

DIRECTORS AND OFFICERS LIABILITY COVERAGE SECTION (PRIVATE ORGANIZATIONS)

THIS COVERAGE SECTION APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR APPLICABLE EXTENDED REPORTING PERIOD. PLEASE READ THE ENTIRE POLICY CAREFULLY.

In consideration of payment of the premium and subject to the Declarations Page, the General Terms and Conditions, and the terms, conditions and limitations of this Coverage Section, the Underwriter and the **Insureds** agree as follows:

I. INSURING AGREEMENTS

(A) Insured Person Non-Indemnified Loss Coverage

The Underwriter will pay, on behalf of an **Insured Person**, **Loss** for which an **Insured Person** is not indemnified by the **Organization** from any **Claim** first made against an **Insured Person** during the **Policy Period** or applicable **Extended Reporting Period** for a **Wrongful Act**.

(B) Insured Person Indemnified Liability Coverage

The Underwriter will pay, on behalf of the **Organization**, **Loss** for which the **Organization** grants indemnification to an **Insured Person**, as permitted or required by law, from any **Claim** first made against an **Insured Person** during the **Policy Period** or applicable **Extended Reporting Period** for a **Wrongful Act**.

(C) Organization Liability Coverage

The Underwriter will pay, on behalf of the **Organization**, **Loss** from any **Claim** first made against the **Organization** during the **Policy Period** or applicable **Extended Reporting Period** for a **Wrongful Act**.

(D) Derivative Action Investigative Costs Coverage

The Underwriter will pay, on behalf of the **Organization**, up to the Sublimit stated in the Declarations Page for this Insuring Agreement (D), for **Investigative Costs** incurred by the **Organization**, with prior written consent given by the Underwriter, in connection with any derivative action or any derivative demand first made during the **Policy Period** or applicable **Extended Reporting Period**, alleging a **Wrongful Act** by an **Insured Person** committed before or during the **Policy Period**.

(E) D&O Crisis Management Expenses Coverage

The Underwriter will pay, on behalf of the **Organization**, up to the Limit stated in the Declarations Page for this Insuring Agreement (E), for **Crisis Management Expenses** incurred by the **Organization**, with prior written consent given by the Underwriter, in connection with any **Crisis Management Event** that first occurs during the **Policy Period**.

(F) Additional Limit of Liability Dedicated for Insured Persons

- (1) The Limit stated in the Declarations Page for this Insuring Agreement (F) will be an additional limit of liability, which amount is in addition to, and not part of, the Policy Aggregate Limit of Liability.
- (2) The Limit stated in the Declarations Page for this Insuring Agreement (F) is available solely for **Loss** resulting from any **Claim** made against any **Insured Person** covered under Insuring Agreement (A) **Insured Person Non-Indemnified Loss Coverage** of this Coverage Section.
- (3) The Limit stated in the Declarations Page for this Insuring Agreement (F) shall be excess of any other valid insurance available, including any that is specifically excess to this Policy, and such other insurance must be completely exhausted thereunder before the Underwriter shall have any obligation to make any payment on account of this Insuring Agreement.

(G) Executives Protection Expenses Coverage

The Underwriter will pay, on behalf of any **Executive**, up to the Limit stated in the Declarations Page for this Insuring Agreement (G), for:

- (1) **Asset Protection Costs**, **Custody Protection Expenses**, and **Personal Reputation Expenses** incurred by such **Executive**, with prior written consent given by the Underwriter, and arising out of any **Claim** first made during the **Policy Period** against such **Executive**;
- (2) **Personal Inquiry Expenses**.

