

NATIONAL UNION FIRE INSURANCE  
OF PITTSBURGH, PA

1200 ABERNATHY ROAD, NE

BUILDING 600

ATLANTA, GEORGIA 30328

DIRECT LINE: (770) 671-2111 FACSIMILE: (770) 206-9077

E-MAIL: NICOLE.BROWN@AIG.COM

A MEMBER CO. OF  
AMERICAN INTERNATIONAL GROUP

October 19, 2004

Eliot Bernstein,  
Iviewit Holdings, Inc.  
10158 Stonehenge Circle  
Suite 801  
Boynton Beach, FL 33437-3546

**RE: IVIEWIT HOLDINGS, INC.**  
**Directors and Officers Liability Insurance Policy**  
**Policy No. 872-99-99**

Mr. Bernstein:

Per your request, I am enclosing a true certified copy of the captioned policy including the endorsement below that was issued mid-term.

➤ Endorsement No. 9      *Cancellation Endorsement effective October 29, 2001*

If you have any further questions please do not hesitate to call.

Best regards,



Nicole Brown-Simmons  
*Divisional Assistant Vice President*

cc: Jennifer O'Neil, AIG  
Rita Harfield, AIG

Enc.

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ENDORSEMENT# 9

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

This endorsement, effective *12:01 am* *October 29, 2001*  
policy number *872-99-99*  
issued to *IVIEWIT HOLDINGS, INC*

forms a part of

by *American Home Assurance Company*

**CANCELLATION ENDORSEMENT**

In consideration of the returned premium of **\$5,812**, it is hereby understood and agreed that, pursuant to the request of the Insured and subject to the policy's terms, conditions and exclusions, this policy is cancelled effective the date of this endorsement.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

**END 9**  
**INSUR** Archive Copy

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

**American Home Assurance Company**

175 Water Street  
New York, NY 10038

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

 A Member Company of  
American International Companies

August 12, 2002

Direct Dial: 770-671-2112

YVETTE GREER  
CRC INSURANCE WHOLESALERS  
1 INDEPENDENCE PLAZA, STE. 912  
P. O. BOX 59689  
BIRMINGHAM, AL 35259-9689

RE: **IVIEWIT HOLDINGS, INC**

Policy Number: **872-99-99**

Dear YVETTE

Enclosed please find the original and 0002 copy(ies) of the policy and/or endorsement(s) for the captioned account.

If you have any questions, please feel free to contact me at the above listed number.

Very truly yours,

SEQUOYAH S. BROWNING  
Underwriter

Enc.

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*Archive Copy*  
**INSU**



AMERICAN INTERNATIONAL COMPANIES

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**COPY**

**PRIVATE COLLECTION<sup>SM</sup>**

**Management Liability Coverage  
for Private Companies**

Policy Number: 872-99-99  
Renewal of Policy Number: N/A

- AIU Insurance Company
  - American Home Assurance Company
  - American International Pacific Insurance Company
  - American International South Insurance Company
  - Birmingham Fire Insurance Company of Pennsylvania
  - Granite State Insurance Company
  - Illinois National Insurance Company
  - National Union Fire Insurance Company of Pitts., PA
  - National Union Fire Insurance Company of Louisiana
  - New Hampshire Insurance Company
- (each of the above being a capital stock company)

**NOTICE: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THE COVERAGE OF THIS POLICY IS GENERALLY LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSUREDS DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. VARIOUS PROVISIONS IN THIS POLICY RESTRICT COVERAGE. PLEASE READ THE ENTIRE POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE AGENT OR BROKER TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED.**

**NOTICE: THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED FOR LEGAL DEFENSE. AMOUNTS INCURRED FOR LEGAL DEFENSE SHALL BE APPLIED AGAINST THE RETENTION AMOUNT.**

**NOTICE: THE INSURER DOES NOT ASSUME ANY DUTY TO DEFEND. HOWEVER THE INSUREDS MAY UNDER CERTAIN CONDITIONS TENDER THE DEFENSE OF A CLAIM. IN ALL EVENTS, THE INSURER MUST ADVANCE DEFENSE COST PAYMENTS PURSUANT TO THE TERMS HEREIN PRIOR TO THE FINAL DISPOSITION OF A CLAIM.**

**DECLARATIONS**

ITEMS	
1	<b>NAMED ENTITY:</b> <i>VIEWIT HOLDINGS, INC</i> (herein "Named Entity")
1(a)	<b>MAILING ADDRESS:</b> <i>2255 GLADES ROAD BOCA RATON, FL 33431</i>
1(b)	<b>State of Incorporation or State of Formation of the Named Entity:</b> <i>Florida</i>
2	<b>POLICY PERIOD:</b> From: <i>April 14, 2001</i> To: <i>April 14, 2002</i> 12:01 A.M. standard time at the address stated in Item 1(a)
3	<b>COVERAGE SECTIONS PURCHASED:</b>  <b>D&amp;O and Corporate Liability ("D&amp;O")</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Employment Practices Liability ("EPL")</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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4	<p><b>LIMIT OF LIABILITY</b></p> <p>A. <i>\$2,000,000</i>      <b>AGGREGATE LIMIT OF LIABILITY</b> (herein "Aggregate Limit of Liability") for all Loss combined under this policy, including Defense Costs</p> <p>B. <i>N/A.</i>      Separate Limit of Liability for all Loss combined under the D&amp;O Coverage Section, including Defense Costs</p> <p>C. <i>N/A.</i>      Separate Limit of Liability for all Loss combined under the EPL Coverage Section, including Defense Costs</p> <p>The Separate Limits of Liability shall be part of and not in addition to the Aggregate Limit of Liability.</p>		
5	<p><b>RETENTION:</b></p> <p><b>D&amp;O COVERAGE:</b></p> <p><b>NON-INDEMNIFIABLE LOSS:</b> Judgments, Settlements and Defense Costs: \$ <u>None</u></p> <p><b>EPL COVERAGE:</b></p> <p><b>ALL CLAIMS:</b>      <i>\$25,000*</i></p>	<p><b>INDEMNIFIABLE LOSS:</b> Judgments, Settlements and Defense Costs      <i>\$25,000*</i></p>	<p><b>COMPANY LOSS:</b> Judgments, Settlements and Defense Costs:  <i>\$25,000*</i></p>
	<p>The Retention applies for Loss arising from Claims alleging the same Wrongful Act or Related Wrongful Acts.</p>		
6	<p><b>CONTINUITY DATE</b> (herein "Continuity Date"):</p>		
6(a)	<p>D&amp;O Coverage, other than <b>Outside Entity</b> Executive Coverage: <i>February 11, 2000</i></p>		<p>6(b) <b>Outside Entity Executive Coverage:</b>      The date on which the <b>Individual Insured</b> first served as an <b>Outside Entity Executive</b> of such <b>Outside Entity</b>.</p>
6(c)	<p>EPL Coverage: <i>February 11, 2000</i></p>		
7	<p><b>PREMIUM:</b>      <i>\$12,703</i></p>		
8	<p><b>NAME AND ADDRESS OF INSURER</b> (herein "Insurer"): <i>American Home Assurance Company 70 Pine Street NY, NY 10207</i></p> <p>This policy is issued only by the insurance company indicated in this Item 8.</p>		

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IN WITNESS WHEREOF, the Insurer has caused this policy to be signed on the Declarations page by its President, a Secretary and a duly authorized representative of the Insurer.

Elizabeth M. Tuck  
SECRETARY

Susan Rivera  
PRESIDENT

Joyne P... ..  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
COUNTERSIGNATURE DATE

\_\_\_\_\_  
COUNTERSIGNED AT

**CRC INSURANCE WHOLESALERS  
1 INDEPENDENCE PLAZA, STE. 912  
P. O. BOX 59689  
BIRMINGHAM, AL 35259-9689**

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**GENERAL TERMS AND CONDITIONS**

In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer by application, including its attachments and the material incorporated therein, which form a part of this policy, the Insurer agrees as follows:

**1. TERMS AND CONDITIONS**

These General Terms and Conditions shall be applicable to all Coverage Sections, unless otherwise stated to the contrary. The terms and conditions of each coverage section shall only apply to that particular coverage section and shall in no way be construed to apply to any other coverage section of this policy.

**2. DEFINITIONS**

- (a) "Affiliate" means: (i) any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is in common control with, another person or entity; or (ii) any person or entity that directly, or indirectly through one or more intermediaries, is a successor in interest to another person or entity.
- (b) "Bodily Injury" means physical injury, sickness, or disease (other than emotional distress and mental anguish), including death resulting therefrom.
- (c) "Company" means the Named Entity and any Subsidiary thereof.
- (d) "Continuity Date" means the date set forth in Item 6 of the Declarations with respect to each coverage.
- (e) "Defense Costs" means reasonable and necessary fees, costs and expenses consented to by the Insurer (including premiums for any appeal bond, attachment bond, bonds to release property used to secure a legal obligation, or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond), resulting solely from the investigation, adjustment, defense and appeal of a Claim against the Insureds, but excluding salaries of officers or Employees of the Company.
- (f) "Director(s) or Officer(s)" means:
  - (1) past, present or future duly elected or appointed directors, officers, management committee members, and members of the Board of Managers of the Company (or equivalent position); and
  - (2) with respect to operations of the Company in a jurisdiction other than the United States, its possessions and territories, such past, present or future persons in duly elected or appointed positions of the Company that is equivalent to an executive position listed in Definition (f)(1),but only in their respective capacities as such. Coverage will automatically apply to all new Director(s) and Officer(s) after the inception date of this policy.
- (g) "Employee(s)" means any past, present or future employee, whether such employee is in a supervisory, co-worker or subordinate position or otherwise,

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including any part-time, seasonal and temporary employees in his or her capacity as such. Independent contractors and individuals who are leased to the Company are not Employees; however, with respect to Coverage Section Two only, Insureds are covered for Loss arising from Wrongful Acts of independent contractors and such leased individuals.

