

OLD REPUBLIC INSURANCE COMPANY

Directors and Officers and Entity Liability Declarations

IMPORTANT NOTICE

THIS IS A CLAIMS MADE COVERAGE SECTION THAT APPLIES ONLY TO **CLAIMS** FIRST MADE DURING THE **POLICY PERIOD** OR THE **EXTENDED REPORTING PERIOD**, IF EXERCISED. **DEFENSE COSTS** SHALL BE APPLIED AGAINST THE RETENTION, IF APPLICABLE. **DEFENSE COSTS** PAID BY THE INSURER SHALL REDUCE AND MAY COMPLETELY EXHAUST THE LIMIT OF LIABILITY OF THE POLICY.

PLEASE READ THE ENTIRE POLICY CAREFULLY.

Item 1. **Named Insured:** <NamedInsured>

Item 2. Coverage Section Limits Of Liability:

Aggregate Limit of Directors and Officers and Entity
Liability (inclusive of **Defense Costs**):

\$<maxagg>

Shared Limit of Liability with:

Employment Practices Liability ☐ Fiduciary Liability ☐

Item 3. Sublimited Coverage Extensions:

(a) **Derivative Investigation Costs/Books and Records Costs**

Sublimit of Liability:

\$<DerBooksSublimits>

(b) **Asset Protection Costs** Sublimit of Liability:

\$<AssetProCosts>

(c) **Reputational Costs** Sublimit of Liability:

\$<ReputationalCosts>

Item 4. Additional Side A Limit Of Liability:

\$<SideAAddtional>

Item 5. Retentions:

\$<Bclaimretention> per **Claim** under Insuring Clause B

\$<Cclaimretention> per **Claim** under Insuring Clause C

Item 6. Prior Litigation Date: <PLDATE1>

Item 7. Elected Defense:

Duty to Defend ☐

Reimbursement ☐

Item 8. Forms/Endorsements Effective At Inception:

OLD REPUBLIC INSURANCE COMPANY
DIRECTORS AND OFFICERS AND ENTITY LIABILITY COVERAGE
SECTION

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OLD REPUBLIC INSURANCE COMPANY

DIRECTORS AND OFFICERS AND ENTITY LIABILITY COVERAGE

SECTION

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

I. INSURING CLAUSES

A. Non-Indemnified Directors and Officers Liability

The Insurer shall pay **Non-Indemnifiable Loss** on behalf of an **Insured Person** on account of a **Claim** first made against such **Insured Person** during the **Policy Period**, or any applicable **Extended Reporting Period**.

B. Insured Entity Indemnification

The Insurer shall pay **Loss** on behalf of an **Insured Entity** for which the **Insured Entity** indemnifies an **Insured Person** on account of a **Claim** first made against the **Insured Person** during the **Policy Period**, or any applicable **Extended Reporting Period**.

C. Insured Entity Liability

The Insurer shall pay **Loss** on behalf of an **Insured Entity** on account of a **Claim** first made against the **Insured Entity** during the **Policy Period**, or any applicable **Extended Reporting Period**.

II. COVERAGE EXTENSIONS

A. SUBLIMITED COVERAGE EXTENSIONS

1. Derivative Investigation Costs and Books and Records Costs

The Insurer shall pay on behalf of an **Insured Entity**:

- (a) **Derivative Investigation Costs** for which the **Insured Entity** becomes legally obligated to pay in response to a **Derivative Demand** first received during the **Policy Period**;
- (b) **Books and Records Costs** for which the **Insured Entity** becomes legally obligated to pay in response to a **Books and Records Request** first received during the **Policy Period**.

The Insurer's maximum aggregate liability for all **Derivative Investigation Costs** and all **Books and Records Costs** combined, shall be the respective Derivative Investigation Costs/Books and Records Costs Sublimit of Liability set forth in Item 3(a) of this Coverage Section's Declarations, which amount shall be part of, and not in addition to, the otherwise applicable Limit of Liability. No Retention shall apply to such amounts.

