

Miscellaneous E&O Coverage Form

THIS IS A CLAIMS-MADE POLICY WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD.

THE POLICY DOES NOT COVER CLAIMS ARISING OUT OF ERRONEOUS ACTS THAT OCCUR PRIOR TO THE RETROACTIVE DATE OF THE POLICY OR AFTER THE EXPIRATION DATE OF THE POLICY.

THERE IS A SELF-INSURED RETENTION FOR WHICH THE INSURED IS RESPONSIBLE.

THE LIMIT OF INSURANCE AVAILABLE TO PAY DAMAGES, SETTLEMENTS AND JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF CLAIM EXPENSES.

PLEASE READ THE ENTIRE POLICY CAREFULLY. CERTAIN PROVISIONS RESTRICT COVERAGE.

Words and phrases, other than titles or captions, that appear in bold print have special meanings and are defined in this policy. Refer to Part III Definitions. Titles and captions are for ease of identification only and have no effect in determining when or if this insurance applies.

Table of Contents

Part I	Insuring Agreement
Part II	Exclusions
Part III	Definitions
Part IV	Investigation, Settlement and Defense
Part V	Who is an Insured
Part VI	Limits and Self-Insured Retention
Part VII	Extended Reporting Period
Part VIII	Conditions
Part IX	Application is Part of Policy

PART I INSURING AGREEMENT

A. The **Company** will pay on an **Insured's** behalf those sums in excess of the Self-Insured Retention that an **Insured** becomes legally obligated to pay as **Damages** to which this insurance applies, and related **Claim Expenses**, because of **Claims** first made during the **Policy Period** or any applicable Extended Reporting Period and resulting from **Erroneous Acts** that occur in performing **Professional Services** for others in the **Policy Territory**.

The amount the **Company** will pay for **Damages** or **Claim Expenses** is limited as described in Part VI Limits and Self-Insured Retention.

The **Company** may investigate, settle and defend any **Claim** in accordance with Part IV Investigation, Settlement and Defense.

B. Erroneous Act means the following actual or alleged conduct by an **Insured**, or by any person or organization for which an **Insured** is legally liable, that occurs in **Professional Services**:

1. A negligent act, error or omission;
2. Libel, trade libel, slander, product disparagement, or any other form of defamation or harm to the character or reputation of any person or entity;
3. Publication of material that violates a person's right to privacy or puts a person or entity in a false light;
4. Misappropriation of name or likeness; or
5. Infliction of emotional distress, outrage, or outrageous conduct, except when excluded as **Bodily Injury** or Personal Injury by Exclusions **A.** or **M.** in Part II Exclusions.

