

AXISPRO[®] MISCELLANEOUS PROFESSIONAL LIABILITY INSURANCE POLICY FOR STANDARDS AND SPECIFICATIONS

Sponsored by:
American Society of Association Executives



CLAIMS MADE

IMPORTANT NOTICE

CLAIM EXPENSE IS INCLUDED IN THE LIMIT OF INSURANCE AND THE **RETENTION**.

ALL WORDS OR PHRASES, OTHER THAN CAPTIONS, PRINTED IN BOLD FACE ARE DEFINED IN THE POLICY. VARIOUS PROVISIONS IN THIS POLICY RESTRICT COVERAGE. READ THE ENTIRE POLICY CAREFULLY TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT INSURED.

CLAIMS MADE POLICY: THIS INSURANCE COVERAGE IS ON A CLAIMS MADE BASIS. COVERAGE APPLIES ONLY TO THOSE **CLAIMS** THAT ARE FIRST MADE DURING THE **POLICY PERIOD** AND ANY EXTENDED REPORTING PERIOD, IF APPLICABLE, AS THOSE TERMS ARE DESCRIBED IN THE POLICY. COVERAGE DOES NOT APPLY TO ANY **WRONGFUL ACTS** COMMITTED BEFORE THE **RETROACTIVE DATE** STATED ON THE DECLARATIONS.

In consideration of the payment of the premium and in reliance on the statements in the **Application** and subject to all other terms of this policy, the **Company** designated in the Declarations agrees with the **First Named Insured** to the following:

SECTION I. INSURING AGREEMENTS

A. What The Company Insures

1. Professional Liability

The **Company** will pay on behalf of the **Insured** those sums, in excess of the **Retention** and within the applicable Limit of Insurance stated in Item 4. on the Declarations, that any **Insured** becomes legally obligated to pay as **Damages** or **Claim Expense** because of a **Claim** arising out of a **Wrongful Act** committed in the performance of **Insured Services**, when such **Claim** is first made against any **Insured** during the **Policy Period** or any Extended Reporting Period.

2. Content Liability

The **Company** will pay on behalf of the **Insured** those sums, in excess of the applicable **Retention** and within the Limit of Insurance stated in Item 4. on the Declarations, which any **Insured** becomes legally obligated to pay as **Damages** or **Claim Expense** because of a **Claim** arising out of a **Wrongful Act** committed by the **Insured** in obtaining, processing, uttering or disseminating **Matter** in the course of performing **Insured Services**, when such **Claim** is first made against any **Insured** during the **Policy Period** or any Extended Reporting Period.

3. Security and Privacy Liability

The **Company** will pay on behalf of the **Insured** those sums, in excess of the applicable **Retention** and within the Limit of Insurance stated in Item 4. on the Declarations, which any **Insured** becomes legally obligated to pay as **Damages** or **Claim Expense** because of a **Claim** arising out of a **Wrongful Act** committed by the **Insured** resulting in an **Enterprise Security Event**, when such **Claim** is first made against any **Insured** during the **Policy Period** or any Extended Reporting Period.

B. Defense and Settlement of a Claim

The **Company** will have the right and duty to appoint an attorney and defend a covered **Claim**, even if the allegations are groundless, false or fraudulent. However:

1. The **Company** may, at the **Company's** discretion, investigate and settle a covered **Claim**.
2. No offer to settle any **Claim** will be made or accepted by the **Insured** without prior written agreement by the **Company**. Notwithstanding the foregoing, it is understood that the **Insured** may settle any **Claim** for which the total cost of **Damages** and **Claim Expense** associated therewith is less than the amount of the remaining **Retention**.
3. If the **Company** is willing to accept the judgment of the trial or appellate court or any negotiated settlement or settlement offer and the **Insured** is not willing to accept such judgment or settlement, the **Company's** maximum liability for all **Claim Expense** and **Damages** arising from a **Claim** shall be limited to the amount of **Claim Expense** and **Damages** for which the **Company** could have resolved the **Claim**, plus an additional fifty percent (50%) of **Claim Expense** and **Damages** incurred after the **Company** indicated its willingness to accept such judgment or settlement. Nothing in this provision will cause the **Company's** liability to exceed the applicable Limit of Insurance set forth in the Declarations.
4. The **Company's** right and duty to defend and pay on the **Insured's** behalf ends when the **Company** has used up the applicable Limit of Insurance in payment of **Damages** or **Claim Expense**, or has met its payment obligations in connection with a **Claim** subject to **Section I.B.3.** above.

Nothing in this **Section 1.B.** will relieve the **Insured** from any notice or cooperation requirements contained in the **GENERAL CONDITIONS** section or any other part of this policy.

C. Spousal Coverage

If a **Claim** made against an **Individual Insured** includes a **Claim** against that **Individual Insured's** lawful spouse solely by reason of:

1. Such spouse's status as the **Individual Insured's** spouse; or
2. Such spouse's ownership interest in property from which the claimant seeks recovery for the **Individual Insured's Wrongful Acts**;

all **Claim Expense** and **Damages** which such spouse becomes legally obligated to pay on account of such **Claim** shall be treated for purposes of this policy as **Claim Expense** and **Damages** which the **Individual Insured** is legally obligated to pay on account of the **Claim** made against the **Individual Insured**. Such **Claim Expense** and **Damages** shall be covered under this policy only if and to the extent that such loss would be covered under this policy if incurred by the **Individual Insured**. The coverage extension afforded by this subsection does not apply to any **Claim** alleging any **Wrongful Act** or omission by the **Individual Insured's** spouse. The term "spouse" as used in this paragraph shall include any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law in the United States of America.

SECTION II. LIMITS OF INSURANCE, RETENTION AND REIMBURSEMENT

A. Limits of Insurance

1. Each **Wrongful Act**

The Each **Wrongful Act** Limit of Insurance stated in Item 4.(a) on the Declarations is the most the **Company** will pay for **Damages** and **Claim Expense** combined for the total of all **Claims** made during the **Policy Period** and any Extended Reporting Period arising from one **Wrongful Act**, no matter how many:

- a. **Insureds** this policy covers;
- b. **Claims** are made; or
- c. Persons or organizations make **Claims**.

