

40ActPLUSSM

General Terms and Conditions

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GENERAL TERMS AND CONDITIONS

NOTICE: THE COVERAGES AFFORDED UNDER THIS POLICY ARE CLAIMS MADE COVERAGES, WHICH APPLY ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD," OR, IF PURCHASED, THE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS UNDER THIS POLICY WILL BE REDUCED BY THE PAYMENT OF "DEFENSE EXPENSES," AND "DEFENSE EXPENSES" WILL BE APPLIED AGAINST THE RETENTION. THE COVERAGES AFFORDED UNDER THIS POLICY DIFFER IN SOME RESPECTS FROM THOSE AFFORDED UNDER OTHER POLICIES. PLEASE READ THE ENTIRE POLICY, INCLUDING THE GENERAL TERMS AND CONDITIONS AND EACH COVERAGE PART, CAREFULLY.

Subject to the limit of liability and to all of the terms, conditions and limitations of this Policy and any endorsements to this Policy, Executive Risk Indemnity Inc. (the "Underwriter") and the Insureds agree as follows:

(A) **General Definitions:**

- (1) **"Application"** means the application attached to and forming part of this Policy and any materials submitted and statements made by or on behalf of the **Insured** in connection with such application, all of which are a part of this Policy, as if physically attached. If the **Application** uses terms or phrases that differ from terms defined in this Policy, no inconsistency between any term or phrase used in the **Application** and any term defined in this Policy will waive or change any of the terms, conditions and limitations of this Policy.
- (2) **"Claim"** means:
- (a) any civil proceeding in a court of law or equity, including any mediation or other alternative dispute resolution ordered or sponsored by such court;
 - (b) any criminal proceeding in a court of law;
 - (c) any arbitration proceeding initiated or compelled pursuant to a written arbitration agreement;
 - (d) any administrative or regulatory proceeding, commenced by the filing of a notice of charges, formal investigative order or similar document; and

- (e) a written demand or notice to an **Insured** indicating that a person or entity intends to hold an **Insured** responsible for a **Wrongful Act**.
- (3) “**Defense Expenses**” means reasonable legal fees and expenses incurred by or on behalf of any **Insured** in the defense or appeal of any **Claim**, including costs of appeal, attachment or similar bonds, provided that the Underwriter shall have no obligation to procure or furnish any bond. **Defense Expenses** will not include salaries, wages, fees, overhead or benefit expenses of any directors, officers or employees of any **Insured**.
- (4) “**Insured**” shall have the meaning ascribed to that term in each Coverage Part attached hereto.
- (5) “**Insured Entity**” means any **Company, Fund or Plan**, as each such term is defined in each Coverage Part attached hereto.
- (6) “**Insured Person**” shall have the meaning ascribed to that term in each Coverage Part attached hereto.
- (7) “**Loss**” means damages, judgments, awards, settlements and **Defense Expenses** which an **Insured** is legally obligated to pay as a result of a **Claim**. **Loss** includes punitive or exemplary damages when insurable under the law to which this Policy shall be construed. Except as may be specifically provided for in a Coverage Part, **Loss** shall not include:
- (a) fines, sanctions, taxes, penalties imposed by law or any multiplied damage award which is in excess of the damage award so multiplied;
 - (b) matters which may be deemed uninsurable under the law pursuant to which this Policy shall be construed; or
 - (c) salaries or compensation of any partner, principal, director, trustee, officer or employee of an **Insured**.
- (8) “**Named Insured**” means the entity designated in ITEM 1 of the Declarations.
- (9) “**Policy Period**” means the period from the effective date and time of this Policy to the Policy expiration date and time, stated in ITEM 2 of the Declarations.

- (10) “**Related Claims**” means all **Claims** for **Wrongful Acts** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events.
- (11) “**Subsidiary**” means any entity during any time in which the **Named Insured** owns or controls, directly or through one or more **Subsidiaries**, the right to elect or appoint more than fifty percent (50%) of such entity’s directors, trustees, members or board of management.
- (12) “**Wrongful Act**” shall have the meaning ascribed to that term in each Coverage Part attached hereto.

(B) **Notice; Timing and Interrelationship of Claims:**

- (1) As a condition precedent to any right to payment in respect of any **Claim**, including any **Claim** for a **Wrongful Act** of which notice was previously given under GENERAL TERMS AND CONDITIONS (B)(2), the **Insured** must give the Underwriter written notice of such **Claim**, with full details, as soon as practicable after the **Claim** is first made but in no event later than ninety (90) days after the end of the **Policy Period**. A **Claim** is first made when an **Insured** first receives notice of the filing of a complaint, notice of charges, formal investigative order or similar document, or by the return of an indictment, against an **Insured**, or when an **Insured** first receives the written demand or notice that constitutes a **Claim** under GENERAL TERMS AND CONDITIONS (A)(2)(e).
- (2) If, during the **Policy Period**, the **Insured** first becomes aware of a **Wrongful Act** which may subsequently give rise to a **Claim** and, as soon as practicable thereafter, but before the expiration or cancelation of the Policy:
- (a) gives the Underwriter written notice of the **Wrongful Act**, including a description of the **Wrongful Act** in question, the identities of the potential claimants, the consequences which have resulted or may result from the **Wrongful Act**, the damages which may result from the **Wrongful Act** and the circumstances by which the **Insured** first became aware of the **Wrongful Act**, and
- (b) requests coverage under this Policy for any subsequently resulting **Claim** for the **Wrongful Act**;

then any such subsequently resulting **Claim** will be deemed made when the notice was provided.

- (3) All notices under GENERAL TERMS AND CONDITIONS (B)(1) and (B)(2) must be sent by certified mail to the address set forth in ITEM 8 of the Declarations.
- (4) All **Related Claims** will be treated as a single **Claim** made when the earliest of such **Related Claims** was first made, or when the earliest of such **Related Claims** is treated as having been made in accordance with GENERAL TERMS AND CONDITIONS (B)(2), whichever is earlier.

(C) **Limit of Liability; Retention:**

- (1) The amount stated in ITEM 3 of the Declarations as the maximum aggregate limit of liability with respect to each Coverage Part shall be the maximum aggregate limit of liability of the Underwriter under such Coverage Part for all **Loss**, including **Defense Expenses**, from all **Claims** made or deemed made under such Coverage Part during the **Policy Period**. Each such amount shall be part of, and not in addition to, the amount stated in ITEM 3 of the Declarations as the maximum aggregate limit of liability for all **Loss** from all **Claims** for which this Policy provides coverage.
- (2) **Defense Expenses** will be part of and not in addition to the Underwriter's limit of liability, and payment of **Defense Expenses** by the Underwriter will reduce and may exhaust its limit of liability.
- (3) With respect to a **Claim** under any Coverage Part of this Policy, the Underwriter shall only pay **Loss** which is in excess of the amount stated in ITEM 4 of the Declarations as the retention applicable to each **Claim** under that Coverage Part. If different retentions are applicable to different parts of any **Loss** under this Policy, the applicable retentions will be applied separately to each part of such **Loss**, and the sum of such retentions will not exceed the largest applicable retention as set forth in ITEM 4 of the Declarations.