- C. This insurance applies only if all of the following conditions are met:
1. The **Claim** is first made, in accordance with Part **I.D.** below, during the **Policy Period** or any applicable Extended Reporting Period;
 2. The **Claim** results from an **Erroneous Act** that occurred on or after the **Retroactive Date** and on or before the Expiration Date of the policy;
 3. The **Claim** results from **Professional Services** that occurred in the **Policy Territory**;
 4. The **Claim** has not been reported prior to the Effective Date of this policy to any insurer; and
 5. No **Insured** had:
 - a. Actual or constructive knowledge of the **Erroneous Act** which resulted in the **Claim**; and
 - b. Reason to believe that such **Erroneous Act** would result in a **Claim**; prior to the Effective Date of this policy.
- D. 1. A **Claim** will be considered to have been first made at the earliest of the following times:
- a. When notice of such **Claim** is first received in writing by any **Insured** or the **Company**, whichever is earlier;
 - b. When the **Company** makes settlement; or
 - c. When the **Company** first receives an **Insured's** written notice, in accordance with Part **I.E.** below, of the **Erroneous Act** that results in the **Claim**.
2. All terms and conditions in effect on the date the **Claim** is first made will apply to the **Claim**.
 3. All **Claims** arising from the same **Erroneous Act** will be considered to have been made at the time when the first of those **Claims** is made in accordance with Part **D.1.a., b.** and **c.** above.
 4. a. All **Erroneous Acts** that:
 - (1) Take place on or after the **Retroactive Date** and before the end of the **Policy Period** of the last Miscellaneous E&O Insurance Policy or similar insurance policy issued to an **Insured** by the **Company** or a company affiliated with the **Company**; and
 - (2) Are logically or causally connected by common facts, circumstances, transactions, events and/or decisions;
 will be treated as one **Erroneous Act** and will be considered to have occurred on the date the first of those **Erroneous Acts** occurred.
 - b. However, if any **Erroneous Acts**, including those described in Part **D.4.a.** above, are logically or causally connected by common facts, circumstances, transactions, events and/or decisions to an **Erroneous Act**:
 - (1) That took place before the **Retroactive Date**; and
 - (2) Any **Insured** has other insurance that applies, or would have applied except for the exhaustion of its limits, to such **Erroneous Acts**;
 this insurance will not apply to any of those **Erroneous Acts**.
- E. If an **Insured** meets all of the following requirements in reporting an **Erroneous Act** to the **Company**, all **Claims** arising from that **Erroneous Act** will be considered to have been made at the time the **Company** first received written notice of such **Erroneous Act** that results in the **Claim**:
1. The **Erroneous Act** is committed between the **Retroactive Date** and the end of the **Policy Period**;
 2. The **Company** receives written notice from an **Insured** during the **Policy Period** of the **Erroneous Act**. Such notice must include all of the following information:
 - a. The names of all persons and/or organizations involved in the **Erroneous Act**;
 - b. The specific person or organization likely to make the **Claim**;
 - c. A description of the time, place and nature of the **Erroneous Act**;
 - d. A description of the potential **Damages**; and
 - e. A statement that the **Insured** believes the **Erroneous Act** will result in a **Claim** and wants this policy to apply to **Claims** resulting from the **Erroneous Act**; and
 3. There is no other insurance that applies to the **Claim** or would apply except for the exhaustion of its limits.

PART II EXCLUSIONS

The **Company** is not obligated to pay **Damages** or **Claim Expenses** or defend **Claims** arising out of actual or alleged:

A. Bodily Injury or Property Damage

Bodily Injury or **Property Damage**.

B. Business Practices or Operations

1. Restraint of trade or violation of antitrust laws;
2. Unfair competition;
3. False or misleading advertising about any **Insured** or its goods or services;
4. Misappropriation or theft of trade secrets;
5. Infringement of patent;
6. Infringement of trademark, trade name, trade dress, service mark, service name, title or slogan;
7. Infringement of copyright, false attribution of authorship, passing off, plagiarism or misappropriation of ideas under implied contract;
8. Employment-related practices and policies of any **Insured**;
9. Gain, profit or advantage to which any **Insured** is not legally entitled; or
10. Bankruptcy, insolvency, receivership, liquidation and/or cessation of operations of any **Insured** or other entity over which any **Insured**, by reason of ownership interest or otherwise, asserts influence or control.

C. Contracts, Warranties or Guarantees

1. Liability assumed under any contract or agreement; however, this Part **II.C.1.** does not apply to liability the **Insured** would have in the absence of such contract or agreement;
2. Breach of contract; however, this breach of contract exclusion does not apply to **Claims** alleging negligent performance of **Professional Services**; or
3. Breach of warranty or guarantee.

D. Acts Related to Investment Funds

Acts by any **Insured** related to any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts; any violation of any provisions of the Employee Retirement Income Security Act of 1974, or any amendment, regulation, ruling or order issued pursuant to the Act or any similar provisions of any federal, state or local law.

E. Violation of Laws and Administrative or Regulatory Actions

1. Violation of:
 - a. The Securities Act of 1933 and as amended;
 - b. The Securities Exchange Act of 1934 and as amended;
 - c. The Investment Act of 1940 and as amended;
 - d. Any state blue sky or securities law;
 - e. Any similar state or federal law; or
 - f. Any order, ruling, or regulation issued pursuant to the above laws;
2. Intentional, willful, or deliberate non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental or public agency or body either before or after the Effective Date of the policy;
3. Administrative or regulatory actions brought by any governmental agency or entity;
4. Unlawful discrimination or harassment, including that based upon race, creed, color, religion, national origin, age, disability, sex, marital status or sexual orientation; or
5. Criminal, dishonest, fraudulent, malicious, or knowingly wrongful conduct by any **Insured**.