2. Asset Protection Costs

The Insurer shall pay **Asset Protection Costs** arising out of an **Asset Protection Order** against an **Executive Officer**, provided such **Asset Protection Order** was imposed upon the **Executive Officer** during the **Policy Period** and such **Asset Protection Order** arises from a covered **Claim** first made during the **Policy Period**.

The Insurer's maximum aggregate liability for all **Asset Protection Costs** shall be the Asset Protection Costs Sublimit of Liability set forth in Item 3(b) of this Coverage Section's Declarations, which amount shall be part of, and not in addition to, the otherwise applicable Limit of Liability. No Retention shall apply to such amount.

3. Reputational Costs

The Insurer shall pay **Reputational Costs** on behalf of an **Executive Officer** provided such **Reputational Costs** arise directly from any negative public statement regarding the **Executive Officer** made by an **Enforcement Authority** during the **Policy Period** and such statement is directly related to, or arises from, a covered **Claim** first made during the **Policy Period**.

The Insurer's maximum aggregate liability for all **Reputational Costs** shall be the Reputational Costs Sublimit of Liability set forth in Item 3(c) of this Coverage Section's Declarations, which amount shall be part of, and not in addition to, the otherwise applicable Limit of Liability. No Retention shall apply to such amount.

Notice terms and conditions with respect to the above Sublimited Coverage Extensions shall be subject to Section V, Notice for Optional Coverages.

B. ADDITIONAL SIDE A LIMIT OF LIABILITY

The Insurer shall offer to any **Executive Officer** an Additional Side A Limit of Liability for **Non-Indemnifiable Loss**. The Additional Side A Limit of Liability is set forth in Item 4 of this Coverage Section's Declarations. The Side A Additional Limit of Liability shall be: (i) in addition to, and not part of, the otherwise applicable Limit of Liability; and (ii) excess to any other insurance specifically written as excess to the coverage afforded by this Coverage Section.

III. DEFINITIONS

When used in this Coverage Section either in the singular or the plural:

Asset Protection Costs mean the reasonable fees, costs, charges, and expenses incurred by an **Executive Officer**, with the Insurer's consent, to oppose, or seek the revocation or discharge of, an **Asset Protection Order**.

Asset Protection Order means any order issued and imposed by an **Enforcement Authority** seeking to seize, enjoin a sale, or transfer personal assets or property of an **Executive Officer**.

Books and Records Costs mean the reasonable fees, costs, charges, and expenses (other than regular or overtime wages, salaries, fees, or benefits associated with any **Insured**) incurred by the **Insured Entity**, with the Insurer's consent, in response to a **Books and Records Request**.

Books and Records Request means any written request submitted by or on behalf of an equity owner of an **Insured Entity** to such **Insured Entity**, or its Board of Directors, or such functionally

equivalent management body, to inspect the books and records of such **Insured Entity** pursuant to Section 220 of the Delaware General Corporation Law or such other similar statute.

Claim means any:

- (i) written demand (excluding a subpoena, **Inquiry**, or other investigatory instrument) against any **Insured** for monetary damages or non-monetary (including injunctive or declaratory) relief, including a request to toll or waive a statute of limitations, deemed to be first made upon an **Insured's** initial receipt of such demand;
- (ii) written demand for arbitration, mediation, or other alternative dispute resolution proceeding against any **Insured**, deemed to be first made upon an **Insured's** initial receipt of such demand;
- (iii) proceeding, including any appeal, against any **Insured** commenced by and deemed to be first made by the earlier of:
 - (a) service upon or receipt by an **Insured** of a civil or criminal complaint or such similar pleading;
 - (b) service upon or receipt by an **Insured** of a formal notice of charges or formal order of investigation evidencing the commencement of a formal administrative or formal regulatory proceeding against an **Insured**;
 - (c) the arrest or detainment of an **Insured**; return of an indictment or information or such foreign functional equivalent upon an **Insured**; or the receipt of an official request for **Extradition**; or
- (iv) any investigation by an **Enforcement Authority** of an **Insured Person** commenced by and deemed to be first made by an **Insured Person's** initial receipt by of a subpoena, Wells Notice, search warrant, target letter or the functional foreign equivalent from an **Enforcement Authority** identifying such **Insured Person** as the target of an investigation or an individual against whom a formal proceeding may be commenced, against such **Insured** for a **Wrongful Act**, including any appeal therefrom.

