



## LIFE AGENT PROFESSIONAL LIABILITY POLICY

### NOTICE:

THIS IS A CLAIMS-MADE AND REPORTED POLICY AND, SUBJECT TO ITS PROVISIONS, APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST AN INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD (OR REPORTED TO THE INSURER WITHIN 30 DAYS THEREAFTER AS ALLOWED UNDER THE TERMS OF THE POLICY). NO COVERAGE EXISTS FOR CLAIMS FIRST MADE AFTER THE END OF THE POLICY PERIOD UNLESS, AND TO THE EXTENT THAT, THE EXTENDED REPORTING PERIOD APPLIES. DEFENSE COSTS REDUCE THE LIMIT OF LIABILITY AND ARE SUBJECT TO THE RETENTION.

PLEASE REVIEW THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

The Insurer and the **Policyholder** agree as follows, in consideration of the payment of the premium and in reliance upon all statements made in the **Application** furnished to the Insurer designated in the Declarations, a stock insurance corporation, hereafter called the "Insurer".

### I. INSURING AGREEMENTS

#### A. PROFESSIONAL LIABILITY

Subject always to paragraph C. below, How this Coverage Applies, the Insurer shall pay on behalf of the **Insureds** that **Loss** which the **Insureds** become legally obligated to pay resulting from a **Claim** for a **Wrongful Act** solely in rendering or failing to render **Professional Services**.

#### B. VICARIOUS LIABILITY

If purchased, and subject always to paragraph C. below, How this Coverage Applies, if the entity (other than a **Broker-Dealer**) named in Item 1.a. or b. of the Declarations is named as a co-defendant with an **Agent or General Agent** in a **Claim** otherwise covered under Insuring Agreement A. above, the Insurer shall pay on behalf of such entity that **Loss** which such entity becomes legally obligated to pay resulting from a **Claim** for a **Wrongful Act** by an **Agent or General Agent** provided that such **Claim** contains no allegations of negligence or bad faith against such entity, whether such allegations involve negligent hiring, training, management, supervision or otherwise.

#### C. HOW THIS COVERAGE APPLIES

Coverage for a **Claim** for a **Wrongful Act** as specified under paragraphs A. or B. above applies only if:

1. the **Wrongful Act** giving rise to such **Claim** with respect to any **Agent or General Agent** (including any entity (other than a **Broker-Dealer**) named in Item 1.a. or b. of the Declarations) or **Registered Representative** such **Wrongful Act** occurred on or after the **Prior Acts Date** and the earlier of the date such **Agent or General Agent** or **Registered Representative** ceased enrollment in the program or the end of the **Policy Period** and while their enrollment was on file with the **Policyholder** or **Broker/Dealer** named on the Declarations.
2. the **Claim** is first made against any **Insured** during the **Policy Period**, or any Extended Reporting Period, if applicable, and reported to the Insurer in accordance with Section VIII, NOTICE; and
3. prior to the date of the **Insured's** initial enrollment under this Policy, or under any other policy issued by the Insurer (or its affiliated insurers) of which this Policy is a renewal (whether successive or not) or replacement, whichever is earlier, no **Insured** knew of, or could have reasonably foreseen that any such **Wrongful Act** could result in a **Claim**; and
4. no **Insured** gave notice under any Prior Policy of any such **Wrongful Act** or any **Interrelated Wrongful Acts**.



## II. DEFENSE

### A. Defense of Claims

If a **Claim** is made against the **Insured** within the United States of America, its territories or possessions or Canada, the Insurer shall have the right and duty to defend such **Claim**, even if any of the allegations of the **Claim** are groundless, false or fraudulent. The Insurer may make such investigation and negotiate settlement of any **Claim** it deems expedient, but the Insurer shall not be obligated to pay any **Loss** to defend or continue to defend any **Claim** after the applicable limit of the Insurer's liability has been exhausted by payment of **Loss**.

### B. Insurer's Consent

The **Insured** shall not admit liability, consent to any judgment, agree to any settlement, make any settlement offer, assume any obligation or incur any default judgment or award without the Insurer's prior consent, which consent shall not be unreasonably withheld. The Insurer shall not be liable for any **Loss** incurred by the **Insured** to the extent the **Loss** results from such **Insured** admitting liability, consenting to any judgment, agreeing to any settlement, making any settlement offer or incurring expenses without the Insurer's prior consent. The **Insureds** agree that they shall not knowingly take any action which increases the Insurer's exposure for **Loss** under this Policy resulting from any **Claim**.

### C. Arbitration

The **Insured** shall not demand or agree to arbitration of any **Claim** made against the **Insured** without the written consent of the Insurer, except with respect to arbitration between an **Insured** and a **Client**. In the event any **Claim** is submitted to arbitration, the Insurer, as soon as practicable, shall notify the **Insured** of the date of the arbitration hearing. The Insurer shall be entitled to exercise all of the **Insureds'** rights in the choice of arbitrators and in the conduct of any arbitration proceeding involving a **Claim** covered by this Policy.

## III. DEFINITIONS

Wherever appearing in bold print in this Policy:

**Administration of Employee Benefit Plans** means consultation with participants in an employee benefit plan in order to explain the provisions of such plan and handling day-to-day ministerial functions required by such plan, including without limitation enrollment, record keeping and filing reports with government agencies. **Administration of Employee Benefit Plans** does not include third party claims administration.

**Agency** means any corporation, partnership or other business, which is:

- A. appointed with the **Policyholder**; and
- B. owned or controlled by a natural person **Agent or General Agent**; and
- C. must have elected to enroll in this program and paid the premium that is based on the Net Revenue of such **Agency**; and
- D. must be on file with the **Policyholder**.

**Agent or General Agent**, whether used separately or together, means a natural person:

- A. who maintains a life agent contract with the **Policyholder** (if a life insurance company), or with a life insurance company subsidiary of the **Policyholder**;
- B. who has elected to enroll for coverage under this Policy;
- C. whose enrollment is on file with the **Policyholder** and
- D. who meets all of the **Eligibility Requirements**

**Agent or General Agent** also includes:

- i. any **Agency** and its **Employee Agents**, but solely with respect to the liability of such entity as it arises out of a natural person's rendering or failing to render **Professional Services**.
- ii. any corporation, partnership, or other business entity owned or controlled by such natural person referred to in A., B., and C. of this definition, but solely with respect to the liability of such entity as it arises out of the rendering of or failing to render **Professional Services** by an **Insured Agent** or **General Agent**, as defined in A., B., and C. of this definition.
- iii. any natural person who is a life insurance producer for any insurance company provided such natural person also qualifies under paragraph A., B., and C. of this definition or qualifies for coverage as a **Registered Representative** under this Policy; or
- iv. any **Retired or Disabled Agent** or **General Agent**.

**Agent** or **General Agent** shall not include any natural person if the **Policyholder** terminated its relationship with such natural person for:

- a. disciplinary reasons; or
- b. failure to pay to the **Policyholder** any amounts due for coverage under this **Policy**;

**Application** means all signed applications for this Policy and for any policy in an uninterrupted series of policies issued by the Insurer or any affiliate of the Insurer of which this Policy is a renewal or replacement. An "affiliate of the Insurer" means an insurer controlling, controlled by or under common control with the Insurer.

**Broker/Dealer** means any securities broker or dealer as those terms are defined in the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, as amended.

**Claim** means:

- A. a written demand for monetary damages; or
- B. a civil adjudicatory or arbitration proceeding for monetary damages,

against an **Insured** for a **Wrongful Act**, including any appeal thereof, brought by or on behalf of or for the benefit of any **Client**.

**Client** means a natural person to whom, or entity to which, **Professional Services** are rendered by an **Insured**. **Client** does not include any Insurance Company, Insurance Agent or **Broker/Dealer**.

**Defense Costs** means reasonable and necessary fees and expenses incurred by or at the direction of the Insurer in defense of any **Claim**, and costs of appeal, attachment or similar bonds. The Insurer has no obligation to provide such bonds. **Defense Costs** shall not include salaries, wages, fees, overhead or benefit expenses associated with the directors, officers and employees of the **Insured**, or fees and expenses of independent adjusters.

**Domestic Partner** means any person qualifying as such under any federal, state or local laws or under any **Insured** entity's employee benefit plans.

**Eligibility Requirements** means the requirements set forth below that each **Agent**, **General Agent** or **Registered Representative** must satisfy in order to be an **Insured** under this Policy:

- A. in the last seven (7) years has not had a **Claim** made against each such **Agent**, **General Agent**, or **Registered Representative** for any actual or alleged negligence, error, omission, mistake, unsuitability or other **Wrongful Act** that resulted in total indemnity and **Defense Costs** paid by the Insurer on behalf of such **Agent**, **General Agent**, or **Registered Representative** of \$100,000 or more,
- B. has not had more than two **Claims** made against each such **Agent**, **General Agent**, or **Registered Representative** in the last seven (7) years;
- C. does not have any knowledge or information of any fact, situation, allegation or incident which may reasonably be expected to result in a dispute, complaint, claim, suit or arbitration;

- D. is not currently under investigation by a consumer agency, any **Broker/Dealer** with whom the **Agent, General Agent, or Registered Representative** has at any time been affiliated, or any regulatory body, including but not limited to, the SEC, FINRA, or any state securities, corporation, or insurance department;
- E. has never been disciplined, fined, restricted or suspended for more than thirty (30) days by any regulatory body or agency, including but not limited to the SEC, FINRA, or any state securities, corporation or insurance department;
- F. has never been convicted of a felony criminal offense? (other than a DUI).

**Employee Agent** means a natural person who is a producer employed by an **Agency**:

- A. who has an appropriate license to sell insurance;
- B. who has elected to enroll for coverage under this Policy; and
- C. whose enrollment is on file with the **Policyholder**.

**Insured** means:

- A. Under Insuring Agreement A:
  - 1. an **Agent or General Agent**;
  - 2. a **Registered Representative** of any **Broker/Dealer** but solely for those **Professional Services** defined under paragraph B.1. of the definition of **Professional Services**.
  - 3. a natural person who is a former or current secretarial, clerical or administrative employee of the **Agent, General Agent or Registered Representative** listed in paragraphs 1. and 2. above but solely for services performed within their capacity as such and on behalf of such **Agent, General Agent or Registered Representative**, provided such natural person did not receive any commission income pursuant to an agent, broker or registered representative contract with any insurance company or broker/dealer as a result of providing **Professional Services** offered by the **Agent, General Agent or Registered Representative**;or
- B. Under Insuring Agreement B., the **Policyholder** referenced in Item 1a. or 1b. of the Declarations.
- C. **Insured** shall not include any **Agent, General Agent or Registered Representative** if the **Policyholder** terminated its relationship with such **Agent, General Agent or Registered Representative** for: 1. disciplinary reasons; or 2. failure to pay to the **Policyholder** any amounts due for coverage under this Policy;

**Interrelated Wrongful Acts** means any **Wrongful Acts** which are logically or causally connected by reason of any common fact, circumstance, situation, transaction or event.

**Loss** means monetary settlements or monetary judgments (including any award of pre-judgment and post-judgment interest) and **Defense Costs** for which the **Insured** is legally obligated to pay on account of a covered **Claim**.

However, **Loss** shall not include:

- A. criminal or civil fines or penalties imposed by law or taxes. However, **Loss** shall include any taxes, fines, and penalties incurred by a third party and included in such third party's **Claims** against the **Insured**;
- B. any amounts for which there is no legal recourse against the **Insureds**;
- C. punitive or exemplary damages or the amount of any multiplied damage award which is in excess of the damage award so multiplied;
- D. costs incurred as a result of any injunctive relief;
- E. the return of commissions, fees or charges for services rendered by an **Insured**; or
- F. matters which are uninsurable under the law pursuant to which this Policy shall be construed.