II. DEFINITIONS

- (A) "**Application**" shall have the meaning set forth in the General Terms and Conditions.
- (B) "**Asset Protection Costs**" means reasonable and necessary fees, costs and expenses consented to by the Underwriter and incurred by an **Executive** to oppose any efforts by an **Enforcement Body** to seize or otherwise enjoin the personal assets or real property of such **Executive** (including such assets or real property held by a lawful spouse or **Domestic Partner**) or to obtain the discharge or revocation of a court order entered during the **Policy Period** in any way impairing the use thereof.
- (C) "**Based Upon**" shall have the meaning set forth in the General Terms and Conditions.
- (D) "**Claim**" means:
 - (1) a written demand (other than a derivative action or derivative demand) for monetary, non-monetary or injunctive relief;
 - (2) a civil proceeding commenced by the service of a complaint, demand letter, notice of claim or similar pleading;
 - (3) a penal or criminal proceeding commenced by an arrest, a statement of allegations, the laying of information, the return of an indictment, or similar document;
 - (4) an administrative or regulatory investigation or proceeding commenced by the filing of a notice of charges, formal investigative order, service of a complaint or similar document;
 - (5) an arbitration or mediation proceeding consented to or commenced by receipt of notice to appoint an arbitrator or mediator, an arbitration or mediation petition or similar document; or

- (6) an **Oppression Remedy Claim**;
against an **Insured** for a **Wrongful Act**;
 - (7) a civil, criminal, administrative or regulatory investigation commenced by the service upon or other receipt by the **Insured Person** of a written notice from the investigating authority specifically identifying the **Insured Person** as a target individual against whom formal charges may be commenced;
 - (8) an official request for **Extradition** for a **Wrongful Act**;
 - (9) a written request received by an **Insured** to toll or waive a limitation period, relating to any matter outlined in items (1) to (8) above;
 - (10) for purposes of coverage under Insuring Agreement (A) **Insured Person Non-Indemnified Loss Coverage**, a written request made to an **Insured Person** (including any **Insured Person** in their **Outside Capacity**) holding them liable for **Statutory Liabilities** in the event the **Organization** or **Outside Entity** is under **Financial Impairment**; or
 - (11) for purposes of coverage under Insuring Agreement (D) **Derivative Action Investigative Costs Coverage**, a derivative action or derivative demand alleging a **Wrongful Act** by an **Insured Person**.
- (E) "**Crisis Management Event**" means any of the following events which resulted in the publication of information that, in the good faith opinion of the chief financial officer of the **Organization**, did cause material public harm to the **Organization**:
- (1) the death, incapacity or criminal indictment of any **Executive**, or any key **Employee**;
 - (2) the layoffs of **Employees**;
 - (3) the **Organization** has defaulted or intends to default on its debt, or is undergoing a debt restructuring;
 - (4) the **Organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on behalf of the **Organization**, or the imminence of bankruptcy proceedings, whether voluntary or involuntary;
 - (5) accusation that the **Organization** has caused mass tort, including bodily injury, sickness, disease, or death to a group of persons, or damage to or destruction of any tangible group of properties, including the loss of use thereof;
 - (6) the commencement or threat of commencement of governmental or regulatory proceedings against the **Organization**;
 - (7) a negative earnings or sales announcement;
 - (8) a product recall or delay; or
 - (9) the suspension or cancellation of dividends.
- (F) "**Crisis Management Expenses**" means reasonable costs, charges, fees and expenses incurred by the **Organization**, with prior written consent given by the Underwriter, for services performed by any public relations, crisis management firm or law firm retained by the **Organization** or its **Executives** to minimize potential public harm to the **Organization** resulting from a **Crisis Management Event**. **Crisis Management Expenses** do not include any remuneration, salaries, wages, fees, overhead or benefit expenses of any **Insured**.
