

Miscellaneous Professional Liability Policy

NOTICE: This Policy covers only those Claims first made against the Insured during the Policy Period and first reported to the Insurer during the Policy Period, the Automatic Extended Reporting Period, or if applicable, during the Extended Reporting Period.

In consideration of the payment of the premium and reliance upon all statements made and information furnished to the Insurer, including the statements made in the Application and all attachments and materials submitted therewith and subject to all the provisions of this Policy, the Insurer agrees as follows:

1. INSURING AGREEMENTS

- a. The Insurer will pay on behalf of the **Insured, Damages** in excess of the Deductible and not exceeding the Limits of Liability shown on the Policy Declarations that the **Insured** shall become legally obligated to pay because of **Claims** first made against the **Insured** during the **Policy Period** and first reported to the Insurer during the **Policy Period**, the Automatic Extended Reporting Period, or if applicable, during the Extended Reporting Period, for **Wrongful Acts** to which this insurance applies.
- b. The Insurer will pay on behalf of the **Insured, Damages** in excess of the Deductible and not exceeding the Limits of Liability as described in Section 7. c. that the **Insured** shall become legally obligated to pay because of **Claims** alleging **Third Party Discrimination** first made against the **Insured** during the **Policy Period** and first reported to the Insurer during the **Policy Period**, the Automatic Extended Reporting Period, or if applicable, during the Extended Reporting Period.

2. ADDITIONAL COVERAGE EXTENSIONS

- a. Reimbursement of Expenses

The Insurer will reimburse the reasonable expenses incurred by the **Insured**, including loss of wages, if the **Insured** is required by the Insurer to attend arbitration or mediation proceedings, trials or hearings in defense of a **Claim**, in the amount of \$250 per day for each **Insured** who attends such proceedings at the Insurer's request, subject to a maximum of \$5,000 per **Claim**. Payments made pursuant to this provision shall be in addition to the Limits of Liability shown in the Policy Declarations. The Deductible amount stated in the Policy Declarations shall not apply to the payments made by the Insurer pursuant to this provision.

- b. Marital Estate Extension

Subject otherwise to the terms hereof, this Policy shall cover **Damages** and **Claim Expenses** as a result of a **Claim** against the lawful spouse or domestic partner (whether such stature is derived by reason of statutory law, common law, or any other applicable law of any jurisdiction in the world) of the **Insured** for **Claims** arising solely out of his or her capacity as the spouse or domestic partner of the **Insured**, including such **Claims** that seek **Damages** recoverable from marital community property, property jointly held by the **Insured** and the spouse or domestic partner, or property transferred from the **Insured** to the spouse or domestic partner; provided, however, that this extension shall not afford coverage for **Wrongful Acts** of the spouse or domestic partner. All terms, conditions and other provisions of this Policy, including any provision(s) regarding the Deductible or the Limits of Liability, which would be applicable to **Damages** and **Claim Expenses** incurred by the **Insured** in such **Claim**, shall also apply to **Damages** and **Claim Expenses** incurred by the spouse or domestic partner in such **Claim**.

3. FULL PRIOR ACTS COVERAGE PROVISION

Subject to all the terms and conditions of the Policy, this insurance shall apply to any **Claim** against the **Insured** for a **Wrongful Act** committed prior to the expiration date of this Policy or the effective date of cancellation or nonrenewal of this Policy, if applicable, provided that the **Claim** is first made against the **Insured** during the **Policy Period** and first reported to the Insurer during the **Policy Period** or, the Automatic Extended Reporting Period, or if applicable, during the Extended Reporting Period.

