



(CLAIMS MADE)

**NONPROFIT DIRECTORS AND OFFICERS LIABILITY INSURANCE POLICY**

**THIS POLICY APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD, ANY SUBSEQUENT RENEWAL OF THE POLICY OR ANY EXTENDED CLAIMS REPORTING PERIOD. AMOUNTS PAID AS CLAIM EXPENSES SHALL REDUCE AND MAY EXHAUST THE LIMITS OF LIABILITY AND WILL BE APPLIED AGAINST THE DEDUCTIBLE. THE COMPANY WILL NOT BE LIABLE FOR LEGAL DEFENSE COST OR FOR ANY AMOUNT OF ANY JUDGEMENT OR SETTLEMENT AFTER EXHAUSTION OF THE LIABILITY LIMIT.**

**-KEY WORDS AND PHRASES APPEARING BOLDED AND IN LARGE CASE SCRIPT THROUGHOUT THIS TEXT HAVE SPECIAL MEANINGS. PLEASE REFER TO SECTION II, DEFINITIONS-**

In consideration of the payment of the premium and in reliance upon statements in the application, the Insurance **COMPANY** shown on the **CERTIFICATE OF INSURANCE** (hereinafter called the **COMPANY**) agrees with the **INSURED**, subject to all of the terms, exclusions and conditions of this policy as follows.

I. Insuring Agreements

A. Coverage

The **COMPANY** shall pay on behalf of an **INSURED** all **CLAIMS EXPENSES** and **DAMAGES** that the **INSURED** becomes legally obligated to pay for any **CLAIMS(s)** first made against the **INSURED** for a **WRONGFUL ACT(s)** which arise solely out of the discharge of an **INDIVIDUAL INSURED'S** duties on behalf of the **ENTITY**.

B. Claims Made Provision

In order for this coverage to apply:

1. The **CLAIM** must first be made against the **INSURED** for a **WRONGFUL ACT** during the **POLICY YEAR** or if applicable during the Extended Claims Reporting Period.
2. The **CLAIM** must first be reported, in writing, to the **COMPANY** as soon as practicable after the end of the **POLICY YEAR** in which the **CLAIM** was made against the **INSURED** or, if applicable, during the Extended Claims Reporting Period. Failure to give notice of a **CLAIM** within the prescribed time after the end of the **POLICY YEAR** will not eliminate coverage for a **CLAIM** if it was not reasonably possible to give notice sooner and notice was given as soon as possible.

C. Defense Provision

1. When a **CLAIM** is made against an **INSURED** and reported to the **COMPANY** in accordance with the Claims Made Provision, the **COMPANY** has the right and duty to defend any covered **CLAIM** against the **INSURED**, even if such **CLAIM** is groundless, false or fraudulent.

**CLAIMS EXPENSES** will be paid by the **COMPANY** and such payments will reduce the limit of liability.

Unless otherwise endorsed, this policy is written on a “DEFENSE WITHIN THE LIMITS” Basis. The limits of liability, as set forth in Item C of the **CERTIFICATE OF INSURANCE**, available to pay judgments or settlements will be reduced by amounts incurred for **CLAIM EXPENSES**.

2. a. If the **COMPANY** concludes, based on occurrences, offenses, claims or suits which have been reported to the **COMPANY** and to which this insurance may apply, that the aggregate limit stated in C (i) on the declarations page is likely to be exhausted by the payment of **DAMAGES**, the **COMPANY** will notify the **INSURED** in writing to that effect.

- b. When the limit of liability described in paragraph 2a. above has actually been exhausted by payment of Damages:

- (1) The **COMPANY** will notify the **INSURED**, in writing, as soon as practicable, that:

- (a) such limit of liability has been exhausted; and

- (b) the **COMPANY**'s duty to defend suits seeking damages subject to that limit of liability has also ended.

- (2) The **COMPANY** will initiate and cooperate in the transfer of control to any appropriate **INSURED** of all claims and suits seeking damages which are subject to that limit of liability and which are reported to the **COMPANY** before that limit of liability is exhausted. That **INSURED** must cooperate in the transfer of control of such claims and suits.

The **COMPANY** agrees to take such steps as it deems appropriate to avoid a default in or continue the defense of such suits until such transfer is completed, provided the appropriate **INSURED** is cooperating in completing such transfer. The **COMPANY** will take no action whatsoever with respect to any **CLAIM** or suit seeking damages that would have been subject to the limit of liability had it not been exhausted if the claim or suits is reported to the **COMPANY** after that limit of liability has been exhausted.

- (3) Any **INSURED** involved in a suit seeking damages subject to that limit of liability must arrange for the defense of such suit within such time period as agreed to between the appropriate **INSURED** and the **COMPANY**. Absent such agreement, arrangements for the defense of such suit must be made as soon as practicable.

