



Canadian *ExecPro*[®]

SPECIMEN Public Solution

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Public Solution Insurance Policy

Great American Insurance Group – Canadian Executive Liability Division:
1515 Woodfield Road, Suite 500, Schaumburg, IL 60173

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THIS IS A CLAIMS MADE POLICY. READ IT CAREFULLY.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the insurance company shown in the Declarations (a stock insurance company, hereinafter called the **Insurer**), including the statements made in the Proposal Form and subject to all terms, conditions and limitations of this Policy, the **Insured** and **Insurer** agree:

Section I. Insuring Agreements

- A. The **Insurer** shall pay on behalf of the **Insured Persons** all **Loss** which the **Insured Persons** shall be legally obligated to pay as a result of a **Claim** (including an **Employment Practices Claim** or a **Securities Claim**) first made against the **Insured Persons** during the **Policy Period** or the **Discovery Period** for a **Wrongful Act**, except for any **Loss** which the **Company** actually pays as indemnification.
- B. The **Insurer** shall pay on behalf of the **Company** all **Loss** which the **Insured Persons** shall be legally obligated to pay as a result of a **Claim** (including an **Employment Practices Claim** or a **Securities Claim**) first made against the **Insured Persons** during the **Policy Period** or the **Discovery Period** for a **Wrongful Act**, but only to the extent the **Company** is required or permitted by law to indemnify the **Insured Persons**.
- C. The **Insurer** shall pay on behalf of the **Insured Entity** all **Loss** which the **Insured Entity** shall be legally obligated to pay as a result of a **Securities Claim** first made against the **Insured Entity** during the **Policy Period** or the **Discovery Period** for a **Wrongful Act**.

Section II. Discovery Period

- A. In the event the **Insurer** refuses to renew this Policy or the **Corporation** chooses to cancel or not renew this Policy, the **Corporation** shall have the right, upon payment of fifty percent (50%) of the annual premium, (or if the **Policy Period** is other than annual, fifty percent (50%) of the annualized premium), to an extension of the coverage provided by this Policy with respect to any **Claim** first made against any **Insured** during the period of twelve (12) months after the end of the **Policy Period**, but only with respect to any **Wrongful Act** committed or alleged to have been committed before the end of the **Policy Period**. This twelve (12) month period shall be referred to in this Policy as the **Discovery Period**.
- B. As a condition precedent to the right to purchase the **Discovery Period**, the total premium for this Policy must have been paid, and a written request together with payment of the appropriate premium for the **Discovery Period** must be provided to the **Insurer** no later than thirty (30) days after the end of the **Policy Period**.
- C. The fact that the coverage provided by this Policy may be extended by virtue of the purchase of the **Discovery Period** shall not in any way increase the Limit of Liability stated in Item 3 of the Declarations. For purposes of the Limit of Liability, the **Discovery Period** is considered to be part of, and not in addition to, the **Policy Period**.

Section III. Definitions

A. "Claim" shall mean:

- (1) a written demand for monetary or non-monetary relief made against any **Insured** and reported to the **Insurer** pursuant to Section VIII.A.;
- (2) a civil, criminal, administrative, arbitration or regulatory proceeding, or any appeal therefrom, made against any **Insured** seeking monetary or non-monetary relief and commenced by the service of an originating proceeding, complaint or similar pleading, the return of an indictment, or the receipt or filing of notice of charges or similar document, including any proceeding initiated against any **Insured** before any provincial or federal human rights tribunal or any similar governmental body (including but not limited to the Equal Employment Opportunity Commission);
- (3) a written request to enter into an agreement to toll any applicable statute of limitation prior to the commencement of any judicial, administrative, regulatory or arbitration proceeding;
- (4) an official request for **Extradition** of an **Insured Person** or the execution of a warrant for the arrest of an **Insured Person** where such execution is an element of **Extradition**;
- (5) a **Derivative Demand**; or
- (6) a civil, criminal, administrative or regulatory investigation (including a provincial securities commission or federal/provincial human rights tribunal or commission inquiry, a Securities and Exchange Commission, Equal Employment Opportunity Commission or grand jury investigation) of any **Insured Person** commencing:
 - (a) with the service of a subpoena upon such **Insured Person** in the case of an investigation by any provincial or territorial securities commission and/or the Securities and Exchange Commission or a similar state or foreign government authority, receipt of a Wells Notice, receipt of a target letter or receipt of a formal order of investigation upon such **Insured Person**; or
 - (b) on the date such **Insured Person** is identified in writing by the investigating authority, other than as stated in Section A.(6)(a) above, as a person against whom a proceeding described in Section A.(2) above may be commenced.

