

**EVEREST EXPEDITIONSM PRIVATE COMPANY MANAGEMENT LIABILITY POLICY
DIRECTORS AND OFFICERS LIABILITY COVERAGE PART**



SECTION I – INSURING AGREEMENTS

A. INSURED PERSON LIABILITY COVERAGE

The Insurer shall pay on behalf of the **Insured Persons** all **Loss** for which the **Insured Persons** are not indemnified by the **Company** and which the **Insured Persons** become legally obligated to pay on account of any **Claim** first made against them during the **Policy Period** or the **Extended Reporting Period**, if exercised, for a **Wrongful Act**.

B. COMPANY REIMBURSEMENT COVERAGE

The Insurer shall pay on behalf of the **Company** all **Loss** for which the **Company** grants indemnification to the **Insured Persons** and which the **Insured Persons** have become legally obligated to pay on account of any **Claim** first made against them during the **Policy Period** or the **Extended Reporting Period**, if exercised, for a **Wrongful Act**.

C. COMPANY LIABILITY COVERAGE

The Insurer shall pay on behalf of the **Company** all **Loss** for which the **Company** becomes legally obligated to pay on account of a **Claim** first made against the **Company** during the **Policy Period** or the **Extended Reporting Period**, if exercised, for a **Wrongful Act**.

D. DERIVATIVE DEMAND INVESTIGATION COSTS AND BOOKS AND RECORDS COSTS

The Insurer shall pay on behalf of the **Company** all **Investigative Costs** on account of all **Securityholder Derivative Demands** and **Books and Records Requests** first received by the **Company** during the **Policy Period** or the **Extended Reporting Period**, if exercised, provided the Insurer's maximum liability for all **Investigative Costs** covered under this Insuring Agreement D shall be the respective Sublimit of Liability set forth in ITEM 8 of the Declarations, which shall be part of and not in addition to the Aggregate Limit of Liability for this Coverage Part.

SECTION II – COVERAGE ENHANCEMENTS

A. PRE-CLAIM EXPENSES

If the **Insured** gives notice to the Insurer in accordance with Section III.A.3 of the General Terms and Conditions ("Noticed Matter"), and if a **Claim** is subsequently made against an **Insured** arising out of such Noticed Matter, then any **Pre-Claim Expenses** incurred by an **Insured**, in an amount no greater than the lesser of \$25,000, or fifty percent (50%) of the applicable retention, shall qualify as **Loss** solely for purposes of exhaustion of the applicable retention subject to the following:

1. Coverage will apply only to such **Pre-Claim Expenses** incurred on or after the date the **Insured** provides written notice to the Insurer of the Noticed Matter and prior to the time such Noticed Matter becomes a **Claim**. Once the retention has been exhausted, **Pre-Claim Expenses** shall no longer qualify as **Loss** covered under the policy;
2. This coverage shall not be deemed to waive any of the Insurer's rights hereunder or limit or affect the **Insureds'** rights to receive coverage for **Loss** incurred following the reporting of a **Claim**; and
3. Coverage as provided herein shall not include **Securityholder Derivative Demand Fees** or **Claim Expenses** incurred in connection with an **Inquiry** or any investigation of an **Insured**.

B. PRE-TENDER COST COVERAGE

The Insurer's prior written consent shall not be required for any **Claim Expenses** incurred by an **Insured**, on or after the date a **Claim** is first made and received by an **Insured** and within forty-five (45) days prior to the time such **Claim** is first noticed to the Insurer, in an amount no greater than the lesser of twenty-five thousand (\$25,000), or fifty percent (50%) of the applicable retention, subject to the following:

1. Such **Claim Expenses** shall qualify as **Loss** solely for purposes of exhaustion of the applicable retention for the **Claim**. The Insurer shall not be liable for any **Claim Expenses** incurred in excess of the retention to which it has not given prior consent;
2. Coverage will apply only to **Claim Expenses** incurred in connection with a **Claim** noticed to the Insurer in accordance with Section III.A.1 of the General Terms and Conditions, above;
3. Coverage as provided herein shall not include **Investigative Costs**, or **Claim Expenses** incurred in connection with any **Inquiry**; and
4. Solely with respect to the coverage provided under this Section II.B, the **Insured** shall not be required to obtain the Insurer's prior written consent to incur such **Claim Expenses** pursuant to Section VII.F.1 of the General Terms and Conditions.