- c. The **INSURED** will reimburse the **COMPANY** for expenses it incurs in taking such steps as the **COMPANY** deems appropriate in accordance with paragraph b. (2) above. The duty of the **INSURED** to reimburse the **COMPANY** will begin on:
- (1) the date on which the applicable limit of liability is exhausted, if the **COMPANY** sent notice in accordance with paragraph 2.a. above; or
  - (2) the date on which the **COMPANY** sent notice in accordance with paragraph 2.b. (1) above, if the **COMPANY** did not send notice in accordance with paragraph 2.a. above.
- d. The exhaustion of any limit of liability by the payment of **DAMAGES** and the resulting end of the **COMPANY's** duty to defend will not be affected by the **COMPANY's** failure to comply with this provision.

#### D. Settlement Provision

1. The **COMPANY** shall select defense counsel with the consent of the **INSURED**, which Consent shall not be unreasonably withheld. The **INSURED** may participate in and assist in the direction of the defense of any **CLAIM** and consent to settlement, which consent shall not be unreasonable withheld.
2. No **CLAIMS EXPENSES** shall be incurred without the **COMPANY'S** consent.
3. No offer to settle any **CLAIM** shall be made or accepted by the **INSURED** without prior Written agreement from the **COMPANY**.
4. If the **INSURED** and the **COMPANY** disagree as to the disposition of any **CLAIM**, the following provisions shall apply:
  - a. If the **INSURED** is willing to accept a settlement which is offered by a claimant or is unwilling to appeal a judgment, the **COMPANY** has the right to litigate in lieu of said settlement or appeal, provided that the **COMPANY** bears all **CLAIMS EXPENSES** which are subsequently incurred. Any increase in such judgments or settlement will be paid by the **COMPANY**.
  - b. If the **COMPANY** is willing to accept the judgment of a court or any settlement offer, and the **INSURED** is not willing to accept such judgment or settlement, the **COMPANY** may pay to the **INSURED** the amount of the judgment or settlement (less any remaining deductible amounts). The **COMPANY** shall then be relieved from any further liability for any **DAMAGES, CLAIMS EXPENSES** or any duty to defend.

#### E. Territory

The coverage afforded by this policy applies to **WRONGFUL ACT(s)** which occur anywhere in the world, provided that the **CLAIM** is made against the **INSURED** within the United States, its territories or possessions, or Canada.

## F. Spousal Extension

If a **CLAIM** against an **INDIVIDUAL INSURED** includes a **CLAIM** against an **INDIVIDUAL INSURED'S** lawful spouse solely by reason of (1) such spouse's status as a spouse of the **INDIVIDUAL INSURED** or (2) such spouse's ownership interest in property which the claimant seeks as recovery for alleged **WRONGFUL ACTS** of the **INDIVIDUAL INSURED** then all **CLAIMS EXPENSES** or **DAMAGES** which such spouse becomes legally obligated to pay by of said **CLAIM** shall be treated as **CLAIMS EXPENSES** or **DAMAGES** which the **INDIVIDUAL INSURED** is obligated to pay.

The coverage which is provided by this extension does not apply to any **CLAIM** which alleges that the **INDIVIDUAL INSURED'S** spouse committed any **WRONGFUL ACTS**.

## G. Outside Directorship Extension

The insurance which is provided by this policy shall extend to any **CLAIM** against an **INDIVIDUAL INSURED** for **WRONGFUL ACTS** arising from such **INDIVIDUAL INSURED'S** service in an **OUTSIDE DIRECTORSHIP** capacity. Coverage provided to any **INDIVIDUAL INSURED** while serving in an **OUTSIDE DIRECTORSHIP** capacity does not extend to the organization in which such **OUTSIDE DIRECTORSHIP** is held or to any of the other directors, officers, employees or trustees of the organization. The coverage provided by this **OUTSIDE DIRECTORSHIP** extension shall be specifically excess of any other indemnity of insurance available to such **INDIVIDUAL INSURED** from the Organization.

## II. Definitions

The following terms whenever used in this policy in boldface type shall have the meaning indicated.

