

ARCHITECTS AND ENGINEERS PROFESSIONAL LIABILITY INSURANCE POLICY

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ARCHITECTS AND ENGINEERS PROFESSIONAL LIABILITY INSURANCE POLICY

This is a **CLAIMS-MADE AND REPORTED** policy. Subject to the terms, conditions, exclusions and limitations of this policy, coverage is limited to liability for only those claims that are first made against you and reported to us in writing after the retroactive date and during the policy period or any optional extended reporting period, if exercised by you.

This is a “defense within limits” policy with claim expenses included within the limit of liability. The limit of liability available to pay damages will be reduced by amounts we pay for claim expenses as defined in the policy. Further note that amounts incurred for claim expenses and damages are subject to the deductible.

Please read this policy carefully.

Throughout this **policy**, the terms **we**, **us** and **our** refer to the **Company** providing this insurance. The terms **you** and **your** refer to the persons and entities insured under this **policy**. Other terms in bold print have special meaning and are defined in the **policy**.

A. COVERAGE – WHAT THIS POLICY INSURES

1. PROFESSIONAL SERVICES COVERAGE

We will pay on **your** behalf those sums which **you** become legally obligated to pay as **damages** and **claim expenses** because of any **claim** made against **you**, and reported to **us** in writing during the **policy period**, or any **extended reporting period**, if applicable, arising from a **wrongful act** in the rendering or failure to render **your professional services**.

2. PERSONAL INJURY COVERAGE

We will pay on **your** behalf those sums which **you** become legally obligated to pay as **damages** and **claim expenses** because of any **claim** for personal injury made against **you** and reported to **us** in writing during the **policy period**, or any **extended reporting period**, if applicable, that arise from **your professional services** and are for;

- a. **your** defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress or other tort related to disparagement or harm to the reputation or character of any person or entity;
- b. **your** invasion or interference with the right to privacy or publicity, including but not limited to false light, public disclosure of private facts, intrusion and invasion; or
- c. **your** causing a third party to be subject to false arrest, detention or imprisonment.

3. TECHNOLOGY PROFESSIONAL COVERAGE

We will pay on **your** behalf those sums which **you** become legally obligated to pay as **damages** and **claim expenses** because of any **claim** arising from **your professional services** and made against any **insured** and reported to **us** in writing during the **policy period**, or any **extended reporting period**, if applicable, that arise from:

- a. the inability of an authorized third party to gain access to **computer services**;
- b. **unauthorized access** to **computer services** that results in:
 - 1) the destruction, deletion or corruption of electronic data on **computer services**; or
 - 2) denial of service attacks against **computer services** or transmission of **malicious code** to **computer services**.

The following additional requirements and limitations apply to coverage provided under **A.1**, **A.2**. and **A.3**.:

- a. The **wrongful act** must have first occurred on or after the applicable **retroactive date(s)**;
- b. **You** had no knowledge of facts which could have reasonably caused **you** to foresee a **claim**, or any knowledge of the **claim**, prior to the effective date of this **policy**; and,
- c. The **claim** must first be made and reported to **us** in writing during the **policy period** or any **extended reporting period**, if applicable, and must arise from any **wrongful act** to which this **policy** applies.

4. SUPPLEMENTAL COVERAGE

Any payment(s) **we** make under this Supplemental Coverage provision is not subject to the deductible amount and will not reduce the limit of liability.

a. Disciplinary Proceedings Coverage

We will pay on **your** behalf only **defense expenses** incurred in responding to a **disciplinary proceeding** commenced against **you** during the **policy period** and reported to **us** in writing, during the **policy period** or, if exercised, reported to **us** in writing during any **extended reporting period**. The maximum amount available for **defense expenses** for a **disciplinary proceeding** is \$25,000 for the **policy period**, regardless of the number of **disciplinary proceedings**. Inclusive within this coverage, we will pay up to \$250 per day for any salaries and expenses of **your** employees required to attend or participate in any **disciplinary proceeding**. **We** will not pay any **damages** incurred as a result of **disciplinary proceedings**.