4. DEFENSE AND SETTLEMENT

The Insurer has the right and duty to defend any **Claim** to which this insurance applies, even if the allegations of the **Claim** are groundless, false or fraudulent. The Insurer will pay **Claim Expenses** pursuant to its duty to defend **Claims** to which the insurance applies. The Insurer has the right to investigate, adjust, defend, appeal and, with the consent of an **Insured**, negotiate the settlement of any **Claim** whether within or above the Deductible. If an **Insured** refuses to consent to a settlement recommended by the Insurer, the Insurer's obligation to any **Insured** for **Damages** and **Claim Expenses** attributable to such **Claim** shall be limited to:

- a. the amount of the covered **Damages** in excess of the Deductible which the Insurer would have paid in settlement at the time the **Insured** first refused to settle;
- b. plus covered **Claim Expenses** incurred up to the date the **Insured** first refused to settle;
- c. plus seventy-five percent (75%) of covered **Claim Expenses** and **Damages** in excess of the first settlement amount recommended by the Insurer to which the **Insured** did not consent.

Payment of a., b. and c. above, is the limit of the Insurer's liability under this Policy on any **Claim** in which the **Insured** fails or refuses to consent to the Insurer's settlement recommendation, subject at all times to the Limits of Liability and Deductible provisions. The remaining twenty-five percent (25%) of covered **Claim Expenses** and **Damages** in excess of the first settlement amount recommended by the Insurer to which the **Insured** did not consent shall be the obligation of the **Insured**.

All **Insureds** agree to cooperate with the Insurer and provide such assistance and information as the Insurer may reasonably request. Upon the Insurer's request, any **Insured** shall submit to examination and interrogation by a representative of the Insurer, under oath if required, and shall attend hearings, depositions, trials and shall assist in the conduct of suits, including but not limited to effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, giving written statements to the Insurer's representatives and meeting with such representatives for the purpose of investigation and/or defense, all of the above without charge to the Insurer. All **Insureds** further agree not to take any action, without the Insurer's prior written consent, which may increase any **Insured's** or the Insurer's exposure for **Claim Expenses** or **Damages**.

All **Insureds** shall execute all papers required and shall do everything that may be necessary to secure and preserve any rights of indemnity, contribution or apportionment which an **Insured** or the Insurer may have, including the execution of such documents as are necessary to enable the Insurer to bring suit in an **Insured's** name, and shall provide all other assistance and cooperation which the Insurer may reasonably require.

An **Insured** shall not demand or agree to arbitration or mediation of any **Claim** without the prior written consent of the Insurer. An **Insured** shall not, except at personal cost, make any offer or payment, admit any liability, settle any **Claim**, assume any obligation, or incur any expense without the Insurer's prior written consent.

The Insurer will have no obligation to pay **Damages** or **Claim Expenses** or to defend any **Claim** after the Limits of Liability have been exhausted. Further, the Insurer has no obligation to apply for or furnish costs of attachment or similar bonds.

5. DEFINITIONS

When used in this Policy:

- a. "**Bodily Injury**" means physical injury, mental anguish, emotional distress, sickness, disease or death of any person.
- b. "**Circumstance**" means any fact, situation, event or occurrence that could reasonably be the basis for a **Claim**.
- c. "**Claim**" means:
 - (i) a demand for money as compensation for a **Wrongful Act**; or
 - (ii) any judicial or administrative proceeding, including a **Disciplinary Proceeding**, mediation or arbitration initiated against any **Insured** seeking to hold such **Insured** responsible for a **Wrongful Act**, including any appeal therefrom; or

(iii) any request to toll the statute of limitations relating to a **Wrongful Act**.

A **Claim** shall be considered first made when any **Insured** or the **Insured's** legal representative or agent first receives notice of the **Claim**.

