



Employed Lawyers 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.

Section II Coverage Extension

Eligibility Proceeding

1. The **Insurer** shall pay on behalf of an **Insured Person** all **Defense Costs** incurred solely by such **Insured Person** as a result of an **Eligibility Proceeding** first made during the **Policy Period** and reported to the **Insurer** as required by this Coverage Part, except to the extent such **Defense Costs** have been paid or indemnified by the **Insured Entity** or another party;
2. The **Insurer** shall pay on behalf of the **Insured Entity** all **Defense Costs** incurred solely by an **Insured Person** as a result of an **Eligibility Proceeding** first made during the **Policy Period** and reported to the **Insurer** as required by this Coverage Part, to the extent the **Insured Entity** pays or indemnifies such **Defense Costs**.

Section III Definitions

1. **"Claim"** shall mean:
 - a. a written demand against an **Insured Person**:
 - 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 Person** of such demand;
 - b. a civil or criminal proceeding against an **Insured Person**, which shall be deemed first made upon:
 - i. the service of a complaint or similar pleading upon the **Insured Person**, 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;

provided, however, that a **Claim** under this subsection shall not include any investigation or any administrative or regulatory proceeding;

- c. an administrative or regulatory proceeding (other than an investigation) against an **Insured Person** which shall be deemed first made upon receipt of a notice of charges, complaint or similar document by the **Insured Person**;
 - d. an investigation of an **Insured Person** which shall be deemed first made upon service on or receipt by the **Insured Person** of a written document identifying such **Insured Person** as a target of the investigation, including a notice of investigation, target letter or similar document;
 - e. solely with respect to **Coverage Extension A. Eligibility Proceeding**, provided, however, that an **Eligibility Proceeding** only shall constitute a **Claim** under this Coverage Part if the **Insured Person** or **Insured Entity** elects to give to the **Insurer** written notice thereof pursuant to **Section V. Notice of Claims** of this Coverage Part at which point such **Eligibility Proceeding** shall be deemed first made.
2. **“Eligibility Proceeding”** shall mean any bar association, administrative, judicial or other proceeding against an **Employed Lawyer** concerning his/her license or eligibility to practice law.
3. **“Insured(s)”** shall mean any **Insured Person** or **Insured Entity**.
4. **“Insured Entity”** shall mean the **Company**.
5. **“Insured Person”** shall mean any past, present or future:
- a. employee of the **Insured Entity** if and to the extent such employee is or, during the course of such person’s employment was:
 - i. admitted to the practice of law and employed with the **Insured Entity’s** office of General Counsel or its functional equivalent for the purpose of providing legal services to or for the benefit of the **Insured Entity** (hereinafter **“Employed Lawyer”**);
 - ii. providing support to an **Employed Lawyer**;
 - iii. providing services as a notary public, but only while acting in such capacity under the supervision of an **Employed Lawyer** (hereinafter **“Notary Public”**);
 - b. natural person admitted to the practice of law and employed by a temporary employment agency to provide legal services to the **Insured Entity** through a written service agreement between the **Insured Entity** and the temporary employment agency, but only if the **Insured Entity** agrees in writing no later than thirty (30) days after a **Claim** is reported to the **Insurer** as required by this Coverage Part to indemnify such natural person for **Loss** arising out of such **Claim** (hereinafter **“Temporary Lawyer”**);
 - c. natural person admitted to practice law who provides legal services to the **Insured Entity** and is indemnified by the **Insured Entity** under an independent contractor services agreement and is not employed by a law firm (hereinafter **“Independent Contractor Lawyer”**); and

- d. an employee 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;

provided, however, **Insured Person** shall not include any natural person admitted to practice law and employed by a law firm.

- 6. "**Loss**" shall mean those amounts any **Insured Person** 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**; and
 - 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).