- (h) "Indemnifiable Loss" means Loss for which the Company has indemnified or is permitted or required to indemnify any Individual Insured(s).
- (i) "Individual Insured(s)" means an individual Insured, as that term is defined within each Coverage Section.
- (j) "Insured(s)" means an Insured, as that term is defined within each Coverage Section.
- (k) "Loss" means Loss, as that term is defined within each Coverage Section.
- (l) "Named Entity" shall mean the entity listed in Item 1 of the Declarations.
- (m) "Outside Entity" means any: (1) not-for-profit organization; or (2) other entity listed as an "Outside Entity" in an endorsement attached to this policy.
- (n) "Outside Entity Executive" means any: (1) Director(s) or Officer(s) of the Company who is or was acting at the specific written request or direction of the Company as a Director(s) or Officer(s) of an Outside Entity; or (2) any other person listed as an Outside Entity Executive in an endorsement attached to this policy.
- (o) "Policy Period" means the period of time from the inception date shown in Item 2 of the Declarations to the earlier of the expiration date shown in Item 2 of the Declarations or the effective date of cancellation of this policy.
- (p) "Property Damage" means physical injury to, or destruction of tangible or intangible property, including the loss of use thereof, or the loss of use of tangible or intangible property, which has not been physically injured or destroyed.
- (q) "Related Wrongful Acts" means Wrongful Acts, which are the same, related or continuous, or Wrongful Acts, which arise from a common nucleus of facts. Claims can allege Related Wrongful Acts regardless of whether such Claims involve the same or different claimants, Insureds or legal causes of action.
- (r) "Subsidiary" means:
  - (1) any for-profit organization, whose securities are not publicly traded, which on or before the inception of the Policy Period is more than 50% owned by the Named Entity, either directly, or indirectly through one or more of its Subsidiaries;
  - (2) automatically any for-profit organization, whose securities are not publicly traded and whose assets total less than 25% of the total consolidated assets of the Company as of the inception date of this policy, which organization becomes a Subsidiary during the Policy Period. The Named Entity shall provide the Insurer with full particulars of the new Subsidiary before the end of the Policy Period; and



- (3) automatically any for-profit organization, whose securities are not publicly traded and whose assets total 25% or more than the total consolidated assets of the Company as of the inception date of this policy, but such entity shall be a Subsidiary only: (i) for a period of ninety (90) days from the date the organization became a Subsidiary; or (ii) until the end of the Policy Period, whichever ends or occurs first (hereinafter "Auto-Subsidiary Period");

provided that the Named Entity or any other Insured shall report such Subsidiary to the Insurer, in writing, prior to the end of the Policy Period.

The Insurer shall extend coverage for any Subsidiary described in (r)(3) above, and any Individual Insured thereof, beyond its respective Auto-Subsidiary Period if during such Auto-Subsidiary Period, the Named Entity shall have provided the Insurer with full particulars of the new Subsidiary and agreed to any additional premium and amendment of the provisions of this policy required by the Insurer relating to such Subsidiary. Further, coverage as shall be afforded to any Subsidiary and any Individual Insured thereof is conditioned upon the Named Entity paying when due any additional premium required by the Insurer relating to such Subsidiary.

An organization becomes a Subsidiary when the Named Entity owns more than a 50% ownership interest in such Subsidiary, either directly, or indirectly through one or more of its Subsidiaries. An organization ceases to be a Subsidiary when the Named Entity ceases to own more than 50% ownership interest in such Subsidiary, either directly, or indirectly through one or more of its Subsidiaries.

In all events, coverage as is afforded under this policy with respect to a Claim made against Individual Insureds of any Subsidiary, or any Subsidiary shall only apply for Wrongful Acts committed or allegedly committed after the effective time that such Subsidiary became a Subsidiary and prior to the time that such Subsidiary ceased to be a Subsidiary.

- (s) "Wrongful Act" means a Wrongful Act, as that term is defined within each Coverage Section.

### **3. EXTENSIONS**

Subject otherwise to the terms hereof, this policy shall cover Loss arising from any Claims made against the estates, heirs, or legal representatives of deceased Individual Insureds, and the legal representatives of Individual Insureds in the event of incompetency, insolvency or bankruptcy, who were Individual Insureds at the time the Wrongful Acts upon which such Claims are based were committed.

Subject otherwise to the terms hereof, this policy shall cover Loss arising from all Claims made against the lawful spouse (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) of an Individual Insured for all Claims arising solely out of his or her status as the spouse of an Individual Insured, including a Claim that seeks damages recoverable from marital community property, property jointly held by the Individual Insured and the spouse, or property transferred from the Individual Insured to the spouse; provided, however, that this extension shall not afford coverage for any Claim for any actual or alleged Wrongful Act of the spouse, but shall apply only to Claims arising out of any actual or alleged Wrongful Acts of an Individual Insured, subject to the policy's terms, conditions and exclusions.

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#### 4. EXCLUSIONS

The Insurer shall not be liable to make any payment for Loss in connection with any Claim made against an Insured:

- (a) arising out of, based upon or attributable to the gaining in fact of any profit or advantage to which an Insured was not legally entitled;
- (b) alleging, arising out of, based upon or attributable to the facts alleged, or to the same or Related Wrongful Act alleged or contained in any claim which has been reported, or in any circumstances of which notice has been given, under any policy of which this policy is a renewal or replacement or which it may succeed in time;
- (c) alleging, arising out of, based upon or attributable to as of the Continuity Date, any pending or prior: (1) litigation; or (2) administrative or regulatory proceeding or investigation of which an Insured had notice, or alleging any Wrongful Act which is the same or Related Wrongful Act to that alleged in such pending or prior litigation or administrative or regulatory proceeding or investigation;
- (d) for any actual, alleged or threatened discharge, dispersal, release or escape of pollutants; or for any direction or request to test, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants; provided, however, that with respect to the D&O Coverage Section only, that this exclusion shall not apply to any Claim brought by a securities holder of the Company in its capacity as such;

Pollutants include (but are not limited to) any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes (but is not limited to) materials to be recycled, reconditioned or reclaimed;

- (e) alleging, arising out of, based upon or attributable to, or in any way involving, directly or indirectly, Bodily Injury or Property Damage; provided, however, that with respect to the D&O Coverage Section only, that this exclusion shall not apply to any Securities Claim;
- (f) for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar provisions of any federal, state, local or foreign statutory law or common law; provided, however, that with respect to the EPL Coverage Section only, this exclusion shall not apply to:
  - (i) the Equal Pay Act; or
  - (j) Loss arising from a Claim for Retaliation;
- (g) alleging, arising out of, based upon or attributable to any obligation pursuant to any worker's compensation, disability benefits, or unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law; provided, however, that with respect to the EPL Coverage Section only, this exclusion shall not apply to Loss arising from a Claim for Retaliation.

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For the purpose of determining the applicability of the foregoing Exclusions 4(a), (d), (e) (f) and (g): (1) the facts pertaining to and knowledge possessed by any Insured shall not be imputed to any other Individual Insured; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer (or equivalent position) of the Company shall be imputed to the Company.

**5. LIMIT OF LIABILITY**

**AGGREGATE LIMIT OF LIABILITY (FOR ALL LOSS UNDER THIS POLICY COMBINED -INCLUDING DEFENSE COSTS)**

The Aggregate Limit of Liability stated in Item 4A of the Declarations is the maximum limit of the Insurer's liability for all Loss under all coverages combined, arising out of all Claims first made against the Insureds during the Policy Period and the Discovery Period (if applicable); however, the Aggregate Limit of Liability for the Discovery Period shall be part of, and not in addition to, the Aggregate Limit of Liability for the Policy Period. Further, a Claim which is made subsequent to the Policy Period or Discovery Period (if applicable) which pursuant to Clause 7(b) or 7(c) is considered made during the Policy Period or Discovery Period shall also be subject to the Aggregate Limit of Liability stated in Item 4A of the Declarations and subject to the applicable Separate Limits of Liability, if any.

If Separate Limits of Liability are stated in Items 4B and 4C of the Declarations, each such Separate Limit of Liability shall be the maximum limit of the Insurer's liability for all Loss, arising out of all Claims first made against the Insureds during the Policy Period and the Discovery Period (if applicable) with respect to the Coverage Section for which it is shown; however, the Separate Limit of Liability for the Discovery Period shall be part of, and not in addition to, the Separate Limit of Liability for the Policy Period. The Separate Limits of Liability shall be part of and not in addition to the Aggregate Limit of Liability for all Loss under this policy as stated in Item 4A of the Declarations and in no way shall serve to increase the Insurer's Limit of Liability as therein stated.

**Defense Costs are not payable by the Insurer in addition to the Aggregate Limit of Liability or Separate Limit of Liability, if any. Defense Costs are part of Loss and as such are subject to the Aggregate Limit of Liability for Loss and the applicable Separate Limit of Liability, if any. Amounts incurred for Defense Costs shall be applied against the Retention amount.**

**6. RETENTION CLAUSE**

The Insurer shall only be liable for the amount of Loss arising from a Claim which is in excess of the applicable Retention amount stated in Item 5 of the Declarations, such Retention amount to be borne by the Company and/or the Insureds and shall remain uninsured, with regard to: (i) all Indemnifiable Loss; and (ii) Loss of the Company. A single Retention amount shall apply to Loss arising from all Claims alleging the same Wrongful Act or Related Wrongful Acts. In the event a Claim triggers more than one amount stated in Item 5 of the Declarations, only the highest such amount shall apply, which amount shall apply to all Loss under such Claim.

**7. NOTICE/CLAIM REPORTING PROVISIONS**

**Notice hereunder shall be given in writing to the Insurer named in Item 8 of the Declarations at the address indicated in Item 8 of the Declarations. If mailed, the date of mailing shall constitute the date that such notice was given and**

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proof of mailing shall be sufficient proof of notice. A Claim shall be considered to have been first made against an Insured when written notice of such Claim is received by any Insured, by the Company on the behalf of any Insured or by the Insurer, whichever comes first.

- (a) The Company or the Insureds shall, as a condition precedent to the obligations of the Insurer under this policy, give written notice to the Insurer of any Claim made against an Insured as soon as practicable and either:
- (1) anytime during the Policy Period or during the Discovery Period (if applicable); or
  - (2) within 30 days after the end of the Policy Period or the Discovery Period (if applicable), as long as such Claim was first made against an Insured within the final 30 days of the Policy Period or the Discovery Period (if applicable).
- (b) If written notice of a Claim has been given to the Insurer pursuant to Clause 7(a) above, then any Claim which is subsequently made against the Insureds and reported to the Insurer alleging a Related Wrongful Act to the Claim for which such notice has been given shall be considered made at the time such notice was given.
- (c) If during the Policy Period or during the Discovery Period (if applicable), the Company or the Insureds shall become aware of any circumstances which may reasonably be expected to give rise to a Claim being made against the Insureds and shall give written notice to the Insurer of the circumstances and the reasons for anticipating such a Claim, with full particulars as to dates, persons and entities involved, then any Claim which is subsequently made against the Insureds and reported to the Insurer alleging, arising out of, based upon or attributable to such circumstances or alleging any Related Wrongful Act to such circumstances, shall be considered made at the time such notice of such circumstances was given.
- (d) All Claims asserted in a Class Action Suit will be treated as arising out of the same or Related Wrongful Act.