However as respects this Section A.(6), **Claim** shall not include a civil, criminal, administrative or regulatory investigation of the **Company**.

B. "Company" shall mean:

- (1) the **Corporation**;
- (2) any **Subsidiary**; and
- (3) in the event of **Financial Insolvency**, the resulting debtor-in-possession (or foreign equivalent status), if any.

C. "**Corporation**" shall mean the entity named in Item 1 of the Declarations.

D. "Costs of Defence" shall mean:

- (1) reasonable and necessary legal fees, costs and expenses incurred in the investigation, defense or appeal of any **Claim** including the costs of an appeal bond, attachment bond or similar bond (but without obligation on the part of the **Insurer** to apply for or furnish such bonds); or
- (2) reasonable and necessary fees, costs and expenses incurred through legal counsel and consented to by the **Insurer** resulting from an **Insured Person** lawfully:
 - (a) opposing, challenging, resisting or defending against any request for or any effort to obtain the **Extradition** of that **Insured Person**; or
 - (b) appealing any order or other grant of **Extradition** of that **Insured Person**;

provided, however, **Costs of Defence** shall not include salaries, wages, overhead or benefit expenses associated with any **Insured Persons**.

E. "Derivative Demand" shall mean a written demand, by one or more "Complainants", as defined in Section 238 of the Canada Business Corporations Act, R.S.C. 1985, c. C-44, s. 238, or similar provision of any Canadian provincial business corporations statute, or the equivalency in any other jurisdiction, upon the board of directors of the **Company**, to bring a civil proceeding in a court of law against any individual **Director** or **Officer**.

F. "Directors" and "Officers" shall mean all persons who were, now are, or shall be directors and/or officers of the **Company**, whether duly elected, appointed or de facto. In the event the **Company** is duly chartered as a Limited Liability Company with a provision in its bylaws that the managers of such Limited Liability Company shall be indemnified to the fullest extent permitted by applicable law, the terms "**Directors**" and "**Officers**" shall include individuals who serve as managers of such Limited Liability Companies.

G. "Employment Practices Claim" shall mean any **Claim** brought by or on behalf of any past, present or future employee of the **Company** or **Outside Entity**, or any applicant for employment with the **Company** or **Outside Entity** alleging an **Employment Practices Wrongful Act**.

H. "Employment Practices Wrongful Act" shall mean any of the following acts related to employment:

- (1) wrongful dismissal, discharge or termination of employment, whether actual or constructive;
- (2) misrepresentation;
- (3) violation of employment laws;
- (4) sexual or workplace harassment;
- (5) discrimination;
- (6) wrongful failure to employ or promote;
- (7) wrongful discipline;
- (8) wrongful deprivation of career opportunity including a wrongful failure to hire or promote;
- (9) failure to grant tenure;
- (10) negligent employee evaluation;
- (11) retaliation;
- (12) failure to provide adequate workplace or employment policies or procedures;
- (13) defamation (including libel and slander);
- (14) invasion of privacy;
- (15) wrongful demotion;
- (16) negligent reassignment;
- (17) violation of any provincial, territorial federal, state or local civil rights laws;
- (18) negligent hiring;
- (19) negligent supervision;

- (20) negligent training;
- (21) negligent retention; or
- (22) acts described in (1) through (21) above, arising from the use of the **Company's** internet, e-mail, telecommunication or similar systems, including the failure to provide and enforce adequate policies and procedures relating to such use of the **Company's** internet, e-mail, telecommunication or similar systems.

- I. "**Extradition**" shall mean any formal process by which an **Insured Person** located in any country is surrendered to any other country for trial or otherwise to answer any criminal accusation.
- J. "**Financial Insolvency**" shall mean the **Company** becoming a debtor in possession, or the appointment of a receiver, conservator, liquidator, trustee, rehabilitator, examiner or similar official to control, supervise, manage or liquidate the **Company**.
- K. "**Insured(s)**" shall mean the **Insured Entity** and all **Insured Persons**.
- L. "**Insured Entity**" shall mean the **Company**, but only with respect to coverage provided under Insuring Agreement I.C.
- M. "**Insured Persons**" shall mean **Directors** and **Officers** and all past, present and future employees of the **Company** other than **Directors** and **Officers**.
- N. "**Loss**" shall mean settlements and judgments, pre-judgment and/or post-judgment interest, compensatory damages, punitive, aggravated or exemplary damages or the multiple portion of any multiplied damage award and **Costs of Defence**, provided, however, **Loss** shall not include:
 - (1) criminal or civil fines or penalties imposed by law, or taxes;
 - (2) any matter which may be deemed uninsurable under the law pursuant to which this Policy is construed; or
 - (3) any portion of damages, judgments or settlements arising out of any **Claim** alleging the **Company** paid an inadequate price or consideration for the purchase of any securities but solely with respect to coverage provided under Insuring Agreements I.B. and I.C.

