

EVEREST EXPEDITIONSM PRIVATE COMPANY MANAGEMENT LIABILITY POLICY KIDNAP AND RANSOM COVERAGE PART



SECTION I – INSURING AGREEMENTS

KIDNAP AND RANSOM COVERAGE

The Insurer shall reimburse the **Named Insured** for all **Loss** incurred by or on behalf of an **Insured** directly and as a result of any **Insured Event**, which first commences during the **Policy Period**, subject to the applicable Limits of Liability as set forth in ITEM 1 of the Kidnap and Ransom Declarations.

The Insurer shall reimburse the **Named Insured** for all **Additional Insured Event Expenses** incurred by or on behalf of an **Insured** directly and as a result of any **Additional Insured Event**, which first commences during the **Policy Period**, subject to the applicable Limits of Liability as set forth in ITEM 1 of the Kidnap and Ransom Declarations.

SECTION II - COVERAGE ENHANCEMENTS

The Insurer shall reimburse the **Named Insured** for any **Additional Insured Event Expenses** incurred by or on behalf of an **Insured** directly and as a result of an **Additional Insured Event** that first commences during the **Policy Period**, subject to the Limits of Liability for each **Additional Insured Event Expense** as set forth in ITEM 1 of the Kidnap and Ransom Declarations.

SECTION III – DEFINITIONS

When used in the Kidnap and Ransom Coverage Part, the following terms, whether in the singular or plural, are defined as follows:

- A. **Accidental Death and Dismemberment** means the Death, **Loss of Limb**, **Loss of Sight**, **Loss of Speech**, **Permanent Total Disability** or **Mutilation** sustained by an **Insured Person** directly or solely as a result of an **Insured Event**; provided however that such **Accidental Death and Dismemberment** must occur within 365 days following the conclusion of an **Insured Event**.
1. **Loss of Limb** means the severance of the total and irrevocable loss of the arm through or above the wrist, or leg through or above the ankle.
 2. **Loss of Sight** means entire and irrevocable loss of sight in one or both eyes.
 3. **Loss of Speech** means the permanent total loss of the capability of speech.
 4. **Permanent Total Disability** means any mental or physical condition that necessarily and continuously disables an **Insured Person** from attending to every aspect of his or her normal business or occupation for a period of 365 days following the conclusion of an **Insured Event**, and at the end of such period it is certified by two qualified medical practitioners, approved by the Insurer, as being beyond hope of improvement. If the **Insured Person** has no business occupation, the disablement must confine the **Insured Person** immediately and continuously to the house and disable him or her from attending to normal duties.
 5. **Mutilation** means the permanent severance or total irrecoverable loss of use of a finger, toe, ear, nose, genital organ, or part thereof.

The Insurer shall pay the Death benefit in one sum to the estate of the deceased.

The Insurer shall pay the benefit for any **Loss of Limb**, **Loss of Sight**, **Loss of Speech**, **Permanent Total Disability** or **Mutilation** to the victim of such.

The Insurer agrees to pay the Death benefit in the event that the victim's body is not recovered within 365 days following the conclusion of an **Insured Event** and sufficient evidence exists for the Insurer to conclude

that the victim has died solely and directly as a result of a covered **Insured Event**. Notwithstanding the foregoing, it shall be a specific condition precedent to such payment that the intended beneficiary duly execute an undertaking or agreement to refund such amount, promptly and in its entirety, to the Insurer if the victim is subsequently found to be alive.

