

PRIVATE PARTNERSHIP LIABILITY

THIS IS A CLAIMS-MADE COVERAGE WITH DEFENSE EXPENSES INCLUDED IN THE LIMIT OF LIABILITY. PLEASE READ THE POLICY CAREFULLY.

I. INSURING AGREEMENTS

The Company will pay on behalf of:

- A.** the **Insured Persons, Loss for Wrongful Acts**, except for **Loss** which the **Insured Organization** pays to or on behalf of the **Insured Persons** as indemnification;
- B.** the **Insured Organization, Loss for Wrongful Acts** which the **Insured Organization** pays to or on behalf of the **Insured Persons** as indemnification; and
- C.** the **Insured Organization, Loss for Wrongful Acts**,

resulting from any **Claim** first made during the **Policy Period**, or if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period.

The Company will also pay on behalf of the **Insured Organization, Investigation Expense** resulting from any **Security Holder Derivative Demand** first made during the **Policy Period**, or if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period, against an **Insured Organization** for **Wrongful Acts**. The Company's maximum limit of liability for all **Investigation Expense** will be the Investigation Expense Limit of Liability set forth in ITEM 5 of the Declarations for this **Liability Coverage**.

II. SUPPLEMENTAL PERSONAL INDEMNIFICATION

If ITEM 5 of the Declarations indicates that coverage for Supplemental Personal Indemnification Coverage has been purchased, and if the **Liability Coverage Limit of Liability** under this **Liability Coverage** or a **Liability Coverage Shared Limit of Liability**, if applicable, has been exhausted, the Company will provide the **Insured Persons** with an additional Supplemental Personal Indemnification Limit of Liability under Insuring Agreement A. Such Supplemental Personal Indemnification Limit of Liability will not exceed the amount set forth in ITEM 5 of the Declarations, which amount is in addition to and not part of the **Liability Coverage Limit of Liability** or **Liability Coverage Shared Limit of Liability**, if applicable. This Supplemental Personal Indemnification Limit of Liability applies solely to **Loss** resulting from any **Claim**, other than a **Claim** for an employment-related **Wrongful Act**, against an **Insured Person** to which Insuring Agreement A. is applicable.

III. DEFINITIONS

Wherever appearing in this **Liability Coverage**, the following words and phrases appearing in bold type will have the meanings set forth in this Section III. DEFINITIONS:

- A. Additional Partnership** means:
 1. any **Partnership** scheduled by endorsement to this Policy; and
 2. any **Limited Partnership** of which the **Insured Organization** (including the **Named Insured**, any **Additional Partnership**, any **Organization General Partner** or any **Subsidiary**) or any **Insured Person** first becomes the sole **General Partner** during the **Policy Period**, but only if (a) the assets of such **Limited Partnership** total less than 15% of the total consolidated assets of the **Insured Organization** as of inception date of the **Liability Policy**, and (b) the partnership interests of such **Limited Partnership** have not been sold in a public offering. The **Named Insured** shall give written notice as soon as practicable, but in no event later than 90 days after

the role of **General Partner** of such **Additional Partnership** is assumed, together with such information as the Insurer may require.

If, during the **Policy Period**, the **Insured Organization** (including the **Named Insured**, any **Additional Partnership**, any **Organizational General Partner** or any **Subsidiary**) or any **Insured Person** first becomes the sole **General Partner** of any **Partnership**, this **Liability Policy** will provide coverage for such **Partnership** and its respective **Insured Persons**, subject to all other terms and conditions of this **Liability Policy**, provided written notice has been given to the Company, together with such documentation and information as the Company may require, all within 90 days after the effective date of such **Insured** becoming the sole **General Partner**. Coverage for such **Partnership** will not be afforded following such 90-day period unless the Company has agreed to provide such coverage, subject to any additional terms and conditions as the Company may require, and the **Named Insured** has paid the Company any additional premium as may be required by the Company.

The 90-day notice requirement and the 90-day limitation of coverage will not apply provided that: (1) the assets of such **Partnership** do not exceed 15% of the total assets of the **Insured Organization** as reflected in the **Insured Organization's** most recent fiscal year-end financial statement; or (2) the acquisition or formation occurs less than 90 days prior to the end of the **Policy Period**.

