

beazley

Boardroom Protect 2023



Find out more about
the story of Beazley
and how it all started
with a hatstand

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Beazley Claims Service

Delivering great claims service is one of Beazley's top priorities. Our Claims Service Standards highlight what our stakeholders can expect when working with our Claims Team – expertise, responsiveness, partnership, fairness, and accountability. Please visit www.beazley.com to read more about our Claims Service Standards under Our Approach to Claims.

Insurance Company, Notification and Complaints Information

Thank you for choosing to insure with us. Please read your policy documentation carefully to ensure that the cover meets your requirements. If anything is not correct, please contact your insurance agent or broker as soon as possible.

A. Insurance Company

Syndicate 2623/623 at Lloyd's

B. Notification – Where to notify a matter or a fact or circumstance which could reasonably give rise to a matter

Beazley Group
Attn: Claims Group
30 Batterson Park Road
Farmington, CT 06032
claims@beazley.com

C. Complaints Information – How to make a complaint

Every effort is made to ensure that a high standard of service is provided. However, if the **insureds** are not satisfied with the service they have received or they have any questions or concerns about this Policy, the **insureds** should contact the following to get information or to file a complaint:

Beazley USA Services, Inc. (on behalf of one or more Beazley Group insurers)

Online: www.beazley.com
Email: us.complaints@beazley.com
Mail: 30 Batterson Park Road
Farmington, CT 06032

All correspondence should be addressed to Beazley Complaints.

Declarations

NOTICE: THIS POLICY IS A CLAIMS MADE AND REPORTED POLICY AND APPLIES ONLY TO:

- (A) CLAIMS FIRST MADE, INVESTIGATIONS FIRST COMMENCED, SECURITY HOLDER DEMANDS FIRST MADE AND BOOKS AND RECORDS DEMANDS FIRST RECEIVED DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURANCE COMPANY IN ACCORDANCE WITH THE TERMS OF THIS POLICY; AND**
- (B) INQUIRIES FIRST REPORTED IN WRITING TO THE INSURANCE COMPANY IN ACCORDANCE WITH THE TERMS OF THIS POLICY.**

AMOUNTS INCURRED AS DEFENSE COSTS WILL REDUCE AND MAY EXHAUST THE LIMIT OF LIABILITY AND ARE SUBJECT TO THE RETENTIONS. PLEASE REVIEW THE COVERAGE PROVIDED UNDER THIS POLICY CAREFULLY AND DISCUSS WITH YOUR INSURANCE AGENT OR BROKER.

These Declarations along with the **application**, and the Policy with endorsements shall constitute the contract between the **insureds** and the **insurance company**.

Policy Number:

Named Insured:

Name:

Address:

Policy Period:

From:

To:

Both days 12.01 a.m. Local Time at the Address specified above

Limit of Liability:

USD

in the aggregate during the **policy period** for all **loss**

Other than where Sub-Limited below:

USD 250,000

in the aggregate during the **policy period** for all **mitigation costs**

USD 250,000

in the aggregate during the **policy period** for all **security holder demand costs** and **books and records costs**

USD 50,000

for **foreign accommodation costs** for each **insured person** and all of his or her **relatives**, and for **foreign accommodation costs** in the aggregate during the **policy period** for all **insured persons** and all of his or her **relatives**

USD 250,000

USD 500,000

in the aggregate during the **policy period** for all **personal asset costs**

	USD 500,000	in the aggregate during the policy period for all personal reputation costs
Excess Limit of Liability:	USD 250,000	in the aggregate during the policy period for all non-indemnifiable loss solely for claims made against or investigations of or inquiries reported by or on behalf of any independent directors
Retentions:	USD	each and every matter
		No Retention applies to non-indemnifiable loss, security holder demands or books and records demands
Optional Extension Period:	12 months	Additional premium of XXX% of the annual premium plus applicable taxes
Run-Off Period:	72 months	Additional premium of XXX% of the annual premium plus applicable taxes (less any unearned premium calculated at pro rata for the period from the date of change of control)
Premium:	USD	(annual) plus applicable taxes
Prior and Pending Date:		
Notification of Matters or Circumstances:	Beazley Group Attn: Claims Group 30 Batterson Park Road Farmington, CT 06032 claims@beazley.com	
Other Notices:	Beazley Group 30 Batterson Park Road Farmington, CT 06032	
Service of Suit:	Service of process in any suit shall be made upon: Lloyd's America, Inc. Attn: Legal Department 280 Park Avenue East Tower, 25th Floor New York, NY 10017	

Governing Law:

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- (B) INQUIRIES FIRST REPORTED IN WRITING TO THE INSURANCE COMPANY IN ACCORDANCE WITH THE TERMS OF THIS POLICY.**

AMOUNTS INCURRED AS DEFENSE COSTS WILL REDUCE AND MAY EXHAUST THE LIMIT OF LIABILITY AND ARE SUBJECT TO THE RETENTIONS. PLEASE REVIEW THE COVERAGE PROVIDED UNDER THIS POLICY CAREFULLY AND DISCUSS WITH YOUR INSURANCE AGENT OR BROKER.

The **insurance company** agrees with the **named insured** in consideration of the payment of, or agreement to pay, the premium and subject to all the provisions of this Policy:

Coverages

Insured Persons Liability

To pay:

- (a) **loss** resulting from:
 - i. any **claim** first made against any **insured person** during the **policy period** for a **wrongful act**, or
 - ii. any **investigation** of any **insured person** first commenced during the **policy period**; or
- (b) **inquiry costs** resulting from any **inquiry** first reported to the **insurance company** during the **policy period**,

except where the **insured organization** has advanced, paid or indemnified the **insured persons** for such **loss** or **inquiry costs**.

Insured Organization Reimbursement

To pay on behalf of the **insured organization**:

- (a) **loss** which the **insured organization** has advanced, paid or indemnified the **insured persons** resulting from:
 - i. any **claim** first made against any **insured person** during the **policy period** for a **wrongful act**, or
 - ii. any **investigation** of any **insured person** first commenced during the **policy period**; or
- (b) **inquiry costs** which the **insured organization** has advanced, paid or indemnified the **insured persons** resulting from any **inquiry** first reported to the **insurance company** during the **policy period**.

Insured Organization Liability

To pay:

- (a) **loss** resulting from any **securities claim** first made against the **insured organization** during the **policy period** for a **wrongful act**;
- (b) **defense costs** incurred by the **insured organization** in seeking the dismissal of any **derivative suit** first made during the **policy period**, but only to the extent the **insured organization** is named as a nominal defendant in such **derivative suit**;
- (c) plaintiff attorney fees and expenses payable by the **insured organization** which are awarded or approved by the court in a **derivative suit** first made during the **policy period**;
- (d) **security holder demand costs** resulting from any **security holder demand** first made during the **policy period**; or
- (e) **books and records costs** resulting from any **books and records demand** first received by the **insured organization** during the **policy period**.

Additional Coverages

Failure or refusal by the Insured Organization to advance, pay or indemnify

To pay **loss** on behalf of the **insured persons** within the Retention but only to the extent the **insured organization**:

- (a) refuses to advance, pay or indemnify such **loss** on behalf of such **insured persons** for any reason; or
- (b) fails to advance, pay or indemnify such **loss** on behalf of such **insured persons** for any reason within 45 days after a specific written request is made by or on behalf of such **insured persons**.

The **insured persons** will provide the **insurance company** with written and itemized documentation of such **loss** by means of invoices or otherwise.

Any payments of **loss** by the **insurance company** within the Retention will serve to reduce the Limit of Liability under this Policy.

In such event, the **insurance company** will be entitled to obtain reimbursement from the **insured organization** for all payments made by the **insurance company** that would not have been made had the indemnification within the Retention been provided by the **insured organization**, unless the **insured organization** is unable to indemnify by reason of its insolvency.

Mitigation Costs

To pay **mitigation costs**.