Claim shall also include an **Inquiry** only if the **Insureds** elect to provide to the Insurer written notice pursuant to the Section V, Notice for Optional Coverages. **Claim** shall not include: (a) **Books and Records Request**; (b) **Derivative Demand**; (c) **Asset Protection Order**; or (d) any routine or regularly scheduled examinations, inspections, audits, or any industry sweep examination, or general oversight or compliance activity, or any general or informal request for information.

Clean-Up Costs mean any fees, costs, or expenses, including legal and professional fees, incurred in testing for, monitoring, cleaning up, removing, containing, treating, neutralizing, detoxifying, or assessing the effects of any **Pollutants**.

Control Group Officer means the chief executive officer, chief financial officer, chief legal officer, **Insurance Manager**, or such functionally equivalent position of an **Insured Entity**.

Defense Costs mean reasonable costs, charges, fees, e-discovery costs, and expenses (other than regular or overtime wages, salaries, fees or benefits associated with any **Insured**) incurred by the **Insureds**, with the Insurer's consent, to investigate, adjust, defend, respond to or appeal **Claims**, including the premium for appeal, attachment, or similar bonds but without any obligation of the Insurer to apply for or furnish any such bonds. **Defense Costs** shall not include: (a) **Derivative Investigation Costs**; (b) **Books and Records Costs**; (c) **Asset Protection Costs**; or (d) **Reputational Costs**.

Derivative Demand means a written demand by one or more equity owners of an **Insured Entity** upon such **Insured Entity's** Board of Directors, or such functionally equivalent management body, to bring a lawsuit against any **Insured Person** for a **Wrongful Act**.

Derivative Investigation Costs mean reasonable costs, charges, fees (including without limitation attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees or benefits associated with any **Insured**) incurred by an **Insured Entity** (including its Board of Directors or such functionally equivalent management body or committee), with the Insurer's consent,

solely with respect to an evaluation as to whether it is in the best interest of the **Insured Entity** to prosecute matters alleged in a **Derivative Demand**, or to prosecute a derivative lawsuit on behalf of the **Insured Entity**.

Employee means any natural person whose service or labor was, now is, or shall become engaged and directed by an **Insured Entity**, including any part-time, leased, seasonal or temporary employee, intern, or volunteer. **Employee** shall not include an independent contractor or an **Executive Officer**.

Enforcement Authority means:

- (i) any federal, state, local, foreign, or offshore law enforcement authority or other governmental investigative authority including without limitation the U.S. Department of Justice, the U.S. Securities and Exchange Commission and any attorney general; or
- (ii) the enforcement unit of any securities exchange or other self-regulatory organization.

ERISA means the Employee Retirement Income Security Act of 1974 as amended (including any amendments as contained in the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Health Insurance Portability and Accountability Act of 1996) any rule or regulation promulgated under any such act or similar law, and any similar statutory or common law anywhere in the world.

Executive Officer means any natural person:

- (i) past, present, or future duly elected or appointed director (including a shadow director), trustee (excluding a bankruptcy or litigation trustee), advisory board member, officer, governor, or **Manager** of an **Insured Entity**;
- (ii) past, present, or future in-house chief legal officer, controller, director of human resources or risk manager of the **Named Insured**;
- (iii) holder of a position functionally equivalent to any of those included in paragraph (i) or (ii) above, or a De Facto director, of an **Insured Entity** that is organized and operated outside of the United States of America, its territories, or its possessions; or
- (iv) holder of a position functionally equivalent to any of those included in paragraph (i) or (ii) above while serving in an **Outside Position** for an **Outside Entity** with the knowledge or consent, or at the specific request or direction, of an **Insured Entity**, or as part of the duties regularly assigned to the **Executive** by an **Insured Entity**.

Executive Officer shall not include an **Employee**.

