



**POLICY NUMBER:**  
**RENEWAL OF:**

**MISCELLANEOUS PROFESSIONAL LIABILITY INSURANCE  
DECLARATIONS**

THIS IS A CLAIMS-MADE AND REPORTED POLICY. SUBJECT TO ITS TERMS AND CONDITIONS, THIS POLICY ONLY COVERS **CLAIMS** FIRST MADE AGAINST THE **INSURED** AND REPORTED TO THE INSURER DURING THE **POLICY PERIOD**, BUT IN NO EVENT LATER THAN SIXTY (60) DAYS AFTER EXPIRATION OR TERMINATION OF THIS POLICY, OR DURING THE **EXTENDED REPORTING PERIOD**, IF APPLICABLE. **CLAIMS EXPENSES** ARE INCLUDED WITHIN, AND WILL REDUCE, THE LIMITS OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY, AND CONSULT WITH YOUR BROKER/AGENT OR OTHER PROFESSIONAL TO THE EXTENT YOU DO NOT UNDERSTAND ANY TERMS OR CONDITIONS OF THIS POLICY.

**BROKER:**

c/o Aspen Specialty Insurance Management Co.  
260 Madison Avenue, 8<sup>th</sup> Floor  
New York, NY 10016

**Item 1. NAMED INSURED:**

**Item 2. MAILING ADDRESS:**

**Item 3. POLICY PERIOD:**

**SPECIMEN**

**Inception Date:**

**Expiration Date:**

12:01 a.m. Standard Time at the address of the Named Insured stated above.

**Item 4. LIMIT OF LIABILITY:** a. \$

Each **Claim**, including **Damages** and **Claims Expenses**, but in no event exceeding,

b. \$

in the aggregate for all **Claims**, including **Damages** and **Claims Expenses**

**Item 5. DEDUCTIBLE:**

\$

Each **Claim**, subject to **Damages** and **Claims Expenses**

**Item 6. PREMIUM:** \$

**Item 7. PROFESSIONAL SERVICES:**

**Item 8. RETROACTIVE DATE:**

**Item 9. KNOWLEDGE DATE:**

**Item 10. FORMS & ENDORSEMENTS**

**ATTACHED AT INCEPTION:** SEE SCHEDULE OF APPLICABLE FORMS

**Item 11. NOTICE OF CLAIM REPORTING:**

In the event of a **Claim**, notice to the Insurer shall be sent via express mail or electronic mail to:

Mail Address:

c/o Aspen Specialty Insurance Management Co.  
Professional Liability Claims Department  
260 Madison Avenue, 8<sup>th</sup> Floor  
New York, NY 10016

Electronic Mail Address: [professionalliability.claims@aspenspecialty.com](mailto:professionalliability.claims@aspenspecialty.com)

Surplus Lines Broker Name:

Surplus Lines Broker Address:

Surplus Lines Broker License No.:

**SPECIMEN**

This Declarations page, together with the Application for this Policy, the attached Policy form and all Endorsements thereto, shall constitute the contract between the Insurer and the **Insured**. The Policy is valid only if signed below by a duly authorized representative of the Insurer.

In witness whereof, the Insurer has caused this Policy to be signed below by a duly authorized representative of the Insurer.

Issued on: \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative

## MISCELLANEOUS PROFESSIONAL LIABILITY INSURANCE POLICY

THIS IS A CLAIMS-MADE AND REPORTED POLICY. SUBJECT TO ITS TERMS AND CONDITIONS, THIS POLICY ONLY COVERS **CLAIMS** FIRST MADE AGAINST THE **INSURED** AND REPORTED TO THE INSURER DURING THE **POLICY PERIOD**, BUT IN NO EVENT LATER THAN SIXTY (60) DAYS AFTER EXPIRATION OR TERMINATION OF THIS POLICY, OR DURING THE **EXTENDED REPORTING PERIOD**, IF APPLICABLE. **CLAIMS EXPENSES** ARE INCLUDED IN, AND WILL REDUCE, THE LIMITS OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY, AND CONSULT WITH YOUR BROKER/AGENT OR OTHER PROFESSIONAL TO THE EXTENT YOU DO NOT UNDERSTAND ANY TERMS OR CONDITIONS OF THIS POLICY.