- B. **Additional Insured Event** means a **Threat** or a **Disappearance**, provided that all **Additional Insured Events** resulting from any one occurrence or connected series of occurrences will be deemed to be one **Additional Insured Event** commencing on the date of such first occurrence. There shall be no coverage afforded under this Coverage Part with respect to a series of **Additional Insured Events** that first commenced prior to the **Policy Period**.
- C. **Additional Insured Event Expenses** mean **Threat Response Expenses** or **Disappearance and Investigation Expenses**.
- D. **Business Interruption** means the net profit plus payroll expenses, taxes, interest, rents, and other operating expenses unavoidably incurred by the **Named Insured** during the temporary interruption or closure of all or part of the **Named Insured's** business operations or activities, plus **Extra Expense** incurred by the **Named Insured**, solely because of an **Insured Event(s)**.
- E. **Child Abduction** means the wrongful and illegal abduction and holding of a child (other than a **Kidnap, Express Kidnap, Extortion, Hijack, Hostage Crisis** or **Wrongful Detention**) who is a **Legal Guardian**, when such abduction and holding is without the prior consent from such **Legal Guardian**, and such child is taken from the **Premises** without a **Ransom** demand. Such child must be eighteen (18) years of age or under.
- F. **Crisis Response Expenses** means all the fees and expenses of the **Security Consultant**.
- G. **Cyber Extortion** means a threat, communicated directly or indirectly to an **Insured** by a person or persons, whether acting alone or in collusion with others, who demand a **Ransom** in exchange for the mitigation, removal, or not carrying out such a threat to alter, damage or destroy information within a computer system of a **Company**, including those that are self-propagating and are designed to contaminate computer programs or computer data, consumer system resources or usurp the normal operation of the computer system.
- H. **Disappearance** means the complete and unexpected disappearance of an **Insured Person** for a period exceeding the Waiting Period referred in ITEM 1.J.ii of the Kidnap and Ransom Declarations (other than in connection with a **Hijacking, Wrongful Detention, Express Kidnapping, or Hostage Crisis**), provided a **Ransom** demand has not been made in connection therewith. The **Disappearance** of two or more **Insured Persons** last seen or reported together shall be treated as one **Disappearance**.
- I. **Disappearance and Investigation Expenses** means the reasonable and necessary investigation expenses of the **Security Consultant** to investigate a **Disappearance** incurred within the time period immediately following the **Disappearance**, as set forth in ITEM 1.J.i of the Kidnap and Ransom Declarations.
- J. **Express Kidnap** means the actual or alleged wrongful abduction and holding of an **Insured Person** against such **Insured Person's** will (other than a **Kidnap, Hijack, Hostage Crisis** or **Wrongful Detention**) in which such **Insured Person's** monetary or tangible assets or **Personal Belongings** are surrendered by such **Insured Person** in exchange for their release.
- K. **Extortion** means a threat, communicated directly or indirectly to an **Insured** by a person or persons, whether acting alone or in collusion with others, who demand a **Ransom** in exchange for the mitigation, removal, or not carrying out such a threat to:
 - 1. kill, injure, or **Kidnap** an **Insured Person**;
 - 2. cause physical damage to or loss of, including the pollution, contamination or alteration of, **Property**;
 - 3. disseminate or make public via local, regional or national media, negative information regarding **Property**;