- d. "**Claim Expenses**" means reasonable and necessary legal fees and expenses incurred by the Insurer or by any attorney designated by the Insurer to defend any **Insured** and all other fees, costs, costs of attachment or similar bonds resulting from the investigation, adjustment, defense and appeal of a **Claim**, but does not include salaries, wages, overhead or benefits expenses of any **Insured**. The Insurer has no obligation, however, to apply for or furnish costs of attachment or similar bonds.
- e. "**Damages**" means monetary judgments or settlements, including but not limited to compensatory damages, pre-judgment and post-judgment interest that an **Insured** is legally obligated to pay, and punitive or exemplary damages to the extent such damages are insurable under applicable law. **Damages** does not include that portion of any multiplied damage award that exceeds the amount multiplied, criminal or civil fines or penalties imposed by law, taxes, matters deemed uninsurable under the law pursuant to which this Policy shall be construed, or the return, reduction or dispute over any fees, deposits, expenses, costs, or commissions charged or collected by the **Insured**. For the purpose of determining the insurability of punitive damages or exemplary damages, the laws of the jurisdiction most favorable to the insurability of such damages shall control that determination, provided that such jurisdiction has a substantial relationship to the **Named Insured** or to the **Claim** giving rise to such punitive damages and exemplary damages.
- f. "**Disciplinary Proceeding**" means any proceeding by a licensing board, accreditation body or governmental agency with authority to regulate the **Professional Services** performed by an **Insured** or to investigate charges of wrongdoing by an **Insured** in the rendering or failing to render **Professional Services**.
- g. "**Insured**" means:
- (i) the individual, partnership, corporation or other entity specified as the **Named Insured** in Item 1. of the Policy Declarations, including any partner, member, director, officer or employee thereof while acting within the scope of their duties as such;
 - (ii) any former or retired partner, member, director, officer or employee of the **Named Insured** or **Subsidiary**, but only for those **Professional Services** rendered on behalf of the **Named Insured** or **Subsidiary** prior to the date of separation or retirement from the **Named Insured** or **Subsidiary**;
 - (iii) independent contractors who are natural persons under contract with the **Named Insured** or **Subsidiary**, but solely for those **Professional Services** rendered on behalf of the **Named Insured** or **Subsidiary**;
 - (iv) any **Subsidiary** of the **Named Insured**;
 - (v) in the event of death, incompetency, insolvency or bankruptcy of any **Insured**, described in paragraphs (i) and (ii) above, such **Insured's** legal representative while acting within the scope of his or her duties as such.
- h. "**Named Insured**" means the individual, partnership, corporation or other entity specified in Item 1. of the Policy Declarations.
- i. "**Parent Organization**" means any entity that owns more than fifty percent (50%) of the **Named Insured** as of the effective date of this Policy.
- j. "**Personal Injury**" means:
- (i) wrongful entry or eviction or other invasion of private occupancy; or
 - (ii) the publication or utterance of a libel or slander or other defamatory or disparaging material, including libel, slander, defamation or disparagement of the goods, products or services of a third party; or

(iii) a publication or an utterance constituting an invasion, infringement or interference with a third-party's right of privacy or publicity; or

(iv) false arrest, detention or imprisonment or malicious prosecution.

- k. "**Policy Period**" means the period from the effective date of this Policy to the Policy expiration date as stated in Item 2. of the Declarations or the effective date of cancellation or nonrenewal, if any. **Policy Period** does not include any Automatic Extended Reporting Period. If the length of the **Policy Period** is the same as the **Policy Year**, the terms **Policy Period** and **Policy Year** are used interchangeably herein.
- l. "**Policy Year**" means each consecutive twelve (12) months of the **Policy Period** beginning on the effective date shown in the Declarations. However, if a **Policy Year** within a **Policy Period** is modified by an endorsement, then that modified year will be deemed a **Policy Year** for the purpose of determining the Annual Aggregate Limit of Liability.
- m. "**Professional Services**" means services rendered to others for a fee solely in the conduct of the **Insured's** profession as stated in Item 7. of the Policy Declarations, including such services provided electronically utilizing the Internet or a network of two or more computers.
- n. "**Property Damage**" means physical injury to tangible property, including the resulting loss of use of that property or loss of use of tangible property which has not been physically injured.
- o. "**Subsidiary**" means, for the purpose of this Policy, any entity which is more than fifty percent (50%) owned or controlled by the **Named Insured** as of the effective date of this Policy and is disclosed as a subsidiary in an Application to the Insurer or any entity which becomes more than fifty percent (50%) owned or controlled by the **Named Insured** during the **Policy Period** subject to the provisions of Section 11. of this Policy.
- p. "**Third Party Discrimination**" means discrimination on the basis of age, sex, race, color, religion, disability, pregnancy, familial status, marital status, national origin, sexual preference or other protected class or characteristic established under applicable federal, state or local statute or ordinance by the **Insured** against any person with whom the **Insured** interacts while providing **Professional Services** related to the conduct of the **Named Insured's** business. **Third Party Discrimination** does not include alleged discrimination in connection with the **Insured's** employment practices.
- q. "**Wrongful Act**" means any actual or alleged error, omission or negligent act, committed solely in the rendering of or failure to render **Professional Services** by an **Insured** or any person or entity for which the **Insured** is legally liable. **Wrongful Act** also means any actual or alleged error, omission or negligent act committed solely in the rendering of or failure to render **Professional Services** by an **Insured** or any person or entity for which the **Insured** is legally liable and that results in **Personal Injury**.