2. Total **Limit of Insurance**

The Total Limit of Insurance stated in Item 4.(c) on the Declarations is the most the **Company** will pay for **Damages** and **Claim Expense** combined for the total of all **Claims** made during the **Policy Period** and any Extended Reporting Period, no matter how many:

- a. **Insureds** this policy covers;
- b. **Claims** are made;
- c. Persons or organizations make **Claims**; or
- d. **Wrongful Acts** are committed.

3. Sub-Limits

a. **Disciplinary Proceedings Claim Expense**

The most the **Company** will pay for all **Claim Expense** incurred in connection with **Disciplinary Proceedings** commenced during the **Policy Period** and any applicable Extended Reporting Period shall be \$10,000, no matter how many:

- (1) **Insureds** this **Policy** covers;
- (2) **Disciplinary Proceedings** are commenced;
- (3) Persons, organizations, or authorities institute **Disciplinary Proceedings**; or
- (4) **Wrongful Acts** are committed.

b. **Claim Attendance Expense**

If the **Insured** is requested by the **Company** to attend hearings, depositions and trials in connection with the defense of a covered **Claim**, the most the **Company** shall pay for **Claim Attendance Expense** incurred by the **Insured** as a direct result of such attendance, after any applicable **Retention** is satisfied, will be the lesser of the **Insured's** actual **Claim Attendance Expense**, or \$500 per day. In any event, the

Company's total payment for all such **Claim Attendance Expense** shall not exceed \$10,000 for each **Policy Period**, no matter how many:

- (1) **Insureds** this policy covers;
- (2) **Claims** are made;
- (3) Persons or organizations make **Claims**;
- (4) Trials, depositions, hearings or related appearances the **Insured** attends; or
- (5) **Wrongful Acts** are committed.

c. **Claim Expense for Antitrust Claims**

The most the **Company** will pay for **Claim Expense** for **Claims** made during the **Policy Period** and any Extended Reporting Period arising directly or indirectly out of unfair competition, restraint of trade or any other violation of antitrust laws is the Limit of Insurance stated in Item 4.(b) on the Declarations, no matter how many:

- (1) **Insureds** this policy covers;
- (2) **Claims** are made;
- (3) Persons or organizations make **Claims**; or
- (4) **Wrongful Acts** are committed.

- d. These sub-limits, and any other sub-limit which may be stated in any endorsement to this policy, shall be part of, and not in addition to, the Total Limit of Insurance stated in Item 4.(c) of the Declarations. Payment for **Claim Expense** or **Damages** to which a sub-limit applies will reduce the Total Limit of Insurance available to pay **Claims** covered under this policy.
- e. If more than one sub-limited coverage applies to a **Claim** covered under this policy, the **Company** shall not be obligated to pay more than the largest applicable sub-limit for all **Claim Expense** and **Damages** in connection with such **Claims**.

B. Retention

The **Company** shall be liable for only that part of the **Damages** and **Claim Expense** covered under this policy which is excess of the **Wrongful Act Retention** as described below and in the amount set forth in Item 5.(a) of the Declarations, or, if applicable, for that part of **Claim Expense** that is in excess of the **Retention for Claim Expense** for **Claims** arising directly or indirectly out of unfair competition, restraint of trade or any other violation of antitrust laws in the amount set forth in Item 5.(b) of the Declarations. Such **Retentions** shall be borne by the **Insureds** uninsured and at their own risk.

With respect to all **Claims**, the applicable **Retention** as set forth in Item 5. of the Declarations shall apply to each **Wrongful Act** covered by this policy. All **Wrongful Acts** that involve the same or related subject, person, class of person or have common facts or circumstances or involve common transactions, events or decisions, regardless of the number of repetitions, alterations, actions, or forms of communication will be treated as one **Wrongful Act** for the purposes of applying the **Retention**. The **Retention** applies to all covered **Damages** and **Claim Expense** combined. The **Retention** shall not apply to **Claim Expense** incurred in connection with **Disciplinary Proceedings**.

If more than one **Retention** applies to a **Claim** covered under this policy, the **Insured's Retention** obligation shall not exceed the largest applicable **Retention** in connection with such **Claim**.

The Limit of Insurance shall not be reduced by the application of the **Retention**. All other rights, duties and obligations under the policy shall remain the same regardless of whether or not the **Retention** has been satisfied, including, but not limited to, the **Company's** right and duty to investigate, defend and settle **Claims** and the **Insured's** notice and cooperation duties set forth in this policy

C. Reimbursement

If, at the **Company's** option, the **Company** has paid any amounts for **Damages** or **Claim Expense** in excess of the applicable Limit of Insurance, including any amounts paid in excess of the **Company's** duty to pay **Damages** and **Claim Expense** pursuant to **Section I.B.3** of this policy, or if the **Company** has paid part or all of any **Retention**, the **Insured** shall be liable to reimburse such amounts to the **Company** upon demand.

The **Company** will have the right to seek recovery from any **Insured** of any **Claim Expense** or **Damages** paid by the **Company** as a result of any portion of a **Claim** that is not covered by this policy.

SECTION III. EXCLUSIONS – What the Company Does Not Insure

A. The **Company** is not obligated to pay **Damages** or **Claim Expense** or defend **Claims** for or arising directly or indirectly out of:

1. **Bodily Injury or Property Damage.** However, this exclusion does not apply to **Claims** for or arising directly or indirectly out of **Bodily Injury or Property Damage** arising out of the informational content of any standard, specification, guideline, practice or procedure for industrial, manufacturing, commercial or professional products or services developed, approved, published, applied, or interpreted by an **Insured** or other technical materials in any format published by an **Insured**. This exclusion also does not apply to **Claims** for **Bodily Injury** arising out of a **Wrongful Act** that results in an **Enterprise Security Event** concerning **Protected Personal Information**, otherwise covered under **Section I.A.3. Security and Privacy Liability**, if applicable.
2. An act or omission that is dishonest, fraudulent, criminal, malicious or was intentionally committed while knowing it was wrongful, as evidenced by any judgment, final adjudication, alternative dispute resolution proceeding or written admission by the **Insured**. This exclusion does not apply to any **Individual Insured** that did not commit, acquiesce or participate in the actions that gave rise to the **Claim**, or to **Claims** against the **Insured** otherwise covered under **Section I.A.3. Security and Privacy Liability**, if applicable, when such **Claim** arises out of **Wrongful Acts** committed by a person who would qualify as an **Insured** but for their acts being outside the scope of their duties as a partner, officer, director or employee of an **Insured**.