**Outside Business** means products placed by an **Insured** with any insurance company not specified in Item 1a. or 1b. of the Declarations.

**Personal Injury** means injury or damage sustained by any person or organization caused by or arising out of:

- A. false arrest, detention or imprisonment, or malicious prosecution;
- B. libel or slander or other defamatory or disparaging material, or a publication or utterance in violation of an individual's right of privacy; or
- C. wrongful entry or eviction, or other invasion of the right of private occupancy.

**Policy Period** means the period from the effective date of this Policy to the Policy expiration date specified in Item 3. of the Declarations, or its earlier cancellation date.

**Policyholder** means the natural person or organization specified in Item 1a. of the Declarations.

**Pollutants** mean any substance exhibiting hazardous characteristics as or may be defined or identified on any list of hazardous substances issued by the United States Environmental Protection Agency or any state or local or foreign counterpart. **Pollutants** also means, without limitation, any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste (including materials to be recycled, reconditioned or reclaimed), as well as any air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos, or asbestos products or any noise.

**Prior Acts Date** means with respect to an **Agent or General Agent or Registered Representative**, the date the **Agent or General Agent or the Registered Representative** became continuously insured without interruption under any claims made professional liability policy (subject to written proof of such coverage at the time the **Insured** gives written notice to the Insurer of a **Claim** under this Policy);

**Professional Services** means:

- A. with respect to a natural person **Agent or General Agent**, to the extent they are provided in the course and scope of the **Insured's** business as an **Agent or General Agent** and such **Agent or General Agent** has the appropriate license in both the **Client's** resident state or jurisdiction and the state or jurisdiction in which the business is conducted:
  - 1. the sale, attempted sale or servicing of life insurance, accident and health insurance, managed health care organization contracts, disability income insurance, fixed annuities, and 24 hour care coverage (as defined by statutory law);
  - 2. the sale, attempted sale or servicing of employee benefit plans, individual retirement plans and KEOGH retirement plans;
  - 3. **Administration of Employee Benefit Plans;**
  - 4. financial planning activities in conjunction with services described in paragraphs 1. through 3. of this definition, whether or not a separate fee is charged;
  - 5. the supervision, management and training of an **Agent** by a **General Agent** with respect to activities otherwise covered by this Policy; or
  - 6. services as a notary public.
- B. with respect to a **Registered Representative** and only to the extent **Professional Services** are provided in the course and scope of the **Insured's** business as a **Registered Representative** and such **Registered Representative** has the appropriate license in both the **Client's** resident state or jurisdiction and the state or jurisdiction in which the business is conducted, the sale, attempted sale or servicing of variable annuities, variable life insurance and mutual funds that are registered with the Securities Exchange Commission, if required, through a **Broker/Dealer** that is a member of the Financial Industry Regulatory Authority;

**Registered Representative** means:

- A. a natural person who is registered with the Financial Industry Regulatory Authority as a registered representative or registered principal, who maintains a contract with a **Broker/Dealer** who has elected to enroll for coverage under this Policy, and whose enrollment is on file with the **Policyholder**; or
- B. any corporation, partnership or other business entity that is owned or controlled by such natural person, but solely with respect to the liability of such organization arising out of failing to render **Professional Services** by an **Insured**; or



C. **Representative Agency**

and

D. who meets all of the **Eligibility Requirements**.

**Registered Representative** also includes any **Retired or Disabled Registered Representative**.

**Representative Agency** means any corporation, partnership or other business, which is

- A. appointed with the **Policyholder**; and
- B. owned or controlled by a natural person **Registered Representative**; and
- C. must have elected to enroll in this program and paid the premium that is based on the Net Revenue of such **Registered Agency**; and
- D. must be on file with the **Policyholder**.

**Registered Representative** shall not include any natural person if the **Policyholder** terminated its relationship with such natural person for:

- a. disciplinary reasons; or
- b. failure to pay to the **Policyholder** any amounts due for coverage under this **Policy**;

**Retired or Disabled**, whether used either separately or together, means:

- A. retired or disabled in conformance with the written practices and procedures of the **Policyholder** or **Broker/Dealer** which are in effect at the inception of the **Policy Period**; and
- B. no longer providing **Professional Services** on behalf of the **Broker/Dealer** or any other insurance company or broker/dealer;

**Retired or Disabled Agents, General Agents or Registered Representatives**, whether used either separately or together, means **Agents, General Agents or Registered Representatives** who become **Retired or Disabled** during the **Policy Period**.

**Wrongful Act** means any negligent act, error or omission of, or **Personal Injury** caused by, the **Insureds** in rendering or failing to render **Professional Services**.

#### IV. EXTENDED REPORTING PERIOD

- A. If the **Policyholder** cancels or non-renews this Policy, or if the Insurer non-renews this Policy, other than for nonpayment of Premium, the **Policyholder** shall have the right to purchase, upon payment of an additional premium determined as described in Item 5b. of the Declarations, an extension of this Policy for the period described in Item 5a. of the Declarations immediately following the end of the **Policy Period**, but only with respect to covered **Claims** made against the **Policyholder** during such extension arising out of a **Wrongful Act** committed after the **Prior Acts Date** but before the end of the **Policy Period**. This period shall be referred to as the Policyholder Optional Extended Reporting Period.
- B. As a condition precedent to the right to purchase the Policyholder Optional Extended Reporting Period, the total premium for this Policy must have been paid. The right to purchase the Policyholder Optional Extended Reporting Period shall end unless the Insurer receives written notice and full payment of the premium for such period within 10 days after the end of the **Policy Period**.
- C. An **Agent or General Agent or Registered Representative** shall not be entitled to any Extended Reporting Period, if the **Policyholder** terminated its relationship with such **Agent or General Agent or Registered Representative** for disciplinary reasons in conformance with the **Policyholder's** or the **Broker/Dealer's** written practices and procedures in effect at the time of the termination of the relationship.

- D. If the Policyholder Optional Extended Reporting Period is purchased, the entire premium shall be deemed earned at its commencement without any obligation by the Insurer to return any portion thereof.
- E. If the **Policyholder** opts to purchase the Policyholder Optional Extended Reporting Period, then coverage for all **Agents or General Agents or Registered Representatives** shall continue under the Policyholder Optional Extended Reporting Period but only with respect to a **Claim** made during the Policyholder Optional Extended Reporting Period arising out of a **Wrongful Act** committed after the applicable **Prior Acts Date** but before the expiration of the **Policy Period**.

However, if, during the **Policy Period** an **Agent or General Agent or Registered Representative** ceases his or her status as such with the **Policyholder**, then there is no coverage provided to such **Agent, General Agent or Registered Representative** under the Policyholder Optional Extended Reporting Period.

#### V. AUTOMATIC EXTENDED REPORTING PERIOD

- A. If, during the **Policy Period**, an **Agent or General Agent or Registered Representative** ceases their status as such with the **Policyholder**, such **Agent or General Agent or Registered Representative** shall be entitled to an automatic extension of this Policy for three years beginning on his or her date of termination and terminating 36 months thereafter at no additional charge (“Automatic Extended Reporting Period”), but only with respect to a **Claim** made during such Automatic Extended Reporting Period arising out of a **Wrongful Act** which was: (i) committed after the applicable **Prior Acts Date**; (ii) committed before his or her termination date; and (iii) which is a **Wrongful Act** that is otherwise covered under the terms and conditions of this Policy.
- B. If an **Agent or General Agent or Registered Representative** is non-renewed for coverage due to not satisfying **Eligibility Requirements** then such **Agent or General Agent or Registered Representative** shall be entitled to an automatic extension of this Policy for ninety (90) days beginning on his or her date of termination and terminating ninety (90) days thereafter at no additional charge, but only with respect to a **Claim** made during such Automatic Extended Reporting Period arising out of a **Wrongful Act** which was: (i) committed after the applicable **Prior Acts Date**; (ii) committed before his or her termination date; and (iii) which is a **Wrongful Act** that is otherwise covered under the terms and conditions of this Policy.
- C. An **Agent or General Agent or Registered Representative** shall not be entitled to such Automatic Extended Reporting Period if he or she is currently enrolled in any broker, dealer, life agent, registered representative, registered investment adviser, financial planning or professional liability policy, other than this Policy, whether or not that policy actually affords coverage for the **Claim** in question.
- D. An **Agent or General Agent or Registered Representative** shall not be entitled to such Automatic Extended Reporting Period if the **Policyholder** terminated its relationship with such **Agent, General Agent or Registered Representative** for disciplinary reasons.
- E. The Automatic Extended Reporting Period does not create a separate or additional Limit of Liability or Policy Aggregate Limit of Liability.

#### VI. ESTATES, LEGAL REPRESENTATIVES AND SPOUSES

The estates, heirs, legal representatives, assigns spouses or **Domestic Partners of Insureds**, under Insuring Agreement A., shall be considered **Insureds** under this Policy; provided however, that coverage is afforded to such estates, heirs, legal representatives, assigns, spouses or **Domestic Partners** only for a **Claim** arising solely out of their status as such and, in the case of a spouse or **Domestic Partner**, where such **Claim** seeks damages from marital community property, jointly-held property or property transferred from the **Insured**



to the spouse or **Domestic Partner**. No coverage is provided for any **Wrongful Act** of an estate, heir, legal representative, assign spouse or **Domestic Partner**. All terms and conditions of this Policy, including without limitation the retention applicable to **Loss** incurred by the **Insured** shall also apply to **Loss** incurred by such estates, heirs, legal representatives, assigns, spouses or **Domestic Partners**.

## VII. LIMIT OF LIABILITY, RETENTION AND ALLOCATION

### A. Policy Aggregate:

The amount set forth as the Policy Aggregate Limit of Liability in Item 6a. of the Declarations shall be the maximum aggregate Limit of Liability of the Insurer for all **Loss** under this Policy, regardless of the number of **Insureds**, **Claims** made, or persons or entities bringing such **Claims**. The Scheduled Limits of Liability set forth in Item 6c. of the Declarations are sub-limits which further limit and do not increase the Insurer's limit of liability under this Policy Aggregate Limit.

### B. Professional Liability Insuring Agreement A.

Subject always to Section VII. paragraph A., Policy Aggregate, if a Limit of Liability is set forth in the Declarations at column ② of Item 6c. Limits and Retention Schedule for the applicable **Insured** under the Professional Liability Insuring Agreement A., such Scheduled Limit of Liability shall apply separately to each applicable **Insured** covered under such Insuring Agreement as follows:

#### 1. Each Claim

Subject to paragraph 2. below, the Limit of Liability of the Insurer for **Loss** for each **Claim** first made against an **Insured** and reported to the Insurer during the **Policy Period** shall not exceed the amount stated in the Declarations for each **Claim**.

#### 2. Aggregate

The Limit of Liability of the Insurer for **Loss** for all **Claims** first made against an **Insured** and reported to the Insurer during the **Policy Period** shall not exceed the amount stated in the Declarations for all **Claims** in the Aggregate.

If the Scheduled Limits of Liability for Insuring Agreement A., as set forth in the Declarations at column ② of Item 6c. Limits and Retention Schedule include more than one option, only one Limit of Liability option shall be available to each **Insured** and such option shall be the option identified in the written records of the **Policyholder**, subject to the maximum aggregate Limit of Liability of the Insurer as set for in this Section VII.

### C. Vicarious Liability - Insuring Agreement B. (where included)

If Insuring Agreement B. is included, no additional Limit of Liability is afforded under Insuring Agreement B. Rather, subject always to Section VII. paragraph A., Policy Aggregate, the Limit of Liability applicable to **Claims** under Insuring Agreement A. shall be the Limit of Liability under Insuring Agreement A. applicable to the **Agent** or **General Agent** named as a co-defendant with the **Insured** entity under Insuring Agreement B.