WORDS THAT APPEAR IN BOLD PRINT HAVE SPECIAL MEANINGS AND ARE DEFINED SEPARATELY. WHENEVER A SINGULAR FORM OF A WORD IS USED, THE SAME WILL INCLUDE THE PLURAL WHEN REQUIRED BY CONTEXT.

In consideration of the payment of the premium, and in reliance upon the Application which shall be the basis of this Policy and deemed to be incorporated herein, and subject to all the terms and conditions of the Policy, the Insurer and the **Insured** agree as follows:

### I. INSURING AGREEMENTS

The Insurer shall pay on behalf of the **Insured** all sums in excess of the Deductible amount identified in the Declarations which the **Insured** shall become legally obligated to pay as **Damages** and/or **Claims Expenses** resulting from **Claims** first made against the **Insured** during the **Policy Period**, or **Extended Reporting Period**, if applicable, as a result of a **Wrongful Act** by an **Insured** or an entity for whom the **Insured** is legally liable, provided that:

- A. The **Wrongful Act** or **Interrelated Wrongful Acts** were first committed on or after the **Retroactive Date** and before the end of the **Policy Period**;
- B. No **Insured** gave notice to any prior insurer of such **Wrongful Act** or **Interrelated Wrongful Acts**;
- C. The **Insured** has reported such **Claim** in writing to the Insurer, as soon as practicable, during the **Policy Period**, but in no event later than sixty (60) days after expiration or termination of this Policy, or during the **Extended Reporting Period**, if applicable; and
- D. Prior to any **Knowledge Date** identified in the Declarations of this Policy, no **Insured** knew or could have reasonably foreseen that such **Wrongful Act** or **Interrelated Wrongful Acts** might give rise to a **Claim**.

### II. EXTENSIONS OF COVERAGE

#### **A. Mediation/Deductible Credit Coverage Extension**

If a **Claim** is fully and finally resolved to the satisfaction of all parties including the Insurer as a direct result of the operation of the **Mediation** process, as opposed to settlement or compromise, or by any other means, the **Insured's** deductible obligation for such **Claim** shall be reduced by fifty percent (50%) up to a maximum reduction of \$50,000.

**B. Disciplinary Proceedings Coverage Extension**

If a **Disciplinary Proceeding** is commenced against an **Insured**, during the **Policy Period**, the Insurer will reimburse the **Insured** for reasonable attorney's fees and costs incurred in responding to such **Disciplinary Proceeding**. The maximum payment made by the Insurer pursuant to this Extension shall be \$15,000 for each **Policy Period**, regardless of the number of **Disciplinary Proceedings** or the number of **Insureds** subject to **Disciplinary Proceedings**. Any payment made by the Insurer under this Extension shall not apply to the Deductible and shall not reduce the Limits of Liability. The Insurer shall not pay any **Damages** pursuant to this Extension.

**C. Subpoena Compliance Coverage Extension**

If the **Insured** receives a subpoena during the **Policy Period**, for documents or testimony related to **Professional Services**, but to which the **Insured** is not party to a lawsuit, the Insurer will pay defense fees and other reasonable costs in connection with the **Insured's** document production or representation in giving sworn testimony. Coverage afforded by this Extension as determined by the Insurer will not by itself be considered Notice under Section V.A. Notice of Claims and Potential Claims. The maximum payment made by the Insurer pursuant to this Extension shall be \$5,000 per subpoena and \$10,000 in the aggregate each **Policy Period**, regardless of the number of subpoenas or the number of **Insureds** subject to subpoenas. Any payment made by the Insurer under this Extension shall not apply to the Deductible and shall not reduce the Limits of Liability. The Pre-Claims Assistance Coverage Extension shall not apply if this Extension applies.

**D. Joint Venture Coverage Extension**

The Insurer shall pay on behalf of the **Insured** all sums which the **Insured** shall become legally obligated to pay as **Damages** and/or **Claims Expenses** resulting from the **Insured's** participation in a joint venture. This Extension shall only apply to the **Insured's Wrongful Acts** and shall not afford coverage to the joint venture itself or any other entity that is part of the joint venture.