(D) **Defense and Settlement of Claims; Payment and Allocation of Loss:**

- (1) The Underwriter will have no duty under this Policy to defend any **Claim**. Except as set forth in clause (2) below, no **Defense Expenses** may be incurred and no settlement of any **Claim** may be made without the Underwriter's consent, such consent not to be unreasonably withheld. The Underwriter shall have the right to consent to the **Insured's** selection of counsel, such consent not to be unreasonably withheld. If more than one **Insured** is involved in a **Claim**, it shall not be unreasonable for the Underwriter to withhold its consent to separate counsel for one or more of such **Insureds** unless there is an actual or potential material conflict of interest between or among such **Insureds**. Subject to clause (2) below, no **Insured** shall admit any liability or consent to entry of judgment against any **Insured** without the Underwriter's prior written consent.
- (2) Notwithstanding clause (1) above, the **Insured** may settle any **Claim** without the Underwriter's prior written consent if the total **Loss** resulting from such **Claim** does not exceed fifty percent (50%) of the amount of the applicable retention set forth in ITEM 4 of the Declarations; provided, however, the **Insured** must promptly advise the Underwriter of any such settlement and provide any information in connection therewith that the Underwriter may request. If the **Insured** reasonably expects that the total **Loss** resulting from any **Claim** will exceed fifty percent (50%) of the applicable retention, the Underwriter shall have the right to participate in any settlement negotiations, and the **Insured** agrees to obtain the written consent of the Underwriter prior to making any settlement offer or responding to any settlement demand.
- (3) After any applicable retention(s) under ITEM 4 of the Declarations have been met, the Underwriter will, upon written request, pay on a current basis **Defense Expenses** for which this Policy provides coverage. Otherwise, the Underwriter will pay **Loss** only on the final disposition of a **Claim**.
- (4) As a condition of any payment of **Defense Expenses** under GENERAL TERMS AND CONDITIONS (D)(3), the Underwriter may, at its sole option, require a written undertaking on terms and conditions satisfactory to the Underwriter guaranteeing the repayment of any **Defense Expenses** paid to or on behalf of any **Insured** if it is finally determined that **Loss** incurred by such **Insured** would not be covered.

- (5) If both **Loss** covered by this Policy and loss not covered by this Policy are incurred, either because a **Claim** made against the **Insured** includes both covered and uncovered matters, or because a **Claim** is made against both the **Insured** and others not included within the applicable definition of **Insured** set forth in the applicable Coverage Part attached hereto, the **Insured** and the Underwriter agree to use their best efforts to determine a fair and proper allocation of all such amounts. The determination of a fair and proper allocation shall take into account the relative legal and financial exposures of, and relative benefits obtained in connection with the defense and/or settlement of the **Claim** by, the **Insureds**. In the event that an allocation cannot be agreed to, then the Underwriter will make an interim payment of the amount of **Loss**, including **Defense Expenses**, which the parties agree is not in dispute until a final amount is agreed upon or determined pursuant to the provisions of this Policy and applicable law.

(E) **Spouses of Insured Persons:**

- (1) The coverage afforded under this Policy will, subject to all of its terms, conditions, limitations and exclusions, be extended to apply to **Loss** resulting from a **Claim** made against a person who, at the time the **Claim** is made, is a lawful spouse of an **Insured Person**, but only if:
- (a) the **Claim** against such spouse results from a **Wrongful Act** actually or allegedly committed by the **Insured Person** to whom the spouse is married, and
 - (b) such **Insured Person** and his or her spouse are represented by the same counsel in connection with such **Claim**.
- (2) No spouse of an **Insured Person** will, by reason of this GENERAL TERMS AND CONDITIONS (E), have any greater right to coverage under this Policy than the **Insured Person** to whom such spouse is married.
- (3) The Underwriter will not be liable under this GENERAL TERMS AND CONDITIONS (E) to make any payment of **Loss** in connection with any **Claim** against a spouse of an **Insured Person** for any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by such spouse.

(F) **Cancelation; No Obligation to Renew:**

- (1) The Underwriter may not cancel this Policy except for failure to pay a premium when due, in which case twenty (20) days' written notice will be given.
- (2) The **Named Insured** may cancel this Policy by mailing the Underwriter written notice stating when, not later than the Expiration Date set forth in ITEM 2(b) of the Declarations, such cancelation will be effective. In such event, the earned premium will be computed in accordance with the customary short rate table and procedure. Premium adjustment may be made either at the time cancelation is effective or as soon as practicable after cancelation becomes effective, but payment or tender of unearned premium is not a condition of cancelation.
- (3) The Underwriter shall not be required to renew this Policy upon its expiration. If the Underwriter elects not to renew this Policy, the Underwriter will deliver or mail to the **Named Insured** written notice to that effect at least sixty (60) days before the Expiration Date set forth in ITEM 2(b) of the Declarations.

(G) **Adjustments for Acquisitions, Mergers, and Other Changes in Control:**

(1) Automatic Coverage

If, after the effective date of this Policy, an **Insured Entity** acquires another entity or merges with another entity such that the **Insured Entity** is the surviving entity, and (a) the gross annual fees, assets under management and assets of the acquired or merged entity each do not exceed twenty-five percent (25%) of the gross annual fees, assets under management and assets, respectively, of the **Insured Entity** prior to such acquisition or merger, and (b) the **Named Insured** gives written notice of such acquisition or merger to the Underwriter within thirty (30) days after the effective date of such acquisition or merger, then such acquired or merged entity and the members, partners, principals, directors, officers, trustees and employees of such entity who join the **Insured Entity** as a result of such acquisition or merger shall be deemed to be **Insureds** as of the effective date of such acquisition or merger, but only if and to the extent they otherwise are within the definition of **Insured** under each applicable Coverage Part of this Policy. No coverage will be available under this Policy for **Loss** from any **Claim** against any such acquired or merged entity, or the members, partners, principals, directors, officers, trustees and employees of such entity, for any **Wrongful Act** committed or allegedly committed before the date of such acquisition or merger.

(2) Optional Coverage - Acquired Entity

If, after the effective date of this Policy, an **Insured Entity** acquires another entity or merges with another entity such that the **Insured Entity** is the surviving entity, and (a) any of the gross annual fees, assets under management, or assets of the acquired or merged entity exceed twenty-five percent (25%) of the gross annual fees, assets under management or assets, respectively, of the **Insured Entity** prior to such acquisition or merger, and (b) the **Named Insured** gives written notice of the acquisition or merger within thirty (30) days after the effective date of such acquisition or merger, then the Underwriter may require such additional information, impose such additional coverage terms, and/or charge such additional premium in connection with the acquisition or merger as the Underwriter, in its sole discretion, deems appropriate; provided, however, that the acquired or merged entity and the members, partners, principals, directors, officers, trustees and employees of such entity who join the **Insured Entity** as a result of such acquisition or merger shall be deemed to be **Insureds** if and to the extent they otherwise are within the definition of **Insured** under each applicable Coverage Part of this Policy, for the period from the effective date of the acquisition or merger until the later of (i) sixty (60) days after the effective date of the acquisition or merger, or (ii) thirty (30) days after the Underwriter has notified the **Named Insured** of any additional coverage terms imposed or additional premium charged in connection with the acquisition or merger. No coverage will be available under this Policy for **Loss** from any **Claim** against any such acquired or merged entity, or the members, partners, principals, directors, officers, trustees and employees of such entity, for any **Wrongful Act** committed or allegedly committed before the date of such acquisition or merger.

(3) Optional Coverage - New Subsidiary

If, after the effective date of this Policy, an **Insured Entity** acquires another entity or merges with another entity such that the acquired or merged entity becomes a **Subsidiary**, and the **Named Insured** gives written notice of the acquisition or merger within thirty (30) days after the effective date of such acquisition or merger, then the Underwriter may require such additional information, impose such additional coverage terms, and/or charge such additional premium in connection with the acquisition or merger as the Underwriter, in its sole discretion, deems appropriate; provided, however, that the new **Subsidiary** and the members, partners, principals, directors, officers, trustees and employees of such new **Subsidiary** shall be deemed to be **Insureds** if and to the extent they otherwise are within the definition of **Insured** under each applicable Coverage Part of this Policy, for the period from the

effective date of the acquisition or merger until the later of (i) sixty (60) days after the effective date of the acquisition or merger, or (ii) thirty (30) days after the Underwriter has notified the **Named Insured** of any additional coverage terms imposed or additional premium charged in connection with the merger. No coverage will be available under this Policy for **Loss** from any **Claim** against any such acquired or merged entity, or the members, partners, principals, directors, officers, trustees and employees of such entity, for any **Wrongful Act** committed or allegedly committed before the effective date of such acquisition or merger.