### D. Multiple Insureds

Subject always to Section VII. paragraph A., Policy Aggregate, each **Insured's** applicable Limits of Liability, as set forth above, shall be the Insurer's maximum Limit of Liability for such **Insured**. Further, where two or more **Insureds** are involved in a **Claim**, the maximum aggregate Limit of Liability of the Insurer for all such **Insureds** shall be the largest single Limit of Liability applicable to any one of such **Insureds**.

E. Exhaustion of Limit of Liability

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 **Loss**.

F. Retention

Subject to the applicable Limit of Liability, the Insurer shall pay all covered **Loss** excess of the applicable Retention, if any, set forth in Column ③ Item 6c. of the Declarations. The scheduled Retentions shall apply separately to each **Insured** as follows:

A single and separate Retention shall apply to all **Loss** resulting from each **Claim**. If more than one Retention is applicable to a single **Claim**, the maximum aggregate Retention for such **Claim** shall be the largest of such Retentions.

If the Insurer, in the exercise of its discretion and without any obligation to do so, pays any amount within the amount of the applicable Retention, the **Insured** shall be liable to the Insurer for any and all such amounts and, upon demand, shall pay such amounts to the Insurer.

G. Interrelated Wrongful Acts

More than one **Claim** involving the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be considered as one **Claim** which shall be deemed to have been made on the earlier of:

- A. the date on which the earliest such **Claim** was first made; or
- B. the first date valid notice was given by an **Insured** and received by the Insurer under this Policy of any **Wrongful Act** or under any prior policy of any **Wrongful Act** or any fact, circumstance, situation, event or transaction which underlies any such **Claim**.

H. Allocation

If a **Claim** made against the **Insureds** includes both covered and uncovered matters or if a **Claim** is made against **Insureds** who are extended coverage under this Policy and others who are not extended coverage therefor under this Policy, the **Insureds** agree that there must be an allocation between insured and uninsured **Loss** (other than that part of **Loss** attributable to **Defense Costs**). The **Insureds** and the Insurer shall exert their best efforts to agree upon a fair and proper allocation between such insured and uninsured **Loss** based upon the relative legal exposures of the parties to such matters.

## VIII. NOTICE

- A. If a **Claim** is made against any **Insured**, the **Insured** shall, as soon as practicable, notify the Insurer during the **Policy Period** and forward to the Insurer every demand, notice, summons, or other process received. Notwithstanding the requirement that the **Claim** must be first made and reported to the Insurer during the **Policy Period**, if continuous coverage is in effect pursuant to consecutive policies issued by the Insurer, a **Claim** may be first made against the **Insured** during one **Policy Period** and may be reported to the Insurer in writing during the consecutive, immediately following, **Policy Period** without constituting a violation of this provision. The **Policy Period** in effect on the date the **Claim** is reported to the Insurer shall apply.

In addition, notwithstanding the requirement that the **Claim** must be first made against the **Insured** and reported to the Insurer during the **Policy Period**, the **Policyholder** shall have an extension of this Policy for a period of 30 days immediately following the end of the **Policy Period**, but only with



respect to providing notice to the insurer of a **Claim** first made against any **Insured** during the **Policy Period** and prior to the date of termination of the Policy.

In no event, however, shall the Insurer be responsible to pay any **Loss** in connection with any default judgment entered against an **Insured** prior to notice to the Insurer or as a result of untimely notice to the Insurer nor shall the Insurer be responsible to pay any **Loss** in connection with any **Claim** in which the Insurer's interests have been prejudiced because of the **Insured's** failure to supply timely notice to the Insurer.

- B. If, during the **Policy Period** the **Insureds** first become aware of specific **Wrongful Acts** which may reasonably give rise to a future **Claim** and during such period give written notice to the Insurer of:
1. the names of the potential claimants and a description of the specific **Wrongful Act** which forms the basis of their potential **Claim**;
  2. the identity of the specific **Insureds** allegedly responsible for such specific **Wrongful Act**;
  3. the consequences which have resulted or may result from such specific **Wrongful Act**;
  4. the nature of the potential monetary damages or non-monetary relief which may be sought in consequence of such specific **Wrongful Act**; and
  5. the circumstances by which the **Insureds** first became aware of such specific **Wrongful Act**,

then any **Claim** otherwise covered under this Policy which is subsequently made against the **Insureds** and which arises out of such **Wrongful Act** shall be deemed to have been first made at the time such written notice was received by the Insurer. No coverage is provided for a **Claim** resulting from such **Wrongful Act** until such time as such **Claim** is reported to the Insurer in accordance with paragraph A. above.

- C. Except as provided in paragraph B. above, a **Claim** shall be deemed to be made
- A. in the case of a civil proceeding or arbitration, on the earliest of the date of service upon or other receipt by any **Insured** of a complaint or similar document against the **Insured** in such proceeding or arbitration; or
  - B. in the case of a written demand for monetary damages, on the **Insured's** receipt of notice of such demand.
- D. The **Insureds** shall give written notice to the Insurer under this Policy as specified in Item 4. of the Declarations, which shall be effective upon receipt.
- E. The **Insureds** shall furnish the Insurer with copies of reports, investigations, pleadings, and all related papers and such other information, assistance and cooperation as the Insurer may reasonably request. The **Insureds** agree to cooperate with the Insurer, and provide all assistance and information reasonably requested by the Insurer. When requested by the Insurer, the **Insureds** shall submit to examination by a representative of the Insurer, under oath if required, and shall attend hearings, depositions, and trials and shall assist in the conduct of **Claims** including but not limited to effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, giving written statements to the Insurer's representatives and meeting with such representatives for the purpose of investigation or defense, all of the above without charge to the Insurer.

## IX. CANCELLATION

- A. The Insurer may cancel this Policy:
1. for non-payment of any premium when due, by providing to the **Policyholder** written notice stating when, not less than 30 days thereafter, such cancellation shall be effective. Failure to pay the initial policy premium will be deemed a rejection of our offer to insure, and no coverage under this Policy shall be effective.



2. for any other reason by providing to **Policyholder** written notice stating when, not less than 60 days thereafter, such cancellation shall be effective.

B. The **Insureds** grant the exclusive authority to cancel this Policy to the **Policyholder**. This Policy may be canceled by the **Policyholder** by surrender of this Policy to the Insurer or by giving written notice to the Insurer stating when thereafter such cancellation shall be effective. The making of such notice by registered, certified or other first class mail, to the Insurer at the address shown in the Declarations, shall be sufficient proof of notice and this Policy shall terminate at the date and hour specified in such notice.

C. If the **Policyholder** cancels, earned premium will be computed in accordance with the customary short rate table and procedures. If the Insurer cancels, earned premium shall be computed pro-rata.

#### X. OTHER INSURANCE

If any **Loss** resulting from any **Claim** is insured under any other policies, this Policy shall apply only to the extent the **Loss** exceeds the Limit of Liability under such other insurance whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over this Policy.

#### XI. PREMIUM

A. The **Policyholder** agrees to provide the Insurer with any documentation and information that the Insurer may reasonably request during the **Policy Period** in order that the Insurer may determine the number of **Agents, General Agents, Registered Representatives** or **Registered Investments Advisors** with the **Policyholder**.

B. **PREMIUM FOR THIS POLICY IS THE OBLIGATION OF, AND IS PAID TO, THE INSURER BY THE POLICYHOLDER. THE INSURER DOES NOT COLLECT FROM, AND WILL NOT RETURN, ANY PREMIUM TO ANY INSURED OTHER THAN THE POLICYHOLDER.**

#### XII. CHANGE OF STATUS OF POLICYHOLDER

A. Takeover of first named **Policyholder**

In the event that, during the **Policy Period**, the **Policyholder** specified in Item 1a. of the Declarations shall consolidate with or merge into, or shall sell substantially all of its assets to, any other person or entity or group of persons or entities acting in concert, or if any person or entity or group of persons or entities acting in concert shall acquire an amount of the outstanding securities representing more than 50% of the voting power for the election of directors of such corporation, this Policy shall continue until it is otherwise terminated, but only with respect to **Claims** for **Wrongful Acts** occurring before the effective date of such consolidation, merger, sale or acquisition.

B. Cessation or Takeover of Subsidiaries or Affiliates

If any entity named in Item 1b. or Item 2. of the Declarations ceases to be a subsidiary or affiliate of the first named **Policyholder** there shall be no coverage afforded to such subsidiary or affiliate or its **Agents, General Agents** or **Registered Representatives** under the this Policy for any **Wrongful Act** by such **Agents, General Agents** or **Registered Representatives** occurring after the date such organization ceased to be a subsidiary or affiliate.

#### XIII. COVERAGE WITH RESPECT TO NEW ACQUISITIONS

- A. If Insuring Agreement B. of this Policy is purchased, and if, on or after the inception date of this Policy, the **Policyholder** specified in Item 1a. of the Declarations acquires voting stock of another life insurer representing more than 50% of the voting power for the election of the board of directors of such life insurer, or acquires all or substantially all of the assets of another life insurer, any of the foregoing being an “acquisition,” coverage for such newly acquired **Policyholder** under of this Policy shall be provided as follows:
1. If such acquisition will result in an increase of the consolidated sales force or consolidated gross assets of the **Policyholder** named in Item 1a. by less than 10%, coverage under Insuring Agreement B. shall be automatically extended (subject to all other terms and conditions of this Policy) to include **Claims** made against such newly acquired **Policyholder** for any **Wrongful Acts** of an **Agent or General Agent or Registered Representative** occurring subsequent to the date of acquisition, but only for a period of 30 days from the date of acquisition, or until the termination of the **Policy Period**, whichever is earlier. No coverage shall be afforded by this Policy to any **Insured** with respect to activities or liabilities of such newly acquired life insurer occurring or incurred prior to the acquisition, unless and until an endorsement to this Policy, or written confirmation, is issued/received by the Insurer expressly granting such coverage. Issuance of any such endorsement shall be at the Insurer’s absolute discretion. No coverage shall be afforded after the period of 30 days unless an endorsement to this Policy is issued by the Insurer expressly granting such coverage.
  2. If such acquisition will result in an increase of the consolidated sales force or consolidated gross assets of the **Policyholder** named in Item 1a. by 10% or more, no coverage under Insuring Agreement B. shall be afforded to such newly acquired life insurer unless and until an endorsement to this Policy, or written confirmation, is issued/received by the Insurer expressly granting such coverage.
- B. If, on or after the inception date of this Policy, a corporation specified in Item 1. or 2. of the Declarations acquires voting stock or assets of another entity resulting in an increase of the consolidated sales force by 10% or more, no coverage shall be afforded to those **Agents, General Agents or Registered Representatives**, that were previously associated with the other entity, unless an endorsement to this Policy is issued or written confirmation is issued/received by the Insurer expressly granting such coverage.

#### XIV. SUBROGATION AND RECOVERY

In the event of any payment under this Policy, the Insurer shall be subrogated to all the **Insured’s** rights of recovery therefore 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 to prejudice such rights. Any amount recovered in excess of the Insurer’s total payment shall be restored to the **Insured**, less the cost to the Insurer of recovery.

#### XV. CHANGES

Notice to any agent or knowledge possessed by an agent or by any other person shall not affect a waiver or a change in any part of this Policy, or stop the Insurer from asserting any right under the provisions of this Policy. The provisions of this Policy shall not be waived, changed or modified except by endorsement issued to form a part of this Policy.

#### XVI. NO ACTION AGAINST INSURER

No action shall be taken against the Insurer unless, as a condition precedent thereto, the **Insured** shall have fully complied with all terms of this Policy, or until the amount of the **Policyholder’s** obligation to pay shall have been finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the claimant and the Insurer. Any person or organization or the legal



representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. Nothing contained in this Policy shall give any person or organization any right to join the Insurer in any action against the **Insured** to determine the **Insured's** liability, nor shall the Insurer be impleaded by the **Insured** or their legal representative in any such **Claim**.