**E. Pre-Claims Assistance Coverage Extension**

If the **Insured** reports a **Wrongful Act**, during the **Policy Period**, which the **Insured** believes may reasonably give rise to a **Claim** under the Policy, the Insurer in its sole discretion, and at its own expense, may investigate such **Wrongful Act**. Once the Insurer has incurred \$10,000 of expenses for such an investigation, a **Claim** will be deemed to have been made under the Policy. Any payment made by the Insurer under this Extension shall not apply to the Deductible and shall not reduce the Limits of Liability.

**F. Reimbursement of Expenses Coverage Extension**

If the **Insured** is requested by the Insurer to attend hearings, depositions and/or trials relative to the defense of a **Claim**, the Insurer shall reimburse the **Insured's** actual loss of earnings and reasonable expenses due to such attendance up to \$500 per day. The Insurer agrees to pay up to \$10,000 each **Claim** and in the aggregate for the **Policy Period**. Any payment made by the Insurer under this Extension shall not apply to the Deductible and shall not reduce the Limits of Liability.

**G. Privacy Breach Coverage Extension**

The Insurer shall pay on behalf of the **Insured** all sums which the **Insured** shall become legally obligated to pay as **Damages** and/or **Claims Expenses** as a result of a violation of a **Privacy Regulation** or right of privacy, arising solely from the performance of **Professional Services**. This violation may occur as a result of a breach of the **Insured's** network security, the mismanagement of computer hardware or software, or the loss, theft or unauthorized disclosure or dissemination of **Personal Information**. It is agreed that a sub-Limit of Liability of \$250,000 each **Claim** and in the aggregate shall apply to this coverage. This sub-Limit of Liability is part of and not in addition to the Limits of Liability stated in the Declarations.

**III. DEFINITIONS**

**A. Affiliated Entity** means:

- 1) an entity owned or controlled by an **Insured**;
  - 2) a person or entity which owns or controls an **Insured**;
  - 3) an entity which is under common ownership or control with an **Insured**; or
  - 4) an entity of which an **Insured** is a director, officer, partner or principal shareholder;
- B. Claim** means a written demand for **Damages** or injunctive relief received by an **Insured** alleging a **Wrongful Act**, including a complaint, arbitration proceeding, or civil lawsuit.
- C. Claims Expenses** means reasonable and necessary fees, costs and expenses incurred by the Insurer, or by the **Insured** with the prior written consent of the Insurer, consisting of fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **Claim**, including the cost of appeal bonds; however, the Insurer shall not be obligated to apply for or furnish appeal bonds. **Claims Expenses** do not include salary charges, wages or expenses of partners, principals, officers, directors, members or employees of the **Insured** or the Insurer.
- D. Damages** means any monetary judgment or settlement negotiated with the prior approval of the Insurer, and shall also include punitive or exemplary damages or the multiple portion of any multiplied damage award unless such damages are uninsurable pursuant to applicable law. The insurability of such **Damages** shall be governed by the internal laws of any applicable jurisdiction which permits coverage of such **Damages**. However, **Damages** shall not mean any disgorgement, return, withdrawal, restitution or reduction of any sums which are or were in the possession or control of any **Insured**, or any amounts credited to any **Insured's** account; fines, sanctions, taxes, penalties or awards deemed uninsurable pursuant to any applicable law.
- E. Disciplinary Proceeding** means any proceeding by a regulatory or disciplinary official, board or agency to investigate charges of professional misconduct solely while performing **Professional Services**.
- F. Extended Reporting Period** means the applicable period of time after the end of the **Policy Period** for reporting **Claims** arising out of **Wrongful Acts** committed prior to the end of the **Policy Period** and on or subsequent to the **Retroactive Date**, and otherwise covered by this Policy.
- G. Insured** means:
- 1) The Named Insured identified in the Declarations;
  - 2) Any past, present or future director, officer, partner or employee of a Named Insured, solely while performing **Professional Services** on behalf of the Named Insured;
  - 3) IRS Section 1099 independent contractors or any temporary or leased employees, solely while performing **Professional Services** on behalf of the Named Insured;
  - 4) the legal heir, executor, administrator or legal representative of any individual or entity which otherwise qualifies as an **Insured** under this section in the event of such **Insured's** death, incapacity or bankruptcy;
  - 5) the lawful spouse or domestic partner of any individual which qualifies as an **Insured**, above, for a **Claim** arising solely out of spousal or domestic partner status, and not out of any alleged independent wrongful acts, of such individual;  
or
  - 6) Any **Subsidiary**.
- H. Interrelated Wrongful Acts** means **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, or event, or which are the same, related or continuous acts, regardless of whether the **Claim** or **Claims** alleging such acts involve the same or different claimants, **Insureds** or legal causes of action.
- I. Knowledge Date** means the effective date of the first Miscellaneous Professional Liability Policy issued by the Insurer to the Named Insured and continuously renewed and maintained in effect to the inception of this **Policy Period**.
- K. Mediation** means a non-binding process in which a neutral panel or individual assists the parties in reaching settlement. The process must be of a kind set forth in the Commercial Mediation Rules of the American Arbitration Association. The Insurer, however, at its sole option, may recognize any **Mediation** process or forum presented for approval.

