

<INSERT NAME IF INSURER>

(A Stock Insurance Company, herein called the **Insurer**)

Civil Money Penalties Personal Protection Policy

DECLARATIONS PAGE

THE POLICY THAT MAY BE ISSUED BASED UPON THIS APPLICATION PROVIDES CLAIMS MADE COVERAGE WRITTEN ON A NO DUTY TO DEFEND BASIS.

Item 1. Name and Mailing address of Institution-affiliated Party:

<insert name here>
<insert address here>
<insert city, state, zip here>

Item 2. Name and Mailing Address of the Company:

<insert name here>
<insert address here>
<insert city, state, zip here>

Item 3. Policy Period: From: <insert> To: <insert>

12:01 a.m. local time at the principal address stated in Item 1. above.

Item 4. Prior & Pending Litigation and Retroactive Date:

- (a) Prior & Pending Litigation Date: xx/xx/xx
- (b) Retroactive Date: xx/xx/xx

12:01 a. m. local time at the principal address listed in Item 1. above.

Item 5. Limit of Liability and Retention Amount:

- (a) Limit of Liability: \$ _____
- (b) Self-insured Retention: \$ _____

Item 6. Endorsements attached at issuance: [See Endorsement Schedule](#)

The **Institution-affiliated Party**, by the acceptance of this **Policy**, gives notice to the **Insurer** cancelling any prior **Policy** issued, and such cancellation shall be effective as of the time this **Policy** becomes effective.

Item 7. All notices required to be given to the **Insurer** shall be sent by registered mail, email or fax to:

AmTrust Claims Director
Amtrust Financial Group
135 S. LaSalle Street; Suite 1925
Chicago, IL 60603
Email: anaclaimsreporting@amtrustgroup.com
Fax: 312-781-0423

In witness whereof, this Declarations Page is to be signed by a duly authorized representative of the **Insurer**.

Date: <insert>

Signature: <insert>
Authorized Representative

<INSERT NAME IF INSURER>
 (A Stock Insurance Company, herein called the **Insurer**)
Civil Money Penalties
Personal Protection Policy

**THE POLICY THAT MAY BE ISSUED BASED UPON THIS APPLICATION PROVIDES CLAIMS MADE
 COVERAGE WRITTEN ON A NO DUTY TO DEFEND BASIS.**

In consideration of the premium paid and in reliance upon all statements made and information contained in the Declarations Page and **Application**, the **Insurer** and the **Institution-affiliated Party** agree that coverage will be provided subject to all of the terms, conditions and limitations of this **Policy**, as follows:

SECTION I - INSURING AGREEMENT

The **Insurer** will pay on behalf of the **Institution-affiliated Party**, **Civil Money Penalties** imposed during the **Policy Period** or Automatic Extension Period resulting from a **Claim** first made against the **Institution-affiliated Party** for a **Wrongful Act** taking place during the **Policy Period**.

SECTION III – DEFINITIONS

Application means collectively the application signed by the **Institution-affiliated Party** for the procurement of this **Policy**, any materials submitted to the **Insurer** in support of the procurement of this **Policy**, and any **Policy** for which this **Policy** is a direct or indirect renewal or replacement. The Application is deemed to be attached to and incorporated into this **Policy**, as if physically attached.

Change of Control means:

1. the acquisition of the **Company**, or of all or substantially all of its assets, by another entity, or the merger or consolidation of the **Company** into or with another entity such that the **Company** is not the surviving entity; or
2. the appointment of any state or federal official, **Regulatory Agency** or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Company**.

Civil Money Penalties means monetary penalties or fines imposed by a **Regulatory Agency** against the **Institution-affiliated Party**. **Civil Money Penalties** shall not include:

1. defense or legal fees, costs or expenses;
2. that portion of any multiplied judgment award which exceeds the amount multiplied;
3. taxes, criminal or civil fines or penalties imposed by law, statute, regulation or court rule, other than those civil fines or penalties imposed by a **Regulatory Agency** as a direct result of a **Claim**;
4. disgorgement of any wages, salary or benefits deemed unearned or to which the **Institution-affiliated Party** is not entitled; or
5. matters deemed uninsurable under the law pursuant to which this **Policy** shall be construed.

For purposes of determining the insurability of **Civil Money Penalties**, the law of the jurisdiction most favorable to the insurability of such penalties or damages will apply, provided such jurisdiction has a substantial relationship to

the **Institution-affiliated Party** or **Claim** giving rise to the damages.

Claim means any administrative or regulatory proceeding or investigation initiated by a **Regulatory Agency** pursuant to which **Civil Money Penalties** is sought or imposed against the **Institution-affiliated Party**.