Extradition means any formal process by which an **Executive Officer** outside of the United States of America is, or is sought to be, surrendered to any other foreign or domestic jurisdiction to answer any criminal accusation.

Financial Impairment means: (i) the status of an **Insured Entity** resulting from the appointment by any state, or federal, or foreign official agency or court of any receiver, conservator, liquidator, trustee, rehabilitator, or similar official, to take control of, supervise, manage, or liquidate the **Insured Entity**; or (ii) an **Insured Entity** becoming a debtor in possession.

Inquiry means any written:

- (i) request, demand, or subpoena by an **Enforcement Authority** to interview, depose, or obtain documents from an **Insured Person** in connection with an **Insured Entity**, or in connection with an **Insured Person** in such capacity;
- (ii) request by an **Insured Entity** of an **Insured Person** for an interview, meeting, sworn testimony, or documents in connection with:
 - (a) an investigation of an **Insured Entity** by an **Enforcement Authority**; or
 - (b) a **Claim** by one or more shareholders of the **Insured Entity** in their capacity as such; or
- (iii) request for an interview of, or meeting with, an **Executive Officer** by a creditors' committee or bankruptcy trustee.

Inquiry shall not: (a) require any **Wrongful Act** allegation; (b) include any investigation, examination, or request, arising from anti-bribery/corruption laws.

Insured means any **Insured Entity** and/or any **Insured Person**.

Insured Person means any **Executive Officer** and/or any **Employee**.

Loss means the amount the **Insureds** become legally obligated to pay on account of any **Claim** including:

- (i) compensatory damages;
- (ii) judgments;
- (iii) any award of pre-judgment and post-judgment interest with respect to covered damages;
- (iv) settlements;
- (v) **Defense Costs**;
- (vi) claimants' attorneys' fees and costs that are part of an otherwise covered judgment against an **Insured** or covered settlement provided such fees and costs are affirmatively included in such settlement;
- (vii) civil fines or penalties assessed against an **Insured Person** for an unintentional or non-willful violation of any federal, state, local or foreign law, including such fines and penalties assessed pursuant to 15 U.S.C. §78dd-2(g)(2B) the Foreign Corrupt Practices Act;
- (viii) solely for purposes of Section II of this Coverage Section: **Derivative Investigation Costs, Books and Records Costs, Asset Protection Costs, and Reputational Costs**;
- (ix) solely with respect to a **Claim** for **Non-Indemnifiable Loss**, any tax imposed upon an **Insured Person** in such capacity because of **Financial Impairment**; and,
- (x) punitive, exemplary, or multiple damages to the extent insurable. The insurability of punitive, exemplary, or multiple damages shall be determined under the internal laws of any applicable jurisdiction most favorable to the **Insureds**, provided that jurisdiction has significant relation to the **Named Insured**, the **Insured Persons**, the Insurer, this Policy, or the locale of the **Claim**.

Loss (other than **Defense Costs**) shall not include:

- (a) any amount for which the **Insureds** are absolved from payment by reason of any covenant, agreement, or court order;
- (b) fines, penalties, or taxes other than civil fines or penalties or taxes expressly referenced above;
- (c) any costs incurred by an **Insured Entity** to comply with any injunctive or other non-monetary relief or any agreement to provide such relief;
- (d) any amount for which an **Insured Entity** is responsible, or legally permitted or required to pay or indemnify on account of a **Merger Claim** or any other **Claim** and which represents, or is substantially equivalent to, an increase in the consideration paid or proposed to be paid in connection with the acquisition of any securities, assets, an **Insured Entity**, any other entity, or voting or operational control of a **Insured Entity** or other entity, or in connection with a merger, consolidation, or similar transaction, including any claimant's attorney's fees and costs attributable to such amount; provided this shall not apply to **Non-Indemnifiable Loss**;
- (e) **Clean-Up Costs**;
- (f) the return, credit, or payment of any fee, expense, or other compensation paid or payable to an **Insured**;
- (g) payment of any dividends or other similar profit distributions of any **Insured Entity** to any shareholder, stakeholder, or equity holder of the **Insured Entity**; or
- (h) matters uninsurable under the law pursuant to which this Policy is construed.