3. any **Limited Partnership** that is a **Subsidiary** as defined in this **Liability Coverage**, subject to the ACQUISITIONS sections of the **Liability Coverage Terms and Conditions**.

B. Change of Control has the meaning set forth in the Liability Coverage Terms and Conditions, and also means:

1. The withdrawal, resignation, termination, death or declaration of incompetence of any **General Partner** of the **Named Insured**, or
2. The obtaining by any person, entity or affiliated group of persons or entities the right to elect, appoint or designate the **General Partner** of the **Named Insured**.

C. Claim means:

1. a written demand, other than a **Security Holder Derivative Demand**, for monetary damages or non-monetary relief;
2. a civil proceeding commenced by service of a complaint or similar pleading;
3. a criminal proceeding commenced by filing of charges;
4. a formal administrative or regulatory proceeding, commenced by a filing of charges, formal investigative order, service of summons, or similar document;
5. an arbitration, mediation or similar alternative dispute resolution proceeding if the **Insured** is obligated to participate in such proceeding or if the **Insured** agrees to participate in such proceeding, with the Company's written consent, such consent not to be unreasonably withheld;
6. a Security Holder Derivative Demand, solely with respect to **Investigation Expenses** and subject to the **Investigation Expense Limit of Liability** set forth in ITEM 5 of the Declarations;
7. the service of a subpoena on an **Insured Person** identified by name if served upon such person pursuant to a formal administrative or regulatory proceeding, or
8. a written request to toll or waive a statute of limitations relating to a potential civil or administrative proceeding,

against an **Insured** for a **Wrongful Act**, provided that **Claim** does not include any labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement.

A **Claim** is deemed to be made on the earliest date that any **Executive Officer** first receives written notice of such **Claim**. However, if any **Insured Person** who is not an **Executive Officer** first receives written notice of a **Claim** during the **Policy Period**, but no **Executive Officer** receives written notice of such **Claim** until after the **Policy Period** has expired, then such **Claim** will be deemed to have been made on the date such **Insured Person** first received written notice of the **Claim**.

D. Entity General Partner means any **General Partner** which is an entity and not a natural person.

- E. **Executive Officer** means the chairperson, chief executive officer, president, chief financial officer, in-house general counsel, or **Manager** of the **Insured Organization** or a functional equivalent thereof.
- F. **General Partner** means any entity or natural person acting in the capacity as a general partner of the **Named Insured** or any **Additional Partnership**.
- G. **Insured** means the **Insured Persons** and the **Insured Organization**.
- H. **Insured Organization** means:
1. The **Named Insured**;
 2. any **Additional Partnership**;
 3. any **Entity General Partner**;
 4. any **Subsidiary**, and
 5. any such entity listed in 1. through 4., above, as a debtor in possession, as such term is used in Chapter 11 of the United States of America Bankruptcy Code, as amended, or the equivalent of a debtor in possession under any applicable foreign law.
- I. **Insured Person** means:
1. any natural person **General Partner**;
 2. any natural person director, trustee, **Manager**, officer or employee of an **Entity General Partner** while performing duties on behalf of the **Named Insured** or any **Additional Partnership**; and
 3. any natural person director, trustee, **Manager**, officer or employee of any **Subsidiary**.
- Provided that investors who are limited partners in the **Insured Organization**, but are not directors, trustees, officers, **Managers** or employees of the **Insured Organization**, are not **Insured Persons**. In the event of the death, incapacity or bankruptcy of an **Insured Person**, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**.
- J. **Investigation Expense** means reasonable and necessary fees, costs and expenses incurred by the **Insured Organization**, including its board of directors, board of managers or any duly constituted committee thereof, in connection with any investigation or evaluation by the **Insured Organization** of any **Security Holder Derivative Demand**.
- K. **Limited Partnership** means an entity having one or more general partners and one or more limited partners, or which otherwise qualifies as a limited partnership under Section 101 of the Limited Partnership Act of 2001, as amended.
- L. **Loss** means **Defense Expenses** and money which an **Insured** is legally obligated to pay as a result of a **Claim**, including settlements, judgments, back and front pay, compensatory damages, punitive or exemplary damages or the multiple portion of any multiplied damage award if insurable under the applicable law most favorable to the insurability of punitive, exemplary, or multiplied damages, prejudgment and postjudgment interest, and legal fees and expenses awarded pursuant to a court order or judgment. **Loss** does not include:
1. civil or criminal fines, sanctions, liquidated damages other than liquidated damages awarded under the Age Discrimination in Employment Act or the Equal Pay Act, payroll or other taxes, or damages, penalties or types of relief deemed uninsurable under applicable law; or
 2. any amount allocated to non-covered **Loss** pursuant to Section III. CONDITIONS. P. ALLOCATION of the Liability Coverage Terms and Conditions.
- M. **Manager** means any natural person who is a **General Partner** or a duly elected, appointed or selected director, officer, managing member, or member of the board of managers of any entity that meets the definition of **Insured Organization**, but only while acting in their capacity as a **Manager** of an entity **Insured** under this **Liability Policy** or while serving in an **Outside Position**.

