

Employment Practices Liability Insurance Policy

Declarations



Insurance is provided by: ZURICH AMERICAN INSURANCE COMPANY
Home Office – 165 Broadway
New York, NY 10006
(a stock company; hereinafter “Underwriter”)

Policy Number:

THIS POLICY PROVIDES CLAIMS MADE AND REPORTED COVERAGE. CLAIMS MUST FIRST BE MADE AGAINST THE INSUREDS DURING THE POLICY PERIOD OR THE EXTENDED REPORTING PERIOD (IF APPLICABLE) AND REPORTED TO THE UNDERWRITER PURSUANT TO SUBSECTION VII.A. THE PAYMENT OF DEFENSE COSTS REDUCES THE LIMITS OF LIABILITY.

Item 1. **Parent Company** and Address:

Item 2. Limits of Liability:

- A. Insuring Clause I.A: \$ Each **Claim** and in the Aggregate all **Claims**
- B. Insuring Clause I.B: (if granted) \$ Each **Claim** and in the Aggregate all **Claims**
- C. Aggregate for all **Loss** for all **Claims** Each **Policy Period**: \$Always Equal to Item 2.A.Dollar Amount>

Item 3. **Policy Period**: From: To: 12:01 A.M. local time at the address shown in Item 1.

Item 4. Self-Insured Retention: A. Insuring Clause I.A: \$ Each **Claim**
B. Insuring Clause I.B (if granted): \$ Each **Claim**

Item 5. Coinsurance Percent: percent (%) of **Loss** for Each **Claim**

Item 6. Extended Reporting Period (if purchased): A. Additional Premium
B. Additional Period

Item 7. Pending or Prior Date: A. Insuring Clause I.A:
B. Insuring Clause I.B: (if granted)

Item 8. Continuity Date: A. Insuring Clause I.A:
B. Insuring Clause I.B: (if granted)

Item 9. Notice and Reporting:

(A) Address for notice of claim or potential claim: Attn: Management Solutions Group-EPL Claims PO Box 968041 Schaumburg, IL 60196-8041 Facsimile: (866) 255-2962 Email: msgclms@zurichna.com	(B) Address for other notice: Attn: Employment Practices Department Northeast Region Underwriting One Liberty Plaza – 30th Floor New York, NY 10006 Email: NEsubmissions@zurichna.com
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Item 10. Endorsements Effective at Inception: See Attached Schedule of Forms and Endorsements.

Employment Practices Liability Insurance Policy

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ZURICH®

Employment Practices Liability Insurance Policy

THIS POLICY PROVIDES CLAIMS MADE AND REPORTED COVERAGE. CLAIMS MUST FIRST BE MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR THE EXTENDED REPORTING PERIOD, IF PURCHASED, AND REPORTED TO THE UNDERWRITER PURSUANT TO SUBSECTION VII.A.1. THE PAYMENT OF DEFENSE COSTS REDUCES THE LIMITS OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY.

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine an **Insured's** rights and duties and what is and is not covered.

Refer to Section III. DEFINITIONS of the policy for the special meaning of words and phrases that appear in bold.

In consideration of payment of the premium and in reliance upon the statements made in the **Application**, which is made a part of this policy, and subject to the Declarations and the limitations, conditions, provisions and other terms of this policy, including any endorsements hereto, the **Underwriter** and the **Insured** agree as follows:

I. INSURING CLAUSES

A. Employment Practices Liability Coverage

The **Underwriter** shall pay on behalf of the **Insureds** all **Loss** for which the **Insureds** become legally obligated to pay on account of any **Claim** by or on behalf of an **Employee** of the **Company** for a **Wrongful Employment Act** taking place before or during the **Policy Period**, if such **Claim** is first made during the **Policy Period** or the Extended Reporting Period (if purchased) and reported to the **Underwriter** pursuant to Subsection VII.A.