#### **XVII. ASSIGNMENT OF INTEREST**

Assignment of interest under this Policy shall not bind the Insurer unless its consent is endorsed to this Policy.

#### **XVIII. TERRITORY**

This Policy applies to **Wrongful Acts** which happen anywhere in the world, but only with respect to **Claims** made or suits brought against the **Insured** in the United States of America, its territories or possessions, or Canada.

#### **XIX. ENTIRE AGREEMENT**

The **Policyholder** agrees that this Policy, including the **Application**, any materials submitted or required to be submitted therewith, and any written endorsements attached, constitute the entire contract existing between **Insureds** and the Insurer or any of its agents relating to this insurance.

#### **XX. EXCLUSIONS**

The Insurer shall not be liable to pay any **Loss** in connection with any **Claim**:

##### **A. Prior Litigation**

based upon, directly or indirectly arising out of, or in any way involving facts alleged in any litigation against the **Insured** pending on or prior to the inception date of this Policy, or renewal thereof;

##### **B. Prior Wrongful Acts of Broker/Dealers**

based upon, directly or indirectly arising out of, or in any way involving any actual or alleged **Wrongful Acts** or **Interrelated Wrongful Acts** by, or liability of, any **Broker/Dealer** acquired by an **Insured**, where such **Wrongful Acts** or **Interrelated Wrongful Acts** were committed, attempted, or allegedly committed or attempted prior to such acquisition;

##### **C. Claims by Specified Persons or Entities**

by or on behalf of, or for the benefit of, whether directly or indirectly,

1. any parent, spouse, **Domestic Partner**, or child of the **Insured**
2. an entity in which one or more **Insureds**, at the time of the **Wrongful Act** giving rise to a **Claim**:
  - i. had a total of ten percent (10%) or more equity interest, or
  - ii. operated, controlled, or managed;
3. an individual or entity which has, or did have at the time of the **Wrongful Act**, a total of ten percent (10%) or more equity interest in an entity **Insured** or operates, controls or manages an entity **Insured**;
4. any past or present **Insured**, whether it be an individual, class or derivative action, except and to the extent that such **Claim** is by an **Insured** in his or her capacity as a **Client**;
5. any clearing agency or arising out of any function of any **Insured** as a clearing agency;
6. any **Broker/Dealer** other than one which buys, sells or trades in securities exclusively as a principal for its own account;

7. any governmental or quasi-governmental official or agency, including but not limited to any state or federal securities or insurance commission or agency, in any capacity;
8. any self-regulatory organization including, but not limited to, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Securities Investor Protection Corporation, in any capacity,

provided, however, that paragraphs 7. and 8. above shall not apply to any **Claim** by an official of such agency or organization if such official is bringing the **Claim** in his or her capacity as a direct **Client** of an **Insured** and not as an official of such agency or organization;

**D. Intentional Acts**

based upon, directly or indirectly arising out of, or in any way involving any actual or alleged dishonest, fraudulent, criminal, malicious, purposeful or intentional act, error or omission, or any actual or alleged willful violation of any statute or law, as determined in fact by any trial court verdict, court ruling, regulatory ruling or legal admission;

For purposes of determining the applicability of this exclusion:

1. the facts pertaining to and knowledge possessed by any natural person **Insured** shall not be imputed to any other natural person **Insured**; and
2. only facts pertaining to and knowledge possessed by any executive officer shall be imputed to an **Insured** entity;

**E. Bodily Injury/Property Damage**

based upon, directly or indirectly arising out of, or in any way involving any actual or alleged bodily injury, sickness, disease, emotional distress, mental anguish or death of any person, or damage to or destruction of any tangible property, including loss of use thereof;

**F. Contractual Liability/Promises/Guarantees**

based upon, directly or indirectly arising out of, or in any way involving actual or alleged:

1. liability of others assumed by an **Insured** under any contract or agreement; provided, however, that this paragraph shall not apply to the extent that the liability would attach to an **Insured** in the absence of such contract or agreement; or
2. making or stating of any promises or guarantees as to interest rates or fluctuations in interest rates, the market value of any investment or insurance product, or future premium payments;

**G. Specified Services**

based upon, directly or indirectly arising out of, or in any way involving actual or alleged:

1. performance of or failure to perform services by the **Insured** as:
  - a. an actuary, accountant, attorney, property or casualty agent, real estate agent, or third party administrator; or
  - b. a market maker or specialist in any securities; or
2. tax advice provided by the **Insured** except to the extent that such tax advice is an incidental part of the **Professional Services** being rendered;

**H. Premium/claim/tax monies**

based upon, directly or indirectly arising out of, or in any way involving:

1. the **Insured's** inability or refusal to pay or collect premium, claim or tax monies; or
2. a dispute over fees, commissions or charges, including without limitation the structure of fees or excessive fees; however, this paragraph 2. shall not apply to surrender charges;

I. **Commingling/Illegal Profit**

based upon, directly or indirectly arising out of, or in any way involving:

1. any actual or alleged commingling or use of **Client** funds; or
2. any actual or alleged profit, remuneration or pecuniary advantage gained by any **Insured**, to which the **Insured** was not legally entitled;

as determined by a final adjudication in the underlying action or in a separate action or proceeding

J. **Insolvency**

based upon, directly or indirectly arising out of, or in any way involving the insolvency, receivership, conservatorship, liquidation, bankruptcy or inability to pay of a natural person, entity, benefit plan, insurance company, managed health care organization, reinsurer, risk retention group or captive (or any self insurance plan or trust by whatsoever name), or limited partnership in which the **Insured** has placed business or obtained insurance coverage, or placed or recommended placement of the funds of a **Client**;

K. **Employee Benefit Plans**

based upon, directly or indirectly arising out of, or in any way involving:

1. any actual or alleged pension, profit sharing, health and welfare or other employee benefit plan or trust sponsored by the **Insured** or any entity owned or controlled by the **Insured** or in which the **Insured** is a participant, trustee or named fiduciary, as defined under the Employee Retirement Income Security Act of 1974, as amended, or any similar common or statutory law; or
2. the actual or alleged design of any employee benefit plan;

L. **Sale or Servicing of Certain Products**

based upon, directly or indirectly arising out of, or in any way involving the actual or alleged sale, attempted sale or servicing of any:

1. coverage, alleged coverage or plan placed with any form of Multiple Employer Welfare Arrangement as defined by the Employee Retirement Income Security Act of 1974, as amended, or any employee benefits plan involving self funding in whole or in part, by any employer, union, or employment related entity;
2. all securities other than Mutual Funds and Variable Annuities;
3. commodities, commodities futures contracts, or any type of option contract with the exception of covered call writing;
4. promissory notes;
5. ETS pay phone investments or other similar type investments;
6. viatical settlements, viatical insurance benefits, viatical investment pools or any security backed by viatical settlements;
7. "Stranger Originated Life Insurance (STOLI)" or "Speculator Initiated Life Insurance (SPINLIFE);"
8. Structured settlements, structured notes, principal protected notes, or reverse convertible notes;
9. Life Settlements; Reverse mortgages or similar transactions in which the present value of a conditional contract is exchanged or sold;
10. issuer callable certificates of deposit and/or equipment sale-lease-buy-back transactions of any kind;
11. Leveraged or Inverse Products, including but not limited to Exchange Traded Funds or Mutual Funds, or Exchange Traded Notes;
12. any life insurance policy in which the premium was paid for, in whole or in part, by or through any premium finance mechanism or any premium finance company; or

13. plans created under sections 412 and 419 of the internal revenue code or any insurance sold as part of or to be used in conjunction with or to fund any plan created under sections 412 and 419 of the internal revenue code.

**M. Discretionary Authority**

based upon, directly or indirectly arising out of, or in any way involving any actual or alleged activities in connection with the exercise of discretionary authority with regard to the management or disposition of assets (whether for individuals, groups, employee benefit plans, or other entities of whatever legal form or character);

**N. Nuclear/Pollution**

based upon, directly or indirectly arising out of, or in any way involving:

1. any nuclear reaction, radiation or contamination; or
2. any actual, alleged or threatened discharge, release, escape, or disposal of, or exposure to, **Pollutants**; any request, direction or order that any of the **Insureds** test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to or assess the effect of **Pollutants** or nuclear reaction, radiation or contamination, or any voluntary decision to do so; or any actual or alleged property damage, or bodily injury, sickness, disease or death of any person, or financial loss to the **Insureds**, their security holders, or their creditors resulting from any of the aforementioned matters;

**O. Anti-trust**

based upon, directly or indirectly arising out of, or in any way involving actual or alleged price fixing, price discrimination, predatory pricing, restraint of trade, antitrust, monopolization, unfair trade, or unfair anti-competitive conduct; however, the knowledge of any such act by any **Insured** individual shall not be imputed to any other **Insured** individual; and only such knowledge of an executive officer shall be imputed to an **Insured** entity.

**P. Confidential or non-public information**

based upon, directly or indirectly arising out of or in any way involving the actual or alleged use, misuse or disclosure of:

1. confidential information, including but not limited to such use for the purpose of replacement of coverage; or
2. non-public information in a manner prohibited by the laws of the United States, including, but not limited to, the Insider Trading and Securities Fraud Enforcement Act of 1988, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, any similar laws of any other jurisdiction, or any rules or regulations promulgated under any of the foregoing, all as amended;

**Q. Unlicensed entity**

based upon, directly or indirectly, arising out of or in any way involving the placement of a **Client's** coverage or funds directly or indirectly with any organization, entity or vehicle of any kind, nature or structure which is not licensed to do business in the state or jurisdiction with authority to regulate such business; however, this Exclusion shall not apply to any **Claim** arising from or contributed to by the placement of a **Client's** coverage or funds directly or indirectly with such organization, entity or vehicle which is an eligible surplus lines insurer in the state or jurisdiction with authority to regulate such business;

**R. Investment Banking Activities**

based upon, directly or indirectly arising out of, or in any way involving any actual or alleged underwriting, syndicating, or investment banking work, or associated counseling or investment activities, including but not limited to, any aspect of any actual, attempted or threatened mergers, acquisitions, divestitures, tender offers, proxy contests, leveraged buy-outs, going private transactions, reorganizations, capital restructuring, recapitalization, spin-offs, primary or secondary offerings of securities (regardless of whether the offering is a public offering or a **Private Placement**), other efforts to raise or furnish capital or financing for any enterprise or entity or any disclosure requirements in connection with any of the foregoing;

**S. Securities below Minimum Capitalization Levels**

based upon, directly or indirectly arising out of, or in any way involving any security issued by an entity unable to meet the minimum capitalization and other standards for listing and maintenance on the NASDAQ SmallCap Market;

**T. Owned funds or investment products**

based upon, directly or indirectly arising out of, or in any way involving any proprietary fund or investment products in which an **Agent or General Agent or Registered Representative** has any ownership interest;

**U. Investment in Specified Securities or Funds**

based upon, directly or indirectly arising out of, or in any way involving the use of or investment in:

1. any security that is not registered with the Securities and Exchange Commission; however, this Exclusion shall not apply to securities which are both exempt from registration with the Securities and Exchange Commission and approved by the **Broker Dealer**; or
2. any hedge fund, whether it is registered or not with the Securities and Exchange Commission, unless specifically endorsed onto the Policy.