If a **Claim** would invoke the **Company's** duty to defend but for allegations of such conduct, then the **Company** will defend the **Claim** until there is a finding by a jury, judge, or arbitrator that there was such conduct or an admission that there was such conduct by any **Insured** or person who would be an

Insured, if that person had not acted outside the scope of his or her duties. The **Company** will not pay any settlement or judgment relating in any way to such finding or admission, and the **Company** retains the right to seek reimbursement of **Claim Expenses** paid from the party found to have committed the criminal, dishonest, fraudulent, malicious, or knowingly wrongful act.

In no event will the **Company** defend any **Insured** in criminal proceedings, regardless of the allegations.

F. Power Failure and Telecommunications Infrastructure Failure

1. Electrical failure, including any electrical power interruption or surge, brownout, blackout, short circuit, over voltage, induction, power fluctuations or satellite failure, regardless of whether or not the electrical failure was caused by another event or condition; and
2. Failure or malfunction of telecommunications infrastructure or services, unless under the **Insured's** operational control.

G. Pollution and Other Environmental Hazards

1. Pollution

- a. Threatened discharge, dispersal, seepage, migration, release, or escape of any **Pollutant** at any time;
- b. Creation of an injurious condition involving any **Pollutant**;
- c. Existence of any **Pollutant** on any property;
- d. Request, demand, order, or statutory or regulatory requirement that any **Insured** or others test for, monitor, cleanup, remove, contain, test, detoxify, neutralize, or in any way respond to or assess the effect of **Pollutants**; or
- e. **Claim** or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, treating, detoxifying, neutralizing, or in any way responding to or assessing the effects of **Pollutants**.

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 and whether or not any other cause or event contributed to the **Damages**.

2. Organic Pathogen, Mold or Fungus

- a. **Damages** which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any **Organic Pathogen, Mold or Fungus**, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such **Damages**.
- b. Loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, **Organic Pathogen, Mold or Fungus** by any **Insured** or by any other person or entity.

3. Silica, Asbestos and Lead

- a. **Silica, silica-related dust**, or asbestos, in any manner or form. The term asbestos shall include any other allied compound, substance, product, or fiber thereof which is used as a non-combustible, non-conducting, or chemically resistant material. This exclusion also applies to **Claims** concerning the incorporation, presence, or removal of asbestos in any building, structure, or product.
- b. Existence or control of the hazardous properties of lead, irrespective of the form or source of such lead. This exclusion applies, but is not limited, to the following:
 - (1) Liability assumed under any contract or agreement;
 - (2) Obligation to pay or indemnify any person, organization, or governmental agency for any portion of the injury, damage, or expense; and
 - (3) Supervision, instructions, recommendations, requests, warranties or representations (expressed or implied), warnings, or advice given or which should have been given regarding the existence or control of the lead.

When used in this exclusion, "control" includes, but is not limited to, testing, monitoring, abatement, clean-up, removal, containment, treatment, or disposal; "form" means anything containing lead, including, but not limited to, air, water, earth, dust, paint, plumbing solder, and pipes and fixtures.

4. Nuclear Energy

Nuclear reaction, radiation, radioactive contamination, or any consequence thereof, regardless of cause.

H. Unauthorized Access

Unauthorized access to, use of, or tampering with, data or systems by any person.

I. Introduction of Malicious Code

The introduction of a virus or other malicious code into data or systems by any person.