As a condition to coverage under this Policy for **mitigation costs**:

- (a) the **insured persons** will demonstrate, to the reasonable satisfaction of the **insurance company**, that the incurring of such **mitigation costs** is reasonably likely to prevent the fact or circumstance from resulting in a **matter**;
- (b) any action taken by the **insured persons** must be done with the prior written consent of the **insurance company**;

- (c) the liability of the **insurance company** for **mitigation costs** will in no event exceed the amount of **loss** they would have paid if a **matter** were to be pursued against the **insured persons**; and
- (d) the **insured persons** must establish that such **matter** would be covered under this Policy.

Excess Limit of Liability for independent directors for loss that is non-indemnifiable loss

Upon exhaustion of the Limit of Liability specified in the Declarations and the limits of liability of all policies of insurance providing excess coverage above this Policy, to pay **non-indemnifiable loss** up to the Excess Limit of Liability specified in the Declarations.

The Excess Limit of Liability specified in the Declarations is a separate additional excess aggregate limit to the Limit of Liability specified in the Declarations and will only apply to **claims** against, **investigations** of and **inquiries** reported by or on behalf of the **independent directors** under the Insured Persons Liability Coverage.

Exclusions from Cover

The **insurance company** will not be liable for any **loss** in connection with or resulting from that portion of any **matter**:

Criminal and Fraudulent Acts and Omissions, Personal Profit and Return of Remuneration

- (a) for any deliberately criminal or deliberately fraudulent act or omission committed by any **insured**;
- (b) for any personal profit or financial advantage gained by any **insured person** to which they were not legally entitled; or
- (c) for the return by any **insured person** of any remuneration paid to them without the previous approval of the appropriate governing body of the **insured organization**, which payment without such previous approval shall be determined to be in violation of the law,

as determined by a final non-appealable adjudication in the underlying action.

This Exclusion will not apply to **defense costs**, **inquiry costs** or any **independent director**.

With respect to part (a) of this Exclusion, for acts or omissions which are treated as a criminal violation in a jurisdiction outside the United States of America that are not treated as a criminal violation in the United States of America, the imposition of a criminal fine or other criminal sanction in such jurisdiction will not, by itself, be conclusive proof that a deliberately criminal or deliberately fraudulent act or omission occurred.

Parts (b) and (c) of this Exclusion will not apply to:

- (i) that portion of any **securities claim** alleging violations of Section 11 or 12 of the Securities Act of 1933 as amended including without limitation **loss** of any **insured person** deemed to be a controlling person within the meaning of Section 15 of the Securities Act of 1933, or any similar securities laws or common laws or regulations of any foreign jurisdiction, as amended; or
- (ii) **facilitation costs** incurred in connection with that portion of any **claim** alleging violations of Section 304(a) of the Sarbanes-Oxley Act of 2002, Section 954 of the Dodd-Frank Wall Street

Reform and Consumer Protection Act of 2010, the U.S. Federal Food, Drug, and Cosmetic Act 21 U.S.C. Section 301, et seq. or any internal policy of the **insured organization** promulgated in accordance therewith.

Prior and Pending

arising out of, based upon, attributable to or in any way involving any litigation, investigation, arbitration, administrative, or other proceeding which was alleged or brought against any of the **insureds** prior to the **prior and pending date**, or any **wrongful act** or fact or circumstance underlying or alleged therein.

Prior Notice

arising out of, based upon, attributable to or in any way involving:

- (a) any **wrongful act**, fact, circumstance, situation, event or transaction of which notice has been provided and accepted under any prior policy of which this Policy is a renewal or replacement, or
- (b) any **wrongful act** which is considered **related wrongful acts** of which notice of the earlier **wrongful act** has been provided and accepted under any prior policy of which this Policy is a renewal or replacement.

For the purpose of determining the applicability of any of the Exclusions, the knowledge of, **wrongful act** of, or facts pertaining to any of the **insureds** will not be imputed to any other **insured person**.

However:

- (a) the **wrongful act** of any **insured person** shall be imputed to the **insured organization** to the extent that the **insured organization** indemnifies such **insured person**, and
- (b) the **wrongful act** of any **insured person** who at the time of the **wrongful act** was the chief executive officer or chief financial officer of the **named insured** will be imputed to the **insured organization**.

Limit of Liability

The Limit of Liability specified in the Declarations is the maximum amount payable by the **insurance company** for all **loss** under this Policy in respect of all **matters** under this Policy.

Any **loss** paid by the **insurance company** under this Policy will reduce the Limit of Liability.

Where any Sub-Limit of Liability is specified in this Policy or the Declarations, the **insurance company** will have no liability in excess of such Sub-Limit of Liability. Any Sub-Limit of Liability will be part of, and not in addition to, the Limit of Liability.

The **insurance company** will not be obligated to pay any **loss** after the Limit of Liability has been exhausted or after deposit of the Limit of Liability in a court of competent jurisdiction.

Retention

The Retention is specified in the Declarations and the **insurance company** will be liable only for **loss** in excess of that amount.

The Retention will be satisfied by monetary payments of **loss** by or on behalf of the **insureds**. However, if and to the extent any **loss** which is within any applicable Retention under this Policy is paid on behalf of the **insured persons** by any other insurer pursuant to the terms and conditions of any Excess Difference in Conditions Side A policy which is specifically excess of this Policy, then the applicable Retention under this Policy will be eroded by the amount of such payment.

If a **matter** is subject to different Retentions, the applicable Retentions will be applied separately to each part of such **matter**, but the sum of such Retentions will not exceed the largest applicable Retention.

No Retention will apply to **non-indemnifiable loss, security holder demands or books and records demands**.

Claim Requirements and Information

Notification of Claims

As a condition to coverage under this Policy, the **insureds** must give notice to the **insurance company** of any **claim** as soon as practicable after any **responsible person** first becomes aware of such **claim**, and in any event, no event later than:

- (a) 60 days after the end of the **policy period**, or
- (b) in the event this Policy is renewed with the **insurance company**, 180 days after the end of the **policy period**.

In the event that the **insureds**:

- i. should have notified the **insurance company** of a **claim** but were unable to do so due to being prohibited from disclosing information by a **regulatory authority** or pursuant to the terms of a confidentiality agreement, then “as soon as practicable” shall mean as soon as the **insureds** are permitted to disclose the information by the **regulatory authority** or pursuant to the terms of the confidentiality agreement; or
- ii. fail to provide notice of a **claim** in accordance with the foregoing, the **insurance company** will not be entitled to deny coverage for the **claim** based upon late notice, unless the **insurance company** can establish that their interests were materially prejudiced by reason of such late notice.

Notification of Investigations

If the **insureds** elect to seek coverage under this Policy for an **investigation**, the **insureds** shall give notice to the **insurance company** of such **investigation** but no later than:

- (a) 60 days after the end of the **policy period**, or
- (b) in the event this Policy is renewed with the **insurance company**, 180 days after the end of the **policy period**.

Notification of Inquiries

If the **insureds** elect to seek coverage under this Policy for an **inquiry**, the **insureds** shall give notice to the **insurance company** of such **inquiry** but no later than:

- (a) the end of the **policy period**, or
- (b) in the event this Policy is non-renewed with the **insurance company**, 60 days after the end of the **policy period**.

Notification of Security Holder Demands and Books and Records Demands

If the **insured organization** elects to seek coverage under this Policy for a **security holder demand** or a **books and records demand**, the **insured organization** shall give notice to the **insurance company** of such **security holder demand** or **books and records demand** but no event later than:

- (a) 60 days after the end of the **policy period**, or
- (b) in the event this Policy is renewed with the **insurance company**, 180 days after the end of the **policy period**.

Notification of Circumstances

The **insureds** may during the **policy period** notify the **insurance company** of any fact or circumstance (including any request to toll, extend or waive a period or statute of limitation or a contractual timebar) which could reasonably give rise to a **matter**.

Any notice must include:

- (a) the reasons why the **insureds** reasonably anticipate that such fact or circumstance could give rise to a **matter**, and
- (b) full particulars of the dates, acts and persons involved (where available).

If a **matter** is made, commenced, reported or received after the end of the **policy period** and arises from a fact or circumstance reported in accordance with this provision, then such **matter** will be deemed to have been made, commenced, reported or received at the same time as the fact or circumstance was reported to the **insurance company**.