- N. *Outside Entity*** means a corporation or organization:
1. other than the **Insured Organization**, which is exempt from federal income tax as an entity described in Section 501(c)(3), 501(c)(4), or 501(c)(10) of the Internal Revenue Code of 1986, as amended; or
 2. specifically scheduled as an **Outside Entity** by endorsement to this **Liability Policy**.
- O. *Outside Position*** means service by an **Insured Person** as a member of the board of directors, officer, member of the board of trustees, member of the board of managers, **Manager**, or a functional equivalent thereof with an **Outside Entity**, but only during such time that such service is with the knowledge, consent, and at the specific request of the **Insured Organization**.
- P. *Partnership*** means an association of two or more persons to carry on as co-owners of a business for profit, or an entity which otherwise qualifies as a partnership under Section 202 of the Uniform Partnership Act of 1997 (as amended), including any **Limited Partnership**.
- Q. *Security Holder Derivative Claim*** means any **Claim** brought on behalf of, or in the name or right of, the **Insured Organization** by one or more security holders or limited partners of any **Insured Organization**, other than a **General Partner** of such **Insured Organization**, in their capacity(ies) as such, but only if such **Claim** is brought and maintained without the assistance, participation or solicitation of any **General Partner**, director, officer, trustee or **Manager** of the **Insured Organization**, or a functional equivalent thereof.
- R. *Security Holder Derivative Demand*** means a written demand by one or more security holders or limited partners of any **Insured Organization**, other than a **General Partner** of such **Insured Organization**, in their capacity(ies) as such, to bring a civil proceeding in a court of law on behalf of, or in the name or right of, the **Insured Organization** against any **Insured Person** for a **Wrongful Act** by an **Insured Person**, but only if such demand is asserted without the assistance, participation or solicitation of any **General Partner**, director, officer, trustee or **Manager** of the **Insured Organization**, or a functional equivalent thereof.
- S. *Subsidiary*** means:
1. any corporation, **Partnership** or other entity organized under the laws of any jurisdiction in which, on or before the Inception Date set forth in ITEM 2 of the Declarations, the **Insured Organization** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to elect, appoint or exercise a majority control over such entity's board of directors, board of trustees, **Managers**, natural-person **General Partners** or functional equivalent;
 2. any non-profit entity over which, on or before the Inception Date set forth in ITEM 2 of the Declarations, the **Insured Organization** has the ability to exercise managerial control;
 3. any entity operated as a joint venture, in which, on or before the Inception Date set forth in ITEM 2 of the Declarations, the **Insured Organization** owns, directly or indirectly, exactly 50% of the issued and outstanding voting stock and whose management and operation the **Insured Organization** solely controls, pursuant to a written agreement with the owner(s) of the remaining issued and outstanding voting stock; or
 4. subject to the provisions set forth in Section III. CONDITIONS, L. ACQUISITIONS of the Liability Coverage Terms and Conditions, any entity that the **Insured Organization** acquires or forms during the **Policy Period** in which the **Insured Organization** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to elect, appoint or exercise a majority control over such entity's board of directors, board of trustees, **Managers**, natural-person **General Partners** or functional equivalent, or, in the case of any non-profit entity that does not issue securities, over which the **Insured Organization** has the ability to exercise managerial control.