- (G) "**Custody Protection Expenses**" means reasonable costs, charges, fees and expenses incurred by an **Executive** to seek their release from any arrest or confinement arising out of a **Wrongful Act**, including the premium for a bond or other financial instrument to guarantee a specified amount required by a court but excluding any collateral.
- (H) "**Defence Expenses**" shall have the meaning set forth in the General Terms and Conditions.
- (I) "**Domestic Partner**" shall have the meaning set forth in the General Terms and Conditions.
- (J) "**Employed Professional Wrongful Act**" means any actual or alleged act, error or omission in the rendering of, or failure to render, professional services to the **Organization** by an **Employee** or **Executive** who is a Chartered Professional Accountant solely while acting in their capacity as such.
- (K) "**Employee**" means any natural person whose labour or service was, is or will be both engaged and directed by the **Organization**, whether in a supervisory, co-worker or subordinate position or otherwise, including any part-time, seasonal and temporary employee. **Employee** also includes:
- (1) any volunteer working for the **Organization**;
 - (2) any individual who is leased to, and working for, the **Organization**, but only if the **Organization** provides indemnification to such leased individual in the same manner as is provided to the **Organization's** employees;
 - (3) any independent contractor working for the **Organization**, but only if the **Organization** provides indemnification to such independent contractor in the same manner as that provided to the **Organization's** employees; or
 - (4) any dependent contractor that is financially dependent on the **Organization**.
- (L) "**Enforcement Body**" means:
- (1) any federal, provincial, territorial, state, local or foreign law enforcement authority, regulatory authority or other governmental investigative authority; or
 - (2) the enforcement unit of any securities or commodities exchange or other self-regulatory organization.
- (M) "**Executive**" means any natural person who was, now is or becomes:
- (1) a duly elected, appointed or "de facto" director, officer, trustee, trustee emeritus, executive director, observer, member of the Board of Directors, member of the Board of Managers, a duly constituted committee member, member of an Advisory Board, in-house general counsel or risk manager of any **Organization** incorporated in Canada; or
 - (2) a holder of a position equivalent to any position described in (1) above in any **Organization** that is incorporated in a foreign jurisdiction.
- (N) "**Extended Reporting Period**" shall have the meaning set forth in the General Terms and Conditions.
- (O) "**Extradition**" means any formal process by which an **Insured Person** located in any country is surrendered to any other country for trial or to answer to a criminal accusation, or the execution of a warrant for the arrest of an **Insured Person** where the execution of such warrant is an element of the formal process of extradition.
- (P) "**Financial Impairment**" shall have the meaning set forth in the General Terms and Conditions.
- (Q) "**Insured**" means the **Organization** and any **Insured Person**.
- (R) "**Insured Person**" means:
- (1) an **Executive**; or
 - (2) an **Employee**.
- (S) "**Investigative Costs**" means reasonable costs, charges, fees (including but not limited to lawyers', accountants' and experts' fees) and expenses incurred by the **Organization**, including its board of directors, Board of Managers or any committee thereof, in connection with such **Organization's** investigation or evaluation to determine whether it is in the best interest of such **Organization** to prosecute the claims alleged in a derivative action or a derivative demand and prior to any **Claim** first made in connection with such derivative action or such derivative demand.