- L. Personal Information** means an individual's identity with any one or more of the following: social security number; medical or healthcare data, or other protected health information; drivers license number or state identification number; credit card number or debit card number in combination with any required security code, access code or password that would permit access to that individual's financial account; or other nonpublic **Personal Information** as defined in a **Privacy Regulation**.
- M. Personal Injury** means false arrest, detention or imprisonment, or malicious prosecution; the publication or utterance of a libel or slander or other defamatory or disparaging material; wrongful entry or eviction; or invasion of the right of private occupancy.
- N. Policy Period** means the period identified in Item 3. of the Declarations or any shorter period that may occur as a result of a cancellation of this Policy, and specifically excludes any **Extended Reporting Period** hereunder.
- O. Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to, smoke, vapor, soot, fumes, acids, alkalis, chemicals, odors, noise, lead, oil or oil products, radiation, asbestos or asbestos-containing products, waste and any electric, magnetic or electromagnetic field of any frequency. Waste includes, but is not limited to, material to be recycled, reconditioned or reclaimed.
- P. Privacy Regulation** means any statute or regulation associated with the control, use, disclosure and/or dissemination of personally identifiable financial, medical or other sensitive information; including identity theft and privacy protection legislation that requires commercial entities that collect **Personal Information** to post privacy policies, adopt specific privacy controls, or notify individuals in the event that **Personal Information** has potentially been compromised.
- Q. Professional Services** means those activities identified in Item 7. of the Declarations which are provided by the **Insured** to others for a fee, remuneration or other consideration.
- R. Retroactive Date** means the date identified in Item 8. of the Declarations. This Policy shall not apply to any **Wrongful Acts** committed prior to this date.
- S. Subsidiary** means any entity, other than a joint venture, in which the Named Insured has an ownership interest of greater than 50%, provided that such entity:
- 1) Was owned at the inception date of the Policy;
  - 2) Becomes owned after the inception date of this Policy and its revenues do not exceed 5% of the Named Insured's revenues at the time it becomes so owned;
  - 3) Becomes owned after the inception date of this Policy and its revenues exceed 5% of the Named Insured's revenues at the time it becomes owned, provided the conditions set forth in General Conditions C. (Acquisitions/Creations) are satisfied.
- T. Wrongful Act** means any actual or alleged negligent act, error or omission, including **Personal Injury**, solely while performing **Professional Services**.