6. EXCLUSIONS

The Insurer shall not be liable for **Damages** or **Claim Expenses** in connection with any **Claim** arising out of, directly or indirectly resulting from or in consequence of or in any way involving:

- a. conduct by any **Insured** that is criminal, fraudulent, dishonest or with the intent to cause damage or the gaining by any **Insured** of any personal profit, remuneration or advantage to which any **Insured** was not legally entitled; provided however, this Exclusion shall not apply to **Claim Expenses** incurred until a final judgment or adjudication is rendered against any **Insured** as to this conduct; or
- b. any **Claim** by or on behalf of any **Insured** against any other **Insured**; or
- c. any express warranties or guarantees by any **Insured**, or liability assumed by any **Insured** under any contract or agreement, unless an **Insured** would have been legally liable in the absence of such contract or agreement; or
- d. any **Circumstance** of which any partner, member, director, or officer of the **Insured** was aware prior to the effective date of this Policy and could have reasonably expected to give rise to a **Claim**; or any future **Claim** or litigation based upon or derived from the same or essentially the same **Circumstance**; provided that, if this Policy is a renewal of a Policy or Policies previously issued by the Insurer and if the coverage provided by the Insurer was continuous from the effective date of the first such other Policy to the effective date of this Policy, the reference in this Exclusion to "effective date" will mean the effective date of the first Policy under which the Insurer first provided continuous coverage to an **Insured**; or

- e. any **Circumstance** or **Claim**, which prior to the effective date of this Policy was the subject of any notice under any prior insurance policy; or
- f. the performance of or failure to perform **Professional Services** for:
 - (i) any **Insured**; or
 - (ii) any entity owned or controlled by any person or entity included within the definition of **Insured**; or
 - (iii) any person or entity which owns or controls any entity included within the definition of **Insured**; or
 - (iv) any entity which is under common ownership or control with any entity included within the definition of **Insured**; or
 - (v) any entity of which any person included within the definition of **Insured** is a director, officer, partner, member or more than a three percent (3%) shareholder; or
- g. any actual or alleged **Bodily Injury** or **Property Damage**; however, this Exclusion shall not apply to mental anguish or emotional distress in a **Claim** for **Personal Injury**; or
- h. any actual or alleged failure to effect or maintain any insurance or bond; or
- i. any actual or alleged activity by any **Insured** in a fiduciary capacity as respects any employee benefit or pension plan under the Employee Retirement Income Security Act of 1974 (ERISA) or any amendments thereof or similar state, federal or local statutory laws or common law; or
- j. any actual or alleged violation of any securities, antitrust, restraint of trade, unfair trade practices, consumer protection, or other similar law by any person, including but not limited to any **Insured**; or
- k. any actual or alleged or threatened discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, lead, liquids or gases, waste materials, or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water, whether or not such actual, alleged or threatened discharge, dispersal, release or escape is sudden, accidental or gradual in nature, or any cost or expense arising out of any request, demand, or order that an **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any pollutants; or
- l. any actual or alleged refusal to employ, termination of employment, or employment-related coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, or discrimination of employment, or other employment-related practices, policies, acts or omissions; or
- m. any actual or alleged infringement of any copyright, patent, trademark, trade name, trade dress or service mark; or wrongful appropriation, use, or disclosure of trade secrets by any person, including but not limited to any **Insured**; or
- n. any actual or alleged failure of any **Insured's** products or services to prevent unauthorized access to or use of any electronic system or program unless such unauthorized access or use is the result of a malfunction of a product or service provided by an **Insured** which is specifically intended to prevent such unauthorized access or use; or
- o. any actual or alleged failure of any **Insured** to honor an **Insured's** cost guarantee or cost estimates for **Professional Services** rendered or to be rendered; or
- p. any actual or alleged rendering or failure to render investment or insurance counseling or advice; the purchase or selling of, or failure to purchase or sell an investment or insurance of any kind; or any **Insured's** advice, promise(s) or guarantee(s) regarding the future value of any investments or interest rate or rate of return; or any **Insured's** advice, promise(s) or guarantee(s) regarding the coverage provided or not provided by insurance of any kind.