Investigative Costs does not include any remuneration, salaries, wages, fees, overhead or benefit expenses of any **Insured**.

- (T) **"Loss"** means any monetary amount which an **Insured** is legally obligated to pay as a result of a covered **Claim**, including but not limited to:
- (1) compensatory damages, judgments (including pre-judgment and post judgment interest) and settlements;
 - (2) punitive, exemplary or multiplied damages, to the extent such damages are insurable under the law of any jurisdiction which has a substantial relationship to the **Insureds**, this Policy or the **Claim** giving rise to such damages and which is most favourable to the insurability of such damages;
 - (3) civil fines or civil penalties assessed against an **Insured Person**, including under the *Corruption of Foreign Public Officials Act* of Canada, Section 2(g)(2)(B) of the *Foreign Corrupt Practice Act* of the United States of America or any **Similar Legislation**, to the extent such fines or penalties are insurable under the law of any jurisdiction which has a substantial relationship to the **Insureds**, this Policy or the **Claim** giving rise to such fines or penalties and which is most favourable to the insurability of such fines or penalties; and
 - (4) **Defence Expenses**; and
 - (5) for purposes of coverage under Insuring Agreement (D) **Derivative Action Investigative Costs Coverage, Investigative Costs**.
- Loss** does not include:
- (a) any amount not insurable under the law pursuant to which this Coverage Section is construed, except as provided in paragraphs (2) and (3) above;
 - (b) criminal fines or penalties assessed against an **Insured Person** and civil or criminal fines or penalties assessed against the **Organization**;
 - (c) taxes or tax penalties assessed against the **Organization** or **Outside Entity** (whether imposed by a federal, provincial, territorial, state, local or other governmental authority), other than **Statutory Liabilities** for which an **Insured Person** becomes personally liable;
 - (d) any costs incurred to comply with any order for injunctive or other non-monetary relief, or to comply with an agreement to provide such relief;
 - (e) any fees, profits, or other revenue lost, or any costs incurred, by an **Insured** in connection with the termination, suspension or limitation of such **Insured's** right to participate in any program of a federal, provincial, territorial, state or local governmental, regulatory or administrative agency; or
 - (f) any costs incurred by the **Organization** in connection with testing for, monitoring, cleaning up, removing, eliminating, abating, remediating, containing, treating, detoxifying, decontaminating or neutralizing **Pollutants**, including the costs of implementation of any such measures.
- (U) **"Named Organization"** shall have the meaning set forth in the General Terms and Conditions.
- (V) **"Oppression Remedy Claim"** means a **Claim** brought against the **Organization** or **Executive** seeking an order or other remedy under Section 214 or Section 241 of the *Canada Business Corporations Act, R.S.C. 1985, c. C-44*, or **Similar Legislation** with respect to such complainant's interest in the **Organization**.
- (W) **"Organization"** shall have the meaning set forth in the General Terms and Conditions.
- (X) **"Outside Capacity"** means service rendered by an **Insured Person** as observer or in the position of director, officer, trustee, trustee emeritus, governor or equivalent executive position of an **Outside Entity**, but only during the time that such service is at the specific request or direction of the **Organization**.
- (Y) **"Outside Entity"** means:
- (1) any not-for-profit entity, and any for-profit entity whose securities are not publicly traded, that is not included in the definition of **Organization**; and
 - (2) any other for-profit entity specifically added as an **Outside Entity** by written endorsement to this Coverage Section.
- (Z) **"Personal Inquiry Expenses"** means reasonable costs, charges, fees and expenses incurred by an **Executive**, with prior consent given by the Underwriter, to prepare a response to a verifiable request first received by such **Executive** during the **Policy Period** for an interview or meeting either:
- (1) with an **Enforcement Body**; or
 - (2) with the **Organization** in connection to an inquiry by an **Enforcement Body**;
- provided that this interview or meeting could reasonably result in disclosure of information that can reasonably give rise to a **Claim** covered under this Coverage Section.
- Personal Inquiry Expenses** do not include any compensation of such **Executive** or any costs to comply with a request for documents, records or electronic information possessed by a person other than such **Executive**.
- (AA) **"Personal Reputation Crisis"** means any negative statement that is included in any press release or published by any print or electronic media outlet regarding an **Executive** made during the **Policy Period** by any individual authorized to speak on behalf of an **Enforcement Body**.
- (BB) **"Personal Reputation Expenses"** means reasonable and necessary fees, costs, charges and expenses of any public relations, crisis management or law firm retained solely and exclusively by an **Executive** to mitigate the adverse effects specifically to such **Executive's** reputation from a **Personal Reputation Crisis**.
- (CC) **"Policy Period"** shall have the meaning set forth in the General Terms and Conditions.
- (DD) **"Pollutant"** means
- (1) any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by Environment and Climate Change Canada or any federal, provincial, territorial, state, county, municipal or local counterpart thereof, including, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials including materials to be recycled, reconditioned or reclaimed, or
 - (2) any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products or any noise.
- (EE) **"Prior or Pending Litigation Date"** means the inception date of this Coverage Section (or the inception date of the first policy issued by the Underwriter to the **Named Organization** with the current Coverage Section as part of a continuous series of renewals) or as provided by written endorsement to this Coverage Section.
- (FF) **"Roadshow Wrongful Act"** means any **Wrongful Act** committed or allegedly committed prior to the effective date of any initial public offering of the **Organization's** securities in connection with presentations and representations made to lenders, investors, prospective investors and analysts in conjunction with such initial public offering.
- (GG) **"Securities Violation"** means, with respect to the securities of the **Organization**, any actual or alleged violation of:
- (1) in Canada, the *Ontario Securities Act* or any similar provincial or territorial legislation;
 - (2) in the United States of America, the *Securities Act of 1933*, the *Securities Exchange Act of 1934*, the *Investment Act of 1940*, or any state "blue sky" securities law; or
 - (3) anywhere else in the world, any **Similar Legislation** governing the purchase, sale, offer to purchase or sell securities including the disclosures required in connection with such securities.
- (HH) **"Similar Legislation"** shall have the meaning set forth in the General Terms and Conditions.
- (II) **"Statutory Liabilities"** means:
- (1) unpaid taxes in accordance with Section 227.1 of the *Canadian Income Tax Act* and Section 323 of the *Canadian Excise Tax Act*;
 - (2) unpaid source deductions, including income taxes, employment insurance contributions and pension plan contributions;
 - (3) unpaid accrued vacation pay;
 - (4) unpaid wages pursuant to the *Canada Business Corporations Act*; or
 - (5) any similar amounts under any **Similar Legislation**.