The Insurer shall not assert that **Loss** attributable to an actual or alleged violation of Section 11, 12, or 15 of the Securities Act of 1933, as amended, constitutes uninsurable loss.

Merger Claim means any **Claim** alleging that one or more **Insured Persons** breached a fiduciary duty with respect to their investigation, evaluation, negotiation, approval, recommendation, or disclosure of an actual or proposed acquisition of the **Named Insured**.

Network means any system connecting two (2) or more computing devices for transmitting and sharing information, including without limitation any: computer, computer program, computer database that requires an integrated or peripheral storage unit, computer network or database, mobile device, software, websites, application software, or operating system of an **Insured Entity**.

Network Security/Privacy Protection means any actual or alleged:

- (i) unauthorized or unlawful access to, alteration of, or damage to any **Network**;
- (ii) usage of any **Network** in an unauthorized manner;
- (iii) transmission of malicious virus or code to, or from, any **Network**;
- (iv) denial or delay of service, disruption, impairment, or failure of any **Network**;
- (v) unauthorized or unlawful access to, disclosure, alteration, theft, collection, storage, use, or dissemination of, and/or loss of any data or confidential or proprietary business information or personally identifiable information as defined by either federal, state or local statute, rule or regulation, or such foreign functional equivalent, or an **Insured Entity's** privacy policy;
- (vi) violation of any federal, state, or local statute, common law, rule or regulation, or such foreign functional equivalent that regulates, governs or oversees commercial solicitation, automatic contract renewals, anti-spam, telemarketing, commercial emails and/or unsolicited communications transmitted by phone, computer, facsimile, or any other electronic device;
- (vii) violation of any federal, state, or local statute, rule or regulation relating to privacy protection or data security, or any foreign functional equivalent of such.

Outside Entity means any: (i) non-profit corporation, community chest, fund, or foundation that is not an **Insured Entity** and is exempt from federal income tax as an organization described in Section 501(c) of the Internal Revenue Code of 1986, as amended; or (ii) other entity specifically included as an **Outside Entity** by endorsement to this Coverage Section.

Outside Position means the position of director, officer, manager, trustee, member of a special committee or advisory board, or other functionally equivalent executive position held by any **Executive Officer** in an **Outside Entity**.

Pollutants mean any solid, liquid, gaseous, or thermal irritant or contaminant, including without limitation: smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, or waste materials to be recycled, reconditioned, or reclaimed.

Private Securities Claim means any **Claim**:

- (i) by a securityholder of an **Insured Entity** solely in connection with such securityholder's interest in securities of an **Insured Entity**;
- (ii) brought derivatively on behalf of an **Insured Entity** by one or more securityholders of an **Insured Entity** against any **Executive Officer** or such **Insured Entity** as a nominal defendant, provided such **Claim** is brought without the assistance, participation, or solicitation of any **Insured**;
- (iii) based upon, arising out of, or attributable to any securities not required to be registered under the Securities Act of 1933 or 1934, as amended, or such foreign functional equivalent, including any offering pursuant to Title II, III, and IV of the Jumpstart Our Business Startups Act;
- (iv) based upon, arising out of, or attributable to the failure of the **Insured Entity** 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.

Reputational Costs mean the reasonable fees, costs, charges, and expenses incurred, with the consent of the Insurer, in connection with the engagement by an **Insured Entity** of a public relations firm to mitigate the adverse effects to the reputation of such **Executive Officer**.

Wage and Hour Laws mean any federal, state, local, or statutory, common law, rule, or regulation, or any foreign functional equivalent thereof that regulates or governs fair labor, employment, wages, hours, payroll, or labor requirements, standards, or policies and procedures, including, without limitation:

- (i) recordkeeping, timing, or manner of payment of minimum wages, prevailing compensation rates, overtime pay, vacation pay, pay equity, off-the-clock or remote work, on-call time compensation, compensation for waiting/dressing times, or manner of payment/compensation for time spent in work-related/company sponsored activities;
 - (ii) meal or rest break periods;
 - (iii) gratuity crediting/distribution of gratuity pools;
 - (iv) employee/non-employee classification of any person for wage and hour/benefit purposes;
 - (v) garnishments, withholdings, or other deductions from wages;
 - (vi) child labor; or
 - (vii) reimbursement of work-related expenses or cost of tools to any person providing services or labor to, or on behalf of, an **Insured**, or
- any similar practices, procedures, or policies to those described above.