J. Prior Claims and Acts

1. **Erroneous Acts** for which notice of a **Claim** has been given to any insurer prior to the Effective Date of this policy;
2. **Erroneous Acts** that, prior to the Effective Date of this policy, any **Insured** had actual or constructive knowledge of and had reason to believe would result in a **Claim**;
3. **Erroneous Acts** that occurred prior to the **Retroactive Date**;
4. **Erroneous Acts** that are logically or causally connected by common facts, circumstances, transactions, events and/or decisions to **Erroneous Acts** that occurred prior to the **Retroactive Date** if any **Insured** has other insurance that applies, or would have applied except for the exhaustion of its limits, to such **Erroneous Acts**; or
5. **Claims** that have been reported prior to the Effective Date of this policy to any insurer.

K. Entities or Individuals Bringing Claims

Claims made by or on behalf of:

1. Any entity which is a parent, affiliate, subsidiary, or co-venturer of any **Insured**, or any other entity over which any **Insured**, by reason of ownership interest or otherwise, asserts influence or control;
2. Any entity directly or indirectly controlled, operated or managed by an entity described in Part II.K.1. above; or
3. Any **Insured**.

L. War

War, including undeclared or civil war; warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; or insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these actions.

M. Personal Injury

1. False arrest, detention, or imprisonment;
2. Malicious prosecution; or
3. Infringement of the right of private occupancy, including wrongful entry or eviction, trespass, eavesdropping, intrusion, public disclosure of private facts, and wireless signal interception.

PART III DEFINITIONS (All defined terms are understood to include both singular and plural forms.)

- A. **Bodily Injury** means physical injury, sickness, disease or death, and mental anguish, mental injury, shock or fright, but only if the mental anguish, mental injury, shock or fright results in or from physical injury, sickness, disease, or death.
- B. **Claim** means a suit, a written demand or a written assertion of a legal right, any of which seek **Damages** against an **Insured**.
- C. **Claim Expenses** means fees and expenses incurred by the **Company** in the investigation, adjustment, negotiation, arbitration, mediation, and defense of **Claims**.

Claim Expenses include:

1. Expenses the **Company** incurs, other than salary or wages of the **Company's** regular employees or officials;
2. Reasonable fees charged by attorneys selected or pre-approved by the **Company** to defend an **Insured**;

3. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. The **Company** will not apply for or furnish these bonds; and
4. Reasonable expenses incurred by an **Insured** at the **Company's** request.

Claim Expenses do not include:

1. Loss of earnings or profit by any **Insured**; or
2. Salaries, wages, fees, or other compensation payable to any **Insured**.

D. Company refers to the Insurer named in the Declarations.

E. Damages means:

1. Amounts which an **Insured** is legally obligated to pay as a result of a covered judgment, award, or settlement;
2. Costs charged against an **Insured** in connection with a judgment or award to which this insurance applies, unless such costs are assessed as a sanction for an **Insured's** delay or misconduct in the litigation process; and
3. Pre-judgment interest and post-judgment interest assessed before the **Company** has paid, offered to pay, or deposited in court the part of the judgment that is covered by this policy and that is within the applicable Limit of Insurance.

Damages do not include:

1. Taxes, criminal or civil fines or penalties imposed by law;
2. Production costs, or the cost of reprinting, recalling, recovering, shipping, correcting, reprocessing, restoring, repairing, replacing, reproducing, or reperforming **Professional Services**;
3. Royalties or restitution paid or payable by an **Insured**; fines, fees or penalties charged by a licensing organization; disgorgement of an **Insured's** profits; costs of complying with an order granting injunctive relief; or disputed: fees, charges, or commissions for goods or services; or
4. Punitive, exemplary, or multiple damages.

F. Erroneous Acts has the meaning given in the Insuring Agreement Part **I.B.**

G. First Named Insured means the person or entity specified in the Declarations as the **First Named Insured**.

H. Insured means the persons or entities that qualify as **Insureds** in Part **V** Who is an Insured.

I. Named Insured means the persons or entities that qualify as **Named Insureds** in Part **V** Who is an Insured.

J. Organic Pathogen, Mold, or Fungus means any bacteria, virus, fungi, mold, mildew or mycotoxin, or their spores, scent, or byproducts.

K. Policy Period means the period of insurance specified in the Declarations or a shorter period resulting from cancellation of the policy.

