

# I. Insuring Agreements

## A. Non-Indemnifiable Directors & Officers Liability

We will pay **Non-Indemnifiable Loss** on behalf of the **Insured** resulting from a **Claim** first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period and reported to us pursuant to the terms of this Policy, for a **Wrongful Act** by the **Insured**.

## B. Indemnifiable Directors & Officers

We will pay **Loss** on behalf of the **Insured** that such **Insured** has indemnified the **Team Members** resulting from a **Claim** first made against the **Team Members** during the **Policy Period** or any applicable Extended Reporting Period and reported to us pursuant to the terms of this Policy, for a **Wrongful Act** by the **Team Members**.

## C. Entity Liability

We will pay **Loss** on behalf of the **Insured** resulting from a **Claim** first made against such **Insured** during the **Policy Period** or any applicable Extended Reporting Period and reported to us pursuant to the terms of this Policy, for a **Wrongful Act**.

## D. Derivative Costs

We will pay on behalf of the **Insured** any **Derivative Costs** the **Insured** becomes legally obligated to pay as a result of a **Derivative Demand** first received by the **Insured** during the **Policy Period** or any applicable Extended Reporting Period and reported to us pursuant to the terms of this Policy, for a **Wrongful Act**.

Our maximum liability for all **Derivative Costs** covered under this Insuring Agreement shall be the respective sublimit of liability set forth in the Declarations, which shall be part of and not in addition to the **Coverage Part** Limit of Liability.

## E. Employed Lawyers

We will pay **Loss** on behalf of the **Insured** resulting from a **Claim** first made against an **Employed Lawyer** during the **Policy Period** or any applicable Extended Reporting Period, and reported to us pursuant to the terms of this Policy, for a **Wrongful Act**.

## F. Crisis Costs

We will pay on behalf of the **Insured** any **Crisis Costs** the **Insured** pays as a result of a **Crisis** first occurring and reported to us during the **Policy Period** or any applicable Extended Reporting Period. Our maximum liability for all **Crisis Costs** covered under this **Coverage Part** shall be the respective sublimit of liability set forth in the Declarations, which shall be part of and not in addition to the **Coverage Part** Limit of Liability.

## II. Definitions

- A. “**Claim**” means any:
1. Written demand against the **Insured** for monetary damages or non-monetary or injunctive relief, including a written request to toll or waive a statute of limitations or engage in any alternative dispute resolution
  2. Notice of violation, notice of charges, indictment, arrest, or extradition warrant summons, civil or criminal complaint, demand for arbitration, request for injunction, order to show cause, or other similar pleading or charging document
  3. Administrative, regulatory or criminal proceeding commenced by the return of an indictment, information or similar pleading;
  4. Regarding Insuring Agreements A and B, **Inquiry** against a **Team Member** commenced by such **Team Member's** receipt of such **Inquiry** (regardless of whether the law enforcement or government investigative authority conducting such **Inquiry** has identified the **Wrongful Act** being investigated);
  5. If concurrently pending against a **Team Member**, a **Claim** also includes a civil, criminal, administrative or regulatory investigation of an **Insured Organization** by a government or regulatory authority or agency, which is commenced by the filing or issuance of a notice of charges, target letter, Wells Notice, an **Insured Organization's** receipt of a subpoena, formal investigative order, civil investigative demand, search warrant or other similar request or document identifying such **Insured Organization** as an entity against whom a proceeding described in (2) or (3) above may be brought; or
  6. Solely for purposes of Insuring Agreement D, any **Derivative Demand**.
- B. “**Controlling Person**” means a **Team Member** who allegedly controls the **Insured Organization** through stock ownership or pursuant to an agreement, including any such **Team Member** described in Section 15 of the Securities Act of 1933, Section 20 of the Securities Exchange Act of 1934, or any similar federal, state or local rule or regulation.
- C. “**Crisis**” means the publication of unfavorable information regarding the **Insured Organization** that is reasonably likely to lessen public confidence in the competence, integrity or viability of the **Insured Organization** to conduct business.
- D. “**Crisis Costs**” means the reasonable fees, costs, and other expenses of a public relations consultant engaged by the **Insured** and approved by us, such approval not to be unreasonably withheld, to mitigate reputational harm to the **Insured** as a result of a **Crisis**.
- E. “**Defense Costs**” means that part of **Loss** consisting of expenses, including attorneys' fees and experts' fees, incurred in the investigation, defense or appeal of a **Claim**. **Defense Costs** include the premium for any appeal, attachment or similar bond, provided that we have no obligation to issue such bond.