4. disseminate, divulge, or utilize **Proprietary Trade Secrets**.
- L. **Extra Expense** means the excess of the total cost of conducting business activities during the period necessary to sustain business operations at the location, owned or operated by the **Named Insured**, where the **Insured Event(s)** occurred, for the sole purpose of reducing the loss. **Extra Expense** shall mean only those costs which exceed the cost of such activities during the same period of time had no **Insured Event(s)** occurred.
- M. **Guest** means:
1. a customer or invitee of an **Insured** while on the **Premises**, or while traveling with an **Insured Person**, regardless if such public or private travel is by motor vehicle, aircraft, watercraft, train or railcar or any other form;
 2. a natural person who is employed in the home of an **Insured Person**, a normal resident in the home of an **Insured Person**, or an invitee in the home of an **Insured Person**, while in the home of such **Insured Person**.
- N. **Hijack** means the actual or alleged illegal holding of an **Insured Person** against such **Insured Person's** will (other than a **Kidnap**, **Express Kidnap**, **Hostage Crisis** or **Wrongful Detention**) by one person or persons, whether acting alone or in collusion with others, where such illegal holding occurs while traveling on board an aircraft, watercraft, motor vehicle, train, railcar, or any other form of public or private transportation.
- O. **Hostage Crisis** means an actual wrongful abduction and holding of an **Insured Person** under duress (other than a **Kidnap**, **Express Kidnap**, **Wrongful Detention** or **Disappearance**) by one party in a conflict with another party, where the holding party demands from the other party satisfaction of specified terms in exchange for the release of such **Insured Person**, and the person from whom such satisfaction of specified terms is demanded is within hearing or sight distance of the **Insured Person**.
- P. **Informant** means any natural person providing information not otherwise obtainable through any other means.
- Q. **Insured** means:
1. the **Insured Persons**; or
 2. the **Company**.
- R. **Insured Event** means:
1. **Kidnap**
 2. **Express Kidnap**
 3. **Extortion**
 4. **Hijack**
 5. **Wrongful Detention**
 6. **Hostage Crisis**
 7. **Child Abduction**

All **Insured Events** resulting from any one occurrence or connected series of occurrences will be deemed to be one **Insured Event** commencing on the date of such first occurrence. There shall be no coverage afforded under this Coverage Part with respect to a series of **Insured Events** that first commenced prior to the **Policy Period**.

- S. **Insured Event Expenses** means reasonable and necessary fees and expenses incurred by an **Insured** directly and solely as a result of an **Insured Event**, and shall be limited to:

1. reward monies paid by an **Insured** to an **Informant** for information that leads to the arrest and conviction of parties responsible for any **Insured Event** or the return of an **Insured Person** or the remains of such **Insured Person** who was the victim of an **Insured Event**;
2. fees and expenses of persons retained by an **Insured** to aid in the investigation and conclusion of an **Insured Event**, provided that the **Insurer** has given its prior consent, not to be unreasonably withheld;
3. interest on any loan made to an **Insured** for the purposes of paying **Loss**. The Insurer's liability for such interest will cease at the time it tenders payment to the **Insured** for such **Loss**. Furthermore, the Insurer shall not be liable for interest on any loan obtained more than ninety (90) days prior to the payment of any **Loss** nor shall the Insurer be liable for any interest incurred beyond the date that the **Insured** receives reimbursement from the Insurer for any **Loss**;
4. travel and/or accommodation expenses, including the travel and/or accommodation expenses of the **Insured Person** victim of an **Insured Event** to rejoin his or her family upon the release of said victim, and the travel and accommodation expenses of any individual temporarily performing the duties of said victim;
5. the **Salary** of:
 - a. an **Insured Person** while such **Insured Person** is the victim of an **Insured Event** and for a period of ninety (90) days following the conclusion of an **Insured Event**, provided said **Insured Person** is unable to perform his or her normal employment duties or has not yet completed job retraining upon returning to work;
 - b. any individual temporarily performing the duties of an **Insured Person** who is a victim of an **Insured Event** up to a period of ninety (90) days following the conclusion of an **Insured Event**, provided that such **Salary** does not exceed that of the victim and provided that the victim has not yet returned to work or has not yet completed job retraining upon returning to work;
 - c. any **Relative** of the **Insured Person** victim of an **Insured Event** who leaves his or her employment to assist in the investigation or negotiating of the release of said victim, or is otherwise unable to perform his or her normal duties up to a period of ninety (90) days following the conclusion of an **Insured Event**.
6. any personal financial loss suffered by an **Insured Person** victim of an **Insured Event** solely and directly as a result of the physical inability of the **Insured Person** to attend to personal financial matters during the period of such **Insured Event**, including but limited to failure to renew insurance contracts, failure to respond to margin calls or loan calls by financial institutions, or failure to exercise stock options;
7. **Salary** and expenses of the **Insured's** employees specifically assigned to assist in investigating or negotiating any **Insured Event** not to exceed such employee's base hourly rate of pay, provided the **Insured** furnishes an itemized account of such employee's time, services and expenses;
8. cost of advertising, communication and recording equipment to aid in the conclusion of an **Insured Event**;
9. fees and expenses of security guards retained by the **Insured** for the purposes of protecting **Insured Persons** or **Property**, provided that the **Security Consultant** has approved and recommended such security guards;
10. legal fees, expenses, and other fees of independent public relations consultants, interpreters, and independent forensic analysts retained solely and directly as a result of an **Insured Event**;
11. job retraining costs of an **Insured Person** who is the victim of an **Insured Event**, including the cost of external training courses;
12. rest and rehabilitation expenses incurred by an **Insured Person** who is the victim of an **Insured Event** and said victim's spouse, common-law spouse, domestic partner, fiancé, fiancée and/or children incurred within twenty-four (24) months following the conclusion of an **Insured Event**;