**8. DEFENSE COSTS, SETTLEMENTS, JUDGMENTS (INCLUDING THE ADVANCEMENT OF DEFENSE COSTS)**

The Insurer does not assume any duty to defend. The Insureds shall defend and contest any Claim made against them.

Notwithstanding the foregoing, the Insureds shall have the right to tender the defense of the Claim to the Insurer, which right shall be exercised in writing by the Named Entity on behalf of all Insureds to the Insurer pursuant to the notice provisions of Clause 7 of these General Terms and Conditions. This right shall terminate if not exercised within 30 days of the date the Claim is first made against an Insured, pursuant to Clause 7 of these General Terms and Conditions. Further, from the date the Claim is first made against the Insureds to the date when the Insurer accepts the tender of the defense of such Claim, the Insureds shall take no action, or fail to take any required action, that prejudices the rights of the Insureds or the Insurer with respect to such Claim. Provided that the Insureds have complied with the foregoing, the Insurer shall be obligated to assume the defense of the Claim, even if such Claim is groundless, false or fraudulent. The assumption of the defense of the Claim shall be effective upon written confirmation sent thereof

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by the Insurer to the Named Entity. Once the defense has been so tendered, the Insured shall have the right to effectively associate with the Insurer in the defense and negotiation of any settlement of any Claim, subject to the provisions of this Clause 8. However, the Insurer shall not be obligated to defend such Claim after the applicable Limit of Liability has been exhausted, or after an Insured's rejection of a Settlement Opportunity as defined in this Clause 8.

When the Insurer has not assumed the defense of a Claim pursuant to this Clause 8, the Insurer shall advance nevertheless, at the written request of the Insured, Defense Costs prior to the final disposition of a Claim. Such advanced payments by the Insurer shall be repaid to the Insurer by the Insureds or the Company, severally according to their respective interests, in the event and to the extent that the Insureds or the Company shall not be entitled under the terms and conditions of this policy to payment of such Loss.

**The Insureds shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any Defense Costs without the prior written consent of the Insurer. Only those settlements, stipulated judgments and Defense Costs, which have been consented to by the Insurer, in writing, shall be recoverable as Loss under the terms of this policy. The Insurer's consent shall not be unreasonably withheld, provided that the Insurer, when it has not assumed the defense of a Claim pursuant to this Clause 8, shall be entitled to effectively associate in the defense and negotiation of any settlement of any Claim, and provided further that in all events the Insurer may withhold consent to any settlement, stipulated judgment or Defense Costs, or any portion thereof, to the extent such loss is not covered under the terms of this policy.**

The Insurer shall have the right to effectively associate with the Company in the defense of any Claim that appears reasonably likely to involve the Insurer, including but not limited to negotiating a settlement. The Company and the Insureds shall give the Insurer full cooperation and such information as it may reasonably require.

If the Insurer recommends a settlement within the policy's applicable Limit of Liability which is acceptable to the claimant (a "Settlement Opportunity"), and the Insureds consent to such settlement, then the Insureds' applicable retention amount shall be retroactively reduced by ten percent (10%) for such Loss. It shall be a condition to such reduction that the Insureds must consent to such settlement within thirty (30) days of the date the Insureds are first made aware of the Settlement Opportunity, or in the case of a Settlement Opportunity which arises from a settlement offer by the claimants, then within the time permitted by the claimant to accept such settlement offer, but in all events no later than thirty (30) days after the settlement offer was made.

However, if a Settlement Opportunity arises and the Insureds do not consent to the settlement within the time prescribed above, the Retention amount shall remain the applicable amount set forth in Item 5 of the Declarations even if consent is given to a subsequent Settlement Opportunity.

Furthermore, in the event the Insureds do not consent to the first Settlement Opportunity within the time prescribed, then, subject to the applicable Limit of Liability, the Insurer's liability for all Loss on account of such Claim shall not exceed: (1) the amount for which the Insurer could have settled such Claim, plus Defense Costs incurred as of the date such settlement was proposed in writing by the



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Insurer, ("Settlement Opportunity Amount"), plus (2) 50% of covered Loss in excess of such Settlement Opportunity Amount, it being a condition of this insurance that the remaining 50% of such Loss excess of the Settlement Opportunity Amount shall be carried by the Company and the Insureds at their own risk and be uninsured. Notwithstanding the foregoing, this paragraph shall not apply until the Settlement Opportunity Amount exceeds the Retention amount stated in Item 5 of the Declarations.

**9. PRE-AUTHORIZED DEFENSE ATTORNEYS**

This clause applies to all Claims under this policy. Affixed as Appendix A hereto and made a part of this policy is a list or lists of Panel Counsel law firms (herein "Panel Counsel Firms") from which a selection of legal counsel shall be made to conduct the defense of any Claim(s) against any Insured(s) pursuant to the terms set forth below.

In the event the Insurer has assumed the defense pursuant to Clause 8 of these General Terms and Conditions, then the Insurer shall select a Panel Counsel Firm to defend the Insureds. In the event the Insureds are already defending a Claim, then the Insureds shall select a Panel Counsel Firm to defend the Insureds.

The selection of the Panel Counsel Firm, whether done by the Insurer or the Insureds, shall be from the list of Panel Counsel Firms designated for the type of Claim and be from the jurisdiction in which the Claim is brought. In the event a Claim is brought in a jurisdiction not included on the appropriate list, the selection shall be made from a listed jurisdiction which is the nearest geographic jurisdiction to either where the Claim is maintained or where the corporate headquarters or state of formation of the Named Entity is located. In such instance, however, the Insurer shall, at the written request of the Named Entity assign a non-Panel Counsel Firm of the Insurer's choice in the jurisdiction in which the Claim is brought to function as "local counsel" on the Claim to assist the Panel Counsel Firm, which will function as "lead counsel" in conducting the defense of the Claim.

With the express prior written consent of the Insurer, an Insured may select (in the case of the Insured defending the Claim), or cause the Insurer to select (in the case of the Insurer defending the Claim), a Panel Counsel Firm different from that selected by other Insured defendants if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable.

The list of Panel Counsel Firms may be amended from time to time by the Insurer. However, no change shall be made to the specific list attached to this policy during the Policy Period without the consent of the Named Entity.

**10. DISCOVERY CLAUSE**

Except as indicated below, if the Named Entity shall cancel or the Named Entity or the Insurer shall refuse to renew this policy, the Named Entity shall have the right to a period of either one, two or three years following the effective date of such cancellation or nonrenewal upon payment of the respective "Additional Premium Amount" described below (herein referred to as the "Discovery Period") in which to give to the Insurer written notice of Claims first made against the Insureds during said Discovery Period for any Wrongful Act occurring prior to the end of the Policy Period and otherwise covered by this policy. The rights contained in this paragraph shall terminate, however, unless written notice of such election together with the additional premium due is received by the Insurer within 30 days of the effective date of cancellation or nonrenewal.

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Notwithstanding the first paragraph of Clause 5 of these General Terms and Conditions, if the Named Entity gives notice of its intention to cancel or the Named Entity or the Insurer non-renew this policy, then the Named Entity shall also have the right, within 60 days before the end of the Policy Period, to request an offer from the Insurer of a Discovery Period (with respect to Wrongful Acts occurring prior to the end of the Policy Period) for a period of one, two or three years with an aggregate limit of liability applicable to Claims made against the Insured during such Discovery Period which is in addition to, and not part of, the Aggregate Limit of Liability set forth in Item 4A of the Declarations. The Insurer shall quote such a Discovery Period pursuant to such terms, conditions, exclusions and additional premium, as it deems appropriate in its' sole and absolute discretion.

The Additional Premium Amount for: (1) one year shall be 75% of the "full annual premium"; (2) two years shall be 150% of the "full annual premium"; and (3) three years shall be a reasonable premium amount to be mutually agreed upon by the Named Entity and the Insurer. As used herein, "full annual premium" means the premium level in effect immediately prior to the end of the Policy Period.

In the event of a Transaction, as defined in Clause 12 of these General Terms and Conditions, the Named Entity shall have the right, within 30 days before the end of the Policy Period, to request an offer from the Insurer of a Discovery Period (with respect to Wrongful Acts occurring prior to the effective time of the Transaction) for a period of no less than three years or for such longer or shorter period as the Named Entity may request. The Insurer shall offer such Discovery Period pursuant to such terms, conditions and premium as the Insurer may reasonably decide. In the event of a Transaction, the right to a Discovery Period shall not otherwise exist except as indicated in this paragraph.

The Additional Premium for the Discovery Period shall be fully earned at the inception of the Discovery Period. The Discovery Period is not cancelable, except for non-payment of premium. This clause and the rights contained herein shall not apply to any cancellation resulting from non-payment of premium.

#### **11. CANCELLATION CLAUSE**

This policy may be canceled by the Named Entity at any time only by mailing written prior notice to the Insurer or by surrender of this policy to the Insurer or its authorized agent; provided, however, that the Named Entity may not cancel this policy if the Policy Period as set forth in Item 2 of the Declarations is twenty-four (24) months or longer.

This policy may be canceled by or on the behalf of the Insurer only in the event of nonpayment of premium by the Named Entity. In the event of non-payment of premium by the Named Entity, the Insurer may cancel this policy by delivering to the Named Entity or by mailing to the Named Entity, by registered, certified, or other first class mail, at the Named Entity's address as shown in Item 1(a) of the Declarations, written notice stating when, not less than 30 days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice. The Policy Period terminates at the date and hour specified in such notice, or at the date and time of surrender. The Insurer shall have the right to the premium amount for the portion of the Policy Period during which the policy was in effect.

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If this policy shall be canceled by the Named Entity, the Insurer shall retain the customary short rate proportion of the premium herein.

If the period of limitation relating to the giving of notice as set forth above is also set forth in any law controlling the construction thereof, the period set forth above shall be deemed to be amended so as to be equal to the minimum period of limitation set forth in the controlling law.

