



**PREMIER SECURITIES BROKER/DEALER
AND INVESTMENT ADVISERS
PROFESSIONAL LIABILITY INSURANCE POLICY
(VERSION 11/08)**

This is a Claims Made and Reported Policy. Please Read It Carefully.

In consideration of the payment of premium and subject to the Declarations, limitations, conditions, provisions and other terms of this Policy, the **Company** and the **Insured** agree as follows:

I. INSURING AGREEMENTS

- A.** The **Company** shall pay **Damages** and **Claim Expenses** on behalf of the **Insured** resulting from any **Claim** first made against the **Insured** and reported to the **Company** in writing during the **Policy Period** or any applicable Extended Reporting Period for any **Wrongful Act** committed on or after the **Retroactive Date** and before the Policy terminates.
- B. Defense.** As part of and subject to the Limits of Liability, the **Company** shall have the right and duty to defend, any **Claim** against the **Insured**, to which this Policy applies, even if any of the allegations of the **Claim** are groundless, false, or fraudulent. However, the **Company** shall have no duty to defend any **Claim**, and may withdraw from the defense of any **Claim**, after the applicable Limits of Liability have been exhausted by **Damages** and/or **Claim Expenses**.
- C. Consent to Settle.** The **Company** shall have the right to make any investigation it deems necessary and, with the written consent of the **Insured**, make any settlement of a **Claim** covered by this Policy. If the **Company** recommends settlement or compromise of a **Claim**, and the **Insured** refuses to give written consent to settlement as recommended by the **Company**, then the **Insured** thereafter shall negotiate or defend such **Claim** independently of the **Company** and on the **Insured's** own behalf. In such event, the **Insured** shall be solely responsible for fifty percent (50%) of all **Claim Expenses** incurred or paid by the **Insured** after the date the **Insured** refused to consent to settlement as recommended by the **Company**, and the **Insured** shall also be responsible for fifty percent (50%) of all **Damages** in excess of the amount for which settlement could have been made as recommended by the **Company**; provided that the **Company's** liability under this Policy for such **Claim** shall not exceed the remaining portion of the applicable Limits of Liability.

II. DEFINITIONS

Whenever used in this Policy:

- A. "Advertisement"** means a notice that is broadcast or published to the general public or specific market segments about the goods, products or services of the **Named Insured** for the purpose of attracting customers or supporters. **Advertisement** shall include electronic promotional material and media, publicly disseminated on any **Internet Website** either on

behalf of the **Named Insured** or by the **Named Insured** on behalf of others, including banner and buttons, beacons and tracking, branding, click tags and cookies, co-branding, directory listings, flash sites, metatags and coded media, rectangles and pop-ups, search engine endorsements, sponsorships, skyscrapers, and/or endorsements.

- B. “Application”** means all signed applications, including attachments and other materials submitted therewith or incorporated therein, submitted by the **Insured** to the **Company** for this Policy or for any policy of which this Policy is a direct or indirect renewal or replacement. **Application** shall also include all documents provided by the **Insured** to the **Company** in connection with the underwriting or issuance of this Policy and any information contained on the **Website(s)** of the **Insured**, whether provided to the **Company** directly or indirectly through the use of public databases or similar sources.
- C. “Assumed Under Contract”** means liability assumed by the **Named Insured** under a written hold harmless or indemnity agreement regarding the content of **Media Material** used in **Media Communications**.
- D. “Bodily Injury”** means physical injury, sickness, disease or death of any person, and includes emotional distress or mental anguish whether or not accompanied by physical injury, sickness or disease.
- E. “Breach of Privacy”** means:
1. wrongful entry or eviction, trespass, eavesdropping, false arrest or malicious prosecution;
 2. invasion, infringement, interference with the right to privacy or of publicity, including false light, public disclosure of private facts, intrusion or commercial appropriation of name or likeness;
 3. any breach or violation of U.S. federal, state and local statutes and regulations associated with the control and use of personally identifiable financial or medical information including but not limited to:
 - a. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) (“HIPAA”), including Title II that required protection of confidentiality and security of electronic protected health information and the rules and regulations promulgated thereunder as they currently exist and as amended;
 - b. Gramm-Leach-Bliley of 1999 (“G-L-B”), also known as the Financial Services Modernization Act of 1999, including sections concerning security protection and standards for customer records maintained by financial services companies, and the rules and regulations promulgated thereunder as they currently exist and as amended;
 - c. State privacy protection laws, such as California Database Protection Act of 2003 (Cal. SB 1386) and California A.B. 1950, as they currently exist now or in the future, that require commercial **Internet** sites or on-line services that collect personal information or medical information (as defined by such laws or acts) to post privacy policies and adopt specific privacy controls or to notify those impacted by identity or data theft, abuse or misuse;
 - d. Federal and state consumer credit reporting laws, such as the Federal Fair Credit