Company means the financial institution named in Item 2. of the Declarations Page and any **Subsidiary**.

Domestic Partner means any natural person qualifying as such under the provisions of any federal, state or local law or under the provisions of any formal, written program established by the **Company**.

Institution-affiliated Party means the individual named on the Declarations Page who is designated as a director, officer, trustee, governor, member of the board of managers, or any equivalent position of the **Company**.

Policy means, collectively, the Declarations Page, the **Application**, these terms and conditions, and any endorsements attached hereto.

Policy Period means the period from the effective date of this **Policy** to either the **Policy** expiration date, as shown in Item 2. of the Declarations Page or the date on which the **Policy** is effectively terminated, whichever is sooner, but shall not include the Automatic Extension Period.

Pollutants means any solid, liquid, gaseous or thermal organism, irritant or contaminant, including but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals, hazardous substances, nuclear materials, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Regulatory Agency means the Federal Deposit Insurance Corporation, the Federal Reserve, the Office of the Comptroller of the Currency, National Credit Union Administration or similar state bank regulatory agency.

Retroactive Date means the date set forth in Item 4. (b) of the Declarations Page.

Subsidiary means:

1. any entity in which the **Company** owns, directly or through one or more **Subsidiaries**, more than fifty percent (50%) of the outstanding securities representing the present right to vote for, elect, appoint or exercise a majority control over such entity's board of directors, trustees, equivalent executives;
2. any limited liability company in which the **Company**, or one or more of its subsidiaries, has the right to appoint or designate fifty percent (50%) or more of such limited liability company's managers; or
3. any joint venture in which the **Company**, or one or more of its **Subsidiaries**, has the right to elect, appoint or designate more than fifty percent (50%) of such entity's directors, trustees or other equivalent executives.

Wrongful Act means any actual or alleged error, omission, misstatement, misleading statement, neglect or breach of duty by the **Institution-affiliated Party** while acting in his or her capacity as a duly elected or appointed director, trustee, officer, governor, employee, member of the board of managers or trustees, or any equivalent position, of the **Company**.

IV – EXCLUSIONS

Outside Capacity- The **Insurer** shall not be liable to pay **Civil Money Penalties** in connection with any **Claim** made against the **Institution-affiliated Party** in his or her capacity as director, trustee, officer, governor, employee, member of the board of managers or trustees, or any equivalent position, of any entity other than the **Company**.

Past Acts - The **Insurer** shall not be liable to pay **Civil Money Penalties** in connection with any **Claim** arising from, based upon, or attributable to any related or continuing acts, errors, omissions, incidents or events where the first such error, omission, incident or event was committed or occurred prior to the **Retroactive Date** set forth in Item 4. (b) of the Declarations Page.

Pollution - The **Insurer** shall not be liable to pay any **Civil Money Penalties** in connection with any **Claim** arising from, based upon, or attributable to:

1. the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any **Pollutant**;
or
2. any request, demand, order, or statutory or regulatory requirement that the **Institution-affiliated Party** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, any **Pollutant**.

Prior or Pending Investigations/Knowledge - The **Insurer** shall not be liable to pay **Civil Money Penalties** in connection with any **Claim** arising from, based upon, or attributable to:

1. any investigation that may lead, directly or indirectly, to the imposition of **Civil Money Penalties**, which the **Institution-affiliated Party** had knowledge prior to the date of the initial **Application** for coverage; or
2. any prior or pending civil, criminal, administrative or regulatory proceeding initiated against the **Institution-affiliated Party** prior to the applicable Prior and Pending Litigation Date set forth in Item 4. (a) of the Declarations Page, or arising out of or in any way involving the same or substantially the same fact, circumstance, or underlying or alleged in such prior or pending civil, criminal, administrative or regulatory proceeding.

SECTION V – LIMIT OF LIABILITY AND RETENTION

- A. **LIMIT OF LIABILITY** - The **Insurer's** maximum Limit Liability for all **Claims** first made against an **Institution-affiliated Party** shall not exceed the amount stated in Item 5. (a) of the Declarations Page. The **Insurer's** obligations under this **Policy** shall be deemed completely fulfilled and extinguished if the applicable Limit of Liability is exhausted by payment of **Civil Money Penalties**.
- B. **RETENTION** - The applicable self-insured Retention amount elected by the **Institution-affiliated Party** is set forth in Item 5. (b) of the Declarations Page. The **Insurer** has no obligation to pay **Civil Money Penalties** until the Retention amount, if applicable, has been paid by the **Institution-affiliated Party**. The **Insurer** shall pay one-hundred percent (100%) of **Civil Money Penalties**, in excess of the applicable Retention amount, on a current basis.

