

In consideration of payment of the premium and subject to the Declarations, the General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Section, the Company and the **Insured** agree as follows:

Insuring Clause

Bankers Professional Liability Coverage Section

1. The Company shall pay, on behalf of an **Insured**, **Loss** on account of any **Claim** first made against such **Insured** during the **Policy Period** or, if exercised, during the Extended Reporting Period, for a **Wrongful Act** while performing **Professional Services**, including failure to perform **Professional Services**.

Definitions

2. When used in this Coverage Section:

Application means all signed applications, including attachments and other materials submitted therewith or incorporated therein, submitted by the **Insureds** to the Company for this Coverage Section or for any coverage section or policy of which this Coverage Section is a direct or indirect renewal or replacement.

Application shall also include, for each **Organization**, all of the following documents whether or not submitted with or attached to any such signed application:

- a. the Annual Report (including financial statements) last issued to shareholders before this policy's inception date;
- b. the report last filed with the Securities and Exchange Commission on Form 10-K before this policy's inception date;
- c. the report last filed with the Securities and Exchange Commission on Form 10-Q before this policy's inception date;
- d. the proxy statement and (if different) definitive proxy statement last filed with the Securities and Exchange Commission before this policy's inception date;
- e. all reports filed with the Securities and Exchange Commission on Form 8-K during the twelve (12) months preceding this policy's inception date; and
- f. all reports filed with the Securities and Exchange Commission on Schedule 13D, with respect to any equity securities of such **Organization**, during the twelve (12) months preceding this policy's inception date.

All such applications, attachments, materials and other documents are deemed attached to, incorporated into and made a part of this Coverage Section.

Claim means:

- a. a written demand for monetary damages;
- b. a civil proceeding commenced by the service of a complaint or similar pleading;
- c. an arbitration proceeding commenced by the submission of a statement of claim or similar document; or

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d. a criminal proceeding commenced by the return of an indictment,

by or on behalf of a **Customer** against an **Insured** for a **Wrongful Act**, including any appeal therefrom.

Except as may otherwise be provided in Subsection 6, Subsection 7e or Subsection 8b of this Coverage Section, a **Claim** will be deemed to have first been made when such **Claim** is commenced as set forth in this definition (or, in the case of a written demand for monetary damages, when such demand is first received by an **Insured**).

Customer means any person or entity that:

- a. has or had a written agreement with the **Organization**; or
- b. submitted a written application to the **Organization** to receive **Professional Services**.

Defense Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits of the directors, officers or employees of the **Organization**) incurred in defending any **Claim** and the premium for appeal, attachment or similar bonds.

Domestic Partner means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Organization**.

Financial Impairment means the status of an **Organization** resulting from:

- a. the appointment by any state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate such **Organization**; or
- b. such **Organization** becoming a debtor in possession under the United States bankruptcy law or the equivalent of a debtor in possession under the law of any other country.

Insured means the **Organization** and any **Insured Person**.

Insured Person means any natural person who was, now is or shall become:

- a. a full-time, part-time, temporary, leased or seasonal employee or volunteer of the **Organization** but only while acting in his or her capacity as such;
- b. a duly elected or appointed director or officer of any **Organization** but only while acting in his or her capacity as such; or
- c. with respect to any **Organization** formed outside the United States of America, any equivalent executive position described in b above, under applicable law in any country other than the United States of America.

Lending Customer means any person or entity which is not affiliated with the **Organization** and to which an extension of credit, an agreement to extend credit, or a refusal to extend credit was made or negotiated on behalf of the **Organization**.

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Lending Services means any act performed by an **Insured** for a **Lending Customer** of the **Organization** in the course of extending or refusing to extend credit or granting or refusing to grant a loan or any transaction in the nature of a loan, including any act of restructure, termination, transfer, repossession or foreclosure. **Lending Services** shall not include any **Professional Service**.

