

Liberty Prime Plus Policy

LIBERTY MUTUAL INSURANCE COMPANY

(A Stock Insurance Company, hereinafter the "Insurer")

DIRECTORS, OFFICERS AND COMPANY LIABILITY COVERAGE PART

I. INSURING CLAUSES

A. Directors and Officers Liability (Individual)

The Insurer shall pay on behalf of the **Insured Persons Loss** for which the **Insured Persons** are not indemnified by the **Company** and which the **Insured Persons** become legally obligated to pay by reason of any **Claim** first made against the **Insured Persons** during the **Policy Period** or the **Discovery Period**, if exercised, for any **Wrongful Acts** by the **Insured Persons** taking place prior to the end of the **Policy Period**.

B. Directors and Officers Liability (Reimbursement)

The Insurer shall pay on behalf of the **Company Loss** for which the **Company** grants indemnification to the **Insured Persons**, as permitted or required by law, and which the **Insured Persons** have become legally obligated to pay by reason of any **Claim** first made against the **Insured Persons** during the **Policy Period** or the **Discovery Period**, if exercised, for any **Wrongful Acts** by the **Insured Persons** taking place prior to the end of the **Policy Period**.

C. Company Liability

The Insurer shall pay on behalf of the **Company Loss** which the **Company** becomes legally obligated to pay by reason of any **Claim** first made against the **Company** during the **Policy Period** or the **Discovery Period**, if exercised, for any **Wrongful Acts** by the **Company** taking place prior to the end of the **Policy Period**.

D. Shareholder Derivative Demands

The Insurer shall pay on behalf of the **Company Investigation Costs** resulting from a **Shareholder Derivative Demand** first made during the **Policy Period** or the **Discovery Period**, if exercised.

Coverage under this Insuring Clause D. shall be subject to a Sublimit of Liability of \$250,000. Such Sublimit of Liability shall be the maximum aggregate amount that the Insurer shall pay under this Insuring Clause D. Such Sublimit of Liability shall be part of, and not in addition to, the Limit of Liability applicable to this Coverage Part.

II. OUTSIDE POSITION LIABILITY

Subject to their other terms and conditions, Insuring Clauses A and B include coverage for any **Insured Person** who is a current or former director, **Executive Officer**, officer or in-house general counsel of the **Company** while serving in an **Outside Position**. Any such coverage shall be specifically excess of any indemnity and insurance available from or provided by the **Outside Entity** in which the **Insured Person** serves in the **Outside Position**. Payment by the Insurer or any affiliate of the Insurer under another policy as a result of a **Claim** against an **Insured Person** in an **Outside Position** shall reduce, by the amount of such payment, the Insurer's Limit of Liability under this **Policy** with respect to such **Claim**.

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III. DEFINITIONS

For purposes of coverage under this Coverage Part:

A. **Claim** means:

1. a written demand against any **Insured** for monetary damages or other relief,
2. a civil proceeding against any **Insured** commenced by the service of a complaint or similar pleading,
3. an arbitration proceeding against any **Insured**,
4. a criminal proceeding against any **Insured Person** commenced by a return of an indictment,
5. a formal administrative or regulatory adjudicatory or investigative proceeding against any **Insured Person** commenced by the filing of a notice of charge, formal investigative order or similar document,
6. a formal civil, criminal, administrative or regulatory investigation against an **Insured Person**, commenced by the service upon or other receipt by the **Insured Person** of a written notice or subpoena from the investigating authority identifying the **Insured Person** as an individual against whom a formal proceeding may be commenced,
7. a request to any **Insured Person** by a prospective claimant to toll or waive any statute of limitation, or
8. solely for purposes of Insuring Clause D, any **Shareholder Derivative Demand**, including any appeal therefrom.

All suits, complaints or similar proceedings arising out of the same facts are to be considered a single **Claim** under the Policy.