## **12. CHANGE IN CONTROL OF NAMED ENTITY**

If during the Policy Period:

- a. the Named Entity shall consolidate with or merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or
- b. any person or entity or group of persons or entities acting in concert shall acquire an amount of the outstanding securities representing more than 50% of the voting power for the election of directors of the Named Entity, or acquires the voting rights of such an amount of such securities;

(either of the above events herein referred to as the "Transaction"),

then this policy shall continue in full force and effect as to Wrongful Acts occurring prior to the effective time of the Transaction, but there shall be no coverage afforded by any provision of this policy for any actual or alleged Wrongful Act occurring after the effective time of the Transaction. This policy may not be canceled after the effective time of the Transaction and the entire premium for this policy shall be deemed earned as of such time. The Named Entity shall also have the right to an offer by the Insurer of a Discovery Period described in Clause 10 of these General Terms and Conditions.

The Named Entity shall give the Insurer written notice of the Transaction as soon as practicable, but not later than 30 days after the effective date of the Transaction.

## **13. SUBROGATION**

In the event of any payment under this policy, the Insurer shall be subrogated to the extent of such payment to all the Insureds' rights of recovery thereof, and the Insureds shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Insurer to effectively bring suit in the name of the Insureds. In no event, however, shall subrogation be had against any Insured under this policy, unless such Insured has been convicted of a criminal act, or been determined to have committed a dishonest, fraudulent act or willful violation of any statute, rule or law, or obtained any profit or advantage to which such Insured was not legally entitled.

## **14. OTHER INSURANCE**

Such insurance as is provided by this policy shall apply only as excess over any other valid and collectible insurance. This policy specifically shall be excess of any other policy pursuant to which any other insurer has a duty to defend a Claim for which this policy may be obligated to pay Loss.



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In the event of a Claim against an Insured arising out of his or her service as an Outside Entity Executive; or a Claim against an Insured for the Insured's liability with respect to a leased Employee as described in definition (g) of these General Terms and Conditions, coverage as is afforded by this policy shall be specifically excess of indemnification provided by such Outside Entity or such leasing company and any insurance provided to such Outside Entity or such leasing company.

Further, in the event other insurance is provided to the Outside Entity or leasing company referenced in the above paragraph, or is provided under any pension trust or employee benefit plan fiduciary liability insurance policy, and such other insurance is provided by the Insurer or any member company of American International Group, Inc. (AIG) (or would be provided but for the application of the retention amount, exhaustion of the limit of liability or failure to submit a notice of a Claim), then the Insurer's maximum aggregate Limit of Liability for all Losses combined in connection with a Claim covered, in part or in whole, by this policy and such other insurance policy issued by AIG shall not exceed the greater of the Limit of Liability of this policy or the limit of liability of such other AIG insurance policy.

**15. NOTICE AND AUTHORITY**

It is agreed that the Named Entity shall act on behalf of its Subsidiaries and all Insureds with respect to the giving of notice of a Claim, the giving and receiving of notice of cancellation, the payment of premiums and the receiving of any return premiums that may become due under this policy, the receipt and acceptance of any endorsements issued to form a part of this policy, the exercising or declining of the right to tender the defense of a Claim to the Insurer and the exercising or declining to exercise any right to a Discovery Period.

**16. ASSIGNMENT**

This policy and any and all rights hereunder are not assignable without the prior written consent of the Insurer.

**17. DISPUTE RESOLUTION PROCESS**

The Insured shall have the option, in its sole discretion, to submit all disputes or differences which may arise under or in connection with this policy, whether arising before or after termination of this policy, including any determination of the amount of Loss, to the alternative dispute resolution process ("ADR") set forth in this clause.

The Insureds may elect the type of ADR discussed below. The Insurer agrees to submit to the ADR process chosen by the Insured. Once elected, the ADR cannot be terminated prior to a determination without consent of the Insured and the Insurer.

There shall be two choices of ADR: (1) non-binding mediation administered by the American Arbitration Association, in which the Insurer and Insureds shall try in good faith to settle the dispute by mediation under or in accordance with its then-prevailing Commercial Mediation Rules; or (2) arbitration submitted to the American Arbitration Association under or in accordance with its then-prevailing Commercial Arbitration Rules, in which the arbitration panel shall be composed of three disinterested individuals. In either mediation or arbitration, the mediator(s) or arbitrators shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. The mediator(s) or arbitrators shall also give due consideration to the general principles of the law of the state where the Named Entity is incorporated or formed in the construction or interpretation of the provisions of this policy; provided, however, that the terms, conditions, provisions

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and exclusions of this policy are to be construed in an even-handed fashion in the manner most consistent with the relevant terms, conditions, provisions or exclusions of the policy. In the event of arbitration, the decision of the arbitrators shall be final and binding and provided to both parties, and the arbitrators' award shall not include attorney's fees or other costs. In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least 120 days shall have elapsed from the date of the termination of the mediation. In all events, each party shall share equally the expenses of the ADR.

Either choice of ADR may be commenced in either New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state indicated in Item 1(a) of the Declarations as the mailing address for the Named Entity. The Named Entity shall act on behalf of all Insureds in deciding to proceed with ADR under this clause.

**18. ACTION AGAINST INSURER**

Except as provided in Clause 17 above, no action shall lie against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, not until the amount of the Insureds' obligation to pay shall have been finally determined either by judgment against the Insureds after actual trial or by written agreement of the Insureds, the claimant and the Insurer.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Insurer as a party to any action against the Insureds or the Company to determine the Insureds' liability, nor shall the Insurer be impleaded by the Insureds or the Company or their legal representatives. Bankruptcy or insolvency of the Company or the Insureds or of their estates shall not relieve the Insurer of any of its obligations hereunder.

**19. WORLDWIDE TERRITORY**

Where legally permissible, this policy shall apply to Claims for Wrongful Acts made against an Insured anywhere in the world.

**20. HEADINGS**

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

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**DIRECTORS, OFFICERS AND PRIVATE COMPANY LIABILITY  
COVERAGE SECTION ONE**

In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer by application, including its attachments and the material incorporated therein, which form a part of this policy, the Insurer agrees as follows:

**1. INSURING AGREEMENTS**

**COVERAGE A: INDIVIDUAL INSURED INSURANCE**

This policy shall pay the Loss of each and every Director, Officer, Outside Entity Executive and Employee of the Company arising from a Claim first made against such Individual Insureds during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any actual or alleged Wrongful Act in their respective capacities as Directors, Officers, Outside Entity Executives and Employees of the Company, except when and to the extent that the Company has indemnified such Individual Insureds. The Insurer shall, in accordance with Clause 8 of the General Terms and Conditions, advance Defense Costs of such Claim prior to its final disposition.

**COVERAGE B: PRIVATE COMPANY INSURANCE**

This policy shall pay the Loss of the Company arising from a:

- (i) Claim first made against the Company, or
- (ii) Claim first made against an Individual Insured,

during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any actual or alleged Wrongful Act, but, in the case of (ii) above, only when and to the extent that the Company has indemnified the Individual Insured for such Loss pursuant to law, common or statutory, or contract, or the charter or by-laws of the Company duly effective under such law which determines and defines such rights of indemnity. The Insurer shall, in accordance with Clause 8 of the General Terms and Conditions, advance Defense Costs of such Claim prior to its final disposition.

**2. DEFINITIONS**

(a) "Claim" means:

- (1) a written demand for monetary, non-monetary or injunctive relief (including any request to toll or waive any statute of limitations); or
- (2) a civil, criminal, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by:
  - (i) service of a complaint or similar pleading; or
  - (ii) return of an indictment, information or similar document (in the case of a criminal proceeding); or
  - (iii) receipt or filing of a notice of charges.

The term "Claim" shall include a Securities Claim.

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- (b) "Individual Insured(s)" means any:
- (1) Director(s) or Officer(s);
  - (2) Employees of the Company; and
  - (3) Outside Entity Executive.
- (c) "Insured(s)" means:
- (1) an Individual Insured(s); and
  - (2) the Company.
- (d) "Loss" means damages, judgments, settlements, pre-judgment and post-judgment interest on that part of any judgment paid under this Coverage Section, and Defense Costs; however, Loss shall not include: (1) civil or criminal fines or penalties; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes; (5) any amount for which the Insureds are not financially liable or which are without legal recourse to the Insureds; and (6) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.
- (e) "Securities Claim" means a Claim made against any Insured:
- (1) alleging a violation of any federal, state, local or foreign regulation, rule or statute regulating securities (including but not limited to the purchase or sale or offer or solicitation of an offer to purchase or sell securities) which is:
    - (i) brought by any person or entity alleging, arising out of, based upon or attributable to the purchase or sale or offer or solicitation of an offer to purchase or sell any securities of the Company; or
    - (ii) brought by a security holder of the Company with respect to such security holder's interest in securities of the Company; or
  - (2) brought derivatively on the behalf of the Company by a security holder of the Company.
- (f) "Wrongful Act" means any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act:
- (1) with respect to Individual Insureds, by such Individual Insureds in his or her capacity as such, or any matter claimed against such Individual Insured solely by reason of his or her status as Directors, Officers, Outside Entity Executives or Employees of the Company;
  - (2) with respect to Coverage B(i), by the Company.