Notwithstanding sub-paragraph (2) above, in a **Securities Claim** alleging violations of Section 130 or 130.1 of the Ontario Securities Act, as amended, or of Section 11, 12 or 15 of the Securities Act of 1933, as amended, or similar statutory provisions of any Canadian federal, provincial or territorial securities law, the **Insurer** shall not assert the portion of any amounts incurred by any **Insureds** attributable to such violations as uninsurable loss and shall treat that portion of all settlements, judgments and **Costs of Defence** as constituting **Loss** under the Policy.

It is understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for punitive, aggravated or exemplary damages or the multiple portion of any multiplied damage award.

With respect to coverage provided by Insuring Agreement I.A., "**Loss**" shall also mean:

- (1) taxes and related penalties and interest assessed against a **Director** based upon, arising out of or attributable to the failure to deduct, withhold or remit tax from a payment of salary or wages of an employee pursuant to the Income Tax Act R.S.C. 1985, the Unemployment Insurance Act R.S.C. 1985, c. U-1, and the Canada Pension Plan R.S.C., c.8, the regulations promulgated thereunder and amendments thereto or any similar provisions of any provincial law;

- (2) any amount constituting wages pursuant to the Canada Business Corporations Act R.S.C. 1985, c. C-44 and the Business Corporations Act, R.S.C. 1990, c.B.16, the regulations promulgated thereunder and amendments thereto or any similar provisions of any provincial law; or
- (3) unpaid tax liabilities of the **Company** arising under the laws of Canada, the laws of any province of Canada, or any municipality therein, which the **Company** is unable to pay due to **Financial Insolvency** and which **Directors** become legally obligated to pay.

O. "Outside Entity" shall mean any non-profit and/or eleemosynary organizations.

P. "Policy Period" shall mean the period from the inception date of this Policy to the expiration date of this Policy as set forth in Item 2 of the Declarations, or its earlier termination if applicable.

Q. "Related Wrongful Acts" shall mean **Wrongful Acts** which are logically or causally connected by reason of any common fact, circumstance, situation, transaction, casualty, event or decision.

R. "Securities Claim" shall mean any **Claim** (including a civil lawsuit or criminal proceeding brought by any provincial or territorial securities commission and/or the Securities and Exchange Commission) made against an **Insured** alleging a violation of any provincial, territorial, federal, state, local or foreign securities law, regulation, or rule, whether statutory or common law, which is:

- (1) brought by any person or entity arising out of, based upon or attributable to, in part or in whole, the: (a) purchase or sale of, or (b) offer or solicitation of an offer to purchase or sell, any securities of the **Company**, or
- (2) brought by a security holder of the **Company**, with respect to such security holder's interest in such securities of the **Company**, whether directly, by class action, or derivatively on behalf of the **Company**.

"**Securities Claim**" shall also include an administrative or regulatory proceeding alleging a violation of any provincial, territorial, federal, state, local or foreign securities law, regulation, or rule, whether statutory or common law against the **Company**, but only if and only during the time that such proceeding is also continuously maintained against an **Insured Person**.

S. "Subsidiary" shall mean:

- (1) any entity in which the **Corporation** owns, directly or indirectly, more than fifty percent (50%) of the voting stock on or before the inception date of the Policy;
- (2) any limited liability company in which the **Corporation** owns or controls, directly or indirectly, the right to elect, appoint or designate more than fifty percent (50%) of such entity's managers on or before the inception date of the Policy;
- (3) any Joint Venture, in which the **Corporation**, on or before the inception date of the Policy, directly or indirectly:
 - (a) owns interests representing more than fifty (50%) of the voting, appointment, or designation power for the selection of the management committee members of the Joint Venture; or
 - (b) has the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of the Joint Venture to elect, appoint or designate a majority of the management committee of the Joint Venture;

- (4) any entity defined above and created or acquired by the **Corporation** after the inception date of this Policy, if the entity's total assets do not exceed twenty five percent (25%) of the total consolidated assets of the **Corporation** as of the inception date of this Policy; or
- (5) any entity created or acquired by the **Corporation**, after the inception date of this Policy, other than described in (4) above, if the **Corporation**, within ninety (90) days provides the **Insurer** with written notice thereof and agrees to any premium adjustment and/or coverage revision that may be required by the **Insurer**.