C. EXECUTIVE PROTECTION COVERAGE

Loss shall include the following provided they arise out of a **Claim** against an **Insured Person**:

1. **Asset Protection Costs**; and
2. **Public Relations Costs**;

and such **Costs** shall be provided subject to the respective sublimits of Liability set forth in ITEM 8 of the Declarations, which shall be part of and not in addition to the Aggregate Limit of Liability for this Coverage Part.

D. OUTSIDE POSITION COVERAGE

Subject to the other terms and conditions applicable to this Coverage Part, Insuring Agreement A and Insuring Agreement B include coverage for **Insured Persons** while serving in an **Outside Position**. Such coverage shall be specifically excess of any indemnification and insurance available from or provided by the **Outside Entity** in which the **Insured Person** serves in an **Outside Position**.

E. ADDITIONAL SIDE A LIMIT OF LIABILITY FOR DIRECTORS AND OFFICERS LIABILITY

If an Additional Side A Limit of Liability is selected in the Declarations, and if the Limit of Liability applicable to **Loss** covered under this Coverage Part is exhausted by payments by the Insurer, then the Insurer's liability for any **Loss** covered under Insuring Agreement A which is incurred by any **Protected Executive** shall be the amount set forth in the Declarations, which shall be in addition to and not part of the Aggregate Limit of Liability for this Coverage Part, and in addition to and not part of the Combined Aggregate Limit of Liability set forth in ITEM 2 of the Declarations, provided that this Additional Side A Limit of Liability shall be excess of any other valid and collectible insurance that is specifically excess of this Coverage Part and that covers such **Loss**.

F. PUBLIC COMPANY COVERAGE QUOTE

If during the **Policy Period** the **Named Insured**:

1. gives prior written notice to the Insurer that a **Company** intends to sell or offer to sell equity securities that are required to be registered under the Securities Act of 1933, as amended ("Public Transaction"), and
2. provides to the Insurer all information requested by the Insurer with respect to the Public Transaction,

the Insurer shall provide to the **Company** during the **Policy Period** a quotation for coverage with respect to such sale or offering under the Insurer's then-standard Directors and Officers Liability Insurance Policy for public companies, provided such coverage shall be subject to such terms, conditions, limits, retentions and premium as the Insurer may require in its sole discretion. No coverage is afforded by the Insurer pursuant to any such quotation unless and until the **Named Insured** agrees in writing to the terms, conditions, limits, retentions and premium described in such quotation, and the Insurer agrees in writing to bind such coverage. This Section II.F shall not impact the Insurer's ability to cancel or non-renew this Policy as provided in Section XX (Cancellation and Nonrenewal) of the General Terms and Conditions.

SECTION III – DEFINITIONS

When used in the Directors and Officers Liability Coverage Part, the following terms, whether in the singular or plural, are defined as follows:

- A. **Asset Protection Costs** means reasonable fees, costs and expenses consented to by the Insurer, such consent not to be unreasonably withheld or delayed, and incurred by a **Protected Executive** to oppose an **Asset Protection Order** and to obtain the discharge or revocation of any such **Asset Protection Order** imposed upon such **Protected Executive** during the **Policy Period**.
- B. **Asset Protection Order** means any order issued by an **Enforcement Unit** to seize or enjoin the sale or transfer of a **Protected Executive's** personal assets or real property first received by such **Protected Executive** during the **Policy Period**.
- C. **Books and Records Costs** means any reasonable fees and expenses incurred by the **Company** in response to a **Books and Records Request**, other than wages, salaries, fees, benefit or overhead associated with any **Insured**.
- D. **Books and Records Request** means any written request by or on behalf of a shareholder of the **Company** upon the Board of Directors of the **Company** to inspect the books and records of such **Company** pursuant to Section 220 of the Delaware General Corporation Law or other similar statute.
- E. **Claim** means:
1. a written demand against any **Insured** for monetary damages or non-monetary (including injunctive) relief, including a demand that the **Insured** toll or waive a statute of limitations or a demand or request for arbitration, mediation or other alternative dispute resolution, which shall be deemed first made upon the **Insured's** receipt of the demand;
 2. a civil proceeding against any **Insured**, commenced by and which shall be deemed first made upon the service upon the **Insured** of a complaint or similar pleading;
 3. a criminal proceeding against any **Insured** commenced by and which shall be deemed first made upon the **Insured's** arrest, the return of an indictment or information, or receipt of a notice of charges or similar document;
 4. a formal administrative or regulatory proceeding against any **Insured** commenced by and which shall be deemed first made upon the **Insured's** receipt of a notice of charges or similar document;
- or the functional or foreign equivalent of paragraphs 1-4 above, including any appeal therefrom; provided that a **Claim** under paragraphs 1-4 above, shall not provide coverage for any investigation of an **Insured**;
5. solely with respect to Insuring Agreements A and B, **Claim** means any **Inquiry**, provided that the **Inquiry** shall be deemed a **Claim** only if the **Insured** elects to provide written notice of such **Inquiry** to the Insurer pursuant to Section III.A.2 of the General Terms and Conditions Part of the Policy and shall be deemed first made when it is noticed to the Insurer;
 6. solely with respect to Insuring Agreement D, **Claim** means a **Securityholder Derivative Demand** or **Books and Records Request**, which shall be deemed first made upon the **Insured's** receipt of such **Securityholder Derivative Demand** or **Books and Records Request**;