**V. Limited Partnerships, REITS**

based upon, directly or indirectly arising out of, or in any way involving the use of or investment in any Limited Partnership, Real Estate Investment Trusts (REIT's), issuer callable certificates of deposit, equipment sale-lease-buy-back transactions of any kind and/or any security that is not registered with the Securities and Exchange Commission;

**W. Fiduciary Services**

based upon, directly or indirectly arising out of, or in any way involving investment advice provided by a:

- a. Fiduciary Adviser if such investment advice is not provided pursuant to and in accordance with all of the requirements of the Pension Protection Act of 2006 as it may be amended; or
- b. Investment Manager pursuant to section 3(38) of the Employee Retirement Income Security Act of 1974, as amended, or any similar common or statutory law.

**X. Wrongful Employment Practices**

based upon, directly or indirectly arising out of, or in any way involving employment practices including but not limited to discrimination or termination of employment.

**Y. Class Actions**



brought by one party, or a group of parties, as representatives of a larger class including any **Claim** brought in federal court that is governed by Federal Rule of Civil Procedure 23.

#### Z. **Unsolicited Communications**

The Insurer shall not be liable to pay any Loss in connection with any Claim based on or arising out of:

1. any actual or alleged violation of any federal anti-spam statute or regulation, including the CAN-SPAM Act of 2003;
2. any actual or alleged violation of any federal statute or regulation prohibiting the dissemination of unsolicited communications, including any violation of the Telephone Consumer Protection Act of 2001; or
3. any actual or alleged violation of any federal, state or local anti-spam statute, ordinance or other regulation that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information including any statute or regulation prohibiting the dissemination of unsolicited communications.

### XXI. **TRADE EMBARGOES AND SANCTIONS**

This Policy does not provide coverage for **Insureds**, transactions or that part of **Loss** that is uninsurable under the laws or regulations of the United States concerning trade or economic sanctions.

### XXII. **DUTIES OF THE POLICYHOLDER**

The **Policyholder**, on behalf of all of all **Insureds**, will be:

- A. authorized to make changes in the terms of this Policy with our written consent; and
- B. responsible for:
  1. the payment of all premiums due the Insurer; and
  2. keeping records of the information the Insurer needs for premium computation, and sending it copies as it may request.

### XXIII. **LIBERALIZATION CLAUSE**

In the event that there is an inconsistency between a state amendatory endorsement attached to this Policy and any term or condition of this Policy, the Insurer shall apply those terms and conditions of either the amendatory endorsement or the Policy which are more favorable to the **Insured**, provided however, that this shall not apply to the extent that the more favorable amendatory endorsement or Policy provision is against public policy or the law of such state.

### XXIV. **HEADINGS AND NUMBER**

The descriptions in the headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage. Defined terms in the singular also include the plural and defined terms in the plural also include the singular.

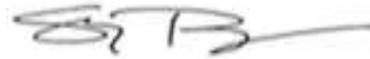
### XXV. **INTERPRETATION**

Any rule of contract construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Policy. The language in this Policy shall be interpreted as to its fair meaning and not strictly for or against any party thereof.

IN WITNESS WHEREOF, the Insurer has caused this Policy to be executed by its Chairman and Secretary, but this Policy shall not be binding upon us unless completed by the attachment of the Declarations.

Chairman

Secretary





## NETWORK RISK AND PRIVACY CLAIM ENDORSEMENT

It is understood and agreed that the Policy is amended as follows:

- I. The section entitled **DEFINITIONS**, the definition of **Claim** is amended to include the following:

**Claim** also includes:

1. **Privacy Claims**; and
2. **Client Network Damage Claims**.

- II. Solely with respect to the coverage provided by this endorsement, the section entitled **DEFINITIONS** is amended to add the following terms:

**Client Network Damage Claim** means a written demand for monetary damages against an **Insured** for a **Wrongful Act** and alleging that a **Security Breach** or **Electronic Infection** caused **Network Damage** to a client's **Network** in the rendering of **Professional Services**.

**Computer Virus** means unauthorized computer code that is designed and intended to transmit, infect and propagate itself over one or more **Networks**, and cause:

1. a computer code or programs to perform in an unintended manner;
2. the deletion or corruption of electronic data or software; or
3. the disruption or suspension of a **Network**.

**Confidential Commercial Information** means information that has been provided to the **Insured** by another, or created by the **Insured** for another where such information is subject to the terms of a confidentiality agreement or equivalent obligating the **Insured** to protect such information on behalf of another.

**Denial of Service Attack** means an attack executed over one or more **Networks** or the Internet that is specifically designed and intended to disrupt the operation of a **Network** and render a **Network** inaccessible to authorized users.

**Electronic Infection** means the transmission of a **Computer Virus** to a **Network**, including without limitation, such transmission to or from the **Policyholder's Network**.

**Electronic Information Damage** means the destruction, deletion or alteration of any information residing on the **Network** of any third party.

**Network** means a party's local or wide area computer system network owned or operated by or on behalf of or for the benefit of that party.

**Network** shall not include the Internet, telephone company networks, or other public infrastructure network.

**Network Damage** means:

1. the unscheduled and unplanned inability of an authorized user to gain access to a **Network**;
2. **Electronic Information Damage**; or
3. the suspension or interruption of any **Network**;

**Non-public Personal Information** means personal information not available to the general public from which an individual may be identified, including without limitation, an individual's name, address, telephone number, social security number, account relationships, account numbers, account balances, and account histories.

**Privacy Claim** means a written demand for monetary damages against an **Insured** for a **Wrongful Act** and alleging **Privacy Injury and Identity Theft** that occurred in the rendering of **Professional Services**.



**Privacy Injury and Identity Theft** means:

1. any unauthorized disclosure of, inability to access, or inaccuracy with respect to, **Non-public Personal Information** in violation of:
  - a. the **Policyholder's** privacy policy; or
  - b. any federal, state, foreign or other law, statute or regulation governing the confidentiality, integrity or accessibility of **Non-public Personal Information**, including but not limited, to the Health Insurance Portability and Accountability Act of 1996, Gramm-Leach-Bliley Act, Children's Online Privacy Protection Act, or the EU Data Protection Act.
2. the **Insured's** failure to prevent **Unauthorized Access** to **Confidential Commercial Information**;

**Privacy Policy** means the **Policyholder's** policies in written or electronic form that:

1. govern the collection, dissemination, confidentiality, integrity, accuracy or availability of **Non-public Personal Information**; and
2. the **Insured** provides to its **Clients**, customers, employees or others who provide the **Insured** with **Non-public Personal Information**.

**Security Breach** means the failure of the **Policyholder's Network** hardware, software, firmware, the function or purpose of which is to:

1. identify and authenticate parties prior to accessing the **Policyholder's Network**;
2. control access to the **Policyholder's Network** and monitor and audit such access;
3. protect against **Computer Viruses**;
4. defend against **Denial of Service Attacks** upon the **Insured** or unauthorized use of the **Insured's Network** to perpetrate a **Denial of Service Attack**; or,
5. ensure confidentiality, integrity and authenticity of information on the **Insured's Network**.

**Privacy Breach Notice Law** means any statute or regulation that requires an entity who is the custodian of **Non-public Personal Information** to provide notice to individuals of any actual or potential privacy breach with respect to such **Non-public Personal Information**. **Privacy Breach Notice Laws** include Sections 1798.29 and 1798.82- 1798.84 of the California Civil Code (formerly S.B. 1386) and other similar laws in any jurisdiction.

**Unauthorized Access** means any accessing of information in the **Insured's** care, custody or control by unauthorized persons or by authorized persons accessing or using such information in an unauthorized manner. **Unauthorized Access** also includes:

1. theft from the **Insured** of any information storage device used by the **Insured** to:
  - A. store and retrieve information on the **Insured's Network**; or
  - B. transport information between the **Insured** and authorized recipients;
2. any unauthorized use by the **Insured** of information in the **Insured's Clients'** care, custody or control if accessed by the **Insured** in the course of rendering **Professional Services**.

- III. The section entitled **EXCLUSIONS**, the exclusion entitled **Confidential or non-public information** is amended to include the following at the end:

provided, however, this exclusion above shall not apply to any **Privacy Claims**;

- IV. The section entitled **LIMIT OF LIABILITY, RETENTION AND ALLOCATION** is amended to add the following sublimit of liability:

Subject to the Insurer's each **Claim** and Aggregate Limit of Liability, as shown on the Declarations, the Limit of Liability of the Insurer for **Loss** for all covered **Privacy Claims** shall not exceed \$50,000 per **Claim** and \$50,000 in the aggregate for each **Insured**.

All other terms and conditions of the Policy remain unchanged.



This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



## AMEND DEFINITION OF AGENT ENDORSEMENT

In consideration of the premium charged, it is understood and agreed that the section entitled **DEFINITIONS**, the definition of **Agent or General Agent** subparagraph A. is deleted in its entirety and replaced with the following:

- A. who maintains a life agent contract with the **Policyholder** (if a life insurance company), or with a life insurance company subsidiary of the **Policyholder**, or who maintains a life agent contract with an entity listed on the below Schedule of Affiliated Entities; and

### Schedule of Affiliated Entities

Aetna Medicare Sales  
Aetna Senior Supplemental Solutions  
CareFree Insurance Services, Inc.  
Aetna Medical  
Aetna Life Insurance Company  
Aetna Dental, Inc.  
Aetna Health, Inc.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



**AMEND DEFINITION OF AGENT OR GENERAL AGENT  
TO INCLUDE OREGON INSURANCE CONSULTANT**

In consideration of the premium paid for this Policy, it is understood and agreed that, the section entitled **DEFINITIONS**, the definition of **Agent or General Agent** is amended to add the following new language:

**Agent or General Agent** also includes those **Insured Agents or General Agents** who are designated as Insurance Consultants by the state of Oregon.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



## WIRE TRANSFER CLAIM ENDORSEMENT

In consideration of the premium charged, it is understood and agreed that the Policy is amended as follows:

- I. The section entitled **INSURING AGREEMENTS**, the Insuring Agreement entitled **PROFESSIONAL LIABILITY** is amended to add the following new Insuring Agreement:

Subject always to paragraph C. below, How this Coverage Applies, the Insurer shall pay on behalf of the **Insureds** that **Loss** which the **Insureds** become legally obligated to pay resulting from a **Wire Transfer Claim**.

- II. The section entitled **DEFINITIONS** is amended as follows:

- A. The following new definitions are added:

**Wire Transfer Claim** means any **Claim** based upon, indirectly or directly arising out of any:

1. transfer of a **Client's** funds by any **Insured** based on a **Communication** purportedly sent by a **Client** to such **Insured**; or
2. transfer of a **Client's** funds by any **Insured** based on instructions from the **Client** that were improperly altered without authorization from the **Client**.

**Communication** means an electronic, telefacsimile, telephone or written instruction received by an **Insured** that:

1. establishes or changes the method, destination or account for payment or delivery of funds;
2. contains a misrepresentation of material fact; and
3. is relied upon by an **Insured**, believing the material fact to be true.

- B. Solely with respect to the coverage afforded by this Endorsement, the definition of **Claim** is amended to add the following at the end:

**Claim** also means a written complaint setting forth the circumstances involving the possible improper transfer of **Client** funds that would potentially fall within paragraphs 1. or 2. of the definition of **Wire Transfer Claim** that the **Insured** has investigated and reasonably believes will lead to a valid demand for monetary relief.

- III. Solely with respect to the coverage provided by this endorsement, the section entitled **LIMIT OF LIABILITY, RETENTION AND ALLOCATION**, is amended as follows:

- A. The Paragraph entitled Professional Liability Insuring Agreement A. is amended to add the following:

The Insurer's maximum limit of liability for each **Wire Transfer Claim** shall be \$10,000, the Insurer's maximum limit of liability for all **Wire Transfer Claims** for each **Insured** shall be \$10,000. These amounts are sublimits which are part of and not in addition to each **Insured's** limit of liability set forth on the Declarations and are subject to the Policy Aggregate Limit of Liability.