(JJ) **"Wrongful Act"** means:

- (1) any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty by any **Insured Person** in their capacity as such, or any matter asserted against any **Insured Person** solely by reason of their status as such;
- (2) any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty by any **Insured Person** in their **Outside Capacity**;
- (3) an **Employed Professional Wrongful Act**; or
- (4) for the purposes of Insuring Agreement (C) **Organization Liability Coverage** of this Coverage Section, any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty by the **Organization**.

III. EXCLUSIONS

EXCLUSIONS APPLICABLE TO ALL CLAIMS

This Coverage Section does not apply to, and no coverage will be available under this Coverage Section for, **Loss** from any **Claim**:

(A) PRIOR NOTICE

Based Upon any fact, circumstance, situation, transaction, event or **Wrongful Act** that, before the inception date of this Policy stated in the Declarations Page, was the subject of any notice given and accepted under any policy or coverage section of which this Coverage Section is a direct or indirect renewal or replacement;

(B) PRIOR AND PENDING LITIGATION

Based Upon any prior and/or pending litigation or administrative, regulatory or arbitration proceeding against any **Insured** as of the applicable **Prior or Pending Litigation Date**, or the same or substantially the same fact, circumstance, situation, transaction, event or **Wrongful Act** underlying or alleged therein;

(C) ORGANIZATION VS. INSURED

brought by or on behalf of the **Organization**, provided, that this EXCLUSION (C) shall not apply to:

- (1) any **Claim** brought or maintained derivatively on behalf of the **Organization** by one or more security holders of the **Organization** in their capacity as such, provided such **Claim** is brought and maintained independently of, and without the solicitation, assistance, active participation or intervention of, any **Executive** of the **Organization**;
- (2) in any bankruptcy proceeding by or against the **Organization**, any **Claim** brought by the examiner, creditors' committee, trustee, receiver, liquidator or rehabilitator (or any assignee thereof) of such **Organization**;
- (3) any **Claim** brought or maintained as a result of the solicitation, assistance, active participation or intervention of an **Insured Person** where such solicitation, assistance, active participation or intervention is protected under any "whistleblower" protection provision of any federal, provincial, territorial, state or local statutory, civil or common law;
- (4) any **Claim** brought or maintained outside Canada, the United States of America, or any other common law country (including any territories thereof) where the law requires such suit to be made to redress corporate wrongdoing;
- (5) any **Claim** brought or maintained against an **Insured Person** who has not served in such capacity for at least one (1) year from the date the **Claim** is first made;
- (6) any **Claim** for an **Employed Professional Services Wrongful Act**; or
- (7) **Defence Expenses** incurred in connection with a **Claim** under Insuring Agreement (A) **Insured Person Non-Indemnified Loss Coverage**;