B. **Insureds**, either in the singular or plural, means:

1. the **Insured Persons**, and
2. solely with respect to Insuring Clauses B, C and D, the **Parent Company**.

C. **Insured Persons**, either in the singular or plural, means:

1. one or more natural persons who were, now are, or shall hereafter be duly elected, appointed or hired directors or officers of the **Parent Company**, or, with respect to a **Subsidiary** operating outside the United States, their functional equivalent, regardless of title;
2. solely with respect to Insuring Clauses A and B, any one or more natural persons described in subparagraph (1) above who were, now are or shall be serving in an **Outside Position**; and
3. with respect to a **Securities Action** only, any other natural persons who were, now are, or shall hereafter be employees of the **Parent Company**.

D. **Investigation Costs** means reasonable fees and expenses incurred by the **Company** in the investigation and evaluation of a **Shareholder Derivative Demand** provided that **Investigation Costs** shall not include compensation, benefit expenses, or overhead of any **Insureds**.

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- E. **Loss** means sums which the **Insured Persons** or, with respect to Insuring Clause C, the **Parent Company** are legally obligated to pay solely as a result of any **Claim** insured by this Policy, including **Defense Costs**, damages, judgments, settlement amounts, legal fees, punitive, multiplied or exemplary damages, where insurable by law and costs awarded pursuant to judgments.

Loss shall not include:

1. fines, penalties, taxes, dividends, or distributions of profits or other assets of the **Parent Company**;
2. any amount allocated to uncovered loss pursuant to Section 8. ALLOCATION of the General Terms & Conditions;
3. amounts for which there is no legal recourse against the **Insureds**;
4. stock options, severance pay, perquisites, pension and welfare plan benefits, deferred compensation, or any other benefits or compensation, salaries, wages or bonuses;
5. damages, costs or expenses incurred by an **Insured** in making physical changes, modifications, alterations or improvements as part of an accommodation of any disabled person pursuant to the Americans with Disabilities Act of 1990 or any similar federal, state or local law; or
6. other matters uninsurable pursuant to any applicable law.

With respect to the insurability of punitive, multiplied or exemplary damages, if the **Company** determines in good faith that such damages are insurable under applicable law, the Insurer will not raise as a defense to coverage the insurability of such damages. However, in the event of a challenge to such a determination by any other person or entity, the **Insured** shall be obligated to reimburse such damages only if a court of competent jurisdiction specifically determines that such damages are insurable. It is further understood and agreed that the enforceability of the foregoing shall be governed by such applicable law which most favors coverage for punitive, exemplary and multiplied damages.

With respect to any **Claim** alleging that the price or consideration paid or proposed to be paid for the acquisition of any securities issued by or assets owned by any natural person or entity is inadequate, excessive, or improper, **Loss** shall not include the portion of any judgment or settlement relating to the amount by which such price or consideration was changed or modified as a result of such **Claim**.

- F. **Money Laundering** means the actual or attempted conspiracy to commit or commission, aiding, abetting, counseling, procuring, or inciting of any act which is in breach of and/or constitutes an offence or offences under any money laundering legislation (or any provisions and/or rules or regulations made by any Regulatory Body or Authority thereunder) including any act which, if it occurred in a part of the United States, would be unlawful under Racketeer Influenced and Corrupt Organization Act, 18 United States Code 1961 et seq.
- G. **Non-Profit Entity** means any non-profit corporation, community chest, fund or foundation that is (i) not included in the definition of **Company**, and (ii) exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

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H. **Outside Entity** means:

1. any **Non-Profit Entity**, and
2. any other entity, if such coverage is specifically granted by endorsement to this **Policy**.

I. **Outside Position** means the position of director, officer, executive officer or other equivalent executive position held by any duly elected or appointed director, officer or in-house general counsel of the **Company** in an **Outside Entity** if service in such position is with the knowledge and consent of, at the direction or request of, or part of the duties regularly assigned to such **Insured Person** by, the **Company**.