Loan Servicing means the servicing of any loan, lease or extension of credit (whether consumer, commercial, mortgage banking or otherwise, but not including financing for investment banking, or for leveraged management buyouts). **Loan Servicing** includes the following servicing activities: record keeping, billing and disbursements of principal or interest, receipt or payment of insurance premiums and taxes, credit reporting or statements of creditworthiness, determination of the depreciation amount of property (but not projections of or an appraisal for residual or future value of property). **Loan Servicing** shall not include any act of restructure, termination, transfer, repossession or foreclosure, or any act arising out of the operation or control of any entity or property that the **Insured** acquired as security or collateral for any loan, lease or extension of credit.

Loss means the amount that an **Insured** becomes legally obligated to pay on account of any covered **Claim**, including but not limited to damages (including punitive or exemplary damages, if and to the extent that such damages are insurable by law), judgments, settlements, pre-judgment and post-judgment interest and **Defense Costs**. **Loss** shall not include:

- a. any amount not indemnified by the **Organization** for which an **Insured Person** is absolved from payment by reason of any covenant, agreement or court order;
- b. any costs incurred by an **Organization** to comply with any order for injunctive or other non-monetary relief, or to comply with an agreement to provide such relief;
- c. any amount incurred by an **Insured** in the defense or investigation of any action, proceeding, investigation or demand that is not then a **Claim** even if:
 - (1) such amount also benefits the defense of a covered **Claim**; or
 - (2) such action, proceeding, investigation or demand subsequently gives rise to a **Claim**;
- d. taxes, fines or penalties, or the multiple portion of any multiplied damage award;
- e. any amount not insurable under the law pursuant to which this Coverage Section is construed;
- f. any amount allocated to non-covered loss pursuant to Subsection 10 of this Coverage Section;
- g. loss of the actual money, securities, property or other items of value in the custody or control of any **Insured**, its agent, or in transit; or
- h. amount otherwise reimbursable to any **Insured** by any trust, estate, plan or fund or any similar entity, or the sponsor of any such trust, estate, plan or fund.

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Organization means, collectively, those organizations designated in ITEM 5 of the Declarations for this Coverage Section, including any such organization in its capacity as a debtor in possession under the United States bankruptcy law or in an equivalent status under the law of any other country, or any **Subsidiary** of such organizations.

Pollutants means:

- a. any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or any state, county, municipality or locality counterpart thereof, including, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials; or
- b. any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products or any noise.

Professional Services means **Loan Servicing** and only those services performed or required to be performed by an **Insured** for or on behalf of a **Customer** of an **Insured**:

- a. for a fee, commission or other monetary consideration;
- b. where a fee, commission or other monetary consideration would usually be received by the **Insured** but for business or other reasons is waived by the **Insured**; or
- c. for other remuneration which inures to the benefit of such **Insured**.

Professional Services shall not include:

- (1) medical or health care services, real estate appraisal services, architectural or construction management services, the practice of law or the rendering of legal services;
- (2) services performed by any entity which the **Insured** shall have acquired ownership or control as security for a loan, lease or other extension of credit; or
- (3) **Lending Services**.

Related Claims means all **Claims** for **Wrongful Acts** based upon, arising from, or in consequence of the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events.

Subsidiary means any organization, at or prior to the inception of this policy, in which more than fifty percent (50%) of the outstanding securities or voting rights representing the present right to vote for election of or to appoint directors of such organization are owned or controlled, directly or indirectly, in any combination, by one or more **Organizations**.

Wrongful Act means any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted, before or during the **Policy Period** by any **Insured**.

