

Executive Protection Policy

Fiduciary 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 Company agrees as follows:

Insuring Clause

1. The Company shall pay on behalf of each of the **Insureds** all **Loss** for which the **Insured** becomes legally obligated to pay on account of any **Claim** first made against the **Insured** during the **Policy Period** or, if exercised, the Extended Reporting Period for a **Wrongful Act** committed, attempted, or allegedly committed or attempted, before or during the **Policy Period** by an **Insured** or by any person for whose **Wrongful Acts** the **Insured** is legally responsible.

Estates and Legal Representatives

2. Subject otherwise to the General Terms and Conditions and the limitations, conditions, provisions and other terms of this coverage section, coverage shall extend to **Claims** for the **Wrongful Acts** of **Insured Persons** made against the estates, heirs, legal representatives or assigns of **Insured Persons** who are deceased or against the legal representatives or assigns of **Insured Persons** who are incompetent, insolvent or bankrupt.

Defense Provisions

3. The Company shall have the right and duty to defend any **Claim** covered by this coverage section. Coverage shall apply even if any of the allegations are groundless, false or fraudulent. The Company's duty to defend shall cease upon exhaustion of the Company's applicable Limit of Liability set forth in Item 2 of the Declarations for this coverage section.

Defense Costs incurred by the Company, or by the **Insured** with the written consent of the Company, are part of and not in addition to the Company's applicable Limit of Liability set forth in Item 2 of the Declarations for this coverage section, and the payment by the Company of **Defense Costs** reduces such applicable Limit of Liability.

The **Insureds** agree to provide the Company with all information, assistance and cooperation which the Company reasonably requests and agree that in the event of a **Claim** the **Insureds** will do nothing that may prejudice the Company's position or its potential or actual rights of recovery.

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 Company's written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented.

Extended Reporting Period

4. If the Company terminates or refuses to renew this coverage section other than for nonpayment of premium, the **Insureds** shall have the right, upon payment of the additional premium in Item 6(A) of the Declarations for this coverage section, to an extension of the coverage granted by this coverage section for the period in Item 6(B) of the Declarations for this coverage section (Extended Reporting Period) following the effective date of termination or nonrenewal, but only for any

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Extended Reporting Period (continued)

Wrongful Act committed, attempted, or allegedly committed or attempted, prior to the effective date of termination or nonrenewal. This right of extension shall lapse unless written notice of such election, together with payment of the additional premium due, is received by the Company within 30 days following the effective date of termination or nonrenewal.

Any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding **Policy Period**.

If the **Insured** terminates or declines to accept renewal, the Company may, if requested, at its sole option, grant an Extended Reporting Period. The offer of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute refusal to renew.

Exclusions

5. The Company shall not be liable for **Loss** on account of any **Claim** made against any **Insured**:
- (a) based upon, arising from, or in consequence of any circumstance if written notice of such circumstance has been given under any policy or coverage section of which this coverage section is a renewal or replacement and if such prior policy or coverage section affords coverage (or would afford coverage except for the exhaustion of its limit of liability) for such **Loss**, in whole or in part, as a result of such notice;
 - (b) based upon, arising from, or in consequence of any deliberately fraudulent act or omission or any willful violation of any statute or regulation by such **Insured**, if a judgment or other final adjudication adverse to the **Insured** establishes such a deliberately fraudulent act or omission or willful violation;
 - (c) for libel or slander;
 - (d) for bodily injury, mental or emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property including loss of use thereof;
 - (e) based upon, arising from, or in consequence of liability of others assumed by the **Insured** under any contract or agreement, either oral or written, except to the extent that the **Insured** would have been liable in the absence of the agreement or contract or unless the liability was assumed in accordance with or under the agreement or declaration of trust pursuant to which the **Benefit Program** was established;
 - (f) based upon, arising from, or in consequence of the intentional failure of the **Insured** to comply with any law with respect to any **Government Benefit Program**, except the Consolidated Omnibus Budget Reconciliation Act of 1985 of the United States of America and amendments thereto;
 - (g) based upon, arising from, or in consequence of any demand, suit or other proceeding pending, or order, decree or judgment entered against any **Insured**, on or prior to the Pending or Prior Date set forth in Item 7 of the Declarations for this coverage section, or the same or substantially the same facts underlying or alleged therein;