Wrongful Act means:

- (i) any actual or alleged error, misstatement, misleading statement, neglect, breach of duty, act or omission committed, or allegedly committed by an **Insured Entity**, or by an **Insured Person** in such capacity; or
- (ii) any matter asserted against an **Insured Person** by reason of their status as an **Insured Person**.

IV. EXCLUSIONS

A. The Insurer shall not be liable for **Loss** in connection with any **Claim** made against any **Insured**:

Bodily Injury/Property Damage

for any actual or alleged bodily injury, sickness, disease, death, mental anguish, emotional distress, or humiliation of any person, or damage to or destruction of any tangible property or electronic data including loss of use; provided this Exclusion shall not apply to:

- (a) any **Private Securities Claim**;
- (b) any actual or alleged mental anguish, emotional distress, or humiliation made in connection with any **Claim** against an **Executive Officer** for employment-related **Wrongful Acts**;
- (c) any **Claim** for **Non-Indemnifiable Loss**;
- (d) **Defense Costs** incurred by an **Executive Officer** in the defense of a **Claim** for any actual or alleged violation of the U.K. Corporate Manslaughter statute or such foreign functional equivalent;

Conduct

based upon, arising out of, or attributable to: (i) any deliberate fraud, deliberate dishonest act or omission, deliberate crime, or any willful violation of law by such **Insured**; or (ii) gaining of any financial profit or financial advantage or receiving financial remuneration to which such **Insured** was not legally entitled; provided such conduct above was established by a final and non-appealable adjudication in the underlying action (other than any declaratory action or similar proceeding by the parties);

ERISA

for an actual or alleged violation of the responsibilities, obligations or duties imposed by **ERISA**; provided this Exclusion shall only apply with respect to plans, programs and trusts established or maintained in whole or in part for the benefit of **Insured Persons**;

Insured vs. Insured

brought or maintained by, or on behalf of, any **Insured** or **Outside Entity** against any other **Insured**; provided this Exclusion shall not apply to that portion of any **Claim** that is a:

- (a) **Private Securities Claim**;
- (b) derivative action brought by, or on behalf of, an **Outside Entity** against an **Executive Officer** in an **Outside Position** capacity;
- (c) **Claim** brought or maintained while the **Insured Entity** is in **Financial Impairment**;
- (d) **Claim** brought and maintained outside the United States, Canada, or any other common law country, including any territories;
- (e) **Claim** by, or on behalf of, an **Insured Person** for contribution or indemnification if such **Claim** directly results from a **Claim** that is otherwise covered under this Policy;
- (f) **Claim** by, or on behalf of, an **Executive Officer** who has not served in such capacity or at least one (1) year prior to such **Claim** being made;
- (g) **Claim** against an **Insured Person** for an employment-related **Wrongful Act**, other than a **Wage and Hour Laws Claim**; or
- (h) **Claim** against an **Insured Person** by another **Insured Person** actively engaged in lawful whistleblower activities pursuant to any federal, state, local or foreign functional equivalent whistleblower laws;

Network Security/Privacy Protection

based upon, arising out of, or attributable to any **Network Security/Privacy Protection**; provided this Exclusion shall not apply to any: (a) **Claim** for **Non-Indemnifiable Loss**; or (b) **Private Securities Claim**;

Pollution

based upon, arising out of, or attributable to: (i) the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of **Pollutants** into or on real or personal property, water or the atmosphere; or (ii) any direction, request, or voluntary decision that an **Insured Entity** test for, monitor, clean up, remove, remediate, contain, treat, detoxify or neutralize **Pollutants**; provided this Exclusion shall not apply to any: (a) **Claim** for **Non-Indemnifiable Loss**; or (b) **Private Securities Claim**;