13. fees and expenses of an independent negotiator engaged by the **Named Insured** or on behalf of an **Insured Person** with the prior approval of the Insurer;
14. reasonable medical care, dental care, psychiatric care or cosmetic and/or plastic surgery expenses incurred by an **Insured Person** who is the victim of an **Insured Event** within thirty-six (36) months following the conclusion of the an **Insured Event**;
15. burial expenses as a result of the death of an **Insured Person** directly caused by an **Insured Event**, and during the course of such **Insured Event**, or the expenses to repatriate the body of such **Insured Person**; and
16. any other reasonable fees and expenses incurred by an **Insured** or **Insured Persons** with the prior approval of the **Security Consultant** or the Insurer.

T. Insured Persons means:

1. any one or more natural persons who were, now are or shall become a duly elected or appointed director (including a de facto director and shadow director), trustee (other than a bankruptcy or litigation trustee), governor, **Manager**, officer, in-house general counsel, risk manager, controller, advisory director, or member of a duly constituted committee or board of the **Company** or their functional equivalent;
2. **Employee**;
3. **Relative** of an **Insured Person**;
4. **Guest**; or
5. a natural person who is temporarily retained by the **Insured** for the purpose of negotiating or delivering a **Ransom**.

U. Kidnap means the actual or alleged wrongful abduction and holding of an **Insured Person** against such **Insured Person's** will (other than an **Express Kidnap, Hijack, Hostage Crisis** or **Wrongful Detention**) by a person or persons, whether acting alone or in collusion with others, who demand a **Ransom** in exchange for the release of such **Insured Person**. **Kidnap** does not include **Child Abduction**.

V. Legal Guardian means a natural person who has legal custodial responsibility for the care and management of a child described in the definition of **Child Abduction**.

W. Legal Liability means the reasonable defense costs incurred by a **Company** and damages which such **Company** becomes legally obligated to pay as a result of a judgment or settlement in any suit brought by an **Insured Person** (or the estate, heirs or legal representatives of such **Insured Person**) alleging negligence or legal incompetence solely as a direct result of a **Kidnap, Express Kidnap, Extortion, Hijack, Wrongful Detention, Hostage Crisis** or **Child Abduction**.

As a condition to the Insurer's obligation to pay **Legal Liability**, the **Insured** agrees:

1. not to admit liability for, settle any claim or suit, nor incur any costs or expenses without the prior consent of the Insurer, such consent to be unreasonably withheld; or
2. cooperate fully with the Insurer in the conducting of the defense or in negotiating the settlement of such suit;

in accordance with Section V.J (Cooperation), below.