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Exclusions (continued)

- (h) based upon, arising from, or in consequence of such **Insured** having gained in fact any personal profit, remuneration or advantage to which such **Insured** was not legally entitled; or
- (i) based upon, arising from, or in consequence of (i) the actual, alleged or threatened discharge, release, escape or disposal of **Pollutants** into or on real or personal property, water or the atmosphere; or (ii) any direction or request that the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so; including but not limited to any **Claim** for financial loss to the **Sponsor Organization**, its security holders or creditors or any **Benefit Program** based upon, arising from, or in consequence of the matters described in (i) or (ii) of this exclusion.

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6. The Company shall not be liable for that part of **Loss**, other than **Defense Costs**:
- (a) which constitutes fines or penalties or the multiple portion of any multiplied damage award, other than the five percent or less, or the twenty percent or less, civil penalties imposed upon an **Insured** as a fiduciary under Section 502 (i) or (l), respectively, of the Employee Retirement Income Security Act of 1974, of the United States of America, as amended;
 - (b) which is based upon, arising from, or in consequence of the failure to collect from employers contributions owed to or in respect of a **Benefit Program**, unless the failure is because of the negligence of an **Insured**;
 - (c) which constitutes benefits due or to become due under the terms of a **Benefit Program** unless, and to the extent that, (i) the **Insured** is a natural person and the benefits are payable by such **Insured** as a personal obligation, and (ii) recovery for the benefits is based upon a covered **Wrongful Act**.

Severability of Exclusions

7. With respect to the Exclusions in subsections 5 and 6 of this coverage section, no act pertaining to or knowledge possessed by any **Insured** shall be imputed to any other **Insured** to determine if coverage is available.

Limit of Liability and Deductible

8. For purposes of this coverage section, all **Loss** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts** of any **Insured** shall be deemed one **Loss**, and such **Loss** shall be deemed to have originated in the earliest **Policy Period** in which a **Claim** is first made against any **Insured** alleging any such **Wrongful Act** or **Interrelated Wrongful Acts**.

The Company's maximum liability for each **Loss** shall be the Limit of Liability for each **Loss** set forth in Item 2(A) of the Declarations for this coverage section. The Company's maximum aggregate liability for all **Loss** on account of all **Claims** first made during the same **Policy Period** shall be the Limit of Liability for each **Policy Period** set forth in Item 2(B) of the Declarations for this coverage section.

The Company's liability hereunder shall apply only to that part of each **Loss** which is excess of the Deductible Amounts set forth in Item 3 of the Declarations for this coverage section and such Deductible Amounts shall be borne by the

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Limit of Liability and Deductible (continued)

Insureds uninsured and at their own risk. The Deductible Amount for Non-Indemnifiable **Loss** set forth in Item 3(A) of the Declarations for this coverage section shall apply to **Loss** incurred by any **Insured** other than the **Sponsor Organization** or any **Benefit Program** for which the **Sponsor Organization** is not permitted or required to indemnify or is permitted or required to indemnify but does not do so by reason of **Financial Impairment**. The Deductible Amount for Indemnifiable Loss set forth in Item 3(B) of the Declarations for this coverage section shall apply to all other **Loss**.

If a part of a single **Loss** is subject to the Deductible Amount for Non-Indemnifiable Loss and part of the same **Loss** is subject to the Deductible Amount for Indemnifiable **Loss**, the maximum Deductible Amount applicable to such **Loss** shall be the Deductible Amount for Indemnifiable **Loss**.

The **Sponsor Organization** shall be deemed permitted or required to indemnify an **Insured**, and the shareholder and board of director resolutions of the **Sponsor Organization** shall be deemed to provide indemnification to an **Insured**, to the fullest extent authorized by the **Sponsor Organization's** by-laws or certificate of incorporation in effect at the inception of this coverage section, or any subsequently amended or superseding by-laws or certificate of incorporation of the **Sponsor Organization** to the extent such subsequent document expands or broadens and does not limit or restrict such indemnification authorization.