B. Third Party Liability Coverage (if granted)

Third Party Liability Coverage is granted only if Limits of Liability are shown in Item 2.B of the Declarations. If Third Party Liability Coverage is granted, the **Underwriter** shall pay on behalf of the **Insureds** all **Loss** for which the **Insureds** become legally obligated to pay on account of any **Claim** by or on behalf of any natural person (other than an **Insured Person**) for a **Wrongful Discrimination Act** taking place before or during the **Policy Period**, if such **Claim** is first made during the **Policy Period** or the Extended Reporting Period (if purchased) and reported to the **Underwriter** pursuant to Subsection VII.A.

C. Defense and Settlement

1. Defense

The **Underwriter** shall have the right and duty to defend **Claims** against the **Insureds** to which this policy applies, even if the allegations in the **Claim** are groundless, false or fraudulent. The **Underwriter's** right and duty to defend includes, without limitation, the right and duty to select defense counsel.

The **Underwriter's** duty to defend any **Claim** or to pay **Loss** for such **Claim** ends when the Limit of Liability applicable to such **Claim** or to the **Policy Period** has been exhausted. If the Limit of Liability is exhausted prior to settlement or judgment of any pending **Claim**, the **Underwriter's** obligations under this policy shall be terminated and the **Underwriter** shall have the right to withdraw from the further investigation or defense of any pending **Claim** by tendering control of such investigation or defense to the **Insureds**, and as a condition to the issuance of this policy, the **Insureds** agree to accept such tender.

2. Settlement

The **Insureds** agree not to settle any **Claim**, incur any **Defense Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the **Underwriter's** written consent; provided that such consent shall not be required if the total **Loss** incurred on account of such **Claim** is equal to or less than the Self-Insured Retention shown in Item 4 of the Declarations. The **Underwriter** shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented.

If with respect to any **Claim** the **Underwriter** requests the **Insureds'** consent to a settlement offer from the claimant and any **Insureds** withhold such consent and if the total **Loss** incurred on account of such **Claim** is more than what would have been incurred had such **Insureds** consented to such settlement offer, then the

Coinsurance Amount applicable to such additional **Loss** shall be increased by adding twenty (20) to the percent number shown in Item 5 of the Declarations.

Neither the **Underwriter** nor the **Insureds** shall unreasonably withhold any consent referenced in this section.

As a condition precedent to their rights under this policy, the **Insureds** shall provide the **Underwriter** with all information, assistance and cooperation that the **Underwriter** reasonably requests and, in the event of a **Claim**, the **Insureds** will do nothing that shall prejudice the **Underwriter's** position or its potential or actual rights of recovery. The **Underwriter** may make any investigation it deems necessary.

II. EXTENSIONS

A. Spousal Liability

If a **Claim** against an **Insured Person** is also made against his or her lawful spouse or person recognized by law or the **Company** as a domestic partner solely because of his or her status as the spouse or domestic partner of the **Insured Person** or such person's ownership interest in property that the claimant seeks as recovery for an alleged **Wrongful Act** of the **Insured Person**, then all loss that such person becomes legally obligated to pay on account of such **Claim** which would otherwise be covered under this policy shall be deemed **Loss** for which the **Insured Person** is legally obligated to pay. This coverage extension shall not apply to any **Claim** alleging any wrongful act or omission by the **Insured Person's** spouse or domestic partner.

B. Extended Reporting Period (if purchased)

If the **Underwriter** or the **Parent Company** nonrenews this policy or the **Underwriter** cancels this policy other than for nonpayment of premium, then for the additional premium shown in Item 6.A of the Declarations, the **Parent Company**, on behalf of all **Insureds**, shall have the right to purchase the Extended Reporting Period shown in Item 6.B of the Declarations, during which any **Claim** first made against an **Insured** shall be considered made during the **Policy Period**, but only with respect to **Wrongful Acts** taking place prior to the effective date of nonrenewal or cancellation. The right to purchase the Extended Reporting Period shall lapse unless the **Parent Company** gives written notice of such election, together with payment of the additional premium to the **Underwriter** within sixty (60) days following the effective date of nonrenewal or cancellation. The Extended Reporting Period does not reinstate or increase the Limits of Liability beyond the available Limits of Liability or extend the **Policy Period**.

The entire additional premium for the Extended Reporting Period shall be deemed fully earned and non-refundable as of the effective date of the Extended Reporting Period.