X. Loss means **Insured Event Expenses**, and:

1. **Ransom**;
2. **Personal Belongings**;
3. **Transit Loss**;
4. **Legal Liability**; or

5. **Accidental Death and Dismemberment;**
6. **Crisis Response Expenses;** and
7. **Recall Expenses.**

Y. Property means:

1. all real and personal property owned, controlled, or leased by an **Insured**;
2. all goods or products, raw materials, stock, finished goods, fixtures, machinery, or electronic data processing equipment and other contents of an **Insured**;
3. **Proprietary Trade Secrets**; or
4. any items referenced in paragraphs 1-3 above, for which an **Insured** is legally liable.

Z. Personal Belongings means monies and/or property of monetary value that are:

1. being carried or transported by an **Insured Person** who is the victim of a **Express Kidnap, Kidnap, Hijack** or **Detention** when such **Express Kidnap, Kidnap, Hijack** or **Detention** first occurs; and
2. surrendered during the course of such **Express Kidnap, Kidnap, Hijack** or **Detention**.

AA. Premises means all properties and buildings which the **Company** regularly occupies in conducting its business.

BB. Proprietary Trade Secrets means any confidential, private, secret or proprietary information unique to a **Company's** business including client lists, drawings, negatives, microfilm, tapes, transparencies, manuscripts, prints, computer discs or other records of a similar nature which are protected by physical or electronic control or other reasonable efforts to maintain non-disclosure of such information.

CC. Ransom means monies and/or other consideration of monetary value that are surrendered or to be surrendered by or on behalf of any **Insured** to meet a **Kidnap, Express Kidnap, Extortion, Hijack, Wrongful Detention**, or **Hostage Crisis** demand. In case of other consideration of monetary value, the Insurer shall pay the actual cash value at the time of surrender pursuant to Section V.N (Valuation) below.

DD. Recall Expenses means the reasonable and necessary expenses incurred by an **Insured** to recall and/or destroy **Property** defined in Section III.Y.2 above, and arising solely and directly out of an **Extortion** defined in Section III.K.2 and III.K.3 above.

EE. Relative means spouse, domestic partner, common-law spouse, relative, siblings, step-siblings, brothers-in-law, sisters-in-law, parents-in-law, aunts, uncles, nieces, nephews, fiancé, fiancée, ancestors, spouse's siblings, spouse's ancestors, lineal descendants or lineal descendants' spouses. Lineal descendants include adopted children, foster children and stepchildren. Ancestors include adoptive parents or adoptive stepparents.

FF. Salary means any direct compensation, including but not limited to, bonuses and allowances for personal services rendered, including foreign tax reimbursements, cost of living adjustments and the cost of any health, welfare or pension benefits, and will be based upon the rate of compensation being paid by the **Company** at the time of the **Insured Event**.

GG. Security Consultant means the organization and persons designated in ITEM 2 of the Kidnap and Ransom Declarations.

HH. Threat means a threat or interrelated series of threats, not accompanied by a **Ransom** demand, made by a person or persons, whether acting alone or in collusion with others, to commit or attempt to:

1. inflict bodily harm to, wrongfully abduct, or detain an **Insured Person**;
2. commit an act of **Wrongful Detention**;
3. damage, destroy, or contaminate **Property**; or

4. disseminate, divulge, or utilize **Proprietary Trade Secrets**.
- II. **Threat Response Expenses** means the reasonable and necessary costs of a threat assessment and the temporary protection of the threatened **Insured** or **Property** provided by the **Security Consultant** solely and directly as a result of a **Threat**, incurred within the time period immediately following the **Threat**, as set forth in ITEM 1.I.i of the Kidnap and Ransom Declarations.
 - JJ. **Transit Loss** means the actual damage, destruction, disappearance, confiscation, or wrongful abstraction of a **Ransom** while being conveyed or transported by an **Insured Person** or any person who is authorized by an **Insured** to have custody thereof.
 - KK. **Wrongful Detention** means an arbitrary and capricious act of confinement of an **Insured Person** against such an **Insured Person's** will (other than a **Kidnap**, **Express Kidnap**, **Hijack** or **Hostage Crisis**).