b. ADA, FHA and OSHA Coverage

We will pay on **your** behalf only **defense expenses** incurred in responding to any regulatory or administrative action, or related regulatory or administrative actions, commenced directly against **you** during the **policy period** by a government agency under the Americans with Disabilities Act of 1990 (ADA), the Fair Housing Act (FHA), or the Occupational Safety and Health Act (OSHA) and reported to **us** in writing during the **policy period**, or, if exercised, reported to **us** in writing during any **extended reporting period**. The maximum amount available for **defense expenses** for regulatory or administrative actions is \$25,000 for the **policy period**, regardless of the number of regulatory or administrative proceedings. Inclusive within this coverage, **we** will pay up to \$250 per day for any salaries and expenses of **your** employees required to attend or participate in any regulatory or administrative proceeding. **We** will not pay any fines, penalties or **damages** incurred as a result of regulatory or administrative proceedings.

5. PRE-CLAIM ASSISTANCE COVERAGE

If **you** report a **potential claim** to **us** in writing during the **policy period**, any costs or expenses **we** incur in investigating or monitoring the **potential claim** will be paid by **us**. The decision to incur any costs or expenses in regards to a **potential claim** is at **our** sole discretion.

B. DEFENSE AND SETTLEMENT (INCLUDED IN THE LIMIT OF LIABILITY)

We have the right to investigate and the exclusive right to defend any **claim** made under this **policy**, even if the allegations are groundless, false or fraudulent until there is a final adjudication against **you**. **We** are not obligated to defend any criminal investigation, criminal proceeding or prosecution against **you**. If a **claim** is not covered under this **policy**, **we** will have no duty to defend it.

Payment of **claim expenses** will reduce the amounts available to pay **damages**. **Our** duty to defend any **claim** or pay any amount as **damages** or **claim expenses** will cease when **our** limit of liability has been exhausted. Upon exhaustion of the limits of liability, **we** will tender control of the defense to the **named insured**. The **named insured** agrees to accept this tender of defense. **We** will not settle a **claim** without the consent of the **named insured**.

The **named insured** is responsible for any fees or costs charged by a lawyer defending **you** or any other expenses incurred without **our** written consent.

C. LIMIT OF LIABILITY AND DEDUCTIBLE

1. LIMIT OF LIABILITY

The limit of liability per **claim** limit shown on the Declarations page Item **3.a.** is the most **we** will pay for the sum of all **damages** and **claim expenses** arising out of a single **claim** or a series of related **claims**, regardless of the number of persons or entities insured under this policy, number of **claims** made or the number of persons or entities making **claims** during the **policy period** or during any **extended reporting period**, if any.

The Aggregate limit shown on the Declarations Item **3.b.** is the most **we** will pay for the sum of all **damages** and **claim expenses** for all **claims** under this **policy**.

2. DEDUCTIBLE

- a. **You** will pay the deductible amount shown in the Declarations. The deductible applies to each **claim**. **We** will not be required to make any payment for **claim expenses**, settlements reached, or judgments rendered in an otherwise covered **claim** unless and until **you** have paid the deductible in

full. **You** must pay the deductible (i) immediately when invoiced or, (ii) in the event that offers of judgment or settlement demands are made which **you** and **we** agree should be accepted, prior to the expiration of the time period for responding to such offers or demands.

- b. All **claim expenses** will first be subtracted from the limit of liability, with the remainder, if any, being the amount available to pay for **damages** in excess of the deductible in paragraph **a** above.
- c. If **you** and **we** agree to use **mediation** to resolve any **claim** brought against **you** and if the **claim** is resolved by **mediation**, **your** deductible obligation for that **claim** will be reduced by 50%. The maximum amount of any such reduction is \$25,000.
- d. Any **professional service** rendered by or expense incurred by **you** for redesign, changes, additions, or remedies necessitated by a **claim**, or any return, withdrawal, or reduction of fees shall not be chargeable against the deductible or covered under this **policy** without **our** prior written consent.