Prior Notice

based upon, arising out of, or attributable to any fact, circumstance, situation, or **Wrongful Act** that has been the subject of any written notice given, and accepted, under any policy or coverage of which this Policy or Coverage Section is a direct or indirect renewal or replacement;

Prior Proceedings

based upon, arising out of, or attributable to any **Claim** or other litigation, arbitration, or administrative or regulatory proceeding or investigation involving any **Insured**, or the same or substantially the same fact, circumstance, or situation underlying or alleged therein, which was commenced, or pending on or before, the Prior Litigation Date set forth in Item 6 of this Coverage Section's Declarations;

Public Securities

based upon, arising out of, or attributable to: (i) the actual or alleged purchase or sale, or offer or solicitation of an offer to purchase or sell, any public equity securities by the **Insured Entity** or an **Outside Entity**; (ii) any initial public offering of an **Insured Entity's** securities or any related registration statement or prospectus; or (iii) the actual or alleged violation of any federal, state, local or foreign functional equivalent law relating to public equity securities;

Wage and Hour

based upon, arising out of, or attributable to any actual or alleged violation of any **Wage and Hour Laws**, including the duties and responsibilities imposed by such laws.

- B. The Insurer shall not be liable for **Loss** in connection with any **Claim** made against any **Insured Entity**:

Antitrust

based upon, arising out of, or attributable to any actual or alleged price fixing, restraint of trade, monopolization or violation of the Federal Trade Commission Act, the Sherman Antitrust Act, the Clayton Act, or any other federal statutory provision involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities, and any amendments thereto or any rules or regulations promulgated thereunder or in connection with such statutes; or any similar provision of any state or local statutory law, common law, rule or regulation, or such foreign functional equivalent;

Contract

based upon, arising out of, or attributable to any actual or alleged liability of an **Insured Entity** under any written contract or agreement; provided this Exclusion shall not apply to the extent that such **Insured Entity** would have been liable in the absence of such contract or agreement;

Employment-Related/Third Party Discrimination

based upon, arising out of, or attributable to any actual or alleged: (i) discrimination against or harassment (including sexual harassment) of any third party; or (ii) violation of any law relating to the obligations, duties, and responsibilities of an employer to any **Employee**, including workers' compensation, unemployment insurance, unemployment compensation, social security, retirement benefits, disability benefits, or any similar provisions of any federal, state, or local statutory law, common law, rule or regulation, or such foreign functional equivalent;

False Advertising

based upon, arising out of, or attributable to any actual or alleged false advertising, misrepresentation in advertising or unfair or deceptive trade practices relating to the advertising of an **Insured Entity's** own goods, publications, or services;

Intellectual Property

based upon, arising out of, or attributable to any actual or alleged: (i) infringement or violation of any patent, copyright, trademark, trade name, trade dress, or service mark; (ii) any misappropriation of ideas, trade secrets or other intellectual property rights; (iii) any false patent markings; or (iv) any violation of any federal, state, local or foreign intellectual property statutory law, rule, or regulation;

Personal Injury

based upon, arising out of, or attributable to any actual or alleged: (i) libel, slander, or oral or written publication of defamatory or disparaging material; (ii) false arrest, wrongful detention or imprisonment, malicious prosecution, or malicious use or abuse of process; (iii) wrongful entry or eviction, or invasion of the right of private occupancy; (iv) invasion of privacy or invasion of right of publicity; (v) assault or battery; or (vi) loss of consortium;

Product Defect

based upon, arising out of, or attributable to any actual or alleged: (i) failure of any product to perform in any manner as a result of any actual or alleged: (a) defect; (b) deficiency; (c) inadequacy; or (d) dangerous condition, in such product or in its design or manufacture; or (ii) malfunction of any product;

Professional Services

based upon, arising out of, or attributable to the actual or alleged rendering of, or failure to render, services by an **Insured Entity** for others in connection with such **Insured Entity's** business, regardless of whether such services are compensated or uncompensated.