T. "**Wrongful Act**" shall mean:

- (1) any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty, or **Employment Practices Wrongful Act**, by any **Insured Persons** in their capacity with the **Company**;
- (2) any actual or alleged act, omission, error, misstatement, misleading statement, neglect or breach of duty by the **Insured Entity**, but only with respect to Insuring Agreement I.C.;
- (3) any matter claimed against any **Insured Persons** solely by reason of their status with the **Company**; or
- (4) any matter claimed against any **Insured Persons** arising out of their service as a director, officer, trustee, regent, governor, member of the Board of Managers, or equivalent position of an **Outside Entity**, but only if such service is at the request of the **Company**.

Section IV. Exclusions

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:

A. brought about or contributed to by:

- (1) any **Insureds** gaining any profit, advantage or remuneration to which they were not legally entitled. However, this exclusion shall not apply to that portion of **Loss** from a **Securities Claim** attributable to an alleged violation of Section 11, 12 or 15 of the Securities Act of 1933, as amended; or
- (2) the deliberately fraudulent or criminal acts of any **Insureds**;

provided, however, this exclusion shall not apply unless it is finally adjudicated that such conduct in fact occurred. This exclusion shall not apply to coverage provided under Insuring Agreement I.B.;

B. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any **Wrongful Act** or **Related Wrongful Act** or any fact, circumstance or situation which has been the subject of any notice or **Claim** given under any other policy of which this Policy is a renewal or replacement;

C. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any civil, criminal, administrative or investigative proceeding involving the **Company** and/or any **Insured Persons** pending as of or prior to the date stated in Item 7 of the Declarations, or any fact, circumstance or situation underlying or alleged in such proceeding;

D. for any actual or alleged:

- (1) bodily injury, sickness, disease, or death of any person;
- (2) damage to or destruction of any tangible property, or the loss of use thereof; or
- (3) mental anguish, emotional distress, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, libel or slander;

provided, however, part (3) of this exclusion shall not apply to any **Employment Practices Claim**;

E. for any **Wrongful Act** of any **Insureds** in connection with any pension or welfare plans of the **Company**;

F. for any **Wrongful Act** of any **Insured Persons** serving as a director, officer, trustee, regent, governor, member of the Board of Managers, or equivalent position of an entity other than the **Company** or **Outside Entity**, even if directed or requested to serve such other entity;

G. for any **Wrongful Act** of any **Insured Persons** serving as a director, officer, trustee, regent, governor, member of the Board of Managers, or equivalent position of an **Outside Entity** if such **Claim** is brought by the **Outside Entity** or by any director, officer, trustee, regent, governor, member of the Board of Managers, or equivalent position thereof; provided, however, this exclusion shall not apply to any **Employment Practices Claim**;

H. by or on behalf of the **Company**, or any security holder of the **Company**, or any **Directors** or **Officers**, provided, however, this exclusion shall not apply to:

- (1) any **Employment Practices Claim**;
- (2) any **Claim** brought by any **Directors** or **Officers** where such **Claim** is in the form of a cross-claim or third party claim for contribution or indemnity which is part of and results directly from a **Claim** which is not otherwise excluded by the terms of this Policy;
- (3) any **Claim** brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner, creditors' committee (or any assignee thereof) or similar official of the **Company**, if any, in the event of **Financial Insolvency**;
- (4) any **Claim** brought by any former **Directors** or **Officers** who have not served as a duly elected or appointed director, officer, trustee, governor, management committee member, member of the management board, general counsel or risk manager (or equivalent position) or consultant for the **Company** for at least three (3) years prior to the commencement of such **Claim**, if the former **Directors** or **Officers** bringing such **Claim** are acting totally independent of, and without the solicitation, assistance, active participation or intervention of any **Directors** or **Officers** or the **Company**;
- (5) any **Claim** brought by any **Directors** or **Officers** where such **Claim** is brought and maintained:
 - (a) solely and entirely in a jurisdiction other than Canada and/or the United States of America, its territories and possessions; and
 - (b) subject to the substantive and procedural laws of a jurisdiction other than Canada and/or the United States of America, its territories and possessions; or