#### **IV. EXCLUSIONS**

This Policy does not apply to any **Claim** based upon, arising out of, directly or indirectly, or in any way involving:

- A. Any intentional wrongdoing, fraud, dishonesty, or malicious **Wrongful Acts** by an **Insured**, if a judgment or other final adjudication adverse to the **Insured** establishes such conduct. The Insurer shall continue to defend the **Insured** if these allegations arise out of **Wrongful Acts** otherwise covered under this Policy, but the **Insured** shall reimburse the Insurer for **Claims Expenses** if such conduct is established as a matter of fact in a civil, arbitration, criminal or other proceeding, or is admitted to by the **Insured**; however, this Exclusion shall not apply to any **Insured** that did not commit, participate in, or have knowledge of any such act or omission.
- B. 1) Any **Professional Services** for an **Insured** or an **Affiliated Entity**;  
or  
2) any **Claim** by or on behalf of an **Insured** or any **Affiliated Entity** against an **Insured** or **Affiliated Entity**; or

- 3) any **Wrongful Acts** alleged to have been committed by or in any way involving an **Affiliated Entity**, unless such entity is otherwise an **Insured** under this Policy.
- C. Any **Wrongful Act** or **Interrelated Wrongful Acts** first occurring before the applicable **Retroactive Date**, even if the **Wrongful Act** or **Interrelated Wrongful Acts** continue after the **Retroactive Date**.
- D. Any circumstances which have been the subject of any notice given under any insurance policy issued by any insurer, including any policy of which this Policy is a renewal or replacement.
- E. Any services as, or which may only be performed by, an accountant, lawyer, actuary, medical doctor, investment advisor, registered representative, broker-dealer, or investment banker.
- F. Any liability of others assumed by an **Insured** under any contract or agreement, unless such liability would have attached to an **Insured** even in the absence of such an agreement; or any guarantees or warranties.
- G. Any gaining of any personal profit or advantage to which an **Insured** is not legally entitled, or any disputes involving an **Insured's** fees, charges, entitlements, or other compensation, or client lists or other information.
- H. Any commingling or misuse of client funds or accounts, or the illegal use of non-public information.
- I. Any infringement of copyright; plagiarism, piracy or misappropriation of ideas; or infringement of title, slogan, trademark, trade name, trade dress, service mark or service name.
- J. Any patent or trade secret, or any unfair competition, deceptive advertising, anticompetitive acts, restraint of trade, price fixing, or antitrust.
- K. Any bodily injury, sickness, disease, emotional distress, mental anguish, outrage, humiliation or death; injury to or destruction of any tangible property including loss of use thereof; however, this Exclusion shall not apply to **Personal Injury**;
- L. Any discrimination, harassment, or misconduct by an **Insured** because of race, creed, color, age, gender, sex, sexual preference or orientation, national origin, religion, disability, handicap, marital status, or any other class protected under federal, state, local or other law; or by an employee, former employee, or job applicant, of an **Insured** in their capacity as such.
- M. Any threatened discharge, dispersal, release or escape of **Pollutants** or any governmental or regulatory directive or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**.

## V. CLAIMS

### A. **Notice of Claims and Potential Claims**

In the event of a **Claim**, an **Insured** shall as a condition precedent to the coverage afforded by this Policy:

- 1) Immediately forward to the Insurer every demand, notice, summons and/or pleading received by an **Insured**;
- 2) Give written notice, as soon as practicable, but in no event later than sixty (60) days after expiration or termination of this Policy, or **Extended Reporting Period**, if applicable, containing particulars sufficient to identify the **Insured** and claimant, and complete and comprehensive information regarding the facts and circumstances surrounding the **Wrongful Act**;
- 3) Notice shall be forwarded to Aspen Specialty at 260 Madison Avenue, 8<sup>th</sup> Floor, New York, NY 10016, Attention: Professional Liability Claims Department, with reference to the Policy number as set forth in the Declarations. (All other notices under this Policy shall be sent to Aspen Specialty at 260 Madison Avenue, 8<sup>th</sup> Floor, New York, NY 10016, Attention: Professional Liability Department.)
- 4) If notices are mailed, the date of mailing of such notice shall constitute the date such notice was given and proof of mailing shall be sufficient proof of notice;

- 5) If notice of a **Claim** is provided pursuant to this Section, any **Claim** subsequently made and reported to the Insurer alleging, arising out of, based upon or attributable to the prior noticed **Claim** or alleging any **Interrelated Wrongful Acts**, shall be considered related to the prior **Claim** and deemed to have been made at the time notice of the prior **Claim** was provided;
- 6) If an **Insured** becomes aware of a **Wrongful Act** that may reasonably be expected to give rise to a **Claim**, and if the **Insured** reports such **Wrongful Act** to the Insurer during the **Policy Period** in writing, then any **Claim** subsequently arising from such **Wrongful Act** duly reported in accordance with this paragraph shall be deemed under this Policy to be a **Claim** made during the **Policy Period** or **Extended Reporting Period**, if applicable, in which such written notice of a **Wrongful Act** is received by the Insurer. Such written notice to the Insurer shall include a complete and comprehensive statement of the facts and circumstances surrounding the **Wrongful Act**.