**Defense Costs** does not include any compensation, benefit expenses, or any of the **Insured's** overhead. Regarding any **Claim** that is an **Inquiry**, **Defense Costs** means **Inquiry Costs** only.

- F. **“Derivative Costs”** means reasonable and necessary expenses incurred in the investigation and evaluation of a **Derivative Demand**, provided that **Derivative Costs** shall not include compensation, benefit expenses, or any of the **Insured’s** overhead.
- G. **“Derivative Demand”** means a written demand by any security holder of the **Insured Organization**, in their capacity as such, upon the board of directors or managers of such **Insured Organization** to bring a **Derivative Suit**. A **Derivative Demand** shall be deemed commenced by the receipt by the board of directors or managers of such demand.
- H. **“Derivative Suit”** means any lawsuit against a **Team Member** for a **Wrongful Act** of such **Team Member** made on behalf of, or in the name or the right of, an **Insured Organization** by any security holders of such **Insured Organization**, in their capacity as such, if such proceeding is made without the assistance, participation or solicitation of any **Executive**.
- I. **“Employed Lawyer”** means any **Team Member**, solely in their capacity as an employee, who was or is employed by the **Insured Organization** to provide professional legal services for the **Insured Organization** while such **Team Member** is a licensed attorney compensated by the **Insured Organization** through wages or salary.

**Employed Lawyer** does not include any **Team Member** who is employed by, under contract with or affiliated with a private law firm, other than as a sole practitioner.

- J. **“Financial Impairment”** means the status of an organization resulting from:
1. The appointment by any **Regulatory Body** of any receiver, trustee, examiner, conservator, liquidator, rehabilitator, or similar official to take control of, supervise, manage or liquidate the organization; or
  2. The organization becoming a **Debtor in Possession** within the meaning of the United States Bankruptcy Code or similar legal status under foreign law.
- K. **“Former Capacity”** means a prior capacity or service as an employee, director or officer of an entity (including a former employer), other than the **Insured Organization**.

However, **Former Capacity** shall not apply to:

1. A **Team Member** in an **Outside Capacity**;
  2. A **Team Member** in their capacity as a **Controlling Person** or as a **Selling Shareholder**;
  3. An **Executive’s** capacity as a director, officer, trustee, employee or representative of a **Venture Capital Sponsor** or another shareholder of the **Insured Organization**.
- K. **“Inquiry”** means:
1. A civil, criminal, administrative, or regulatory investigation or **Inquiry** of a **Team Member** commenced by the **Team Member’s** receipt of a subpoena, Wells Notice, target letter (within the meaning of Title 9, §11.151 of the U.S. Attorney’s Manual), formal order of investigation, civil investigative demand, notice of charges, order to show cause, search warrant, S.E.C. Form 1661 or 1662, or other similar documents, or the functional or foreign equivalent thereof;

2. A written request or demand of a **Team Member** by a **Regulatory Body** for an interview, meeting, sworn testimony or documents in connection with the business of the **Insured Organization**, or in connection with such **Team Member** in his or her capacity as such;
3. A written request or demand of a **Team Member** by the **Insured Organization** (including its board of directors or any committee of its board of directors) for an interview, meeting, sworn testimony or documents in connection with: (a) a **Derivative Demand**, or (b) an investigation of the **Insured Organization** by a **Regulatory Body**.

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

- L. "**Inquiry Costs**" means reasonable costs, charges, fees and expenses incurred by a **Team Member** in connection with the preparation for or response to an **Inquiry**. **Inquiry Costs** does not include any:
1. Compensation or benefits of any **Team Member**; or
  2. Costs of complying with any formal or informal discovery request or production request seeking documents, records or electronic information that are in our possession or any third-party.
- M. "**Insured**" means:
1. With respect to Insuring Agreement A and E, **Team Members**.
  2. With respect to all other Insuring Agreements B, C, D, and F, the **Insured Organization**.
- N. "**Loss**" means the amount that an **Insured** is legally obligated to pay resulting from a **Claim**, including damages, settlements, judgments, pre- and post-judgment interest, **Defense Costs**, and Investigation Costs.

**Loss** also specifically includes:

1. Any reasonable fees and expenses of any attorney representing any party who has brought a **Claim** against the **Insured** where such fees and expenses are awarded pursuant to a covered judgment against the **Insured** or a covered settlement (consented to by us, which consent shall not be unreasonably withheld or denied) to which you are a party;
2. Regarding Insuring Agreement A, damages under Section of the Securities Exchange Act of 1934, as amended; and
3. Civil fines or civil penalties incurred by **Team Members** under Section 2(g) 2(B) of the Foreign Corrupt Practices Act, as amended and Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)).