T. Wrongful Act means:

1. any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty or neglect by, or any matter asserted against, an **Insured Person** acting in his or her insured capacity for or on behalf of the **Named Insured**, any **Additional Partnership** or any **Subsidiary**;
2. any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty or neglect by, or any matter asserted against, an **Insured Person** in his or her **Outside Position**;
3. any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty or neglect by, or any matter asserted against, an **Entity General Partner** acting in the capacity as a **General Partner** of the **Named Insured**, any **Additional Partnership** or any **Subsidiary**;
4. any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty or neglect by, or any matter asserted against, the **Named Insured**, any **Additional Partnership** or any **Subsidiary**;
5. any matter asserted against an **Insured Person** solely by reason of his or her status as such and while acting in his or her insured capacity for or on behalf of the **Named Insured**, any **Additional Partnership** or any **Subsidiary**.

All **Related Wrongful Acts** are a single **Wrongful Act** for purposes of this **Liability Coverage**, and all **Related Wrongful Acts** will be deemed to have occurred at the time the first of such **Related Wrongful Acts** occurred whether prior to or during the **Policy Period**.

IV. EXCLUSIONS

A. EXCLUSIONS APPLICABLE TO ALL LOSS

1. The Company will not be liable for **Loss** for any **Claim** for any damage to, destruction of, **Loss** of, or **Loss** of use of any tangible property including damage to, destruction of, **Loss** of, or **Loss** of use of tangible property that results from inadequate or insufficient protection from soil or ground water movement, soil subsidence, mold, toxic mold, spores, mildew, fungus, or wet or dry rot.
2. The Company will not be liable for **Loss** for any **Claim** for any bodily injury, sickness, disease, death, **Loss** of consortium, emotional distress, mental anguish, humiliation, **Loss** of reputation, libel, slander, oral or written publication of defamatory or disparaging material, or invasion of privacy; provided that this exclusion will not apply to:
 - a. any **Claim** for emotional distress, mental anguish, or humiliation with respect to any employment related **Wrongful Act**; or
 - b. any Security Holder Derivative Claim.
3. The **Company** will not be liable for **Loss** for any **Claim**:
 - a. based upon or arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any **Pollutant**;
 - b. based upon or arising out of any request, demand, order, or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, any **Pollutant**; or
 - c. brought by or on behalf of any governmental authority because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, any **Pollutant**,provided this exclusion does not apply to any **Security Holder Derivative Claim**.
4. The Company will not be liable for **Loss** for any **Claim** based upon or arising out of any fact, circumstance, situation, event, or **Wrongful Act** underlying or alleged in any prior or pending civil, criminal, administrative or regulatory proceeding, including audits initiated by the Office of Federal Contract Compliance Programs, against any **Insureds** as of or prior to the applicable

Prior and Pending Proceeding Date set forth in ITEM 5 of the Declarations for this **Liability Coverage**.