Related Matters

All **related matters**:

- (a) are deemed a single **matter** for purposes of this Policy, irrespective of the number of claimants or **insureds** involved in the **matter**, and
- (b) are deemed to have been made at the earliest of the following dates:
 - (i) the date that a **claim**, that is part of the single **matter**, was first made; or
 - (ii) the date that an **investigation**, that is part of the single **matter**, was first commenced provided such **investigation** was reported under the Policy in effect at the date the **investigation** was first commenced; or
 - (iii) the date that an **inquiry**, that is part of the single **matter**, was first reported under this Policy or any prior policy of which this Policy is a renewal or replacement; or
 - (iv) the date that a **security holder demand**, that is part of the single **matter**, was first made provided such **security holder demand** was reported under the Policy in effect at the date the **security holder demand** was first made; or
 - (v) the date that a **books and records demand**, that is part of the single **matter**, was first received provided such **books and records demand** was reported under the Policy in effect at the date the **books and records demand** was first received

regardless of whether such date is before, during, or after the **policy period**, and

- (c) will be treated by the **insurance company** as having been reported when the first such **matter** was reported or is deemed to have been reported to the **insurance company**, and
- (d) will be subject to a single Retention.

Notice to the Insurance Company

All notices to the **insurance company** must be sent either by e-mail or mail to the address specified in the Declarations.

Defense and Settlement

- (a) Duties

It is the duty of the **insureds** and not the duty of the **insurance company** to defend **claims**, **investigations** or **inquiries**, including the investigation, review and evaluation of any **security holder demand** or to respond to any **books and records demand**. The **insurance company** will be entitled to participate fully in the defense of any **matter**, including settlement negotiations or contribution or indemnification proceedings, where it is reasonably likely to involve the **insurance company** making any payment under this Policy.

- (b) Selection of defense counsel and consent to **policy costs**

The **insureds** may appoint defense counsel and incur **defense costs** and **inquiry costs** during a period of 14 days of defense counsel being appointed, provided that the **insurance company's** consent is sought no later than 14 days after the date the first **defense costs** or **inquiry costs** are incurred. Otherwise, no **defense costs** or **inquiry costs** shall be incurred without the **insurance company's** consent, and the **insurance company** will not be obligated to pay any such **defense costs** or **inquiry costs** without its consent.

The **insurance company** will not be obligated to pay **facilitation costs**, **mitigation costs**, **security holder demand costs**, **books and records costs**, **personal asset costs** or **personal reputation costs** unless it has given consent to such costs being incurred.

- (c) Advancement of **policy costs**

The **insurance company** will advance or pay **policy costs** on a current basis but no less than once every 60 days.

- (d) Consent to settlement of **matters**

The **insureds** will not admit liability, make any payment, assume any obligation, make any offer to settle or agree to any settlement, stipulate to any judgment or dispose of any **matter** without the consent of the **insurance company**. However, the **insurance company's** consent will not be required for a settlement which fully resolves the **claim** where such settlement is for an amount within the applicable Retention (inclusive of **policy costs**), provided the **insureds** shall give the **insurance company** as soon as practicable details of the settlement amounts and the date the settlement becomes final.

Assistance and Cooperation

If any **matter** or fact or circumstance is reported by the **insureds** under this Policy, the **insureds** will give all information and assistance to the **insurance company** as it may need to investigate such **matter**, fact or circumstance. The **insureds** will cooperate with the **insurance company** when responding to such **matter**, fact or circumstance. The **insureds** agree not to knowingly take any action which in any way increases the **insurance company's** exposure under this Policy.

In respect of the Insured Persons Liability Coverage, the failure of any one **insured** to give the **insurance company** the information and assistance that it may need will not impair the rights of any other **insured person** under this Policy. In respect of Insured Organization Reimbursement Coverage, the failure of any **insured person** to give the **insurance company** the information and assistance that they may need will not impair the rights of the **insured organization** under this Policy with respect to any indemnification provided to any other **insured person**.

Any costs to provide such information or assistance to the **insurance company** will be at the **insureds** own cost, except where such costs constitute **defense costs**.

Allocation

Where a **matter** involves both parties covered and not covered and/or allegations covered and not covered by this Policy, then the **insureds** and the **insurance company** agree to use their best efforts to reach a fair and proper allocation of covered **loss** and uncovered loss. The **insureds** and the **insurance company** agree that in determining a fair and proper allocation of covered **loss**, they will take into account the relative legal and financial exposures of, and relative benefits obtained in connection with, the defense and/or settlement of the **matter** by the **insureds** and others, and as between the covered and non-covered portions of the **matter**.

In the event that an allocation cannot be agreed upon by **insureds** and the **insurance company**, then:

- (a) the **insurance company** will advance the amount of **policy costs** which they deem fair and proper until a different amount is negotiated by the **insureds** and the **insurance company**, determined pursuant to the arbitration process set forth in subparagraph (b) below, or determined judicially;
- (b) the **insurance company**, solely if requested by the **insureds**, will submit the dispute to binding arbitration. The rules of the American Arbitration Association will apply except with respect to the selection of the arbitration panel, which shall consist of one arbitrator selected by the **insureds**, one arbitrator selected by the **insurance company**, and a third independent arbitrator selected by the first two arbitrators.

Any negotiated, arbitrated or judicially determined allocation of **policy costs** on account of a **matter** will be applied retroactively to all **policy costs** on account of such **matter**, notwithstanding any prior advancement to the contrary. Any allocation or advancement of **policy costs** on account of a **matter** will not apply to or create any presumption with respect to the allocation of other **loss** on account of such **matter**.

Other Insurance

The insurance under this Policy will apply in excess of any other valid and collectible Directors and Officers Liability, Employment Practices Liability, General Liability, Pollution Liability or Fiduciary Liability insurance available to any **insured**, including any self-insured retention or deductible of such insurance. This provision will not apply where such other collectible Directors and Officers Liability insurance is written only as specific excess insurance over this Policy. However, the insurance under this Policy will apply as primary to any personal directorship liability insurance of any **insured person** or any Directors and Officers Liability insurance issued to any security holder of the **insured organization**.

In the event a **claim** is made against, or there is an **investigation** of, the **insured persons** while acting in an **outside position**, the insurance under this Policy is excess of:

- (a) any indemnification available to such **insured person** from the **outside entity**; and

- (b) all other valid and collectible insurance available to the **insured persons** from the **outside entity** and its insurers.

Subrogation and Recoveries

If any payment is made under this Policy, the **insureds** will transfer its rights of recovery against any third party to the **insurance company**. The **insureds** will do whatever is reasonably necessary to secure and preserve such rights after a **matter** is first made or commenced against or reported or received by them or the date they become aware of a fact or circumstance which could reasonably give rise to a **matter**.

The **insurance company** agrees to waive their rights of recovery against any **insured person**.

Any amounts recovered will be applied in the following order:

- (a) to reimburse costs incurred by or on behalf of the **insurance company** in bringing proceedings against such other party;
- (b) then to the **insureds** for the amount of any **loss** which exceeds the Limit of Liability;
- (c) then to the **insurance company** up to the amount of the **loss** paid by the **insurance company** and the Limit of Liability will be reinstated for such amounts; and
- (d) then to the **insureds** to reimburse the Retention.

Action against the Insurance Company

No action will lie against the **insurance company** unless and until the **insureds** have fully complied with all the terms of this Policy.

No person or organization will have the right under this Policy to join the **insurance company** as a party to an action against the **insureds** to determine the **insureds** liability or implead the **insurance company** in any such action.

General Conditions

Change of Control or Subsidiary Acquired by or Merged or Combined with Another Entity

In the event during the **policy period**:

- (a) there is a **change of control**, or
- (b) a **subsidiary** is acquired by, merged into or combines with another entity, such that the **subsidiary** is not the surviving entity,

this Policy will not apply to that part of any **matter** which arises from a **wrongful act** that was committed or any conduct that was undertaken after such **change of control** or acquisition, merger or business combination.

The **named insured** will, as soon as practicable, give the **insurance company** written notice of a **change of control**.