7. LIMITS OF LIABILITY AND DEDUCTIBLE

Regardless of the number of **Insureds** under this Policy, **Claims** brought on account of **Wrongful Act(s)** or otherwise, the Insurer's liability is limited as follows:

- a. for **Claims** arising under Insuring Agreement 1. a. of this Policy, the Limit of Liability specified in Item 3. b. of the Policy Declarations as the Annual Aggregate shall be the Insurer's maximum liability for **Damages** for all **Claims** during the **Policy Year**.
- b. for **Claims** arising under Insuring Agreement 1. a. of this Policy, the Limit of Liability specified in Item 3. a. of the Policy Declarations as the Limit for each **Claim** shall be the Insurer's maximum liability for **Damages** for each **Claim** during the **Policy Year**, and subject to the Annual Aggregate Limit of Liability specified in Item 3. b. of the Policy Declarations.
- c. for **Claims** arising under Insuring Agreement 1. b. of this Policy, the Insurer's maximum liability for **Damages** and **Claim Expenses** shall not exceed \$25,000, subject to the Annual Aggregate Limit of Liability specified in Item 3. b. of the Policy Declarations.
- d. for **Claims** arising under Insuring Agreement 1. a. of this Policy, **Claim Expenses** shall be paid in addition to the Limits of Liability as shown in the Policy Declarations.
- e. the Deductible amount stated in Item 4. of the Policy Declarations shall apply to **Damages** and **Claim Expenses** and shall apply separately to each and every **Claim**. The **Named Insured** must pay the Deductible stated in Item 4. of the Policy Declarations for **Damages** and **Claim Expenses**. Subject to the Limits of Liability, the Insurer shall only be liable to pay for **Damages** and **Claim Expenses** in excess of such Deductible, and such Deductible shall not be insured under this Policy.
- f. the Limit of Liability for the Automatic Extended Reporting Period and the Extended Reporting Period, if applicable, shall be part of and not in addition to the Limits of Liability specified in Item 3. of the Policy Declarations.
- g. **Claims** based upon or arising out of the same **Wrongful Act**, interrelated **Wrongful Acts**, or a series of similar or related **Wrongful Acts** shall be considered a single **Claim** subject to one **Claim** Limit and shall be considered first made during the **Policy Period**, the Automatic Extended Reporting Period or Extended Reporting Period, if applicable, in which the earliest **Claim** arising out of such **Wrongful Act(s)** was first made and all **Damages** from such **Claims** shall be subject to the one Limit of Liability that applies to such earliest **Claim**.
- h. the Limits of Liability of this Policy apply separately to each consecutive annual period and to any remaining period of less than twelve (12) months, starting with the beginning of the **Policy Period** shown in Item 2. of the Policy Declarations, unless the **Policy Period** is extended after issuance for an additional period of less than twelve (12) months. In that case, the additional period will be deemed part of the last preceding twelve (12) month period for purposes of determining the Limits of Liability.