**Loss**, other than **Defense Costs**, does not include:

1. Fines, penalties and taxes, other than those set described in Subsection 3. of this Definition;

2. The price or consideration paid or proposed to be paid for the acquisition or completion of the acquisition of all or substantially all the ownership interest in or assets of an entity is inadequate. **Loss** with respect to such **Claim** shall not include any amount of any judgment or settlement representing the amount by which such price or consideration is effectively increased; provided, however, that this paragraph shall not apply to any **Non-Indemnifiable Loss** in connection with such **Claim**;
  3. Social security benefits, employment termination severance payments, other than any such payments negotiated with and consented to by us as part of a settlement, commissions or employment related benefits of any kind, including any contributions to an employee benefit plan;
  4. Costs incurred by the **Insured** to comply with an order for non-monetary relief, including declaratory and injunctive relief, or with any agreement to provide such relief; or
  5. Any amount which is uninsurable under the law pursuant to which this Policy is construed; provided that we will not assert that the portion of any settlement or judgment in a **Claim** arising from an initial or subsequent public offering of your securities constitutes uninsurable **Loss** due to the alleged violations of Sections 11 or 12 of the Securities Act of 1933 as amended (including alleged violations of Sections 11 or 12 of the Securities Act of 1933 by a **Controlling Person** pursuant to Section 15 of the Securities Act of 1933).
- O. “**Non-Indemnifiable Loss**” means any **Loss** incurred by **Team Members** that the **Insured Organization** has not indemnified.
- P. “**Outside Capacity**” means the position of director, officer, trustee, or other equivalent **Executive** position held by a **Team Member** in an **Outside Entity** if service in such position:
1. Takes place while such **Outside Entity** is not under Management Control; and
  2. Is with your express consent and knowledge.
- Q. “**Outside Entity**” means any for-profit or not-for-profit entity that is not an **Insured Organization**.
- R. “**Selling Shareholder**” means a **Team Member** in his or her capacity as an attempted or actual seller of securities issued by the **Insured Organization**.
- S. “**Team Member**” means any:
1. **Executive**; or
  2. **Employee**.
- in their capacity as such or in an **Outside Capacity**
- T. “**Technology Services**” means any technology related staffing, training, software installation, hardware installation, system integration, software validation or testing, network security functions, content creation or other similar technology support services.
- U. “**Technology Products**” means any:
1. Software;
  2. Hardware;
  3. Telecommunications equipment:

4. Firmware;
5. Electronic or mechanical equipment or device of any kind; or
6. Any automated, mechanical or electrical process.

Which is designed, developed, created, installed, distributed or licensed by You.

- V. “**Wrongful Act**” means any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by:
1. A **Team Member** in their capacity as such or in an **Outside Capacity**;
  2. A **Team Member** in their capacity as a **Controlling Person** or as a **Selling Shareholder**; or
  3. With respect to Insuring Agreement C, the **Insured Organization**.

## III. Coverage Extensions

### A. Spouses and Domestic Partners

Coverage shall apply to a **Claim** made against the lawful spouse or **Domestic Partner** of any **Team Members** provided that:

1. Such **Claim** arises solely out of such person’s status as the spouse or **Domestic Partner** of a **Team Member**, or such person’s ownership of property sought as recovery for a **Wrongful Act**;
2. The **Team Member** is named in such **Claim** along with the spouse or **Domestic Partner**; and
3. No coverage shall apply to any **Claim** for a **Wrongful Act** of such spouse or **Domestic Partner**.

Coverage for such **Claim** shall be on the same terms and conditions (including, without limitation, the retention) as apply to a **Claim** made against a **Team Member**.

### B. Estates and Heirs

Coverage shall apply to a **Claim** made against a **Team Member**’s estate, heirs, assigns or legal representatives for a **Wrongful Act** of such **Team Member** shall be deemed a **Claim** made against such **Team Member**.

No coverage shall apply to any **Claim** for a **Wrongful Act** of such estate, heirs, assigns or legal representatives.

### C. Board Positions on Other Companies

Coverage shall apply to a **Claim** against a **Team Member** for a **Wrongful Act** in an **Outside Capacity**. Such coverage shall be specifically excess of any indemnification and insurance available from or provided by the **Outside Entity** in which the **Team Member** serves in an **Outside Capacity**. In no event, do we insure the **Outside Entity**.