- A. **ADMINISTRATION** shall mean giving advice other than legal advice to employees or effecting enrollment, termination or cancellation of employees under an **EMPLOYEE BENEFIT PLAN**.
- B. **APPLICATION** shall mean all signed applications for this Policy and for any policy in an uninterrupted series of policies issued by the **COMPANY** of which this Policy is a renewal or replacement.
- C. **CERTIFICATE OF INSURANCE** means what is commonly considered to be the declarations page of the policy, containing information, such as **INSURED ENTITY**, policy period, limits of liability, premium, and policy number, which is commonly included on a declarations page.
- D. **CLAIM** shall mean a demand for the institution of proceedings or a demand for money, including but not limited to, a service of suit, an institution of mediation or arbitration proceedings, or the institution of a charge against the **INSURED** with the United States Equal Employment Opportunity Commission (hereafter referred to as the EEOC) or a similar state or local agency which is responsible for the administration of state fair employment practices laws.

- E. **CLAIMS EXPENSES** shall mean the following but only when authorized by the **COMPANY**:
1. Fees, costs, and expenses charged by an attorney who is designated by the **COMPANY** to represent the **INSURED** in the defense of a **CLAIM**;
  2. All other fees, costs and expenses resulting from the investigation, defense and settlement of any **CLAIM**, including the administrative and investigative expenses or fees arising from EEOC proceedings (or similar state or local agencies).
  3. The interest on any part of a judgment that accrues before or after the entry of the judgment and before the **COMPANY** has paid or tendered or deposited the applicable judgment amount in court as well as any premiums for a bond amount, not exceeding the limit of liability, which is required as the result of a covered **CLAIM**, and premiums on bonds to release attachments. However, the **COMPANY** has not obligation to apply for or to furnish any such bonds;
- F. **DAMAGES** shall mean any amount that the **INSURED** becomes legally obligated to pay for any covered **CLAIM**, including judgments or settlements and the back pay and future lost earnings of **INDIVIDUAL INSURED (s)** if associated with **EMPLOYMENT PRACTICES CLAIM**. **DAMAGES** shall not include the following:
1. Sanctions, fines or penalties;
  2. Any punitive or exemplary damages unless such coverage is specifically required by the state law or regulation.
- G. **EMPLOYEE BENEFIT PLAN** shall mean those benefit plans which provide benefits solely to the employees of the **ENTITY** and which meet the definition of Employee Benefit Plan in the Employee Retirement Income Security Act of 1974.
- H. **EMPLOYEE BENEFIT PLAN-RELATED WRONGFUL ACT (s)** shall mean:
1. Any breach of the responsibilities, obligations or duties imposed upon fiduciaries of an **EMPLOYEE BENEFIT PLAN** by the Employee Retirement Income Security Act of 1974, as amended, or by the common or statutory law of the United States, or any state or other jurisdiction;
  2. Any error, omission or negligent act made in the **ADMINISTRATION** of an **EMPLOYEE BENEFIT PLAN**.
- I. **EMPLOYMENT PRACTICES CLAIM** shall mean a **CLAIM** which is brought and maintained by any past, present or prospective employee of the **ENTITY** against any **INSURED** for any **WRONGFUL ACT** in connection with any actual or alleged violation of the following statutes:
1. Title VII of the Civil Rights Act of 1964
  2. The Americans with Disabilities Act 1990
  3. The Age of Discrimination in Employment Act of 1967
  4. The Equal Pay act of 1963
  5. Sections 503 and 504 of the Rehabilitation Act of 1973
- or any discrimination, wrongful termination, vicarious liability for workplace harassment (including sexual harassment), breach of any verbal or written employment contract or quasi-employment contract, employment-related misrepresentation, wrongful failure to employ or promote, wrongful discipline, wrongful deprivation of a career opportunity, failure to grant tenure, negligent evaluation, employment-related mental anguish or employment-related emotional distress, retaliation (including lockouts);