(4) Optional Coverage - Failure to Provide Notice

If, after the effective date of this Policy, an **Insured Entity** acquires another entity or merges with another entity such that either the **Insured Entity** is the surviving entity or the acquired or merged entity becomes a **Subsidiary**, and the **Named Insured** fails to give written notice of such acquisition or merger to the Underwriter within thirty (30) days after the effective date of such acquisition or merger, then the acquired or merged entity and the members, partners, principals, directors, officers, trustees and employees of such entity who join the **Insured Entity** or the new **Subsidiary** as a result of such acquisition or merger shall not be entitled to any coverage under this Policy, unless the Underwriter, in its sole discretion, agrees to provide such coverage, and then only to the extent agreed to by the Underwriter and on such terms as the Underwriter, in its sole discretion, may impose.

(5) Conversion of Coverage Under Certain Circumstances

If, after the effective date of this Policy, any of the following events occurs:

- (a) the acquisition of an **Insured Entity**, or of all or substantially all of its assets, by another entity, or the merger or consolidation of an **Insured Entity** into or with another entity such that the **Insured Entity** is not the surviving entity;
- (b) the appointment of a receiver, conservator, trustee, liquidator or rehabilitator, or any similar official, for or with respect to an **Insured Entity**; or
- (c) the obtaining by any person, entity or affiliated group of persons or entities of the right to elect, appoint or designate at least fifty percent (50%) of the directors or trustees of an **Insured Entity**;

then, with respect to that **Insured Entity**, coverage under this Policy will continue in full force and effect with respect to **Claims** for **Wrongful Acts** committed before such event, but coverage will cease with respect to **Claims** for **Wrongful Acts** committed after such event. After any such event, this Policy may not be canceled, regardless of GENERAL TERMS AND CONDITIONS (F), and the entire premium for the Policy will be deemed fully earned.

(6) Continuation of Coverage

The provisions of GENERAL TERMS AND CONDITIONS (G)(1), (G)(2), (G)(3), (G)(4) and (G)(5) shall not apply to any merger or acquisition involving only **Insured Entities**. If, after the effective date of this Policy, any such acquisition or merger involving only **Insured Entities** occurs, the **Named Insured** shall provide notice thereof as soon as practicable, but coverage under this Policy shall remain in full force and effect with respect to the surviving **Insured Entity** and all members, partners, principals, directors, officers, trustees and employees, as applicable, of the surviving **Insured Entity** after the effective date of the acquisition or merger.

(H) **Extended Reporting Period:**

- (1) If the **Named Insured** or the Underwriter decides not to renew this Policy, the **Named Insured** will have the right to purchase an extension of the coverage otherwise afforded by this Policy for **Loss** from **Claims** first made during the period of one (1) year after the Expiration Date set forth in ITEM 2 of the Declarations (the "Extended Reporting Period"), but only if such **Claims** are for **Wrongful Acts** committed before the end of the **Policy Period** or the date of any conversion of coverage under GENERAL TERMS AND CONDITIONS (G)(5), whichever is earlier. The additional premium for the Extended Reporting Period is set forth in ITEM 6 of the Declarations. The election of, and the payment of the premium for, the Extended Reporting Period must be made within thirty (30) days after the Expiration Date set forth in ITEM 2(b) of the Declarations. If such election and payment are not made within thirty (30) days after the Expiration Date set forth in ITEM 2(b) of the Declarations, the **Named Insured** will have no right to purchase the Extended Reporting Period at any later date.

- (2) If the **Named Insured** purchases the Extended Reporting Period in accordance with GENERAL TERMS AND CONDITIONS (H)(1) above, any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the **Policy Period**. The Underwriter's limit of liability in respect of **Claims** made during the Extended Reporting Period under any Coverage Part shall be part of, and not in addition to, the limit of liability applicable to such Coverage Part and the maximum aggregate limit of liability for all **Claims** under this Policy, all as set forth in ITEM 3 of the Declarations.
- (3) As a condition precedent to the right to purchase the Extended Reporting Period, the total premium for this Policy must have been paid. If a **Named Insured** cancels this Policy under GENERAL TERMS AND CONDITIONS (F)(2), it shall not have the right to purchase the Extended Reporting Period.
- (4) In the event that the Extended Reporting Period is purchased, the entire premium for the Extended Reporting Period will be deemed to have been fully earned at its commencement.

(I) **Other Insurance; Other Indemnification:**

All **Loss** payable under this Policy will be specifically excess of and will not contribute with other valid insurance (whether collectible or not), including but not limited to any insurance under which there is a duty to defend, unless such other insurance is specifically in excess of this Policy. This Policy will not be subject to the terms of any other insurance.

(J) **Exhaustion:**

If the Underwriter's limit of liability is exhausted by the payment of **Loss**, the premium will be fully earned, all obligations of the Underwriter under this Policy will be completely fulfilled and exhausted, and the Underwriter will have no further obligations of any kind or nature whatsoever under this Policy.

(K) **Cooperation; Subrogation:**

The **Insureds** will provide the Underwriter with all information, assistance and cooperation that the Underwriter reasonably requests, and will do nothing that may prejudice the Underwriter's position or potential or actual rights of recovery. The Underwriter will be subrogated to the extent of any payment to all of the rights of recovery of the **Insureds**. The **Insureds** will execute all papers and do everything necessary to secure such rights, including the execution of any documents necessary to enable the Underwriter effectively to bring suit in their name. The obligations of the **Insureds** under this GENERAL TERMS AND CONDITIONS (K) will survive the cancelation or other termination of this Policy.

(L) **Representations; Severability:**

The **Insureds** represent that the particulars and statements contained in the **Application** are true, accurate and complete, and agree that this Policy is issued in reliance on the truth of that representation, and that such particulars and statements, which are deemed to be incorporated into and to constitute a part of this Policy, are the basis of this Policy. No knowledge or information possessed by any **Insured** will be imputed to any other **Insured** except for material facts or information known to the person or persons who signed the **Application**. In the event that any of the particulars or statements in the **Application** is untrue, this Policy will be void with respect to any **Insured** who knew of such untruth or to whom such knowledge is imputed.

(M) **No Action Against the Underwriter:**

- (1) No action may be taken against the Underwriter unless, as conditions precedent thereto, there has been full compliance with all of the terms of this Policy and the amount of the obligation of the **Insureds** to pay is established in fact, or by written agreement of the **Insureds**, the claimant and the Underwriter.
- (2) No person or entity will have any right under this Policy to join the Underwriter as a party to any **Claim** to determine the liability of any **Insured**; nor may the Underwriter be impleaded by an **Insured** or his or her or its legal representative in any such **Claim**. The Underwriter will not be relieved of any of its obligations under the Policy by the bankruptcy or insolvency of any of the **Insureds** or, in the case of the **Insured Persons**, their estates.

(N) **Authorization and Notices:**

The **Named Insured** will act on behalf of the **Insureds** with respect to the giving and receiving of any notices and the payment and return of premiums from the Underwriter.

(O) **Changes:**

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Underwriter will not effect a waiver or change in any part of this Policy or estop the Underwriter from asserting any right under the terms, conditions and limitations of this Policy. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

(P) **Assignment:**

No assignment of interest under this Policy will bind the Underwriter without its consent.

(Q) **Entire Agreement:**

The **Insureds** agree that this Policy, including the **Application** and any endorsements, constitutes the entire agreement between them and the Underwriter or any of its agents relating to this insurance.