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;
- iii. any amount for which an **Insured** is legally absolved from payment;
- iv. any amount incurred to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**;
- v. 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;
- vi. salary, wages, commissions, benefits, or that portion of any settlement or judgment in an amount equivalent to, or substantially equivalent to, such salary, wages, commissions or benefits, or any other monetary payments owed to any **Insured Person** or any employee, director, officer or functionally equivalent position of the **Insured Entity**;
- vii. the return of fees or compensation;
- viii. any amount not insurable under the law pursuant to which this Coverage Part shall be construed; or
- ix. 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 such **Claim** is located.

7. **“Personal Injury”** shall mean any 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, or malicious prosecution.
8. **“Professional Services”** shall mean any legal services performed by:
 - a. an **Employed Lawyer**, solely in his/her capacity as such, to or for the benefit of the **Insured Entity**;
 - b. any other **Insured Person**, solely in his/her capacity as such, and solely under the direction and supervision of an **Employed Lawyer**;
 - c. an **Employed Lawyer** without compensation to indigent clients or for non-profit public interest groups, but solely while such **Employed Lawyer** is employed on a full-time, permanent basis with the **Insured Entity**; and
 - d. an **Employed Lawyer** for others outside the scope of his/her employment with the **Insured Entity**, but solely while such **Employed Lawyer** is employed on a full-time, permanent basis with the **Insured Entity**. Provided, however, this shall not include any legal services performed in the **Employed Lawyer’s** capacity as a director, officer, manager, member of the board of managers, owner, principal, partner, employee, or the functional equivalent of any of the foregoing, for any entity that is not the **Insured Entity**; or in connection with an estate or trust if such **Employed Lawyer** is a beneficiary of such estate or trust.
9. **“Wrongful Act”** shall mean any actual or alleged:
 - a. act, omission, error, misstatement, misleading statement, neglect or breach of duty; or
 - b. **Personal Injury** committed; by an **Insured Person** in the rendering of **Professional Services**.

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 or arising out of 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 employed lawyers policy or 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** as 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 **Loss** for emotional distress, mental anguish or humiliation resulting from **Personal Injury**.

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, provided, however, this subparagraph shall not apply to **Claims** arising out of the provision of **Professional Services** to a fiduciary of a plan sponsored by **Insured Entity** solely for the benefit of its employees and directors;
2. 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
3. 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

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 any **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 any **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**; 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**;
2. the **Insured Entity**;
3. any security holder of the **Insured Entity** whether directly or derivatively, unless such security holder's **Claim** is brought solely without the active assistance or participation of an **Insured Person**, any past or present duly elected director, officer, manager or member of the board of managers of the **Insured Entity**, or the **Insured Entity** unless such assistance or participation is by an **Insured Person** or a past or present duly elected director, officer, manager or member of the board of managers of the **Insured Entity** 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 policy;
- ii. 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 any assignee of any of the foregoing; or
- iii. any **Claim** brought by any **Insured Person** 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.

I. Securities Exclusion

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

1. any sale or purchase of securities exempted pursuant to Section 3(b) of the Securities Act of 1933; or
2. any **Claim** for **Loss** alleging a **Wrongful Act** which occurred during the **Insured Entity'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.

J. Intellectual Property Rights

based upon, arising out of, or attributable to any actual or alleged plagiarism, misappropriation, infringement or violation of patent, trademark, copyright, trade secret or any other intellectual property rights.

K. Employment Practices

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, provided, however that this sub-paragraph **K.1.** shall not apply to any **Claim** arising out of the provision of **Professional Services** by an **Insured Person** in connection with the employment of any individual; or
2. harassment of or discrimination against anyone other than an employee of the **Insured Entity**.

L. Notary Services

based upon, arising out of or attributable to any **Insured Person** notarizing, acknowledging or certifying any signature which is not made in the presence of such **Insured Person** at the time of such notarization, acknowledgment or certification.

M. Contractual Liability

based upon or arising out of:

- 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.

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**.

Section V Notice of Claims

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**, except that this section shall not apply to any **Eligibility Proceeding** that the **Insured** elects not to treat as a **Claim** pursuant to **Section III 1. e.** above. 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 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**.