#### **B. Defense, Investigation, Consent to Settle**

- 1) The Insurer has the sole right to appoint defense counsel and the right and duty to defend any **Claim** made against an **Insured**.
- 2) As a condition precedent to coverage under this Policy, the **Insured** shall not admit liability for or settle any **Claim** or incur any **Claims Expenses**, without the prior written consent of the Insurer. However, the **Insured** must take all reasonable actions within its ability to prevent or mitigate any **Claim** which would be covered under this Policy. The Insurer has the right to make such investigation and conduct negotiations and, with the written consent of the **Insured**, effect settlement of any **Claim** as the Insurer deems reasonable.
- 3) If the **Insured** refuses to consent to a settlement or compromise recommended by the Insurer and elects to contest or continue to contest the **Claim**, the Insurer's liability shall not exceed the amount for which the Insurer would have been liable for **Damages** and/or **Claims Expenses** if the **Claim** had been so settled when and as so recommended, and the Insurer shall have the right to withdraw from the further defense of the **Claim** by tendering control of the defense thereof to the **Insured**.
- 4) The Insurer shall not be obligated to pay any **Damages** or **Claims Expenses**, or to undertake or continue the defense of any **Claim**, after the applicable limits of the Insurer's liability has been exhausted by payment of **Damages** and **Claims Expenses** or after deposit of the applicable limit of the Insurer's liability with or subject to control of a court of competent jurisdiction.

#### **C. Cooperation and Subrogation**

The **Insured** shall provide the Insurer with such cooperation, assistance and information as the Insurer may request.

In the event of any payment under this Policy, the Insurer shall be subrogated to all of the **Insured's** rights of recovery, and the **Insured** shall preserve and secure, and not prejudice, such rights.

#### **D. Territory**

This Policy applies to **Wrongful Acts** committed by an **Insured** anywhere in the world.

### **VI. GENERAL CONDITIONS**

#### **A. Limits of Liability, Deductible, and Claims First Made**

- 1) Limits of Liability

The Insurer's maximum liability for each **Claim** arising from a **Wrongful Act** or **Interrelated Wrongful Acts** shall be the Limits of Liability for Each **Claim** identified in Item 4. of the Declarations. The Insurer's maximum aggregate Limits of Liability for all **Damages** and **Claims Expenses** resulting from all **Claims** covered by this Policy shall be the Maximum Policy Aggregate identified in Item 4. of the Declarations.



The Limits of Liability of the Insurer for any **Extended Reporting Period** shall be part of, and not in addition to, the Limits of Liability of the Insurer for the **Policy Period**.

2) Deductible

The Insurer shall only be liable for **Damages** and/or **Claims Expenses** which are in excess of the Deductible(s) identified in Item 5. of the Declarations. This Deductible shall apply separately to each **Claim** and shall be borne by the **Insured** and remain uninsured. For purposes of the Deductible, **Claims** arising out of one **Wrongful Act** or **Interrelated Wrongful Acts** shall be considered as arising out of one **Wrongful Act**, and only one Deductible amount shall apply thereto. The Deductible shall not reduce or increase the Limits of Liability.

3) Claims First Made

All **Claims** arising out of the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed one **Claim**, and such **Claim** shall be deemed to be first made on the earliest date that:

- a. any of the **Claims** is first made against an **Insured** under this Policy or any prior policy; or
- b. valid notice was given by the **Insured** under this Policy or any prior policy of any **Wrongful Act** or any fact, circumstance, situation, event, transaction or cause which underlies such **Claim**.