J. **Potential Claim** means that if during the **Policy Period** or the **Discovery Period**, if purchased, the **Insureds** first become aware of a specific **Wrongful Act** which may reasonably give rise to a future **Claim** covered under a Coverage Part and during such **Policy Period** or **Discovery Period** give written notice to the Insurer of:

1. the names of the potential claimants and a description of the specific **Wrongful Act** which forms the basis of such potential **Claim**,
2. the identity of the specific **Insureds** allegedly responsible for such specific **Wrongful Act**,
3. the consequences which have resulted or may result from such specific **Wrongful Act**,
4. the nature of the potential monetary damages or non-monetary relief which may be sought in consequence of such specific **Wrongful Act**, and
5. the circumstances by which the **Insureds** first became aware of such specific **Wrongful Act**,

then any **Claim** which arises out of such **Wrongful Act** shall be deemed to have been first made during the **Policy Period** or **Discovery Period**, if purchased, in which such written notice was received by the Insurer.

No coverage is provided for fees and expenses incurred prior to the time such notice results in a **Claim**.

K. **Shareholder Derivative Demand** means any written demand by any security holder of a **Company** in their capacity as such, upon the board of directors or **Managers** of such **Company** to bring a civil proceeding on behalf of the **Company** against an **Insured Person** for a **Wrongful Act** by such **Insured Person** if such demand is made without the assistance, participation or solicitation of any **Executive Officer**. A **Shareholder Derivative Demand** shall be deemed commenced by the receipt by the **Company's** board of directors or **Managers** of such demand.

L. **Wrongful Act** means:

1. any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by any of the **Insured Persons** while acting in their capacity as such, or in an **Outside Position** or, with respect to Insuring Clause C, by the **Company**, or
2. any matter claimed against the **Insured Persons** solely by reason of their serving in such capacity or in an **Outside Position**.

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IV. LIMIT OF LIABILITY, RETENTION AND PRIORITY OF PAYMENT

If the Coverage Part Aggregate Limit of Liability applicable to the Directors, Officers and Company Liability Coverage Part, if purchased, is exhausted by reason of payment by the Insurer of covered **Loss**, then such Coverage Part shall afford up to \$100,000 of additional coverage under Insuring Clause A of such Coverage Part for any covered **Loss** incurred by the **Insured Persons**, provided such additional coverage shall be excess of all other insurance specifically excess of this **Policy**. If available, such additional \$100,000 Limit of Liability shall apply to covered **Loss** resulting from all **Claims** first made during the **Policy Period**, regardless of whether the **Loss** was incurred or the **Claim** was first made before or after such additional Limit of Liability is available.

Any Retention for Indemnified **Loss** shall apply only to (i) **Loss** which is incurred by **Insured Persons** and is indemnified by the **Company**, and (ii) **Loss** which is incurred by **Insureds** other than **Insured Persons**. No Retention shall apply to **Loss** which is incurred by **Insured Persons** and is not indemnified by the **Company**. However, the **Company** agrees to indemnify the **Insured Persons** to the fullest extent permitted by law.

If **Loss** is incurred that is acknowledged by the Insurer to be covered under this **Policy**, except that such **Loss** exceeds the remaining applicable Limit of Liability, the Insurer shall pay that portion of such **Loss** incurred by **Insured Persons** which is not indemnified by the **Company** before paying any other covered **Loss**.