L. Policy Territory means worldwide. This policy applies to **Erroneous Acts** committed anywhere in the world provided that the **Claim** is first brought in the United States of America (including its territories and possessions), Puerto Rico or Canada.

M. Pollutant means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Pollutant also means any other substance determined to be, or classified as, a pollutant by any applicable federal, state, or local statute, regulation, ruling or ordinance.

N. Professional Services means performance of professional services for others as specified in the Declarations.

O. Property Damage means physical injury to or destruction of any tangible property, including the loss of use thereof.

P. Retroactive Date means the date specified in the Declarations.

Q. Silica means silicon dioxide (in any manner or form, including crystalline, amorphous, and impure forms), silica particles, silica dust, or silica compounds.

R. Silica-related dust means a mixture or combination of silica and other dust or particles.

PART IV INVESTIGATION, SETTLEMENT AND DEFENSE

A. DEFENSE AND SELECTION OF COUNSEL

The **Company** has the right and duty to defend an **Insured** against a **Claim** to which this insurance applies, regardless of whether the allegations of the **Claim** are meritless, false or fraudulent. The **Company** has the right to select counsel to defend an **Insured**.

The **Company** has the right, but not the duty, to defend an **Insured** against a **Claim** for **Damages** that are within the Self-Insured Retention. The **Company** has the right to select counsel to defend an **Insured** against a **Claim** for **Damages** that are within the Self-Insured Retention.

The **Company** will have no duty to defend a suit or pay **Claim Expenses**:

1. For **Claims** for **Damages** to which this insurance does not apply; or
2. After the **Company** has used up the applicable Limit of Insurance in the payment of **Damages** or **Claim Expenses**.

B. INVESTIGATION AND SETTLEMENT

The **Company** has the right, but not the duty, to investigate any **Claim** to which this insurance applies, including any **Claim** for **Damages** that are within the Self-Insured Retention.

Subject to the **First Named Insured's** consent, the **Company** has the right to settle any **Claim** to which this insurance applies, including any **Claim** for **Damages** that are within the Self-Insured Retention. The **Company** will not settle any **Claim** without the consent of the **First Named Insured**. However, if the **First Named Insured** refuses to consent to any settlement recommended by the **Company**, then the **Company's** liability for the **Claim** will be limited to the amount for which the **Claim** could have been settled plus **Claim Expenses** incurred up to the date of the **First Named Insured's** refusal to consent to settlement minus any Self-Insured Retention payable by an **Insured**. The **Company's** mailing of payment of the recommended settlement amount minus any Self-Insured Retention will release the **Company** from any further obligation for the **Claim**.

The **First Named Insured's** failure to express consent to a settlement recommended by the **Company** will be deemed refusal to consent to the settlement.

If, at the **Company's** option, the **Company** has paid part or all of any Self-Insured Retention, the **Insured** will reimburse such amounts to the **Company** upon demand.

An **Insured** may not settle any **Claim** without the **Company's** prior written consent. If any **Insured** settles any **Claim** without the **Company's** consent, this insurance will not apply to such **Claim**.

PART V WHO IS AN INSURED

A. The following persons or entities are Insureds:

1. The **First Named Insured**;
2. **Named Insureds**;
3. A **Named Insured's** partners, officers, directors, employees or stockholders while acting within the scope of their duties on behalf of the **Named Insured**;
4. A **Named Insured's** former partners, officers, directors, employees or stockholders while acting within the scope of their duties on behalf of the **Named Insured** when they were partners, officers, directors, employees or stockholders of the **Named Insured**; and
5. The estate, the heirs, assigns, or legal representatives of an **Insured** in the event of death, bankruptcy or incompetence of an **Insured** under this policy.

B. Named Insured means:

1. The person(s) or entity(ies) specified in the Declarations as the **First Named Insured** or **Named Insured**.

2. Any entity which is acquired during the **Policy Period** and which, after the acquisition, is wholly-owned by a **Named Insured**; however, such entity only has coverage under this policy:
 - a. For **Professional Services** performed on or after the date of acquisition of the new entity;
 - b. If the **Named Insured** advises the **Company** within sixty (60) days of the acquisition and provides information as requested by the **Company** for evaluation;
 - c. If the **First Named Insured** pays any additional premium the **Company** assesses as a result of the change; and
 - d. If the **Company** issues an endorsement to include the newly acquired entity.

