrant for the arrest of an **Insured Person** where such execution is an element of **Extradition**, which shall be deemed first made upon receipt of the request or warrant; or
  - f. solely with respect to **Section II Coverage Extensions A.**, a **Security Holder Derivative Demand**, which shall be deemed first made upon receipt by the **Insured Entity** of such demand.
2. **"Defense Costs"** shall also mean, solely with respect to **Section II Coverage Extension A.**, **Security Holder Derivate Demand Investigation Costs.**

3. **“Enforcement Authority”** shall mean any federal, state, local or foreign law enforcement or governmental authority (including the U.S. Department of Justice, the U.S. Securities and Exchange Commission and any federal or state attorney general) or the enforcement unit of any securities exchange or similar self-regulatory body.
4. **“Extradition”** shall mean 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, for a **Wrongful Act**.
5. **“Insured(s)”** shall mean any **Insured Person** or **Insured Entity**.
6. **“Insured Entity”** shall mean the **Company**.
7. **“Insured Person(s)”** shall mean any natural person who was, is or shall be:
  - a. a duly elected or appointed director (including shadow directors and *de facto* directors), officer, in-house general counsel, risk manager, controller, trustee, regent or governor of an **Insured Entity**;
  - b. a manager, member of any board of managers or the equivalent executive of an **Insured Entity** that is a limited liability company or a joint venture;
  - c. an official of an **Insured Entity**, including an **Insured Entity** organized or operated in a **Foreign Jurisdiction**, while serving in a functionally equivalent position to those described in subsections a. or b., above;
  - d. an individual described in subsections a., b., or c. above while serving at the specific direction or request of the **Insured Entity** in a position functionally equivalent to those described in subsections a., b., or c. above for an **Outside Entity**; or
  - e. any other employee of the **Insured Entity**.
8. **“Loss”** shall mean those amounts any **Insured** is legally obligated to pay as a result of a **Claim**, including, but not limited to:
  - a. compensatory, punitive, exemplary and multiple damages;
  - b. settlements and judgments, including costs and fees awarded pursuant to a covered judgment and pre-judgment and post-judgment interest on that portion of a covered judgment;
  - c. **Defense Costs**;
  - d. 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 described in Section 308 of the Sarbanes-Oxley Act of 2002 or assessed pursuant to Section 2(g)(2)(B) of the Foreign Corrupt Practices Act 15 U.S.C. §78dd-2(g)(B);
  - e. solely with respect to **Section I Insuring Agreement A.**, taxes imposed on an **Insured Entity** for which the **Insured Persons** are legally obligated to pay solely by reason of the **Insured Entity’s Financial Insolvency**; and
  - f. plaintiffs’ attorney fees and costs in a security holder derivative lawsuit under **Section I Insuring Agreement C.**

**Loss** (other than **Defense Costs**) shall not include any of the following:

- i. fines or penalties, except as provided at Subsection d. above;
- ii. taxes, except as provided at Subsection e. above;
- iii. any amount for which an **Insured** is legally absolved from payment;
- iv. solely with respect to **Section I Insuring Agreements B. and C.**, any portion of damages, judgments or settlements incurred by the **Insureds** that represents or is substantially equivalent to an increase in the consideration paid or proposed to be paid in connection with the purchase of any securities, assets or entity;
- v. any amount not insurable under the law pursuant to which this Coverage Part shall be construed; or
- vi. costs incurred by an **Insured** to comply with any order for non-monetary relief (including injunctive relief) or with any agreement to provide such relief.

The insurability of matters otherwise included within this definition shall be determined under the law of the applicable jurisdiction most favorable to such insurability, including, without limitation, the jurisdiction in which the **Parent Company**, the **Insured Persons**, the **Insurer** or the **Claim** is located.