Mergers and Acquisitions

- (a) In the event the **named insured**:
 - i. merges or combines with another entity such that the **named insured** is the surviving entity, or

- ii. acquires another entity

whose assets do not exceed 25% of the total consolidated assets of the **insured organization** specified in their most recent audited financial statement, then such merged, combined or acquired entity will be considered part of the **insured organization**, and this Policy will apply, from the date of such business combination or acquisition, for any **matter** involving such entity; or

- (b) In the event the **named insured**:

- i. merges or combines with another entity such that the **named insured** is the surviving entity, or
- ii. acquires another entity

whose assets exceeds the percentage threshold in (a) above, then this Policy will only apply for a period of 90 days, from the date of such merger, business combination or acquisition, for any **matter** in any way involving such merged, combined or acquired entity.

After 90 days, coverage will only be available under this Policy if:

- (a) the **named insured** provides the **insurance company** with information in connection with such merger, combination or acquisition as the **insurance company** requires; and
 - (b) the **named insured** accepts any special terms, conditions, exclusions or additional premium charge as may be required by the **insurance company**.
- (c) Coverage for such entity specified in (a) or (b) above, will only apply to that part of any **matter** for any **wrongful act** committed or any conduct undertaken after the date of such merger, combination or acquisition.

Order of Payments

The **insurance company** will pay **loss** in the order in which **loss** is incurred, except that if **loss** is payable under the Insured Persons Liability Coverage and one or more of the other Coverage Sections contemporaneously, **loss** will be paid in the following order:

- (a) first, under the Insured Persons Liability or Mitigation Costs Coverages, provided however that such **loss** is allocable to any **wrongful act** committed or any conduct undertaken prior to the **insured organization** becoming a debtor in possession under the United States bankruptcy law or similar legal status under foreign law; and
- (b) second, under the Insured Persons Liability or Mitigation Costs Coverages where such **loss** is allocable to any **wrongful act** committed or any conduct undertaken on or after the **insured organization** became a debtor in possession under the United States bankruptcy law or similar legal status under foreign law; and
- (c) third, at the written request of the chief executive officer of the **named insured**, the **insurance company** will either pay or withhold **loss** payable under the Insured Organization Reimbursement Coverage; and
- (d) lastly, at the written request of the chief executive officer of the **named Insured**, the **insurance company** will either pay or withhold **loss** payable under the Insured Organization Liability Coverage.

In the event the **insurance company** withholds payment pursuant to sub-paragraphs (c) and (d) above, then the **insurance company** will, at such time and in such manner as shall be set forth in the instructions of the chief executive officer of the **named insured**, remit such payment to the **insured organization** or directly to or on behalf of the **insured persons**.

The **insurance company** will have no obligation to pay **loss** after exhaustion of the Limit of Liability, regardless of whether the **named insured** has withheld payment.

Optional Extension Period

If this Policy is not renewed or replaced, the **named insured** will be entitled to purchase an **optional extension period**.

The **optional extension period** will only be available if:

- (a) the **named insured** gives written notice to the **insurance company** of its intent to purchase the **optional extension period** within 30 days after the end of the **policy period**; and
- (b) the **named insured** pays the additional premium specified in the Declarations to the **insurance company** within 30 days after the end of the **policy period**.

The **optional extension period** will only apply to that part of any **matter** for any **wrongful act** committed or conduct undertaken before the end of the **policy period**.

The **optional extension period** cannot be cancelled, and the premium is deemed fully earned at the inception date of such **optional extension period**.

The **optional extension period** will not increase the Limit of Liability. Any payments with respect to **matters** made, commenced, reported or received during the **optional extension period** will be part of the Limit of Liability.

The **optional extension period** will not apply in the event the **run-off period** is purchased.

Run-Off Period

If the event of a **change of control** during the **policy period**, the **named insured** will be entitled to purchase a **run-off period**.

The **run-off period** will only be available if:

- (a) the **named insured** gives written notice to the **insurance company** of its intent to purchase the **run-off period** within 30 days after the date of such **change of control**; and
- (b) the **named insured** pays the additional premium specified in the Declarations to the **insurance company** within 30 days after the date of such **change of control**.

The **run-off period** will only apply to that part of any **matter** for any **wrongful act** committed or conduct undertaken before the date of such **change of control**.

The **run-off period** cannot be cancelled, and the premium is deemed fully earned at the inception date of such **predetermined run-off period**.

The **run-off period** will not increase the Limit of Liability. Any payments with respect to **matters** made, commenced, reported or received during the **run-off period** will be part of the Limit of Liability.

The **run-off period** will not apply in the event the **optional extension period** is purchased.

Retired and Resigned Insured Persons Extension Period

If this Policy is not renewed or replaced, any **insured person** who has retired or resigned prior to or during the **policy period** will be entitled to an automatic **retired and resigned insured persons extension period**.

The **retired and resigned insured persons extension period** will only apply to that part of any **matter** for any **wrongful act** committed or conduct undertaken before the end of the **policy period**.

The **retired and resigned insured persons extension period** will not increase the Limit of Liability. Any payments with respect to **matters** made, commenced, reported or received during the **retired and resigned insured persons extension period** will be part of the Limit of Liability.

The **retired and resigned insured persons extension period** will not apply in the event the **named insured** has purchased other insurance to replace, in whole or in part, the insurance provided under this Policy.

Insolvency Extension Period

In the event a liquidation or reorganization proceeding is commenced by or against the **named insured** during the **policy period**, the **named insured** may request an extension of the coverage granted by this Policy, for a period of up to 72 months, with respect to any **wrongful act** committed or conduct undertaken before the date of such liquidation or reorganization proceeding.

Such extension of coverage will only be available if:

- (a) the **named insured** provides the **insurance company** with information in connection with such liquidation or reorganization proceeding as the **insurance company** requires; and
- (b) the **named insured** accepts any special terms, conditions, exclusions or additional premium charge as may be required by the **insurance company**.

Cancellation

- (a) By the **named insured**

The **named insured** may cancel this Policy by giving the **insurance company** written notice stating when thereafter the cancellation will be effective. In such event the **insurance company** will give the **named insured** the customary short rate refund of the premium for the remaining portion of the **policy period**.

- (b) By the **insurance company**

The **insurance company** will have the right to cancel this Policy only for non-payment of premium by providing in writing 30 days notice of cancellation to the **named insured**. If the premium is paid in full to the **insurance company** before the 30 day notice period expires, notice of cancellation will automatically be revoked. In the event of cancellation, the **insurance company** will be entitled to the pro-rata portion of the premium. If the foregoing notice provision is in conflict with any governing law or regulation, then such provision will be amended to afford the minimum requirements permitted thereunder.

Authorization

The **named insured** will be considered the agent of all the **insureds**. This means that the **named insured**:

- (a) will act on behalf of all the **insureds** with respect to the giving of or receipt of all notices pertaining to this Policy, and
- (b) will accept any endorsements to this Policy, and
- (c) will be responsible for the payment of all premiums and Retentions and for receiving any refunds of premium.

Assignment

The **insureds** cannot assign this Policy or any right under it without the prior written consent of the **insurance company**.

Headings

The titles of provisions or endorsements in this Policy are intended solely for convenience and reference. They are not deemed in any way to limit, expand, or otherwise affect the provisions to which they relate.

Single form of a Word

Whenever the singular form of a word is used in this Policy, the same word will include the plural when required by context.

Governing Law

This Policy will be governed by and construed in accordance with the laws of the state designated in the Declarations.

Service of Suit

It is agreed that in the event of the failure of the **insurance company** to pay any amount claimed to be due under this Policy, the **insurance company**, at the request of the **insureds**, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this General Condition constitutes or should be understood to constitute a waiver of the **insurance company's** rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon the **insurance company's** representative, specified in the Declarations, and that in any suit instituted against any one of them upon this contract, the **insurance company** will abide by the final decision of such court or of any appellate court in the event of an appeal.

The **insurance company's** representative specified in the Declarations is authorized and directed to accept service of process on behalf of the **insurance company** in any such suit and/or upon the request of the **insureds** to give a written undertaking to the **insureds** that they will enter a general appearance upon the **insurance company's** behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, the **insurance company** hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the **insureds** or any beneficiary hereunder arising out of this Policy, and hereby designates the **insurance company's** representative, specified in the Declarations, as the person to whom the said officer is authorized to mail such process or a true copy thereof.