C. Estates and Legal Representatives

This policy shall afford coverage for **Claims** for the **Wrongful Acts** of **Insured Persons** made against the estates, heirs, legal representatives or assigns of any such **Insured Persons** who are deceased or against the legal representatives or assigns of any such **Insured Persons** who are incompetent, insolvent or bankrupt to the extent that in the absence of such death, incompetence, insolvency or bankruptcy, such **Claims** would have been covered by this policy.

III. DEFINITIONS

When used in this policy:

A. **Application** means the written application for this policy and all attachments and materials submitted in connection with or incorporated in the written application. The **Application** shall be deemed attached to and incorporated in this policy.

B. **Claim** means:

1. a written demand for monetary damages;
2. a civil proceeding commenced by the service of a complaint or similar pleading;
3. an administrative or regulatory proceeding commenced by a notice of charges, formal investigative order or similar document including, without limitation, an **EEOC Proceeding**; or
4. an arbitration or other alternative dispute resolution proceeding commenced by the service of a pleading or similar document;

against any **Insured**, including any appeal thereof.

- C. **Company** means, collectively, the **Parent Company** and its **Subsidiaries**.
- D. **Defense Costs** means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or **Employees** of the **Company**) incurred in defending or investigating **Claims** and the premium for appeal, attachment or similar bonds.
- E. **EEOC Proceeding** means an investigative proceeding before the Equal Employment Opportunity Commission or an adjudicatory or investigative proceeding before any similar state, federal, local or foreign government body whose purpose is to address **Wrongful Employment Acts**.
- F. **Employee**, either in the singular or plural, means any natural person whose labor or service is directed by the **Company** in the ordinary course of its business, including without limitation any person who is:
1. employed by the **Company** regardless of whether such person is a past, present, prospective, part-time, temporary, seasonal, contract, or leased employee;
 2. a volunteer of the **Company**; or
 3. an independent contractor of the **Company**.
- G. **Insured Persons**, either in the singular or plural, means:
1. any natural person who has been, now is or shall become a duly elected or appointed director or officer, or an **Employee** of the **Company**; or
 2. with respect to a **Subsidiary** incorporated outside the United States, its functional equivalent of a duly elected or appointed director or officer, or an employee while acting in their respective capacities.
- H. **Insureds**, either in the singular or plural, means the **Company** and the **Insured Persons**.
- I. **Interrelated Wrongful Acts** means all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally connected facts, circumstances, situations, events, transactions or causes.
- J. **Loss** means the total amount that the **Insureds** become legally obligated to pay on account of each **Claim** and for all **Claims** in each **Policy Period** and the Extended Reporting Period (if purchased), made against them for **Wrongful Acts** for which coverage applies including, but not limited to:
1. compensatory damages (including front pay and back pay) and punitive damages (including exemplary and multiplied damages); provided however, that such punitive damages shall constitute **Loss** only to the extent that they are insurable pursuant to the jurisdiction most favorable to the **Insured**, and provided further that the jurisdiction is located in any of the following: (a) where the damages were awarded or imposed; (b) where any **Wrongful Act** took place that gave rise to such damages; or (c) where the **Company** is incorporated or resides or has its principle place of business;
 2. judgments, including pre-judgment and post-judgment interest;
 3. settlements; and
 4. **Defense Costs**.
- Loss** does not include:
- a. amounts for which the **Insureds** are absolved from payment by any covenant, agreement or court order;
 - b. taxes or fines or penalties imposed by law, other than liquidated damages awarded under the Age Discrimination in Employment Act or the Equal Pay Act;
 - c. costs to comply with any consent decree, injunctive, restitutionary, affirmative or other non-monetary relief or any agreement to provide such relief, including providing reasonable accommodations under the Americans with Disabilities Act or similar law or to any person with a disability or other protected characteristics;
 - d. compensation earned by the claimant in the course of employment but not paid by the **Company**, including but not limited to any unpaid salary, overtime, bonus, wages, severance pay, retirement benefits, unpaid reimbursement of **Employee** expenses, vacation days or sick days;
 - e. medical, insurance or other benefits (or the equivalent value thereof) to which the claimant allegedly was entitled or should have been entitled;