(R) **Headings:**

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

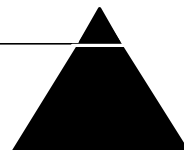
In witness whereof, the Underwriter has caused this Policy to be executed on the Declarations Page.

W. Andrew Mason

Secretary

BACA

President



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Investment Advisers and Financial Services Providers
Professional Liability Coverage Part

Executive Risk Indemnity Inc.

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INVESTMENT ADVISERS AND FINANCIAL SERVICES PROVIDERS PROFESSIONAL LIABILITY COVERAGE PART

NOTICE: THE COVERAGE AFFORDED UNDER THIS COVERAGE PART IS CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD," OR, IF PURCHASED, THE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS UNDER THIS COVERAGE PART WILL BE REDUCED BY THE PAYMENT OF "DEFENSE EXPENSES," AND "DEFENSE EXPENSES" WILL BE APPLIED AGAINST THE RETENTION. THE COVERAGE AFFORDED UNDER THIS COVERAGE PART DIFFERS IN SOME RESPECTS FROM THAT AFFORDED UNDER OTHER POLICIES. PLEASE READ THE ENTIRE POLICY, INCLUDING THE GENERAL TERMS AND CONDITIONS AND THIS COVERAGE PART, CAREFULLY.

Subject to the limit of liability and to all of the terms, conditions and limitations of this Policy and any endorsements to this Policy, Executive Risk Indemnity Inc. (the "Underwriter") and the Insureds agree as follows:

I. INSURING AGREEMENT

The Underwriter will pay on behalf of the **Insured Loss** from **Claims** first made against the **Insured** during the **Policy Period** or, if applicable, the Extended Reporting Period, for **Wrongful Acts**.

II. DEFINITIONS

- (A) "**Claim**," as defined in GENERAL TERMS AND CONDITIONS (A), shall be deemed to include, for purposes of this Coverage Part, any such proceeding brought by, or any such written demand or notice by, a **Self-Regulatory Organization**.
- (B) "**Company**" means the **Named Insured** and any **Subsidiary** created or acquired on or before the Inception Date set forth in ITEM 2 (a) of the Declarations.
- (C) "**Express Contract or Agreement**" is an actual agreement among the contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making.

- (D) **“Insured Person”** means any past, present or future partner, principal, officer, director, member, trustee or employee of the **Company**. In the event of the death, incapacity or bankruptcy of an **Insured Person**, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**.
- (E) **“Insured”** means the **Company** and any **Insured Persons**. An **Outside Service Provider** is not an **Insured** under this Policy.
- (F) **“Loss,”** as defined in GENERAL TERMS AND CONDITIONS (A), shall be deemed to include, for purposes of this Coverage Part, any costs incurred in connection with CONDITION (A) of this Coverage Part.
- (G) **“Outside Service Provider”** means any person or entity that is not an **Insured** that performs **Professional Services** at the direction or on behalf of the **Company** pursuant to an **Express Contract or Agreement**.
- (H) **“Professional Services”** means advice given or services performed for others by the **Company** or by any **Outside Service Provider** on behalf of the **Company**, which, alone or in combination with other advice or services, are performed for consideration in connection with the **Company’s** financial or investment operations.
- In clarification and not in limitation of the foregoing, **Professional Services** includes **Professional Supervision**, the provision of computer and Internet services, administrative services, and publications prepared or written by any **Insured**, provided such services are rendered in connection with the **Company’s** financial or investment operations.
- (I) **“Professional Supervision”** means the **Insured’s** selection of an **Outside Service Provider** and its oversight and direction of the performance of such **Outside Service Provider** in providing **Professional Services**.
- (J) **“Securities Activity Wrongful Act”** means:
- (1) any actual or alleged violation of the Investment Company Act of 1940, Investment Advisers Act of 1940, the Securities Act of 1933 or the Securities and Exchange Act of 1934, but only in connection with the rendering of or failure to render **Professional Services**; or

- (2) any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty, but only in connection with a purchase or sale, or an offer to purchase or sell, securities, other than securities of the **Company**, and only in connection with the rendering of or failure to render **Professional Services**.
- (K) **“Self-Regulatory Organization”** means any association of investment advisers or securities dealers registered under federal securities laws or any national securities exchange registered with the Securities Exchange Commission under the Securities and Exchange Act of 1934, as amended, or any similar Canadian or other national or international exchange or commission.
- (L) **“Wrongful Act”** means:
- (1) any actual or alleged act, error, omission, misstatement, misleading statement or breach of fiduciary or other duty committed by an **Insured** in rendering, or in failing to render, **Professional Services**;
- (2) any actual or alleged libel, slander, or oral or written publication of defamatory or disparaging material committed by an **Insured** in rendering **Professional Services**;
- (3) any actual or alleged act, error or omission of an **Outside Service Provider** for which an **Insured** is alleged to be liable, but only in connection with the **Outside Service Provider’s** rendering of or failure to render **Professional Services** for or on behalf of the **Company**; and
- (4) any **Securities Activity Wrongful Act** by an **Insured**.

III. EXCLUSIONS

This Coverage Part does not apply to any **Claim**:

- (A) brought about or contributed to in fact by:
- (1) any dishonest, fraudulent or criminal act or omission by an **Insured** or an **Outside Service Provider**;
- (2) any willful or intentional violation of any statute, rule or law by an **Insured**, or an **Outside Service Provider**; or
- (3) the gaining of any profit, remuneration or advantage by an **Insured** or an **Outside Service Provider** to which the **Insured** or **Outside Service Provider** was not legally entitled;

provided, that this EXCLUSION (A) shall only apply to an **Insured** if it is established that the **Insured** participated in or acquiesced in the dishonest, fraudulent or criminal act or omission, the willful or intentional violation, or the gaining of profit, remuneration or advantage;

(B) based on or directly or indirectly arising out of or resulting from:

- (1) any **Wrongful Act** or any matter, fact, circumstance, transaction, or event which has been the subject of, or which is logically or causally connected to, any **Claim** made or notice given under any policy of insurance prior to the Inception Date set forth in ITEM 2(a) of the Declarations;
- (2) any **Wrongful Act** or any matter, fact, circumstance, transaction, or event which was described in the **Application** or in any application for a policy of which this Policy is a renewal or replacement; or
- (3) any civil, criminal, administrative or arbitration proceeding as to which any **Insured** has received written notice prior to the Inception Date set forth in ITEM 2(a) of the Declarations, or any matter, fact, circumstance, transaction or event underlying or alleged in such proceeding;

(C) based on or directly or indirectly arising out of or resulting from:

- (1) any actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of, any smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials (including materials which are intended to be or have been recycled, reconditioned or reclaimed) or other irritants, pollutants or contaminants;
- (2) any actual or alleged nuclear reaction, nuclear radiation, radioactive contamination, or radioactive substance; or
- (3) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize any of the foregoing, or any action taken in contemplation or anticipation of any such regulation, order, direction or request;

(D) for any actual or alleged invasion of privacy, malicious use or abuse of process, malicious prosecution, wrongful entry or eviction, false arrest, false imprisonment, assault or battery;