(D) OUTSIDE ENTITY VS. INSURED PERSON

for any **Wrongful Act** of an **Insured Person** in their **Outside Capacity**, if such **Claim** is brought by or on behalf of:

- (1) the **Outside Entity** with which such **Insured Person** is serving or has served in an **Outside Capacity**; or
- (2) any director, officer, trustee, governor or equivalent executive of such **Outside Entity**;

provided, that this EXCLUSION (D) shall not apply to:

- (a) any **Claim** brought or maintained derivatively on behalf of the **Outside Entity** by one or more security holders or members of the **Outside Entity** who are not **Insured Persons** and are not directors, officers, trustees, governors or equivalent executives of the **Outside Entity** and who bring and maintain such **Claim** independently of, and without the solicitation, assistance or active participation of any **Insured Person** or of any director, officer, trustee, governor or equivalent executive of the **Outside Entity**;
- (b) any **Claim** in the form of a cross-claim, third party claim or other claim for contribution or indemnity by a director, officer, trustee, governor or equivalent executive of the **Outside Entity** which is part of or results directly from a **Claim** which is not otherwise excluded by the terms of this Coverage Section;
- (c) in any bankruptcy proceeding by or against the **Outside Entity**, any **Claim** brought by the examiner, creditors' committee, trustee, receiver, liquidator or rehabilitator (or any assignee thereof) of such **Outside Entity**;
- (d) any **Claim** brought or maintained by a director, officer, trustee, governor or equivalent executive of the **Outside Entity** who has not served in such capacity for at least one (1) year from the date the **Claim** is first made;
- (e) any **Claim** brought or maintained by any director, officer, trustee, governor or equivalent executive of an **Outside Entity** formed and operating in a foreign jurisdiction where the law requires such suit to be made to redress corporate wrongdoing, provided such **Claim** is brought and maintained outside Canada, the United States of America or any other common law country (including any territories thereof); or
- (f) any **Claim** brought or maintained as a result of the solicitation, assistance, active participation or intervention of any director, officer, trustee, governor or equivalent executive of the **Outside Entity** where such solicitation, assistance, active participation or intervention is protected under any "whistleblower" protection provision of any federal, provincial, territorial, state or local statutory, civil or common law;

(E) BODILY INJURY AND PROPERTY DAMAGE

for any actual or alleged bodily injury, mental anguish, emotional distress, sickness, disease or death of any person, or damage to or destruction of any tangible property including loss of use thereof whether or not it is damaged or destroyed, provided, that this EXCLUSION (E) shall not apply to:

- (1) emotional distress, mental anguish or humiliation resulting directly from an employment-related **Claim** covered under Insuring Agreements (A) **Insured Person Non-Indemnified Loss Coverage** or (B) **Insured Person Indemnified Loss Coverage** of this Coverage Section; or
- (2) **Defence Expenses** incurred in connection with a **Claim** that is a criminal proceeding, pursuant to section 217.1 of the *Criminal Code* of Canada (as amended by Bill C-45) or equivalent foreign corporate manslaughter legislation;

(F) BENEFIT LAW

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

- (1) the *Pension Benefit Standards Act, R.S.C. 1985*, the *Income Tax Act, R.S.C., 1985*, including any rules, regulations or amendments thereunder and any of the same or similar provisions of any province or territory;
- (2) the *Employee Retirement Income Security Act of 1974*, including any rules, regulations or amendments thereunder (including amendments relating to the *Consolidated Omnibus Budget Reconciliation Act of 1985* and the *Health Insurance Portability and Accountability Act of 1996*); or
- (3) any **Similar Legislation** related to employee benefit law;

(G) **PERSONAL CONDUCT**

Based Upon:

- (1) any **Insured** having gained any personal profit, remuneration or financial advantage to which such **Insured** is not legally entitled; or
 - (2) the committing of any deliberately fraudulent, dishonest or criminal act or omission, or any willful violation of any statute, rule or law, by any **Insured**;
- provided, that this EXCLUSION (G) shall not apply unless the gaining by such **Insured** of such profit, remuneration or advantage to which such **Insured** is not legally entitled, or the deliberately fraudulent or dishonest act or omission or willful violation of statute, rule or law, has been established by a final and non-appealable adjudication in any judicial or administrative proceeding other than an action or proceeding commenced by the Underwriter to determine coverage under this Policy, and provided further, that:
- (a) subparagraph (1) above shall not apply to the portion of **Loss** attributable to violations of Section 130 or 130.1 of the *Ontario Securities Act*, Sections 11, 12 or 15 of the *Securities Act of 1933*, any amendments thereto, or any **Similar Legislation**;
 - (b) for the purpose of subparagraph (2) above, a sentence rendered in a foreign jurisdiction for criminal acts that are not treated as such in Canada or the United States of America shall not be considered a final and non-appealable adjudication; or

(H) **PUBLICLY TRADED SECURITIES**

Based Upon any actual or alleged **Securities Violation**, provided, that this EXCLUSION (H) shall not apply to any **Claim**:

- (1) **Based Upon** the offering, sale or purchase of securities in a transaction or a series of transactions that are in fact exempt from registration under the applicable law set forth in the definition of **Securities Violation**;
- (2) made by any security holder of the **Organization** for the failure of the **Organization** to undertake or complete the initial public offering or sale of securities of the **Organization**; or
- (3) for a **Roadshow Wrongful Act** with respect to:
 - (a) a planned initial public offering that does not materialize; or
 - (b) an initial public offering that is disclosed and for which the Underwriter expressly issues coverage as provided in Section VII. **SECURITIES TRANSACTIONS** of this Coverage Section.

EXCLUSIONS APPLICABLE TO INSURING AGREEMENT (C) ORGANIZATION LIABILITY COVERAGE

Insuring Agreement (C) **Organization Liability Coverage** of this Coverage Section does not apply to, and no coverage will be available under Insuring Agreement (C) **Organization Liability Coverage** of this Coverage Section for, **Loss** from any **Claim**:

(I) **EMPLOYMENT PRACTICES**

Based Upon any employment-related **Wrongful Act**;

(J) **THIRD PARTY DISCRIMINATION OR HARASSMENT**

Based Upon any actual or alleged discrimination against, or harassment (whether sexual or non-sexual in nature) of, any person or entity that is not an **Insured**;

(K) **CONTRACT**

for any actual or alleged liability of any **Organization** under any express contract or agreement including an actual alleged breach of contract or agreement; provided, that this EXCLUSION (K) shall not apply to liability which would have attached in the absence of such express contract or agreement;

(L) **INTELLECTUAL PROPERTY**

for any actual or alleged infringement of patent, copyright or trademark or misappropriation of intellectual property, ideas or trade secrets;

(M) **ANTITRUST, COMPETITION ACT OR UNFAIR TRADE PRACTICES**

Based Upon any actual or alleged price fixing (including horizontal or other price fixing of wages, hours, salaries, compensation, benefits or any other terms and conditions of employment), restraint of trade, monopolization, or violation of:

- (a) the *Canadian Competition Act, R.S.C. 1985, c. C-34*, in Canada;
- (b) the *Interstate Commerce Act of 1887*, the *Sherman Antitrust Act of 1890*, the *Clayton Act of 1914*, the *Robinson-Patman Act of 1936*, the *Cellar-Kefauver Act of 1950*, or the *Federal Trade Commission Act of 1914* in the United States of America; or
- (c) any **Similar Legislation** involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities;

(N) **PRODUCT OR SERVICES LIABILITY**

for any actual or alleged:

- (1) malfunction of any product or failure of any product to perform in any manner as a result of any defect, deficiency or inadequacy in the design or manufacture of such product including warranties or representations with respect to the fitness, quality, durability, performance or use of such products;
 - (2) false or misleading advertising, marketing or labeling of any product, or unfair or deceptive trade practices with respect to the advertising of any product; or
 - (3) services rendered by the **Organization** to any third party, whether for remuneration or not;
- provided, that this EXCLUSION (N) shall not apply to any **Claim** for a **Securities Violation**.