- f. **Stock Based Benefits;**
 - g. amounts owing under or assumed by the **Insured** pursuant to any express written contract or agreement with the **Insured**; or
 - h. matters uninsurable under the law pursuant to which the terms of this policy are construed.
- K. **Parent Company** means the organization shown in Item 1 of the Declarations.
- L. **Policy Period** means the period shown in Item 3 of the Declarations, subject to prior termination pursuant to Subsection VII.I.
- M. **Stock Based Benefits** means the value or any actual, beneficial or contingent rights to benefits, incentives or other compensation whose value is imputed or derived in any way from the value of the securities of the **Company** or, if the **Company** is a limited liability company, the value of any ownership interest in the **Company**; including but not limited to, stock options, stock grants, restricted stock, stock warrants, stock performance shares or units, stock appreciation rights, or phantom stock plans or arrangements.
- N. **Subsidiary**, either in the singular or plural, means any limited liability company or partnership controlled or managed by the **Company** or any other organization in which more than fifty percent (50%) of the outstanding voting securities or voting rights representing the present right to vote for election of directors is owned or controlled, directly or indirectly, in any combination, by the **Company**; provided that **Subsidiary** shall not include any joint venture.
- O. **Underwriter** means the insurer shown in the Declarations.
- P. **Wrongful Discrimination Act** means any act, error, omission, neglect, or breach of duty actually or allegedly committed or attempted by the **Company** or by one or more **Insured Persons** in their capacities as such in connection with any actual or alleged violation of any law or public policy concerning discrimination or harassment.
- Q. **Wrongful Act** means a **Wrongful Employment Act** or a **Wrongful Discrimination Act**, or both.
- R. **Wrongful Employment Act** means any act, error, omission, misstatement, misleading statement, neglect or breach of duty actually or allegedly committed or attempted by the **Company** or by one or more **Insured Persons** in their capacities as such in connection with any actual or alleged:
1. breach of any express or implied employment contract;
 2. violation of any law or public policy concerning discrimination in employment whether based upon race, national origin, religion, sex, sexual preference, marital status, disability, or genetic predisposition;
 3. employment-related torts including without limitation wrongful termination, failure or refusal to hire or promote; wrongful discipline; wrongful reference, deprivation of a career opportunity, demotion or adverse change in terms, conditions or status of employment; wrongful failure to grant tenure; retaliation for asserting a legal right; workplace harassment including without limitation offensive, intimidating, coercive or unwelcome conduct, advances, contact or communications; negligent hiring, retention, supervision, training or performance evaluation; and employment-related misrepresentation, defamation, invasion of privacy or infliction of emotional distress.

IV. EXCLUSIONS

The **Underwriter** shall not be liable for **Loss** for any **Claim** made against any **Insured**:

1. based upon, arising out of or attributable to any fact, circumstance or situation which has been the subject of any written notice given under any policy of which this policy is a successor, renewal or replacement or any policy expiring prior to the inception date of this policy;
2. based upon, arising out of or attributable to any demand, suit or proceeding pending against any **Insured** on or prior to the Pending or Prior Date shown in Item 7 of the Declarations, or the same or substantially the same fact, circumstance, or situation underlying or alleged therein;
3. based upon, arising out of or attributable to any **Wrongful Act** or **Interrelated Wrongful Acts** taking place prior to the Continuity Date shown in Item 8 of the Declarations, if on or before such Continuity Date the **Company's** Chairperson, President, Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, in-house General Counsel, Director of Human Resources, Director of Risk Management or persons serving in functionally equivalent positions for the **Company**, knew or reasonably should have known such **Wrongful Act** or **Interrelated Wrongful Acts** could lead to a **Claim**.