SECTION VI – DEFENSE OF CLAIMS

- A. **DEFENSE** - The **Insurer** does not assume any obligation or duty to defend any **Claim** that may result in **Civil Money Penalties**. The **Institution-affiliated Party** shall defend and contest any **Claim** made against them.
- B. **GENERAL PROVISIONS** - The **Institution-affiliated Party** agrees to provide such information as the **Insurer** may reasonably require, including but not limited to, all copies of reports, investigations, pleadings and other papers as soon as reasonably possible and to provide the **Insurer** with such information, assistance and cooperation as the **Insurer** may reasonably request to determine the existence or extent of the **Insurer's** obligation.
- C. **SETTLEMENT** - The **Institution-affiliated Party** shall conduct all matters relative to any **Claim** or potential claim as if coverage under this **Policy** were not otherwise afforded, including but not limited to not admitting any liability for, settling any **Claim**, or paying or any **Civil Money Penalties** without the prior written consent of the **Insurer**, which consent shall not be unreasonably withheld.

SECTION VII - NOTICE OF CLAIMS AND POTENTIAL CLAIMS

- A. **NOTICE OF CLAIMS** - The **Institution-affiliated Party** shall, as a condition precedent to their rights under this **Policy**, give the **Insurer** written notice as soon as practicable of any **Claim**, but in no event later than sixty (60) days after the expiration of the **Policy Period** in which the **Claim** was first made or the expiration of the Automatic Extension Period.
- B. **NOTICE OF POTENTIAL CLAIMS** - If during the **Policy Period**, the **Institution-affiliated Party** first becomes aware of facts or circumstances which may reasonably give rise to a **Claim** and gives written notice to the **Insurer** of the reasons and for anticipating such **Claim**, then any **Claim** subsequently made shall be deemed to have been first made during the **Policy Period** in which notice was first given to the **Insurer**.
- As a condition precedent to any coverage hereunder for such **Claim**, such notice must be specific and contain full particulars as to the names, dates, and persons involved in the underlying facts potentially giving rise to the **Claim**, as well as the identity of the potential plaintiffs and the causes of action to be asserted.
- C. **INTERRELATED CLAIMS** – Multiple **Claims** arising from the same or a series of related or repeated acts, errors, or omissions, or from any continuing acts, errors or omissions, shall be considered a single **Claim** for the purposes of this **Policy**, irrespective of the number of claimants involved in the **Claim**. All such **Claims** shall be deemed to have been made at the time of the first such **Claim**.
- D. **NOTICE REQUIREMENTS** – Notice of a **Claim** shall be deemed effective on the date of receipt by the **Insurer**. All notices under this subsection must be sent in writing to the address set forth in Item 7. of the Declarations Page and will be effective upon receipt.

SECTION VIII—CANCELLATION, NON-RENEWAL AND CONVERSION

- A. **CANCELLATION** – The **Insurer** may cancel this **Policy** for non-payment of premium by mailing written notice, stating when not less than thirty (30) days thereafter, such cancellation shall be effective. The **Policy** may not be cancelled for any other reason. If the **Policy** is cancelled for non-payment of premium, the Automatic Extension Period shall not be made available.
- The **Institution-affiliated Party** may cancel this **Policy** at any time by giving written notice to the **Insurer** stating when thereafter, such cancellation shall be effective. If the **Policy** is cancelled by the **Institution-affiliated Party**, the return premium will be calculated on the customary short-rate basis.
- B. **NON-RENEWAL** - If the **Insurer** elects not to renew this **Policy**, the **Insurer** shall provide **Institution-affiliated Party** with not less than sixty (60) days advance written notice of when the non-renewal shall become effective and the reason(s) for such action.
- C. **CONVERSION** – Upon **Change of Control**, this **Policy** shall continue in full force and effect with respect to **Claims** committed or allegedly committed before such event, but coverage shall cease with respect to **Claims** committed or allegedly committed after such event (herein called the Conversion Period). The Conversion Period shall run for the remainder of the **Policy Period**. Pursuant to this Conversion Period, the **Policy** may not be cancelled and the entire premium shall be deemed fully earned.

SECTION IX— WARRANTY CLAUSE

The **Institution-affiliated Party** understands that the **Application** is the basis for coverage and the **Insurer** has issued the **Policy** in reliance upon such **Application**. The **Institution-affiliated Party** warrants that the particulars and statements contained in the **Application** are true and correct and agrees that such representations are material to **Insurer's** the acceptance of the risk. In the event the **Application** contains misrepresentations made with the actual intent to deceive or contains misrepresentations which materially affect the risk, the **Policy** shall be void ab initio and of no effect whatsoever. In such event, the **Insurer** shall immediately return one-hundred percent (100%) of the premium collected.