- (E) for any bodily injury, emotional distress, mental anguish, sickness, disease or death of any person, or loss of consortium, support, companionship or services of any kind resulting therefrom; provided, that this EXCLUSION (E) will not apply to allegations of emotional distress or mental anguish if and only to the extent that they arise solely from an **Insured's** rendering of **Professional Services**;
- (F) for damage to, destruction of, loss of, or loss of use of, tangible property; provided, that this EXCLUSION (F) will not apply to any **Claim** arising from damage to, destruction of, loss of, or loss of use of, client records in an **Insured's** possession;
- (G) for libel, slander, or oral or written publication of defamatory or disparaging material; provided, that this EXCLUSION (G) will not apply to any actual or alleged libel, slander, or oral or written publication of defamatory or disparaging material committed by an **Insured** in rendering **Professional Services**;
- (H) for an **Insured's** liability under any contract or agreement, regardless of whether such liability is direct or assumed; provided, that this EXCLUSION (H) will not apply to:
- (1) any **Claim** against an **Insured** by a client or customer of the **Company**, if and to the extent that the **Claim** alleges a breach of contractual obligations in the rendering of or failure to render **Professional Services**;
or
- (2) liability which would attach to an **Insured** even in the absence of a contract or agreement;
- (I) brought by or on behalf of, or in the name or right of, any **Insured** or any **Outside Service Provider**; provided, that this EXCLUSION (I) will not apply to:
- (1) any **Claim** by an **Insured Person** or an **Outside Service Provider** in the form of a crossclaim, third party claim or otherwise for contribution or indemnity which is part of and results directly from a **Claim** which is not otherwise excluded under this Policy;
- (2) any **Claim** by an **Insured** with respect to which failure to make such **Claim** would result in liability to the **Insured** for failure to do so; or
- (3) any **Claim** brought solely by such person or entity in its capacity as a client of the **Company**, if such **Claim** is brought independently of, and without the solicitation, assistance, participation or intervention of any other **Insured**;

- (J) brought by or on behalf of, or in the name or right of, any person or entity with a legal or equitable interest in any form of security of, or other ownership interest in, the **Company**, except to the extent such **Claim** is brought in such person's or entity's capacity as a client of the **Company** and is brought and maintained independently of, and without the solicitation, assistance, participation or intervention of, any other **Insured**;
- (K) based on or directly or indirectly arising out of or resulting from the service by any **Insured** as a member, partner, principal, director, officer, trustee, or employee of:
- (1) any entity other than the **Company**, even if such service is directed or requested by the **Company**; or
 - (2) any entity acquired by the **Company**, whether by merger, consolidation or otherwise, at any time prior to the **Company's** acquisition of such entity.
- (L) based on or directly or indirectly arising out of or resulting from an **Insured's** provision of investment banking services, including service as an underwriter, consultant, adviser or specialist, or the giving of financial, economic or investment advice relating to or in connection with any aspect of corporate mergers, acquisitions, securities offerings, restructuring, divestitures or other forms of investment banking; provided, that this EXCLUSION (L) will not apply to **Claims** arising from the performance of **Professional Services** by an **Insured** for a client, as long as neither the **Insured** nor the client is a party to or participant in the actual investment banking transaction;
- (M) based on or directly or indirectly arising out of or resulting from the insolvency of any bank, banking firm, broker or dealer in securities, or any other person or entity, or the inability of any such entity or person to make any payment or settle or effect any transaction of any kind; provided, that this EXCLUSION (M) will not apply to any **Claim** arising from the actual or alleged negligence of an **Insured** in rendering or failing to render **Professional Services**;
- (N) based on or directly or indirectly arising out of or resulting from activities by any **Insured** as a "broker" or "dealer" in securities, as defined in Sections 3(a)(4), 3(a)(5) and 3(a)(6), respectively, of the Securities and Exchange Act of 1934, as amended; provided, that this EXCLUSION (N) will not apply to any **Claim** based on an **Insured's** distribution, underwriting or resale of securities purchased by an **Insured** directly from a mutual fund affiliated with the **Insured** solely for resale to shareholders of that fund.

- (O) based on or directly or indirectly arising out of or resulting from any actual or alleged violation of the Employee Retirement Income Security Act of 1974 or any regulations promulgated thereunder or relating thereto, or of any similar provisions of international, federal, state or local statutory or common law, or any regulations pertaining thereto, in connection with any **Insured's** pension, employee benefit or welfare plan.

IV. CONDITIONS

(A) **Mitigation of Loss and Claim Resolution:**

With respect solely to any **Wrongful Act** reported in accordance with GENERAL TERMS AND CONDITIONS (B) which may subsequently give rise to a **Claim** for which coverage may be provided under this Coverage Part, the Underwriter may, but shall not be obligated to, pay costs incurred by the **Insured** with the Underwriter's written consent to mitigate loss or otherwise compensate any client of the **Company** prior to any **Claim** being made in connection therewith. For the purposes of this CONDITION (A), **Loss** shall not include diminution in value, or damages resulting from the diminution in value, of money, securities, property or any other item of value, unless caused by a **Wrongful Act** of an **Insured** in the performance of **Professional Services**; or loss of actual money, securities, property, or any other item of value in the custody, care or control of an **Insured**.

(B) **Outside Service Provider Liability:**

All coverage for **Loss** from **Claims** against **Insureds** for **Wrongful Acts** in connection with the performance of, or failure to perform, services by any **Outside Service Provider** will be specifically excess of, and will not contribute with, any other valid insurance (whether collectible or not) available to such **Outside Service Provider**, and any indemnification by such **Outside Service Provider** available to such **Insureds** in connection with such services.

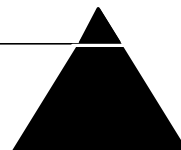
In witness whereof, the Underwriter has caused this Policy to be executed on the Declarations Page.



Secretary



President



40ActPLUSSM

Investment Advisers and Financial Services Providers
Directors and Officers Liability,
Including Employment Practices Liability, Coverage Part

Executive Risk Indemnity Inc.

Home Office:

1013 Centre Road
Wilmington, Delaware 19805-1297

Administrative Offices/Mailing Address:

82 Hopmeadow Street
Simsbury, Connecticut 06070-7683
Phone: 860.408.2000
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INVESTMENT ADVISERS AND FINANCIAL SERVICES PROVIDERS DIRECTORS AND OFFICERS LIABILITY, INCLUDING EMPLOYMENT PRACTICES LIABILITY, COVERAGE PART

NOTICE: THE COVERAGE AFFORDED UNDER THIS COVERAGE PART IS CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD," OR, IF PURCHASED, THE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS UNDER THIS COVERAGE PART WILL BE REDUCED BY THE PAYMENT OF "DEFENSE EXPENSES," AND "DEFENSE EXPENSES" WILL BE APPLIED AGAINST THE RETENTION. THE COVERAGE AFFORDED UNDER THIS COVERAGE PART DIFFERS IN SOME RESPECTS FROM THAT AFFORDED UNDER OTHER POLICIES. PLEASE READ THE ENTIRE POLICY, INCLUDING THE GENERAL TERMS AND CONDITIONS AND THIS COVERAGE PART, CAREFULLY.

Subject to the limit of liability and to all of the terms, conditions and limitations of this Policy and any endorsements to this Policy, Executive Risk Indemnity Inc. (the "Underwriter") and the Insureds agree as follows:

I. INSURING AGREEMENTS

- SPECIMEN**
- (A) The Underwriter will pay on behalf of **Insured Persons Loss** from **Claims** first made against them during the **Policy Period** or, if applicable, the Extended Reporting Period, for **Wrongful Acts**, including **Employment Practices Wrongful Acts**, unless the **Company** pays such **Loss** to or on behalf of **Insured Persons** as indemnification.
 - (B) The Underwriter will pay on behalf of the **Company Loss** from **Claims** first made against **Insured Persons** during the **Policy Period** or, if applicable, the Extended Reporting Period, for **Wrongful Acts**, including **Employment Practices Wrongful Acts**, if the **Company** pays such **Loss** to or on behalf of the **Insured Persons** as indemnification.
 - (C) (Optional Coverage) If it is stated in the Declarations that coverage has been made available under this INSURING AGREEMENT (C), the Underwriter will pay on behalf of the **Company Loss** from **Claims** first made against the **Company** during the **Policy Period** or, if applicable, the Extended Reporting Period, for **Wrongful Acts**, including **Employment Practices Wrongful Acts**.