- B. The paragraph entitled Retention is amended to add the following:

Notwithstanding anything to the contrary set forth on the Declarations, the retention amount applicable for each **Wire Transfer Claim** shall be \$1,500.

All other terms and conditions of the Policy remain unchanged.



This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



## DEPARTMENT OF INSURANCE INQUIRY COSTS ENDORSEMENT

It is understood and agreed that solely with respect to the coverage provided by this endorsement, the Policy is amended as follows:

- I. The section entitled **INSURING AGREEMENTS** is amended to add the following:

### **Inquiry Costs**

The Insurer shall pay **Inquiry Costs**, up to the Inquiry Cost Limit of Liability, on behalf of an **Individual Insured** resulting from any **Inquiry** first made against such **Individual Insured** during the **Policy Period** or the Extended Reporting Period, if applicable.

- II. The section entitled **DEFINITIONS** is amended to add the following new definitions:

**Individual Insured** means those natural persons set forth in the paragraphs A. 1 through 3. of the definition of **Insured**.

**Inquiry** means:

1. any request for an **Individual Insured** to appear at a meeting or interview or to give a sworn statement that concerns the **Professional Services** rendered or failed to be rendered by such **Individual Insured**;
2. any formal or informal discovery or other request seeking documents, records or electronic information that are in the sole and exclusive possession or control of an **Individual Insured**,

if such request is made by any **Regulatory Authority**.

However, **Inquiry** shall not include any routine or regularly scheduled regulatory or internal supervision, inspection, compliance, review, examination, production or audit, including any request for mandatory information from a regulated entity, conducted in the **Policyholder** or **Regulatory Authority's** normal review or compliance process.

An **Inquiry** shall be deemed first made on the date that any **Individual Insured** received notice of such request.

**Inquiry Costs** means the reasonable and necessary fees, costs and expenses incurred by an **Individual Insured** solely in connection with their preparation for and response to an **Inquiry**.

**Regulatory Authority** means any state department of insurance or equivalent governmental entity.

- III. The section entitled **DEFINITIONS** of the definitions of **Claim** and **Defense Costs**, is amended to add the following:

Solely with respect to an **Inquiry**, **Defense Costs** includes **Inquiry Costs**.

Solely with respect to coverage pursuant to this endorsement, the definition of **Claim** is amended to include **Inquiry**.

- IV. The section entitled **LIMIT OF LIABILITY, RETENTION AND ALLOCATION** is amended to add the following new paragraph:

The Insurer's maximum limit of liability for each **Inquiry** is \$5,000. This limit is a sublimit which is part of and not in addition to the each **Claim** and Aggregate limits of liability set forth in column ② of Item 6c. Limits and Retention Schedule for the applicable **Insured** under the Professional Liability Insuring Agreement A.



All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



## REGULATORY ACTION ENDORSEMENT

In consideration of the premium, sub-sections 7. and 8. of Exclusion C. Claims by Specified Persons or Entities set forth in Section XX, Exclusions is deleted and replaced with the following:

7. any governmental or quasi-governmental official or agency, including but not limited to any state or federal securities or insurance commission or agency, in any capacity; however, subject to the Insurer's maximum Limit of Liability of \$25,000 for all **Loss** sustained by an **Insured**, and subject to all other terms, conditions and exclusions of this Policy, this exclusion shall not apply to any proceeding, investigation or request to appear by such official or agency arising solely from an **Insured's** performance of **Professional Services** on behalf of a **Client**. This sub-limit of liability shall be part of and not in addition to the amount set forth in Item 6. of the Declarations. Notwithstanding anything in the Policy to the contrary, the applicable retention amount for all such instances shall be \$0;
8. any self-regulatory organization including, but not limited to, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Securities Investor Protection Corporation, in any capacity; however, subject to the Insurer's maximum Limit of Liability of \$25,000 for all **Loss** sustained by an **Insured**, and subject to all other terms, conditions and exclusions of this Policy, this exclusion shall not apply to any proceeding, investigation or request to appear by such organization arising solely from an **Insured's** performance of **Professional Services** on behalf of a **Client**. This sub-limit of liability shall be part of and not in addition to the amount set forth in Item 6. of the Declarations. Notwithstanding anything in the Policy to the contrary, the applicable retention amount for all such instances shall be \$0;

Notwithstanding the foregoing, coverage is solely granted for matters tied to an **Insured's** performance of **Professional Services** and is subject to all other terms, conditions and exclusions of this Policy. In no event shall coverage apply to proceedings, investigations or matters against an **Insured** arising from such **Insured's** liability pertaining to administrative practices, business tort, or acting as a director or officer of a business entity, including, but not limited to, inquiries of such **Insured's** business practices, licensing issues, unfair competition, defamation or employment.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



## SUBPOENA EXPENSES COVERAGE ENDORSEMENT

In consideration of the premium charged, it is hereby understood and agreed that the Policy the section entitled **LIMIT OF LIABILITY, RETENTION AND ALLOCATION** is amended to add the following:

- Subpoena Assistance

In the event an **Agent or General Agent**, or **Registered Representative** receives a subpoena for documents or sworn testimony, during the **Policy Period**, arising out of **Professional Services** rendered by such **Agent or General Agent**, or **Registered Representative**, the **Agent or General Agent**, or **Registered Representative** may provide the Insurer with a copy of the subpoena and the Insurer, at its sole discretion, may retain an attorney to provide advice regarding the production of documents, to prepare the **Agent or General Agent**, or **Registered Representative** for sworn testimony, and to represent the **Agent or General Agent**, or **Registered Representative** at the **Agent or General Agent**, or **Registered Representative's** deposition, provided that:

- a. the subpoena arises out of a lawsuit to which the **Agent or General Agent**, or **Registered Representative** is not a party; and
- b. the **Agent or General Agent**, or **Registered Representative** has not been previously engaged to provide advice or sworn testimony in connection with the lawsuit, nor has the **Agent or General Agent**, or **Registered Representative** provided such advice or sworn testimony in the past.

If such criteria are met, the Insurer will pay such attorney's legal fees excluding any disbursements up to the amount of \$10,000 for each **Agent or General Agent**, or **Registered Representative**. While not **Loss**, such fees incurred under this provision are part of and not in addition to the Aggregate Limit of Liability for each **Agent or General Agent**, or **Registered Representative** as set forth on the Declarations. Any notice the **Agent or General Agent**, or **Registered Representative** gives the Insurer of such subpoena shall be deemed notification of a potential **Claim** under Section VIII.B. of this Policy.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



## PRE-CLAIM ASSISTANCE ENDORSEMENT

In consideration of the premium charged it is understood and agreed that the section entitled **LIMIT OF LIABILITY, RETENTION AND ALLOCATION** is amended to add the following new paragraph:

### Pre-Claim Assistance

Until the date a **Claim** is made, the Insurer may pay, at its sole discretion, up to \$10,000 (ten thousand dollars) for all reasonable and necessary legal fees and expenses it incurs as a result of representing and if necessary defending an **Insured** in connection with a potential **Claim** that the **Insured** reports to the Insurer in connection with the section entitled **NOTICE**, paragraph **B**.

Should a potential **Claim** be defended pursuant to this paragraph, and that potential **Claim** later becomes a covered **Claim** under this Policy, then the Limits of Liability and the Retention applicable to such **Claim** shall apply to such **Claim**. This amount is part of and not in addition to the Aggregate Limit of Liability for such **Insured** as set forth in in the Declarations at column ③ RETENTIONS of Item 6c. Limits and Retention Schedule.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



## REIMBURSEMENT OF EXPENSES ENDORSEMENT

In consideration of the premium, the Policy is amended as follows:

I. Section III, Definitions is amended as follows:

A. The definition of **Defense Costs** is amended to add the following:

**Defense Costs** shall also mean reimbursement of **Travel Expenses** incurred by an **Agent, General Agent, Registered Representative** or **Registered Investment Adviser's** in connection with such **Insureds** attendance at a trial, deposition, mediation, or arbitration with respect to a covered **Claim**.

B. The following definition is added:

**Travel Expenses** means the reasonable and necessary costs associated with lodging and coach class transportation.

II. Section VII, Limit of Liability, Retention and Allocation is amended to add the following paragraph:

The Insurer's limit of liability for **Travel Expenses** shall be \$250 per day and \$2,500 in the aggregate for each **Insured**. This limit is a sublimit which is part of and not in addition to the amount set forth in the Declarations. These amounts are sub-limits of liability which further reduce, and in no way increase, the Policy Aggregate Limit of Liability of this Policy as stated on the Declarations.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



**NEW YORK AMENDATORY ENDORSEMENT**  
**Applicable to Policy Form CNA 78392**

This forms a part of Policy Number 596439763 issued to the **Policyholder** by the Insurer. In consideration of the premium charged, it is hereby understood and agreed that solely with respect to those **Agents, General Agents, and Registered Representatives** insured under this Policy, who are residents of or practice in New York State, the Policy is amended as follows:

1. The Notice and introductory paragraph on page 1 is deleted in its entirety and replaced as follows:

**NOTICE: THIS IS A CLAIMS MADE POLICY AND, SUBJECT TO ITS PROVISIONS, APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST AN INSURED/POLICYHOLDER AND REPORTED TO THE INSURER DURING THE COVERAGE RELATIONSHIP OR ANY EXTENDED REPORTING PERIOD.**

**DEFENSE COSTS REDUCE THE LIMIT OF LIABILITY AND ARE SUBJECT TO THE RETENTION. THIS COULD RESULT IN THE LIMIT OF LIABILITY BECOMING COMPLETELY EXHAUSTED BY THE PAYMENT OF DEFENSE COSTS, IN WHICH CASE, NO FURTHER COVERAGE IS PROVIDED BY THIS POLICY. PLEASE REVIEW THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.**

2. The introductory paragraph on page 1 of the Policy is deleted in its entirety and replaced as follows:

The Insurer, the **Policyholder** and the **Insureds** agree as follows, in consideration of the payment of the premium and in reliance upon all statements made in the **Application** furnished to the Insurer designated in the **Policyholder's** Declarations and the **Insured's Certificate of Insurance**, a stock insurance corporation, hereafter called the "Insurer".

3. Section I. INSURING AGREEMENTS, Paragraph C. **HOW THIS COVERAGE APPLIES**, subparagraph 2. is deleted in its entirety and replaced as follows:

**C. HOW THIS COVERAGE APPLIES**

2. the **Claim** is first made against any **Insured** under Insuring Agreement A. during the **Certificate Period**, or under Insuring Agreement B., during the **Policy Period**, or any **Extended Reporting Period**, if applicable, and reported to the Insurer in accordance with Section VIII, NOTICE; and

4. Section II. DEFENSE, Paragraph A. is deleted in its entirety and replaced as follows:

**A. Defense of Claims**

1. If a **Claim** is made against the **Insured** within the United States of America, its territories or possessions or Canada, the Insurer shall have the right and duty to defend such **Claim**, even if any of the allegations of the **Claim** are groundless, false or fraudulent.

The Insurer shall have the right to appoint counsel and to make such investigation and defense of a **Claim** as it deems necessary. The **Insureds** or **Policyholder**, as applicable, shall have the option to:

- a. select the defense attorney or to consent to the Insurer's choice of defense attorney, which consent shall not be unreasonably withheld;
- b. participate in, and assist in the direction of, the defense of any **Claim**; and
- c. consent to a settlement, which consent shall not be unreasonably withheld.

Subject to paragraph 2. below, the Insurer's obligation to defend any **Claim** or pay any **Loss**, shall be completely fulfilled and extinguished if the limit of liability has been exhausted by payment of **Loss**.



2. Limitation on the Insurer's Duty to Defend

If the Insurer concludes that the Limit of Liability applicable to a **Claim** may become exhausted prior to the conclusion of any **Claim**, the Insurer will notify the **Insureds**, in writing, to that effect.