- (6) any **Claim** brought by any security holder of the **Company** whether directly or derivatively, if the security holder bringing such **Claim** is acting totally independent of, and without the solicitation, assistance, active participation or intervention of any **Director** or **Officer** or the **Company**. For the purposes of this Section IV.H.(6), where one or more security holders allege, certify or affirm there is likely support for their **Claim** by referring to any of the following actions taken by a **Director** or **Officer**, such allegations, certification or affirmation shall not, in itself, demonstrate such security holder is not “acting totally independent of, and without solicitation, assistance, active participation or intervention of any **Director** or **Officer** or the **Company**”:
- (a) providing information to, causing information to be provided to, or otherwise assisting in an investigation conducted by a federal regulatory agency, a federal law enforcement agency, or any member or committee of the United States Congress regarding the possible violation by the **Company** or any **Director** or **Officer** of the law, rules, or regulations listed in 18 U.S.C. 1514A(a)(1) or any similar whistleblower protection provision;
 - (b) filing, causing to be filed, testifying, participating in, or otherwise assisting in a proceeding relating to the possible violation by the **Company** or any **Director** or **Officer** of law, rules, or regulations listed in 18 U.S.C 1514A(a)(2) or any similar whistleblower protection provision;
 - (c) filing a complaint with the United States Secretary of Labor, as authorized by 18 U.S.C. 1514A(b)(1)(A) or any similar whistleblower protection provision; or
 - (d) bringing an action at law or equity to the extent that such action seeks relief pursuant to 18 U.S.C. 1514A(b)(1)(B) or any similar whistleblower protection provision;
- (7) any derivative **Claim** commenced by a “Complainant” as defined in Section 238 of the Canada Business Corporations Act, R.S.C. 1985, c, C-44, s. 238, or similar provision of any Canadian provincial business corporations statute, or the equivalency in any other jurisdiction, provided any such **Claim** is by a person other than a **Director** or **Officer** and is instigated and continued totally independent of, and without the solicitation, assistance, active participation, or intervention of, any **Director** or **Officer** or the **Company**.
- I. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving actual or alleged seepage, pollution, radiation, emission, contamination or irritant of any kind, including but not limited to smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, asbestos, chemicals or waste of any kind, provided, however, that this exclusion shall not apply to: (1) any **Securities Claim**, or (2) any coverage provided under Insuring Agreement I.A.
- J. for any **Wrongful Act** of any **Subsidiary** or the **Insured Persons** of such **Subsidiary** or any entity that merges with the **Company** or the **Insured Persons** of such entity that merges with the **Company** occurring:
- (1) prior to the date such entity became a **Subsidiary** or was merged with the **Company**;
 - (2) subsequent to the date such entity became a **Subsidiary** or was merged with the **Company** which, together with a **Wrongful Act** occurring prior to the date such entity became a **Subsidiary** or was merged with the **Company**, would constitute **Related Wrongful Acts**; or
 - (3) subsequent to the date such entity ceased to meet the definition of **Subsidiary**

- K. which is insured in whole or in part by any other valid and collectible policy or policies, (except with respect to any excess beyond the amount or amounts of coverage under such other policy or policies), whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise;
- L. other than **Costs of Defence**, any amount owing by reason of the failure to afford an employee with reasonable notice of termination, except this exclusion shall not apply to that portion of **Loss** that is increased by reason of an **Insured** engaging in an **Employment Practices Wrongful Act**.

With respect to Section IV. of the Policy, no fact pertaining to or conduct by any **Insured Person** shall be imputed to any other **Insured Person**; and only facts pertaining to or conduct by any past, present or future chief executive officer, or chief financial officer of the **Corporation** shall be imputed to the **Insured Entity** to determine if coverage is available.

Section V. Limit of Liability

- A. The **Insurer** shall be liable to pay one hundred percent (100%) of **Loss** in excess of the applicable Retention amount stated in Item 4 of the Declarations up to the Limit of Liability stated in Item 3 of the Declarations.
- B. **Costs of Defence** shall be part of, and not in addition to, the Limit of Liability stated in Item 3 of the Declarations, and such **Costs of Defence** shall serve to reduce the Limit of Liability.
- C. The **Insurer's** liability for all **Loss** shall be the amount shown in Item 3 of the Declarations which shall be the maximum aggregate Limit of Liability of the **Insurer** for the **Policy Period**, regardless of the time of payment or the number of **Claims**.

Section VI. Retention

- A. One Retention shall apply to each and every **Claim**. The **Company** shall be responsible for, and shall hold the **Insurer** harmless from, any amount within the Retention. In the event the **Company** is unable to indemnify the **Insured Persons** solely by reason of its **Financial Insolvency**, the **Insurer** shall, pursuant to the terms and conditions of Section VII.E., advance **Costs of Defence** incurred by the **Insured Persons** without first requiring payment of the Retention applicable to **Claims** covered by Insuring Agreement I.B.
- B. More than one **Claim** involving the same **Wrongful Act** or **Related Wrongful Acts** of one or more **Insureds** shall be considered a single **Claim**. All such **Claims** constituting a single **Claim** shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such **Claim** was first made; or (2) the earliest date on which any such **Wrongful Act** or **Related Wrongful Act** was reported under this Policy or any other policy providing similar coverage.

In the event a **Claim** triggers more than one Retention, only the highest Retention shall apply. In no event, however, shall there be a Retention for any **Claim** brought under Insuring Agreement I.A. of the Policy unless such Retention is required pursuant to provincial or state law.