### 3. EXCLUSIONS

The Insurer shall not be liable to make any payment for Loss in connection with a Claim made against an Insured:

- (a) arising out of, based upon or attributable to the committing in fact of any criminal, fraudulent or dishonest act;

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- (b) arising out of, based upon or attributable to: (1) profits in fact made from the purchase or sale by an Insured of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any state statutory law; or (2) payments to an Insured of any remuneration without the previous approval of the stockholders of the Company, which payment without such previous approval shall be held to have been illegal;
- (c) alleging, arising out of, based upon, or attributable to, directly or indirectly resulting from, in consequence of, or in any way involving, employment of any individual or any employment practice (including but not limited to wrongful dismissal, discharge or termination, discrimination, harassment, retaliation or other employment-related claim);
- (d) alleging, arising out of, based upon or attributable to any actual or alleged act or omission of an Insured serving in any capacity, other than as a Director, Officer, Outside Entity Executive or Employee of the Company;
- (e) for any Wrongful Act arising out of an Individual Insured serving in a capacity as an Outside Entity Executive, if such Claim is brought by the Outside Entity or a director, officer, trustee or governor thereof;
- (f) alleging, arising out of, based upon or attributable to the purchase by the Company of securities of a "publicly traded entity" in a transaction which resulted, or would result, in such entity becoming an Affiliate or Subsidiary of the Company; provided, however, this exclusion shall not apply in the event that within 30 days prior to it becoming an Affiliate or Subsidiary, the Named Entity gives written notice of the transaction to the Insurer together with full particulars and underwriting information required and agrees to any additional premium or amendment of the provisions of this policy required by the Insurer relating to the transaction. Further, coverage as shall be afforded to the transaction is conditioned upon the Named Entity paying when due any additional premium required by the Insurer relating to the transaction. An entity is a "publicly traded entity" if any securities of such entity have previously been subject to a public offering;
- (g) with respect to Coverage B(i) only:
  - (1) for any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark, trade secret or any other intellectual property rights;
  - (2) for any actual or alleged violation of any law, whether statutory, regulatory or common law, respecting any of the following activities: anti-trust, business competition, unfair trade practices or tortious interference in another's business or contractual relationships;
  - (3) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of any Insured under any contract or agreement (either oral or written);
  - (4) seeking fines or penalties or non-monetary relief against the Company;
  - (5) for the rendering or failure to render any service to a customer or client of the Insured;

Provided, however, that exclusions (g)(4) and (g)(5) shall not apply to any Securities Claim.

- (h) for emotional distress, or for injury from libel or slander, or defamation or disparagement, or for injury from a violation of a person's right of privacy; provided, however, that this exclusion shall not apply to any Securities Claim;
- (i) which is brought by any Insured; or which is brought by any security holder of the Company, whether directly or derivatively, unless such security holder's Claim is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any Insured. This exclusion, however, shall not apply to any Claim brought by an Individual Insured where such Claim is in the form of a cross-claim or third-party claim for contribution or indemnity which is part of and results directly from a Claim which is not otherwise excluded by the terms of this policy;
- (j) alleging, arising out of, based upon or attributable to any public offering of securities by the Company, an Outside Entity or an Affiliate or alleging a purchase or sale of such securities subsequent to such public offering;

provided, however, that this exclusion shall not apply to:

- (1) any purchase or sale of securities exempted pursuant to section 3(b) of the Securities Act of 1933. Coverage for such purchase or sale transaction shall not be conditioned upon payment of any additional premium; however, the Named Entity shall give the Insurer written notice of any public offering exempted pursuant to section 3(b), together with full particulars and as soon as practicable, but not later than 30 days after the effective date of the public offering;
- (2) any public offering of securities (other than a public offering described in paragraph (1) above), as well as any purchase or sale of such securities subsequent to such public offering, in the event that within thirty (30) days prior to the effective time of such public offering: (i) the Named Entity shall give the Insurer written notice of such public offering together with full particulars and underwriting information required thereto and (ii) the Named Entity accepts such terms, conditions and additional premium required by the Insurer for such coverage. Such coverage is also subject to the Named Entity paying when due any such additional premium. In the event the Company gives written notice with full particulars and underwriting information pursuant to (i) above, then the Insurer must offer a quote for coverage under this paragraph.

For the purpose of determining the applicability of the foregoing Exclusions, other than exclusion (i): (1) the facts pertaining to and knowledge possessed by any Insured shall not be imputed to any other Individual Insured; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer (or equivalent positions) of the Company shall be imputed to the Company.

**EMPLOYMENT PRACTICES LIABILITY  
COVERAGE SECTION TWO**

In consideration of the payment of the premium, and in reliance upon the statements made to the Insurer by application, including its attachments and the material incorporated therein, which form a part of this policy, the Insurer agrees as follows:

**1. INSURING AGREEMENTS**

This policy shall pay the Loss of each and every Insured arising from a Claim first made against such Insured during the Policy Period or the Discovery Period (if applicable) and reported to the Insurer pursuant to the terms of this policy for any actual or alleged Wrongful Act against an Employee(s) of the Company. The Insurer shall, in accordance with Clause 8 of the General Terms and Conditions advance Defense Costs of such Claim prior to its final disposition.

**2. DEFINITIONS**

(a) "Claim" means:

- (1) a written demand for monetary relief; or
- (2) a civil, administrative, regulatory or arbitration proceeding for monetary relief, which is commenced by:
  - (i) service of a complaint or similar pleading; or
  - (ii) receipt or filing of a notice of charges.

The term Claim shall include an Equal Employment Opportunity Commission ("EEOC"), Department of Labor ("DOL") or Office of Federal Contract Compliance Program ("OFCCP") (or similar federal, state or local agency) proceeding or investigation commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to the Insured.

However, in no event, shall the term Claim include any labor or grievance proceeding, which is subject to a collective bargaining agreement.

- (b) "Class Action Suit" means any suit seeking certification or that is certified as a class action by a federal or state court.
- (c) "Individual Insured(s)" means any Director, Officer or Employee of the Company.
- (d) "Insured(s)" means:
  - (1) an Individual Insured; and
  - (2) the Company.
- (e) "Loss" means damages (including front pay and back pay), judgments, settlements, pre-judgment and post-judgment interest on that part of any judgment paid under this Coverage Section, statutory attorneys fees and Defense Costs; however, Loss shall not include: (1) civil or criminal fines or penalties imposed by law; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes; (5) any amount for which the Insureds are not financially liable or which are without legal recourse to

the Insureds; (6) employment-related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation; or (7) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.

- (f) "Retaliation" means a Wrongful Act of an Insured alleged to be in response to, the actual or attempted exercise by an Employee of any right that such Employee has under the law. Provided, however, Retaliation shall not include the Wrongful Act of an Insured alleged to be in response to the threat of or the actual filing of any claim or litigation under the Federal False Claims Act or any other federal state, local or foreign Whistleblower Law.
- (g) "Whistleblower Law" means a statute, rule or regulation, which protects an employee against discrimination from his or her employer, if the employee discloses or threatens to disclose to a superior or any governmental agency, or who gives testimony relating to, any action with respect to the employer's operations, which may be a violation of public policy as reflected in legislation, administrative rules, regulations or decisions, judicial decisions and professional codes of ethics.
- (h) "Wrongful Act(s)" means any actual or alleged:
1. wrongful dismissal, discharge or termination (either actual or constructive), including breach of an implied contract;
  2. harassment (including sexual harassment, whether "quid pro quo", hostile work environment or otherwise);
  3. discrimination (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy, or disability);
  4. Retaliation (including lockouts);
  5. employment-related misrepresentation(s) to an Employee or applicant for employment with the Company;
  6. wrongful failure to employ or promote;
  7. employment-related libel, slander, humiliation, defamation or invasion of privacy;
  8. wrongful deprivation of career opportunity, wrongful demotion or negligent Employee evaluation, including the giving of negative or defamatory statements in connection with an Employee reference;
  9. wrongful discipline;
  10. failure to grant tenure;
  11. With respect to any of the foregoing items (1) through (10) of this definition: negligent hiring, retention, training or supervision, infliction of emotional distress, mental anguish, failure to provide or enforce adequate or consistent corporate policies and procedures, or violation of an individual's civil rights.

### 3. EXCLUSIONS

The Insurer shall not be liable to make any payment for Loss in connection with a Claim made against an Insured:



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- (a) arising out of, based upon or attributable to the committing in fact of any dishonest, fraudulent, criminal, or malicious act;
- (b) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of any Insured under any express contract or agreement. This exclusion, however, shall not apply to:
  - (i) the extent any liability does not arise under such express contract or agreement;
  - (ii) Loss constituting Defense Costs;
- (c) which is brought by any Insured. This exclusion, however, shall not apply to a Claim brought by an Employee of the Company, other than an Employee who is or was a Director of the Company;
- (d) seeking any non-monetary relief, including but not limited to: (1) injunctive relief; (2) declaratory relief; (3) disgorgement; (4) job reinstatement; (5) costs or expenses incurred in accommodating any disabled person, pursuant to the Americans with Disabilities Act of 1990 (ADA), including amendments to that law or similar federal, state or local statutory or common law; (6) any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar relating to a Claim alleging a Wrongful Act(s); and (7) other equitable remedies, including as to all of the above, the cost of compliance therewith; provided, however, if such request for non-monetary relief is part of an otherwise covered Claim, the Insurer will not seek to allocate Defense Costs for the portion of the Claim seeking non-monetary relief;
- (e) alleging, arising out of, based upon or attributable to any actual or alleged act or omission of an Insured serving in any capacity, other than as a Director, Officer or Employee of the Company;
- (f) alleging, arising out of, based upon or attributable to any offering of securities or alleging a purchase or sale of such securities subsequent to such offering.

For the purpose of determining the applicability of the foregoing Exclusions, other than exclusion (c): (1) the facts pertaining to and knowledge possessed by any Insured shall not be imputed to any other Individual Insured; and (2) only facts pertaining to and knowledge possessed by any past, present or future chairman of the board, president, chief executive officer, chief operating officer, chief financial officer (or equivalent positions) of the Company shall be imputed to the Company.

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APPENDIX A  
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 Gloria Portella (713) 225-2300

Thompson & Knight LLP  
 1700 Pacific Avenue, Suite 3300  
 Dallas, TX 75201-4693  
 Contact:  
 Timothy R. McCormick, Esq. (214) 969-1700  
 Stephen F. Fink, Esq.