Pursuant to **Section II.C.** of this policy, the **Company** will have the right to reimbursement of any **Damages** or **Claim Expense** paid by the **Company** as a result of a **Claim** to which this exclusion applies.

3. Infringement, misappropriation or theft of patent or trade secrets; except this exclusion does not apply to a **Wrongful Act** resulting in the misappropriation or theft of **Corporate Information** otherwise covered by **Section I.A.3. Security and Privacy Liability**, if applicable.
4. Unfair competition, unfair or deceptive trade practices, restraint of trade or any violation of antitrust laws. This exclusion does not apply to **Claim Expense** incurred in the defense of such **Claims** that are within the applicable sub-limit.
5. Harassment, misconduct or discrimination because of or relating to:

- a. Race, creed, color or age;
- b. Sex, sexual preference, national origin or religion;
- c. Handicap, disability or marital status; or
- d. Any other class or characteristic protected under applicable federal, state or local laws, regulations or ordinances;

but only if the harassment, misconduct or discrimination was knowingly committed, as evidenced by any judgment, final adjudication, alternative dispute resolution proceeding or written admission by the **Insured**. The **Company** will have the right to seek reimbursement from any **Insured** for any **Claim Expense** paid to defend any **Claim** that such a judgment or final adjudication finds to have involved harassment, misconduct or discrimination that was knowingly committed.

- 6. The activities, acts, errors or omissions of any person, organization or joint venture not named in Item 1. on the Declarations.
- 7. Any **Insured's** status as, or acts, errors or omissions in the capacity of, a partner, participant, officer, director, stockholder or employee of any person, organization or joint venture not named in Item 1. on the Declarations.
- 8. Gain, profit or advantage to which any **Insured** is not legally entitled, as evidenced by any judgment, final adjudication, alternate dispute resolution proceeding or written admission by the **Insured**. Pursuant to **Section II.C.** of this policy, the **Company** shall have a right to reimbursement of any **Damages** or **Claim Expense** paid by the **Company** as a result of a **Claim** to which this exclusion applies.
- 9. Any **Insured's** acts as:
 - a. An officer, director, partner, trustee or employee of a pension, welfare, profit sharing, mutual or investment fund or trust or any related concern; provided, however, this exclusion shall not apply to a **Claim** otherwise covered under **Section I.A.3. Security and Privacy Liability**, if applicable;
 - b. A public official, an employee of a governmental body, subdivision or agency; or
 - c. An arbitrator or mediator.
- 10. Violation of the responsibilities, obligation or duties imposed upon fiduciaries by ERISA or any similar act; provided, however, this exclusion shall not apply to a **Claim** and otherwise covered under **Section I.A.3. Security and Privacy Liability**, if applicable.
- 11. Violation of The Security Act of 1933 as amended, the Securities Exchange Act of 1934 as amended, the Investment Adviser's Act of 1940, any state blue sky or securities law, any similar state or federal law, or any order, ruling or regulation issued pursuant to the above laws.
- 12. Insolvency or bankruptcy of:
 - a. Any **Insured**; or
 - b. Any enterprise in which any **Insured** owns an interest.
- 13. The actual or threatened discharge, dispersal or release of any **Pollutant**; or the creation of an injurious condition involving any **Pollutant**; or the existence of any **Pollutant** on any property; or the clean-up, removal, testing, monitoring, containment, treatment, detoxification or neutralization of any **Pollutant**. This exclusion applies whether or not the pollution was sudden, accidental, gradual, intended, expected or preventable and whether or not any **Insured** caused or contributed to the pollution.
- 14. Any obligation of any **Insured** under:
 - a. Workers' compensation laws;

- b. Disability benefits laws;
- c. Unemployment compensation laws; or
- d. Any similar laws.

15. The performance of services which can only be performed by a certified or licensed:

- a. Architect, engineer or other design professional;
- b. Attorney;
- c. Public accountant;
- d. Medical practitioner or other health care provider;
- e. Actuary;
- f. Insurance agent or broker; or
- g. Financial planner, investment advisor or broker/dealer.

16. Intentional unauthorized access to, unauthorized use of, or unauthorized alteration of any computer or system, hardware, software, program, network, data, database, communication network or service, including the introduction of malicious code or virus, or repetitively accessing a website under the control of an **Insured** with the intent to deny others access to such website or with the intent to cause such website's functionality to fail, including what is commonly referred to as denial of service attacks, by any **Insured**. This exclusion shall not apply with respect to **Wrongful Acts** committed by a person who would qualify as an **Insured** but for their acts being outside the scope of their duties as a partner, officer, director or employee of the **Insured**, solely with respect to such **Wrongful Acts** which give rise to **Claims** otherwise covered under **Section I.A.3. Security and Privacy Liability**, if applicable.

17. Malfunction or defect of any hardware, equipment or component. This exclusion does not apply when the malfunction or defect is solely the result of any **Insured's** actual or alleged negligence in performing **Insured Services**.

18. Electrical failure including electrical power interruption, surge, brownout or blackout.

19. Gathering, acquisition or obtaining of information about Internet users in any manner, including but not limited to, placement and/or use of spyware or adware.

20. Unsolicited faxes, unsolicited electronic mail, unsolicited telephone calls or other unsolicited electronic communications, including alleged violations of state, local or federal law, including non-U.S. laws, any amendment to such laws, or violation of any order, ruling or regulation issued pursuant to such laws that regulate such communication.