3. REIMBURSEMENT

In the event that **we** voluntarily choose or are compelled by a court of law to make any payment of the deductible and request reimbursement from **you**, the reimbursement is payable immediately, but no later than thirty (30) days after written demand.

D. DEFINITIONS

Bodily Injury means physical injury, sickness or disease and, if arising out of the foregoing, mental anguish, emotional distress, mental injury, shock, humiliation or death at any time.

Claim means a written demand or **suit you** receive alleging a **Wrongful Act(s)** arising from **your professional services**.

Claim expense means all expenses **we** incur or authorize in writing for the investigation, adjustment, defense or appeal of a **claim**. These expenses include fees charged by a lawyer, mediator or arbitrator for which **you** are obligated. **Claim expenses** also mean:

- 1. any reasonable and necessary legal fees and expenses, including attorney fees and expert fees incurred in the defense and appeal of a **claim**;
- 2. the premium on appeal, attachment or similar bond; and
- 3. up to \$500 per day per **insured** for payment for reasonable expenses incurred for attendance at hearings, trials, or depositions at **our** request or with **our** consent by such **insured**. Such payment shall not exceed \$15,000 in the aggregate for all **insureds** in each **claim**.

Claim expenses do not include:

- 1. salaries, wages, fees, overhead or benefit expenses associated with any **insured** except as specified in subparagraph **3.** above; or
- 2. salaries, wages, overhead or benefit associated with **our** employees.

Company means the insurance company that issued this **policy**, as shown on the Declarations page or referred to herein as **we**, **us**, or **our**.

Computer services means computers and associated input and output devices, data storage devices, networking equipment, backup facilities, and internet sites operated by and either owned by or leased by any third party for whom **you** provide **professional services**.

Damages means monetary judgments, awards or settlements unless otherwise excluded. **Damages** includes (i) pre-judgment interest; and (ii) post judgment interest that accrues after entry of judgment and before **we** have paid, offered to pay or deposited in court that part of judgment within the applicable limit of liability.

Damages also means punitive or exemplary **damages** or the multiple portions thereof, if insurable under the applicable law of the jurisdiction most favorable to the insurability of such **damages** provided such jurisdiction is where:

- 1. Those **damages** were awarded or imposed; or
- 2. Any **wrongful act** occurred for which such **damages** were awarded or imposed;
- 3. The **named insured** resides, is incorporated or has its principal place of business; or
- 4. **We** are incorporated or have our principal place of business.

Damages do not include any costs or expenses in complying with any demand for **equitable relief**, even if such compliance is compelled as a result of a judgment, award or settlement.

Defense expenses means all expenses **you** incur in investigation, defense or appeal of any **disciplinary proceeding** in **A.4.a.** of Supplemental Coverage and for any regulatory or administrative proceeding in **A.4.b.** of Supplemental Coverage.

Disciplinary proceeding means any proceeding by a disciplinary official or agency to investigate or prosecute charges alleging professional misconduct in the performance of **your professional services**.

Domestic partner means any natural person granted legal status as a domestic partner under any applicable federal, state or local law or under the provisions of any formal program established by the **named insured**.

Employment practices means any actual or alleged:

1. wrongful termination of the employment of, or demotion of, or failure or refusal to hire or promote any person in violation of law or in breach of any agreement to commence or continue employment;
2. unlawful employment discrimination;
3. sexual harassment of an employee or applicant for employment; or
4. retaliatory treatment against an employee on account of that employee's exercise or attempted exercise of his or her rights under law.

Equitable relief means a remedy not involving the payment of monetary damages.