Entire Agreement

By acceptance of the Policy, the **insureds** agree that this Policy embodies all agreements between the **insurance company** and the **insureds** relating to this Policy. No change or modification to this Policy will be effective unless made by endorsement issued by the **insurance company**.

Representation by the Insureds

The **insureds** represent that the statements contained in the **application** are true, accurate and are not misleading. The **insureds** also agree that the **insurance company** issued this Policy and assumes the risks hereunder, in reliance upon the truth of such statements.

The **application** will be construed as a separate application for coverage by each **insured person** and no knowledge possessed by any **insured person** or the **insured organization** will be imputed to any other **insured person**.

In the event that the **application** contains misrepresentations made with the actual intent to deceive, or contains misrepresentations which materially affect either the acceptance of the risk or the hazard assumed by the **insurance company** under this Policy, the **insurance company** may only seek to void coverage, *ab initio*, under the following Coverages with respect to **matters** arising from such misrepresentations:

- (a) with respect to the Insured Organization Reimbursement Coverage to the extent the **insured organization** indemnifies any **insured person** who had actual knowledge as at the Inception Date of this Policy of any such misrepresentations; and
- (b) with respect to the Insured Organization Liability Coverage to the extent that the current or past chief executive officer or chief financial officer of the **named insured** had actual knowledge as at the Inception Date of this Policy of any such misrepresentations.

Notwithstanding the foregoing:

- i. the Insured Persons Liability Coverage will not be voided either in whole or in part; and
- ii. this Policy will be non-rescindable.

The Insurance Company's Consent

Where the **insureds** are required under this Policy to seek the consent of the **insurance company**, the **insurance company** will not unreasonably withhold, delay or deny such consent.

Sanction Limitation

The **insurance company** will not be liable to provide any cover, benefit or pay any **loss** under this Policy to the extent that the provision of such cover, benefit or payment of such **loss** would expose the **insurance company** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the United States of America, Canada, European Union or United Kingdom.

Bankruptcy

Bankruptcy or insolvency of the **insureds** will not relieve the **insurance company** of its obligations, or deprive the **insurance company** of its rights or defenses under this Policy.

The coverage provided under this Policy is intended to protect and benefit the **insured persons**. If a liquidation or reorganization proceeding is commenced by the **insured organization** (whether voluntarily or involuntarily) under Title 11 of the United States Code (as amended), or any similar state, local or foreign law, then, in regard to a covered **matter** under this Policy, the **insureds** and the **insurance company** hereby agree not to oppose or object to any efforts by the **insurance company** or any of the **insureds** to obtain relief from any stay or injunction applicable to the proceeds of this Policy as a result of the commencement of such liquidation or reorganization proceeding.

Territory

This Policy will apply to **matters** made or commenced against or received by the **insureds** anywhere in the world.

Valuation and Currency

All premiums, limits, retentions, **loss** and other amounts under this Policy are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of **loss** under this Policy is stated in a currency other than United States dollars, payment under this Policy will be made, at the **insureds** election, either:

- (a) in United States dollars, or
- (b) in the foreign jurisdiction at issue and in the foreign currency at issue, to the extent legally permissible.

The rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final or payment of the settlement or other element of **loss** is due will be used to calculate erosion of the Limits of Liability and Retentions of this Policy.

Pay the Named Insured

In the event that the **insurance company** is unable to pay **loss** in any country outside of the United States due to the **insurance company** not holding a valid local license in such country, the **named insured** may, where permitted by law, elect to:

- (a) have **loss** paid to the **named insured** or any **subsidiary** specified by the **named insured** who will accept such payments on behalf of all the **insureds**, or
- (b) have **loss** paid in a country where the **insurance company** does hold a valid local license.

The **insureds** agree that such payments of **loss** by the **insurance company** will satisfy the **insurance company's** obligations under this Policy in respect of **loss** which is due to be paid in such country in which does not hold a valid local license.

Conformance of Local Law and Foreign Policies

With respect to any **matter** brought, commenced or received in a **licensed foreign jurisdiction**, any provision of this Policy (other than the **base provisions**) which conflicts with the law of that jurisdiction will automatically be changed to conform to that law, provided such change is more favorable to the **insureds**.

However, if a **foreign policy** exists in such **licensed foreign jurisdiction**, the provisions of such **foreign policy** shall apply to this Policy (other than the **base provisions**) if they are more favourable to the **insureds**.

Complaints

Every effort is made to ensure that a high standard of service is provided. However, if the **insureds** are not satisfied with the service they have received or they have any questions or concerns about this Policy the **insureds** should contact Beazley Complaints as indicated on the Insurance Company, Claim and Circumstance Notification and Complaints Information form.

Definitions

The following definitions are applicable to this Policy:

application means:

- (a) any public documents filed by the **insured organization** with the Securities and Exchange Commission during the 12 month period prior to the inception date of this Policy, and
- (b) any written information or representations provided to the **insurance company** by or on behalf of the **insureds** in connection with the underwriting of this Policy,

all of which will be deemed part of this Policy, as if physically attached.

base provisions means:

- (a) the 'claims made and reported' nature of this Policy
- (b) the Insured Organization Liability Coverage
- (c) the 'duty of the insureds to defend' provision of this Policy
- (d) any provision in this Policy addressing the Limit of Liability (including any sub-limits) or the Retentions
- (e) the 'costs inclusive' nature of this Policy
- (f) the Other Insurance provision
- (g) the Cancellation provision
- (h) the Governing Law provision
- (i) the premium charged for this Policy
- (j) any Endorsement attached to this Policy.

books and records costs means reasonable fees and expenses necessarily incurred by the **insured organization** in response to a **books and records demand**.

books and records costs will not include the salary and/or cost of time of any **insured person** or overheads expenses of the **insured organization**.

books and records demand means a written demand made by one or more security holders of the **insured organization** to inspect the books and records of the **insured organization** pursuant to Section 220 of the Delaware General Corporation Law or any similar statute in any other jurisdiction.

change of control means:

- (a) the acquisition by any person or entity of more than 50% of the outstanding securities or equity interest of the **named insured** representing the present right to vote for the election of directors; or
- (b) the merger, consolidation, or combination of the **named insured** into another entity such that the **named insured** is not the surviving entity.

change of control will not be considered to have occurred in the event of **financial impairment**.

claim means:

- (a) a written demand for monetary damages, non-monetary relief, injunctive relief or other relief;
- (b) a civil, criminal, administrative or regulatory proceeding; or
- (c) an arbitration, mediation or other form of alternative dispute resolution proceeding.

claim will include:

- i. any appeal from any such proceeding;
- ii. any proceeding against any **insured person** before the Equal Employment Opportunity Commission or any similar federal, state, local or foreign governmental body;
- iii. an extradition proceeding initiated by any law enforcement authority against any **insured person**, or the arrest and detainment or incarceration of any **insured person**, with respect to their status as such;
- iv. any **manslaughter claim**;
- v. in respect of the Insured Persons Liability Coverage only, any written demand or proceeding arising out of any statutory liability of an **insured person** due to the failure of the **insured organization** to deduct, withhold or remit taxes (including non-resident withholding taxes, goods and services taxes, salary or withholding taxes and employee source deductions), unemployment insurance contributions, or pension plan contributions; and
- vi. in respect of the Insured Persons Liability Coverage only, any written demand or proceeding arising out of any statutory liability of an **insured person** due to the failure of the **insured organization** to pay debts for services performed by an employee of the **insured organization** for salary, wages or related amounts such as vacation pay or holiday pay.

claim will not include any **investigation** or **inquiry**.

class certification fees means reasonable expert fees necessarily incurred by the **insureds** to conduct an event study to be filed with the court in opposition to class certification in any **securities claim**.

defense costs means:

- (a) reasonable legal fees, costs and expenses, including reasonable expert fees, necessarily incurred by the **insured persons** in connection with the defense, settlement or appeal of a **claim** or to respond to an **investigation** or incurred by the **insured organization** in connection with the defense, settlement or appeal of a **securities claim**;
- (b) premiums for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required for a **claim**. However, the **insurance company** will have no obligation to appeal or to obtain such bonds; and
- (c) reasonable costs (other than collateral) for a bond or other financial instrument to guarantee the contingent obligation of the **insured persons** for bail or its equivalent required by a court in any foreign jurisdiction.