21. Actions, decisions, orders or proceedings by the Federal Trade Commission, Federal Communications Commission or any other federal, state or local governmental regulatory agency, except for **Disciplinary Proceedings**.

22. False, misleading, deceptive or fraudulent statement in **Advertising**.

B. The **Company** is not obligated to pay **Damages** or **Claim Expense** or defend **Claims** made by:

- 1. Any enterprise in which any **Insured** owns an interest or is a partner; or
- 2. Any enterprise which is a parent, affiliate or subsidiary company of any **Insured**, unless specifically named by endorsement to the policy; or

3. Any enterprise directly or indirectly controlled, operated or managed by any **Insured** or an enterprise described in **SECTION III., B.1.** and 2. above;
 4. Any **Insured**; or
 5. Any present, former or prospective employees, officers or directors of any **Insured** when the **Claim** is in any way related to the present, former or prospective employment relations between the claimant and any **Insured**. This exclusion does not apply to employees with respect to **Claims** alleging **Wrongful Acts** otherwise covered under **Section I.A.3. Security and Privacy Liability**, if applicable.
- C.** The **Company** is not obligated to pay **Damages** or **Claim Expense** or defend **Claims** alleging breach of express warranties, guarantees or contracts; provided, however, with respect to allegations of breach of contract this exclusion shall not apply to any liability that would have attached in the absence of such contract nor to coverage for **Claims** for actual or alleged negligent performance of **Insured Services**.
- D.** The **Company** is not obligated to pay **Damages** or **Claim Expense** or defend **Claims** based upon, arising out of, directly or indirectly resulting from, in consequence or in any way involving:
1. Any fact, circumstance, transaction, event or **Wrongful Act** that:
 - a. Before the **First Inception Date** was the subject of any notice of claim or loss, or notice of potential claim or potential loss, given under any other policy of insurance; or
 - b. Which, as of the **First Inception Date** any person in the **Control Group** had knowledge and that was reasonably likely to give rise to a **Claim** that would fall within the scope of the insurance afforded by this policy; or
 - c. Any other **Wrongful Act**, whenever occurring, which, together with a **Wrongful Act** described in a. above, constitute one **Wrongful Act** as defined in this policy.
 2. Any demand, suit or other proceeding pending, or order, decree of judgment entered:
 - a. Against any **Insured** prior to the **First Inception Date** or any **Wrongful Act**, fact or circumstance or situation underlying or alleged therein; or
 - b. Any other **Wrongful Act** whenever occurring, which, together with a **Wrongful Act** described in a. above, constitute one **Wrongful Act** as defined in this policy.

SECTION IV. WHERE AND WHEN THE COMPANY INSURES

A. Where The Company Insures

The territory and jurisdiction of this policy is universal. Coverage applies to **Wrongful Acts** committed anywhere and to **Claims** made in any jurisdiction in the world. If **Damages** or **Claim Expense** are paid in a currency other than United States of America dollars, then the payment under this policy will be considered to have been made in United States dollars at the conversion rate published in the Wall Street Journal at the time of the payment.

B. When The Company Insures

1. Claims First Made

This insurance applies when a written **Claim** is first made against any **Insured** during the **Policy Period**. To be covered, the **Claim** must also arise from a **Wrongful Act** committed during the **Policy Period**, except as otherwise provided below in **Sections IV. B.2** and **IV. B.3**.

The **Company** will consider a **Claim** to be first made against an **Insured** when a written **Claim** is first received by any **Insured**.

This insurance also applies to **Claims** under the following conditions:

2. Prior **Wrongful Acts**

This policy will apply to a written **Claim** first made against any **Insured** arising from a **Wrongful Act** committed between the **Retroactive Date** and the Inception Date of the policy, but only if all of the following conditions are met:

- a. The written **Claim** is first made against any **Insured** during the **Policy Period**. The **Company** will consider a **Claim** to be first made against the **Insured** when a written **Claim** is received by any person in the **Control Group**;
- b. No person in the **Control Group** knew, prior to the **First Inception Date** of the **Insured's** policy with the **Company**, of a circumstance that could reasonably be expected to lead to the **Claim**; and
- c. There is no other valid and collectible insurance for the **Claim**.

3. Reported **Wrongful Acts**

This policy will apply to a written **Claim** first made against any **Insured** after the end of the **Policy Period**, but only if all of the following conditions are met:

- a. The **Wrongful Act** giving rise to the **Claim** is committed between the **Retroactive Date** and the end of the **Policy Period**;
- b. The **Company** receives written notice from the **Insured** during the **Policy Period** of the **Wrongful Act**. The notice must include all of the following information:
 - (1) The names of those persons or organizations involved in the **Wrongful Act**;
 - (2) The specific person or organization likely to make the **Claim**;
 - (3) A description of the time, place and nature of the **Wrongful Act**; and
 - (4) A description of the potential **Damages**;
- c. No person in the **Control Group** knew, prior to the **First Inception Date** of a **Wrongful Act**, alleged **Wrongful Act** or circumstance that could reasonably be expected to lead to the **Claim**; and
- d. There is no other valid and collectible insurance for the **Claim**.

The provisions of the policy in effect on the date the **Company** receives the notice of the **Wrongful Act** will apply to a **Claim** first made after the end of the **Policy Period** and arising from a reported **Wrongful Act**.

4. Automatic Extended Reporting Period

If the **First Named Insured** or the **Company** does not renew this policy, the **Company** will cover a **Claim** first made against any **Insured** during the sixty (60) days immediately following the end of the **Policy Period**, if the requirements stated in **Section VI.C. Insured's Duties in the Event of a Claim** and all of the following conditions are met:

- a. The **Insured** has not purchased any Optional Extended Reporting Period described in **Section IV.B.5.** below;
- b. The **Wrongful Act** giving rise to such **Claim** is committed between the **Retroactive Date** and the end of the **Policy Period**;
- c. No person in the **Control Group** knew, prior to the **First Inception Date** of a **Wrongful Act**, alleged **Wrongful Act** or circumstance that could reasonably be expected to lead to the **Claim**; and
- d. There is no other valid and collectible insurance for the **Claim**.