**Utah**

Christenson & Jensen PC  
 50 South Main Street, Suite 1500  
 Salt Lake City, UT 84101  
 Contact:  
 Phillip S. Ferguson, Esq. (801) 355-3431

**Vermont**

Cleary Shahi Associates  
 110 Merchants Row  
 Post Office Box 6740  
 Rutland, VT 05702  
 Contact:  
 David L. Cleary, Esq. (802) 775-8800

**Virginia**

Gentry, Locke, Rakes & Moore  
 Post Office Box 40013  
 Roanoke, VA 24022-0013  
 Contact:  
 W. David Paxton, Esq. (540) 983-9300

Greenberg Traurig  
 1750 Tysons Boulevard, 12th Floor,  
 Tysons Corner, VA 22102  
 Contact:  
 Lewis B. Gardner (703) 749-1300

APPENDIX A  
EMPL \_\_\_\_\_MENT PRACTICES LIABILITY PANEL C \_\_\_\_\_NSEL LIST

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

McGuire, Woods, Battle & Boothe  
One James Center  
901 East Cary Street  
Richmond, VA 23219  
Contact:  
Stephen D. Busch, Esq. (804) 775-1000

Washington

Cozen & O'Connor  
1201 Third Avenue, Suite 5200  
Seattle, WA 98101  
Contact:  
Thomas M. Jones, Esq. (206) 340-1000

Lane, Powell, Spears & Lubersky LLP  
1420 Fifth Avenue, Suite 4100  
Seattle, WA 98101-2338  
Contact:  
James B. Stoetzer, Esq. (206) 223-7019

Littler Mendelson  
First Interstate Center  
999 3rd Avenue, Suite 3901  
Seattle, WA 98104  
Local Contact:  
Michael M. Droke, Esq. (206) 623-3300

West Virginia

Stephoe & Johnson  
Bank One National Center East  
Post Box 2190  
Clarksburg, WV 26302-2190  
Contact:  
C. David Morrison, Esq. (304) 624-8000

Wisconsin

Melli, Walker, Pease & Ruhly SC  
Ten East Doty #900  
Madison, WI 53703  
Contact:  
Jack D. Walker, Esq. (608) 257-4812

Law Offices of Scott G. Thomas  
411 East Wisconsin Centre, 10th Floor  
Milwaukee, WI 53202  
Contact:  
Scott G. Thomas, Esq. (414) 291-7680

Wyoming

Hirst & Applegate  
1720 Carey Avenue, Suite 200  
Cheyenne, WY 82001  
Contact:  
Thomas A. Nicholas, Esq. (307) 632-0541

ENDORSEMENT# 1

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

This endorsement, effective 12:01 am April 14, 2001  
policy number 872-99-99  
issued to *IVIEWIT HOLDINGS, INC*

forms a part of

by *American Home Assurance Company*

**PROFESSIONAL ERRORS & OMISSIONS EXCLUSION  
(WITH SHAREHOLDER CARVE-OUT)**

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable to make any payment for Loss in connection with any Claim(s) made against any Insured(s) alleging, arising out of, based upon or attributable to any Insured(s)' performance of or failure to perform professional services, or any act(s), error(s) or omission(s) relating thereto.

Notwithstanding the foregoing, it is further understood and agreed that this endorsement shall not apply to any Claim(s) brought by a shareholder of the Company in the form of a shareholder class, direct or derivative action alleging failure to supervise those who performed or failed to perform such professional services, provided that such shareholder action is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, the Company or any Insured(s).

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

---

AUTHORIZED REPRESENTATIVE

**COPY**

ENDORSEMENT# 2

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

This endorsement, effective 12:01 am April 14, 2001  
policy number 872-99-99  
issued to *IVIEWIT HOLDINGS, INC*

forms a part of

by *American Home Assurance Company*

**COMMISSIONS EXCLUSION**

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable to make any payment for Loss in connection with any Claim(s) made against any Insured(s) alleging, arising out of, based upon, or attributable to:

- (i) Payments, commissions, gratuities, benefits or any other favors to or for the benefit of any full or part-time domestic or foreign government or armed services officials, agents, representatives, employees or any members of their family or any entity with which they are affiliated; or
- (ii) Payments, commissions, gratuities, benefits or any other favors to or for the benefit of any full or part-time officials, directors, agents, partners, representatives, principal shareholders, or owners or employees, or "affiliates" (as that term is defined in The Securities Exchange Act of 1934, including any officers, directors, agents, owners, partners, representatives, principal shareholders or employees of such affiliates) of any customers of the company or any members of their family or any entity with which they are affiliated; or
- (iii) Political contributions, whether domestic or foreign.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

---

AUTHORIZED REPRESENTATIVE



ENDORSEMENT# 3

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

This endorsement, effective *12:01 am April 14, 2001* forms a part of  
policy number *872-99-99*  
issued to *IVIEWIT HOLDINGS, INC*

by *American Home Assurance Company*

**CAPTIVE INSURANCE COMPANY EXCLUSION**

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable to make any payments for Loss in connection with any Claim(s) made against any Insured(s) alleging, arising out of, based upon, or attributable to the ownership, management, maintenance, operation and/or control by the Company of any captive insurance company or entity, including but not limited to Claim(s) alleging the insolvency or bankruptcy of the Named Entity as a result of such ownership, operation, management and control.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

---

AUTHORIZED REPRESENTATIVE

**COPY**

ENDORSEMENT# 4

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

This endorsement, effective 12:01 am April 14, 2001  
policy number 872-99-99  
issued to *IVIEWIT HOLDINGS, INC*

forms a part of

by *American Home Assurance Company*

**NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT  
(BROAD FORM)**

In consideration of the premium charged, it is hereby understood and agreed that the Insurer shall not be liable to make any payment for Loss in connection with any Claim(s) made against any Insured(s):

- A. alleging, arising out of, based upon, attributable to, or in any way involving, directly or indirectly the hazardous properties of nuclear material, including but not limited to:
- (1) nuclear material located at any nuclear facility owned by, or operated by or on behalf of, the Company, or discharged or dispersed therefrom; or
  - (2) nuclear material contained in spent fuel or waste which was or is at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of the Company; or
  - (3) the furnishing by an Insured or the Company of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; or
  - (4) claims for damages to the company or its shareholders which alleges, arises from, is based upon, is attributed to or in any way involves, directly or indirectly, the hazardous properties of nuclear material.
- B. (1) which is insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability underwriters, or Nuclear Insurance Association of Canada, or would be insured under any such policy but for its termination or exhaustion of its Limit of Liability; or,
- (2) with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the Insured is, or had this policy not been issued would be entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into the United States of America, or any agency thereof, with any person or organization.

As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or byproduct material;

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COPY OF POLICY**

"source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"nuclear facility" means:

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

---

AUTHORIZED REPRESENTATIVE

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

This endorsement, effective *12:01 am April 14, 2001*  
policy number *872-99-99*  
issued to *IVIEWIT HOLDINGS, INC*

forms a part of

by *American Home Assurance Company*

FLORIDA  
AMENDATORY ENDORSEMENT

Wherever used in this endorsement: 1) "we", "us", "our", and "Insurer" means the insurance company which issued this policy; and 2) "you", "your", "named Insured", "First Named Insured", and "Insured" mean the Named Corporation, Named Organization, Named Sponsor, Named Insured, or Insured stated in the declarations page; and 3) "Other Insured(s)" means all other persons or entities afforded coverage under the policy.

CANCELLATION/NONRENEWAL

It is hereby agreed and understood that the cancellation provision of this policy is to be deleted in its entirety and to be replaced with the following:

A. The Insured shown in the Declarations may cancel this policy by mailing or delivering to the Insurer advance written notice of cancellation.

B.1. Cancellation for Policies in Effect Ninety (90) Days or Less

If this policy has been in effect ninety (90) days or less the Insurer may cancel this policy by mailing or delivering to the Insured written notice of cancellation, accompanied by the reasons for cancellation, at least:

- a) Ten (10) days before the effective date of cancellation if the Insurer cancels for nonpayment of premium; or
- b) Twenty (20) days before the effective date of cancellation if the Insurer cancels for any other reason, except the Insurer may cancel immediately if there has been:
  1. A material misstatement or misrepresentation; or
  2. A failure to comply with underwriting requirements established by the Insurer.

B.2. Cancellation for Policies in Effect for More Than Ninety (90) Days.

If this policy has been in effect for more than ninety (90) days the Insurer may cancel this policy only for one or more of the following reasons:

- a) Nonpayment of premium;
- b) The policy was obtained by a material misstatement;
- c) There has been a failure to comply with underwriting requirements established by us within ninety (90) days of the date of effectuation of coverage;
- d) There has been a substantial change in the risk covered by the policy; or
- e) The cancellation is for all insureds under such policies for a given class of insureds.

If the Insurer cancels this policy or any to these reasons, the Insurer will mail or deliver to the First Named Insured written notice of cancellation, accompanied by the reasons for cancellation at least:

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

1. Ten (10) days before the effective date of cancellation if cancellation is for the reason stated in 2(a) above; or
2. Forty-five (45) days before the effective date of cancellation if cancellation is for the reasons stated in 2(b), (c), (d) or (e) above.

C. The following is added.

Non-Renewal

1. If the Insurer decides not to renew this policy the Insurer will mail or deliver to the Insured written notice of nonrenewal, accompanied by the reason for nonrenewal, at least forty-five (45) days prior to the expiration of this policy.
2. Any notice of nonrenewal will be mailed or delivered to the Insured's last mailing address known to the Insurer. If notice is mailed, proof of mailing will be sufficient proof of notice.

ALL OTHER POLICY TERMS REMAIN UNCHANGED.

---

AUTHORIZED REPRESENTATIVE

ENDORSEMENT# 6

This endorsement, effective 12:01 am April 14, 2001  
policy number 872-99-99  
issued to *IVIEWIT HOLDINGS, INC*

**THIS IS A TRUE CERTIFIED**  
for COPY OF POLICY

by *American Home Assurance Company*

**PUNITIVE, EXEMPLARY AND MULTIPLE DAMAGES COVERAGE  
(D&O AND EPL COVERAGES)**

In consideration of the premium charged, it is hereby understood and agreed that the Definition of Loss as appears in Coverage Sections One and Two is amended as follows:

(1) paragraphs (2) and (3), which reads:

"(2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages;"

are deleted in their entirety;

(2) the following paragraph is added to the end thereof:

Notwithstanding the foregoing, Loss shall specifically include (subject to the policy's other terms, conditions and exclusions, including, but not limited to, exclusions relating to personal profit or advantage, illegal remuneration, fraud or criminal acts) punitive, exemplary and multiple damages (including under Coverage Section Two only, the multiple or liquidated damages' awards under the Age Discrimination in Employment Act and the Equal Pay Act).

It is understood and agreed that solely in regard to the coverage provided by this endorsement the Insurer shall not be liable to make any payment for Loss in connection with any Claim(s) made against an Insured(s) arising out of, based upon or attributable to the committing in fact of a dishonest act or any willful violation of any statute, rule or law. It is further understood and agreed that the Wrongful Act of any Insured(s) shall not be imputed to any other Individual Insured for the purpose of determining the applicability of the foregoing exclusion.