If all of the requirements of this Part **B.2.** are met and the **Company** agrees to include the newly acquired entity as a **Named Insured**, such newly acquired entity will be a **Named Insured** retroactively as of the date of acquisition. However, if all of the requirements of this Part **B.2.** are not met within sixty (60) days of the acquisition, such newly acquired entity may be included as a **Named Insured**, but only if the **Company** agrees and the **Company** will determine the effective date on which the newly acquired entity will be a **Named Insured**.

3. Any entity which is created during the **Policy Period** and which, after the creation, is wholly-owned by a **Named Insured**; however, such entity only has coverage under this policy:
 - a. For **Professional Services** performed on or after the date of creation of the new entity;
 - b. If the **Named Insured** advises the **Company** within sixty (60) days of the creation and provides information as requested by the **Company** for evaluation;
 - c. If the **First Named Insured** pays any additional premium the **Company** assesses as a result of the change; and
 - d. If the **Company** issues an endorsement to include the newly created entity.

If all of the requirements of this Part **B.3.** are met and the **Company** agrees to include the newly created entity as a **Named Insured**, such newly created entity will be a **Named Insured** retroactively as of the date of creation. However, if all of the requirements of this Part **B.3.** are not met within sixty (60) days of the creation, such newly created entity may be included as a **Named Insured**, but only if the **Company** agrees and the **Company** will determine the effective date on which the newly created entity will be a **Named Insured**.

PART VI LIMITS AND SELF-INSURED RETENTION

A. LIMITS OF INSURANCE

The Limits of Insurance shown in the Declarations and the provisions below determine the most the **Company** will pay.

1. Each Erroneous Act Limit of Insurance

Subject to Part **A.2.**, below, the Each **Erroneous Act** Limit of Insurance is the most the **Company** will pay for the sum of **Damages** and **Claim Expenses** because of all **Claims** resulting from each **Erroneous Act**, no matter how many:

- a. **Insureds** there are;
- b. **Claims** are made; or
- c. Persons or organizations make **Claims**.

In accordance with Part **I.D.**, multiple related **Erroneous Acts** will be considered one **Erroneous Act** and all such **Erroneous Acts** combined will be subject to a single Each **Erroneous Act** Limit of Insurance.

2. Aggregate Limit of Insurance

The Aggregate Limit of Insurance is the most the **Company** will pay for the sum of all **Damages** and **Claim Expenses**, no matter how many:

- a. **Insureds** there are;
- b. **Claims** are made;
- c. Persons or organizations make **Claims**; or
- d. **Erroneous Acts** are committed.

B. SELF-INSURED RETENTION

The Self-Insured Retention is the amount of **Damages** and related **Claim Expenses** to which this insurance would apply except the **Insured** is responsible for such amounts. The **Company's** obligation to pay **Damages** and **Claim Expenses** applies only to sums in excess of the Self-Insured Retention. The **Insured** is responsible for all **Damages** and related **Claim Expenses** that are within the Self-Insured Retention. Amounts incurred by an **Insured** for the Self-Insured Retention will not erode the Each **Erroneous Act** Limit of Insurance or the Aggregate Limit of Insurance. The Self-Insured Retention applies separately to each **Erroneous Act**. The Self-Insured Retention amount is the amount specified in the Declarations.

PART VII EXTENDED REPORTING PERIOD

A. In the event of cancellation or non-renewal of this policy by the **Company**, for reasons other than non-payment of premium or Self-Insured Retention or non-compliance with the terms and conditions of this policy, the **First Named Insured** will have the right to purchase an Extended Reporting Period as follows:

1. The right to purchase the Extended Reporting Period will terminate unless written notice of the **First Named Insured's** intention to purchase it indicating the desired length of the Extended Reporting Period, together with payment of the premium due for the Extended Reporting Period and any other premiums or amounts due the **Company**, is received by the **Company** within thirty (30) days after the effective date of the termination or cancellation. The Extended Reporting Period will not take effect until all payments are received by the **Company**;
2. The additional premium for the Extended Reporting Period will be calculated as a percentage of the annual premium in accordance with the chart below.