The provisions of this policy in effect immediately preceding the end of the **Policy Period** shall apply to any resulting **Claim**.

5. Optional Extended Reporting Period

The **First Named Insured** may elect to purchase an Optional Extended Reporting Period from the **Company** to cover any **Claim** first made after the end of the **Policy Period**, pursuant to the additional terms and conditions stated in this section. This provision shall not apply to a **Claim** which arises from a reported **Wrongful Act** as described in **Section IV.B.3.**, above. If an Optional Extended Reporting Period is purchased, the terms and conditions of the Automatic Extended Reporting Period shall not apply to cover **Claims** made after the end of the **Policy Period**, except as otherwise provided by applicable law.

a. If the **First Named Insured** purchases an Optional Extended Reporting Period, the **Company** will cover a **Claim** first made against any **Insured** during the Optional Extended Reporting Period, but only if all of the following conditions are met:

- (1) The **Claim** arises from a **Wrongful Act** committed by an **Insured** between the **Retroactive Date** and the end of the **Policy Period**;
- (2) No person in the **Control Group** knew prior to the **First Inception Date**, of a **Wrongful Act** that could reasonably be expected to lead to the **Claim**; and
- (3) There is no other valid and collectible insurance for the **Claim**;

The **Company** will consider a **Claim** to be first made during the Optional Extended Reporting Period only if the **Claim** is first received by any **Insured** after the Expiration Date of the **Policy Period** and prior to the Expiration Date stated in the Optional Extended Reporting Period Endorsement.

b. The following provisions and conditions also apply to the Optional Extended Reporting Period:

(1) If the **Company** or the **First Named Insured** cancels or non-renews this policy, and upon request by the **First Named Insured**, the **Company** will sell one of the Optional Extended Reporting Period options listed in the Extended Reporting Period Option Endorsement, unless the **Company** cancels or non-renews the policy because:

- (a) Any **Insured** failed to pay the premium or **Retention**; or
- (b) Any **Insured** failed to comply with policy provisions.

Changes or proposed changes in premium or policy provisions shall not be construed as cancellation or nonrenewal of the policy by the **Company**.

(2) The **Company** must receive the **First Named Insured's** request for the Optional Extended Reporting Period in writing within thirty (30) days after the end of the **Policy Period**. On receipt and acceptance of the request, the **Company** will issue an endorsement showing the Optional Extended Reporting Period in accordance with the option requested by the **First Named Insured**. At the same time, the **Company** will bill the additional premium, and the **Company** must receive payment within thirty (30) days after the billing date for the endorsement to be effective.

(3) The endorsement shall also include the provisions and conditions applicable to the Extended Reporting Period. Once in effect, the Optional Extended Reporting Period may not be canceled.

(4) A **Claim** that is first made during the Optional Extended Reporting Period will be deemed to have been made on the last day of the **Policy Period**. The provisions of the policy in effect on the last day of the **Policy Period** will apply.

(5) The Optional Extended Reporting Period does not reinstate or increase the Limit of Insurance.

(6) The Optional Extended Reporting Period does not extend the **Policy Period** or change the scope of coverage provided.

6. Multiple **Claims**

All **Claims** arising from the same **Wrongful Act** will be deemed to have been made on the earlier of the following times:

- a. The date the first of those **Claims** is made against any **Insured**; or
- b. The first date the **Company** receives the **Insured's** written notice of the **Wrongful Act**.

The provisions of the policy in effect on that date will apply.

SECTION V. DEFINITIONS USED IN THIS POLICY

- A. "Advertising"** means advertising, publicity or promotion of any kind of the **Insured's** products and services or the products and services of others.
- B. "Application"** means all of the following:
1. The **Insured's** AXIS PRO® MPL Solutions insurance policy application for standards and specifications, and, if this policy is a renewal of a policy issued by the **Company**, the **Insured's** AXIS PRO® MPL Solutions insurance renewal application for standards and specifications, including all applications and renewal applications submitted for such policies;
 2. Other companies' insurance policy applications, if accepted by the **Company**; and
 3. All attachments to the **Application** or renewal **Application** and any other information furnished to the **Company** for the purpose of applying for the insurance. All such attachments and information will be kept on file by the **Company**, deemed attached to the policy as if physically attached to it and shall become incorporated in and constitute a part of this policy.
- C. "Bodily Injury"** means physical injury, or sickness or disease sustained by a person, including death resulting therefrom.
- Bodily Injury** also means mental injury or mental anguish, including emotional distress, shock or fright, if resulting from injury to the body, sickness, disease or death or any person. However, **Bodily Injury** does not include such mental injury or mental anguish if directly resulting from a covered **Wrongful Act** arising out of the performance or failure to perform **Insured Services**.
- D. "Claim"** means a written demand or written assertion of a legal right made against any **Insured** seeking **Damages**, including arbitration proceedings and **Disciplinary Proceedings**, including any appeal therefrom.
- E. "Claim Attendance Expense"** means the **Insured's** actual loss of earnings and reasonable expenses incurred directly in order for the **Insured** to attend hearings, depositions and trials at the request of the **Company** in connection with the defense of a covered **Claim**.
- F. "Claim Expense"** means expenses incurred by the **Company**, or by the **Insured** with the **Company's** consent, in the investigation, adjustment, negotiation, arbitration, mediation and defense of covered **Claims**. **Claim Expense** includes:
1. Attorneys fees;
 2. Costs taxed against an **Insured** in any suit defended by the **Company**;
 3. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. The **Company** does not have to furnish these bonds; and
 4. Reasonable expenses incurred by an **Insured** at the **Company's** request other than:
 - a. Loss of earnings; and

b. Salaries or other compensation paid to any **Insured**.

G. "**Company**" means the insurance company stated at the top of the Declarations.

H. "**Control Group**" means the **Named Insured's** chairperson of the board of directors, president, chief executive officer, chief operating officer, chief financial officer, chief technology officer, chief information officer, chief privacy officer, chief security officer, risk manager or in-house counsel, or their functional equivalents, and the offices thereof.