8. NOTICE

- a. As a condition precedent to the coverage hereunder:
 - (i) in the event of a **Claim**, prompt written notice containing particulars sufficient to identify the **Insured** and all reasonably obtainable information with respect to the time, place and particulars thereof, and the names and addresses of available witnesses, shall be given by or for the **Insured** to the Insurer;
 - (ii) if a **Claim** is made against the **Insured**, the **Insured** shall promptly forward to the Insurer every demand, notice, summons, order or other process received by the **Insured** or the **Insured's** representative. This requirement continues throughout the life of the **Claim**.
- b. All notices under this Policy shall be in writing and given by prepaid express courier, certified mail, e-mail, or facsimile properly addressed to the appropriate party.
- c. If any **Insured** shall commit fraud in proffering any **Claim** as regards amount or otherwise, the insurance shall become void as to such **Insured** from the date such fraudulent **Claim** is proffered.
- d. Notice to any **Insureds** may be given to the **Named Insured** at the address shown in Item 1. of the Declarations. It is agreed the **Named Insured** shall act on behalf of all **Insureds** with respect to the giving and receiving of notice of **Claim**, **Circumstance**, or **Damages**, cancellation or termination, the payment of premiums and the receiving of any return premiums that may become due under this Policy, the negotiation, agreement to and acceptance of any endorsements issued to form a part of this Policy, and the exercising or declining to exercise any right to an Extended Reporting Period. Notice to the Insurer of any **Claim** under this Policy shall be given to:

Contractors Bonding and Insurance Company
9025 North Lindbergh Drive
Peoria, Illinois 61615-1431
Attention: Claim Department
Facsimile: (866) 692-6796
E-mail: new.claim@rlicorp.com

All other notices to the Insurer under this Policy shall be given to the same addressee but to the attention of the Underwriting Department. Notice given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee or one day following the date such notice was sent, whichever is earlier.

- e. If the **Insured** becomes aware of a **Circumstance** for which this Policy may apply, and if during the **Policy Period**, or the Automatic Extended Reporting Period, or if applicable, during the Extended Reporting Period, the **Insured** gives prompt written notice, containing details of:
- (i) the alleged **Circumstance** and implicated **Professional Services**; and
 - (ii) the specific nature and extent of the injury or damage which has been sustained; and
 - (iii) how the **Insured** first became aware of such **Circumstance**;

then any **Claim** that may subsequently be made against the **Insured** arising out of such **Circumstance** shall be deemed to have been made on the date first written notice of the **Circumstance** was received by the Insurer. If the Policy expires, is cancelled or is nonrenewed and if no Extended Reporting Period is purchased, the right to give notice of a **Circumstance** as conferred upon the **Insured** in this Paragraph shall terminate at the end of the Automatic Extended Reporting Period. If an Extended Reporting Period is purchased, the right to give notice of a **Circumstance** as conferred upon the **Insured** in this Paragraph shall terminate no later than the last day of the Extended Reporting Period.

9. CANCELLATION OR NONRENEWAL

This Policy shall terminate at the earliest of the following times:

- a. the effective date of termination specified in a prior written notice by the **Named Insured** to the Insurer;
- b. ten (10) days after the receipt by the **Named Insured** of a written notice of termination from the Insurer based upon failure to pay premium due, unless such premium is received by the Insurer prior to such tenth (10th) day;
- c. at such other time as may be agreed upon by the Insurer and the **Named Insured**; or
- d. upon expiration of the **Policy Period** as set forth in Item 2. of the Declarations of this Policy.

The Insurer shall refund the unearned premium computed at customary short rates if this Policy is terminated by the **Named Insured**. Under any other circumstances; including, if the Policy is cancelled by the **Named Insured** due to the closing or sale of the **Named Insured's** business or the death of the sole proprietor where the **Named Insured** is a sole proprietorship, the refund shall be computed pro rata. Payment or tender of any unearned premium by the Insurer shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable.