Provided, the above Exclusions in Paragraph B applicable to any **Insured Entity** shall not apply to any **Private Securities Claim**.

C. IMPUTATION OF EXCLUSIONS

For purposes of the above, the conduct or actual knowledge of an **Insured Person** shall not be imputed to any other **Insured Person**. Only the conduct or actual knowledge of any **Control Group Officer** shall be imputed to such **Insured Entity**.

V. NOTICE FOR OPTIONAL COVERAGES

If an **Insured** elects to seek coverage for **Asset Protection Costs, Books and Records Costs, Derivative Investigation Costs, an Inquiry, or Reputational Costs**, then the **Insured** must submit a written notice in accordance with the Claim reporting requirements found in Section VI, A of the General Terms and Conditions to the Insurer at the address set forth in Item 3 of the General Terms and Conditions' Declarations.

If a subsequent **Claim** arises from a matter that was the subject of the written notice described in the preceding paragraph, then the Insurer will deem the **Claim** to have first been made during the **Policy Period** in which the Insurer first accepted such written notice.

VI. COVERAGE SECTION SPECIFIC LIMITS OF LIABILITY, SUBLIMITS, AND RETENTIONS

The maximum Limit of Liability that the Insurer will pay for all **Loss** (including **Defense Costs**) arising from all **Claims, Derivative Demands, Books and Records Requests, Asset Protection Orders, and Reputational Costs** regardless of the number of **Claims**, demands, requests, or orders, is the Aggregate Limit of Liability set forth in Item 2 of this Coverage Section's Declarations.

The maximum amount that the Insurer will pay for any Sublimited Coverage Extension is set forth in Item 3 of this Coverage Section's Declarations.

Each **Claim** Retention is per **Claim** as set forth in Item 5 of this Coverage Section's Declarations.

No Retention will apply to coverage afforded under Insuring Clause A, Non-Indemnified Directors and Officers Liability.

VII. DEFENSE OF WAGE AND HOUR LAWS CLAIMS

With respect to any **Claim** that contains any employment-related allegation(s) as well as any actual or alleged violation of, or breach of an **Insured's** duties and responsibilities with respect to, any **Wage and Hour Laws**, the **Insured** shall have the duty to defend such **Claim** regardless of the type of defense elected by the **Insured** on the applicable Declarations. Accordingly, such **Claim** shall be subject to the repayment and allocation provisions of the General Terms and Conditions.

VIII. PRIORITY OF PAYMENTS

It is agreed that the coverage afforded by this Coverage Section is intended to benefit **Insured Persons**. If the amount of any covered **Loss** which is otherwise due and owing by the Insurer exceeds the remaining Limit of Liability applicable to such **Loss**, then the Insurer shall first pay any **Non-Indemnifiable Loss**, subject to the applicable Limit of Liability, incurred by **Insured Persons**. In all other instances, covered **Loss** shall be paid as it becomes due, unless otherwise agreed to by endorsement.

IX. OTHER INSURANCE

Other than insurance that is issued specifically as excess over the Limit of Liability provided by this Coverage Section, or a personal umbrella policy or personal directorship liability policy purchased by an **Insured Person**, any coverage afforded under this Coverage Section will be excess of, and non-contributory to any other valid and collectible insurance, prior or current, regardless of whether such other insurance is stated to be primary, contributory, excess, contingent, or otherwise.

This Coverage Section shall be specifically excess of any valid and collectible insurance policy that is: (i) for professional services liability, environmental liability, employment practices liability, privacy, network security and/or cyber liability; (ii) available from, or provided by, the **Outside Entity** for any **Claim** involving an **Executive Officer** serving in an **Outside Position**; or (iii) written on a duty to defend basis, unless such other insurance is written specifically as excess of the Limit of Liability of this Coverage Section.

Any payment by an **Insured** of a retention or deductible under any other insurance policy described above shall reduce the applicable Retention under this Coverage Section by the amount of such payment which would otherwise have been covered **Loss** under this Coverage Section.