I. "**Corporate Information**" means, with respect to an organization, any information held by the **Insured**:

1. That is subject to any form of confidentiality agreement or confidentiality provision in a contract or agreement between the organization and any **Named Insured**; or
2. Which the **Named Insured** is legally required to maintain in confidence.

However, **Corporate Information** does not include **Protected Personal Information** or any publicly available information that is lawfully in the public domain or information available to the general public from government records.

J. "**Damages**" means money judgment, award or settlement, including those that are actual, statutory, punitive, multiplied or exemplary, except when applicable law prohibits insurance for punitive, multiplied or exemplary damages; and legal expense or other costs included as part of a judgment, award or settlement. **Damages** also includes interest on any part of any judgment that accrues after entry of the judgment and before the **Company** has paid, offered to pay or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

Damages does not include fines, penalties, taxes or return of fees, deposits, commissions or charges for goods or services.

Damages also does not include costs of correcting, performing or re-performing **Insured Services** by:

1. Any **Insured**; or
2. Another party, when an **Insured** had the opportunity to correct, perform or reperform the service that generated the cost.

In determining the insurability of punitive or exemplary damages, or the multiplied portion of any multiplied damage award, the law of the jurisdiction most favorable to the insurability of those damages will control for purposes of resolving any dispute between the **Company** and the **Insureds**, provided that such jurisdiction is:

1. Where the punitive, exemplary or multiplied damages were awarded or imposed;
2. Where the **Wrongful Act** giving rise to the **Claim** took place;
3. Where either the **Company** or any **Insured** is incorporated, has its principal place of business or resides; or
4. Where this policy was issued or became effective.

K. "**Disciplinary Proceeding**" means any action, investigation or request for information by a regulatory or disciplinary official, board or agency authorized by law or administrative order to oversee, investigate or institute actions regarding the **Insured's** professional misconduct in the performance of **Insured Services**.

L. "**Enterprise Security Event**" means any of the following:

1. Accidental release, unauthorized disclosure, theft, or loss of **Protected Data** by the **Insured** or **Service Contractor**;

2. Unauthorized access to or unauthorized use of **Protected Data** on the **Insured's Computer System** that directly results in theft, alteration, destruction, deletion, corruption or damage of **Protected Data**;
3. Transmitting or receiving **Malicious Code** via the **Insured's Computer System**; or
4. Unauthorized access to or unauthorized use of the **Insured's Computer System** that directly results in denial or disruption of access of authorized parties.

M. "First Inception Date" is the Inception Date of the earliest errors and omissions insurance policy the **Company** issued to the **First Named Insured**, that provides similar coverage, provided that there has been uninterrupted coverage by the **Company** for the **First Named Insured** from that earliest policy to this policy.

N. The "First Named Insured" is the **Named Insured** first listed on the Declarations.

O. "Individual Insured" means, individually and collectively:

1. The **Named Insured** stated on the Declarations;
2. Any **Named Insured's** partners, officers, directors, volunteers and employees, but only with respect to their activities within the scope of their duties in the capacity of the **Named Insured's** partners, officers, directors, volunteers or employees in the performance of **Insured Services** by the **Named Insured**;
3. The **Named Insured's** members and associate members, but only for **Wrongful Acts** within the scope of their duties in their capacity as members of committees of the **Named Insured** or as representatives of the **Named Insured**; and
4. Any **Named Insured's** former partners, officers, directors, volunteers and employees, but only with respect to their activities within the scope of their duties in the capacity of the **Named Insured's** partners, officers, directors or employees in the performance of **Insured Services** by a **Named Insured**.

In the event of death, incompetency, insolvency or bankruptcy of any **Insured**, the **Insured's** legal representative shall be considered an **Individual Insured**, but only with respect to their activities within the scope of their duties in such capacity in the performance of **Insured Services** by a **Named Insured**.

P. "Insured" means, individually and collectively:

1. A **Named Insured**; and
2. The **Individual Insureds**.

Q. "Insured Services" means:

1. The development, approval, publication, application or interpretation of standards, specifications, guidelines, practices and procedures for industrial, manufacturing, commercial or professional products or services;
2. The development, distribution and implementation of publications, technical materials, educational programs, courses, classes and seminars;
3. Certification or accreditation by any **Insured** that any industrial, manufacturing, or professional product or service, or any person or organization, meets any standards, specifications, guidelines, practices or procedures which are developed, approved, disseminated or interpreted by an **Insured**;
4. The administration of member services; or
5. **Internet Media Services**.

- R. "Insured's Computer System"** means computers and associated input and output devices, data storage devices, networking equipment, and back up facilities operated by and either owned by or leased to the **Named Insured**; or operated for the benefit of the **Named Insured** by a third party service provider and used for the purpose of providing hosted application services to the **Named Insured**; or for processing, maintaining, or storing electronic data, pursuant to written contract with the **Named Insured**.
- S. "Internet Media Services"** means:
1. The electronic publishing or display of **Matter** on an Internet site; or
 2. Providing or maintaining of: instant messaging, web-conferencing, webcasting, Internet-based electronic mail online forums, bulletin boards, list-serves or chat rooms.
- T. "Malicious Code"** means any computer virus, Trojan horse, worm, or other code, script, or software program that is intentionally designed and released or inserted to damage, harm or infect any or all parts of a computer network and/or **Protected Data** on such a network.
- U. "Matter"** means communicative or informational content regardless of the nature or form of such content, including content disseminated electronically and/or digitally when authorized or controlled by the **Insured** (e.g. via websites, chat rooms, bulletin boards, databases and blogs), and including **Advertising** disseminated by the **Named Insured** or by others on behalf of the **Named Insured** in any medium, including the Internet.
- V. "Named Insured"** means the person or entity listed in Item 1. of the Declarations.
- W. "Piracy"** means the wrongful use, reprinting, or reproduction of copyrighted intellectual property.
- X. "Policy Period"** means the period of time stated in Item 2. on the Declarations, or any shorter period resulting from policy cancellation.
- Y. "Pollutant"** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to:
1. Smoke, vapor, soot, fumes, acids, alkalis, chemicals, lead, silica, mold or asbestos;
 2. Hazardous, toxic or radioactive matter or nuclear radiation;
 3. Waste, which includes material to be recycled, reconditioned or reclaimed; or
 4. Any other **Pollutant** as defined by applicable federal, state or local statutes, regulations, rulings or ordinances.
- Z. "Privacy Regulation"** means any of the following statutes and regulations associated with the care, custody, control or use of personally identifiable financial, medical or other sensitive personal information:
1. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191);
 2. Gramm-Leach-Bliley Act of 1999; or
 3. Other similar state, federal and foreign identity theft and privacy protection legislation that requires commercial entities that collect, process, or store **Protected Personal Information** to post privacy policies, adopt specific privacy controls, or notify natural persons and/or organizations in the event that **Protected Personal Information** has been comprised.
- AA. "Property Damage"** means:
1. Physical injury to tangible property, including any loss of use of that property; or
 2. Loss of use of tangible property that is not physically injured.
- BB. "Protected Data"** means **Protected Personal Information** and **Corporate Information**.