It is further understood and agreed that the enforceability of this endorsement shall be governed by such applicable law which most favors coverage for punitive, exemplary and multiple damages.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

---

AUTHORIZED REPRESENTATIVE

ENDORSEMENT# 7

This endorsement, effective 12:01 am April 14, 2001  
policy number 872-99-99  
issued to *VIEWIT HOLDINGS, INC*

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**  
forms a part of

by *American Home Assurance Company*

**THIRD PARTY COVERAGE ENDORSEMENT**

In consideration of the premium charged, Coverage Section Two, Employment Practices Liability is hereby amended as follows:

For the purposes of this Endorsement only:

The Definition of Wrongful Act is amended by adding the following at the end thereof:

With respect to any customer or client of the Company, whether individually or as a class or group, Wrongful Act shall mean only any actual or alleged discrimination, sexual harassment or violation of an individual's civil rights relating to such discrimination or sexual harassment, whether direct, indirect, intentional or unintentional.

The following separate retention shall apply to the coverage granted by this Endorsement:

Third Party Retention:                   \$25,000 for Loss arising from Claims alleging the same  
Wrongful Act or Related Wrongful Acts

(If blank, the Retention found on the Declarations page shall apply.)

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

---

AUTHORIZED REPRESENTATIVE

ENDORSEMENT# 8

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

This endorsement, effective 12:01 am April 14, 2001 forms a part of  
policy number 872-99-99  
issued to *IVIEWIT HOLDINGS, INC*

by *American Home Assurance Company*

**RETENTION AMENDED FOR CONTRACT CLAIMS**

In consideration of the premium charged, it is hereby understood and agreed that Clause 6. RETENTION CLAUSE is amended by adding the following paragraph to the end thereof:

The following paragraph shall apply to coverage afforded under the Directors, Officers and Private Company Liability Coverage Section only:

Notwithstanding the foregoing, solely with respect to Claims made against a Director(s) and/or Officer(s) and the Company, that allege a Wrongful Act arising out of, based upon or attributable to any actual or alleged contractual liability of any Insured under any contract or agreement (either oral or written), a separate Retention Amount shall apply as follows:

**INDEMNIFIABLE LOSS:** Judgments, Settlements and Defense Costs:

*\$10,000*

arising from Claims alleging the same Wrongful Act or Related Wrongful Acts

It is further understood and agreed that nothing contained herein shall be construed to alter, modify or abrogate exclusion (g)(3) of the Directors, Officers and Private Company Liability Coverage Section.

ALL OTHER TERMS CONDITIONS AND EXCLUSIONS SHALL REMAIN UNCHANGED.

---

AUTHORIZED REPRESENTATIVE

**COPY**



**AIG** AMERICAN INTERNATIONAL COMPANIES®

175 Water Street  
New York, NY 10038

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

May 8, 2001

*IVIEWIT HOLDINGS, INC*

2255 GLADES ROAD  
BOCA RATON, FL 33431

Policy Type: *PC0600*

Policy Period From: *April 14, 2001* To: *April 14, 2002*

Policy Number: *872-99-99*

EPL Pak ID#: *7148397*

Thank you for purchasing the above-referenced insurance policy from the member companies of American International Group, Inc. (AIG). The policy includes many outstanding and unique features, including coverage for 12 named perils and third party initiated claims.<sup>1</sup> Equally important, it provides you - at no additional charge - with the powerful loss prevention benefits. Our expanded package of employment practices loss prevention services builds on our highly successful EPL Pak®, with expanded services that respond specifically to legislative changes. These include:

- ***HR Comply Title VII Plus: Harassment and Discrimination Prevention Training™***  
*Title VII Plus* is comprehensive workforce training courseware that teaches employees and supervisors about Title VII, ADA, and ADEA issues. In an Internet-based, interactive format, *Title VII Plus* provides verifiable proof of training, thus helping you build an "affirmative defense" in case of litigation. The courseware presents employees with a series of workplace scenarios and then tests them to ensure learning objectives are understood.
- ***Supervisor Discrimination Prevention Training***  
The Internet-based *Supervisor Discrimination Prevention Training* is comprehensive supervisor training courseware that deals with all forms of discrimination prohibited by either federal or state law. The program provides in-depth analysis of relevant civil rights laws, and focuses on specific problems of compliance in the workplace. The courseware is designed to provide employers with compelling evidence of the *Kolstad*-required good faith compliance effort, thus helping to protect employers against vicarious punitive liability damages.

**It is important to note that information shared between you and the company providing Title VII Plus will be held in confidence by such company and will not be shared with AIG.**

And, the following services continue to be available as part of the EPL Pak Plus package:

<sup>1</sup> The coverage may be modified by endorsement. Please see your policy for a complete description of terms, conditions and exclusions.

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

- **HR Comply™ Employment Guide**

Your keyword searchable HR Comply™ *Employment Guide* comes to you on the Internet with CD-ROM archive. The Guide contains significant federal laws and regulations. It features *Federal Employment Law and Regulations*, a 37-chapter summary of all employment laws and how to comply with them, as well as other explanations and publications from SHRM and Seyfarth Shaw. The *Guide* includes one State Law Summary, which explains and clarifies relevant laws for your state, HR Comply's *Wage and Hour Manual: A State and Federal Guide*, and HR Comply's *Essential Payroll Guide*. *If you do not receive a call within six weeks or have any questions, please call: 1-800-643-5999.*

- Regular newsletters and alerts detailing new developments in the employment practices area.
- A free telephone consultation of up to one hour with a leading employer practices attorney. To contact the attorney, call 1-888-377-COUN(SEL).
- Two options for fixed-price legal review and analysis of your corporate employment practices policies:
  - The basic review and assessment of your written human resources policies and manuals on EEO, sexual harassment, termination and FMLA policies, for \$750.
  - The broad review of all of your company's personnel policies and practices, including an on-site consultation for \$2,000 per day plus expenses.

To access these services, contact:

Seyfarth, Shaw, Fairweather, Geraldson  
55 East Monroe Street  
Chicago, IL 60603  
312-346-8000

The availability of the policy review and telephone consulting services is subject to the selected firm's satisfactory completion of a conflict of interest screening procedure.

Remember -- these services are included with your policy. They are available to you at no additional cost!

With these services, and your AIG insurance policy, you bring powerful new advantages to your organization. We thank you again for choosing the member companies of American International Group, Inc. (AIG). If you have any questions or would like additional information, please contact your broker, the American International Companies office nearest you or e-mail us at [managementliability@aig.com](mailto:managementliability@aig.com).

Sincerely,

SEQUOYAH S. BROWNING  
American International Companies

**American Home Insurance Company**

*175 Water Street  
New York, NY 10038*

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

 A Member Company of  
American International Companies

DATE: *May 8, 2001*

RE: *IVIEWIT HOLDINGS, INC*

POLICY NUMBER: *DO 872-99-99*

Dear Sir:

Enclosed please find the above captioned policy/endorsement for your authorized countersignature together with a copy of the daily for your files.

Upon completion of this countersignature, please forward:

ORIGINAL COPY: To Broker with original policy in enclosed stamped self-addressed envelope.

SECOND COPY: To National Union in the enclosed self-addressed stamped envelope.

THIRD COPY: Countersignature Agent's copy.

Thank you in advance for your prompt attention to this matter.

Very truly yours,

Margie Ramkhelawan  
Administration Division

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

**American Home Assurance Company**

DATE: *May 8, 2001*

**REQUEST FOR COUNTERSIGNATURE**

Please countersign the endorsement attached below and promptly return the original copy in the postage paid reply envelope provided. Keep the second copy of this request for your records. RETURN ENTIRE FIRST COPY - Do not detach this portion from the endorsement below.

Requested by:

*Margie Ramkhelawan*

Department:

*Administration Division*

**COUNTERSIGNATURE ENDORSEMENT**

Issue To: *IVIEWIT HOLDINGS, INC*

Effective Date: *April 14, 2001*

The countersignature hereto is to be considered the valid countersignature of the undermentioned policy, is so far as concerns that portion of the Risk located in the State named below.

Nothing herein contained shall be held to vary, waive, alter, or extend any of the terms, conditions, agreements, declarations or warranties of the undermentioned policy.

State for which this endorsement is issued: *Florida*

Attached to and forming a part of Policy No.: *DO 872-99-99*

Issue by: (Company): *American Home Assurance Company*

Countersigned at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_,

Resident Agent: \_\_\_\_\_

**American Home Assurance Company**

175 Water Street  
New York, NY 10038

**THIS IS A TRUE CERTIFIED  
COPY OF POLICY**

 A Member Company of  
American International Companies

May 8, 2001

Direct Dial:

YVETTE GREER  
CRC INSURANCE WHOLESALERS  
1 INDEPENDENCE PLAZA, STE. 912  
P. O. BOX 59689  
BIRMINGHAM, AL 35259-9689

RE: **VIEWIT HOLDINGS, INC**

Policy Number: **872-99-99**

Dear YVETTE

Enclosed please find the original and 0002 copy(ies) of the policy and/or endorsement(s) for the captioned account.

If you have any questions, please feel free to contact me at the above listed number.

Very truly yours,

SEQUOYAH S. BROWNING  
Underwriter

Enc.

Name of Insurance Company to which Application is made (herein called the "Insurer")

**Directors, Officers and  
Private Company Liability Insurance Policy**

**Private Collection<sup>sm</sup> Application for eWriter  
(for employers of less than 250 employees)**

Name of Insurance Policy to which Application is applicable

NOTICE: THE POLICY PROVIDES THAT THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGEMENTS OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED FOR LEGAL DEFENSE. FURTHER NOTE THAT AMOUNTS INCURRED FOR LEGAL DEFENSE SHALL BE APPLIED AGAINST THE RETENTION AMOUNT.

IF A POLICY IS ISSUED, IT WILL BE ON A CLAIMS-MADE BASIS.