When the Limit of Liability applicable to a **Claim** has actually been exhausted prior to the conclusion of the **Claim**, the Insurer will notify the **Insured**, in writing, as soon as practicable, that such limit has been exhausted and that the Insurer's duty to defend such **Claim** and any other **Claim** has ended.

The Insurer will initiate, and cooperate in, the transfer of control to the **Insured**, of any **Claims** which were subject to that Limit of Liability and which were reported to the Insurer prior to the exhaustion of such limit. The **Insured** must cooperate in the transfer of control of such **Claims**.

The Insurer agrees to take the necessary steps as the Insurer deems appropriate to avoid a default in, or continue the defense of, such **Claims** until such transfer has been completed, provided that the **Insureds** are cooperating in completing such transfer.

The **Insured** must reimburse the Insurer for expenses the Insurer incurs in taking those steps the Insurer deems appropriate to avoid a default in, or continuing the defense of, any **Claim**.

The Insurer will not take any action with respect to any **Claim** that would have been subject to such Limit of Liability, had it not been exhausted, if the **Claim** is reported to the Insurer after that limit has been exhausted.

The exhaustion of any limit by payment of any **Claim**, and the resulting end of the Insurer's duty to defend, will not be affected by the Insurer's failure to comply with any of the terms and conditions of this provision.

5. Section III. DEFINITIONS is amended to add the following new definitions:

- **Certificate of Insurance** means the document issued to each **Insured** evidencing the terms, limits, premium and endorsements provided to the **Insured**.
- **Certificate Period** means the period of time between the inception date shown on the **Certificate of Insurance** and the effective date of termination, expiration or cancellation of the **Certificate of Insurance** issued to **Insured**.
- **Class Action Claim** means a **Claim** under which one party, or a group of parties, sue as representatives of a larger class. **Claims** brought in federal court are governed by Federal Rule of Civil Procedure 23.
- **Coverage Relationship** means that period of time between the effective date of the first claims-made **Certificate of Insurance** issued by the insurer to the **Insured** and the cancellation or nonrenewal of the last consecutive claims-made **Certificate of Insurance** issued by the Insurer to the **Insured**, where there has been no gap in coverage, but does not include any period covered by **Extended Reporting Period**.
- **Extended Reporting Period** means the period of time after the **Coverage Relationship** for reporting **Claims** due to a **Wrongful Act**. The **Wrongful Act** must happen on or after the **Prior Acts Date** and before the end of the **Coverage Relationship**.

6. Section III. DEFINITIONS is amended as follows:

- A. The definitions of **Policy Period**, **Policyholder** and **Pollutants** are each deleted in its entirety and replaced as follows:



**Policy Period** means the period from the effective date of this Policy to the Policy expiration date stated in Item 3 of the **Policyholder's** Declarations, or its earlier cancellation date.

**Policyholder** means the person or organization named in Item 1 of the **Policyholder's** Declarations.

**Pollutants** means, without limitation, any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste (including materials to be recycled, reconditioned or reclaimed).

- B. The definition of **Agent or General Agent**, paragraph A. is deleted in its entirety and replaced as follows:
- A. a natural person who has or had maintained a life agent contract with the **Policyholder** (if a life insurance company), or with a life insurance company subsidiary of the **Policyholder**) and to whom the Insurer has issued a **Certificate of Insurance**; and
- C. The definition of **Registered Representative**, paragraph A. is deleted in its entirety and replaced as follows:
- A. a natural person who is registered with the Financial Industry Regulatory Authority as a registered representative or registered principal, who has or had maintained a contract with a **Broker/Dealer** who has or had elected to enroll for coverage under this Policy, and whose enrollment is or was on file with the **Policyholder** and to whom the insurer has issued a **Certificate of Insurance**; or
- D. The definition of **Insured** is amended to add the following new language at the end:
- Insured** shall not include **Policyholder**.
- E. The first paragraph of the definition of **Loss** is deleted in its entirety and replaced as follows:
- Loss** means monetary settlements or monetary judgments (including any award of pre-judgment interest) and **Defense Costs** for which the **Insured** is legally obligated to pay on account of a covered **Claim**.
- F. The definition of **Administration of Employee Benefit Plans** is deleted in its entirety and replaced as follows:
- Administration of Employee Benefit Plans** means consultation, other than legal advice, with participants in an employee benefit plan in order to explain the provisions of such plan and handling day-to-day ministerial functions required by such plan, including without limitation enrollment, record keeping and filing reports with government agencies. **Administration of Employee Benefit Plans** also includes third party claims administration.
7. Section IV. EXTENDED REPORTING PERIOD and Section V. AUTOMATIC EXTENDED REPORTING PERIOD is deleted in its entirety and replaced as follows:
- A. The provisions of the **Extended Reporting Period** coverage will not apply, except for the one year automatic **Extended Reporting Period** if the **Coverage Relationship** has been less than one year and the **Certificate of Insurance** was terminated for nonpayment of premium or fraud.
- B. In the event of **Termination of Coverage** a one year automatic **Extended Reporting Period**, extension will be granted to the **Insured**, at no additional charge, only with respect to **Claims** made against the **Insured** and reported to the Insurer during such extension by reason of any **Wrongful Act** committed



before the **Termination of Coverage**. The automatic **Extended Reporting Period** does not create any separate or additional Limit of Liability.

- C. Within thirty days after termination of the **Certificate of Insurance**, the Insurer will notify the **Insured**, in writing, of the automatic one year **Extended Reporting Period**. The Insurer will also notify the **Insured** of the availability of, the premium for, and the importance of purchasing an additional **Extended Reporting Period**. The **Extended Reporting Period** described in Item 5a shall be three years, inclusive of the one year period specified in paragraph B. above and the premium shall be computed in accordance with the rates in effect when the **Certificate of Insurance** was last issued or renewed. The premium to be charged for the additional **Extended Reporting Period** coverage shall be based upon the rates for such coverage in effect on the date this **Certificate of Insurance** was issued or last renewed and shall be for three years at 200% of such premium.
  - D. The **Insured** shall have the greater of 60 days from the effective date of **Termination of Coverage** or 30 days from the date of mailing or delivery of the advice of the availability to purchase the additional **Extended Reporting Period** coverage, to submit written acceptance of the additional **Extended Reporting Period** coverage. The premium for such additional **Extended Reporting Period** must be paid promptly when due. The premium shall be fully earned at the inception of this endorsement.
  - E. If the **Insured** has been placed in receivership, liquidation or bankruptcy or permanently ceases operations, then any one qualifying as an **Insured** has the right to an **Extended Reporting Period** issued in the name of the **Insured** for the benefit of all **Insureds**. The request for such **Extended Reporting Period** coverage must be made within 120 days of the **Termination of Coverage**.
  - F. Upon termination of this **Certificate of Insurance**:
    - i. any return premium due the **Insured** shall be credited toward the premium for the additional **Extended Reporting Period** coverage if the **Insured** elects such coverage.
    - ii. where premium is due to the Insurer for coverage during the **Coverage Relationship**, any monies received by the Insurer from the **Insured** as payment for the **Extended Reporting Period** coverage shall first be applied to such premium owing for this **Certificate of Insurance**.
  - G. In order to purchase the **Extended Reporting Period**, the total premium for the **Insured's Certificate of Insurance** must have been paid.
  - H. If the **Extended Reporting Period** is purchased, the entire premium shall be deemed earned at its commencement without any obligation by the Insurer to return any portion thereof.
  - I. Limits of Liability for such additional **Extended Reporting Period** shall be:
    - i. at least equal to 100 percent of the **Certificate of Insurance's** applicable annual aggregate limit where a **Coverage Relationship** has continued for three years or more; or
    - ii. if the **Coverage Relationship** has continued for less than three years, the Limit of Liability shall be at least equal to the greater of:
      - a. the amount of coverage remaining in such **Certificate of Insurance's** applicable annual aggregate Limit of Liability, or
      - b. 50 percent of such **Certificate of Insurance's** annual aggregate Limit of Liability.
8. Section VI. ESTATES, LEGAL REPRESENTATIVES AND SPOUSES is deleted in its entirety and replaced as follows:

#### **VI. ESTATES, LEGAL REPRESENTATIVES AND SPOUSES**

The estates, heirs, legal representatives, assigns or spouses of **Insureds**, shall be considered **Insureds** under this Policy; provided however, that coverage is afforded to such estates, heirs, legal representatives, assigns or spouses only for a **Claim** arising solely out of their status as such and, in the case of a spouse, where such **Claim** seeks damages from marital community property, jointly-held



property or property transferred from the **Insured** to the spouse. No coverage is provided for any **Wrongful Act** of an estate, heir, legal representative, assign or spouse. All terms and conditions of this Policy, including without limitation the Retention applicable to **Loss** incurred by the **Insured** shall also apply to **Loss** incurred by such estates, heirs, legal representatives, assigns or spouses.

9. Section VII. LIMIT OF LIABILITY, RETENTION AND ALLOCATION is deleted in its entirety and replaced as follows:

A. Professional Liability Insuring Agreement A.

If a Limit of Liability is set forth in the **Insured's Certificate of Insurance** for the applicable **Insured** under the Professional Liability Insuring Agreement A., such Scheduled Limit of Liability shall apply separately to each applicable **Insured** covered under such Insuring Agreement as follows:

1. Each **Claim**

Subject to paragraph 2. below, the Limit of Liability of the Insurer for **Loss** for each **Claim** first made against an **Insured** and reported to the Insurer during the **Certificate Period** shall not exceed the amount stated in the Declarations for each **Claim**.

2. Aggregate

The Limit of Liability of the Insurer for **Loss** for all **Claims** first made against an **Insured** and reported to the Insurer during the **Policy Period** shall not exceed the amount stated in the **Insured's Certificate of Insurance** for all **Claims** in the Aggregate.

If the Scheduled Limits of Liability for Insuring Agreement A., as set forth in the **Insured's Certificate of Insurance** include more than one option, only one Limit of Liability option shall be available to each **Insured** and such option shall be the option identified in the written records of the **Policyholder**, subject to the maximum aggregate Limit of Liability as set for in this Section VI.

B. Vicarious Liability - Insuring Agreement B. (where included)

If Insuring Agreement B. is included, no additional Limit of Liability is afforded under Insuring Agreement B. Rather; the Limit of Liability applicable to **Claims** under Insuring Agreement A. shall be the Limit of Liability under Insuring Agreement A. applicable to the **Agent or General Agent** named as a co-defendant with the **Insured** entity under Insuring Agreement B.

C. Exhaustion of Limit of Liability

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 **Loss**.

D. Retention

Subject to the applicable Limit of Liability, the Insurer shall pay all covered **Loss** excess of the applicable Retention, if any, set forth in the **Insured's Certificate of Insurance**. The scheduled Retentions shall apply separately to each **Insured** as follows:

A single and separate Retention shall apply to all **Loss** resulting from each **Claim**. If more than one Retention is applicable to a single **Claim**, the maximum aggregate Retention for such **Claim** shall be the largest of such Retentions.



If the Insurer, in the exercise of its discretion and without any obligation to do so, pays any amount within the amount of the applicable Retention, the **Insured** shall be liable to the Insurer for any and all such amounts and, upon demand, shall pay such amounts to the Insurer.

**E. Interrelated Wrongful Acts**

More than one **Claim** involving the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be considered as one **Claim** which shall be deemed to have been made on the earlier of:

- A. the date on which the earliest such **Claim** was first made; or
- B. the first date valid notice was given by an **Insured** and received by the Insurer under this Policy of any **Wrongful Act** or under any prior policy of any **Wrongful Act** or any fact, circumstance, situation, event or transaction which underlies any such **Claim**.