Reporting Act (FCRA) and the California Consumer Credit Reporting Agencies Act (CCCRAA).

F. “Breach of Security” means a breach of security which results in the **Unauthorized Access** or **Unauthorized Use** of any **Computer System**, the consequences of which include, but are not limited to the:

1. failure to prevent **Unauthorized Access** to, use of or tampering with a third party’s **Computer System**;
2. inability of an authorized third party to gain access to the **Professional Services** of the **Named Insured**;
3. failure to prevent denial or disruption of **Internet** service to an authorized third party;
4. failure to prevent identity theft or credit/debit card fraud;
5. inadvertent transmission of **Malicious Code**.

G. “Broker/Dealer” means the **Named Insured** and any **Subsidiary**.

H. “Claim” means a demand received by the **Insured** for money or services and alleging a **Wrongful Act** including:

1. the service of suit or any civil proceeding in a court of law or equity, including any appeal therefrom, which is commenced by the filing of a complaint, motion for judgment, or similar proceeding;
2. institution of arbitration, mediation or other formal alternative dispute resolution proceeding;
3. any prosecution or governmental action related to **Breach of Privacy**;
4. any written request to toll or waive a statute of limitations.

A **Claim** for injunctive relief alleging any **Wrongful Act** for which insurance would have been granted under this Policy if **Damages** had been sought, will be considered a **Claim** for the purposes of this Policy, but only the **Claim Expenses** arising therefrom will be covered by this Policy.

I. “Claim Expenses” means:

1. fees charged by any lawyer selected by mutual agreement between the **Company** and the **Insured**. However, if after a good faith attempt by the **Company**, the **Company** and the **Insured** cannot agree on the selection of the lawyer, the **Company** shall select the lawyer;
2. all other reasonable fees, costs and expenses resulting from the investigation and defense of a **Claim**, if incurred by the **Company** or by the **Insured** with the written consent of the **Company**.

“Claim Expenses” shall not include salary charges of any employee or officer of the **Company** or any supervisory counsel retained by the **Company**. The determination by the **Company** as to the reasonableness of **Claim Expenses** shall be conclusive on the **Insured**.

J. “Company” means the insurer named in Item 1 of the Declarations.

K. “Computer System” means computers and associated input and output devices, data storage devices, networking equipment, and back up facilities:

1. operated by and either owned by or leased to the **Named Insured**;
2. operated by a third party service provider and used for the purpose of providing hosted computer application services to the **Named Insured** or for processing, maintaining, hosting or storing the electronic data of the **Named Insured**, pursuant to a written contract with the **Named Insured** for such services.

“Computer System” shall include: the **Websites** of the **Named Insured** and the **Media Material** stored thereon; and call centers associated with any **Computer System**.

L. “Damages” means any compensatory sum and includes:

1. monetary judgments or settlements;
2. punitive or exemplary damages to the extent such damages are insurable under the law most favorable to the insurability of such damages of any jurisdiction which has a substantial relationship to the **Insured**, the **Company**, this Policy or the **Claim**;
3. pre-judgment and post-judgment interest.