SECTION IV – EXCLUSIONS

No coverage will be available for:

A. PERSONAL BELONGINGS

The surrender of **Personal Belongings**, solely as referenced in Section III Z, shall be excluded if not surrendered during the course of an **Express Kidnap**, **Kidnap**, **Hijack**, or **Detention**.

B. SURRENDER OF RANSOM

The surrender of **Ransom**:

1. that is being carried by, transported by or otherwise in the possession of an **Insured Person** at the time a **Kidnapping**, **Express Kidnapping**, **Hijacking** or **Detention** first occurs; or
2. at the location where a **Kidnapping**, **Express Kidnapping**, **Hijacking** or **Detention** first occurs;

unless brought to such location for the sole purpose of conveying a previously communicated **Ransom** demand.

C. FRAUDULENT OR DISHONEST ACTS

Any **Kidnapping**, **Express Kidnapping**, **Hijacking** or **Extortion** as a result of a fraudulent, dishonest or criminal act by an **Insured Person** or authorized representative (whether acting alone or in collusion with others) unless the person authorizing the **Ransom** payment had, prior to payment, made every reasonable attempt to determine that the **Ransom** demand or threat was genuine.

D. RECALL EXPENSES

Solely with respect to **Recall Expenses**, the **Insured** shall have no liability for: (i) bodily injury, sickness, disease or death of any person or animal, or damage to or destruction of any property, including loss of use thereof, arising out of the use or disposal of products manufactured or distributed by the **Insured**, or (ii) refunds for the value of or the cost of replacing any withdrawn, damaged or destroyed **Property**.

E. BUSINESS INTERRUPTION

Business Interruption as a result of an **Insured Event**.

F. VIOLATION OF LAW

Any **Detention** resulting from:

1. any violation or alleged violation of the criminal laws of the host country by a **Company**, provided that said violation would also be considered a violation of the laws of the country in which the **Named Insureds** headquarters are located, had said violation or alleged violation been committed there;

2. any violation or alleged violation of the criminal laws of the host country by the **Insured Person**, provided that said violation would also be considered a violation of the laws of the country in which the **Insured Person** is a national, had said violation or alleged violation been committed there; or
3. failure of an **Insured** to maintain and possess duly authorized and issued required documents and visas.

However, this exclusion does not apply if the Insurer determines that such allegations were intentionally false, fraudulent and malicious and made solely to achieve a political, propaganda, and/or a coercive effect upon or at the expense of an **Insured**.

G. VOLUNTARY DISAPPEARANCE, NATURAL DISASTER, UNSAFE AREA

Any **Disappearance** where:

1. an **Insured Person** disappears of his or her own volition, provided that any amounts paid to the **Named Insured** in connection with such voluntary **Disappearance** shall be refunded by the **Named Insured** to the Insurer;
2. The **Disappearance** occurs within twenty-four (24) hours of a natural disaster, which is reported by local or global media; or
3. the **Disappearance** occurs while an **Insured Person** is located in an area declared by the local government as unsafe or uninhabitable.

H. CYBER EXTORTION

Any **Cyber Extortion**.

I. EXCLUDED COUNTRIES

Any **Insured Event** or **Additional Insured Event** that takes place in any Excluded Countries listed in ITEM 1.K of the Kidnap and Ransom Declarations.

SECTION V - CONDITIONS

A. LIMIT OF LIABILITY

Limit of Liability: The Insurer's total liability with respect to **Loss** or **Additional Insured Event Expenses** or any combination thereof arising out of any **Insured Event** or **Additional Insured Event** first occurring during the **Policy Period** shall not exceed the respective per **Insured Event** or per **Additional Insured Event Limits of Liability** set forth in ITEM 2 or ITEM 3 of the Kidnap and Ransom Declarations.