7. the arrest or confinement of any **Insured Person** to: (i) a specified residence; or (ii) a secure custodial premises operated by or on behalf of any **Enforcement Unit**, if such arrest or confinement is in connection with the business of any **Company**, which shall be deemed first made upon the **Insured Person's** receipt of the warrant for arrest or notice of confinement; or
 8. an official request for the **Extradition** of any **Insured Person** or the execution of a warrant for the arrest of any **Insured Person** where such execution is an element of **Extradition**, which shall be deemed first made upon the **Insured Person's** receipt of the official request or warrant.
- F. Compensation Clawback Costs** means the reasonable fees and expenses (including the premium or origination fee for a loan or bond, without any obligation of the Insurer to apply for or furnish such loan or bond) incurred by an **Insured Person** to investigate or defend any **Claim** pursuant to, or to facilitate the return of amounts required to be paid by such **Insured Person** pursuant to, Section 304(a) of the Sarbanes-Oxley Act of 2002 or Section 954 of the Dodd-Frank Act of 2010, or any rules, regulations or policies pursuant to such Sections; provided that **Compensation Clawback Costs** do not include the payment, return, reimbursement, disgorgement or restitution of any amounts requested or required to be paid by such **Insured Person** pursuant to such Sections, rules, regulations or policies.
- G. Controlling Person** means an **Insured Person** who allegedly controls the **Company** through stock ownership or pursuant to an agreement, including any such **Insured Person** described in Section 15 of the Securities Act of 1933, Section 20 of the Securities Exchange Act of 1934, or any similar federal, state or local rule or regulation.
- H. Derivative Suit** means any lawsuit by a securityholder of a **Company** brought derivatively on behalf of such **Company** against an **Insured Person** or the **Company**, including against the **Company** as a nominal defendant.
- I. Freedom Costs** means reasonable fees, costs, and expenses consented to by the Insurer, such consent not to be unreasonably withheld or delayed, and incurred by a **Protected Executive** to seek their lawful release in connection with a **Freedom Event**. **Freedom Costs** shall include the premium for a bond or similar instrument (provided the Insurer shall have no obligation to apply for or furnish such bond) to guarantee any contingent obligation ordered by a court that is incurred or required outside the United States of America during the **Policy Period**, if such premiums arise out of an actual or alleged **Wrongful Act** of the **Protected Executive**.
- J. Freedom Event** means the arrest or confinement of a **Protected Executive** in their capacity, by or on behalf of a governmental law Enforcement Unit to a specific residence or secure custodial premises.
- K. Inquiry** means:
1. a civil, criminal, administrative, or regulatory investigation or inquiry of an **Insured Person** by an **Enforcement Unit** commenced by the **Insured Person's** receipt of a subpoena, Wells Notice, target letter (within the meaning of Title 9, §11.151 of the U.S. Attorney's Manual), formal order of investigation, civil investigative demand, notice of charges, order to show cause, search warrant, S.E.C. Form 1661 or 1662, or other similar document, or the functional or foreign equivalent thereof;
 2. a written request or demand of an **Insured Person** by an **Enforcement Unit** for an interview, meeting, sworn testimony or documents in connection with the business of the **Company**, or in connection with such **Insured Person** in his or her capacity as such;
 3. a written request or demand of an **Insured Person** by a **Company** (including its board of directors or any committee of its board of directors) for an interview, meeting, sworn testimony or documents in connection with: (i) a **Security Holder Derivative Demand**, or (ii) an investigation of a **Company** by an **Enforcement Unit**;

Inquiry shall not include any routine or regularly scheduled regulatory or internal supervision, inspection, compliance, review, examination, production or audit, industry sweep, including any request for mandatory information from an **Enforcement Unit**, conducted in a **Company's** and/or **Enforcement Unit's** normal review or compliance process or any subpoena received by an **Insured** as a non-party witness.