Extended reporting period means an additional period of time for reporting **claim(s)**. The **extended reporting period** starts on the **policy termination date** and ends at the **extended reporting period** expiration date. Any negligent acts, errors or omissions that result in **claims, suits** or proceedings that are covered under the **extended reporting period** must have occurred on or after the applicable **retroactive date** and prior to the **policy termination date**.

Insured, means:

1. the **named insured**;
2. any past or present partner, officer, director, shareholder, or employee of the **named insured** while acting within the scope of his/her duties for an entity listed in Item **1.** of the Declarations page; and
3. any leased or retired personnel under **your** direct supervision while acting on behalf of the **named insured**; and
4. **your** lawful spouse or **domestic partner**, solely for liability arising from any **wrongful act** of an **insured** committed without the participation of such spouse or **domestic partner**; and
5. **your** heirs, assigns and legal representatives in the event of **your** death, incapacity or bankruptcy to the extent you would have been covered.

Loss means **claim expenses, damages** and **defense expenses** and does not include **equitable relief**.

Malicious code means any virus, trojan horse, worm or similar software program, code or script intentionally designed to insert itself into computer memory.

Mediation means the non-binding intervention of a qualified neutral third party chosen by **you** and the other party to a **claim** with agreement by **us**.

Named insured means the individual, entity, partnership, or corporation designated as such in Item **1.** of the Declarations page.

Policy means this **policy** form, the Declarations, and any endorsements to the **policy** issued by **us**, and **your** application, including all supplements.

Policy period as shown on Item **2.** of the Declarations page, means the period from the effective date of the **policy** to the expiration date or earlier termination date of the **policy**.

Policy termination date means the expiration date of the **policy** as shown on the Declarations page or the cancellation date of the **policy**.

Potential claim means an event, incident, allegation, circumstance, dispute or situation which may subsequently give rise to a **claim**.

Professional services means those services **you** are legally qualified to perform for others in **your** capacity as an architect, engineer, land surveyor, landscape architect, construction manager, interior designer, scientist, technical consultant or as specifically defined by endorsement to the **policy**.

Retroactive date(s) refer to the date shown in Item 5. of the Declarations. If no date or "Unlimited" is shown on Item 5. of the Declarations page, the **retroactive date** will be the earliest date of establishment of the **named insured**.

Suit means a civil proceeding for monetary **damages**, non-monetary or injunctive relief, which is commenced by service of a complaint or similar pleading. **Suit** includes a binding arbitration proceeding in which **damages** are alleged and to which **you** must submit or do submit with **our** consent.

Unauthorized access means the use of or access to **computer systems** by a person not authorized to do so by the **named insured**; or the use or access to **computer systems** in a manner not authorized by the **named insured**.

Wrongful act(s) means any actual or alleged negligent act, error or omission committed in the course of **your professional services** for others by **you** or by any other entity or joint venture for which **you** are legally liable in the course of rendering **your professional services**.

E. EXCLUSIONS - WHAT THIS POLICY DOES NOT INSURE

This **policy** does not apply to **claim(s)**:

1. based upon, arising out of, or in any way relating directly or indirectly to any **insured** committing any intentional, dishonest or fraudulent act or omission; however this exclusion will not apply unless this is established in a final adjudication;
2. for any willful or criminal violation of any statute, rule or law;
3. based upon, arising out of, or in any way relating directly or indirectly to any **bodily injury** to any employee in the course of his or her employment with an **insured**; or any obligation which **you** or any carrier as insurer may be liable under any workers' compensation, unemployment compensation, employers liability, disability benefits law or under any similar law;
4. based upon, arising out of, or in any way relating directly or indirectly to the cost to repair or replace faulty workmanship in any construction, erection, fabrication, installation, assembly, manufacture or remediation performed by any **insured**, including the cost of materials, parts or equipment furnished in connection therewith;
5. based upon, arising out of, or in any way relating directly or indirectly to the design or manufacture of goods or products which are sold or supplied by an **insured** or by others under license from **you**; however, this exclusion does not apply to software sold or supplied by **you** to **your** customer or client in connection with **your** provision of **professional services** to such customer or client, or to the supplying of furniture, fixtures, or equipment as part of interior design services;
6. based upon, arising out of, or in any way relating directly or indirectly to a nuclear reaction, radiation or contamination, under any circumstances and regardless of cause, within or originating from a site where a nuclear reactor is located or where nuclear material or waste is disposed;
7. based upon, arising out of, or in any way relating directly or indirectly to any warranty or guarantee by **you**; however, this exclusion will not apply to any guarantee that **your professional services** conform with the generally accepted standard of care applicable to that **professional service**.
8. based upon, arising out of, or in any way relating directly or indirectly to any breach of fiduciary duty, responsibility, or obligation in connection with any employee benefit or pension plan, including violations of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, or similar statutory or common law of the United States of America or any state or jurisdiction therein;
9. based upon, arising out of, or in any way relating directly or indirectly to any **employment practices** liability or any discrimination on any basis, including, but not limited to: race, creed, color, religion, ethnic background, national origin, age, handicap, disability, gender, sexual orientation or pregnancy;
10. based upon, arising out of, or in any way relating directly or indirectly to any federal, state or local government agency or professional or trade licensing organization; however, this exclusion shall not apply where the **claim** is alleging a **wrongful act** in **your** rendering **professional services** to such entity or for a **disciplinary proceeding** or in a regulatory or administrative action in Section **A.4.b.** ADA, FHA and OSHA Coverage;

11. arising out of liability of others **you** assume under any contract or agreement; however, this exclusion does not apply to liability **you** would have in the absence of such contract or agreement; or, in any foreign jurisdiction where **your** liability to a client is predicated only on contractual liability, this exclusion does not apply except to the extent that **you** have agreed to pay consequential or liquidated damages;
12. against **you** that are brought by or on behalf of:
 - a) any business entity that is owned, managed or operated, directly or indirectly, in which **you** have an ownership interest in excess of fifty percent (50%), or in which **you** are an officer or director;
 - b) any parent company, subsidiary, successor or assignee of **yours**, or anyone affiliated with **you** or such business entity through common majority ownership or control; or
 - c) any **insured** under this **policy** against any other **insured** under this **policy**.

F. EXTENDED REPORTING PERIOD

1. **You** will be entitled to an automatic **extended reporting period** for no additional premium. This extension is applicable to any **claim** made against **you** during the **policy period** and reported to **us** in writing, during the sixty (60) days immediately following the **policy termination date**.
2. **We** will provide an optional **extended reporting period** as described below:
 - a) If this **policy** is canceled, terminated or non-renewed, **you** shall have the right, upon payment of an additional premium, to an extension of the reporting period for any **claim** against **you** first made and reported after the date upon which the **policy period** ends, but only with respect to **wrongful acts** committed prior to the end of the **policy period** and otherwise covered by this **policy**. Such period shall be referred to as the optional **extended reporting period**:
 - 1) the available optional **extended reporting periods** and additional premium are determined in accordance with the rules, rates and rating plans **we** then have in effect in **your** state;
 - 2) **you** must request the optional **extended reporting period** in writing and must pay **us** the additional premium within 30 days following the date of such cancellation, termination or nonrenewal. If **we** do not receive **your** request and premium payment within 30 days following the date of such cancellation, termination or non-renewal, **your** right to purchase the optional **extended reporting period** shall cease; and,
 - 3) if **we** cancel for non-payment of premium, **you** may purchase the optional **extended reporting period** only after any earned premium due **us** is paid within 10 days after the date of cancellation or **policy** expiration, whichever comes first.
 - b) All premiums paid for an optional **extended reporting period** shall be deemed fully earned as of the first day of the optional **extended reporting period**. The optional **extended reporting period** may not be canceled.
 - c) The optional **extended reporting period** shall not increase any limits of liability stated in Item 3. of the Declarations page. For the purpose of **policy** limits, the reporting periods are part of, not in addition to, the **policy period**.