“Damages” shall not include:

1. taxes, fines or statutory penalties, sanctions, whether imposed by law or otherwise (except as provided above with respect to punitive or exemplary damages);
2. the return, reduction or restitution of fees, expenses or costs for **Professional Services** performed or to be performed by the **Insured**, or disgorgement by any **Insured**;
3. matters uninsurable under the law pursuant to which this Policy is construed;
4. the cost of correcting, re-printing or re-performing or completing **Professional Services** or **Media Material**, including any media or products containing such **Media Material**;
5. future profits, future royalties, costs of licensing, or other costs of obtaining future use; or the costs to comply with orders granting injunctive relief or non-monetary relief, including specific performance, or any agreement to provide such relief.

M. “Infringement of Intellectual Property Rights” means plagiarism, piracy or misappropriation of ideas, infringement of copyright, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name or trade name in connection with the **Professional Services** of the **Named Insured**.

- N. **“Individual Insured”** means any past, present or future partner, member, director, officer, or employee of the **Broker/Dealer** who is not a **Registered Representative**.
- O. **“Insured”** means the **Broker/Dealer**, **Individual Insureds** and **Registered Representatives**.
- P. **“Investment Advisory Services”** means advisory services provided by a **Registered Investment Adviser** pursuant to the Investment Advisors Act of 1940 with respect to **Securities** approved by the **Broker/Dealer**, provided that, prior to providing such services, the **Registered Investment Adviser** gave written notice of such services to the **Broker/Dealer** and received written approval from the **Broker/Dealer** to conduct such transactions.
- Q. **“Internet”** means the worldwide public network of computers which enables the transmission of electronic data and which includes intranets, extranets and virtual private networks.
- R. **“Malicious Code”** means unauthorized and either corrupting or harmful software code, including but not limited to computer viruses, Trojan horses, worms, logic bombs, spy ware or spider ware.
- S. **“Media Communications”** means the display, broadcast, dissemination, distribution or release of **Media Material** to the public by the **Named Insured**, including **Media Material** disseminated electronically on the **Named Insured’s Internet Website**, **Computer System** or the **Internet**.
- T. **“Media Material”** means any data, e-mails, graphics, images, net or web casting, text, sounds, numbers or similar matter, including **Advertisements**. **Media Material** shall not include **Technology Products**.
- U. **“Named Insured”** means the entity stated in Item 2(A) of the Declarations.
- V. **“Natural Insured”** means an **Individual Insured** or a **Registered Representative** who is a natural person.
- W. **“Newly Acquired Subsidiary”** means any entity of which the **Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest:
1. subsequent to the inception date of this Policy by reason of being created or acquired by the **Named Insured** after such date, if the total annual revenue of such entity does not exceed fifteen percent (15%) of the total consolidated annual revenue of the **Named Insured** as of the immediate past 12 months prior to the inception date of this Policy;
 2. subsequent to the inception date of this Policy by reason of being created or acquired by the **Named Insured** other than as described in U.1. above, but only upon the conditions that:
 - a. within 60 days of such formation or acquisition, the **Named Insured** has provided the **Company** with written notice thereof, and the **Company** has agreed in writing to insure such entity, but the **Company** shall not be required to insure such entity;

b. the **Named Insured** has paid the additional premium, if any, charged by the **Company** and has agreed to any amendment of the provisions of this Policy.

X. **“Personal and Advertising Injury”** means injury other than **Bodily Injury** arising out of one or more of the following offenses:

1. unfair competition, dilution, deceptive trade practices, false advertising or misrepresentation, wrongful publication, defamation, slander or libel, product or service disparagement, trade libel or other tort related to disparagement or harm to the reputation or character of any person or organization in the **Media Communications** or **Advertisements** of the **Named Insured**;

2. misappropriation or misdirection of messages or media of third parties by the **Insured**, including metatags, **Website** domains and names, and related cyber content;

3. false arrest, detention, malicious use or abuse of process or malicious prosecution; libel, slander, oral or written publication of defamatory or disparaging material or publication in violation of an individual’s right to privacy; wrongful eviction or entry; or other invasion of privacy.