#### D. Venture Capital Sponsor

If any covered **Claim** also alleges that your **Venture Capital Sponsor** or any director, officer or employee of the **Venture Capital Sponsor** is vicariously liable for a **Wrongful Act** committed by you, then **Loss** that the **Venture Capital Sponsor** becomes legally obligated to pay for such **Claim** will be considered **Loss** incurred by or on behalf of you arising from such **Claim**, subject to all provisions in this Policy and the following additional conditions:

1. The **Claim** must be made and continuously maintained against both you and your **Venture Capital Sponsor** for your **Wrongful Act**.
2. We will appoint defense counsel that can defend both you and your **Venture Capital Sponsor** for such **Claim**, unless we permit otherwise.
3. There is no coverage for any **Loss** arising from any actual or alleged act, error, or omission by the **Venture Capital Sponsor**.

#### E. Pre-Claim Costs

To the extent that you give notice to us in accordance with Section IX. (Claim and Potential Claim Notices) of the General Terms and Conditions of this Policy, of specific circumstances, comply with all other applicable terms of the Policy, and a **Claim** subsequently arises from such specific circumstances, **Defense Costs** shall also mean all reasonable legal fees you incur in the investigation and/or defense of any such specific circumstances that are incurred (i) on or after the date such notice is received by us, and (ii) prior to the time such specific circumstances rises to the level of a **Claim**.

## IV. Exclusions

For the purpose of determining the applicability of any Exclusion set forth in this Exclusions Section, the **Wrongful Act** or knowledge of any **Team Member** shall not be imputed to any other **Team Member**, and only the **Wrongful Act** or knowledge of the Chief Executive Officer or functionally equivalent of the **Insured Organization** shall be imputed to the **Insured Organization**.

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

#### A. Bodily Injury and Property Damage

For any actual or alleged bodily injury, sickness, disease or death, mental anguish, emotional distress or humiliation of any person or damage to or destruction of any tangible property including **Loss** of use of such damaged or destroyed property; provided this exclusion shall not apply to (i) **Defense Costs** incurred by a **Team Member** in connection with a **Claim** against such **Team Member** for a violation of the United Kingdom Corporate Manslaughter and Corporate Homicide Act of 2007 or any similar statute in any other jurisdiction, (ii) a **Claim** covered under Insuring Agreement A, or (iii) a **Claim** by one or more shareholders of the **Insured Organization** in their capacity as such.

#### B. Prior Notice

Based upon, arising out of, or attributable to any fact, circumstance, or **Wrongful Act** that, before the inception date of this Policy, was the subject of any notice given and accepted under any prior directors and officers liability or comparable insurance Policy;

### C. Intellectual Property

Based upon, arising out of, or attributable to any actual or alleged infringement of copyright, patent, trademark, trade name, trade dress, or service mark, misappropriation of ideas or trade secrets, or unauthorized disclosure of or access to confidential information; provided, however, that this exclusion shall apply only to Insuring Agreement C. and shall not apply to:

1. any **Derivative Demand; Derivative Suit;**
2. any **Claim** involving the purchase or sale of securities of the **Insured Organization.**

### D. Contractual Liability

Based upon, arising out of, or attributable to any actual or alleged liability of the **Insured Organization** under any written contract or agreement; provided, however, that this exclusion shall apply only to Insuring Agreement C. and shall not apply to:

1. to the extent that the **Insured Organization** would have been liable in the absence of such contract or agreement;
2. any **Derivative Demand, Derivative Suit;** or
3. any **Claim** by one or more securityholders of the **Insured Organization** in their capacity as such.

### E. ERISA

For an actual or alleged violation of **ERISA.**

### F. Insured versus Insured

For any **Claim** brought or maintained by or on behalf of:

1. an **Insured Organization;**
2. a **Team Member** in any capacity; or
3. an **Outside Entity** arising out of an **Insured's** service in an **Outside Capacity;**

Provided this exclusion does not apply to:

1. **Defense Costs** covered under Insuring Agreement A;
2. Any **Claim** brought by a whistleblower pursuant to any federal, state, foreign or local whistleblower law;
3. Any **Claim** brought as a derivative action on behalf of the **Insured Organization**, by one or more persons who are not **Executives**, and without the solicitation, assistance, active participation, or intervention of any **Insured** unless such solicitation, participation or intervention by the **Insured** is solely pursuant to or in compliance with a subpoena or similar legal process or is protected pursuant to any whistleblower statute, rule, or regulation;
4. Any **Claim** by or on behalf of a bankruptcy or insolvency receiver, trustee, **Debtor-In-Possession**, examiner, conservator, liquidator, creditor's committee or rehabilitator of an **Insured Organization** or **Outside Entity** or any assignee of any of the foregoing;
5. Any **Claim** maintained in any non-common law jurisdiction outside the United States of America; or



