

I. INSURING AGREEMENT

The Insurer will pay on behalf of the **Insured** all sums, in excess of the retention and up to the applicable limit of liability, that the **Insured** shall become legally obligated to pay as **Loss** resulting from liability imposed by law or **Assumed Under Contract** resulting from any **Claim** alleging any **Wrongful Act** by the **Insured Entity**, by an **Insured Person** within the scope of such individual's duties on behalf of the **Insured Entity**, or by someone for whose **Wrongful Act** the **Insured** is legally responsible provided that such **Wrongful Act** occurs during the **Policy Period**.

II. EXCLUSIONS

The Insurer shall not be liable to pay that part of **Loss** under this **Coverage Part** in connection with any **Claim** made against any **Insured**:

A. Bodily Injury/Property Damage

for any actual or alleged bodily injury (including death), sickness, disease, mental anguish, of any person, or **Property Damage**;

B. Claims by Insureds

by or on behalf of any **Insured** in any capacity provided, however, that this exclusion shall not apply to any **Claim**:

1. that is 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; or
2. brought or maintained by or on behalf of a bankruptcy or insolvency trustee, examiner, liquidator, receiver or rehabilitator for an **Insured Entity** or any assignee of such trustee, examiner, liquidator, receiver or rehabilitator;

C. Deliberate Acts

where such **Insured** committed any fraudulent or criminal **Wrongful Act** with actual knowledge of its wrongful nature or with intent to cause damage, as evidenced by a final adjudication by a judge, jury or arbitrator in any proceeding;

For purposes of determining the applicability of this exclusion:

1. the facts pertaining to and knowledge possessed by any **Insured Person** shall not be imputed to any other **Insured Person**; and
2. only facts pertaining to and knowledge possessed by any past, present or future Chief Executive Officer, Chairperson, Chief Financial Officer, President (or any equivalent position) of an **Insured Entity** shall be imputed to all **Insured Entities**;

D. ERISA or any Similar Act

for any actual or alleged violation of the responsibilities, obligations or duties imposed upon fiduciaries by **ERISA or any Similar Act** or under any other federal, provincial, state or local statutory or common law anywhere in the world governing any employee benefit program, policy, plan or arrangement of any type, including but not limited to laws governing retirement or pension benefit programs, welfare plans, insurance plans, employee stock options, employee stock ownership or employee stock purchase plans or deferred compensation plans;;

E. Injunctive Relief

for the cost of any non-monetary relief, including without limitation any costs associated with compliance with any injunctive relief of any kind or nature imposed by any judgment or settlement. However, the Insurer shall provide a defense for any **Claim** seeking injunctive relief. Such defense will not waive any of the Insurer's rights under this Policy;

F. Licensing Organizations

involving, by, or on behalf, of or for the benefit of any licensing organization, including but not limited to ASCAP, SESAC, or BMI;

G. Licensing and Ownership of Material

brought by any independent contractor, third-party distributor, licensee, sub-licensee, joint-venturer, venture partner of the **Insured Entity**, or by any **Employee** of the foregoing, alleging a dispute over the ownership or exercise of rights in **Material**, however this exclusion shall not apply to a **Claim** for plagiarism;

H. Merchandising Activity Services

based upon or arising out of **Merchandising Activity**;

I. Over-Redemption

based upon or arising out of price discounts, prizes, awards, coupons or any other valuable consideration given in excess of the total contracted or expected amount;

J. Owned Entity

by any entity that is not an **Insured** under this Policy, if at the time of the **Wrongful Act** giving rise to such **Claim**:

1. any **Insured** controlled, owned, operated or managed such entity; or
2. any **Insured** was an **Executive** or **Employee** of such entity;

For the purpose of this exclusion, a 10% or more owner of the voting stock of a publicly held corporation or a 50% or more owner of the voting stock of a privately held corporation shall be deemed to own such entity;

K. Patent Infringement

based upon or arising out of actual or alleged infringement of patent;

L. Price Fixing/Restraint of Trade/Federal Trade Commission/Anti-Trust/RICO Claims

based upon or arising out of any actual or alleged:

1. price fixing, restraint of trade, monopolization or unfair trade; or
2. violation of:
 - a. the Competition Act (Canada)
 - b. the Federal Trade Commission Act (USA);
 - c. the Sherman Act (USA), the Clayton Act (USA), or any federal, provincial, state, or local statutory or common law regarding anti-trust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade;
 - d. the Racketeer Influenced and Corrupt Organizations Act (USA);
 - e. any rules or regulations promulgated under or in connection with the above statutes; or
 - f. of any federal, provincial, state, or local statutory law or common law similar to the above statutes, not directly related to an **Injury** as defined in paragraphs 5. or 6. of the definition of **Injury**;

M. Professional Services Exclusion

based upon or arising out of professional services;

N. Pollutants

based upon or arising out of:

1. any nuclear reaction, radiation or contamination, or any actual, alleged or threatened discharge, release, escape, or disposal of, or exposure to, **Pollutants**;
2. any request, direction or order that any of the **Insureds** test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to or assess the effect of **Pollutants** or nuclear reaction, radiation or contamination, or any voluntary decision to do so; or
3. any actual or alleged **Property Damage**, or bodily injury, sickness, disease or death of any person, or financial loss;

O. Securities Claims

based upon or arising out of:

1. the filing of any registration statement under the Securities Acts of 1933, or the Securities Exchange Act of 1934, any State Blue Sky Law, or any other state or local securities law;
2. the filing of a prospectus under any provincial or federal securities legislation;
3. the public offering of securities, including any liability imposed either at common law or under or in connection with the Securities Act of 1933 (USA); the Securities and Exchange Act of 1934 (USA)' ,any provincial or federal securities legislation; and the rules and regulations of the Securities Exchange Commission, of any provincial or federal securities commission or regulator, or of any investment industry regulatory organization;

P. Unsolicited Communication

based upon or arising out of:

1. any actual or alleged violation of any federal, provincial, state or local anti-spam statute or regulation, including the CAN-SPAM Act of 2003 (USA); or
2. any actual or alleged violation of any federal, provincial, state or local statute or regulation prohibiting the dissemination of unsolicited electronic communications to multiple third parties, including any violation of the Telephone Consumer Protection Act of 2001 (USA);

Q. Wrongful Employment Practice/Discrimination/Humiliation/Harassment

for any actual or alleged **Wrongful Employment Practice** or any discrimination, humiliation or harassment.

III. NOTICE/DATE OF CLAIM/INTERRELATED CLAIM CLAUSE

The **Insureds**, as a condition precedent to the obligations of the Insurer under this **Coverage Part**, shall give written notice to the Insurer as soon as reasonably possible:

A. of any **Claim**; or,

B. of the **Insured's** receipt of any written notice, advice or threat that any person or organization intends to hold any **Insured** responsible for any alleged **Media Activity**. Such notice to the Insurer shall include, to the extent possible:

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

IV. CONFIDENTIAL SOURCE

The **Insured's** rights under this **Coverage Part** shall not be prejudiced by any **Insured's** refusal to reveal the identity of a confidential source or to disclose documents or information obtained by the **Insured** during the course of **Media Activity**.

V. RISK MITIGATION CREDIT

- A.** The Insurer will reduce the **Insured Entity's** retention for a **Claim** by 50%, up to \$10,000, whichever is less, if the **Insured Entity** involved in such **Claim** demonstrates, to the Insurer's reasonable satisfaction, the existence of three (3) out of the four (4) following conditions:
1. the existence of a written contract, with final project approval and any interim midterm changes, approved in writing by the client;
 2. **Material**, created by the **Insured** for the client, is reviewed and approved by the **Insured's** editorial staff or an outside media counsel prior to dissemination;
 3. release forms obtained prior to, or simultaneous with, receiving any **Material** for a client from any agent or independent contractor;
 4. continuing education, within twenty-four (24) months of such **Claim**, on current media and libel laws for those employees who create **Material** on behalf of the **Insured Entity**.
- B.** In the event that one **Claim** is eligible for both this Risk Mitigation Credit Section and the Mediation provision found in the General Terms and Conditions, Section **XXI.. DEFENSE/SETTLEMENT/MEDIATION/PRE-CLAIM ASSISTANCE**, Paragraph B.2. Mediation, then the **Insured Entity** shall receive only the benefit of one retention credit, but not both. In no way shall either section be construed to afford any more than a total of 50% or \$10,000 credit toward any one retention for any one **Claim**.