5. The Company will not be liable for **Loss** for any **Claim** for any fact, circumstance, situation, or event that is or reasonably would be regarded as the basis for a **Claim** about which any **Executive Officer** had knowledge prior to the applicable Continuity Date set forth in ITEM 5 of the Declarations for this **Liability Coverage**.
6. The Company will not be liable for **Loss** for any **Claim** based upon or arising out of, any fact, circumstance, situation, event, or **Wrongful Act** which, before the Inception Date set forth in ITEM 2 of the Declarations, was the subject of any notice of **Claim** or potential **Claim** given by or on behalf of any **Insured** under any policy of insurance of which this **Liability Coverage** is a direct renewal or replacement or which it succeeds in time.
7. The Company will not be liable for **Loss** for any **Claim** for any violation of responsibilities, duties or obligations under any law concerning Social Security, unemployment insurance, workers' compensation, disability insurance, or any similar or related federal, state or local law or regulation or for any violation of the Worker Adjustment and Retraining Notification Act (WARN), Occupational Safety and Health Act (OSHA), Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the National Labor Relations Act (NLRA), Fair Labor Standards Act (FLSA) (except the Equal Pay Act), or amendments thereto or regulations promulgated thereunder, or any similar or related federal, state or local law or regulation.
8. The Company will not be liable for **Loss** for any **Claim** for any violation of responsibilities, duties or obligations under the Employee Retirement Income Security Act of 1974 (ERISA), including amendments thereto and regulations promulgated thereunder, or any similar or related federal, state or local law or regulation; or for an **Insured's** failure or refusal to establish, contribute to, pay for, insure, maintain, provide benefits pursuant to, or enroll or maintain the enrollment of an employee or dependent in, any employee benefit plan, fund or program, including contracts or agreements which are not subject to the provisions of ERISA.
9. The Company will not be liable for **Loss** for any **Claim** by or on behalf of, or in the name or right of, any **Insured**; provided that this exclusion will not apply to:
 - a. any **Security Holder Derivative Claim** or any **Security Holder Derivative Demand**;
 - b. any **Claim** in the form of a cross-claim, third party claim or other claim for contribution or indemnity by an **Insured Person** and which is part of or results directly from a **Claim** which is not otherwise excluded by the terms of this **Liability Coverage**;
 - c. any **Claim** brought by a receiver, liquidator, bankruptcy trustee or similar official of the **Insured Organization**, other than an **Entity General Partner**;
 - d. any **Claim** brought or maintained by a natural person who was a member of the board of directors, officer, member of the board of trustees, **Manager**, or a functional equivalent thereof, but who has not served in such capacity for at least four years preceding the date the **Claim** is first made; and who brings and maintains the **Claim** without the solicitation, assistance or participation of any current member of the board of directors, officer, member of the board of trustees, **Manager**, or a functional equivalent thereof or anyone who has served in such capacity during the four year period immediately preceding the date the **Claim** is first made;
 - e. any **Claim** for an employment related **Wrongful Act** brought by an employee of any **Insured Organization**;
 - f. any **Claim** brought by an employee for a **Wrongful Act** in connection with an offer, purchase or sale of securities if:
 - i. the employee brings the **Claim** solely in his or her capacity as a security holder of the **Insured Organization** without the solicitation, assistance or participation of any current member of the board of directors, officer, member of the board of trustees, board of managers, or a functional equivalent thereof or anyone who has served in such capacity during the four year period immediately preceding the date the **Claim** is first made; and
 - ii. the employee is not a member of the board of directors, officer, member of the board of trustees, **Manager**, or a functional equivalent thereof and has not served in such capacity during the four year period immediately preceding the date the **Claim** is first made, or

- g. any **Claim** brought by an investor or limited partner of the **Insured Organization**, other than a **General Partner**, solely in his or her capacity as an investor or limited partner, without the solicitation, assistance or participation of any current member of the board of directors, board of trustees, officer, **Manager**, or functional equivalent thereof and has not served in such capacity during the four year period immediately preceding the date the **Claim** was first made.
10. The Company will not be liable for **Loss** for any **Claim** by or on behalf of, or in the name or right of, any **Outside Entity** against an **Insured Person** for a **Wrongful Act** in his or her **Outside Position** with respect to such **Outside Entity**; provided that this exclusion will not apply to any **Claim** brought derivatively by a shareholder of such **Outside Entity** in his or her capacity as such.
11. The Company will not be liable for **Loss** for any **Claim** based upon or arising out of:
- a. the public offer, sale, solicitation or distribution of securities issued by the **Insured Organization**; or
 - b. the violation of any federal, state, local or provincial statute relating to securities, including the Securities Act of 1933 and the Securities and Exchange Act of 1934, or any rules or regulations promulgated thereunder.

Provided that this exclusion will not apply to any offer, purchase or sale of securities, whether debt or equity, in a transaction that is exempt from registration under the Securities Act of 1933 (an "Exempt Transaction").