**B. Extended Reporting Period**

In the event of cancellation or non-renewal of this Policy by either the Named Insured or the Insurer, the Named Insured shall have a period of (a) one (1) year for an additional premium of 75% of the total annual premium, (b) two (2) years for an additional premium of 125% of the total annual premium, (c) three (3) years for an additional premium of 175% of the total annual premium, (d) four (4) years for an additional premium of 200% of the total annual premium, or (e) five (5) years for an additional premium of 225% of the total annual premium, after the date of such cancellation or non-renewal, to report to the Insurer any **Claim** which is first made during this period and which arises from a **Wrongful Act** committed prior to cancellation or non-renewal and on or after the **Retroactive Date**. However, the Named Insured shall not be entitled to this **Extended Reporting Period** if it has any other applicable insurance, including a policy issued subsequent to this Policy.

As a condition precedent to the right to purchase the **Extended Reporting Period**, any and all premiums and deductibles that are due must have been paid and there must be compliance with all other terms and conditions of this Policy. No **Extended Reporting Period** shall be available when any **Insured's** license or right to practice his or her profession is revoked or suspended by, or surrendered at the request of, any regulatory or judicial authority.

The right to purchase the **Extended Reporting Period** must be exercised by notice in writing not later than sixty (60) days following the non-renewal or cancellation date of this Policy, and must include payment of premium for the applicable **Extended Reporting Period**. If such notice is not given to the Insurer, the Named Insured shall not, at a later date, be able to exercise such right.

At the commencement of any **Extended Reporting Period**, the entire premium thereafter shall be deemed earned and in the event the **Named Insured** terminates the **Extended Reporting Period** before its expiration date, the Insurer shall not be liable to return any portion of the premium for the **Extended Reporting Period**.

There is no additional policy limit applicable to the **Extended Reporting Period**, and it shall not in any way increase, renew or replenish the Limits of Liability as set forth in the Declarations. The **Extended Reporting Period** shall be renewable at the sole option of the Insurer.

**C. Acquisitions/Creations**

If during the **Policy Period**, a Named Insured acquires or creates an entity pursuant to Section III. S. **Subsidiary** such entity shall be considered an **Insured** under this Policy for a period of ninety (90) days from the date of the acquisition or creation, but only for **Wrongful Acts** committed after the date of acquisition or creation. Coverage beyond ninety (90) days will apply if:

- a) Written notice of such acquisition or creation is provided to the Insurer no later than ninety (90) days after the effective date of such acquisition or creation;
- b) the Named Insured provides the Insurer with information that it may require;
- c) the **Insured** accepts any special terms, conditions, exclusions, or additional premium charges as may be required by the Insurer;
- d) no **Insured** or individual of the acquired or created entity knew or could have reasonably foreseen that a **Claim** might be made; and
- e) the Insurer, at its sole discretion, agrees to provide such coverage.

If during the **Policy Period** the Named Insured ceases to have an ownership interest of greater than 50% in such entity, coverage under this Policy for such entity shall apply only to its **Wrongful Acts** taking place prior to the date the Named Insured ceased having an ownership interest of greater than 50%.

#### **D. Other Insurance**

If any **Claim** or **Wrongful Act** noticed to the Insurer under this Policy is insured by another valid policy or policies, then this Policy shall apply only in excess of the amount of any deductibles, retentions and limits of liability under such other policy or policies, whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other policy to the Policy Number identified in the Declarations.

#### **E. Allocation**

If a **Claim** gives rise to both covered **Damages** and uncovered damages under this Policy, the **Insured** and the Insurer shall allocate such amount between covered **Damages** and uncovered damages.

If there can be no agreement between the Insurer and the **Insured** as to the amount of **Claims Expenses** to be paid in connection with such **Claim**, the Insurer shall pay **Claims Expenses** which it reasonably believes to be covered under this Policy until a different allocation is negotiated or determined.

Any negotiated or determined allocation of **Claims Expenses** in connection with a **Claim** shall be applied retroactively, notwithstanding any allocation applied with respect to any prior advancement. Any allocation or advancement of **Claims Expenses** in connection with a **Claim** shall not apply to or create any presumption with respect to the any other allocation.