- J. **ENTITY** shall mean the nonprofit corporation which is named in Item A on the **CERTIFICATE OF INSURANCE** and any organization which is added by endorsement to the policy.
- K. **INSURED** shall mean the **ENTITY** or an **INDIVIDUAL INSURED**.
- L. **INDIVIDUAL INSURED** shall mean:
1. Any past, present or future director, officer, trustee, employee, volunteer or member of any duly constituted committee of the **ENTITY** but only with regard to **WRONGFUL ACTS** which arise solely out of the discharge of the **INDIVIDUAL INSUREDS'** duties on behalf of the **ENTITY**;
  2. The heirs, executors, administrators, and legal representatives of an **INDIVIDUAL INSURED**, in the event of an **INDIVIDUAL INSURED'S** death, insolvency, incapacity or bankruptcy. This coverage extends only to the liability which arises out of **WRONGFUL ACTS** related to the **INDIVIDUAL INSURED'S** duties solely in their capacity with the **ENTITY**.
- M. **INTERRELATED WRONGFUL ACTS** shall mean **WRONGFUL ACTS** which have as a common nexus any fact, circumstances, situation, event, transaction or series of facts, circumstances, situations, events or transactions.
- N. **OUTSIDE DIRECTORSHIP** shall:
1. Mean any official position held by an **INDIVIDUAL INSURED** in any Outside Nonprofit Organization at the specific written request of the **ENTITY**;
  2. Not extend to the Outside Nonprofit Organization in which the **OUTSIDE DIRECTORSHIP** is held or to any of the other directors, officers, trustees or employees of such Organization.
- O. **POLICY PERIOD** shall mean the period of time which is specified on the **CERTIFICATE OF INSURANCE** or its earlier cancellation date, if any.
- P. **POLICY YEAR** shall mean the period of one year following the effective date and hour of this Policy or any anniversary thereof; or of the time between the effective date or any anniversary and the end of the **POLICY PERIOD** if less than one year, such lesser period. If the Extended Claims Reporting is Exercised, such period shall be deemed part of the **POLICY YEAR** during which it was exercised.
- In the event that the **POLICY PERIOD** is twelve months or less, then the term **POLICY YEAR** shall mean the same as the term **POLICY PERIOD**.
- Q. **POLLUTANTS** shall mean any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals, radioactive substances, and waste (including medical wastes). Waste includes materials to be recycled, reconditioned or reclaimed.
- R. **TERMINATION OF COVERAGE** shall include cancellation, nonrenewal, decrease in limits, new exclusions or any other change in coverage less favorable to the **INSURED**.
- S. **WRONGFUL ACTS** shall mean the following:
1. Any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty by an **INSURED**;

2. Any actual or alleged mismanagement including, but not limited to the mismanagement of the **ENTITY'S** funds, except those funds covered by Exclusion E;
3. Any actual or alleged wrongful Employment Practices, including but not limited to any actual or alleged violations of the following statutes:
  - a.) Title VII of the Civil Rights Act of 1964
  - b.) The Americans with Disabilities Act of 1990
  - c.) The Age Discrimination Act of 1967
  - d.) The equal Pay Act of 1963
  - e.) Sections 503 and 504 of the Rehabilitation Act of 1974

or any discrimination, wrongful termination or dismissal, vicarious liability for workplace harassment (including sexual harassment), breach of any verbal or written employment contract or quasi-employment contract, employment-related misrepresentation, wrongful failure to employ or promote, wrongful discipline, wrongful deprivation of a career opportunity, failure to grant tenure, negligent evaluation, employment-related mental anguish or employment-related emotional distress, retaliation (including lockouts);

4. Any actual or alleged Personal Injury or Publishers Liability, including but not limited to: libel, slander, false arrest, invasion of privacy, wrongful detention or imprisonment, malicious prosecution, defamation of character, wrongful entry, wrongful eviction, plagiarism, misappropriation of ideas, infringement of a copyright or trademark, unauthorized use of a title;

### III. Exclusions

The **COMPANY** is not obligated to pay **DAMAGES** or **CLAIMS EXPENSES** for:

- A. Any **CLAIM** arising from any dishonest (including any **INSURED** gaining any profit or advantage to which the **INSURED** was not legally entitled), fraudulent, criminal, or malicious **WRONGFUL ACT** or any **WRONGFUL ACT** committed deliberately by any **INSURED** or at the direction of any **INSURED**.
- B. Any **CLAIM** arising out of or attributable to obligations under any employer's liability law, unemployment compensation law, workers' compensation law, disability benefits law or similar law.
- C. Any **CLAIM** which arises out of or is in any way attributable to any actual or alleged:
  1. Bodily injury, sickness, disease or death of any person; or
  2. Mental Anguish or emotional distress (except that which arises out of an **EMPLOYMENT PRACTICES CLAIM**); or
  3. Physical damage to or destruction of tangible property, including the loss of use thereof, or the loss of use of tangible property which has not been physically damaged or destroyed.
- D. Any **CLAIM** arising out of or attributable to any actual or alleged:
  1. Injury of damage which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **POLLUTANTS** at any time; or