CC. "Protected Personal Information" means, with respect to natural persons, any private, non-public or public information of any kind maintained by the **Insured** or a party for whom the **Insured** is legally responsible regardless of the nature or form of such information, including but not limited to the following, but only to the extent such information allows an individual to be uniquely identified:

1. Social Security Number;
2. Medical service or healthcare data;
3. Driver's license or state identification number;
4. Equivalents of any of the information listed in 1. – 3., above;
5. Account, credit card, or debit card number, alone or in combination with any information that permits access to an individual's financial information, including, but not limit to, security or access code or password; and
6. Other public or non-public information to the extent covered under **Privacy Regulations**.

DD. "Retention" means the amount stated in Item 5. on the Declarations and described in **Section II. B.** of this policy.

EE. "Retroactive Date" means the date, if any, stated in Item 3. on the Declarations.

FF. "Service Contractor" means any organization that is holding, processing or transferring, **Protected Data** on behalf of the **Named Insured**.

GG. "Wrongful Act" means the following conduct or alleged conduct by an **Insured** or any person or organization for whom an **Insured** is legally liable:

1. A negligent act, error or omission;
2. Any form of defamation or other tort related to disparagement or harm to the character, reputation or feelings of any person or organization, including libel, slander, product disparagement, trade libel, infliction of emotional distress, malicious falsehood, outrage or outrageous conduct;
3. Any form of invasion, infringement or interference with rights of privacy or publicity, including false light, public disclosure of private facts, intrusion, breach of confidence and commercial appropriation of name or likeness;
4. Infringement of title, slogan, trademark, trade name, trade dress, service mark or service name;
5. Infringement of copyright, false attribution of authorship, passing off, plagiarism or misappropriation of ideas under implied contract;
6. **Piracy** or other misuse of an intellectual property right in **Matter**, but only when alleged in conjunction with the types of **Claims** named in 4. and 5. above;
7. Wrongful entry or eviction, trespass, eavesdropping or other invasion of the right of private occupancy;
8. False arrest, detention or imprisonment or malicious prosecution; or
9. Failure to prevent a party from:
 - a. unauthorized access to, unauthorized use of, tampering with or introduction of malicious code into data or systems; or
 - b. repetitively accessing a website, under the control of an **Insured**, with the intent to deny others access to such website or with the intent to cause such website's functionality to fail, including what is commonly referred to as denial of service attacks.

All **Wrongful Acts** that:

- (1) Take place between the **Retroactive Date** and the end of the **Policy Period** of the last policy the **Company** issued to the **Insured**; and
- (2) Are related by common facts, circumstances, transactions, events and/or decisions;

will be treated as one **Wrongful Act**.

SECTION VI. GENERAL CONDITIONS

A. Time of Inception; Policy Period

This policy will begin at 12:01 A.M. on the Inception Date shown in the Declarations. This policy will continue to apply until 12:01 A.M. on the Expiration Date also shown in the Declarations unless terminated at an earlier date.

B. Premium

The **First Named Insured** will pay to the **Company** the amount of premium stated in Item 6. of the Declarations. The premium may be adjusted at any time during the **Policy Period** or any extensions of the **Policy Period** based upon changes in the provisions of this policy as may be agreed upon by the **First Named Insured** and the **Company**.

C. Insured's Duties in the Event of a Claim

1. If there is a **Claim**, the **Insured** must do the following after the **Named Insured** has knowledge of the **Claim**:
 - a. Notify the **Company** in writing as soon as practicable. This notice must contain details that identify the **Insured**, the claimant and also reasonably obtainable information concerning the time, place and other details of the **Wrongful Act** and **Claim**;
 - b. Immediately send the **Company** copies of all demands, notices, summonses or legal papers received in connection with the **Claim**;
 - c. Authorize the **Company** to obtain records and other information;
 - d. Cooperate with and assist the **Company** in the investigation, settlement or defense of the **Claim**; and
 - e. Assist the **Company**, upon the **Company's** request, in enforcing any rights of contribution or indemnity against another who may be liable to any **Insured**.
2. No **Insured** will, except at the **Insured's** own cost, voluntarily make a payment, admit liability, assume any obligation or incur any expense without the **Company's** prior written consent.
3. When this policy requires that an **Insured** provide notice of a **Claim**, we will consider the **Insured** to have knowledge of that **Claim** when any members of the **Control Group** have that knowledge.

D. Bankruptcy

The bankruptcy or insolvency of the **Insured** or **Insured's** estate will not relieve the **Company** of the **Company's** obligation under this insurance. However, this insurance will not apply to liability directly or indirectly due to such bankruptcy, insolvency, receivership or subsequent liquidation.

E. Other Insurance

If other valid and collectible insurance applies to a **Claim** covered under this policy, this insurance is excess over such other insurance, except when the other insurance is specifically arranged by or on behalf of the **Named Insured** to apply in excess of this insurance, and no other insurance applies to the **Claim**.