#### **F. Reimbursement of the Insurer**

If the Insurer has paid any **Damages** and/or **Claims Expenses** in excess of the applicable Limits of Liability or within the amount of the applicable Deductible, the **Insured** shall be liable to the Insurer for any and all such amounts and, upon demand, shall pay such amounts to the Insurer promptly. If it is negotiated or determined that any **Claims Expenses** are not covered under this Policy, the **Insured** agrees to repay the Insurer the amount of such **Claims Expenses** not covered.

#### **G. Entire Contract**

By acceptance of this Policy, the **Insured** agrees that the statements in the Declarations and Application are its agreements and representations, that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the **Insured** and the Insurer.

#### **H. Notice of Cancellation**

This Policy may be cancelled by the Named Insured by surrender of this Policy to the Insurer or by giving written notice to the Insurer stating when thereafter such cancellation shall be effective. This Policy may also be cancelled by the Insurer by mailing to the Named Insured by registered, certified, or other first class mail, at the Named Insured's address identified in Item 2. of the Declarations, written notice stating when, not less than sixty (60) days thereafter (or ten (10) days thereafter when cancellation is due to non-payment of premium), the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this Policy shall terminate at the date and hour specified in such notice. If this Policy shall be cancelled by the Named Insured, the Insurer shall retain the customary short rate proportion of the premium hereon. This Policy may only be cancelled by the Insurer for failure to pay the premium or for

material misrepresentations in the Application. If this Policy shall be cancelled by the Insurer, the Insurer shall retain the pro-rata proportion of the premium hereon. Premium adjustments and returns shall be made at the time cancellation is effective or as soon as possible after that time. Payment or tender of unearned premium shall not be a condition of cancellation.

**I. Named Insured - Sole Agent**

The Named Insured shall be the sole agent of all **Insureds** hereunder for the purpose of effecting or accepting any amendments to or cancellation of this Policy, for the purpose of receiving such notices as may be required by law and/or any provision(s) of this Policy, for the completing of any Application and the making of any representations, for the payment of any premium and the receipt of any return premium that may become due under this Policy, for the payment of any Deductible obligations that may become due under this Policy, and the exercising or declining to exercise any right under this Policy, including declining or exercising any **Extended Reporting Period**.

**J. Alteration and Assignment**

No change in, modification of, or assignment of, interest under this Policy shall be effective except when made by written endorsement signed by an authorized representative of the Insurer.

**K. Action Against the Insurer**

No action shall be taken against the Insurer unless, as a condition precedent thereto, the **Insured** has fully complied with all the terms and provisions of this Policy. In addition, no action shall be taken against the Insurer until the amount of any **Insured's** obligation or liability to a third party has been finally determined by an award or judgment against any **Insured** in an actual adjudicatory proceeding.

No entity shall have the right under this Policy to join any **Insured** in any action or proceeding against an Insurer to determine the Insurer's liability nor shall the Insurer be impleaded in an action or proceeding by any **Insured** or its legal representative.

**L. Dispute Resolution Process**

In the event a dispute arises out of this Policy, the Insurer and the **Insured** shall participate in a non-binding mediation. The parties shall share costs, but bear their own legal fees and expenses. Either the Insurer or the **Insured** may commence a judicial proceeding or binding arbitration proceeding after ninety (90) days has passed from the termination of the mediation. In the event of a binding arbitration, such proceeding shall be pursuant to such rules and procedures as the parties may agree. If the parties cannot agree, the arbitration shall be administered by the American Arbitration Association in accordance with its then prevailing Commercial Arbitration Rules. The arbitration panel shall consist of one arbitrator selected by the **Insured**, one selected by the Insurer, and the third independent arbitrator selected by the two party-appointed arbitrators. In any such arbitration, each party will bear its own legal fees and expenses. The arbitration or any court proceeding shall take place in New York, New York and New York law shall apply, without application of any applicable conflict of law analysis.

**M. Titles**

The titles of paragraph sections or endorsements in, or of, this Policy are intended solely for convenience and reference, and are not deemed in any way to modify the provisions to which they relate.