**GENERAL INFORMATION**

- VIEWIT HOLDINGS, INC.**  
**2253 GUADES RD., STE 337W**  
**BOLA RATON, FL 33431**
- Name and Address of Applicant
  - Domicile State FL State of Incorporation DELAWARE
  - Primary Nature of Business RE COMMERCE
  - What coverage is the Applicant applying for? (Please select all that apply)  
 Directors and Officers  Employment Practices
  - Is the total combined employee count for the Applicant and its Subsidiaries greater than 250? Yes  No
  - Does the Applicant currently have similar insurance?  Yes No  
Expiration date of current policy 4/14/01  
Current Carrier GENESIS

Coverage	Limits	Continuity Date
<input checked="" type="checkbox"/> Directors and Officers	<u>2,000,000</u>	<u>4/14/01</u>
<input checked="" type="checkbox"/> Employment Practices	<u>2,000,000</u>	<u>4/14/01</u>

- There has not been nor is there now pending any claim(s) against the Applicant, its Subsidiaries, or any Director, Officer or Employee of the Applicant or its Subsidiaries, arising out of: (1) any Director, Officer, Employee or entity liability matter; or (2) any matter claimed against any person proposed for insurance in his or her capacity as a Director, Officer or Employee. (If Yes, Please attach complete details) Yes  No
- Does the Applicant, its Subsidiaries, or any Director, Officer or Employee of the Applicant and its Subsidiaries know of any act, error or omission, which could give rise to a Claim under the proposed policy? (If Yes, Please attach complete details) Yes  No  
It is agreed that with respect to Questions 7 and 8 above, if such knowledge, information or involvement exists, any claim or action arising therefrom is excluded from the proposed coverage.
- Has any insurance carrier refused, canceled or non-renewed any similar insurance?  Yes No

\*Missouri Applicants need not reply.

FINANCIAL INFORMATION

Please provide the following financial information for the Applicant and its Subsidiaries.

Based on Financial Statements Dated: 3 / 2001 (Year/Month)

- 10. Total Assets \$ 847,567
- 11. Total Liabilities \$ 3,088,463
- 12. Is the Applicant currently operating with a positive retained earning?  Yes  No
- 13. Has any auditor issued a "going concern" opinion for the Applicants or any of its Subsidiaries financial statements?  Yes  No
- 14. Revenues (Most recent year) \$ 248,071
- 15.  Net Income or  Net Loss \$ 3,045,339
- 16. Years of Operation?  Less than 1 year  1-3 years  3-5 years  Over 5 years

DIRECTORS AND OFFICERS INFORMATION

- 1. Are any of the Applicants securities or those of its Subsidiaries publicly traded or subject to public reporting under the Securities Exchange Act of 1934?  Yes  No
- 2. Do all shareholders that own 25% or more of the voting shares, either directly or beneficially, have a representative on the board of directors?  Yes  No
- 3. Within the last 12 months, has the Applicant or any of its Subsidiaries had any private placement?  None Amount: \$ \_\_\_\_\_  
If Yes, please provide the amount of proceeds from the private placement.
- 4. Within the next 6 months, is the Applicant or any of its Subsidiaries anticipating any private placement in excess of \$25,000,000?  Yes  No
- 5. Does the Applicant or any of its Subsidiaries provide services to its customers or clients for a fee or compensation?  Yes  No
- 6. Does the Applicant or any of its Subsidiaries act as a general partner in any partnership?  Yes  No

EMPLOYMENT PRACTICES INFORMATION

Please provide the following information regarding Employees, including Director and Officers of the Applicant and its Subsidiaries.

- 1. Number of full-time employees in:  
CA: 3 DC: \_\_\_\_\_ TX & MI: \_\_\_\_\_ All other states: \_\_\_\_\_
- 1a. Number of part-time, seasonal and temporary employees in:  
CA: \_\_\_\_\_ DC: \_\_\_\_\_ TX & MI: \_\_\_\_\_ All other states: \_\_\_\_\_
- 2. What percentage of employees have been involuntarily terminated (with or without cause) within the last 24 months?  
 None  0-10%  10-25%  Over 25%
- 3. Has the Applicant or any of its Subsidiaries had any employee layoffs or early retirements in the last 12 months, or does the Applicant or any of its Subsidiaries anticipate undergoing any employee layoffs or early retirements in the next 12 months? If Yes, what is the percentage compared to the entire employee force?  1-10%  10-25%  Over 25%
- 4. Does the Applicant and its Subsidiaries have a Human Resource or Personnel Department?  Yes  No
- 5. Does the Applicant and its Subsidiaries have an Employee Handbook which is distributed to all employees?  Yes  No

THIS IS A TRUE CERTIFIED COPY OF POLICY

6. Has the Applicant and its Subsidiaries adopted and implemented discrimination and sexual harassment processes and procedures (including formal procedures for handling and reporting of complaints)?

\_\_\_ Yes \_\_\_ No

**POLICY COVERAGE DETAILS**

- 1. Amount of aggregate limit requested: \$ 2,000,000
- 2. Self-Insured Retention for D&O (Non-Indemnifiable Loss): \$ None
- 3. Self-Insured Retention for D&O (Indemnifiable Loss): \$ 25,000
- 4. Self-Insured Retention for D&O Corporate Liability: \$ 25,000
- 5. Self-Insured Retention desired for EPLI: \$ 25,000

**ATTACHMENTS**

- 1. Completed, Signed and Dated Original eWriter Application.
- 2. Copy of the indemnification provisions of the charter and the by-laws.
- 3. Copy of Employee Handbook and Human Resources Manual.
- 4. Latest Financials with Treasurers Warranty Letter if not audited.
- 5. Mainform from current carrier (if applicable).
- 6. List of all direct and indirect Subsidiaries, include as to each the nature of business operation, percentage of ownership and whether such Subsidiaries are domestic or foreign.
- 7. List of all Directors and Officers of the Applicant and its Subsidiaries and as to each provide any affiliations with other corporations.



THE UNDERSIGNED AUTHORIZED OFFICER OF THE APPLICANT DECLARES THAT THE STATEMENTS SET FORTH HEREIN ARE TRUE. THE UNDERSIGNED AUTHORIZED OFFICER AGREES THAT IF THE INFORMATION SUPPLIED ON THIS APPLICATION CHANGES BETWEEN THE DATE OF THIS APPLICATION AND THE EFFECTIVE DATE OF THE INSURANCE, HE/SHE (UNDERSIGNED) WILL, IN ORDER FOR THE INFORMATION TO BE ACCURATE ON THE EFFECTIVE DATE OF THE INSURANCE, IMMEDIATELY NOTIFY THE INSURER OF SUCH CHANGES, AND THE INSURER MAY WITHDRAW OR MODIFY ANY OUTSTANDING QUOTATIONS AND/OR AUTHORIZATIONS OR AGREEMENTS TO BIND THE INSURANCE

SIGNING OF THIS APPLICATION DOES NOT BIND THE APPLICANT OR THE INSURER TO COMPLETE THE INSURANCE, BUT IT IS AGREED THAT THIS APPLICATION SHALL BE THE BASIS OF THE CONTRACT SHOULD A POLICY BE ISSUED, AND IT WILL BE ATTACHED TO AND BECOME PART OF THE POLICY

ALL WRITTEN STATEMENTS AND MATERIALS FURNISHED TO THE INSURER IN CONJUNCTION WITH THIS APPLICATION ARE HEREBY INCORPORATED BY REFERENCE INTO THIS APPLICATION AND MADE A PART HEREOF

NOTICE TO ARKANSAS APPLICANTS: "ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT, OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON"

NOTICE TO COLORADO APPLICANTS: "IT IS UNLAWFUL TO KNOWINGLY PROVIDE FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES, DENIAL OF INSURANCE, AND CIVIL DAMAGES. ANY INSURANCE COMPANY OR AGENT OF AN INSURANCE COMPANY WHO KNOWINGLY PROVIDES FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO A POLICYHOLDER OR CLAIMANT FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICYHOLDER OR CLAIMANT WITH REGARD TO A SETTLEMENT OR AWARD PAYABLE FROM INSURANCE PROCEEDS SHALL BE REPORTED TO THE COLORADO DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AUTHORITIES."

NOTICE TO DISTRICT OF COLUMBIA APPLICANTS: "WARNING IT IS A CRIME TO PROVIDE FALSE OR MISLEADING INFORMATION TO AN INSURER FOR THE PURPOSE OF DEFRAUDING THE INSURER OR ANY OTHER PERSON. PENALTIES INCLUDE IMPRISONMENT AND/OR FINES. IN ADDITION, AN INSURER MAY DENY INSURANCE BENEFITS IF FALSE INFORMATION MATERIALLY RELATED TO A CLAIM WAS PROVIDED BY THE APPLICANT."

NOTICE TO FLORIDA APPLICANTS: "ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY IN THE THIRD DEGREE."

NOTICE TO KENTUCKY APPLICANTS: "ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME"

NOTICE TO LOUISIANA APPLICANTS: "ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON"

NOTICE TO MAINE APPLICANTS: "IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES OR A DENIAL OF INSURANCE BENEFITS"

NOTICE TO NEW JERSEY APPLICANTS: "ANY PERSON WHO INCLUDES ANY FALSE OR MISLEADING INFORMATION ON AN APPLICATION FOR AN INSURANCE POLICY IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES."

NOTICE TO NEW MEXICO APPLICANTS: "ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES."

NOTICE TO NEW YORK APPLICANTS: "ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, CONCEALS FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION"

NOTICE TO OHIO APPLICANTS: "ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT HE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD."

NOTICE TO OKLAHOMA APPLICANTS: "WARNING: ANY PERSON WHO KNOWINGLY, AND WITH INTENT TO INJURE, DEFRAUD OR DECEIVE ANY INSURER, MAKES ANY CLAIM FOR THE PROCEEDS OF AN INSURANCE POLICY CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY" (56 S.S. 1-10, 16 535-13-1)

NOTICE TO PENNSYLVANIA APPLICANTS: "ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES"

NOTICE TO VIRGINIA APPLICANTS: "IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE COMPANY. PENALTIES INCLUDE IMPRISONMENT, FINES AND DENIAL OF INSURANCE BENEFITS"

Signed [Signature]  
(Applicant)  
Date 4/13/01  
Title President  
(Must be signed by Chairman of the Board or President)

Corporation [Signature]  
(Corporate Seal)  
[Circular Seal: Viewit Holdings, Inc.]

Attest  
Broker  
Address

Please read the following statement carefully and sign where indicated. If a policy is issued, this signed statement will be attached to the policy.

The undersigned authorized officer of the Applicant hereby acknowledges that he/she is aware that the limit of liability contained in this policy shall be reduced, and may be completely exhausted, by the costs of legal defense and, in such event, the insurer shall not be liable for the costs of legal defense or for the amount of any judgment or settlement to the extent that such exceeds the limit of liability of this policy.

The undersigned authorized officer of the Applicant hereby acknowledges that he/she is aware that legal defense costs that are incurred shall be applied against the retention amount

Signed \_\_\_\_\_  
(Applicant)  
Date \_\_\_\_\_  
Title \_\_\_\_\_  
(Must be signed by Chairman of the Board or President)