L. **Insured** means the **Insured Persons** and, solely with respect to Insuring Agreement B, Insuring Agreement C and Insuring Agreement D, the **Company**.

M. **Insured Persons** means:

1. any one or more natural persons who were, now are or shall become a duly elected or appointed director (including a de facto director and shadow director), trustee (other than a bankruptcy or litigation trustee), governor, **Manager**, officer, in-house general counsel, risk manager, controller, advisory director, or member of a duly constituted committee or board of the **Company** or their functional or foreign equivalent;
2. any one or more natural persons not described in paragraph 1 above who were, now are or shall become employees of the **Company**, provided that such employees shall not be considered **Insured Persons** for purposes of the Exclusions in Section IV of this Coverage Part; and
3. any one or more natural persons described in paragraph 1 above while serving in an **Outside Position**.

N. **Investigative Costs** means **Securityholder Derivative Demand Fees** and **Book and Records Costs**.

O. **JOBS Act Claim** means any **Claim**:

1. based upon or arising from the general solicitation or advertising of private placements by or on behalf of the **Named Insured** as set forth in Title II, Access to Capital for Job Creators, of the Jumpstart Our Business Startups Act ("JOBS Act"), or any rules or regulations promulgated thereunder;
2. based upon or arising from any offering, sale or purchase of securities that qualify for a Securities Act registration exemption as set forth in Title III, Crowdfunding, or Title IV, Small Company Capital Formation, of the JOBS Act, or any rules, or regulations promulgated thereunder.

P. **Loss** means the total amount the **Insured** become legally obligated to pay on account of a **Claim** made against them, including, but not limited to, damages (including punitive, exemplary or multiple damages), judgments, any award of pre-judgment and post-judgment interest with respect to covered damages, settlements, and **Claim Expenses**.

Loss shall include:

1. **Compensation Checkback Costs**, **UK Corporate Manslaughter Act Costs** and **Freedom Costs**;
2. plaintiff's attorney fees;
3. solely with respect to Section II.C, **Asset Protection Costs** and **Public Relations Costs**;
4. taxes imposed on a **Company** for which an **Insured Person** is legally obligated to pay solely by reason of the **Company's Financial Impairment**;
5. civil fines or civil penalties assessed against an **Insured Person** for any unintentional and non-willful violation of law, including without limitation pursuant to Section 308 of the Sarbanes-Oxley Act of 2002 and Section 2(g)(2)(B) of the Foreign Corrupt Practices Act, 15 U.S.C. §78dd-2(g)(2)(B), and where insurable; and
6. Solely with respect to Insuring Agreement D, **Investigative Costs**;

The insurability of such punitive, exemplary or multiple damages, taxes, civil fines or penalties shall be determined under the internal laws of any applicable jurisdiction most favorable to the **Insureds**, including without limitation the jurisdiction in which the **Company**, the **Insured Persons**, the Insurer, this Policy or such **Claim** is located. The Insurer shall not assert that (i) **Loss** incurred by an **Insured** is uninsurable by

reason of the **Insured's** actual or alleged violation of Section 11, 12 or 15 of the Securities Act of 1933, as amended, or (ii) **Compensation Clawback Costs** are uninsurable.

Loss except with respect to **Claim Expenses**, does not include:

- i. any amount not indemnified by the **Company** for which the **Insureds** are absolved from payment by reason of any covenant, agreement or court order;
- ii. taxes, fines or penalties imposed by law, other than the taxes or civil fines or civil penalties expressly referenced above;
- iii. solely with respect to Insuring Agreements B and C, any amount that represents or is substantially equivalent to an increase in the consideration paid or proposed to be paid by a **Company** in connection with its purchase of any securities or assets;
- iv. any amount incurred by the **Insureds** to comply with any injunctive or other non-monetary relief or any agreement to provide such relief;
- v. matters uninsurable under the law pursuant to which this Policy is constructed; or
- vi. **Clean-Up Costs**.