F. Subrogation and Recovery

In the event of any payment under this policy, the **Company** will be subrogated to all the **Insured's** rights of recovery therefore against any person or organization, and the **Insured** will execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** will do nothing to prejudice such rights. The **Company** will have no rights of subrogation against any **Insured** hereunder. Any recoveries shall be applied as follows:

1. First, to the **Company** up to the amount the **Company** has paid for **Damages** and **Claim Expense**.
2. Then, to the **First Named Insured** as recovery of Retention amounts paid as **Damages** and **Claim Expense**.

G. Changes in Insured's Operations

This policy applies only to **Insured Services** as described in the **Application**. This policy will not apply to any other activities or entities unless, with the **Company's** consent, such activities or entities are added to this policy by endorsement. The **Named Insured** will promptly pay any additional premium that may become due as a result of such addition.

H. Assignment

Assignment of any interest under this policy will not bind the **Company** unless and until its written consent is endorsed hereon.

I. Cancellation and Nonrenewal

1. Cancellation

- a. The **First Named Insured** may cancel this policy by mailing or delivering written notice of cancellation to the **Company** or the **Company's** authorized representative, at the address shown on the Declarations of this policy. Such notice of cancellation will state the effective date of cancellation or, if no effective date is stated, the effective date of cancellation shall be thirty (30) days after receipt of notice. The **Policy Period** will end on that date.
- b. The **Company** may cancel this policy by mailing or delivering to the **First Named Insured** written notice of cancellation at least:
 - (1) Ten (10) days before the effective date of cancellation if the **Company** cancels for nonpayment of premium; or
 - (2) Thirty (30) days before the effective date of cancellation if the **Company** cancels for any other reason.
- c. If this policy is canceled, the **Company** will send the **First Named Insured** any premium refund due. If the **Company** cancels, the refund will be the pro rata unearned amount of the annual premium. If the **First Named Insured** cancels, the refund, if any, will be the pro rata unearned amount of the annual premium calculated at the customary short rate. Return of premium to the **First Named Insured** is not a condition precedent to cancellation.
- d. The **Company** will mail or deliver the notice to the address stated in Item 1. on the Declarations.
- e. If notice of cancellation is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

2. Nonrenewal

The **Company** may elect not to renew this policy by mailing or delivering written notice of nonrenewal to the **First Named Insured** at the address shown on the Declarations of this policy. The **Company** will mail or deliver the notice at least sixty (60) days before the expiration of the policy.

If notice of nonrenewal is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

J. Action Against the Company

1. No action will lie against the **Company** unless, as a condition precedent thereto, there has been full compliance with all of the terms of this policy by all **Insureds**, nor until the amount of the **Insured's** obligation to pay has been fully determined either by judgment or award against the **Insured** after actual trial or arbitration or by written agreement among the **Insured**, the claimant and the **Company**. Any person or organization, or the legal representative thereof, who has secured such judgment or written agreement, will thereafter be entitled to recover under this policy to the extent of the insurance afforded under this policy.
2. No person or organization will have any right under this policy to join the **Company** as a party to any action against the **Insured's** liability, nor will the **Company** be impleaded by the **Insured** or the **Insured's** legal representative.

K. Representations

By accepting this policy, the **Named Insured** agrees:

1. The statements made and information contained in the **Application** for this insurance furnished to the **Company** are true, accurate and complete;
2. Those statements furnished to the **Company** are representations the **Named Insured** made to the **Company** on behalf of all **Insureds**;
3. Those representations are a material inducement to the **Company** to issue this policy;
4. The **Company** has issued this policy in reliance upon those representations;
5. This policy embodies all agreements existing between the **Insured** and the **Company** or any of its agents relating to this insurance;
6. The **Insured** has and will provide true, accurate and complete information with regard to audits, claims, and assessments as required by the **Company**;
7. The **Application**, including any attachments, and all other information and materials submitted by or on behalf of the **Insureds** to the **Company** in connection with the **Company** underwriting this policy, will be kept on file by the **Company**, deemed attached to this policy as if physically attached to it and shall become incorporated in and constitute a part of this policy;
8. If such representations or such information are not true, accurate and complete, this policy shall be null and void in its entirety and the **Company** shall have no liability hereunder.

L. Severability

With regard to the information provided on any insurance **Application** or with regard to knowledge of any **Wrongful Acts** or **Claims** as referenced in this policy, only facts pertaining to and knowledge possessed by any members of the **Control Group** or any person whose signature appears on any **Application**, shall be imputed to the **Insured**.

M. Changes to the Policy

Notice or knowledge possessed by any person will not effect a waiver or a change in any part of this policy or estop the Company from asserting any rights under the terms of this policy; nor will the terms of this policy be waived or changed except by written endorsement issued to form a part of this policy.

N. Authorization

The **First Named Insured** is responsible for assurance of payment of all premiums and **Retentions**. The **First Named Insured** will have exclusive authority to act on behalf of all other **Insureds** with respect to providing and receiving notices of cancellation or nonrenewal, receiving any return premium, and purchasing an Extended Reporting Period. In the event of a disagreement between any **Insureds**, the **First Named Insured** will have exclusive authority to act on behalf of all other **Insureds** with respect to negotiation of settlements and the decision to appeal or not to appeal any judgment.

O. Notice

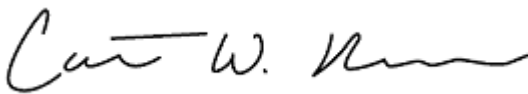
All notices to the **Company**, required or permitted under this policy, must be mailed to the **Company** in care of the **Company's** AXIS PRO® Business Unit as follows:

Claims Department
AXIS PRO®
1201 Walnut, Suite 1800
Kansas City, Missouri 64106

Email: USclaimnoticekc@AXISCapital.com

Fax: 816.471.6119

IN WITNESS WHEREOF, the **Company** has caused the policy to be signed by the **Company's** President and Secretary; but, this policy is not binding unless countersigned on the Declarations by the **Company's** authorized representative.



President



Secretary