II. DEFINITIONS

- (A) “**Company**” means the **Named Insured** and any **Subsidiary** created or acquired on or before the Inception Date set forth in ITEM 2(a) of the Declarations.
- (B) “**Employment Practices Wrongful Act**” means any actual or alleged:
- (1) wrongful termination or constructive termination of the employment of, or demotion of or failure or refusal to hire or promote, any person;
 - (2) violation of any federal, state or local law (whether statutory or common law) prohibiting discrimination against any employee of, or applicant for employment with, the **Company**;
 - (3) workplace harassment (whether sexual or otherwise) adversely affecting any employee of, or applicant for employment with, the **Company**;
 - (4) retaliatory treatment against an employee of the **Company** on account of such employee's exercise or attempted exercise of his or her rights under law;
 - (5) negligent evaluation, negligent supervision, wrongful discipline, or wrongful deprivation of career opportunity; or
 - (6) breach of an implied contract or agreement arising out of any personnel manual or policy statement.
- (C) “**Insured**” means the **Company** and any **Insured Person**.
- (D) “**Insured Person**” means:
- (1) any past, present or future director, officer, trustee or member of the Board of Managers of the **Company**, or any other natural person who at any time holds a designated position or title at the **Company** with duties and responsibilities equivalent to those of a director, officer, trustee or member of the Board of Managers of the **Company**; and
 - (2) any past, present or future employee of the **Company**, but only if and to the extent that **Claims** are made against the employee for **Employment Practices Wrongful Acts**.

In the event of the death, incapacity or bankruptcy of an **Insured Person**, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**.

(E) **“Securities Activity Wrongful Act”** means:

- (1) any actual or alleged violation of the Investment Company Act of 1940, Investment Advisers Act of 1940, the Securities Act of 1933 or the Securities and Exchange Act of 1934, or
- (2) any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty, but only in connection with a purchase or sale, or an offer to purchase or sell, securities.

(F) **“Wrongful Act”** means:

- (1) any actual or alleged act, error, omission, misstatement, misleading statement or breach of fiduciary or other duty by an **Insured Person** in his or her capacity as an **Insured Person**;
- (2) any matter asserted against an **Insured Person** solely by reason of his or her status as such;
- (3) any **Employment Practices Wrongful Act** by an **Insured Person** in his or her capacity as an **Insured Person**;
- (4) any **Securities Activity Wrongful Act** by an **Insured Person** in his or her capacity as an **Insured Person**; and
- (5) any **Employment Practices Wrongful Act, Securities Activity Wrongful Act**, or any other actual or alleged act, error, omission, misstatement, misleading statement or breach of duty by the **Company**; provided, that this DEFINITION (F)(5) will only apply if it is stated in the Declarations that coverage has been made available under INSURING AGREEMENT (C).

III. EXCLUSIONS

This Coverage Part does not apply to any **Claim**:

(A) brought about or contributed to in fact by:

- (1) any dishonest, fraudulent or criminal act or omission by an **Insured**; or
- (2) any willful or intentional violation of any statute, rule or law by an **Insured**;
or

- (3) the gaining of any profit, remuneration or advantage by an **Insured** to which the **Insured** was not legally entitled;

provided, that this EXCLUSION (A) shall only apply to an **Insured** if it is established that the **Insured** participated in or acquiesced in the dishonest, fraudulent or criminal act or omission, the willful or intentional violation, or the gaining of profit, remuneration or advantage.

- (B) based on or directly or indirectly arising out of or resulting from:

- (1) any **Wrongful Act** or any matter, fact, circumstance, transaction, or event which has been the subject of, or which is logically or causally connected to, any **Claim** made or notice given under any policy of insurance prior to the Inception Date set forth in ITEM 2(a) of the Declarations; or
- (2) any **Wrongful Act** or any matter, fact, circumstance, transaction, or event which was described in the **Application** or in any application for a policy of which this Policy is a renewal or replacement; or
- (3) any civil, criminal, administrative or arbitration proceeding as to which any **Insured** has received written notice prior to the Inception Date set forth in ITEM 2(a) of the Declarations, or any matter, fact, circumstance, transaction or event underlying or alleged in such proceeding;

- (C) based on or directly or indirectly arising out of or resulting from:

- (1) any actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of, any smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials (including materials which are intended to be or have been recycled, reconditioned or reclaimed) or other irritants, pollutants or contaminants, or
- (2) any actual or alleged nuclear reaction, nuclear radiation, radioactive contamination, or radioactive substance;
- (3) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize any of the foregoing, or any action taken in contemplation or anticipation of any such regulation, order, direction or request;

- (D) for any actual or alleged invasion of privacy, malicious use or abuse of process, malicious prosecution, wrongful entry or eviction, false arrest, false imprisonment, assault or battery;

- (E) for any bodily injury, emotional distress, mental anguish, sickness, disease or death of any person, or loss of consortium, support, companionship or services of any kind resulting therefrom; provided, that this EXCLUSION (E) will not apply to allegations of emotional distress or mental anguish if and only to the extent that they are made as part of a **Claim** for an **Employment Practices Wrongful Act**;
- (F) for damage to, destruction of, loss of, or loss of use of, tangible property;
- (G) for libel, slander, or oral or written publication of defamatory or disparaging material; provided, that this EXCLUSION (G) will not apply to allegations of libel, slander, or oral or written publication of defamatory or disparaging material if and only to the extent that they are made as part of a **Claim** for an **Employment Practices Wrongful Act**;
- (H) for an **Insured's** liability under any contract or agreement, regardless of whether such liability is direct or assumed; provided, that this EXCLUSION (H) will not apply to any **Claim** against the **Company** for an **Employment Practices Wrongful Act** if (i) it is stated in the Declarations that coverage has been made available under INSURING AGREEMENT (C), and (ii) liability would attach to the **Company** even in the absence of the contract or agreement; provided further, that in no event will coverage be available for any salary, wages, or other employment-related benefits which the **Company** is obligated to pay to any employee under a written contract either to commence or continue employment or to make any payment in the event of a termination of employment;
- (I) brought by or on behalf of, or in the name or right of, any **Insured**; provided, that this EXCLUSION (I) will not apply to:
 - (1) any **Claim** by an **Insured Person** in the form of a crossclaim, third party claim or other claim for contribution or indemnity which is part of or results directly from a **Claim** which is not otherwise excluded by the terms of this Policy; or
 - (2) any derivative action by a security holder of the **Company** on behalf of, or in the name or right of, the **Company**, if such action is brought and maintained independently of, and without the solicitation, assistance, participation or intervention of, the **Insured**;
 - (3) any **Claim** for an **Employment Practices Wrongful Act**;

- (J) based on or directly or indirectly arising out of or resulting from the service by any **Insured Person** as a director, officer or employee of:
- (1) any entity other than the **Company**, even if such service is directed or requested by the **Company**; or
 - (2) any entity acquired by the **Company**, whether by merger, consolidation, or otherwise, at any time prior to the **Company's** acquisition of such entity;
- (K) for relief under the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act, any workers' compensation, unemployment insurance, social security, or disability benefits law, other similar provisions of any federal, state or local statutory or common law or any rules or regulations promulgated under any of the foregoing;
- (L) against any **Subsidiary** or other entity acquired by the **Company**, whether by merger, consolidation or otherwise, or against any **Insured Person** of such **Subsidiary** or other entity in his or her capacity as such for any **Wrongful Act**, including any **Employment Practices Wrongful Act**, committed during any time in which such entity is not a **Subsidiary** or at any time before the **Company's** acquisition of such entity; or
- (M) based on or directly or indirectly arising out of or resulting from any actual or alleged violation of the Employee Retirement Income Security Act of 1974 or any regulations promulgated thereunder or relating thereto, or of any similar provisions of international, federal, state or local statutory or common law.