V. EXCLUSIONS

- A. The Insurer shall not be liable under any Insuring Clause in this Coverage Part for **Loss** on account of any **Claim** made against any **Insured**:
1. based upon, arising out of, or attributable to any fact, circumstance or situation which has been the subject of any written notice given under any policy of which this **Policy** is a direct or indirect renewal or replacement;
 2. based upon, arising out of, or attributable to any written demand or proceeding against any **Insured** which was made or pending on or before the applicable Prior Litigation Date set forth in the Coverage Schedule in Item IV(B) of the Declarations, or the same or substantially the same fact, circumstance or situation underlying or alleged therein;
 3. for bodily injury, mental anguish, emotional distress, sickness, disease, death, false arrest or imprisonment, abuse of process, malicious prosecution, libel, slander, defamation, violation or invasion of any right of privacy or private occupancy, trespass, nuisance or wrongful entry or eviction, or for damage to, destruction of, or loss of use of any tangible property;
 4. based upon, arising out of, or attributable to (a) the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of **Pollutants** into or on real or personal property, water or the atmosphere; or (b) any direction or request that the **Insureds** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so; including without limitation any **Claim** by or on behalf of the **Company**, its securities holders or creditors based upon, arising out of, or attributable to the matters described in this exclusion;
 5. for **Wrongful Acts** actually or allegedly committed or attempted by a **Subsidiary** or its **Insured Persons** before the date such **Subsidiary** became an **Insured**;
 6. based upon, arising out of, or attributable to any deliberately dishonest and malicious fraudulent or criminal act or omission or any willful violation of law by such **Insured**;

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7. based upon, arising out of, or attributable to such **Insured** gaining in fact any profit, remuneration or financial advantage to which such **Insured** was not legally entitled;
8. brought or maintained by or on behalf of the **Company** or any **Insured Person** in any capacity except:
 - a. a **Claim** that is a derivative action brought or maintained on behalf of the **Company** by one or more persons who are not **Insured Persons** and who bring and maintain the **Claim** without the active assistance, participation or solicitation of the **Company** or any **Insured Person**;
 - b. an employment-related **Claim**;
 - c. a **Claim** brought or maintained by any **Insured Person** for contribution or indemnity, if the **Claim** directly results from another **Claim** covered under this **Policy**;
 - d. a **Claim** by an **Insured Person** who has not served as an **Insured Person** for at least six years prior to such **Claim** being made, provided that such **Claim** is made without the active assistance, participation or solicitation of any current **Insured Person** or any former **Insured Person** who has served as an **Insured Person** during the four years prior to such **Claim** being made; or
 - e. a **Claim** brought or maintained by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver, creditors committee or similar official or committee for such **Company** or any assignee of such trustee, examiner, receiver, committee or similar official or committee;
9. for a **Wrongful Act** by an **Insured Person** in an **Outside Position** if such **Claim** is brought or maintained by or on behalf of the **Outside Entity** in which the **Insured Person** serves or by or on behalf of any director or officer of such entity except:
 - a. a **Claim** that is a derivative action brought or maintained on behalf of such entity by one or more persons who are not directors or officers of such entity and who bring and maintain the **Claim** without the active assistance, participation or solicitation of such entity or such directors or officers;
 - b. an employment-related **Claim**; or
 - c. a **Claim** brought or maintained by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver, creditors committee or similar official or committee for such **Outside Entity** or any assignee of such trustee, examiner, receiver, committee or similar official or committee;
10. for a **Wrongful Act** actually or allegedly committed or attempted by **Insured Persons** in their capacity as a director, officer, manager, trustee or employee of any organization other than an **Outside Entity** or the **Company**, even if service in such capacity is with the knowledge and consent of, at the direction or request of, or part of the duties regularly assigned to the **Insured Person** by, the **Company**;
11. for an actual or alleged violation of the responsibilities, obligations or duties imposed by **ERISA** upon fiduciaries of any pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing benefits to employees of the **Company**;
12. based upon, arising out of, or attributable to any public offering of securities of a **Company** or the purchase or sale of such securities subsequent to such public offering; provided that this exclusion shall not apply to any **Claim**:
 - a. for a **Wrongful Act** in an offering of securities of a **Company** that is exempt from registration under the Securities Act of 1933;