Y. **“Policy Period”** means the period from the inception date of this Policy to the Policy expiration date stated in Item 3 of the Declarations or its earlier cancellation date, if any.

Z. **“Professional Services”** means the following services which are provided by the **Insured** to others, including such services that are performed electronically utilizing the **Internet** or a network of two or more computers:

(1) the sale and/or servicing of **Securities** approved by the **Broker/Dealer**;

(2) the administration of individual retirement accounts, Keogh retirement plans, qualified 401(K) plans, and employee benefit plans (other than multiple employer or multiple employee welfare arrangements) but only with respect to **Securities** approved by the **Broker/Dealer**;

(3) the sale and/or servicing of life, health, annuities, accident and disability products, but only with respect to **Registered Representatives** who are duly licensed to do so and only with respect to products that have been approved by the **Broker/Dealer**;

(4) **Professional Supervision**;

(5) **Investment Advisory Services** but solely to the extent that such services are rendered by a **Registered Investment Adviser**;

(6) solely in connection with any of the activities or services described in (1)-(5) above, financial, economic and investment advice, financial planning, provision of computer or internet services, administrative services, and publication of any materials prepared or written by the **Broker/Dealer**.

AA. **“Professional Supervision”** means the **Broker/Dealer’s** selection of products approved for sale by its **Registered Representatives**, its oversight and direction of the performance of its **Registered Representatives**, and its creation and implementation of compliance and

supervisory procedures.

BB. “Property Damage” means injury to or destruction of any tangible property or loss of use resulting therefrom.

CC. “Registered Investment Adviser” means a **Registered Representative**, or any corporation, partnership or other business entity owned or controlled by a **Registered Representative**, providing **Investment Advisory Services** in its capacity as an investment adviser registered as such under the Investment Advisers Act of 1940, as amended.

DD. “Registered Representative” means:

- (1) any individual who is licensed as a registered representative or registered principal by the National Association of Securities Dealers, Inc. and who is an independent contractor with, or is employed by, the **Broker/Dealer** during the **Policy Period**;
- (2) the heirs, executors, administrators, or legal representatives of any individual described in (1) above, in the event of death, incapacity or bankruptcy of the individual;
- (3) any entity owned in its entirety by one or more individual(s) described in (1) above; and
- (4) employees of any individual described in (1) above or of any entity described in (3) above;

provided, that an individual or entity will be deemed a **Registered Representative** only with respect to his, her or its rendering of **Professional Services** on behalf of the **Broker/Dealer**.

EE. “Retroactive Date” means the date stated in Item 8 of the Declarations.

FF. “Securities” means common and preferred stocks, bonds, mutual fund shares, variable annuities, and any other instrument that is a “security” as that term is defined in the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or any rules or regulations promulgated thereunder.

GG. “Subsidiary” means:

1. any entity of which the **Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest on or before the inception date of this Policy;
2. any **Newly Acquired Subsidiary**.

The **Company** will only provide coverage for a **Subsidiary** with respect to a **Claim** arising out of a **Wrongful Act** committed on or after the date such **Subsidiary** became a **Subsidiary** and prior to the date such **Subsidiary** ceased to be a **Subsidiary**. An entity ceases to be a **Subsidiary** under this Policy on the date during the **Policy Period** that the **Named Insured’s** legal or beneficial interest in such entity becomes less than 50%. No coverage will be afforded under this Policy with respect to a **Claim** made against any **Insured** based on any **Wrongful Act** that was committed on or subsequent to such date.

HH. “Technology Products” means any computer hardware, software or related electronic product, equipment or device that is created, manufactured, developed, distributed, licensed,

leased, or sold by or on behalf of the **Named Insured** or by others acting under the **Named Insured's** trade name to others, including training in the use of such computer hardware, software or related technology products.