Exclusions

3. The Company shall not be liable for **Loss** on account of any **Claim**:
- a. based upon, arising from, or in consequence of any fact, circumstance, situation, transaction, event or **Wrongful Act** that, before the inception date set forth in ITEM 2 of the Declarations of the General Terms and Conditions, was the subject of any notice given under any policy or coverage section of which this Coverage Section is a direct or indirect renewal or replacement;
 - b. based upon, arising from, or in consequence of any demand, suit or other proceeding pending against, or order, decree or judgment entered for or against any **Insured**, on or prior to the Pending or Prior Date set forth in ITEM 7 of the Declarations for this Coverage Section, or the same or substantially the same fact, circumstance, situation, transaction, event or **Wrongful Act** underlying or alleged therein;
 - c. brought or maintained by or on behalf of any **Insured** in any capacity; provided that this Exclusion 3c shall not apply to that portion of any **Claim**:
 - (1) where the claimant is an **Insured Person** and was provided with or entitled to be provided with **Professional Services** and is bringing such **Claim** solely in his or her capacity as a **Customer** of the **Organization** and where the **Claim** is brought without the solicitation, assistance or participation of any other **Insured**; or
 - (2) brought or maintained by an **Insured Person** for contribution or indemnity, if such **Claim** directly results from another **Claim** covered under this Coverage Section;
 - d. based upon, arising from, or in consequence of:
 - (1) any actual, alleged, or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of any **Pollutants**; or
 - (2) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any **Pollutants**, or any action taken in contemplation or anticipation of any such regulation, order, direction or request,including but not limited to any **Claim** for financial loss to any **Insured**, its securityholders or its creditors based upon, arising from, or in consequence of any matter described in (1) or (2) of this Exclusion 3d;
 - e. for bodily injury, mental anguish, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property including loss of use thereof whether or not it is damaged or destroyed;
 - f. for any actual or alleged violation of the responsibilities, obligations or duties imposed on fiduciaries by the Employee Retirement Income Security Act of 1974, or any amendments thereto, or any rules or regulations promulgated thereunder, or any similar provisions of any federal, state, or local statutory law or common law anywhere in the world;

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Exclusions
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- g. for **Wrongful Acts** of an **Insured Person** in his or her capacity as a director, officer, manager, trustee, regent, governor or employee of any entity other than the **Organization**, even if the **Insured Person's** service in such capacity is with the knowledge or consent or at the request of the **Organization**;
- h. based upon, arising from, or in consequence of:
 - (1) any **Insured** having gained in fact any profit, remuneration or other advantage to which such **Insured** was not legally entitled; or
 - (2) any deliberately fraudulent act or omission or any willful violation of any statute or regulation by any **Insured**, if a judgment or other final adjudication establishes such a deliberately fraudulent act or omission or willful violation;
- i. for discrimination, libel, slander, wrongful termination of employment, disparagement, sexual harassment, violation of rights of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, assault or battery;
- j. based upon, arising from, or in consequence of:
 - (1) the insolvency of any bank, banking firm, broker, or dealer in securities, or any other person or entity, or the inability of any such entity or person to make any payment or settle or effect any transaction of any kind. However, this Exclusion 3j(1) shall not apply to **Wrongful Acts** solely in connection with an **Insured's** investment on behalf of a **Customer** in the stock of any of the foregoing entities; or
 - (2) **Financial Impairment**;
- k. based upon, arising from or in consequence of **Lending Services**;
- l. based upon, arising from, or in consequence of:
 - (1) the underwriting, securitizing, syndicating, promoting, or market making (as defined in section 3(A)(38) of the Securities Exchange Act of 1934 as amended) of any debt or equity security or other evidence of indebtedness, or any other similar investment banking activity;
 - (2) rendering advice or recommendations regarding any actual, attempted or threatened merger, acquisition, divestiture, tender offer, proxy contest, leveraged buy-out, going private transaction, insolvency proceeding, reorganization, capital restructuring, recapitalization, spin-off, primary or secondary offering of debt or equity securities or other evidence of indebtedness, dissolution or sale of all or substantially all of the assets, debt or securities of a business entity or any effort to raise or furnish capital or financing for any enterprise or entity;
 - (3) the rendering of fairness opinions regarding the valuation of any assets or business entity not held by the **Insured** as trustee;
 - (4) any acquisition or sale of securities by the **Insured** for such **Insured's** own account,or any disclosure requirements or **Loan Servicing** in connection with any of the foregoing;