G. DUTIES IN THE EVENT OF CLAIM(S) OR POTENTIAL CLAIM(S)

1. If **you** receive a **claim**, **you** and any other involved **insured(s)** must see to it that **we** receive written notice of the **claim**, with full details including the date received, as soon as practicable, but in no event later than 90 days after such **claim** is first made.
2. **You** and any other involved **insured** must:
 - a) Immediately send **us** copies of any demands, notices, summonses or legal papers received in connection with the **claim**;
 - b) Authorize **us** to obtain records and other information;
 - c) Cooperate with **us** in the investigation, defense or settlement of the **claim**; and
 - d) Assist **us**, upon our request, in the enforcement of any right against any person or entity which may be liable to **you** because of **damages** to which this insurance may apply.
3. No **insured** will, except at that **insured's** own cost, voluntarily make a payment, assume any obligation, agree to a settlement or incur any expense related to a **claim** without **our** consent.
4. If during the policy period, **you** become aware of a **wrongful act** or any facts or other circumstance that occurred on or after the retroactive date but prior to the end of the **policy period**, which may reasonably

be expected to subsequently give rise to a claim against **you**, **you** must give **us** written notice as soon as practicable, but in any event not later than the end of the **policy period** or any **extended reporting period**, if applicable. To the extent possible notice should include:

- a) Where the **wrongful act** took place and any facts or circumstance concerning the wrongful act; and
- b) The names and addresses of any persons and entities involved.

5. Any **claim** arising out of the **wrongful act**, facts or circumstance which is subsequently made against **you** shall be deemed to have been first made at the time **we** receive such written notice from **you**, if we receive proper notice of the **potential claim** according to paragraph 4. above.

The date of mailing shall constitute the date that such notice was given and proof of mailing shall be sufficient proof of notice.

H. CONDITIONS

1. CANCELLATION AND NON RENEWAL

- a) **We** will not cancel this **policy** except for failure to pay premium when due, or for fraud or material misrepresentation in procuring this **policy** or in relation to a **claim**, or changes in law effecting this **policy**. In any of these circumstances, we will give 10 days written notice to the **named insured** before such cancellation is effective if cancellation is for non-payment of premium. If we cancel for any other reason, we will provide written notice to the named insured at least 60 days before such cancellation is effective.
- b) The **named insured** may cancel this **policy** for itself and all other **insureds** by written notice to **us** stating when thereafter the cancellation shall be effective. If this policy is cancelled, earned premium shall be computed in accordance with the customary short rate proportion of the premium.
- c) **We** are not required to renew this **policy**. However, written notice of **our** intent to non-renew this **policy** shall be sent to the **named insured** at least 60 days prior to expiration of the **policy period**.

2. REPRESENTATIONS AND APPLICATION

By accepting this **policy** **you** agree that:

- a) the statements in the Declarations are accurate and complete;
- b) those statements are based on representations **you** made in **your** application for this **policy**;
- c) the representations made in **your** application for this policy are to be considered as incorporated into and constitute a part of this **policy**;
- d) those representations are material to the acceptance of the risk **we** assumed under this **policy**;
- e) **we** have issued this **policy** in reliance upon the truth, accuracy and completeness of such representations;
- f) the application shall be interpreted as a separate application for coverage by each **insured**. No statement in the application, fact pertaining to or knowledge possessed by any **insured** shall be imputed to any other **insured** for the purpose of determining if coverage is available; and
- g) statements in the application, facts pertaining to or knowledge possessed by the individual signing the application shall be imputed to the **named insured**.

3. LEGAL ACTION AGAINST US

No person or entity has a right under this **policy**:

- a) to join **us** as a party or otherwise bring **us** into a suit asking for **damages** from an **insured**; or
- b) to sue **us** on this **policy** unless all of its terms have been fully complied with.