10. AUTOMATIC EXTENDED REPORTING PERIOD AND EXTENDED REPORTING PERIOD

If the Policy expires, is cancelled or nonrenewed for any reason other than nonpayment of premium, the **Named Insured**:

- a. shall be entitled to a sixty (60) day Automatic Extended Reporting Period for no additional premium. This extension shall apply to any **Claim** first made against an **Insured** during the **Policy Period** and first reported to the Insurer, in writing, during the sixty (60) days immediately following the effective date of such expiration, cancellation or nonrenewal;

- b. shall have the right to purchase, by paying the additional premium set forth in Item 8. of the Declarations for this Policy, an Extended Reporting Period to report any **Claim** first made against an **Insured** after the effective date of such expiration, cancellation or nonrenewal.

The Automatic Extended Reporting Period and/or the Extended Reporting Period shall only apply to a **Wrongful Act** committed before the date of the Policy expiration, cancellation or nonrenewal.

For the purpose of this Section, any change in premium or terms on renewal shall not constitute a refusal to renew.

The **Named Insured** must notify the Insurer in writing and must pay the additional premium due no later than sixty (60) days after the effective date of such expiration, cancellation or nonrenewal. The Extended Reporting Period begins on the expiration date or the effective date of cancellation or nonrenewal of the Policy. The Extended Reporting Period will run concurrently with the Automatic Extended Reporting Period.

All premiums paid with respect to the Extended Reporting Period shall be deemed fully earned as of the first day of the Extended Reporting Period.

The extension of coverage granted hereunder shall be subject to all the terms and conditions of the Policy and shall only apply to **Professional Services** rendered before such Policy expiration, cancellation or nonrenewal.

11. ACQUISITION OR CREATION OF ANOTHER ENTITY

If, after the beginning of the **Policy Period**, the **Named Insured**:

- a. acquires substantially all of the assets of another entity; or
- b. acquires voting securities in another entity or creates another entity, which as a result of such acquisition or creation becomes a **Subsidiary**; or
- c. acquires another entity by merger such that the **Named Insured** is the surviving entity;

then the coverage provided under this Policy shall apply to such new creation or acquisition; but only with respect to **Wrongful Acts** occurring or allegedly occurring after the acquisition, merger or creation. As a condition for any coverage under this Section 11., if the current year annual gross receipts of the new entity created or acquired under Paragraphs a., b. or c., above, exceed fifteen percent (15%) of the current year annual gross receipts of the **Named Insured** as reflected in the most recent Application on file with the Insurer, then coverage for such newly created or acquired entity will cease ninety (90) days after the effective date of such creation or acquisition unless, within such ninety (90) day period:

- (i) the **Named Insured** provides the Insurer with written notice of such creation or acquisition; and
- (ii) the **Named Insured** provides the Insurer with such information in connection therewith as the Insurer may deem necessary; and
- (iii) the **Named Insured** accepts any special terms, conditions, exclusions, or additional premium charge as may be required by the Insurer; and
- (iv) the Insurer, in its sole discretion, agrees by written endorsement to provide such coverage.

The **Named Insured** is not required to provide written notice to the Insurer under this Section if: 1. the current year annual gross receipts of the newly created or acquired entity do not exceed fifteen percent (15%) of the current year annual gross receipts of the **Named Insured** as reflected in the most recent Application on file with the Insurer; or 2. the creation or acquisition occurs less than ninety (90) days prior to the end of the **Policy Period**.

12. CHANGES OF CONTROL

If, during the **Policy Period**:

- a. the **Named Insured** shall consolidate with or merge into, or sell all or substantially all of its assets to, any other person or organization or group of persons or organizations acting in concert; or
- b. any person or organization or group of persons or organizations acting in concert shall acquire an amount of the outstanding securities representing more than fifty percent (50%) of the voting power for the election of directors of the **Named Insured**, or acquires the voting rights of such an amount of such securities;

(either of the above events herein referred to as the “Transaction”)

then this Policy shall continue in full force and effect as to **Wrongful Acts** committed prior to the effective date of the Transaction, but there shall be no coverage afforded by any provision of this Policy for any **Wrongful Act** committed after the effective date of the Transaction. The **Named Insured** shall also have the right to elect the Extended Reporting Period described in Section 10. of this Policy within thirty (30) days after the effective date of the Transaction.