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Exclusions
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- m. based upon, arising from, or in consequence of disputes involving fees or charges for the **Insured's** services;
- n. based upon, arising from, or in consequence of, or in any way involving, directly or indirectly, any act arising out of the operation or control of any entity or property that the **Insured** acquired as security or collateral for any loan, lease or extension of credit;
- o. based upon, arising from, or in consequence of any function or activity as a receiver, trustee in bankruptcy, conservator or assignee for the benefit of creditors;
- p. based upon, arising from, or in consequence of the rendering of or failing to render any information or network technology service or advice regardless of whether a **Claim** is brought by a **Customer** or any other person or organization;
- q. based upon, arising from, or in consequence of mechanical or electronic failure, breakdown or malfunction of any machine or system of machines;
- r. based upon, arising from, or in consequence of the notarization of any signature without the physical appearance at the time of notarization of the person who is or claims to be the person signing the instrument;
- s. based upon, arising from or in consequence of serving as a trustee under bond indenture;
- t. based upon, arising from, or in consequence of the liability of others assumed by any **Insured** under any written or oral contract or agreement; provided that this Exclusion 3t shall not apply to the extent that an **Insured** would have been liable in the absence of such contract or agreement; or
- u. by, on behalf of, or at the behest of any person or concern (including but not limited to any shareholder, bondholder, or debenture holder), their estate, heirs, legal representatives or assigns, with a legal or equitable interest in any stock, bond, debenture, or other form of security or ownership interest of the **Organization**, when such **Claim** is based upon, arises out of, or pertains to any interest in such security or ownership interest. However, this Exclusion 3u shall not apply:
 - (1) to any **Claim** for a **Wrongful Act** in which an **Insured Person** was provided with or was entitled to be provided with **Professional Services** and such **Claim** is brought solely in his or her capacity as a **Customer** of the **Organization**; and
 - (2) to a **Claim** brought without the solicitation, assistance or participation of any other **Insured**.

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Severability of Exclusions

- 4. With respect to the Exclusion 3h in this Coverage Section, in order to determine if coverage is available:
 - a. no fact pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person**; and
 - b. all facts pertaining to and knowledge possessed by any past, present or future chief financial officer, in-house general counsel, chief executive officer, President or Chairman of any **Organization** shall be imputed to the **Organization**.

*Spouses, Estates and
Legal Representatives*

5. Subject otherwise to the General Terms and Conditions and the limitations, conditions, provisions and other terms of this Coverage Section, coverage shall extend to **Claims** for the **Wrongful Acts** of an **Insured Person** made against:
- a. the estate, heirs, legal representatives or assigns of such **Insured Person** if such **Insured Person** is deceased or the legal representatives or assigns of such **Insured Person** if such **Insured Person** is incompetent, insolvent or bankrupt; or
 - b. the lawful spouse or **Domestic Partner** of such **Insured Person** solely by reason of such spouse or **Domestic Partner's** status as a spouse or **Domestic Partner**, or such spouse or **Domestic Partner's** ownership interest in property which the claimant seeks as recovery for an alleged **Wrongful Act** of such **Insured Person**.

All terms and conditions of this Coverage Section, including without limitation the Retention, applicable to **Loss** incurred by the **Insured Persons**, shall also apply to **Loss** incurred by the estates, heirs, legal representatives, assigns, spouses and **Domestic Partners** of such **Insured Persons**. The coverage provided by this Subsection 5 shall not apply with respect to any loss arising from an act or omission by an **Insured Person's** estate, heirs, legal representatives, assigns, spouse or **Domestic Partner**.

*Extended Reporting
Period*

6. If the Company or the **Parent Organization** terminates or does not renew this Coverage Section, other than termination by the Company for nonpayment of premium, the **Parent Organization** shall have the right, upon payment of the additional premium set forth in ITEM 6(B) of the Declarations for this Coverage Section, to an extension of the coverage granted by this Coverage Section for **Claims** that are:
- a. first made during the period set forth in ITEM 6(A) of the Declarations for this Coverage Section (the "Extended Reporting Period") following the effective date of termination or nonrenewal; and
 - b. reported to the Company in writing within the time provided in Subsection 8a of this Coverage Section,

but only to the extent such **Claims** are for **Wrongful Acts** before the earlier of the effective date of termination or nonrenewal or the date of the first merger, consolidation, acquisition, cessation or **Financial Impairment** event described in Subsection 13 below.

The offer of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute refusal to renew. The right to purchase an extension of coverage as described in this Subsection 6 shall lapse unless written notice of election to purchase the extension, together with payment of the additional premium due, is received by the Company within thirty (30) days after the effective date of termination or nonrenewal. Any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding **Policy Period**. The entire additional premium for the Extended Reporting Period shall be deemed fully earned at the inception of such Extended Reporting Period.