A person or entity may sue **us** to recover on an agreed settlement or on a final judgment against an **insured**; but we will not be liable for **damages** that are not payable under the terms of this **policy** or that are in excess of the applicable limit of liability. An agreed settlement means a settlement and release of liability signed by **us**, the **insured** and the claimant or the claimant's legal representative.

4. CHANGE IN OWNERSHIP, CONTROL OR EXPOSURE

- a) If during the **policy period**:

- 1) another person or entity or group of persons or entities acquires more than 50 percent of the assets of the **named insured**; or

2) another person or entity, or group of persons or entities, acquires an amount of the outstanding securities representing more than 50 percent of the voting power for the election of the **named insured's** directors or trustees; or

3) the **named insured** consolidates with or merges with another entity;

you shall notify **us** of the change described in 1), 2), or 3) above, herein referred to as **transaction**, as soon as practicable, but not later than 30 days after the effective date of the **transaction** and provide such additional information as **we** require.

b) If a **transaction** occurs, coverage under this **policy** shall continue until termination of the **policy period** but only with respect to **claims** and **potential claims** made for **wrongful acts** which took place prior to the **transaction**.

c) If **you** fail to provide notice as described in 4.a. above, coverage provided to **you** under this **policy** shall terminate as of the date of the **transaction**.

d) The entire premium for this **policy** shall be deemed fully earned upon the occurrence of a **transaction**.

e) In the event of a **transaction**, the **named insured** will have the right, upon payment of an additional 75 percent of the premium, to an extension of coverage under the **policy** for a **claim** first made and reported during the 12 months after the **transaction** but, only with respect to any **wrongful act** occurring prior to the **transaction** and otherwise covered by this **policy**. The 12 month period shall be referred to as the run-off period.

1) the premium means the premium in effect immediately prior to the **transaction**.

2) the rights contained in paragraph 4. shall terminate unless written notice of the election and the additional premium due is received by **us** within 60 days of the **transaction**.

f) In the event of a **transaction**, the **named insured** has the right to purchase the run-off period but, has no right to purchase the optional **extended reporting period** described in section F. of the **policy**.

g) The additional premium for the run-off period shall be fully earned at the inception of the run-off period. The run-off period is not cancelable.

h) The limit of liability for the run-off period is part of and not in addition to the limit of liability in Item 3. of the Declarations page.

5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

If **you** have rights to recover all or part of any payment **we** have made under this **policy**, these rights are transferred to **us**. **You** must do nothing after a **loss** to impair our rights to seek or obtain recovery from others. At **our** request, **you** will sue those responsible or transfer those rights to **us** and help **us** enforce them. In the event of any payment under this **policy**, **we** shall be subrogated to the extent of such payment to all of **your** rights of recovery. **You** shall execute and deliver such instruments and papers and do whatever else is necessary to secure such rights and shall do nothing to prejudice or compromise such rights without **our** express written consent. This section does not apply, if **you**, prior to the date a **wrongful act** is committed, have waived **your** right of recovery for **damages** that result from such **wrongful act**.

6. ASSIGNMENT

No change in, modification of or assignment of interest in this **policy** shall be effective except when made by a written endorsement to the **policy**.

7. SOLE AGENT FOR THE INSURED

By accepting this **policy**, **you** agree that only the **named insured** is authorized to act on behalf of all **insureds** with respect to the following: consenting to settlement or releasing rights under this **policy**, payment for premiums and deductibles, receiving return premiums, giving or receiving notice of cancellation or nonrenewal, requesting any optional **extended reporting period** or run-off period and agreeing to any changes in this insurance **policy**. Each **insured** agrees that the **named insured** shall act on its or their behalf with respect to such matters.

8. COVERAGE TERRITORY AND VALUATION

This **policy** applies to a **wrongful act** committed anywhere in the world provided that the **claim** is made and suit is brought against the **insured** within the United States, its territories or possessions or Canada.