IV. **CONDITIONS**

(A) **Presumption of Indemnification; Applicable Retention:**

- (1) The certificate of incorporation, charter, articles of association or other organizational documents of the **Named Insured** and each **Subsidiary**, including bylaws and resolutions, will be deemed to have been adopted or amended to provide indemnification to **Insured Persons** to the fullest extent permitted by law.

- (2) Regardless of whether **Loss** in connection with any **Claim** against **Insured Persons** is payable under INSURING AGREEMENT (A) or (B), the retention set forth in ITEM 4 of the Declarations applicable to this Coverage Part will apply to any **Loss** as to which indemnification by the **Named Insured, Company** or any **Subsidiary** is legally permissible, whether or not actual indemnification is made, unless such indemnification is not made by the **Named Insured, Company** or **Subsidiary** solely by reason of financial insolvency.

In witness whereof, the Underwriter has caused this Policy to be executed on the Declarations Page.

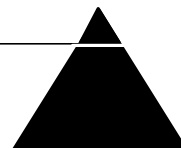
W. Andrew Mason

Secretary

BACA

President

SPECIMEN



40ActPLUSSM

Hedge Fund and Private Investment Fund
Professional and Management Liability Coverage Part

Executive Risk Indemnity Inc.

Home Office:

1013 Centre Road
Wilmington, Delaware 19805-1297

Administrative Offices/Mailing Address:

82 Hopmeadow Street
Simsbury, Connecticut 06070-7683
Phone: 860.408.2000
Fax: 860.408.2002
Email: info@chubb.com
Web Site: www.chubb.com

40ActPLUSSM

HEDGE FUND AND PRIVATE INVESTMENT FUND PROFESSIONAL AND MANAGEMENT LIABILITY COVERAGE PART

NOTICE: THE COVERAGE AFFORDED UNDER THIS COVERAGE PART IS CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD," OR ANY EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS UNDER THIS COVERAGE PART WILL BE REDUCED, AND MAY BE EXHAUSTED, BY "DEFENSE EXPENSES," AND "DEFENSE EXPENSES" WILL BE APPLIED AGAINST THE RETENTION. THE UNDERWRITER HAS NO DUTY UNDER THIS COVERAGE PART TO DEFEND ANY "CLAIM." THE COVERAGE AFFORDED UNDER THIS COVERAGE PART DIFFERS IN SOME RESPECTS FROM THAT AFFORDED UNDER OTHER POLICIES. PLEASE READ THE ENTIRE POLICY, INCLUDING THE GENERAL TERMS AND CONDITIONS AND THIS COVERAGE PART, CAREFULLY.

Subject to the limit of liability and to all of the terms, conditions and limitations of this Policy and any endorsements to this Policy, Executive Risk Indemnity Inc. (the "Underwriter") and the Insureds agree as follows:

I. INSURING AGREEMENT

The Underwriter will pay on behalf of the **Insured Loss** from **Claims** first made against the **Insured** during the **Policy Period** or, if applicable, the Extended Reporting Period, for **Wrongful Acts**.

II. DEFINITIONS

- (A) **"Affiliated Service Provider"** means any entity scheduled on the **Affiliated Service Provider** endorsement.
- (B) **"Claim,"** as defined in GENERAL TERMS AND CONDITIONS (A), shall be deemed to include, for purposes of this Coverage Part, any such proceeding brought by, or any such written demand or notice by, a **Self-Regulatory Organization**.
- (C) **"Express Contract or Agreement"** is an actual agreement among the contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making.

(D) **“Insured Person”** means any past, present, or future director, officer, member of the Board of Managers, trustee, or employee of:

- (1) a **Private Fund**;
- (2) the general partner or managing general partner of each **Private Fund** that is organized as a Limited Partnership;
- (3) the managing member of any **Private Fund** organized as a Limited Liability Company; and
- (4) an **Affiliated Service Provider**.

In the event of the death, incapacity, or bankruptcy of an **Insured Person**, any **Claim** against the estate, heirs, legal representatives, or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**.

(E) **“Insured”** means:

- (1) each **Private Fund**;
- (2) the general partner or managing general partner of each **Private Fund** that is organized as a partnership;
- (3) the managing member of each **Private Fund** that is organized as a Limited Liability Company;
- (4) an **Affiliated Service Provider**; and
- (5) any **Insured Person**.

An **Outside Service Provider** is not an **Insured** under this Policy.

(F) **“Loss,”** as defined in GENERAL TERMS AND CONDITIONS (A), shall be deemed to include, for purposes of this Coverage Part, any costs incurred in connection with CONDITION (A) of this Coverage Part.

(G) **“Outside Service Provider”** means any person or entity that is not an **Insured**, that performs **Professional Services** at the direction or on behalf of a **Private Fund** pursuant to an **Express Contract or Agreement**.

- (H) **“Private Fund”** means:
- (1) any pooled investment vehicle listed in the Schedule of **Private Funds** in the **Application**; and
 - (2) any pooled investment vehicle formed during the **Policy Period** which is sponsored by the entity named in ITEM 1 of the Declarations or an **Affiliated Service Provider**.
- (I) **“Professional Services”** means advice given or services performed for others by a **Private Fund**, **Affiliated Service Provider**, or any **Outside Service Provider** on behalf of a **Private Fund**, which, alone or in combination with other advice or services, are performed for consideration; provided, such services are rendered in connection with the management or operation of such **Private Fund**.
- In clarification and not in limitation of the foregoing, **Professional Services** includes **Professional Supervision**, the provision of computer and Internet services, and publications prepared or written by any **Insured**; provided, such services are rendered in connection with the management or operation of such **Private Fund**.
- (J) **“Professional Supervision”** means the **Insured’s** selection of an **Outside Service Provider** and its oversight and direction of the performance of such **Outside Service Provider** in providing **Professional Services**.
- (K) **“Securities Activity Wrongful Act”** means:
- (1) any actual or alleged violation of the Investment Company Act of 1940, Investment Advisers Act of 1940, the Securities Act of 1933, or the Securities and Exchange Act of 1934 or the foreign equivalent of any of the preceding regulations, but only in connection with the management or operations of a **Private Fund**; or
 - (2) any actual or alleged act, error, omission, misstatement, misleading statement, or breach of duty by an **Insured**, but only in connection with a purchase or sale, or an offer to purchase or sell, securities and only in connection with the management or operation of a **Private Fund**.
- (L) **“Self-Regulatory Organization”** means any association of investment advisers or securities dealers registered under federal securities laws or any national securities exchange registered with the Securities Exchange Commission under the Securities and Exchange Act of 1934, as amended, or any similar Canadian or other national or international exchange or commission.

(M) **“Wrongful Act”** means:

- (1) any actual or alleged act, error, omission, misstatement, misleading statement, or breach of fiduciary or other duty, committed by an **Insured Person** in rendering, or in failing to render, **Professional Services** or in his or her capacity as a director, officer, member of the Board of Managers, general partner, or managing general partner of a **Private Fund** or **Affiliated Service Provider**;
- (2) any actual or alleged libel, slander, or oral or written publication of defamatory or disparaging material committed by an **Insured** in rendering **Professional Services**;
- (3) any actual or alleged act, error, omission, misstatement, misleading statement, or breach of fiduciary duty committed by an **Insured** in rendering or failing to render **Professional Services**;
- (4) any matter asserted against an **Insured Person** solely by reason of his or her status as a director, officer, member of the Board of Managers, general partner, or managing general partner of a **Private Fund** or **Affiliated Service Provider**; and
- (5) any **Securities Activity Wrongful Act** by an **Insured**.