- C. With respect solely to any **Securities Claim**, the Retention shall apply only to **Costs of Defence**.

Section VII. Costs of Defence and Settlements

- A.** The **Insureds** shall not incur **Costs of Defence**, or admit liability, offer to settle, or agree to any settlement in connection with any **Claim** without the express prior written consent of the **Insurer**, which consent shall not be unreasonably withheld. The **Insureds** shall provide the **Insurer** with full cooperation and all information and particulars it may reasonably request in order to reach a decision as to such consent. Any **Loss** resulting from any admission of liability, agreement to settle, or **Costs of Defence** incurred prior to the **Insurer's** consent shall not be covered hereunder.
- B.** The **Insureds**, and not the **Insurer**, have the duty to defend all **Claims**, provided that the **Insureds** shall only retain counsel as is mutually agreed upon with the **Insurer**.
- C.** The **Insurer** shall at all times have the right, but not the duty, to associate with the **Insureds** in the investigation, defense or settlement of any **Claim** to which coverage under this Policy may apply.
- D.** If a **Claim** made against any **Insured** includes both covered and uncovered matters, or is made against any **Insured** and others, the **Insureds** and the **Insurer** recognize that there must be an allocation between insured and uninsured **Loss**, therefore, **Insureds** and the **Insurer** shall allocate such amount as follows:
- (1) eighty percent(80 %) of all **Costs of Defence** shall be allocated to the insured **Loss** and shall be advanced by the **Insurer** pursuant to Section VII.E. of the Policy; provided, however, that no **Costs of Defence** shall be allocated to the **Company** to the extent the **Company** is unable to pay solely by reason of its **Financial Insolvency**.

This **Costs of Defence** allocation shall be a final and binding allocation of such **Costs of Defence** and shall not apply with respect to the allocation of any other **Loss**;
 - (2) with respect to **Loss** other than **Costs of Defence**, the **Insurer** and the **Insureds** shall use their best efforts to agree upon a fair and proper allocation of such amount between insured **Loss** and uninsured **Loss**.
- E.** The **Insurer** shall advance **Costs of Defence** prior to the final disposition of any covered **Claim**. Such advancement shall be within ninety (90) days after receipt of written evidence that **Costs of Defence** have been incurred. Any advancement shall be based on the following conditions:
- (1) the appropriate Retention has been satisfied, provided, however, the requirement of satisfaction of the Retention shall not apply in the event of the **Financial Insolvency** of the **Company**;
 - (2) any amounts advanced by the **Insurer** shall serve to reduce the Limit of Liability stated in Item 3 of the Declarations to the extent they are not in fact repaid;; and
 - (3) in the event it is finally established that the **Insurer** has no liability under the Policy for such **Claim**, the **Insureds** will severally, according to the relative benefits obtained from the **Costs of Defence** advanced, repay the **Insurer**, upon demand, all **Costs of Defence** advanced by virtue of this provision.

Section VIII. Notice of Claim

- A.** The **Insureds** shall, as a condition precedent to their rights under this Policy, give the **Insurer** notice in writing of any **Claim** which is made during the **Policy Period**. Such notice shall be given as soon as practicable from the date the General Counsel, Risk Manager, or person with equivalent responsibility first has knowledge of the **Claim**, but in no event later than ninety (90) days after the end of the **Policy Period**.
- B.** If, during the **Policy Period** or **Discovery Period**, any **Insured** first becomes aware of a specific **Wrongful Act** and gives notice to the **Insurer** of:
- (1) the specific **Wrongful Act**;
 - (2) the injury or damage which has or may result therefrom; and
 - (3) the circumstances by which the **Insured** first became aware thereof;

then any **Claim** arising out of such **Wrongful Act** which is subsequently made against the **Insured** shall be deemed to have been made at the time the **Insurer** received such written notice from the **Insured**.

- C.** In addition to furnishing the notice as provided in Sections VIII.A. or B. the **Insureds** shall, as soon as practicable, furnish the **Insurer** with copies of reports, investigations, pleadings and other papers in connection therewith.
- D.** Notice to the **Insurer** as provided in Sections VIII.A. or B. shall be emailed to ELDClaims@gaic.com or mailed to:

**GREAT AMERICAN INSURANCE COMPANIES
CANADIAN EXECUTIVE LIABILITY DIVISION
CLAIMS DEPARTMENT
P.O. BOX 66943 CHICAGO, IL 60666**

Section IX. General Conditions

A. Cancellation or Non-Renewal

- (1) This Policy may be canceled by the **Corporation** at any time by written notice to the **Insurer**. Upon cancellation, the **Insurer** shall retain the pro-rata proportion of the premium, unless this Policy is converted to Run-Off pursuant to Section IX. E. wherein the entire premium for this Policy shall be deemed earned.
- (2) This Policy may only be canceled by the **Insurer** if the **Corporation** does not pay the premium when due.
- (3) If the **Insurer** elects not to renew this Policy, the **Insurer** shall provide the **Corporation** with no less than sixty (60) days advance notice thereof.