B. NON-ACCUMULATION OF LIABILITY

1. The inclusion of more than one **Insured** or **Insured Person** shall not operate to increase the Insurer's liability for any one **Insured Event**.
2. Regardless of the number of years this coverage remains in effect or the total premium amounts due or paid, the limit of liability of the Insurer with respect to any **Loss** shall not be cumulative from year to year or **Policy Period** to **Policy Period**.

C. DEDUCTIBLE

The deductible amount stated in ITEM 1.A.i of the Kidnap and Ransom Declarations shall be paid by the **Named Insured** and shall be applicable to **Ransom** only.

D. NOTICE

As a condition precedent to the Insurer's obligation to pay when an **Insured Event** has occurred, or is believed to have occurred, the **Named Insured** shall:

1. notify the Insurer and **Security Consultant** in writing of the **Insured Event** and provide whatever information is required as soon as possible;
2. inform or allow **Security Consultant** to inform the appropriate authorities responsible for law enforcement in the country where the **Insured Event** occurred or is believed to have occurred, including communication of any **Ransom** demand, as soon as practicable, but taking into consideration the personal safety of the victim;
3. before agreeing to the payment of any **Ransom**, make every reasonable effort to:
 - a. determine that the **Insured Event** has actually occurred and is not a hoax; and
 - b. ensure that the **Named Insured**, by a senior officer or principal thereof, agrees to the payment of the **Ransom**.

Provided that when requesting reimbursement hereunder of a **Ransom**, the **Named Insured** shall bear the burden of demonstrating that such **Ransom** has been surrendered under duress.

E. MITIGATION OF LOSS

The **Named Insured** shall use due diligence or concur in the Insurer's undertakings with all things reasonably practical to avoid or diminish any **Loss**.

F. CONFIDENTIALITY

The **Named Insured** and all **Insured Persons** must at all times use the best efforts to ensure that knowledge of the existence of this insurance is kept confidential and access to the Policy is restricted as much as possible.

G. STATEMENT OF LOSS

The **Named Insured** will file a detailed, sworn Statement of Loss with the Insurer as soon as practicable after the date of **Loss**.

H. MEDICAL CARE AND EXAMINATIONS

With regard to any **Loss** as a result of an **Accidental Death and Dismemberment**:

1. any **Insured Person** who suffers an incident which caused or may cause disablement within the meaning of this policy, must place him or herself under the care of a qualified medical practitioner approved by the Insurer as early as possible after the incident; and
2. The Insurer shall not be liable to pay compensation otherwise covered under the Coverage Part, unless the medical advisors appointed by the Insurer shall be allowed as is thought necessary to examine the **Insured Person**.

I. INSPECTION AND AUDIT

The **Named Insured**, as often as may reasonably be required, will submit to examination under oath by any person named by the Insurer, and subscribe the same; and as often as may reasonably be required, will produce for examination all books of account, vouchers, bills, invoices, schedules, accounting information, and any documentation related to the **Named Insured's** calculation of its loss, or certified copies thereof if originals are lost, at such reasonable time and place as may be designated by the Insurer or its representative, and will permit extracts and copies thereof to be made.

J. COOPERATION

The **Insureds** shall not, except at their own cost, admit any liability, settle any claim or incur any costs or expenses without the prior authorization of the Insurer.

The **Insureds** will also cooperate with the Insurer in all matters relating to this insurance. This may include, but is not limited to, attending hearings and trials, securing and giving evidence, obtaining the attendance of witnesses, assisting in effecting settlements, and in conducting litigation, arbitration or other proceedings and cooperate with the Insurer in conducting the defense or in negotiating the settlement of any litigation or other proceeding.

K. OTHER INSURANCE

The insurance provided under this Coverage Part shall be excess of any other valid and collectible insurance available to the **Insureds**, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specifically excess over the Limits of Liability provided in this Coverage Part.

L. NEWLY ACQUIRED SUBSIDIARIES

If before or during the **Policy Period** the **Named Insured** acquires or creates a new **Subsidiary** or acquires an entity by merger or consolidation, coverage under this Policy shall automatically apply to the new organization and its **Insureds** provided: (i) such coverage shall apply only after the effective date of such acquisition and (ii) there shall be no coverage for any threats or incidents originating at the time of the acquisition.