2. Request, demand or order that any **INSURED** or any other party test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to, or assess the effects of **POLLUTANTS**, or
  3. Lawsuit, action, or proceeding by or on behalf of a governmental authority for **DAMAGES** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, or in any way responding to, or assessing the effects of **POLLUTANTS**.
- E. Any **CLAIM** arising out of any actual or alleged violation of the Employment Retirement Income Security Act of 1974 and its amendments or any regulations or order pursuant thereto, as well as any similar state law or regulation or from the **INSURED'S ADMINISTRATION** of an **EMPLOYEE BENEFIT PLAN**.
- F. Any **CLAIM** arising from any litigation, claims, demands, causes of action, legal or quasi-legal proceeding, decrees or judgments against any **INSURED**, occurring Prior to, or Pending the date stated in Item E. of the **CERTIFICATE OF INSURANCE**, of which any **INSURED** had received notice or otherwise had knowledge as of such date; or 1.) Arising from any subsequent litigation, claims, demands, causes of action, legal or quasi-legal proceedings, decrees or judgments against any **INSURED** arising from or based substantially on the same or related matters as alleged in the pleadings of such prior or pending litigation, claims, demands, causes of action, legal or quasi-legal proceedings, decrees or judgments against any **INSURED**; or 2.) Arising from any act of any **INSURED** which gave rise to such prior or pending litigation, claims, demands, causes of action, legal or quasi-legal proceedings, decrees or judgments against any **INSURED**.
- G. Any **CLAIM** based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any fact, circumstance, or situation committed or alleged to have been committed prior to the Retroactive Date stated in Item F. of the **CERTIFICATE OF INSURANCE**, including any related facts or circumstances that are logically or causally connected by reason of any common fact, circumstance, situation, transaction, casualty, event, or decision.
- H. Any **CLAIM** arising out of or attributable to any actual or alleged breach of any non-employment related breach of contract, agreement, warranty or guaranty.
- I. Any **CLAIM** arising from or attributable to any acts of discrimination based upon disparate treatment.

#### IV. Deductible and Limit of Liability

A. Deductible (also known as retention)

The Deductible stated on the **CERTIFICATE OF INSURANCE** applies to each **CLAIM** and shall be paid by the **ENTITY** and shall be applicable to each claim amount for all **CLAIMS** under this policy. The deductible shall apply to the payment of **CLAIMS EXPENSE** and **DAMAGES**.

The **COMPANY** may advance payment of all or part of the deductible amount and, upon notification of such payment, the **INSURED** shall promptly reimburse the **COMPANY** for the deductible amounts advanced by the **COMPANY**.

B. Limit of Liability

The Limit of Liability shall apply in excess of the deductible shown on the **CERTIFICATE OF INSURANCE**. The Limit of Liability set forth in the **CERTIFICATE OF INSURANCE** shall be

the maximum amount of **DAMAGES** or **CLAIMS EXPENSE** or both combined that the **COMPANY** will pay for all **CLAIMS** made in a given **POLICY YEAR** less the deductible.

**CLAIMS EXPENSES** shall be part of and not in addition to the limits of liability and payments of **DAMAGES** and **CLAIM EXPENSES** shall reduce the limits of liability.

One or more **CLAIMS** arising out of the same **WRONGFUL ACT** or **INTERRELATED WRONGFUL ACTS** shall be deemed to constitute a single **CLAIM** subjects to one deductible and shall be deemed to have been made within the **POLICY YEAR** in which the earliest **CLAIM** involving the same **WRONGFUL ACT** or **INTERRELATED WRONGFUL ACT** was first made against the **INSURED**.

The inclusion of more than one **INSURED** in the making of a single **CLAIM**, or the bringing of **CLAIMS** by more than one person or organization shall not operate to increase the **COMPANY's** limit of liability.

#### V. Extended Claims Reporting Period

- A. If this policy is terminated, the **INSURED** is entitled to an automatic Extended Claims Reporting Period. Within 30 days after termination of coverage, the **COMPANY** will advise the **INSURED** in writing of the automatic Extended Reporting Period and of the availability of, cost for and importance of purchasing additional extended reporting period coverage. This extension extends the period of time during which the **INSURED** may report **CLAIMS** to the **COMPANY**. This extension applies only to **CLAIMS** which are first made against the **INSURED** during the Extended Claims Reporting Period and arising out of a **WRONGFUL ACT** which occurred prior to the end of the **POLICY PERIOD**. The term of the automatic Extended Claims Reporting Period shall be 90 days from the date of termination of the policy. There is no additional premium charge for this automatic extension. If the termination is due to non-payment or fraud, the **COMPANY** is not required to provide a premium quotation for the extended reporting period coverage unless requested by the **INSURED**.
- B. The aggregate limit of liability for **CLAIMS** first made during the automatic extended reporting period shall be equal to the amount of coverage remaining under the limit of liability stated in Item C (i) of the Declarations.
- C. The Extended Claims Reporting Period does not do the following:
- (1) Extend the length of the **POLICY PERIOD**;
  - (2) Increase the policy's limits of liability;
  - (3) Otherwise change any of the policy's terms and conditions.
- D. In addition to the Automatic Extended Claims Reporting Period, at the option of the **INSURED**, the **INSURED** may purchase an optional Extended Claims Reporting Period as set forth below:

Terms of the Optional <u>Extended Reporting Period</u>	Percentage of the Policy's <u>Annual Premium</u>
One Year	50%
Two Years	100%
Three Years	150%