Length of ERP	Percentage of Annual Premium Surcharge
One Year	75%
Two Years	125%

In addition to these options, an Extended Reporting Period of up to five years total is available, subject to an additional premium to be determined by the **Company**.

The additional premium for the Extended Reporting Period will be fully earned. Once purchased, the Extended Reporting Period may not be cancelled and the length of the Extended Reporting Period may not be changed;

3. If a **Claim** is considered first made during the Extended Reporting Period, the terms and conditions in effect on the last day of the **Policy Period** will apply to the **Claim**; and
 4. The Extended Reporting Period does not extend the **Policy Period** or change the scope of coverage provided nor does it provide an additional or renewed Aggregate Limit of Insurance. It applies only to **Claims** made against any **Insured** during the Extended Reporting Period for **Erroneous Acts** that occur on or after the **Retroactive Date** and on or before the Expiration Date of the policy and meet all other requirements of this policy. The Extended Reporting Period starts when the **Policy Period** ends. The Extended Reporting Period does not apply to any **Claims** for which there is any valid and collectible insurance available under policies in force after the expiration of this policy.
- B. In the event the **First Named Insured** elects to cancel or non-renew this policy, the **Company** may offer an Extended Reporting Period at its discretion.

PART VIII CONDITIONS

A. SPECIAL RIGHTS AND DUTIES OF THE FIRST NAMED INSURED

The **First Named Insured** is responsible for the payment of all premiums and Self-Insured Retentions. The **First Named Insured** has exclusive authority to act on behalf of all **Insureds** with respect to matters relating to this policy, including:

1. Giving and receiving of all required notices;
2. Receiving of refunds;

3. Agreeing to any changes to this policy; and
4. Purchasing an Extended Reporting Period.

B. DUTIES IF THERE IS A CLAIM OR ANY INSURED HAS KNOWLEDGE OF AN ERRONEOUS ACT

If there is a **Claim** or any **Insured** has knowledge of an **Erroneous Act** that might result in a **Claim**, including any **Claim** for amounts that are within the Self-insured Retention, the **Insured** must promptly do the following:

1. Notify the **Company** in writing; this notice must:
 - a. Be sent to the address specified in the Declarations; and
 - b. Identify the **Insured** and the claimant, and provide reasonably obtainable information concerning the time, place, and other details of the **Erroneous Act** and **Claim** or potential **Claim**;
2. Send the **Company** copies of all demands, notices, settlement offers, summonses, or legal papers received in connection with the **Claim** or potential **Claim**;
3. Upon the **Company's** request, authorize the **Company** to obtain records and other information;
4. Cooperate with and assist the **Company** in the investigation, settlement and defense of the **Claim**; and
5. Cooperate with and assist the **Company**, upon the **Company's** request, in enforcing any rights of contribution or indemnity against another party who may be liable to an **Insured**.

Notice of an **Erroneous Act** is not notice of a **Claim**, except if the requirements of Part **I.E.** are met, such notice will qualify as notice of a **Claim**.

C. LEGAL ACTION AGAINST THE COMPANY

1. No person or organization has a right under this policy to join the **Company** as a party or otherwise bring the **Company** into a suit against any **Insured**.
2. No action may be brought against the **Company** unless the **Insured** has fully complied with all terms and conditions of this policy.
3. A person or organization may sue the **Company** to recover on an agreed settlement or on a final judgment against an **Insured**; but the **Company** will not be liable for **Damages** that are not payable under the terms of this policy or that are in excess of the applicable Limits of Insurance. An agreed settlement means a settlement and release of liability signed by the **Company**, the **Insured**, and the claimant or the claimant's legal representative.