*Limits of Liability,
Retention
and Coinsurance*

7. a. Subject to the Combined Aggregate Limit of Liability Each **Policy Period** for this Coverage Section as stated in ITEM 3(B) of the Declarations of the General Terms and Conditions Section:
- (1) the Company's maximum liability for **Loss** on account of each **Claim** shall be the Limit of Liability Each **Claim** set forth in ITEM 2(A) of the Declarations for this Coverage Section; and
 - (2) the Company's maximum aggregate liability for **Loss** on account of all **Claims** first made during the **Policy Period** shall be the Limit of Liability Each **Policy Period** set forth in ITEM 2(B) of the Declarations for this Coverage Section.
- b. **Defense Costs** are part of, and not in addition to, the Limits of Liability set forth in ITEM 2 of the Declarations for this Coverage Section, and the payment by the Company of **Defense Costs** shall reduce and may exhaust such applicable Limits of Liability.
- c. The Company's liability shall apply only to that part of covered **Loss** on account of each **Claim** which is excess of the applicable Retention set forth in ITEM 4 of the Declarations for this Coverage Section. Such Retention shall be depleted only by **Loss** otherwise covered under this Coverage Section and shall be borne by the **Insureds** uninsured and at their own risk. In the event that any **Insured** is unwilling or unable to bear the Retention it shall be the obligation of the **Parent Organization** to bear such Retention uninsured and at its own risk.
- d. To the extent that **Loss** is otherwise covered under this Coverage Section and is in excess of the applicable Retention, the **Insured** shall bear uninsured and at their own risk that percentage of such **Loss** specified as the Coinsurance Percentage set forth in ITEM 3 of the Declarations for this Coverage Section, and the Company's liability shall apply only to the remaining percentage of such **Loss**.
- e. All **Related Claims** shall be treated as a single **Claim** first made on the date the earliest of such **Related Claims** was first made, or on the date the earliest of such **Related Claims** is treated as having been made in accordance with Subsection 8 below, regardless of whether such date is before or during the **Policy Period**.
- f. The limit of liability available during the Extended Reporting Period (if exercised) shall be part of, and not in addition to, the Company's Limit of Liability Each **Policy Period** as stated in ITEM 2(B) of the Declarations for this Coverage Section, for all **Loss** on account of all **Claims** first made during the immediately preceding **Policy Period**.

Reporting and Notice

8. a. The **Insured** shall, as a condition precedent to exercising any right to coverage under this Coverage Section, give to the Company written notice of any **Claim** as soon as practicable, but in no event later than the earliest of the following dates:
- (1) sixty (60) days after the date on which any **Insured** first becomes aware that the **Claim** has been made;
 - (2) if this Coverage Section expires (or is otherwise terminated) without being renewed and if no Extended Reporting Period is purchased, sixty (60) days after the effective date of such expiration or termination; or
 - (3) the expiration date of the Extended Reporting Period, if purchased;
- provided that if the Company sends written notice to the **Parent Organization**, at any time before the date set forth in (1) above with respect to any **Claim**, stating that this Coverage Section is being terminated for nonpayment of premium, the **Insured** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.
- b. If during the **Policy Period** an **Insured**:
- (1) becomes aware of circumstances which could give rise to a **Claim** and gives written notice of such circumstances to the Company; or
 - (2) receives a written request to toll or waive a statute of limitations applicable to **Wrongful Acts** before or during the **Policy Period** and gives written notice of such request and of such alleged **Wrongful Acts** to the Company,
- then any **Claim** subsequently arising from the circumstances referred to in (1) above, or from the **Wrongful Acts** referred to in (2) above, shall be deemed to have been first made during the **Policy Period** in which the written notice described in (1) or (2) above was first given by an **Insured** to the Company, provided any such subsequent **Claim** is reported to the Company as set forth in Subsection 8a(1) above. With respect to any such subsequent **Claim**, no coverage under this Coverage Section shall apply to loss incurred prior to the date such subsequent **Claim** is actually made.
- c. The **Insured** shall, as a condition precedent to exercising any right to coverage under this Coverage Section, give to the Company such information, assistance, and cooperation as the Company may reasonably require, and shall include in any notice under Subsections 8a or 8b, a description of the **Claim**, circumstances or request, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage, the names of all actual or potential claimants, the names of all actual or potential defendants, and the manner in which such **Insured** first became aware of the **Claim**, circumstances or request.