To exercise this option, the **INSURED** must, within 90 days of the date of termination of the policy or 30 days after the date of mailing or delivery of the advisement of the extended reporting period coverage under Section V, paragraph A. above, whichever is later forward to the **COMPANY** a written request to purchase the optional Extended Claims Reporting Period. Said written request must be accompanied by full payment of the additional premium due. Note that the policy's annual premium is set forth on the **CERTIFICATE OF INSURANCE**. The entire premium for the Extended Claims Reporting Period is deemed to be fully earned upon election and payment of that premium. If this policy is canceled for any reason, the **COMPANY** shall not be obligated to return any portion of the Extended Claims Reporting Period premium to the **INSURED**.

- E.
  - 1. If the **COMPANY** has provided insurance to the **INSURED** on a **CLAIMS** made basis for less than one year and termination is due to non-payment of premium or fraud, no optional Extended Reporting Period may be purchased.
  - 2. If the **COMPANY** has provided insurance to the **INSURED** on a claims made basis for less than three years, an aggregate limit of insurance equal to the greater of the amount of coverage remaining under the limit of liability stated in C. (i) on the Declaration or 50% of the aggregate limit of liability stated in item C. (i) on the Declarations will be applied for **CLAIMS** first made during the optional Extended Reporting Period.
  - 3. If the **COMPANY** has provided insurance to the **INSURED** on a claims made basis for three or more years, an aggregate limit of insurance equal to the limit of liability stated in Item C. (i) on the Declarations will be applied for **CLAIMS** first made during the optional Extended Reporting Period.
  - 4. Coverage under the policy shall apply excess over any other valid and collectible insurance covering **CLAIMS** first made during the optional Extended Reporting Period.
- F. Upon termination of coverage due only to a decrease in the policy's annual aggregate limit of liability, the aggregate limit of liability for **CLAIMS** first made during the optional Extended Reporting Period shall be no greater than the amount of such decrease.
- G. Upon termination of coverage due to a decrease in limits, reduction of coverage, increased deductible or self-insured retention, new exclusion, or any other change in coverage less favorable to the **INSURED**, the automatic Extended Reporting Period and optional Extended Reporting Period shall apply only to that coverage terminated.
- H. For the purpose of determining the length of the extended reporting period, the length of the optional Extended Reporting Period, the automatic Extended Reporting Period shall be included.
- I. Upon cancellation for nonpayment of premium or fraud on the part of the **INSURED**, the **COMPANY** will not provide a premium quote for the optional Extended Reporting Period unless requested by the **INSURED**.
- J. The premium charge for the optional Extended Reporting Period shall be based upon the rates in effect on the date the policy was issued or last renewed, and shall not be a different premium for such coverage due to any change in rates, rating plan or rating rules subsequent to issuance or last renewal of the policy.

In the event the premium for the policy has been paid in full, any amounts received as payment for the optional Extended Reporting Period shall first be applied to such premium owing for the policy. Any return premium due upon cancellation may be credited toward the premium for the optional Extended Reporting Period, if elected.

- K. If this policy has been issued to a corporation, partnership or other entity, the **COMPANY** shall provide the option to purchase the optional Extended Reporting Period coverage to any person covered under this policy upon termination of the policy if:
- (1) The **INSURED** has been placed in liquidation or bankruptcy or permanently ceases operation;
  - (2) The **INSURED** or its designate trustee does not purchase the optional Extended Reporting Period coverage; and
  - (3) such **INSURED** requests the optional Extended Reporting Period coverage within 120 days of the termination.
- The **COMPANY** shall have no obligation to provide any notice to these **INSURED** persons of the availability of such extended reporting period coverage. The **COMPANY** may charge the **INSURED** for whom extended reporting period coverage is provided a premium commensurate with such coverage.
- L. Written notice given by or on behalf of the **INSURED** to any licensed agent of the **COMPANY** in New York, with particulars sufficient to identify the **INSURED** shall be deemed notice to the **COMPANY**.
- M. During any claims-made relationship and any extended reporting period, a person employed or otherwise affiliated with the insured and covered by the insured's claims-made policy during such affiliation, shall continue to be covered under the policy and any extended reporting period after such affiliation has ceased for that person's covered acts or omissions that occurred during such affiliation.