4. based upon, arising out of or attributable to any actual or alleged violation of the responsibilities, obligations, or duties imposed by:
 - a. any law governing workers' compensation, unemployment insurance, social security or disability benefits;
 - b. the Employee Retirement Income Security Act of 1974, (except Section 510 thereof);
 - c. the Fair Labor Standards Act (except the Equal Pay Act) and any other law concerning wage and hour practices, including, but not limited to any **Claim** for off-the-clock work, failure to provide rest or meal periods, failure to reimburse expenses, improper classification of employees as exempt or non-exempt, failure to timely pay wages, conversions, unjust enrichment, or unfair business practices;
 - d. any law governing the rights of employees to engage in, or to refrain from engaging in, union or other collective activities, including but not limited to the National Labor Relations Act, or the enforcement of any collective bargaining agreement;
 - e. the Worker Adjustment and Retraining Notification Act;
 - f. the Consolidated Omnibus Budget Reconciliation Act of 1985;
 - g. the Occupational Safety and Health Act;
 - h. the Racketeer Influenced and Corrupt Organizations Act;
 - i. the Federal False Claims Act; and
 - j. any other federal, state, local or foreign law similar to those described in this subsection; provided that this exclusion shall not apply to any **Claim** for any actual or alleged retaliatory treatment of the claimant by the **Insureds** on account of the claimant's exercise of rights pursuant to any such law; or
5. for bodily injury (other than employment-related mental anguish, humiliation or emotional distress); sickness; disease; death of any person; or damage to or destruction of any tangible property including loss of use thereof.

V. LIMITS OF LIABILITY, SELF-INSURED RETENTION, COINSURANCE AMOUNT, AND INTERRELATED CLAIMS

A. Limits of Liability

The **Underwriter's** maximum liability for all **Loss** for each **Claim** and for all **Claims** for each **Policy Period** shall not exceed the Limit of Liability shown in Item 2 of the Declarations.

Defense Costs are part of and not in addition to the Limit of Liability shown in Item 2 of the Declarations and payment by the **Underwriter** of **Defense Costs** reduces such Limit of Liability.

B. Self-Insured Retention

The **Underwriter's** liability for **Loss** for each **Claim** shall apply only to that part of such **Loss** in excess of the Self-Insured Retention shown in Item 4 of the Declarations. The portion of the **Loss** within the Self-Insured Retention shall be borne by the **Insureds** uninsured and at their own risk. The maximum Self-Insured Retention applicable to a single **Claim** covered under more than one Insuring Clause shall be the largest applicable Self-Insured Retention. The **Underwriter** shall have no obligation for such Self-Insured Retention.

Notwithstanding the above, no Self-Insured Retention shall apply to **Loss** incurred by **Insured Persons** for which the **Company** is neither permitted nor required by law to indemnify or for which the **Company** fails to indemnify them due to the appointment by any state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Company**, or the **Company** becoming a debtor in possession.

C. Coinsurance Amount

The **Insureds** shall be liable for that portion of **Loss** for each **Claim**, excess of the Self-Insured Retention, specified as the Coinsurance Amount in Item 5 of the Declarations. The **Underwriter's** liability for **Loss** for each **Claim** shall apply only to that portion of **Loss** in excess of the Coinsurance Amount and the **Underwriter** shall have no obligation for such Coinsurance Amount.

D. Interrelated Claims

The inclusion of one or more **Insureds** in any **Claim**, or the making of **Claims** by more than one person or entity shall not increase the Limits of Liability. All **Claims** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts** shall be deemed one **Claim**, and all such **Claims** shall be deemed to be first made when the

earliest of such **Claims** is first made, whether before or during the **Policy Period** or the Extended Reporting Period (if purchased).

VI. ALLOCATION

If the **Insureds** incur both **Loss** covered by this policy and loss not covered by this policy either because a **Claim** against the **Insureds** includes both covered and uncovered matters or because a **Claim** is made against both **Insureds** and others, then one hundred percent (100%) of such amount that constitutes **Defense Costs** shall be considered covered **Loss** and all other such loss shall be allocated by the **Insured Persons**, the **Company** and the **Underwriter** between covered **Loss** and uncovered loss based upon the relative legal exposure of the parties to covered and uncovered matters.

In any arbitration, suit or other proceeding between the **Underwriter** and the **Insured Persons** or the **Company**, no presumption shall exist concerning what is a fair and proper allocation between covered **Loss** and uncovered loss.