defense costs will include:

- i. **class certification fees**;
- ii. reasonable legal fees, costs and expenses necessarily incurred by the **insured persons** in connection with the defense, settlement or appeal of:
 1. any **claim** made against the chief executive officer or chief financial officer of the **named insured** seeking repayment of compensation as a result of a financial restatement of the **insured organization** pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002, or
 2. any **claim** made against the **insured persons** seeking repayment of compensation as a result of a financial restatement of the **insured organization** pursuant to Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the U.S. Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301, et seq. or any internal policy of the **insured organization** promulgated in accordance therewith;
- iii. **foreign accommodation costs** where such costs are not payable by the **insured organization**;
- iv. reasonable fees and expenses incurred by the **insureds** at the **insurance company's** request to assist the **insurance company** in investigating a **claim** or **investigation**; and
- v. reasonable legal fees and expenses necessarily incurred by any **insured person** where deposed as a witness in connection with any **claim** against any other of the **insureds** or **investigation** or **inquiry** of any other **insured person**.

defense costs will not include the salary and/or cost of time of any **insured person** or overheads expenses of the **insured organization**.

derivative suit means any lawsuit brought derivatively on behalf of the **insured organization** by a security holder of the **insured organization**.

employed lawyer means any employee of the **insured organization** who is admitted to practice law and who is or was employed as a lawyer full time and salaried by the **insured organization**.

employed lawyer wrongful act means any act, error, omission, misstatement, misleading statement, neglect or breach of duty actually or allegedly committed by any **insured person** while acting in their capacity as an **employed lawyer**, or any matter claimed against any **insured person** by reason of their serving, or having served, as an **employed lawyer** but only in connection with:

- (a) the rendering or failure to render professional legal services for the **insured organization**, or
- (b) the rendering or failure to render pro-bono professional legal services on behalf of the **insured organization** which are rendered with the **insured organization's** knowledge and consent,

and only for activities which:

- i. are related to such **employed lawyer's** employment with the **insured organization**, including but not limited to advising Directors and Officers on corporate related transactions; and
- ii. are not performed by the **employed lawyer** for others for a fee.

For the purpose of the foregoing, in the event of a disagreement between the **insured organization** and any **employed lawyer** as to whether such **employed lawyer** was acting "with the **insured organization's** knowledge and consent" pursuant to paragraph (b) above, the **insurance company** will abide by the determination of the **insured organization** on this issue and such determination will be made by the **insured organization** by written notice to the **insurance company** within 90 days after the **claim** is first made against such **employed lawyer**. In the event no determination is made within such period, the foregoing will operate as if the **insured organization** determined that the **employed lawyer** was not acting with the **insured organization's** knowledge and consent.

employment practice act means any:

- (a) wrongful dismissal, discharge or termination of employment whether actual or constructive;
- (b) employment related misrepresentation;
- (c) violation of any federal, state, local or foreign law prohibiting discrimination in employment, including the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967, Title VII of the Civil Rights Law of 1964, the Pregnancy Discrimination Act of 1978, the Civil Rights Act of 1866, the Equal Pay Act of 1963, the Genetic Information Nondiscrimination Act of 2008, the Family and Medical Leave Act of 1993, the Older Workers Benefit Protection Act of 1990, or any rule or regulation promulgated thereunder;
- (d) sexual or other harassment in the workplace;
- (e) abusive or hostile work environment;
- (f) wrongful deprivation of career opportunity, failure to hire, promote, or grant tenure, or wrongful demotion;
- (g) wrongful discipline or evaluation;
- (h) breach of an implied or express written employment contract or promissory estoppels;
- (i) failure to adopt adequate employment or workplace policies and procedures;
- (j) retaliation against any **insured person** including retaliation for filing claims under the Federal False Claims Act, retaliation in connection with whistleblowing, retaliation for exercising civil rights, retaliation for union activities or in connection with strikes or lockouts; or
- (k) negligent hiring or negligent supervision of others, including wrongful failure to provide adequate training, in connection with (a) through (j) above,

actually or allegedly committed by any **insured person**.

employment practice act will not include any violation of the Fair Labor Standards Act of 1938 (except the Equal Pay Act) or any regulations promulgated thereunder or similar provisions of any federal, state or local law.

facilitation costs means reasonable fees, costs and expenses (including the premium or origination fee for a loan or bond) necessarily incurred by:

- (a) the chief executive officer or chief financial officer of the **named insured** to facilitate the return of amounts required to be repaid pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002,
- (b) any **insured person** to facilitate the return of amounts required to be repaid pursuant to Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or any internal policy of the **insured organization** promulgated in accordance therewith, or
- (c) any **insured person** to facilitate the return of amounts required to be repaid pursuant to the U.S. Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301, et seq. or any internal policy of the **insured organization** promulgated in accordance therewith.

facilitation costs will not include the payment, return, reimbursement, disgorgement or restitution of any amounts requested or required to be repaid pursuant to Section 304(a) of the Sarbanes-Oxley Act of 2002, Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or the U.S. Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301, et seq. or any internal policy of the **insured organization** promulgated in accordance therewith.

fiduciary wrongful act means any act, error, omission, misstatement, misleading statement, neglect or breach of duty actually or allegedly committed by any **insured person** while acting in their capacity as a fiduciary of any employee benefit plan sponsored by the **insured organization**, or any matter claimed against any **insured person** by reason of their serving, or having served, in such capacity.

financial impairment means the appointment by any state or federal official, agency or court of any receiver, trustee, examiner, conservator, liquidator, rehabilitator or similar official to take control of, supervise, manage or liquidate the **insured organization**.

foreign accommodation costs means, where legally permissible, the following expenses and fees incurred in connection with an extradition proceeding or arrest and detainment or incarceration as described in part iii. of **claim**:

- (a) reasonable travel expenses necessarily incurred by a **relative** to travel to a foreign jurisdiction in which the **insured person** is not domiciled,
- (b) reasonable accommodation expenses necessarily incurred by any **insured person** or any of his or her **relatives** to temporarily reside in a foreign jurisdiction in which such **insured person** is not domiciled,
- (c) reasonable fees necessarily incurred by any **insured person** or any of his or her **relatives** to convert currency to the currency of a foreign jurisdiction in which such **insured person** is not domiciled, or
- (d) reasonable fees necessarily incurred by any **insured person** or any of his or her **relatives** to obtain the services of an interpreter or translator.

foreign policy means the standard policy (including all endorsements that are mandatory according to the law of such jurisdiction) provided by the **insurance company** or any of its affiliates in a **licensed foreign jurisdiction** that affords coverage which is substantially similar to the cover afforded under this Policy.

independent director means any **insured person** who was, is or during the **policy period** becomes a director of the **insured organization** or any natural person serving in a functionally equivalent role for the **named insured** or any **subsidiary** operating or incorporated outside the United States, provided such **insured person** has not been an employee, officer or equivalent executive of the **insured organization** in the past three years.

inquiry means a request for any **insured person** to appear for an interview or meeting or to provide sworn testimony or to produce documents regarding such **insured person's** capacity as such or the business of the **insured organization**.

inquiry will not include any routine or regularly scheduled regulatory or internal supervision, inspection, compliance, review, examination, production or audit, including any request for mandatory information from a regulatory entity.

inquiry costs means reasonable fees and expenses necessarily incurred by any **insured person** in connection with such **insured person's** preparation for, attendance at and/or response to an **inquiry**, including reasonable fees and expenses necessarily incurred by the **insured person** to produce documents in his or her possession.

inquiry costs will not include:

- (a) the salary and/or cost of time of any **insured person** or overheads expenses of the **insured organization**;
- (b) costs of complying with any discovery or other request seeking documents (including electronic information) in the possession or control of the **insured organization** (except under the Insured Persons Liability Coverage) or for which the **insured organization** has the direct financial responsibility to produce; or
- (c) any amounts incurred prior to the time that the **inquiry** is reported to the **insurance company** in accordance with the Claim Requirements and Information section.

insureds means the **insured persons** and the **insured organization**.