III. EXCLUSIONS

This Coverage Part does not apply to any **Claim**:

- (A) brought about or contributed to in fact by:
- (1) any dishonest, fraudulent, or criminal act or omission by an **Insured** or an **Outside Service Provider**;
 - (2) any willful or intentional violation of any statute, rule or law by an **Insured** or an **Outside Service Provider**; or
 - (3) the gaining of any profit, remuneration, or advantage by an **Insured** or an **Outside Service Provider** to which the **Insured** or **Outside Service Provider** was not legally entitled;

provided, that this EXCLUSION (A) shall only apply to an **Insured** if it is established that the **Insured** participated in or acquiesced in the dishonest, fraudulent, or criminal act or omission, the willful or intentional violation, or the gaining of profit, remuneration, or advantage.

- (B) based on or directly or indirectly arising out of or resulting from:
- (1) any **Wrongful Act** or any matter, fact, circumstance, transaction, or event which has been the subject of, or which is logically or causally connected to, any **Claim** made or notice given under any policy of insurance prior to the Inception Date set forth in ITEM 2(a) of the Declarations;
 - (2) any **Wrongful Act** or any matter, fact, circumstance, transaction, or event which was described in the **Application** or in any application for a policy of which this Policy is a renewal or replacement; or
 - (3) any civil, criminal, administrative or arbitration proceeding as to which any **Insured** has received written notice prior to the Inception Date set forth in ITEM 2(a) of the Declarations, or any matter, fact, circumstance, transaction, or event underlying or alleged in such proceeding;
- (C) based on or directly or indirectly arising out of or resulting from:
- (1) any actual, alleged, or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal, or disposal of, any smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials (including materials which are intended to be or have been recycled, reconditioned or reclaimed) or other irritants, pollutants or contaminants;
 - (2) any actual or alleged nuclear reaction, nuclear radiation, radioactive contamination, or radioactive substance; or
 - (3) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize any of the foregoing, or any action taken in contemplation or anticipation of any such regulation, order, direction, or request;
- (D) for any actual or alleged invasion of privacy, malicious use or abuse of process, malicious prosecution, wrongful entry or eviction, false arrest, false imprisonment, assault, or battery;
- (E) for any bodily injury, emotional distress, mental anguish, sickness, disease, or death of any person, or loss of consortium, support, companionship, or services of any kind resulting therefrom; provided, that this EXCLUSION (E) will not apply to allegations of emotional distress or mental anguish if and only to the extent that they arise solely from an **Insured's** rendering of **Professional Services**;

- (F) for damage to, destruction of, loss of, or loss of use of, tangible property; provided, that this EXCLUSION (F) will not apply to any **Claim** arising from damage to, destruction of, loss of, or loss of use of, client records in an **Insured's** possession;
- (G) for libel, slander, oral or written publication of defamatory or disparaging material; provided, that this EXCLUSION (G) will not apply to any actual or alleged libel, slander, or oral or written publication of defamatory or disparaging material committed by an **Insured** in rendering **Professional Services**;
- (H) for an **Insured's** liability under any contract or agreement, regardless of whether such liability is direct or assumed; provided, that this EXCLUSION (H) will not apply to:
- (1) any **Claim** against an **Insured** by a client or customer of the **Insured**, if and to the extent that the **Claim** alleges a breach of contractual obligations in the rendering of or failure to render **Professional Services**; or
 - (2) liability which would attach to an **Insured** even in the absence of a contract or agreement;
- (I) brought by or on behalf of, or in the name or right of, any **Insured** or any **Outside Service Provider**; provided, that this EXCLUSION (I) will not apply to:
- (1) any **Claim** by an **Insured Person** or an **Outside Service Provider** in the form of a crossclaim, third party claim, or otherwise for contribution or indemnity which is part of and results directly from a **Claim** which is not otherwise excluded under this Policy;
 - (2) any **Claim** by an **Insured** with respect to which failure to make such **Claim** would result in liability to the **Insured** for failure to do so; or
 - (3) any derivative action by a security holder of the **Private Fund** on behalf of, or in the name or right of, the **Private Fund**, if such action is brought and maintained independently of, and without the solicitation, assistance, participation, or intervention of any **Insured**;
- (J) based on or directly or indirectly arising out of or resulting from the service by any **Insured** as a member, a partner, a principal, a director, an officer, a trustee or an employee of:
- (1) any entity other than a **Private Fund**, even if such service is directed or requested by the **Private Fund**; or

- (2) any entity acquired by the **Private Fund**, whether by merger, consolidation, or otherwise, at any time prior to the **Private Fund's** acquisition of such entity;
- (K) based on or directly or indirectly arising out of or resulting from the insolvency of any bank, banking firm, broker, or dealer in securities, or any other person or entity, or the inability of any such entity or person to make any payment or settle or effect any transaction of any kind; provided, that this EXCLUSION (K) will not apply to any **Claim** arising from the negligence of an **Insured** in rendering or failing to render **Professional Services**;
- (L) based on or directly or indirectly arising out of or resulting from any actual or alleged violation of the Employee Retirement Income Security Act of 1974, as amended, or any regulations promulgated thereunder or relating thereto, or of any similar provisions of international, federal, state, or local statutory or common law, or any regulations pertaining thereto, in connection with any **Insured's** pension, employee benefit or welfare plan.
- (M) brought by or on behalf of, or in the name or right of, any person or entity with a legal or equitable interest in any form of security of, or other ownership interest in, the **Affiliated Service Provider**, except to the extent such **Claim** is brought in such person's or entity's capacity as a client of the **Affiliated Service Provider** and is brought and maintained independently of, and without the solicitation, assistance, participation or intervention of, any other **Insured**;

IV. **CONDITIONS**

(A) **Mitigation of Loss and Claim Resolution:**

With respect solely to any **Wrongful Act** reported in accordance with GENERAL TERMS AND CONDITIONS (B) which may subsequently give rise to a **Claim** for which coverage may be provided under this Coverage Part, the Underwriter may, but shall not be obligated to, pay costs incurred by the **Insured** with the Underwriter's written consent to mitigate loss or otherwise compensate any client of the **Private Fund** prior to any **Claim** being made in connection therewith. For the purposes of this CONDITION (A), **Loss** shall not include diminution in value, or damages resulting from the diminution in value, of money, securities, property, or any other item of value, unless caused by a **Wrongful Act** of an **Insured** in the performance of **Professional Services**; or loss of actual money, securities, property, or any other item of value in the custody, care, or control of an **Insured**.

(B) **Conversion of Coverage Under Certain Circumstances:**

In addition to, and not by way of limitation of, GENERAL TERMS AND CONDITIONS (G), there will be no coverage under this Policy for **Claims** for **Wrongful Acts** with respect to any **Private Fund** or **Affiliated Service Provider** which is or has been sold, spun off, or terminated if such **Wrongful Acts** are committed or allegedly committed by any **Insured** after the effective date of such sale, spin-off, or termination. The **Insured** shall give the Underwriter written notice of the sale, spin-off, or termination of any **Private Fund** or **Affiliated Service Provider** during the **Policy Period** as soon as practicable after the effective date thereof.

(C) **Outside Service Provider Liability:**

All coverage for **Loss** from **Claims** against **Insureds** for **Wrongful Acts** in connection with the performance of, or failure to perform, services by any **Outside Service Provider** will be specifically excess of, and will not contribute with, any other valid insurance (whether collectible or not) available to such **Outside Service Provider**, and any indemnification by such **Outside Service Provider** available to such **Insureds** in connection with such services.

In witness whereof, the Underwriter has caused this Policy to be executed on the Declarations Page.



Secretary



President