The **Named Insured** shall give the Insurer written notice of the Transaction as soon as practicable, but not later than thirty (30) days after the effective date of the Transaction.

13. REPRESENTATIONS AND SEVERABILITY

The **Insureds** represent that the particulars and statements contained in the Application and all attachments are true and agree that:

- a. those particulars and statements are the basis of this Policy and are to be considered as incorporated into and constituting a part of the Policy;
- b. those particulars and statements are material to the acceptance of the risk assumed by the Insurer; and
- c. this Policy is issued in reliance upon the truth of such representations.

Except for material facts or **Circumstances** known to the person or persons signing the Application, no statement in the Application of knowledge or information possessed by an **Insured** shall be imputed to any other **Insured** for the purpose of determining the availability of coverage.

14. SUBROGATION

In the event of any payment under this Policy, the Insurer shall be subrogated to the extent of such payment to all the **Insureds** rights of recovery. The **Insureds** shall execute and deliver all instruments and papers and do whatever else is necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Insurer to effectively bring suit in the name of the **Insureds**.

15. OTHER INSURANCE

This Policy is excess of other existing insurance, including but not limited to any insurance under which there is a duty to defend, unless such other insurance is specifically written to be in excess of this Policy.

16. WORLDWIDE TERRITORY

Coverage under this Policy shall extend to **Wrongful Acts** committed anywhere in the world, provided that the **Claim** is first made against the **Insured** within the United States of America, its territories or possessions.

17. ADDITIONAL INSURED STATUS FOR PARENT ORGANIZATION

The **Parent Organization** is named as an Additional Insured, but only as respects **Claims** first made against the **Parent Organization** during the **Policy Period** and first reported to the Insurer during the **Policy Period**, the Automatic Extended Reporting Period or, if applicable, during the Extended Reporting Period, for **Wrongful Acts** by an **Insured**.

18. ACTION AGAINST THE INSURER

No action shall lie against the Insurer unless as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, and until the amount of an **Insured's** obligation to pay shall have been finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the Claimant or the Claimant's legal representative, and the Insurer.

Any person or the legal representatives thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. No person or entity shall have any right under this Policy to join the Insurer as a party to any action against the **Insured** to determine the **Insured's** liability, nor shall the Insurer be impleaded by the **Insured** or their legal representatives. Bankruptcy or insolvency of the **Insured** or their successors in interest shall not relieve the Insurer of its obligations hereunder.

19. ASSIGNMENT

This Policy and any and all rights hereunder are not assignable without the written consent of the Insurer.

20. CHANGES

The terms and conditions of this Policy shall not be waived or changed, except by endorsement issued to form a part of this Policy.

21. TERMS OF POLICY CONFORMED TO STATUTE

Terms of this Policy which are in conflict with the statutes of the state wherein this Policy is issued are hereby amended to conform to such statutes.

22. HEADINGS

The descriptions in the headings of this Policy are solely for convenience and form no part of the Policy terms and conditions of coverage.

23. LIBERALIZATION


If the Insurer adopts any revisions to this Policy during the **Policy Year** that would broaden coverage without additional premium, the broadened coverage will apply to this Policy at the inception date of the next **Policy Year**, but it will not apply to **Claims** that were first made against any **Insured** prior to the effective date of such revision.

This Liberalization provision does not apply to the Insurer's issuance, use, amendment, reformation of, or change to, any endorsement that may be used in connection with the provision of any Professional Liability insurance.

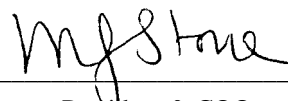
24. ENTIRE AGREEMENT

The **Insureds** agree that this Policy, including the Application, attachments and any endorsements, constitutes the entire agreement between the **Insureds** and the Insurer or any of its agents relating to this insurance.

In witness whereof, the Insurer issuing this Policy has caused this Policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Insurer.



Corporate Secretary



President & COO