B. Proposal Form

It is agreed by the **Company** and the **Insured Persons** that the particulars and statements contained in the Proposal Form(s), any information provided therewith, any public documents filed by the **Company** with the Securities and Exchange Commission or on the System for Electronic Document Analysis and Retrieval ("SEDAR") within the twelve (12) month period prior to the inception date of this Policy, the most recent Form 10k filed and the most recent annual report (which shall be on file with the **Insurer** and be deemed attached hereto as if physically attached hereto), are the basis of this Policy and are to be considered as incorporated in and constituting a part of the Policy. It is further understood and agreed by the **Company** and the **Directors and Officers** that the statements in the Proposal Form(s) or in any information provided therewith are their representations, and that this Policy is issued in reliance upon the truth of such representations. In the event any of the statements, representations or information in the Proposal Form(s) and/or any information provided therewith (hereafter referred to as "Facts"), are not true and accurate:

- (1) there shall be no coverage for any **Claims** made pursuant to Insuring Agreement I. A. of this Policy with respect to any **Insured Person** who had knowledge, as of the effective date of the **Policy Period**, of any Facts that were not truthfully and accurately disclosed in the Proposal Form(s), whether or not such **Insured Person** knew of such disclosure in the Proposal Form(s). The knowledge of any **Insured Person** shall not be imputed to any other **Insured Person** for the purposes of determining coverage under Insuring Agreement I. A.;
- (2) there shall be no coverage for any **Claims** made pursuant to Insuring Agreement I. B. of this Policy to the extent the **Company** indemnifies any **Insured Person** who had knowledge, as of the effective date of this **Policy Period**, of any Facts that were not truthfully and accurately disclosed in the Proposal Form(s), whether or not such **Insured Person** knew of such disclosure in the Proposal Form(s). For purposes of this paragraph, knowledge of any **Insured Person** shall not be imputed to any other **Insured Person**;
- (3) there shall be no coverage for any **Claims** made pursuant to Insuring Agreement I. C. of this Policy if the person(s) who signed the Proposal Form(s) for this coverage or any **Insured Person** who is or was a past, present or future chief financial officer, or chief executive officer of the **Corporation** had knowledge, as of the effective date of the **Policy Period**, of any Facts that were not truthfully and accurately disclosed in the Proposal Form(s), whether or not such **Insured Person** knew of such disclosure in the Proposal Form(s); and
- (4) coverage provided pursuant to Insuring Agreement I. A. of this Policy shall not be rescinded by the **Insurer**.

C. Action Against the Insurer

- (1) No action shall be taken against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy, and until the **Insured's** obligation to pay shall have been finally determined by an adjudication against the **Insured** or by written agreement of the **Insured**, claimant and the **Insurer**.
- (2) No person or organization shall have any right under this Policy to join the **Insurer** as a party to any **Claim** against the **Insureds** nor shall the **Insurer** be impleaded by any **Insured** or their legal representative in any such **Claim**.

D. Amalgamation, Merger or Acquisition

If, during the **Policy Period**, the **Company** acquires the assets of another entity, by amalgamation, merger or otherwise, and the acquired assets of such other entity exceed twenty five percent (25%) of the assets of the **Company** as of the inception date of the Policy, written notice thereof shall be given to the **Insurer** as soon as practicable, but in no event later than ninety (90) days from the effective date of the transaction, together with such information as the **Insurer** may request. Premium adjustment and coverage revisions shall be effected as may be required by the **Insurer**.

E. Conversion to Run-Off Coverage

If, during the **Policy Period**, a transaction occurs wherein another entity gains control of the **Corporation** through the ownership of more than fifty percent (50%) of the voting stock of the **Corporation**, or the **Corporation** merges into another entity or consolidates with another entity such that the **Corporation** is not the surviving entity, or the **Corporation** sells all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert then:

- (1) the **Corporation** must give written notice of such transaction to the **Insurer** within ninety (90) days after the effective date of such transaction and provide the **Insurer** with such information in connection therewith as the **Insurer** may deem necessary;
- (2) this Policy shall only apply to **Wrongful Acts** actually or allegedly committed on or before the effective date of such transaction; and
- (3) the entire premium for this Policy shall be deemed earned as of the date of such transaction.