**F. Allocation**

If a **Claim** made against the **Insureds** includes both covered and uncovered matters or if a **Claim** is made against **Insureds** who are extended coverage under this Policy and others who are not extended coverage therefore under this Policy, the **Insureds** agree that there must be an allocation between insured and uninsured **Loss** (other than that part of **Loss** attributable to **Defense Costs**). The **Insureds** and the Insurer shall exert their best efforts to agree upon a fair and proper allocation between such insured and uninsured **Loss** based upon the relative legal exposures of the parties to such matters.

10. Section VIII. NOTICE is amended as follows:

- A. The first sentence of paragraph A is deleted in its entirety and replaced as follows:

If a **Claim** is made against any **Insured** or the **Policyholder**, the **Insured** or the **Policyholder**, as applicable, shall give written notice to the Insurer or any of the Insurer's licensed agents, of such a **Claim** as soon as practicable during the **Coverage Relationship** and forward to the Insurer every demand, notice, summons or other process received.

- B. The first sentence of paragraph B up to the colon is deleted in its entirety and replaced as follows:

If, during the **Insured's Certificate Period**, or the **Extended Reporting Period**, if applicable, an **Insured** first becomes aware of any **Wrongful Act** which may reasonably give rise to a future **Claim** and during such period give written notice to the Insurer or any of the Insurer's licensed agents, of:

- C. Paragraph D is deleted in its entirety and replaced as follows:

The **Insureds** shall give written notice under this Policy to the Insurer or any of the Insurer's licensed agents as specified in the **Certificate of Insurance**, which shall be effective upon receipt. Failure to give any notice required to be given by paragraphs A, B and C above, within the time prescribed therein shall not invalidate any Claim made by the **Insured** or by any other claimant if it shall be shown not to have been reasonably possible to give such notice within the prescribed time and that notice was given as soon as was reasonably possible.

11. Section IX. CANCELLATION is renamed CANCELLATION/NONRENEWAL OF POLICY and is amended to delete paragraph A.2. and add a new paragraph as follows:

- Nonrenewal/Conditional Renewal



- a. If the Insurer elects not to renew this Policy, the Insurer shall send notice as provided in paragraph c. below along with the reason for nonrenewal.
- b. If the Insurer conditions renewal of this Policy upon:
  - i. change of limits;
  - ii. change in type of coverage;
  - iii. reduction of coverage;
  - iv. increased deductible;
  - v. addition of exclusion;
  - vi. increased premiums in excess of 10%, exclusive of any premium increased due to and commensurate with insured value added or increased exposure units; or as a result of experience rating, loss rating, retrospective rating or audit;the Insurer shall send notice as provided in paragraph c.i. below.
- c. Notice of nonrenewal and conditional renewal will be provided as follows:
  - i. If the Insurer decides not to renew this Policy or to conditionally renew this Policy as provided in paragraphs a. and b. above, the Insurer shall mail or deliver written notice to the **Policyholder** at least 60 but not more than 120 days before the expiration date.
  - ii. Notice will be mailed or delivered to the **Policyholder** at the address shown in the Policy and its authorized agent or broker. If notice is mailed, proof of mailing will be sufficient proof of notice.
  - iii. the Insurer will not send the **Policyholder** notice of non-renewal or conditional renewal if the **Policyholder** or its authorized agent or broker or another insurer of the **Policyholder** mails or delivers notice that this Policy has been replaced or no longer desired.

12. A new section is added as follows:

#### **CANCELLATION/NONRENEWAL/CONDITIONAL RENEWAL OF CERTIFICATE OF INSURANCE**

##### **A. Cancellation of Certificate of Insurance**

1. The **Insured** has the right to cancel their **Certificate of Insurance** at any time by giving notice to the Insurer stating when thereafter the cancellation shall be effective. If the **Certificate of Insurance** is so canceled, earned premium shall be computed pro rata.
2. If the **Certificate of Insurance** has been in effect for 60 days or less, the **Certificate of Insurance** may be canceled by the Insurer by mailing or delivering to the **Insured** written notice stating the reason for cancellation at the mailing address shown on the **Certificate of Insurance**, and to the **Insured's** authorized agent or broker at least:
  - a. 20 days before the effective date of cancellation if the **Certificate of Insurance** is canceled for any reason not included in paragraph (b) below.
  - b. 15 days before the effective date of cancellation if the **Certificate of Insurance** is canceled for any of the following reasons:
    - i. nonpayment of premium;
    - ii. conviction of a crime;
    - iii. discovery of fraud or material misrepresentation in the obtaining of the **Certificate of Insurance** or in the presentation of a **Claim**;
    - iv. after issuance of the **Certificate of Insurance** 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 which occurred subsequent to inception of the current **Certificate Period**;



- v. material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the **Certificate of Insurance**, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the **Certificate of Insurance** was issued or last renewed;
  - vi. required pursuant to a determination by the New York State Superintendent of Insurance that continuation of the Insurer's present premium volume would jeopardize the Insurer's solvency or be hazardous to the interest of the Insurer's policyholders, creditors or the public;
  - vii. a determination by such Superintendent that the continuation of the **Certificate of Insurance** would violate, or would place the insurer in violation of, any provision of the New York Insurance Code; or
  - viii. revocation or suspension of the **Insured's** license to provide **Professional Services**.
3. If the **Certificate of Insurance** has been in effect for more than 60 days, or if this **Certificate of Insurance** is a renewal or continuation of a **Certificate of Insurance** issued by the insurer, this **Certificate of Insurance** may be canceled by the **Insurer** only for any of the reasons listed in paragraph A.2.b. above provided a written notice stating the reason for cancellation is mailed or delivered to the **Insured** at the address shown in the **Certificate of Insurance**, and his or her authorized agent or broker at least 15 days before the effective date of cancellation.
- a. Notice of cancellation will state the effective date of cancellation. The notice of cancellation for nonpayment of premium will include the amount of premium due. The **Certificate Period** will end on this date. If notice is mailed, proof of mailing will be sufficient proof of notice.
  - b. If the **Insured** cancels, earned premium will be computed in accordance with the customary short rate table and procedure. If the Insurer cancels, earned premium shall be computed pro rata. However, when the premium is advanced under a premium finance agreement, the cancellation refund will be pro rata. Under such financed policies, the Insurer will be entitled to retain a minimum earned premium of 10% of the total policy premium or \$60, whichever is greater. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.
  - c. If one of the reasons for cancellation set forth in Paragraph A.2.b. exists, the Insurer may cancel this entire **Certificate of Insurance**, even if the reason for cancellation pertains only to a new coverage or endorsement initially effective subsequent to the original issuance of this **Certificate of Insurance**.

B. Nonrenewal

- 1. If the Insurer elects not to renew this **Certificate of Insurance**, the Insurer shall send notice as provided in paragraph 2. below along with the reason for nonrenewal.
- 2. Notice of nonrenewal and conditional renewal will be provided as follows:
  - a. If the Insurer decides not to renew this **Certificate of Insurance** as provided in paragraph 1. above, the Insurer shall mail or deliver written notice to each **Insured** at least 60 but not more than 120 days before:
    - i. the expiration date; or
    - ii. the anniversary date if this is a continuous **Certificate of Insurance**.
  - b. Notice will be mailed or delivered to each **Insured** at the address shown in the **Certificate of Insurance** and his or her authorized agent or broker. If notice is mailed, proof of mailing will be sufficient proof of notice.



- c. the Insurer will not send the **Insured** notice of non-renewal if the **Insured** or its authorized agent or broker or another insurer of the **Insured** mails or delivers notice that this **Certificate of Insurance** has been replaced or no longer desired.

- C. If the Insurer violates any of the provisions of the paragraphs above by sending the **Insured** an incomplete or late conditional renewal notice or a late nonrenewal notice:
  - 1. Coverage will remain in effect at the same terms and conditions of this **Certificate of Insurance** at the lower of the current rates or the prior **Certificate Period's** rates until 60 days after such notice is mailed or delivered, unless the **Insured**, during this 60 day period, has replaced the coverage or elects to cancel.
  - 2. On or after the expiration date of this **Certificate Period's**, coverage will remain in effect at the same terms and conditions of this **Certificate Period's** for another **Certificate Period's** at the lower of the current rates or the prior period's rates, unless the **Insured**, during this **Certificate Period's**, has replaced the coverage or elects to cancel.

13. Section X. OTHER INSURANCE is deleted in its entirety and replaced as follows:

**X. OTHER INSURANCE**

If any **Loss** resulting from any **Claim** is insured under any other policies, this Policy shall apply only to the extent the **Loss** exceeds the amount paid under such other valid and collectible insurance whether such other valid and collectible insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other valid and collectible insurance is written only as specific excess insurance over this Policy.

14. Section XX. EXCLUSIONS is amended as follows:

A. Paragraph A., **Prior Litigation** is amended to add the words "or **Policyholder**" after the first use of the word "**Insured**."

B. Paragraph N. **Nuclear/Pollution** is amended as follows:

- 1. The title is changed from "**Nuclear/Pollution**" to "**Pollution**".
- 2. The phrase "nuclear reaction, radiation or contamination," is removed from the exclusion.

C. The following new exclusion is added:

This Policy does not apply to any **Class Action Claim**.

D. Exclusion J. **Insolvency**, is deleted in its entirety and replaced as follows:

**J. Insolvency**

based upon, arising out of, due to or involving directly or indirectly the insolvency, receivership, liquidation or inability to pay, of any insurance carrier, broker/dealer, trust or investment vehicle in which the **Insured** has placed or obtained coverage for a client or an account; however, notwithstanding the foregoing, the Insurer shall have the right and duty to defend the **Insured** in any suit alleging described above, provided:

However, this exclusion does not apply:



- a. to any **Claim** arising from the **Insured's** placement of coverage with an admitted Insurer with an A.M. Best rating of "A-" or better rating at the time the **Insured** initially placed the risk with such Insurer; or
- b. to any entity described above, if the entity was authorized or operated by a government body or bodies pursuant to statute or regulation, including assigned risk plans, joint underwriting associations, pools, FAIR Plans, or other residual market mechanisms, but only with respect to such entity in its capacity or operation in such programs.

E. Exclusion R. **Investment Banking Activities**, is deleted in its entirety and replaced as follows:

**R. Investment Banking Activities**

based upon, directly or indirectly arising out of, or in any way involving any actual or alleged underwriting; syndicating; or investment banking work; or associated counseling or investment activities which includes any aspect of any actual, attempted or threatened mergers, acquisitions, divestitures, tender offers, proxy contests, leveraged buy-outs, going private transactions, reorganizations, capital restructuring, recapitalization, spin-offs, primary or secondary offerings of securities (regardless of whether the offering is a public offering or a Private Placement); other efforts to raise or furnish capital or financing for any enterprise or entity or any disclosure requirements in connection with any of the foregoing;

F. Exclusion X. **Wrongful Employment Practices**, is deleted in its entirety and replaced as follows:

**X. Wrongful Employment Practices**

based upon, directly or indirectly arising out of, or in any way involving employment practices which includes discrimination or termination of employment;

15. Section XVI. NO ACTION AGAINST INSURER is deleted in its entirety and replaced with the following:

No action shall be taken against the Insurer unless, as a condition precedent thereto, the **Insured** shall have fully complied with all terms of this Policy, nor 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 Insurer. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. Nothing contained in this Policy shall give any person or organization any right to join the Insurer in any action against the **Insured** to determine the **Insured's** liability, nor shall the Insurer be impleaded by the **Insured** or their legal representative in any such **Claim**.

16. The following new section is added to the Policy:

**BANKRUPTCY**

Bankruptcy or insolvency of any **Insured** or of the **Insured's** estate will not relieve us of our obligations under this policy.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.