SECTION X – OTHER TERMS AND CONDITIONS

- A. **AUTOMATIC EXTENSION PERIOD** - In the event of the cancellation or non-renewal of this **Policy** by the **Insurer** for any reason, except for non-payment of premium, a thirty (30) day Automatic Extension Period will be granted to the **Institution-affiliated Party**, at no additional charge, to pay **Claims** first made during the **Policy Period**, but reported during the Automatic Extension Period.

The Limit of Liability for the Automatic Extension Period shall be part of, and not in addition to, the applicable Limit of Liability set forth in Item 5. (a) of the Declarations Page.

- B. **ACTION AGAINST THE INSURER** – No action shall be taken against the **Insurer** unless, as a condition precedent, there shall have been full compliance with all of the terms of this **Policy**, and until the **Institution-affiliated Party's** obligation to pay shall have been finally determined either by adjudication or by written agreement of the **Institution-affiliated Party** and the **Insurer**.

No person or organization shall have any right under this **Policy** to join the **Insurer** as a party to any action against the **Institution-affiliated Party** nor shall the **Insurer** be impleaded by the **Institution-affiliated Party** or their legal representatives.

- C. **ASSIGNMENT AND ACCEPTANCE** – The **Institution-affiliated Party** cannot transfer his or her interest in this **Policy** to any other person or entity unless agreed upon by the **Insurer**.

- D. **CHANGES** – Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the **Insurer** shall not effect a waiver or a change in any part of this **Policy** or estop the **Insurer** from asserting any right under the terms of this **Policy**, nor shall the terms, conditions and limitations of this **Policy** be waived or changed, except by written Endorsement issued to form a part of this **Policy**.

- E. **CONFORMITY TO STATE LAW** – If any provision of this **Policy** conflicts with the terms of any applicable laws of the state in which the **Institution-affiliated Party** is located, the **Policy** is hereby amended to conform to such laws.

- F. **INSOLVENCY/BANKRUPTCY** – The **Insurer** will meet its obligations under this **Policy** regardless if the **Institution-affiliated Party** or his or her estates, heirs or assigns becomes bankrupt or insolvent.

- G. **STATE AMENDATORY DISCREPANCY PROVISION** – In the event that there is a discrepancy between a state amendatory endorsement attached to this **Policy** and any term or condition of this **Policy**, then it is understood and agreed that, where permitted by law, the **Insurer** shall apply the most favorable terms in the contract to the **Institution-affiliated Party** whether those terms and conditions are in either the amendatory endorsement or the **Policy**.

- H. **SPOUSAL LIABILITY** – This **Policy** will be extended to apply to a **Claim** made against a person who, at the time the **Claim** is made, is a lawful spouse or **Domestic Partner** of an **Institution-affiliated Party**, but only if and so long as:

1. the **Claim** against such spouse or **Domestic Partner** results from an act, error of omission actually or allegedly committed by the **Institution-affiliated Party**, to whom the spouse is married, or who is joined with the **Domestic Partner**; and
2. such **Institution-affiliated Party** and his or her spouse or **Domestic Partner** are represented by the same counsel in connection with such **Claim**.

- I. **SUBROGATION** – In the event of payment under this **Policy**, the **Insurer** is subrogated to the **Institution-affiliated Party's** rights of recovery against any person or organization to the extent of such payment and the **Institution-affiliated Party** agrees to execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Institution-affiliated Party** will do nothing to prejudice such rights.

- J. **TITLES OF PARAGRAPHS** – The descriptions in the headings and sub-headings of this **Policy** are inserted solely for convenience or reference and form no part of the terms and conditions of coverage.

- K. **ALTERNATIVE DISPUTE RESOLUTION** - All disputes with regard to coverage for a **Claim** under this **Policy**, including a dispute over whether any amounts constitute **Civil Money Penalties** under this **Policy**, shall be submitted to final and binding arbitration to be administered as mutually agreed by the parties, or in the absence of an agreement by the American Arbitration Association in accordance with the then-prevailing commercial arbitration rules. The arbitration panel shall consist of one arbitrator selected by the **Institution-affiliated Party**, one arbitrator selected by the **Insurer** and a third independent arbitrator selected by the first two arbitrators. In any such arbitration, each party will bear its own legal fees and expenses. The arbitration shall take place in the state indicated in the address in Item 1. of the Declarations, unless the parties mutually agree upon another location.