F. Outside Entity Provision

In the event a **Claim** is made against any **Insured Persons** arising out of their service as director, officer, trustee, regent, governor, member of the Board of Managers, or equivalent position of an **Outside Entity**, coverage as may be afforded under this Policy shall be excess of any indemnification provided by the **Outside Entity** and any insurance provided to the **Outside Entity** which covers its directors, officers, trustees, regents, governors, members of the Board of Managers, or equivalent positions.

G. Coverage Extensions

- (1) Spousal Provision
The coverage provided by this Policy shall also apply to the lawful spouse or "Domestic Partner" of an **Insured Person**, but only for **Claims** arising out of any actual or alleged **Wrongful Acts** of an **Insured Person**. The term "Domestic Partner" shall mean any natural person qualifying as a domestic partner under the provisions of any applicable territorial, provincial, federal, state or local law.
- (2) Worldwide Provision
The coverage provided under this Policy shall apply worldwide. The term **Directors and Officers** is deemed to include individuals who serve in equivalent positions in foreign **Subsidiaries**.
- (3) Estates and Legal Representatives
The coverage provided by this Policy shall also apply to the estates, heirs, legal representatives, or assigns of any **Insured Persons** in the event of their death, incapacity or bankruptcy, but only for **Claims** arising out of any actual or alleged **Wrongful Acts** of any **Insured Persons**.

H. Subrogation

In the event of payment under this Policy, the **Insurer** shall be subrogated to all the **Insureds'** rights of recovery. The **Company** and **Insured Persons** shall do everything necessary to secure such rights, including the execution of such documents necessary to enable the **Insurer** to effectively bring suit in the name of any **Insured Persons** or the **Company**. In no event, however, shall the **Insurer** exercise its rights to subrogation against an **Insured Person** under this Policy unless such **Insured Person**:

- (1) has been convicted of a deliberate criminal act;
- (2) has been determined by a final adjudication adverse to the **Insured Person** to have committed a deliberate fraudulent act, or to have obtained any profit, advantage or remuneration to which such **Insured Person** was not legally entitled.

In the event the **Insurer** shall for any reason pay indemnifiable **Loss** on behalf of an **Insured Person**, the **Insurer** shall have the contractual right hereunder to recover from the **Company** the amount of such **Loss** equal to the amount of the Retention not satisfied by the **Company** and shall be subrogated to rights of the **Insured Persons** hereunder.

I. Order of Payments

In the event of **Loss** arising from a covered **Claim** for which payment is due under the provisions of this Policy, the **Insurer** shall first, pay **Loss** for which coverage is provided under Insuring Agreement I.A. of this Policy; and thereafter with respect to whatever remaining amount of the Limit of Liability is available after such payment, pay such other **Loss** for which coverage is provided under any other applicable Insuring Agreements in Section I. of this Policy.

J. Assignment

Assignment of interest under this Policy shall not bind the **Insurer** until its consent is endorsed hereon.

K. Conformity to Statute

Any terms of this Policy which are in conflict with the terms of any applicable laws are hereby amended to conform to such laws.

L. Entire Agreement

By acceptance of this Policy, the **Insureds** and the **Insurer** agree that this Policy (including the Declarations, Proposal Forms submitted to the **Insurer** and any information provided therewith) and any written endorsements attached hereto constitute the entire agreement between the parties. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

M. Corporation Represents Insured

By acceptance of this Policy, the **Corporation** shall be designated to act on behalf of the **Insureds** for all purposes including, but not limited to, the giving and receiving of all notices and correspondence, the cancellation or non-renewal of this Policy, the payment of premiums, and the receipt of any return premiums that may be due under this Policy.

N. Representative of the Insurer

Great American Insurance Companies, Canadian Executive Liability Division, P.O. Box 66943, Chicago, Illinois 60666 shall act on behalf of the **Insurer** for all purposes including, but not limited to, the giving and receiving of all notices and correspondence, provided, however, notice of **Claims** shall be given pursuant to Section VIII. of the Policy.

O. Valuation and Currency

All amounts referenced under this Policy are expressed and payable in the currency of Canada. If any element of **Loss** under this Policy is stated in a currency other than Canadian dollars, payment under this Policy shall be made in Canadian dollars at the rate of exchange published in The Globe and Mail on the date the element of **Loss** becomes due and payable by the **Insurer**.

In witness whereof the **Insurer** has caused this Policy to be signed by its President and Secretary and countersigned, if required, on the Declarations page by a duly authorized agent of the **Insurer**.

GREAT AMERICAN INSURANCE COMPANIES®

Kenneth H. Stowell
Secretary

Carl H. Lindner III
Co-President