6. Any **Claim** by a **Team Member** who has not served as a **Team Member** within one (1) year prior to the date on which the **Claim** is first made and who maintains such **Claim** without the active assistance or active participation of the **Insured Organization** or **Outside Entity**, or any other **Team Member** who is serving or has served as a **Team Member** within such one (1) year period.

#### G. Publicly Traded Securities

Based upon, arising out of, or attributable to any public offering of securities of an **Insured Organization** or the purchase or sale, or offer or solicitation of an offer to purchase or sell, of such securities subsequent to such public offering; provided that this exclusion shall not apply to any **Claim** in connection with the following:

1. A **Wrongful Act** in an offering of securities of an **Insured Organization** to any accredited investor in a transaction that is exempt from registration under the Securities Act of 1933 (“accredited investor” shall have the meaning specified for such term in Rule 501 of Regulation D of the General Rules and Regulations promulgated under the Securities Act of 1933);
2. Made by any security holders of an **Insured Organization** for the failure of the **Insured Organization** to undertake or complete an initial public offering of securities of such **Insured Organization**; or
3. For any **Wrongful Act** relating to the **Insured Organization’s** preparation for any public offering, including any road show presentation to potential investors or other similar presentation, made by the **Insured Organization** and its **Team Members** via any medium in connection with such public offering, if such offering does not occur.

#### H. Personal Profit & Illegal Conduct

For any personal profit, remuneration, or financial advantage to which an **Insured** is not legally entitled; or

For any willful violation of any law, statute or regulation, or any deliberately fraudulent or criminal act, error, or omission committed by an **Insured**;

If evidenced by a final and non-appealable adjudication adverse to the **Insured** in the underlying action. For the purpose of applying these Personal Profit & Illegal Conduct exclusions:

1. the **Wrongful Act**, knowledge of, or facts pertaining to any **Team Member** shall not be imputed to any other **Team Member**; and
2. only the **Wrongful Act** by the Chief Executive Officer or functionally equivalent of any **Insured Organization** shall be imputed to the **Insured Organization**.

#### I. Professional Services

Based upon, arising from or attributable to the **Insured’s** failure to perform or to adequately perform services, including **Technology Services** for others for a fee; provided this exclusion shall not apply to any **Derivative Demand**, **Derivative Suit**, or any **Claim** by one or more securityholders of the **Insured Organization** in their capacity as such.

#### J. Product Defect

Based upon, arising from or attributable to:

1. Any actual or alleged malfunction of any product, including **Technology Products**; or
2. Any actual or alleged failure of any product, including **Technology Products** to adequately perform in any manner.

provided this exclusion shall not apply to any **Derivative Demand, Derivative Suit**, or any **Claim** by one or more securityholders of the **Insured Organization** in their capacity as such.

#### K. Employment Practices

Based upon, arising out of or attributable to any employment related matter, including, but not limited to:

1. Wrongful dismissal, discharge or termination of employment, including but not limited to dismissal, discharge or termination resulting from a breach of an express or implied contract relating to employment, whether actual or constructive;
2. Harassment, including any type of sexual or gender harassment as well as racial, religious, sexual orientation, pregnancy, disability, age, or national origin-based harassment, or unlawful workplace harassment, including workplace harassment by any non-employee;
3. Employment discrimination of any protected status established under federal, state or local law, ordinance or public policy;
4. Retaliation;
5. Abusive or hostile work environment;
6. Employment-related misrepresentation;
7. Wrongful failure to employ or promote, wrongful deprivation of career opportunity, wrongful demotion, wrongful discipline, or failure to grant tenure;
8. Negligent hiring or retention, negligent employee evaluation, or negligent supervision;
9. Failure to provide or enforce adequate or consistent employment-related policies and procedures;
10. Violation of the Uniformed Services Employment and Reemployment Rights Act or the Family and Medical Leave Act;
11. Violation of an individual's civil rights if such conduct relates to matters described in paragraphs 1 - 9, including, but not limited to, any violation of the Civil Rights Act of 1866 or 42 U.S.C. Section 1983;
12. Employment related wrongful infliction of emotional distress, mental anguish, or humiliation;
13. Libel, slander, defamation, false or wrongful imprisonment, invasion of privacy and other personal injury allegations; or
14. any actual or alleged violation(s) of state, local or foreign statutory or common law governing wage, hour and payroll policies and practices, including but not limited to the Fair Labor Standards Act.