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- b. based upon, arising out of, or attributable to any attempted public offering of securities of a **Company** if no securities are actually purchased or sold in connection with such attempted public offering, including without limitation any **Claim** alleging misrepresentations or omissions during the “road show” for such attempted public offering; or
 - c. made by any security holders of a **Company** for the failure of the **Company** to undertake or complete an initial public offering of securities of such **Company**;
- 13. based upon, arising from, directly or indirectly, any and all amounts owing under a written, oral or other contract;
- 14. brought or maintained in any capacity by, on behalf or, or at the behest of any individual, firm, corporation, or entity owning 15% or more of the outstanding common shares of the **Company**, either directly or beneficially;
- 15. based upon, arising out of, directly or indirectly, attributable, in whole or in part, to any actual or alleged violation of The Interstate Commerce Act of 1887, The Sherman Antitrust Act of 1890, The Clayton Act of 1914, The Robinson-Patman Act of 1936, The Cellar-Kefauver Act of 1950, The Federal Trade Commission Act of 1914, amendments thereto, or any other similar federal, state, local or provincial common, statutory or case law designed to prevent monopoly, preclude price fixing, or otherwise protect competition;
- 16. based upon or attributable to, or in any way involving any actual or alleged act of **Money Laundering**. The burden of proving that any **Claim** does not fall within this Money Laundering Exclusion shall be upon the **Insured**; or
- 17. for, based upon, arising from, or in any way related to payments, commissions, gratuities, benefits or any other favors to or for the benefit of:
 - a. any full or part-time domestic or foreign governmental or armed services official, agent, representative, employee or any member of their family or any entity with which they are affiliated; or
 - b. any full or part-time official, director, agent, partner, representative, principal shareholder, owner, employee, or affiliate (as that term is defined in the Securities Exchange Act of 1934) (collectively, “Related Party”) of any customer of the **Company**, including any officers, directors, agents, owners, partners, representatives, principal shareholders, employees or family members of any Related Party; or for, based upon, arising from, or in any way related to political contributions, whether domestic or foreign.
- B. The Insurer shall not be liable under Insuring Clause C for **Loss** on account of any **Claim** made against the **Company**:
 - 1. based upon, arising out of, or attributable to any actual or alleged liability under or breach of any contract or agreement, provided that this exclusion shall not apply to the extent that liability would have been incurred in the absence of such contract or agreement;
 - 2. for any employment-related **Wrongful Act**;

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3. based upon, arising out of, or attributable to the rendering of, or failure to render, any professional services for others, including, without limitation, services performed by the **Insureds** for or on behalf of a customer or client;
4. based upon, arising out of, or attributable to any actual or alleged defamation, invasion of privacy, wrongful entry or eviction, false arrest or imprisonment, malicious prosecution, abuse of process, assault, battery or loss of consortium;
5. based upon, arising out of, or attributable to any actual or alleged infringement of any intellectual property rights, including, without limitation, copyrights, patents, trademarks, trade names, trade dress, service marks, or trade secrets;
6. based upon, arising out of, or attributable to any actual or alleged price fixing, restraint of trade, monopolization, unfair trade practices or any violation of the Federal Trade Commission Act, Sherman Anti-Trust Act, Clayton Act, or any similar law regulating anti-trust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities;
7. based upon, arising out of, or attributable to any actual or alleged discrimination of any kind; or
8. based upon, arising out of, or attributable to the payment by a **Company** of any actual or alleged inadequate consideration in connection with a **Company's** purchase of securities issued by any **Company**.

VI. PUBLIC OFFERING OF SECURITIES

If during the **Policy Period** a **Company** conducts a public offering of its securities that is not exempt from registration under the Securities Act of 1933, the Insurer shall furnish the **Insureds** with a quote for directors and officers liability insurance coverage with respect to such offering, provided that:

- A. at least 30 days prior to the effective date of such offering, the **Insureds** shall give the Insurer written notice of such offering together with all information requested by the Insurer; and
- B. such quote shall be on such terms and conditions, including any additional premium, as the Insurer, in its sole discretion, chooses.



PRESIDENT
Timothy M. Sweeney



SECRETARY
Damon Hart