- 9. **“Outside Entity”** shall mean any not-for-profit entity classified as such by the Internal Revenue Code of 1986, or any for-profit entity if such for-profit entity is specifically added as an **Outside Entity** by written endorsement to this Coverage Part; provided such not-for-profit or for-profit entity is not otherwise an **Insured Entity**.
- 10. **“Security Holder Derivative Demand”** shall mean a written demand by one or more security holders of the **Insured Entity** upon the board of directors of the **Insured Entity** to bring a lawsuit against any **Insured Person** for a **Wrongful Act**.
- 11. **“Security Holder Derivative Demand Investigation Costs”** shall mean reasonable fees, costs and expenses incurred solely by the **Insured Entity** (including its board of directors or any committee of its board of directors) in connection with its investigation or evaluation on behalf of the **Insured Entity** of:
  - a. a **Security Holder Derivative Demand**; or
  - b. a lawsuit by a security holder of the **Insured Entity** brought derivatively on behalf of the **Insured Entity** against any **Insured Person** for a **Wrongful Act** without first making a demand as described in the definition of **Security Holder Derivative Demand**,
 but it shall not include any salaries, wages, overhead, benefits or benefit expenses associated with any **Insured**.
- 12. **“Wrongful Act”** shall mean:
  - a. any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty by any **Insured Persons** in their capacity as such;
  - b. any matter claimed against any **Insured Persons** solely by reason of their serving in such capacity; or
  - c. any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty by the **Insured Entity**.

**Wrongful Act** shall not mean any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by an **Insured Person** in his or her capacity as a settlor as respects any plans, programs or trusts established or maintained in whole or in part for the benefit of employees of the **Insured Entity**.

#### **Section IV Exclusions**

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:

##### **A. Conduct**

based upon, arising out of, or relating to:

1. such **Insured** gaining any profit, financial advantage or remuneration that he, she or it was not legally entitled to receive; or
2. any deliberately fraudulent act or deliberately fraudulent omission or any intentional violation of any statute, rule or law by such **Insured**;

provided, however, that this exclusion shall only apply if a final and non-appealable adjudication adverse to such **Insured** in an underlying proceeding establishes that such conduct occurred.

##### **B. Prior Notice**

based upon, arising out of or attributable to any **Wrongful Act**, fact, circumstance or situation which has been the subject of any written notice given before the inception of the **Policy Period** under any directors and officers or employment practices liability policy or similar coverage part, provided the insurer of such policy or coverage part does not reject such notice as invalid.

##### **C. Pending and Prior Litigation**

based upon, arising out of or attributable to essentially the same facts, circumstances, situations, transactions or events underlying or alleged in any litigation, any administrative or regulatory proceeding, any investigation or any alternative dispute resolution proceeding that was pending on or prior to the **Pending or Prior Date** shown on the Declarations.

##### **D. Bodily Injury/Property Damage**

for any actual or alleged;

1. bodily injury, mental anguish, emotional distress, sickness, disease, or death of any person; or
2. damage to or destruction of any tangible property, including the loss of use thereof;

provided, however, this exclusion shall not apply to **Defense Costs** incurred as a result of a **Claim** against an **Insured Person** for violation of the United Kingdom Corporate Manslaughter and Corporate Homicide Act of 2007 or any similar statute in any other jurisdiction.

##### **E. Violation of Law**

for any actual or alleged violation of any of the responsibilities, obligations or duties imposed by:

1. the Employee Retirement Income Security Act of 1974, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act of 1970 (OSHA), the Fair Labor Standards Act, the Workers' Adjustment and Retraining Notification Act, the National Labor Relations Act, each of the foregoing as amended, or any similar provisions of any federal, state, local or foreign statutory or common law; or

2. any law governing workers' compensation, unemployment insurance, unemployment compensation, social security, retirement benefits, disability benefits or similar provisions of any federal, state, local or foreign statutory or common law.