All premiums, limits, deductibles, **loss** and other amounts are expressed and payable in the currency of the United States of America. If a judgment is rendered, a settlement is denominated or another element of **loss** under this **policy** is stated in a currency other than the United States of America dollars, payment under this **policy** shall be made in United States of America dollar equivalent determined by the rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final, the amount of the settlement is agreed upon or any element of **loss** is due, respectively.

9. OTHER INSURANCE

- a) If other valid and collectible insurance is available to **you** for **loss** covered under this **policy**, the insurance provided by this **policy** shall be excess over such other insurance, regardless of whether or not such insurance is primary, contributory, excess, contingent or otherwise.
- b) When this insurance is excess, **we** have no duty to defend **you** against any **claim** if any other insurer has a duty to defend **you** against the **claim**. If no other insurer defends **we** will undertake to do so but **we** will be entitled to **your** rights against those other insurers.
- c) When this insurance is excess over other insurance, **we** will pay only **our** share of the amount of **loss**, if any, that exceeds the sum of:
 - 1) the total amount that all such other insurance would pay for the **loss** in the absence of this insurance;
 - 2) the total of all deductibles, self-insurance and retentions under all that other insurance.

We will share the remaining **loss**, if any, with any other insurance that is not described in this provision and was not bought specifically to apply in excess of the limit of liability shown in the Declarations page of this **policy**.

d) Method of Sharing

If all the other insurance permits contribution by equal shares, **we** will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of liability or none of the **loss** remains, whichever comes first.

If any other insurance does not permit contribution by equal shares, **we** will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of liability to the total applicable limits of liability of all insurers.

10. TWO OR MORE POLICIES, COVERAGE PARTS, OR ENDORSEMENTS ISSUED BY US

It is **our** stated intention that this **policy** and any other **policy** or endorsement issued by **us**, or by another member of the **company**, shall not provide duplicate or overlapping coverage for the same **claim**. If this **policy** and any other **policy** issued by **us**, or by another member of the **company**, to **you**, apply to the same **claim** then, Condition 9. Other Insurance notwithstanding:

- a) **we** shall not be liable under this **policy** for a greater proportion of the **loss** than the applicable limit of liability of this **policy** bears to the sum of the total limits of liability of all such policies; and
- b) the maximum amount payable under all such policies combined shall not exceed the highest applicable limit of liability under any one **policy**.

11. ALLOCATION

If **you** incur both **loss** covered by this **policy** and **loss** not covered by this **policy** on account of any **claim** because such **claim** includes both covered and non-covered matters, coverage with respect to such **claim** shall apply as follows:

- a) 100 percent of **defense expenses** on account of the **claim** will be considered covered **loss**; and
- b) **we** shall fairly allocate all remaining **loss** that you incurred on account of such **claim** between covered **loss** and non-covered **loss**.

12. SEPARATION OF INSURED

Except with respect to the limits of liability, deductible and any rights or obligations assigned to the first **named insured**, this insurance applies:

- a) as if each **insured** were the only **insured**; and
- b) separately to each **insured** against whom a **claim** is made.

13. CONFORMANCE TO STATUTE

The terms of this **policy** which are in conflict with the statutes of the state in which this **policy** is issued are amended to conform to those statutes.

14. SECTION TITLES

The titling of sections and paragraphs within this **policy** is for convenience only and shall not be interpreted as a term or condition of this **policy**.

15. BANKRUPTCY

You or **your** estate's bankruptcy or insolvency does not relieve **us** of **our** obligations under this **policy**.

16. LIBERALIZATION

If **we** adopt any revisions to the terms and conditions of this **policy** form to provide more coverage without an additional premium charge during the **policy** term, the broadened coverage will immediately apply. However, the broadened terms and conditions will not apply to any **claims** that were first made against **you** prior to the effective date of the revision.