VII. GENERAL CONDITIONS AND LIMITATIONS

A. Reporting and Notice

1. Notice of Claims

As a condition precedent to their rights under the policy, the **Insureds** shall give written notice to the **Underwriter** of a **Claim** as soon as practicable after the **Claim** is first made against the **Insureds** but in no event later than ninety (90) days after the expiration of the **Policy Period** or after the Extended Reporting Period (if purchased).

2. Notice of Potential Claims

If during the **Policy Period**, the **Insureds** become aware of specific **Wrongful Acts** that could give rise to a **Claim** and the **Insureds** give written notice of such to the **Underwriter** during the **Policy Period**, then any **Claim** subsequently arising from such **Wrongful Acts** shall be considered made during the **Policy Period**.

3. As a condition precedent to exercising their rights under this policy, the **Insureds** shall:

a. include within any notice of **Claim** or potential **Claim** a description of the **Claim** or potential **Claim**, the nature of the actual or alleged **Wrongful Acts**, the nature of the alleged or potential damage or loss, the names of actual or potential claimants, and the manner in which the **Insureds** first became aware of the **Claim** or the potential **Claim**, and

b. give to the Underwriter such information and cooperation as it may reasonably require.

4. All notices under this policy shall be in writing and given by prepaid express courier, certified mail, e-mail or fax properly addressed to the appropriate party. Notice to the **Insureds** may be given to the **Parent Company** at the address shown in Item 1 of the Declarations. Notice to the Underwriter of any **Claim** or potential **Claim** shall be sent to the address shown in Item 9.A of the Declarations. Notice attempted in any other manner or to any address other than the address shown in Item 9.A of the Declarations, including without limitation, information provided in connection with the application for a successor, renewal or replacement policy to this policy, shall not be considered notice of a **Claim** or of a potential **Claim**.

Notice to the **Underwriter** of any information other than **Claims** or potential **Claims** shall be given to the **Underwriter** at the address shown in Item 9.B of the Declarations or by e-mail to the appropriate authorized representative of the **Underwriter**.

5. Other Notice Conditions

All notices under this policy, including all required or otherwise provided supporting information, must be submitted in English. In the event any such information is not available as an original document in English, the **Insureds** shall supply, as a condition precedent to coverage, a complete copy of the original source material together with an English language translation certified by an independent expert. Any required translation costs shall be at the **Insureds'** expense.

B. Representations and Severability

In granting coverage under this policy, the **Underwriter** has relied upon the declarations, representations and warranties in the **Application**. All such declarations, representations and warranties are the basis of coverage under this policy and are incorporated in and constitute part of this policy.

The **Application** shall be construed as a separate **Application** by each **Insured Person**. No statement in the **Application** or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person** for the purpose of determining if coverage is available. The declarations, representations and warranties in the **Application** and knowledge possessed by the **Company's** Chairperson, President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, in-house General Counsel, Director of Human Resources or Director of Risk Management, or persons serving in functionally equivalent positions shall be imputed to the **Company** for determining if coverage is available with respect to **Claims** against the **Company**.

C. Changes in Exposure

1. Acquisition or Creation of Another Organization

If during the **Policy Period** the **Company**:

- a. acquires securities or voting rights in another organization or creates another organization, which as a result of such acquisition or creation becomes a **Subsidiary**; or
- b. acquires any organization by merger into or consolidation with the **Company**;

then such organization and its **Insured Persons** shall be covered under this policy but only with respect to **Wrongful Acts** taking place after such acquisition or creation unless and until the **Underwriter** agrees after presentation of all appropriate information, to provide coverage by endorsement for **Wrongful Acts** by such **Insureds** taking place prior to such acquisition or creation.

However, if as an immediate result of such acquisition or creation the number of **Employees** of the **Company** increases by more than twenty percent (20%) or twenty-five hundred (2,500), whichever is less, then as a condition precedent to coverage with respect to such organization and its **Insured Persons**, the **Parent Company** shall give written notice of such acquisition or creation to the **Underwriter** at the address indicated in Item 9.B of the Declarations as soon as practicable, but in no event later than ninety (90) days after the effective date of such acquisition or creation, together with such information as the **Underwriter** may require and shall pay any additional premium required by the **Underwriter**.