**F. Wage and Hour/Misclassification**

notwithstanding anything to the contrary in **Section IV Exclusions E. Violation of Law** above, based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any violation of any of the responsibilities, obligations or duties imposed by any federal, state, local or foreign statutory or common law (including, but not limited to the Fair Labor Standards Act), or any amendments thereto or regulations promulgated thereunder, governing wage, hour and payroll policies and practices (except the Equal Pay Act) including, without limitation:

1. the refusal, inability or failure of an **Insured Entity** or **Insured Person** to pay wages or overtime pay, or any amounts representing such wages or pay, for services rendered or time spent in connection with work related activities;
2. improper pay deductions taken by an **Insured Entity** or **Insured Person** from any employee or purported employee;
3. improper classification of any employee or purported employee; or
4. failure to provide or enforce any legally required rest or meal breaks.

**G. Pollution**

based upon, arising out of or attributable to:

1. any actual or alleged or threatened discharge, release, escape, seepage, migration or dispersal of any **Pollutants** provided, however, this subparagraph **G.1.** shall not apply to **Loss** under **Section I Insuring Agreement A**; or
2. any request, demand, order, direction, or statutory or regulatory requirement that any **Insured** or others test for, monitor, remove, contain, treat, detoxify, neutralize clean up, or in any way respond to or assess the effects of such **Pollutants**.

**H. Insured v. Insured**

brought or maintained by or on behalf of:

1. an **Insured Person** in any capacity;
2. the **Insured Entity**;
3. an **Outside Entity**; or
4. any security holder of the **Insured Entity** or **Outside Entity**, whether directly or derivatively, unless such security holder's **Claim** is brought solely without the active assistance or participation of an **Insured Person**, **Insured Entity** or **Outside Entity** unless such assistance or participation is by an **Insured Person** (a) solely pursuant to, or in compliance with, a subpoena or similar legal process, or (b) protected pursuant to Section 806 of the Sarbanes-Oxley Act of 2002 or any similar whistleblower statute;

provided this exclusion shall not apply to:

- i. any **Claim** that 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 Coverage Part;
- ii. **Defense Costs** covered under **Section I Insuring Agreement A**;
- iii. any **Claim** brought or maintained by or on behalf of a bankruptcy or insolvency receiver, trustee, examiner, conservator, liquidator, rehabilitator or creditors'

- committee (or equivalent in a foreign jurisdiction) of the **Insured Entity** or **Outside Entity**, or any assignee of any of the foregoing;
- iv. any **Claim** brought by any **Insured Person** as described in **Section III Definitions 7. a., b., or c.** who has not served as an **Insured Person** of, or consultant for, the **Insured Entity** for three (3) years prior to the date such **Claim** is brought; or
  - v. any **Claim** brought and maintained outside any common law jurisdiction, including the United States of America.

**I. Securities Exclusion**

based upon, arising out of, or attributable to any actual or alleged public offering of securities by an **Insured Entity** or an **Outside Entity** or alleging a sale or purchase of such securities after such public offering; provided, however, this exclusion shall not apply to:

1. any sale or purchase of securities exempted pursuant to Section 3(b) of the Securities Act of 1933. The **Parent Company** shall give written notice of any public offering exempted pursuant to Section 3(b) of the Securities Act of 1933, together with full particulars and as soon as practicable after the effective date of the public offering; or
2. any **Claim** for **Loss** alleging a **Wrongful Act** which occurred during the **Insured's** preparations to commence an initial public offering and which occurred at any time prior to 12:01 a.m. on the date the initial public offering commences ("**Effective Time**"), including any **Claim** for **Loss** alleging a **Wrongful Act** which occurred during the road show; provided, however that the coverage otherwise afforded under this subparagraph **I.2.** shall be deemed void ab initio as of the **Effective Time**; provided further, however, that coverage shall not be deemed void ab initio if:
  - a. the **Claim** is first made and reported to the **Insurer** prior to the **Effective Time**; and
  - b. a public company Directors and Officers Liability policy is not applicable to such **Claim**.