In addition, if at least 30 days prior to an offering of securities of the **Insured Organization**, other than pursuant to an Exempt Transaction, the Company receives notice of the proposed transaction and any additional information requested by the Company, the **Insured Organization** may request a proposal for coverage subject to any additional terms and conditions, and payment of any additional premium, described in such proposal.

12. The Company will not be liable for **Loss** for any **Claim** based upon or arising out of any **Wrongful Act** by an entity that is, or was a **Subsidiary**, or any **Insured Person** of such entity, occurring at any time during which such entity was not a **Subsidiary**.
13. The Company will not be liable for **Loss** for any **Claim**, with respect to Insuring Agreement C. only:
- a. for any plagiarism;
 - b. for any misappropriation, infringement or violation of copyright, patent, trademark, service mark, trade name, trade secret or any other intellectual property rights;
 - c. based upon or arising out of any malfunction of any product or failure of any product to perform in any manner as a result of any defect, deficiency, inadequacy or dangerous condition in such product or in its design or manufacture;
 - d. based upon or arising out of any employment related **Wrongful Act**; or
 - e. for any liability of the **Insured Organization** under any express contract or agreement, other than a partnership agreement of the **Named Insured** or any **Additional Partnership**. For the purposes of this exclusion, an express contract or agreement is an actual agreement among the contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making.

B. EXCLUSIONS APPLICABLE TO LOSS, OTHER THAN DEFENSE EXPENSES

1. The Company will not be liable for **Loss**, other than **Defense Expenses**, for any **Claim** based upon or arising out of any **Insured**:
- a. committing any intentionally dishonest or fraudulent act or omission;
 - b. committing any willful violation of any statute, rule or law; or
 - c. gaining any profit, remuneration or advantage to which such **Insured** was not legally entitled;

Provided that this exclusion will not apply unless a final adjudication establishes that such **Insured** committed such intentionally dishonest or fraudulent act or omission, or willful violation of any statute, rule or law, or gained such profit, remuneration or advantage to which such **Insured** was not legally entitled.

2. The Company will not be liable for **Loss**, other than **Defense Expenses**, for any **Claim** seeking costs and expenses incurred or to be incurred to comply with an order, judgment or award of

injunctive or other equitable relief of any kind, or that portion of a settlement encompassing injunctive or other equitable relief, including actual or anticipated costs and expenses associated with or arising from an **Insured's** obligation to provide reasonable accommodation under, or otherwise comply with, the Americans With Disabilities Act or the Rehabilitation Act of 1973, including amendments thereto and regulations thereunder, or any related or similar federal, state or local law or regulation.

V. SEVERABILITY OF EXCLUSIONS

No conduct of any **Insured Person** will be imputed to any other **Insured Person** to determine the application of any of the exclusions set forth in Section IV. EXCLUSIONS above. Solely with respect to exclusion B.1. set forth above, no conduct of any **Insured** will be imputed to any other **Insured** to determine if coverage is available.

VI. CONDITIONS

A. RETENTION

This Section VI. CONDITIONS A. RETENTION will supplement, and not replace, Section III. CONDITIONS B. RETENTION of the Liability Coverage Terms and Conditions.

No retention will apply to **Defense Expenses** resulting from any **Claim**, other than a **Claim** for an employment related **Wrongful Act**, and the Company will reimburse the **Insured Organization** for any such retention paid by the **Insured Organization** in connection with any such **Claim**, if:

1. with respect to such **Claim**, there is a final adjudication of no liability obtained prior to or during trial, in favor of all **Insureds**, by reason of a motion to dismiss or a motion for summary judgment or any similar motion or process, after exhaustion of all appeals, or a final judgment of no liability obtained after trial, in favor of all **Insureds**, after exhaustion of all appeals; or
2. such **Claim** is dismissed or there is a stipulation to dismiss such **Claim** with prejudice and without the payment of any monetary consideration by the **Insureds**.

In no event will a settlement of a **Claim** be considered a final adjudication of no liability for purposes of this subsection.

As a condition of any reimbursement of the retention as set forth above, the Company may require a written undertaking on terms and conditions satisfactory to the Company guaranteeing the repayment of such amounts in the event that such **Claim** is reinstated after payment by the Company.