Defense and Settlement

9. a. The Company shall have the right and duty to defend any **Claim** covered by this Coverage Section, even if any of the allegations in such **Claim** are groundless, false or fraudulent. The Company's duty to defend any **Claim** shall cease upon exhaustion of the applicable Limits of Liability set forth in ITEM 2 of the Declarations for this Coverage Section.

Defense and Settlement
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- b. The Company may make any investigation it deems necessary and may, with the consent of the **Insured**, make any settlement of any **Claim** it deems expedient. If any **Insured** withholds consent to any settlement acceptable to the claimant in accordance with the Company's recommendation (a "Proposed Settlement"), the Company's liability for all **Loss**, including **Defense Costs**, from such **Claim** shall not exceed:
- (1) the amount of the Proposed Settlement plus **Defense Costs** incurred up to the date of the **Insured's** refusal to consent to the Proposed Settlement of such **Claim**; plus
 - (2) seventy percent (70%) of any **Loss**, including **Defense Costs**, in excess of the amount referenced in (1) above, incurred in connection with such **Claim**; subject in all events to the applicable Retention and the available Limits of Liability for such **Claim**. The remaining thirty percent (30%) of any **Loss**, including **Defense Costs**, in excess of the amount referenced in (1) above shall be borne by the **Insured** uninsured and at their own risk, notwithstanding anything to the contrary contained in Subsection 10a.
- c. The **Insured** agrees not to settle or offer to settle any **Claim**, incur any **Defense Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the Company's prior written consent, which shall not be unreasonably withheld. The Company shall not be liable for any **Defense Costs**, for any element of **Loss** incurred, for any obligation assumed, or for any admission made, by any **Insured** without the Company's prior written consent.
- d. The **Insured** agrees to provide the Company with all information, assistance and cooperation which the Company reasonably requires and agrees that in the event of a **Claim** the **Insured** shall do nothing that could prejudice the Company's position or its potential or actual rights of recovery.

Allocation

10. If both **Loss** covered by this Coverage Section and loss not covered by this Coverage Section are incurred by an **Insured** on account of any **Claim** either because such **Claim** against the **Insured** includes both covered and uncovered matters, or because such **Claim** is made against both covered and uncovered parties, then coverage under this Coverage Section shall apply as follows:
- a. **Defense Costs**: one hundred percent (100%) of reasonable and necessary **Defense Costs** incurred by the **Insured** on account of such **Claim** shall be considered covered **Loss**; and
 - b. Loss other than **Defense Costs**: all remaining loss incurred by the **Insured** on account of such **Claim** shall be allocated by the Company between covered **Loss** and uncovered loss based on the relative legal and financial exposures of the parties to covered and uncovered matters and, in the event of a settlement in such **Claim**, also based on the relative benefits to the **Insured** from such settlement.

Other Insurance

11. If any **Loss** under this Coverage Section is insured under any other valid insurance, prior or current and regardless of whether collectible, then this Coverage Section shall cover such **Loss**, subject to its limitations, conditions, provisions and other terms, only to the extent that the amount of such **Loss** is in excess of the applicable retention (or deductible) and limit of liability 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 the Limits of Liability provided in this Coverage Section.

Any payment by **Insureds** of a retention (or deductible) under such other insurance shall reduce, by the amount of such payment which would otherwise have been covered under this Coverage Section, the applicable Retention under this Coverage Section.

Changes in Exposure

Acquisition/Creation of Another Organization

12. If before or during the **Policy Period** any **Organization**:

- a. acquires securities or voting rights in another organization, or creates another organization, which as a result of such acquisition or creation becomes a **Subsidiary**; or
- b. acquires another organization by merger into or consolidation with an **Organization**, such that the **Organization** is the surviving entity,

then such other organization and its **Insured Persons** shall be **Insureds** under this Coverage Section, but only with respect to **Wrongful Acts** after such acquisition or creation, unless the Company agrees, after presentation of a complete application and all other appropriate information, to provide coverage by endorsement for **Wrongful Acts** before such acquisition or creation.