**J. Acquisition of Securities of Public Company**

based upon, arising out of, or attributable to any actual or alleged purchase by an **Insured Entity** of securities of a public company in a transaction which resulted, or would result, in such entity becoming a **Subsidiary** of the **Insured Entity**.

**K. Employment Practices/Third Party Harassment and Discrimination**

based upon, arising out of, or attributable to any actual or alleged:

1. employment-related act, omission, error, misstatement, misleading statement, neglect or breach of duty; or
2. harassment of or discrimination against anyone other than an employee of the **Insured Entity**.

For purposes of determining the applicability of these Exclusions, the **Wrongful Acts** and knowledge of any **Insured Person** shall not be imputed to any other **Insured Person** and, solely with respect to payment of **Loss** under **Section I Insuring Agreement C.**, only the **Wrongful Acts** and knowledge of the Chief Executive Officer and the Chief Financial Officer of the **Insured Entity** shall be imputed to such **Insured Entity** and its **Subsidiaries**.

**Section V Additional Exclusions for Claims made against any Insured Entity**

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured Entity**:

**A. Intellectual Property**

based upon, arising out of or attributable to any actual or alleged plagiarism, misappropriation, infringement or violation of any patent, trademark, copyright, trade secret or any other intellectual property rights, provided, however, this exclusion shall not apply to a **Claim** brought by or on behalf of a security holder of the **Insured Entity** solely in his/her/its capacity as such, provided that such **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any **Insured**.

**B. Fines, Penalties and Non-Monetary Relief**

seeking fines or penalties or non-monetary relief against the **Insured Entity**.

**C. Contract**

based upon, arising out of or attributable to:

- a. an **Insured's** alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees; or
- b. the liability of others an **Insured** assumes under any oral or written contract or agreement; provided, however, this exclusion shall not apply to an **Insured's** liability that exists in the absence of such contract or agreement.

**D. Product Defect**

based upon, arising out of, attributable to, or in any way involving any actual or alleged product malfunction or product failure to perform as a result of a defect, deficiency, or dangerous conditions in such product, its design or its manufacture, provided, however, this exclusion shall not apply to a **Claim** brought by or on behalf of a security holder of the **Insured Entity** solely in his/her/its capacity as such, provided that such **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any **Insured**.

**E. Personal Injury**

based upon, arising out of, or attributable to any actual or alleged libel, slander, defamation, disparagement, invasion of privacy, invasion of the right of publicity, wrongful entry, wrongful eviction, false arrest, false imprisonment, malicious use or abuse of process, malicious prosecution, assault, battery or loss of consortium.

**Section VII Retention**

The Retention shown on the Declarations shall apply to **Loss** resulting from each **Claim**, except that no Retention shall apply to Loss under **Section I Insuring Agreement A.** or to **Section II Coverage Extension A.**



**Section VIII Notice of Claim**

The **Insureds** shall, as a condition precedent to their rights under this Coverage Part with respect to a **Claim**, give the **Insurer** notice in writing of any **Claim** which is made during the **Policy Period**. Any notice provided pursuant to this section shall be given as soon as practicable after the Chief Executive Officer, Chief Financial Officer, In-House General Counsel, Risk Manager or equivalent position of the **Insured Entity** first learns of such **Claim**, but in no event later than sixty (60) days after the end of the **Policy Period**.

**Section IX Outside Entity Other Insurance**

In addition to, and not in limitation of **Section X, Indemnification, Other Insurance and Subrogation** of the **General Terms and Conditions**, in the event a **Claim** is made against any **Insured Person** as described in **Section III Definitions 7. a., b., or c.** of this **Coverage Part** in their capacity as such for an **Outside Entity**, coverage otherwise afforded under this Coverage Part shall be excess of any indemnification provided by the **Outside Entity** and any insurance maintained by the **Outside Entity** which covers its directors, officers, trustees or other equivalent executives.

SPECIMEN