Any **Loss** covered in whole or in part by this coverage section and the Employment Practices Liability coverage section of this Policy (if purchased) shall be subject to the limits of liability, deductible and coinsurance percent applicable to such other coverage section; provided, however, if any limit of liability applicable to such other coverage section is exhausted with respect to such **Loss**, any remaining portion of such **Loss** otherwise covered by this coverage section shall be subject to the Limit of Liability applicable to this coverage section, as reduced by the amount of such **Loss** otherwise covered by this coverage section which is paid by the Company pursuant to such other coverage section.

For purposes of this subsection 8 only, the Extended Reporting Period, if exercised, shall be part of and not in addition to the immediately preceding **Policy Period**.

Other Insurance

9. If any **Loss** arising from any **Claim** made against any **Insured** is insured under any other valid policy(ies), prior or current, then this coverage section shall cover such **Loss**, subject to its limitations, conditions, provisions and other terms, only to the extent that the amount of such **Loss** is in excess of the amount of payment from such other insurance whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limit of Liability provided in this coverage section.

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Changes in Exposure

Acquisition or Creation of Another Entity or Benefit Program

10. If during the **Policy Period** the **Sponsor Organization** creates or acquires a **Subsidiary** or **Benefit Program** or otherwise becomes a fiduciary of or responsible for the **Administration** of any **Benefit Program** (“Inception Event”), coverage shall be afforded, subject to the terms and conditions of this coverage section, from the date of the Inception Event for such **Subsidiary, Benefit Program**, and any **Insured Persons** of such **Benefit Program**, but only for **Wrongful Acts** committed, attempted, or allegedly committed or attempted, after the date of the Inception Event, unless the Company agrees by endorsement to provide coverage for **Wrongful Acts** committed, attempted, or allegedly committed or attempted, prior to such date. Any such coverage shall be specifically excess of the amount of payment from any other insurance available to such **Benefit Program, Insured Persons** or **Sponsor Organization**. The **Sponsor Organization** shall give written notice to the Company of the Inception Event as soon as practicable together with such information as the Company may require and shall pay any reasonable additional premium required by the Company.

Notwithstanding the foregoing, no coverage shall be afforded pursuant to this subsection 10 with respect to any employee stock ownership plan or any **Insured Persons** or **Sponsor Organization** thereof unless the Company, by specific endorsement hereto, agrees to afford such coverage. Any such coverage shall be at the terms and conditions and for the premium set forth in such endorsement.

Acquisition by another entity

11. If (i) the **Sponsor Organization** merges into or consolidates with another organization, (ii) another organization or person or group of organizations and/or persons 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 50% of the outstanding securities representing the present right to vote for election of directors of the **Sponsor Organization**, or (iii) the responsibilities of the **Sponsor Organization** for the **Administration** of, or as a fiduciary of, any **Benefit Program** is fully assumed by any other person and/or entity, coverage under this coverage section for such **Sponsor Organization, Benefit Program** and the **Insured Persons** thereof who were **Insureds** prior to such acquisition, merger, consolidation or assumption of responsibilities shall continue until termination of this coverage section subject to the following:
- (a) for the merged, consolidated or acquired **Sponsor Organization** and any **Benefit Program** thereof, and for any **Benefit Program** described in subparagraph (iii) above, coverage shall continue only with respect to **Claims** for **Wrongful Acts** committed, attempted, or allegedly committed or attempted prior to such merger, consolidation, acquisition, or assumption of responsibilities;

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Changes in Exposure

Acquisition by Another Entity (continued)

- (b) for **Insured Persons** of the merged, consolidated, or acquired **Sponsor Organization** or any **Benefit Program** thereof, and for **Insured Persons** described in subparagraph (iii) above, coverage shall continue with respect to **Claims** for **Wrongful Acts** committed, attempted or allegedly committed or attempted prior to the date the **Insured Person** ceases to be a trustee, director, officer and/or employee of any **Sponsor Organization** not so merged, consolidated or acquired.

The **Sponsor Organization** shall give written notice to the Company of such merger, consolidation, acquisition or assumption of responsibilities as soon as practicable together with such information as the Company may require. Any such continuing coverage shall be specifically excess of the amount of payment from any other insurance available to such **Sponsor Organization, Benefit Program** or **Insured Persons**.