insured organization means:

- (a) the **named insured**;
- (b) any **subsidiary**;
- (c) the **named insured** or any **subsidiary** as a debtor in possession under the United States bankruptcy law or similar legal status under foreign law; and
- (d) any foundation, charitable trust or political action committee totally funded or controlled or exclusively sponsored by the **named insured** or any **subsidiary**.

insured persons means any natural person who was, is or during the **policy period** becomes:

- (a) a director, officer or risk manager of the **insured organization**; or
- (b) an employee of the **insured organization**, including any employee who is or was an **employed lawyer**, if:
 - i. such employee is named in any **claim** or **investigation** for an **employment practice act**,
 - ii. such employee is named in any **securities claim**,
 - iii. such employee is named as a co-defendant in any **claim** or **investigation** with any other natural person set forth in part (a) of this definition or any natural person set forth in 1. to 8. below,
 - iv. such employee receives a request to respond to an **inquiry** concurrently with any natural person set forth in part (a) of this definition or any natural person set forth in 1. to 8. below, or

- v. such employee is an **employed lawyer** and is rendering pro-bono professional legal services on behalf of the **insured organization**,

but only when and to the extent acting for and on behalf of the **insured organization** in such capacity.

insured persons will include:

1. any natural person who was, is or during the **policy period** becomes a manager or functionally equivalent role of any limited liability company that is a **subsidiary**,
2. any natural person who was, is or during the **policy period** becomes a member of the board of managers of the **insured organization**,
3. any natural person who was, is or during the **policy period** becomes a shadow director, as defined under Section 251 of the United Kingdom Companies Act 2006, of the **named insured** or any **subsidiary** operating or incorporated in the United Kingdom or the Republic of Ireland,
4. any de facto or alleged de facto director of the **insured organization**,
5. any natural person who was, is or during the **policy period** becomes a representative of an entity that serves as a director of the **insured organization**,
6. any natural person who was, is or during the **policy period** becomes a prospective director of the **insured organization** named in any registration statement, prospectus or similar offering document,
7. a functionally equivalent role of any position set forth in this definition for the **named insured** or any **subsidiary** operating or incorporated outside the United States,
8. the lawful spouse, or civil or domestic partner, of any natural person specified above:
 - a. solely in their capacity as such, and
 - b. only for the purposes of any **matter** seeking damages recoverable from:
 - i. marital community property,
 - ii. property jointly held by any such person and the spouse, or civil or domestic partner, or
 - iii. property transferred from any such person to the spouse, or civil or domestic partner, and
9. the estate, heirs, legal representatives, trusts, estate planning vehicles or assigns of any natural person specified above in the event of their death, incapacity or bankruptcy.

insurance company means Syndicate 2623/623 at Lloyd's.

investigation means:

- (a) any formal investigation of any **insured person** by a **regulatory authority**:
 - i. once such **insured person** is identified in writing by such **regulatory authority** as a person against whom a **claim** may be brought, including without limitation receipt of a Wells Notice, target letter or other written notice describing actual or alleged violations of securities laws or other laws by any such **insured person**, or
 - ii. after the service of a subpoena or other similar written request compelling testimony or document production upon any such **insured person**, or
- (b) any informal investigation of any **insured person** by a **regulatory authority** after such

insured person becomes aware that he or she is the subject of such investigation and, as a consequence of such investigation, retains legal counsel; or

- (c) a raid on, or non-routine on-site visit to, the **insured organization** by any **regulatory authority** that involves the production, review, copying or confiscation of information, documents or materials in any form that are in the possession or control of any **insured person**, including devices, products, components, records, electronic information and files or interviews of such **insured person**.

licensed foreign jurisdiction means any country outside of the United States where the **insurance company** or any of its affiliates are a licensed insurer.

loss means:

- (a) judgments (including pre and post-judgment interest), damages, awards and settlements (including plaintiff attorney fees and expenses or mootness fees awarded or approved by the court in connection with any such judgment, damage, award or settlement) incurred by the **insureds** as a result of a **claim** or **investigation**;
- (b) **policy costs**;
- (c) punitive, exemplary or multiplied damages incurred by the **insureds** where the applicable law allows coverage for punitive, exemplary or multiplied damages; and
- (d) plaintiff attorney fees and expenses payable by the **insured organization** which are awarded or approved by the court in a **derivative suit**.

loss will not include (other than **policy costs**):

- i. fines, sanctions or penalties, except:
1. fines or civil penalties assessed against any **insured person** pursuant to Section 78dd 2(g)(2)(B) or Section 78ff (c)2(B) of the Foreign Corrupt Practices Act, 15 U.S.C. or Section 11(1)(a) of the United Kingdom Bribery Act of 2010, Chapter 23 or any statute or law similar to the foregoing in any jurisdiction;
 2. civil penalties assessed against any of the **insureds** for the benefit of shareholders pursuant to Section 308 of the Sarbanes Oxley Act of 2002; or
 3. under the Insured Persons Liability Coverage only, any other fine or civil penalty imposed against any **insured person** where the applicable law allows coverage for such fine or civil penalty;
- ii. taxes or loss of tax benefits, except:
1. with respect to that portion of any tax assessment imposed on any **insured person** by a foreign jurisdiction based on the **insurance company's** payment of such judgments, damages, awards, settlements or **policy costs** as a foreign or non-admitted carrier;
 2. with respect to any statutory liability for such taxes owed by any **insured person** as described in part v. of the definition of **claim**; or
 3. under the Insured Persons Liability Coverage only, any other taxes owed by the **insured organization** for which any **insured person** is held legally liable where the applicable law allows coverage for such taxes;
- iii. judgments, damages, awards or settlements that represent an increase in the actual or proposed consideration in connection with any acquisition, merger or business combination of, by or with the **insured organization**, except where such judgments, damages, awards or settlements are payable under the Insured Persons Liability Coverage;

- iv. wages, salary or benefits owed pursuant to the terms of any employment contract except with respect to any statutory liability for such wages, salary or benefits owed by any **insured person** as described in part vi. of the definition of **claim**;
- v. any costs incurred by the **insureds** to clean up, remove, contain, detoxify, neutralize, assess the effects of, test for or monitor any seepage, pollution, contamination or other hazardous materials of any kind; and
- vi. any amounts deemed uninsurable by law.

Notwithstanding the foregoing, the **insurance company** will not assert that the portion of any judgment, damage, award, settlement or **policy costs** incurred in connection with any **securities claim** alleging violations of Section 11 or 12 of the Securities Act of 1933 as amended, including without limitation any judgment, damage, award, settlement or **policy costs** incurred by any **insured person** deemed to be a controlling person within the meaning of Section 15 of the Securities Act of 1933, or any similar securities laws or common laws or regulations of any foreign jurisdiction, as amended, are uninsurable.

With respect to coverage for any such **loss** above, any applicable law most favourable to the insurability of **loss** will apply. If the **insureds** demonstrate in good faith (including presenting a written legal opinion) that **loss** is insurable under such law, the **insurance company** will not challenge that interpretation of insurability. For purposes of this provision, "any applicable law" will include but not be limited to the law: a) where the **claim** seeking such damages was brought, b) where the **wrongful acts** giving rise to the **claim** seeking such damages took place, c) where the **insured organization** is incorporated or has its principal place of business or the **insured persons** reside, and d) where the **insurance company** is incorporated or has its principal place of business.