## VI. Conditions

- A. The **INSURED'S** duties in the event of a **CLAIM**:
- (1) When a **CLAIM** is made against the **INSURED**, the **INSURED** must give written notice to the **COMPANY** as soon as reasonably possible. Said notice shall include all demands, notices, summons or any other information which was received by the **INSURED**.
  - (2) The **INSURED** must provide the **COMPANY** with all information, materials and cooperation which the **COMPANY** requests.
  - (3) The **INSURED** must not make payment, admit liability, agree to any settlement or agree to an arbitration without prior consent of the **COMPANY**.
  - (4) The **INSURED** must do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which the **INSURED** may have.
- B. The Reporting of Possible Claims
- If during a **POLICY YEAR** or during an Extended Claims Reporting Period, the **INSURED** first becomes aware of a possible **CLAIM** arising from a **WRONGFUL ACT** for which coverage may be provided hereunder, and if the **INSURED**, during that **POLICY YEAR** or during the Extended Claims Reporting Period, gives written notice to the **COMPANY** then any **CLAIM** which may Subsequently be made against the **INSURED** shall be deemed to have been made during the **POLICY YEAR** or the Extended Claims Reporting Period in which the notice was given.

Said written notice may:

- (1) Be given to: Aon Association Services Claims  
a division of Affinity Insurance Services of Washington, Inc.  
11100 N.E. 8<sup>th</sup> Street, Suite 900  
Bellevue, Washington 98004-4441  
Toll Free: 800-721-8189  
Toll Free Fax: 800-498-3293
- (2) Include the potential claimant's name and address
- (3) Include a detailed description of the **WRONGFUL ACT**
- (5) Include a detailed explanation as to why the **INSURED** believes that a **CLAIM** may be made and the date on which the **INSURED** became aware of the potential **CLAIM**

C. Subrogation:

In the event of any payment under this policy, the **COMPANY** shall be subrogated to all the **INSURED'S** rights of recovery therefor against any person or organization and the **INSURED** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **INSURED** shall do nothing after loss to prejudice such rights.

D. Other Insurance:

Coverage under this policy is excess over any valid and collectible other insurance, including but not limited to a Comprehensive General Liability Policy, which also provides coverage for any **CLAIM**.

E. Merger:

In the event of a merger involving the **ENTITY**, written notice must be given to the **COMPANY** at least 90 days prior to the date of the merger. The **ENTITY** shall provide such information as the **COMPANY** may require. The **COMPANY** at its option may elect to continue the coverage beyond the date of the merger. The **INSURED** shall pay any reasonable additional premium required by the **COMPANY**. If the **COMPANY** chooses to cancel the coverage, the **INSURED** is entitled to the Automatic Extended Claims Reporting Period which is set forth in Section V. The **INSURED** at its option may also elect to purchase the optional Extended Claims Reporting Period.

F. Subsidiaries

If the **ENTITY** acquires or creates a Subsidiary, written notice must be given to the **COMPANY** 90 days prior to the activation of its operations. The **ENTITY** shall provide such information as the **COMPANY** may require. The **COMPANY** at its option may elect to continue the coverage beyond the date of the Subsidiary's activation. The **INSURED** shall pay any reasonable additional premium required by the **COMPANY**.

G. Representation and Severability

For the purposes of paying premiums, providing applications and all other correspondence between the **INSURED** and the **COMPANY**, it is agreed that the **ENTITY** is the representative of all **INDIVIDUAL INSUREDS**.

In granting coverage to the **INDIVIDUAL INSUREDS**, the **COMPANY** has relied upon the

declarations and statements in the written **APPLICATIONS** for this policy. Such declaration and statements are the basis of coverage and shall be considered as incorporated in and constituting a part of this policy. Such written **APPLICATIONS** for coverage shall be construed as separate applications for coverage by each **INDIVIDUAL INSURED**. With respect to the declarations and statements contained in such written **APPLICATIONS** for coverage no statements in the applications or knowledge possessed by any **INDIVIDUAL INSURED** shall be imputed to any other **INDIVIDUAL INSURED** for the purpose of determining if coverage is available. This policy encompasses all agreements existing between the **INSURED** and the **COMPANY** or any of its agents relating to this insurance.

## H. Cancellation and Non Renewal

This **POLICY** may be canceled by the **INSURED** by returning the **POLICY** to Aon Association Services, a division of Affinity Insurance Services, Inc. at:

Aon Association Services  
a division of Affinity Insurance Services, Inc.  
1120 20<sup>th</sup> Street, NW  
Washington, DC 20036  
Toll Free: 1-800-432-7465  
Fax: (202)-857-0143

This **POLICY** is not cancelable by the **COMPANY** except for the following reasons:

### 1.) Cancellation for Policies in effect 60 days or less:

The policy may be canceled by the **COMPANY** by mailing or delivering written notice stating the reason for cancellation to the **ENTITY** at the mailing address shown in the Declarations, and to the **ENTITY'S** authorized agent or broker at least:

- a.) 30 days before the effective date of cancellation if the policy is being canceled for any reason not included in 1(b) below
- b.) 15 days before the effective date of cancellation if the **COMPANY** cancels for any of the following reasons:
  - i.) Non payment of premium;
  - ii) Conviction of a crime arising out of acts increasing the hazard insured against;
  - iii) Discovery of fraud or material misrepresentation in the obtaining of the policy or in presenting a claim;
  - iv) After issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and that occurred subsequent to the inception of the current **POLICY YEAR**;
  - v) Material change in the nature or event of the risk, occurring after the issuance or last annual renewal anniversary date of the policy, that causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;

- vi) Required pursuant to a determination by the Superintendent that continuation of the **COMPANY'S** present premium volume would jeopardize the **COMPANY'S** solvency or be hazardous to policyholders, creditors or the public;
- vii) A determination by the Superintendent that the continuation of the policy would violate, or would place the **COMPANY** in violation of any provision of the Insurance Code;

2.) Cancellation for Policies in Effect More than 60 Days:

If the policy has been effect for more than 60 days, or if this policy is a renewal or Continuation of a policy the **COMPANY** issued, the **COMPANY** may cancel this policy only for any of the reasons set forth in H (1)(b) above, provided the **COMPANY** mails 20 days written notice to the **ENTITY** at the mailing address, shown on the declaration, and to the **ENTITY'S** authorized agent or broker. The notice shall contain the specific reason or reasons for cancellation.

3.) Notices of Nonrenewal and Conditional Renewal

- a) Nonrenewal- If the **COMPANY** decides not to renew this policy, the **COMPANY** will send notice as provided in 3(c) below.
- b) Conditional Renewal-If the **COMPANY** conditionally renews this policy subject to a:
  - i) Change of Limits;
  - ii) Change in type of coverage;
  - iii) Reduction in coverage;
  - iv) Increased deductible;
  - v) Addition of an exclusion;
  - vi) Increased premium in excess of 10%;

the **COMPANY** will send notice as provided in 3 (c) below.

c) Notices of Nonrenewal and Conditional Renewal

If the **COMPANY** decides not to renew this policy or decides to conditionally renew this policy, the **COMPANY** will mail or deliver written notice to the **ENTITY** and to the **ENTITY'S** authorized agent or broker, at least 60 days and not more than 120 days prior to the expiration of the policy. Notice will include the specific reason for the nonrenewal or the specific increases in premium or other changes in coverage. Said notice will not be sent if the **ENTITY** or its authorized agent or broker notifies the **COMPANY** that the policy has been replaced or is no longer desired.

If the **COMPANY** violates the provisions of Section VI (H) (3), coverage will remain in effect at the same rate and with the same terms and conditions until 60 days after proper notice has been mailed to the **ENTITY**.

- 4.) In the event that the policy is extended, the limit of liability will be increased in proportion to the policy extension.
- 5.) Claim information will be mailed to the **INSURED** within 20 days of receiving written request. This information shall include information on closed claims, open claims and notices of occurrence.

## I. Policy Changes

The terms and conditions of this policy cannot be waived or amended except by specific written endorsement issued by the **COMPANY**.

## J. Assignment

The interest of the **INSURED** may not be assigned to any other person or organization.

## K. Action Against the **COMPANY**

No action shall lie against the **COMPANY** unless, as a condition precedent thereto, the **INSURED** shall have fully complied with all the terms of this policy, not until the amount of the **INSURED'S** obligation to pay shall have been finally determined either by judgment against the **INSURED** or by written agreement of the **INSURED**, the claimant and the **COMPANY**.

In the event judgment against the **INSURED** in an action brought to recover damages shall remain unsatisfied 30 days after serving notice on entry of judgment on the attorney for the **INSURED**, or upon the **INSURED**, and upon the **COMPANY**, an action may be maintained against the **COMPANY** under the terms of the policy for the amount of the judgment not exceeding the applicable limit of liability under the policy. However, no action may be brought during a stay or limited stay of execution against the **INSURED** on such judgment.

## L. Conformance to Statute

Any terms of this policy which are in conflict with the terms of any applicable laws construing this policy are hereby amended to conform to such laws.

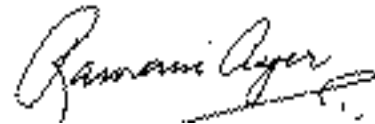
## M. Insolvency of the **INSURED**

The insolvency or bankruptcy of the **INSURED** or of the **INSURED'S** estate shall not release the **COMPANY** from any obligations under this policy.

In Witness Whereof, the **COMPANY** has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by a fully authorized representative of the **COMPANY**.



Michael S. Wilder, Secretary



Ramani Ayer, President & CEO