M. APPRAISAL

If the **Named Insured** and the Insurer fail to agree as to the amount of **Loss**, each will, on the written demand of the other made within sixty (60) days of the Insurer's rejection of the **Named Insured's** Statement of Loss, select a competent and disinterested appraiser, and notify the other of the appraiser selected within twenty (20) days of the rejection. The appraisers will appraise the **Loss**, stating the amount of **Loss**. If the appraisers fail to agree on the **Loss**, they will select a competent and disinterested umpire. If an umpire cannot be agreed to by the appraisers, a judge in the Supreme Court of the State of New York in and for the County of New York or in the U.S. District Court for the Southern District of New York, shall select an umpire. The appraisers will submit their differences to the umpire and an award in writing agreed by any two (2) of the appraisers or umpire will determine the amount of **Loss**. The **Named Insured** and the Insurer shall each bear their own costs for their appraiser and shall share equally in the costs for the umpire. The Insurer will not be held to have waived any right by any act relating to appraisal as referenced herein.

N. VALUATION

The Insurer shall not be liable for more than the actual cash value of any consideration at the time of its surrender. If **Loss** involves currency other than that of the United States of America, the Insurer shall not be liable for more than the United States of America dollar equivalent of foreign currency based on the rate of exchange in the *Wall Street Journal* in effect on the day the monies are surrendered and/or expenses incurred.

In the event of any payment of **Loss** by the **Named Insured** or **Insured Persons** in marketable securities, goods or services, the Insurer shall pay the least of (i) the actual cash value of the securities, goods or services at the time of their surrender or (ii) the actual cost to replace or repair such securities, goods or services with consideration of similar quality and value.

O. CHOICE OF LAW

The construction, validity and performance of this Coverage Part will be governed by the laws of the State of New York. The Insurer and the **Insureds** agree that all claims and disputes will be brought for adjudication either in the Supreme Court of the State of New York in and for the County of New York or in the U.S. District Court for the Southern District of New York.

P. ACTIONS AGAINST THE INSURER

No suit, action, or proceeding for recovery of any **Loss** under this will Coverage Part shall be sustainable in any court of law, equity or other tribunal unless all of the requirements of this Coverage Part and the Policy are complied with and such suit, action or proceeding is within twenty-four (24) months following the conclusion of an **Insured Event** or if the Statement of Loss has not been furnished to the Insurer in accordance with the requirements of this Coverage Part.

Q. TRANSFER OF RIGHTS AND DUTIES

The rights of the **Named Insured** and any **Insured Person(s)** may not be transferred or assigned without the prior written consent of the Insurer. Notwithstanding the foregoing, if an **Insured Person(s)** dies, his or her rights will be transferred to the legal representative for such **Insured Person(s)**, but only in the scope of the legal representative's duties as such.

R. CHANGES

Notice to any representative of the Insurer or knowledge possessed by any representative or by any person will not affect a waiver or a change in any part of this Coverage Part or estop the Insurer from asserting any right under the terms of this Coverage Part, nor will the terms of this Coverage Part be waived or changed, unless agreed to in writing by the Insurer.

S. RECOVERIES

In the event of any payment under this Coverage Part, all recoveries (except from suretyship, insurance, reinsurance or indemnity taken by or for the benefit of the Insurer) less the actual cost to the Insurer of seeking the recovery, will be distributed first to the Insurer for all amounts paid under this Coverage Part and any remainder will be paid to the **Named Insured**.

T. SUBROGATION

In the event of any payment under this Coverage Part, the Insurer shall be subrogated to all of the **Insured's** rights of recovery against any person or organization and the **Insured** shall execute and deliver instruments and papers and do whatever is necessary to secure such rights.