Q. Outside Entity means any of the following organizations, provided such organization is not included in the definition of **Company**:

1. any organization chartered and operated as a not-for-profit organization;
2. any other organization specifically included as an **Outside Entity** by endorsement to this Policy.

R. Outside Position means:

1. a position described in Section III.M.1 above; or
2. any other position held by an **Insured Person** or employee of the **Company**;

in an **Outside Entity**, if service in such position is with the knowledge and consent of, at the direction or request of, or part of the duties regularly assigned to the **Insured Person** by, the **Company**.

S. Public Relations Costs means the reasonable fees, costs, and other expenses of a public relations consultant engaged by the **Company** and approved by the Insurer, such approval not to be unreasonably withheld, to mitigate reputational harm to such **Company** as a result of a **Publication Event**.

T. Pre-Claim Expenses means any reasonable fees (including attorneys' fees, experts' fees, document production costs and e-discovery costs) and expenses (other than wages, salaries, fees or benefits of any **Insured Person**) incurred by an **Insured** in the investigation, defense, or appeal of a Noticed Matter.

U. Protected Executive means any **Insured Person** as defined in Section III.M.1.

V. Publication Event means any negative statement about a **Protected Executive** made during the **Policy Period** in any publication by an individual authorized to speak on behalf of any **Enforcement Unit**.

W. Securityholder Derivative Demand means:

1. any written demand by a securityholder of a **Company** upon the Board of Directors or Board of Managers of such **Company** to bring a civil proceeding in a court of law against an **Insured Person** for a **Wrongful Act**; or
2. any lawsuit brought by a securityholder of a **Company** derivatively on behalf of such **Company** against an **Insured Person** for a **Wrongful Act** without first making a demand as described in subparagraph 1 above.

X. Securityholder Derivative Demand Fees means all reasonable fees (including attorney's fees and expert's fees) and expenses (other than wages, salaries, fees or benefits of the directors, officers or employees of

the **Company**) incurred by the **Company** (including its Board of Directors or any committee of its Board of Directors) to (i) investigate or evaluate on behalf of the **Company** whether it is in the best interest of the **Company** to prosecute the claims alleged in a **Securityholder Derivative Demand**, or (ii) seek the dismissal of a derivative lawsuit on behalf of the **Company** against **Insured Persons**.

- Y. Selling Shareholder** means an **Insured Person** in his or her capacity as an attempted or actual seller of securities issued by the **Company**.
- Z. UK Corporate Manslaughter Act Costs** means reasonable fees, costs and expenses consented to by the Insurer, such consent not to be unreasonably withheld or delayed, and incurred by a **Protected Executive** in an investigation, defense and/or appeal of a **Claim** first made against a **Company** for violation of the United Kingdom Corporate Manslaughter and Corporate Homicide Act of 2007, or any similar criminal statute.
- AA. Wrongful Act** means:
1. with respect to the **Insured Persons**:
 - A. any actual or alleged error, misstatement, misleading statement, neglect, breach of duty, omission or act by the **Insured Persons**:
 - (i) in their capacity as such;
 - (ii) in their capacity as a **Controlling Person** or as a **Selling Shareholder**; or
 - (iii) in an **Outside Position** capacity;
 - B. any matter claimed against them by reason of their serving in such capacity;
provided, however, that an **Inquiry** of an **Insured Person** shall be treated as a **Claim** for a **Wrongful Act** whether or not a **Wrongful Act** is alleged.
 2. solely with respect to Insuring Agreement C, any actual or alleged act, error, misstatement, misleading statement, neglect, breach of duty, omission or act by the **Company**; provided, however, that a **Derivative Suit** brought against a **Company** as a nominal defendant shall be treated as a **Claim** for a **Wrongful Act** whether or not a **Wrongful Act** is alleged.

SECTION IV - EXCLUSIONS

The Insurer shall not be liable under this Coverage Part to pay any **Loss** on account of that portion of any **Claim** made against any **Insured**:

EXCLUSIONS APPLICABLE TO ALL INSURING AGREEMENTS

A. PRIOR NOTICE

based upon, arising out of, or attributable to any fact, circumstance or **Wrongful Acts** which have been the subject of any written notice given prior to inception of this Policy and accepted under any prior directors and officers liability or comparable insurance policy or coverage part.

B. PENDING OR PRIOR LITIGATION

based upon, arising out of, or attributable to any **Claim** against any **Insured** which was pending on or existed prior to the respective Pending or Prior Date for this Coverage Part, set forth in the Coverage Schedule in ITEM 8 of the Declarations, or the same or substantially the same fact, circumstance or **Wrongful Acts** alleged in or underlying such prior **Claim**.