The determination of whether any **insured persons** has incurred **loss** will be made without regard to:

- (1) any insurance (with the exception of insurance purchased by the **insured organization**), and
- (2) any indemnification that any **insured person** may have from any source, including without limitation from or as a result of any security holder of the **insured organization** (other than from the **insured organization**).

management control means:

- (a) owning interest representing more than 50% of the voting, appointment or designation power for the selection of a majority of the board of directors of a corporation, the members of the management board of a limited liability corporation or with respect to entities operating or incorporated outside the United States of America, persons serving in a functionally equivalent role; or
- (b) having the right, pursuant to written contract or the bylaws, charter, operating agreement or similar documents of the **insured organization** to elect, appoint or designate a majority of the board of directors of a corporation, the management board of a limited liability corporation or with respect to entities operating or incorporated outside of the United States of America, persons serving in a functionally equivalent role.

manslaughter claim means the prosecution of any **insured person** for involuntary, constructive or gross negligence manslaughter before the Crown Prosecution Service, the Procurator Fiscal or any similar authority with jurisdiction over any corporate manslaughter violation.

matter means any **claim, investigation, inquiry, security holder demand** or **books and records demand**.

mitigation costs means reasonable fees, costs and expenses necessarily incurred by any **insured person** solely to mitigate a fact or circumstance, that any **responsible person** first become aware of and reports to the **insurance company** during the **policy period** in accordance with the Notification of Circumstances provision, which is reasonably likely to become a **matter** that would be covered under this Policy.

mitigation costs will not include:

- (a) any amounts which the **insured organization** is required by the bylaws, contract or other governing documents of the **insured organization** or is legally permitted to pay to the fullest extent permitted by law, except where the **insured organization** is unable to make such actual indemnification by reason of its insolvency;
- (b) any amounts incurred prior to the time that such fact or circumstance is reported to the **insurance company**;
- (c) any amounts incurred after the time a **matter** is made, commenced or received by any **insured person** which arises out of such fact or circumstance; or
- (d) costs of producing documents for which the **insured organization** has the direct financial responsibility to produce.

named insured means the entity specified in the Declarations.

non-indemnifiable loss means:

- (a) **loss** resulting from any **claim** or **investigation**, or
- (b) **inquiry costs** resulting from any **inquiry**,

which the **insured organization** incurred by **insured persons** which the **insured organization** (i) is not required by law or is not legally permitted to indemnify or (ii) is unable to actually indemnify by reason of its insolvency.

optional extension period means the period specified in the Declarations after the end of the **policy period** in respect of **matters** first made, commenced or received and reported to the **insurance company** during such period specified in the Declarations.

outside entity means:

- (a) any not-for-profit organization, community chest, fund or foundation; or
- (b) any for-profit organization whose securities are not publicly owned or traded where the **insured persons** serve with the knowledge and consent, at the direction or request, or as part of their regularly assigned duties of the **insured organization**.

For the purpose of paragraph (b) above, in the event of a disagreement between the **insured organization** and any **insured person** as to whether such **insured person** was acting “with the knowledge and consent, at the direction or request, or as part of their regularly assigned duties of the **insured organization**”, it is agreed that the **insurance company** will abide by the determination of the **insured organization** on this issue and such determination will be made by the **insured organization** by written notice to the **insurance company** within 90 days after the **matter** is first made or commenced against or received by such **insured person**. In the event no determination is made within such period, this paragraph will operate as if the **insured organization** determined that such **insured person** was not acting with the knowledge and

consent, at the direction or request, or as part of their regularly assigned duties of the **insured organization**.

outside position means the position of a director, officer, manager, trustee, governor or executive director or in a functionally equivalent position of any **outside entity**.

personal asset costs means reasonable fees, costs, charges and expenses necessarily incurred by any **insured person** in connection with any **claim** or **investigation** to oppose any efforts by any **regulatory authority** to seize, attach or otherwise enjoin the use of the personal assets or real property of such **insured person** or to obtain the discharge or revocation of a court order entered during the **policy period** in anyway impairing the use thereof.

personal reputation costs means reasonable fees, costs, charges and expenses necessarily charged by any public relations firm or crisis management firm incurred by any **insured person** in connection with any **claim** or **investigation** to mitigate the adverse effects to such **insured persons** reputation as a result of a negative public statement made about him or her by a **regulatory authority**.

policy costs means **defense costs, inquiry costs, mitigation costs, facilitation costs, personal asset costs** and **personal reputation costs**.

policy period means the period specified in the Declarations.

prior and pending date means the date specified in the Declarations.

regulatory authority means any federal, state, local or foreign law enforcement or governmental authority (including but not limited to the Department of Justice, the Securities and Exchange Commission and any attorney general) or the enforcement unit of any securities exchange or similar self-regulating body.

related matters means:

- (a) all **claims** arising out of, based upon, attributable to or in any way involving the same **wrongful act** or **related wrongful acts**; and
- (b) all **security holder demands** which have been reported under this Policy or any prior policy of which this Policy is a renewal or replacement arising out of, based upon, attributable to or in any way involving the same **wrongful act** or **related wrongful acts**; and
- (c) all **investigations, inquiries** and **books and records demands** which have been reported under this Policy or any prior policy of which this Policy is a renewal or replacement arising out of, based upon, attributable to or in any way involving the same conduct or other conduct which have as a common nexus any fact, circumstance, situation, event, transaction or series of facts, circumstances, situations, events or transactions.

related wrongful acts means all **wrongful acts** which have as a common nexus any fact, circumstance, situation, event, transaction or series of connected facts, circumstances, situations, events or transactions.

relative means a lawful spouse, domestic partner, child, stepchild, adopted child, adopted stepchild, lawful spouse of a married child, grandchild, sister, brother, parent, parent-in-law,

stepparent, grandparent or grandparent-in-law of any **insured person**, or of any resident or individual employed in the household of any **insured person**.

responsible person means the risk manager, general counsel, chief executive officer or chief financial officer or an individual acting in a similar capacity with the **named insured**.

retired and resigned insured persons extension period means an unlimited period following the end of the **policy period** in respect of **matters** first made, commenced or received and reported to the **insurance company** during such unlimited period.

run-off period means the period specified in the Declarations after the end of the **policy period** in respect of **matters** first made, commenced or received and reported to the **insurance company** during such period specified in the Declarations.

securities claim means:

- (a) any **claim** alleging any violation of the Securities Act of 1933, the Securities Exchange Act of 1934, rules or regulations of the Securities and Exchange Commission under either or both Acts, similar securities laws or regulations of any federal, state (including any state blue sky laws), local or any foreign jurisdiction, any other laws, rules, regulations or statutes regulating securities or any common law arising out of, involving, or relating to the ownership, purchase or sale of or offer to purchase or sell any securities of the **insured organization**, including any debt or equity securities, whether on the open market or through a public or private offering,
- (b) any **claim** brought by any security holder of the **insured organization** in their capacity as such, including a **derivative suit**, or
- (c) any **claim** brought by any security holder of any **target** in their capacity as such, alleging that the **insureds** aided and abetted any:
 - i. common law cause of action, including a breach of fiduciary duty owed to the **target's** security holders, or
 - ii. violation of any securities law by the **target** regarding the **insured organization's** acquisition, merger or business combination or proposed acquisition, merger or business combination of the **target**.

securities claim will not include any **security holder demand** or **books and records demand**.

security holder demand means any written demand made by one or more security holders of the **insured organization** upon the **insured organization's** board of directors to bring a civil proceeding against any **insured person** for a **wrongful act**.

security holder demand costs means reasonable fees and expenses incurred by the **insured organization** (including its board of directors or any committee of its board of directors) in connection with the investigation, review or evaluation of any **security holder demand**.

subsidiary means any entity, including any limited liability corporation, in which the **named insured** either directly or indirectly has or had **management control** on or before the inception date of this Policy. Coverage for such entity will only apply for any **wrongful act** committed or conduct undertaken while the **named insured** had **management control** of such entity.

target means any entity that the **insured organization** has or proposes to acquire, merge with or undertake a business combination with that results in, or would result in, such entity becoming a **subsidiary**.

wrongful act means any act, error, omission, misstatement, misleading statement, neglect or breach of duty actually or allegedly committed:

- (a) by any **insured person** while acting in their capacity as such, or any matter claimed against any **insured person** by reason of their serving, or having served, in such capacity;
- (b) by any **insured person** while acting in, or any matter claimed against any **insured person** by reason of their serving, or having served as a controlling person within the meaning of Section 15 of the Securities Act of 1933, as amended or Section 20(a) of the Securities Exchange Act 1934, as amended;
- (c) by any **insured person** while acting in, or any matter claimed against any **insured person** by reason of their serving, or having served in an **outside position**; or
- (d) by the **insured organization**.

wrongful act will include:

- i. an **employment practice act** or **employed lawyers wrongful act**, or
- ii. in respect of the Insured Persons Liability Coverage only, a **fiduciary wrongful act**.