IV. SEVERABILITY OF EXCLUSIONS

- (A) No fact or conduct pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person** to determine the application of any exclusion of this Coverage Section.
- (B) Only facts or conduct pertaining to and knowledge possessed by any past, present or future chief executive officer or chief financial officer of the **Organization** (or equivalent positions thereof) shall be imputed to such **Organization** to determine the application of any exclusion of this Coverage Section.

V. COVERAGE SECTION SPECIFIC LIMITS OF LIABILITY

- (A) The Sublimit stated in the Declarations Page for Insuring Agreement (D) **Derivative Demand Investigative Costs Coverage** of this Coverage Section is the maximum limit of the Underwriter's liability for all **Investigative Costs** resulting from all derivative actions and derivative demands, which amount shall be part of, and not in addition to the Coverage Section Aggregate Limit of Liability applicable to this Coverage Section.
- (B) The Limit stated in the Declarations Page for Insuring Agreement (E) **D&O Crisis Management Expenses Coverage** of this Coverage Section is the maximum limit of the Underwriter's liability for all **Crisis Management Expenses** resulting from all **Crisis Management Events**, which amount shall be in addition to, and not part of, the Policy Aggregate Limit of Liability and the Coverage Section Aggregate Limit of Liability applicable to this Coverage Section.
- (C) The Limit stated in the Declarations Page for Insuring Agreement (G) **Executives Protection Expenses Coverage** of this Coverage Section is the maximum limit of the Underwriter's liability for all **Asset Protection Costs**, **Custody Protection Expenses**, **Personal Reputation Expenses** and **Personal Inquiry Expenses** incurred by any and all **Executives**, which amount shall be in addition to, and not part of, the Policy Aggregate Limit of Liability and the Coverage Section Aggregate Limit of Liability applicable to this Coverage Section.

VI. COVERAGE SECTION SPECIFIC DEDUCTIBLES

The following provision shall apply in addition to the provisions of Section IV. **DEDUCTIBLES** of the General Terms and Conditions Section:

No Deductible shall apply under Insuring Agreements (A) **Insured Person Non-Indemnified Loss Coverage** or (D) **Derivative Action Investigative Costs Coverage** of this Coverage Section.

VII. SECURITIES TRANSACTIONS

If, during the **Policy Period**, the **Organization** intends to sell or offer to sell securities of any kind or nature whatsoever, issued at any time by the **Organization** in a transaction that is not exempt from registration under the *Ontario Securities Act* (or any similar provincial or territorial legislation) or the *Securities Act of 1933*, as amended (a "Transaction"), the **Organization** will, no later than thirty (30) days prior to the effective date of the registration statement for such sale or offering, give the Underwriter written notice of the proposed sale or offering and all information requested by the Underwriter relating thereto. Upon the request of the **Organization**, the Underwriter may, in its sole discretion, provide the **Organization** a quotation for coverage with respect to such sale or offering; provided any such coverage shall be subject to such terms, conditions and limitations of coverage and such additional premium as the Underwriter, in its sole discretion, may require. Unless and until the Underwriter determines to issue coverage there shall be no coverage under this Policy for such Transaction.

VIII. RETIRED EXECUTIVES

The Underwriter agrees that, in the event an **Executive** retires and no longer serves in their capacity as such during the **Policy Period**, the coverage provided by Insuring Agreement (A) **Insured Person Non-Indemnified Loss Coverage** of this Coverage Section shall be automatically extended for a maximum period of six (6) years from such **Executive's** official retirement date, but only with respect to any **Claim** against such **Executive Based Upon Wrongful Acts** committed prior to such official retirement date. However, this automatic extension shall not apply if:

- (A) either a replacement policy or **Extended Reporting Period** is obtained by the **Organization** and in force during the six (6) years period from such official retirement date; or
- (B) such retirement is due to or occurs during an event described in paragraph (B) **Acquisition by Another Party** or (C) **Cessation of a Subsidiary** of Section XI. **CHANGES IN EXPOSURE** of the General Terms and Conditions.