Termination of Benefit Program

12. If the **Sponsor Organization** terminates any **Benefit Program** before or after the Inception Date of this coverage section, coverage under this coverage section with respect to such terminated **Benefit Program** shall continue until termination of this coverage section for those who were **Insureds** at the time of such **Benefit Program** termination, or who would have been **Insureds** at the time of such termination if this coverage section had been in effect with respect to **Wrongful Acts** committed, attempted or allegedly committed or attempted by such **Insureds** prior to or after the date of such **Benefit Program** termination. The **Insureds** shall give written notice to the Company of such **Benefit Program** termination as soon as is practicable together with such information as the Company may require.

Reporting and Notice

13. The **Insureds** shall, as a condition precedent to exercising their rights under this coverage section, give to the Company written notice as soon as practicable of any **Claim** made against any of them for a **Wrongful Act**.

If during the **Policy Period** or Extended Reporting Period (if exercised) an **Insured** becomes aware of circumstances which could give rise to a **Claim** and gives written notice of such circumstance(s) to the Company, then any **Claims** subsequently arising from such circumstances shall be considered to have been made during the **Policy Period** or the Extended Reporting Period in which the circumstances were first reported to the Company.

The **Insureds** shall, as a condition precedent to exercising their rights under this coverage section, give to the Company such information and cooperation as it may reasonably require, including but not limited to a description of the **Claim** or circumstances, the nature of the alleged **Wrongful Act**, the nature of the alleged or potential damage, the names of actual or potential claimants, and the manner in which the **Insured** first became aware of the **Claim** or circumstances.

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Representations and Severability

14. In granting coverage to any one of the **Insureds**, the Company has relied upon the declarations and statements in the written application for this coverage section and upon any declarations and statements in the original written application submitted to another insurer in respect of the prior coverage incepting as of the Continuity Date set forth in Item 8 of the Declarations for this coverage section. All such declarations and statements are the basis of such coverage and shall be considered as incorporated in and constituting part of this coverage section.

Such written application(s) for coverage shall be construed as a separate application for coverage by each **Insured**. With respect to the declarations and statements contained in such written application(s) for coverage, no statement in the application or knowledge possessed by any **Insured** shall be imputed to any other **Insured** for the purpose of determining if coverage is available.

Definitions

15. When used in this coverage section:

Administration means giving advice to employees or effecting enrollment, termination or cancellation of employees under a **Benefit Program**.

Benefit Program means:

- (a) any **Employee Benefit Plan**, or
- (b) any **Government Benefit Program**.

Claim means:

- (a) a written demand for monetary damages,
- (b) a civil proceeding commenced by the service of a complaint or similar pleading,
- (c) a criminal proceeding commenced by a return of an indictment, or
- (d) a formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document, against any **Insured** for a **Wrongful Act**, including any appeal therefrom.

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 **Insured**) incurred in defending or investigating **Claims** and the premium for appeal, attachment or similar bonds.

Employee Benefit Plan means any plan so defined in the Income Tax Act or any plans or funds listed in the attached Endorsement, as defined in the Income Tax Act, or any plan, including any Welfare Benefit Plan, so defined in the Employee Retirement Income Security Act of 1974, of the United States of America, as amended.

Financial Impairment means the financial position of the **Sponsor Organization** as a debtor as that term is defined and used in Canada within the provisions of the Bankruptcy Act. R.S., c.B-3 and without limiting the generality of the foregoing shall occur when (i) any receiver, conservator, liquidator, trustee, sequestrator or similar official has been appointed by a provincial, state, or federal court, agency or official or by a creditor to take control of, supervise,

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Definitions (continued)

manage or liquidate the **Sponsor Organization**, (ii) a reorganization proceeding relating to the **Sponsor Organization** has been brought in Canada under the Companies' Creditors Arrangement Act, R.S., c.C-36, or (iii) the **Sponsor Organization** becomes a debtor in possession under Title 11 of the United States Code, Bankruptcy.