If the total assets of any such acquired or created organization or new **Subsidiary** exceed twenty-five percent (25%) of the total assets of the **Parent Organization** (as reflected in the most recent audited consolidated financial statements of such organization and the **Parent Organization**, respectively, as of the date of such acquisition or creation), then the **Parent Organization** shall give written notice of such acquisition or creation to the Company as soon as practicable, but in no event later than sixty (60) days after the date of such acquisition or creation, together with such other information as the Company may require, and shall pay any reasonable additional premium required by the Company. If the **Parent Organization** fails to give such notice within the time specified in the preceding sentence, or fails to pay the additional premium required by the Company, then coverage for such acquired or created organization and its **Insured Persons** shall terminate with respect to **Claims** first made more than sixty (60) days after such acquisition or creation. Coverage for any acquired or created organization described in this paragraph, and for the **Insured Persons** of such organization, shall be subject to such additional or different terms, conditions and limitations of coverage as the Company in its sole discretion may require.

Changes in Exposure

Acquisition by Another Organization
(continued)

13. If:
- a. the **Parent Organization** merges into or consolidates with another organization and the **Parent Organization** is not the surviving entity;
 - b. another organization, person or group of organizations and/or persons acting in concert acquires securities or voting rights which result in ownership or voting control by the other organization(s) or person(s) of more than fifty percent (50%) of the outstanding securities or voting rights representing the present right to vote for the election of or to appoint directors of the **Parent Organization**;
 - c. the **Organization** completely ceases to actively engage in its primary business ("cessation"); or
 - d. **Financial Impairment** occurs,

then coverage under this Coverage Section shall continue until termination of this Coverage Section, but only with respect to **Claims** for **Wrongful Acts** before such merger, consolidation, acquisition, cessation or **Financial Impairment**. Upon the occurrence of any event described in a through d above, the entire premium for this Coverage Section shall be deemed fully earned.

The **Parent Organization** shall give written notice of such merger, consolidation, acquisition, cessation or **Financial Impairment** to the Company as soon as practicable, but in no event later than sixty (60) days after the date of such merger, consolidation, acquisition, cessation or **Financial Impairment**, together with such other information as the Company may require. Upon receipt of such notice and information and at the request of the **Parent Organization**, the Company shall provide to the **Parent Organization** a quotation for an extension of coverage (for such period as may be negotiated between the Company and the **Parent Organization**) with respect to **Claims** for **Wrongful Acts** before such merger, consolidation, acquisition, cessation or **Financial Impairment**. Any coverage extension pursuant to such quotation shall be subject to such additional or different terms, conditions and limitations of coverage, and payment of additional premium, as the Company in its sole discretion may require.

Cessation of Subsidiary

14. In the event an organization ceases to be a **Subsidiary** before or during the Policy **Period**, then coverage with respect to such **Subsidiary** and its **Insured Persons** shall continue until termination of this Coverage Section, but only with respect to **Claims** for **Wrongful Acts** while such organization was a **Subsidiary**.

Representations and Severability

15. In issuing this Coverage Section the Company has relied upon the statements, representations and information in the **Application**. All of the **Insureds** acknowledge and agree that all such statements, representations and information:
- a. are true and accurate;

*Representations and
Severability
(continued)*

- b. were made or provided in order to induce the Company to issue this Coverage Section; and
- c. are material to the Company's acceptance of the risk to which this Coverage Section applies.

Such **Application** for coverage shall be construed as a separate **Application** for coverage by each **Insured Person**. With respect to the declarations and statements in the **Application** for coverage, in order to determine if coverage is available:

- a. all facts pertaining to and knowledge possessed by any past, present or future chief financial officer, in-house general counsel, chief executive officer, President or Chairman of any **Organization** shall be imputed to the **Organization**; and
- b. no declaration or statement in the application or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person**.

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