C. CONDUCT

based upon, arising out of or attributable to:

1. any deliberately fraudulent act or omission, or any willful violation of any law, statute or regulation, committed by such **Insured**; or
2. such **Insured** gaining any personal financial profit, remuneration or financial advantage to which such **Insured** was not legally entitled;

if evidenced by a final, non-appealable adjudication adverse to such **Insured** in the underlying proceeding provided that:

- i. with respect to section IV.C.1 above, any acts or omissions which are treated as criminal violations in a foreign jurisdiction that are not treated as criminal violations in the United States of America, the imposition of a criminal fine or other criminal sanction in such foreign jurisdiction will not, by itself, be conclusive proof that deliberately criminal or fraudulent acts occurred;
- ii. section IV.C.2 above, shall not apply to **Compensation Clawback Costs**, or **Loss** in connection with any violations of Sections 11, 12, or 15 of the Securities Act of 1933, as amended;

For purposes of determining the applicability of this exclusion, the **Wrongful Act**, knowledge of, or facts pertaining to any **Insured Person** shall not be imputed to any other **Insured Person** and only the **Wrongful Acts**, knowledge of or facts pertaining to the chief executive officer or chief financial officer of the **Named Insured** shall be imputed to a **Company**.

D. BODILY INJURY/PROPERTY DAMAGE

for any actual or alleged bodily injury, sickness, disease or death, mental anguish, emotional distress or humiliation of any person or damage to or destruction of any tangible property including loss of use of such damaged or destroyed property; provided this exclusion shall not apply to: (i) any allegations of mental anguish, emotional distress or humiliation in a **Claim** against **Insured Persons** for employment-related **Wrongful Acts**, (ii) **Claim Expenses** incurred by a **Protected Executive** in connection with a **Claim** against such **Protected Executive** for a violation of the United Kingdom Corporate Manslaughter and Corporate Homicide Act of 2007 or any similar statute in any other jurisdiction, (iii) a **Claim** covered under Insuring Agreement A, or (iv) a **Claim** by one or more shareholders of the **Company** in their capacity as such.

E. POLLUTION

for:

1. the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants** at any time; or
2. any request, demand or order, or statutory or regulatory requirement, that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **Pollutants**;

provided this exclusion shall not apply to Insuring Agreement A, or a **Claim** by one or more shareholders of the **Company** in their capacity as such.

F. INSURED VS. INSURED

brought or maintained by or on behalf of:

1. an **Insured Person** in any capacity;
2. a **Company** or **Outside Entity**; or
3. a shareholder of a **Company** or **Outside Entity**, whether directly or derivatively, unless such **Claim** is brought and maintained without the active assistance or active participation of a **Company**, **Outside Entity** or any **Insured Person**, or if the only such assistance or participation by such **Company**, **Outside Entity**

Entity or Insured Person is solely pursuant to, or in compliance with, a subpoena or similar legal process;

provided this Exclusion shall not apply to:

- A. **Claim Expenses** covered under Insuring Agreement A;
- B. a **Claim** by an **Insured Person** who has not served as an **Insured Person** for at least two (2) years prior to the date such **Claim** is first made and who maintains such **Claim** without the active assistance or active participation of the **Company** or **Outside Entity**, or any other **Insured Person** who is serving or has served as an **Insured Person** within such two (2) year period;
- C. a **Claim** by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver, conservator, liquidator, similar official or creditors committee for such **Company** or **Outside Entity**, or any assignee of such trustee, examiner, receiver, conservator, liquidator, similar official or creditors committee;
- D. a **Claim** maintained in any non-common law jurisdiction outside the United States;
- E. a **Claim** against **Insured Persons** for an employment-related **Wrongful Act**;
- F. a **Claim** by any **Insured Person** for contribution or indemnity, if the **Claim** directly results from another **Claim** covered under this Coverage Part;
- G. a **Claim** brought against an **Insured Person** by a whistleblower pursuant to any federal, state, foreign or local whistleblower law; or
- H. **Compensation Clawback Costs**.

G. ERISA

for an actual or alleged violation of the responsibilities, obligations or duties imposed by **ERISA** or similar provisions of any federal, state or local statutory law or common law with respect to any pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing benefits to employees of the **Company** or an **Outside Entity**.