Government Benefit Program means any **Benefit Program** created by statute, of which the capital is administered and the contingent liabilities assumed by a government or governments or any agency thereof, including without limitation workers compensation, unemployment, social security and disability benefit programs.

Insureds, either in the singular or plural, means any one or more:

- (a) **Sponsor Organization**;
- (b) **Benefit Program**;
- (c) **Insured Person**, or
- (d) any other person or organization designated as an additional **Insured** by endorsement to this coverage section.

Insureds Persons, either in the singular or plural, means any one or more:

- (a) natural persons serving as a past, present or future trustee, director, officer or employee of the **Sponsor Organization** or of any **Sponsored Plan**, and
- (b) any other natural person acting as a past, present or future fiduciary of a **Sponsored Plan**.

Insured Plan means any **Employee Benefit Plan** pursuant to which risk or contingent liabilities are transferred to an insurer in return for a premium or other monetary consideration.

Interrelated Wrongful Acts means all casually connected **Wrongful Acts**.

Loss means the total amount which any **Insured** becomes legally obligated to pay on account of each **Claim** and for all **Claims** in each **Policy Period** and the Extended Reporting Period, if exercised, made against them for **Wrongful Acts** for which coverage applies, including, but not limited to, damages, judgments, settlements, costs and **Defense Costs**. **Loss** does not include matters uninsurable under the law pursuant to which this coverage section is construed.

Pension Benefit Plan means any plan defined as a pension plan in the Pension Benefit Standards Act, 1985, or any similar Federal or Provincial law or any plan defined as a Pension Benefit Plan in the Employee Retirement Income Security Act of 1974, of the United States of America, as amended.

Pollutants means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, the Canadian Environmental Protection Act, the United States Environmental Protection Agency or a provincial, state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials.

Pollutants shall also mean any other air emissions, odor, waste water, oil and oil products, infectious or medical waste, asbestos and asbestos products and any noise.

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Definitions (continued)

Sponsor Organization means any organization designated in Item 4 of the Declarations for this coverage section.

Sponsored Plan means an **Employee Benefit Plan**:

- (a) which is not an **Insured Plan**;
- (b) which is operated solely by the **Sponsor Organization** or jointly by the **Sponsor Organization** and a labor organization for the benefit of the employees of the **Sponsor Organization** located anywhere in the world and which existed at the Inception Date of this coverage section or of any policy or coverage section of which this coverage section is a renewal, or which is created or acquired after the inception of this coverage section, subject to the provisions outlined in this coverage section;
- (c) any other plan, fund, or program specifically included as a **Sponsored Plan** and named in Item 5 of the Declarations of this coverage section; provided however, **Sponsored Plan** shall not include any multiemployer plan, as defined in the Employee Retirement Income Security Act of 1974, of the United States of America, as amended, or, in Canada, as defined in relation to pension plans by the Pension Benefit Standards Act of 1985, mutatis mutandis;
- (d) any other **Employee Benefit Plan** or program not subject to Title 1 of the Employee Retirement Income Security Act of 1974, of the United States of America, as amended, operated solely by the **Sponsor Organization** for the benefit of the employees of the **Sponsor Organization**.

Subsidiary, either in the singular or plural, means any organization in which more than 50% of the outstanding 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 one or more **Sponsor Organization**.

Wrongful Act means:

- (a) with respect to a **Sponsored Plan** or **Insured Plan**,
 - (i) any breach of the responsibilities, obligations or duties imposed upon an **Insured Person** in respect of a plan by the Pension Benefit Standards Act, 1985 or the Employee Retirement Income Security Act of 1974, of the United States of America, as amended, or by the common or statutory law of the United States of America, of Canada or any state, province, or other jurisdiction anywhere in the world; or
 - (ii) any other matter claimed against the **Sponsor Organization** or an **Insured Person** solely because of the **Insured Person's** service in connection with any **Sponsored Plan** or **Insured Plan**; or
 - (iii) any negligent act, error or omission by the **Insured** in the **Administration** of any **Sponsored Plan** or **Insured Plan**; and
- (b) with respect to a **Government Benefit Program**
 - (i) any negligent act, error or omission in the **Administration** of any **Government Benefit Program**.