B. SETTLEMENT

The Company may, with the written consent of the **Insured**, make such settlement or compromise of any **Claim** as the Company deems expedient. In the event that the Company recommends an offer of settlement (a "Settlement Offer") of any **Claim** which is acceptable to the claimant(s), and if the **Insured** will refuse to consent to such Settlement Offer, the **Insured** will be solely responsible for 30% of all **Defense Expenses** incurred or paid by the **Insured** after the date the **Insured** refused to consent to the Settlement Offer, and the **Insured** will also be responsible for 30% of all **Loss**, other than **Defense Expenses**, in excess of the Settlement Offer, provided that the Company's liability under this **Liability Coverage** for such **Claim** does not exceed the remaining applicable limit of liability.

C. PRESUMPTION OF INDEMNIFICATION

Regardless of whether **Loss** resulting from any **Claim** against **Insured Persons** is actually indemnified, Insuring Agreement B. and the Retention set forth in the Declarations will apply to any **Loss** as to which indemnification by the **Insured Organization** or any **Outside Entity** is legally permissible, whether or not actual indemnification is made, unless such indemnification is not made by the **Insured Organization** or such **Outside Entity** solely by reason of its **Financial Insolvency**.

The certificate of incorporation, charter, articles of association or other organizational documents of the **Insured Organization** and each **Outside Entity**, including by-laws and resolutions, will be deemed to have been adopted or amended to provide indemnification to the **Insured Persons** to the fullest extent permitted by law.

D. OTHER INSURANCE AND INDEMNIFICATION

This **Liability Coverage** will apply only as excess insurance over, and will not contribute with: (1) any other valid and collectible insurance available to any **Insured**, including any insurance under which there is a duty to defend, unless such insurance is written specifically excess of this **Liability Coverage** by reference in such other policy to the Policy Number of this **Liability Policy**; or (2) indemnification to which an **Insured Person** is entitled from any **Outside Entity** other than the **Insured Organization**. This **Liability Coverage** will not be subject to the terms of any other insurance.

E. OUTSIDE POSITIONS – LIMIT OF LIABILITY

If any **Claim** against the **Insureds** gives rise to an obligation both under this **Liability Coverage** and under any other coverage or policy of insurance issued by the Company or any of its affiliates to any **Outside Entity**, the Company's maximum aggregate limit of liability under all such policies for all **Loss**, including **Defense Expenses**, for such **Claim** will not exceed the largest single available limit of liability under any such coverage.

F. ORDER OF PAYMENTS

If **Loss**, other than **Defense Expenses**, from any **Claim** exceeds the remaining applicable limit of liability as set forth in ITEM 5 of the Declarations:

1. the Company will first pay **Loss** for such **Claim** to which Insuring Agreement A. applies; then
2. to the extent that any amount of the applicable limit of liability will remain available, the Company will pay **Loss** for such **Claim** to which Insuring Agreements B. and C. apply.

Upon written request of the **Insured Organization** by and through any **Executive Officer**, the Company will either pay or withhold payment of **Loss** from such **Claim** under Insuring Agreements B. and C., as applicable. In the event of a written request to withhold payment, the Company will make any future payment only for **Loss** from any such **Claim** to which Insuring Agreement A. applies, unless otherwise so instructed upon written request by and through an **Executive Officer** of the **Insured Organization**.

G. CHANGE OF CONTROL

This Section VI. CONDITIONS G. CHANGE OF CONTROL will supplement, and not replace, Section III. CONDITIONS K. CHANGE OF CONTROL of the Liability Coverage Terms and Conditions.

If, at any time during the **Policy Period**, the **Insured Organization** eliminates or reduces its ownership interest in, or control over an **Additional Partnership**, such that it no longer meets the definition of an **Additional Partnership**, or if a **General Partner** of an **Additional Partnership** withdraws, resigns, is terminated, dies, or is declared incompetent, coverage will continue for such entity but only with regard to **Claims** for **Wrongful Acts** that occurred wholly during the time that such entity as an **Additional Partnership**.