D. BANKRUPTCY

The bankruptcy or insolvency of an **Insured** or an **Insured's** estate will not relieve the **Company** of its obligations under this policy nor deprive the **Company** of its rights or defenses under this policy.

E. SUBROGATION

The **Insured** and the **Company** may have rights to recover all or part of any payment that any **Insured** or the **Company** makes under this policy. If so, those rights are transferred to the **Company**.

The **Insured** must do nothing to impair such rights. At the **Company's** request, the **Insured** will do everything necessary to secure such rights and help the **Company** enforce them, including the execution of documents necessary to enable the **Company** to effectively bring suit. Any recoveries will be applied as follows:

1. First, to the **Company** up to the amount of its payment for **Damages** and **Claim Expenses**;
2. Then, to the **Insured** as recovery of Self-Insured Retention amounts paid as **Damages** and **Claim Expenses**.

F. CHANGE IN OPERATIONS

This policy applies only to **Professional Services** specified in the Declarations. The **First Named Insured** agrees to notify the **Company** of any material changes to any **Insured's** operations and activities. If these changes in operations or activities result in a substantial change to any **Insured's** exposure, the **Company** has the right to modify the insurance provided or make adjustments to the premium or rates charged for any insurance provided by this policy.

G. TRANSFER OF INSURED'S RIGHTS AND DUTIES UNDER THIS POLICY

Any **Insured's** rights and duties under this policy may not be transferred without the **Company's** prior written consent.

H. NO WAIVER OR CHANGE OF TERMS

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 the policy; in addition, the terms of this policy may not be waived or changed except by written endorsement issued by the **Company**.

I. CANCELLATION; NO OBLIGATION TO RENEW

1. The **First Named Insured** may cancel this policy by mailing or delivering to the **Company** advance written notice of cancellation. If the **First Named Insured** cancels this policy, the return premium will be calculated as 90% of the pro-rated return premium.
2. The **Company** may cancel this policy by mailing or delivering to the **First Named Insured** written notice of cancellation at least:
 - a. Ten (10) days before the effective date of cancellation for non-payment of premium;
 - b. Thirty (30) days before the effective date of cancellation for any other reason or as otherwise specified by state law.
3. The **Company** will mail or deliver its notice to the **First Named Insured's** last known mailing address. Notice of cancellation will state the effective date of the cancellation. This policy will expire on that date. If this policy is cancelled, the **Company** will send the **First Named Insured** any premium refund due. The **Company's** payment or tender of unearned premium is not a condition of cancellation. If notice is mailed, proof of mailing will be sufficient proof of notice.
4. The **Company** will not be obligated or required to renew this policy. Any offer of renewal of terms involving a change of Self-Insured Retention, premium, Limit of Insurance, or other terms and conditions will not constitute, nor be construed as, a refusal by the **Company** to renew this policy. The **Company** may elect to non-renew this policy by mailing to the **First Named Insured** at least thirty (30) days' advance written notice or notice as otherwise specified by state law.

J. OTHER INSURANCE

The insurance afforded by this policy is excess over any other valid and collectible insurance available to the **Insured**, except as noted elsewhere in this policy. This provision does not apply to insurance purchased by the **Named Insured** specifically to apply in excess of this insurance. Any insurance for which the **Insured** has been added as an additional insured will be primary to this insurance.

L. REPRESENTATIONS

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

1. The statements in the Application or Renewal Application furnished to the **Company** are accurate and complete;
2. Those statements furnished to the **Company** are representations the **First Named Insured** made 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. The statements in the Declarations for this policy, attributable to information provided by the **Insured**, are accurate and complete; and
6. If this policy is a renewal of a policy issued by the **Company**, the **Insured's** representations for this policy include the representations made in all previous Applications for previous policies issued by the **Company**.

PART IX APPLICATION IS PART OF POLICY

A copy of the **Insured's** signed Application for Insurance or Renewal Application is attached to this policy. All attachments to the Application or Renewal Application furnished to the **Company** as part of the application process will be kept on file by the **Company** and deemed attached to the policy as if physically attached to it.