#### L. Other Violations of Law

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

1. The Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, the Occupational Safety and Health Act of 1970, and as amended, and the National Labor Relations Act, as amended, or any similar provisions of any federal, state, local or foreign statutory or common law; or

2. Any law governing workers' compensation, unemployment insurance, unemployment compensation, social security, retirement benefits, disability benefits, or any similar provisions of any federal, state, local or foreign statutory or common law.

M. Former Capacity

Based upon, arising out of, directly or indirectly attributable to or in consequence of, or in any way involving any **Wrongful Act** of a **Team Member** in a **Former Capacity**.

## V. Additional Limit of Liability

### Additional Side A Limit

The Additional Non-Indemnifiable Limit for Directors and Officers Liability Coverage is stated in the Declarations and is available solely for **Loss** resulting from a **Claim** against any **Team Member** covered under Insuring Agreement A (Non-Indemnifiable Directors & Officers Liability). If the limit of liability applicable to **Loss** covered under Insuring Agreement A under this **Coverage Part** is exhausted by payments by us, then our liability for any **Loss** covered under The Additional Non-Indemnifiable Limit for Directors and Officers Liability Coverage shall be in addition to and not part of the **Coverage Part** Limit of Liability, and in addition to and not part of the Policy Limit of Liability, provided that such limit will apply only after the exhaustion of all other applicable limits of liability with respect to all other valid and collectible insurance specifically written excess of the Insuring Agreement A.

## VI. Other Insurance

Coverage under this **Coverage Part** shall apply only in excess of any other valid and collectible insurance, unless such other insurance is written specifically excess of this **Coverage Part** by reference to this Policy's Policy Number.

Regarding **Loss** attributable to the **Wrongful Acts** of a **Team Member**, this **Coverage Part** shall apply as primary insurance with respect to: (i) any venture capital management liability, general partner management liability, or other similar management or professional liability insurance maintained by any of your direct or indirect shareholders; (ii) any indemnification which may be owed to a **Team Member** by any of your current or former direct or indirect shareholders (or any affiliate or control person of such shareholder); or (iii) any personal umbrella or other personal liability insurance Policy that may be available to a **Team Member**.

Any coverage for a **Claim** in connection with a **Team Member** serving in an **Outside Capacity** for an **Outside Entity** shall be specifically excess of any indemnity and insurance available to such **Team Member** by reason of their serving in such capacity.

## VII. Additional Conditions

### A. Presumptive Indemnification & Advancement

You and any other **Insured Organization** agree to indemnify the **Team Members**, including the advancement of **Defense Costs** incurred by the **Team Member** to the fullest extent permitted by law, or the certificate or articles of incorporation, charter, by-laws or limited liability company

agreement or limited partnership agreement, if applicable, of an **Insured Organization**, or the functional or foreign equivalent of any of the foregoing

No Retention applies to **Loss** that the **Team Members** are legally obligated to pay if such **Loss** is not indemnified by the **Insured Organization**. If the **Insured Organization** refuses or fails within sixty (60) days after a **Team Member's** request to indemnify or advance covered **Loss** or if the **Insured** is unable to indemnify or advance covered **Loss** due to **Financial Impairment**, we shall pay such covered **Loss** without applying the applicable **Retention**.

Our advancement of **Loss** shall not relieve the **Insured Organization** of any duties or obligations in accordance with the first paragraph of this section. Additionally, if the covered **Loss** is covered under Insuring Agreement B., then the **Insured Organization** shall reimburse us for the retention amount that we advanced.

B. Non-Rescission

We shall not have the right to rescind this **Coverage Part**.

C. Priority of Non-Indemnifiable Loss Payments

We will pay **Loss** and other covered amounts as they become due and payable under this Policy without consideration of other future payment obligations. However, if **Loss** exceeds the remaining applicable Limit of Liability or in the event of the Financial Impairment of the **Insured Organization**, we will pay **Loss** in the following order:

1. Pay Non-Indemnifiable **Loss**, then only after this payment;
2. with respect to whatever remaining amount of the applicable **Coverage Part** Limit of Liability is available, pay such other **Loss** for which coverage is provided under the remaining coverage provided under this Policy.