H. SECURITIES

based upon, arising out of or attributable to (i) the actual purchase or sale, or offer or solicitation of an offer to purchase or sell, any public equity securities by the **Company** or an **Outside Entity**, or (ii) the actual or alleged violation of any federal, state, local or foreign law relating to public equity securities; provided this exclusion shall not apply to any:

1. **Claim** based upon, arising out of or attributable to the purchase or sale, or offer or solicitation of an offer to purchase or sell, any securities not required to be registered under the Securities Act of 1933, as amended;
2. **Claim** based upon, arising out of or attributable to the failure of the **Company** or an **Outside Entity** to undertake or complete a public offering of securities, including any "roadshow" disclosures or other activities in connection with such failure; or
3. **Jobs Act Claim**.

I. WAGE AND HOUR

based upon, arising out of, attributable to, in whole or in part, or directly or indirectly resulting from or in consequence of, any actual or alleged violation of any of the responsibilities, obligations or duties imposed by any **Wage and Hour Law**; provided that notwithstanding anything in this Policy to the contrary it shall be the duty of the **Insureds** and not the duty of the Insurer to defend any **Claim** which is in part excluded from

coverage pursuant to this Exclusion I; provided this exclusion shall not apply to a **Claim** by one or more shareholders of the **Company** in their capacity as such.

J. OTHER VIOLATIONS OF LAW

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

1. the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, the Occupational Safety and Health Act of 1970, and as amended, and the National Labor Relations Act, as amended, or any similar provisions of any federal, state, local or foreign statutory or common law;
2. any law governing workers' compensation, unemployment insurance, unemployment compensation, social security, retirement benefits, disability benefits, or any similar provisions of any federal, state, local or foreign statutory or common law.

COMPANY EXCLUSIONS

Solely with respect to Insuring Agreement C:

K. CONTRACT

based upon, arising out of, or attributable to any actual or alleged liability of the **Company** under any written contract or agreement, except to the extent that the **Company** would have been liable in the absence of such contract or agreement.

L. PERSONAL INJURY

based upon, arising out of, or attributable to any **Personal Injury**, provided this exclusion shall not apply to a **Claim** by one or more shareholders of the **Company** in their capacity as such.

M. PROFESSIONAL SERVICES

for any **Insured's** failure to perform professional services for others for a fee; provided this exclusion shall not apply to any **Claim** by one or more shareholders of the **Company** in their capacity as such.

N. ANTITRUST

based upon, arising out of, or attributable to any violation of the Sherman Anti-Trust Act, the Federal Trade Commission Act, the Consumer Protection Act, the Clayton Act (or any amendments thereto), or any other federal, state or local law, or any similar provision of any federal, state, or local law anywhere in the world, relating to any agreement, price fixing, price discrimination, predatory pricing, restraint of trade, or monopolization activity; provided this exclusion shall not apply to any **Claim** by one or more shareholders of the **Company** in their capacity as such.

O. INTELLECTUAL PROPERTY/CONFIDENTIAL INFORMATION

based upon, arising out of or attributable to any actual or alleged infringement of copyright, patent, trademark, trade name, trade dress or service mark, or the actual or alleged misappropriation of ideas or trade secrets or the unauthorized disclosure of or access to confidential information; provided this exclusion shall not apply to any **Claim** by one or more shareholders of the **Company** in their capacity as such.

P. PRODUCT DEFECT

based upon, arising out of, or attributable to, any:

1. violation of the Federal Trade Commission Act or Consumer Protection Act or any similar federal, state or local law; or

2. bodily injury, malfunction or performance failure;

related to any goods or products manufactured, produced, processed, packaged, sold, marketed, distributed, advertised (including but not limited to falsely advertised, or misrepresented in advertising) or developed by or on behalf of any **Company**; provided however this exclusion shall not apply to any **Claim** brought by one or more shareholders of the **Company** in their capacity as such.

Q. EMPLOYMENT

based upon, arising out of or attributable to any employment-related **Wrongful Acts**; provided however this exclusion shall not apply to any **Claim** brought by one or more shareholders of the **Company** in their capacity as such.

For the purpose of determining the applicability of any Exclusion set forth in this Section IV, the **Wrongful Act** or knowledge of any **Insured Person** shall not be imputed to any other **Insured Person**, and under Insuring Agreement C only the **Wrongful Act** or knowledge of the chief executive officer or chief financial officer of a **Company** shall be imputed to a **Company**.

SPECIMEN