2. Acquisition of **Parent Company**

If during the **Policy Period**:

- a. the **Parent Company** merges into or consolidates with another organization; or
- b. another organization, or person or group of organizations or persons or both acting in concert acquires securities or voting rights which result in ownership or voting control by the other organization(s) or person(s) of more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of directors of the **Parent Company**;

then coverage under this policy shall continue until the later of: (i) any subsequent date to which the **Underwriter** may agree by endorsement; or (ii) termination of this policy; but only for **Claims** arising out of **Wrongful Acts** taking place prior to such merger, consolidation or acquisition. As a condition precedent to any coverage extension pursuant to this subsection, the **Parent Company** shall:

- (a) give written notice of such merger, consolidation or acquisition to the **Underwriter** at the address shown in Item 9.B of the Declarations, as soon as practicable, but in no event later than forty-five (45) days after the effective date of such merger, consolidation or acquisition;
- (b) provide any additional information that the **Underwriter** requests; and
- (c) pay any additional required premium.

Coverage pursuant to this provision will also be subject to such additional or different terms, conditions or limitations of coverage as the **Underwriter** in its sole discretion may require. Any **Claim** made and reported during such coverage extension shall be considered made during the **Policy Period**.

3. Cessation of **Subsidiaries**

If during the **Policy Period** an organization ceases to be a **Subsidiary**, then coverage with respect to such **Subsidiary** and its **Insured Persons** shall continue until termination of this policy but only with respect to **Claims** for **Wrongful Acts** taking place prior to the date such organization ceased to be a **Subsidiary**.

D. Territory and Valuation

All premiums, Limits of Liability, retentions, **Loss** and other amounts under this policy are expressed and payable in the currency of the United States of America. 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 shall be made in United States dollars at the rate of exchange published in *The Wall Street Journal* on the date the **Underwriter's** obligation to pay such **Loss** is established (or if not published on such date, on the next publication date of *The Wall Street Journal*).

To the extent legally allowed, coverage under this policy shall extend to **Claims** made and **Wrongful Acts** occurring anywhere in the world.

E. Other Insurance

Unless expressly written to be excess over other applicable insurance, this policy is intended to provide primary insurance; provided that if any **Loss** arising from any **Claim** made against the **Insureds** is also insured under another valid and collectible policy(ies), then this policy shall share such **Loss** with such other policy(ies) pro rata based on the respective Limits of Liability shown in the Declarations for this policy and such other policy(ies).

F. Subrogation

In the event of any payment under this policy, the **Underwriter** shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery, and the **Insureds** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the **Underwriter** effectively to bring suit in the name of the **Insureds**.

G. Alteration and Assignment

No change in, modification of or assignment of interest under this policy shall be effective except when made by a written endorsement to this policy which is signed by an authorized representative of the **Underwriter**.

H. Action Against the **Underwriter**

No action shall lie against the **Underwriter** unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy. No person or organization shall have any right under this policy to join the **Underwriter** as a party to any action against the **Insureds** to determine the **Insureds'** liability and the **Underwriter** shall not be impleaded by the **Insureds** or their legal representatives.

I. Policy Termination

This policy shall terminate at the earliest of the following:

1. upon expiration of the **Policy Period** shown in Item 3 of the Declarations;
2. ten (10) days after receipt by the **Parent Company** of a written notice of termination from the **Underwriter** for failure to pay a premium when due; or
3. at such other time as may be agreed upon by the **Underwriter** and the **Parent Company**.

The **Underwriter** shall refund the unearned premium computed at customary short rates if this policy is terminated by the **Parent Company**. Under any other circumstances, the refund shall be computed pro rata.

J. Authorization Clause

By acceptance of this policy, the **Parent Company** agrees to act on behalf of the **Insureds** with respect to giving and receiving all notices under this policy, paying premiums and receiving any return premiums that may become due under this policy, and agreeing to and accepting endorsements to this policy, and the **Insureds** agree that the **Parent Company** shall act on their behalf.

K. Bankruptcy

Bankruptcy or insolvency of the **Insureds** or the estate of any **Insured Person** shall not relieve the **Underwriter** of its obligations nor deprive the **Underwriter** of its rights or defenses under this policy.