- II. “Unauthorized Access”** means the gaining of access to a **Computer System** by an unauthorized person or persons, or by an authorized person or persons in an unauthorized manner.
- JJ. “Unauthorized Use”** means the use of a **Computer System** by a person unauthorized by the **Insured** or a person authorized by the **Insured** who uses the **Computer System** for a purpose not intended by the **Insured**.
- KK. “Website”** means the software, content and other materials accessible via the **Internet** at a designated Uniform Resource Locator address.
- LL. “Wrongful Act”** means any actual or alleged act, error, omission, breach of fiduciary or other duty by an **Insured**, or by any person other than an **Insured** for whose actions the **Insured** is legally responsible, in rendering or in failing to render **Professional Services** for clients of the **Broker/Dealer**, including but not limited to:
- 1. Personal and Advertising Injury;**
 - 2. Breach of Privacy;**
 - 3. Breach of Security;**
 - 4. Infringement of Intellectual Property Rights.**

III. EXCLUSIONS

This Policy shall not apply:

- A.** to any **Claim** based upon, arising from, or in consequence of any fraudulent act or omission or any willful violation of any statute, rule or law by any **Insured**, if a final and non-appealable judgment or adjudication adverse to such **Insured** establishes such a fraudulent act or omission or willful violation;
- B.** to any **Claim** for:
- (1) **Bodily Injury**; provided, that this Exclusion will not apply to allegations of emotional distress or mental anguish if and only to the extent that they arise solely from an **Insured's** rendering of or failure to render **Professional Services**; or
 - (2) **Property Damage**; provided, that this Exclusion will not apply to any **Claim** arising from damage to, destruction of, loss of, or loss of use of, client records in an **Insured's** possession;
- C.** to any **Claim** based on or directly or indirectly arising out of or resulting from any **Insured** serving as a member, partner, principal, director, officer, trustee, or employee of: (1) any entity that is not an **Insured**, even if such service is directed or requested by an **Insured**; or

(2) any entity acquired by an **Insured**, whether by merger, consolidation or otherwise, at any time prior to the **Insured's** acquisition of such entity;

D. to any **Claim** brought by, on behalf of, or in the name or right of any **Insured**, any affiliate of any **Insured**, any employer or employee of any **Insured**, or any entity through which an **Insured** has sold any investment or insurance product; provided, that this Exclusion will not apply to any **Claim** by an **Insured** in the form of a crossclaim, third party claim or otherwise for contribution or indemnity which is part of and results directly from a **Claim** which is not otherwise excluded under this Policy;

E. to any **Claim** based upon, arising from, or in consequence of:

1. any written demand, litigation, proceeding, administrative action or hearing brought prior to or pending as of the Prior and Pending Litigation Date stated in Item 7 of the Declarations as well as any future litigation, proceeding, administrative action or hearing based upon any such pending or prior litigation, proceeding, administrative action or hearing or derived from the essential facts or circumstances underlying or alleged in any such pending or prior litigation, proceeding, administrative action or hearing; or

2. any circumstance, if written notice of such circumstance has been given under any policy of which this Policy is a direct or indirect renewal or replacement and if such prior policy affords coverage (or would afford such coverage except for the exhaustion of its limits of liability) for such **Claim**, in whole or in part, as a result of such notice;

F. to any **Claim** based upon or arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon the land, the atmosphere or any watercourse or body of water, including an aquifer or groundwater;

G. to any **Claim** based upon or arising out of any actual or alleged violation of the Employee Retirement Income Security Act of 1974 or amendments thereto, or similar provisions of any federal, state or local statute or common law, but only with respect to any benefit or welfare plan established or maintained for the purpose of providing benefits to any **Insured**;

H. to any **Claim** based upon or arising out of the any gaining by any **Insured** of any profit, remuneration or advantage to which the **Insured** was not entitled, including, without limitation, any **Insured's** use of, aiding or abetting the use of, or participation after the fact in the use of non-public information in violation of any law, rule or regulation;

I. to any **Claim** based upon or arising out of liability assumed by the **Insured** in a contract or agreement, but this exclusion shall not apply to:

1. liability of the **Insured** which would exist in the absence of such contract or agreement;

2. any **Claim** against an **Insured** by a client or customer, if and to the extent that the **Claim** alleges a breach of contractual obligations in the rendering of or failure to render **Professional Services**;

3. liability **Assumed Under Contract**;

- J. to any **Claim** based upon or arising out of any actual or alleged: patent infringement; or misappropriation of trade secrets;
- K. to any **Claim** brought by, on behalf of, or in the name or right of any governmental, quasi-governmental, regulatory, or self-regulatory entity, whether directly or indirectly, in any capacity other than its capacity as a direct client of an **Insured**;
- L. to any **Claim** based on or directly or indirectly arising out of or resulting from any failure, malfunction or breakdown of: any computer system, database or component (hardware or software); any other communications or information transmission system; or any digital, electronic or mechanical system or unit;
- M. to any **Claim** for or arising out of or resulting from unsolicited electronic dissemination of faxes or e-mails to multiple actual or prospective customers of the **Insured** or any other third party, including but not limited to actions brought under the Telephone Consumer Protection Act, any federal or state anti-spam statutes, and/or any federal or state statute, law or regulation relating to a person's or entity's right of seclusion. However, this Exclusion shall only apply to the **Breach of Privacy** coverage provided by this Policy;
- N. to any **Claim** based on or directly or indirectly arising out of or resulting from the insolvency of any bank, banking firm, broker or dealer in securities, clearing agency, insurance or reinsurance company, or any other person or entity; or the inability of any such entity or person to make any payment or settle or effect any transaction of any kind; provided, that this Exclusion will not apply to any **Claim** based on an **Insured's** investment in **Securities** of any such entity on behalf of the claimant;
- O. to any **Claim** brought by or on behalf of, or in the name or right of, any person or entity with a legal or equitable interest in any form of security of, or other ownership interest in, the **Broker/Dealer**, except to the extent such **Claim** is brought in such person's or entity's capacity as a client or customer of the **Broker/Dealer** and is brought and maintained independently of, and without the solicitation, assistance, participation or intervention of, any other **Insured**;
- P. to any **Claim** based on or directly or indirectly arising out of or resulting from any **Insured** acting or serving as a clearing agent, specialist or market maker for any securities or failing to clear or make a market for any securities;
- Q. to any **Claim** based on or directly or indirectly arising out of or resulting from an **Insured's** provision of investment banking services, including, without limitation, any of the following: service as an underwriter, consultant, adviser, or specialist; the giving of financial, economic or investment advice relating to or in connection with any actual or contemplated merger, acquisition, syndication, securities offering (regardless of whether the offering is primary or secondary, or public or private), restructuring, divestiture, proxy contest, or other form of investment banking; and services performed by an investment banking department in the ordinary course of business;
- R. to any **Claim** based on or directly or indirectly arising out of or resulting from the exercise of discretionary authority with regard to the disposition, management or supervision of assets; provided, that this Exclusion shall not apply to the **Insured's** provision of asset allocation services funded solely with mutual fund shares or variable annuities, as long as such services are provided strictly on a fee basis;

- S. to any **Claim** based on or directly or indirectly arising out of or resulting from any transaction involving any of the following: non-covered options; commodities; any type of futures contract; any equity security priced under five dollars (\$5.00) at the time of any transaction, unless the security is (i) traded on a national securities exchange, (ii) NASDAQ approved or authorized, or (iii) part of a mutual fund;
- T. to any **Claim** based on or directly or indirectly arising out of or resulting from any transaction involving any **Securities** or investment products not approved or authorized by the **Broker/Dealer** for sale by **Registered Representatives**.

Severability of Exclusions:

It is understood and agreed that except for **Claims** based on or directly or indirectly arising out of or resulting from, in whole or in part, an **Insured's** commission of or knowing participation in any embezzlement, misappropriation, commingling of funds, or criminal act, Exclusions III.A. and III.H. of this Policy shall only apply to an **Insured** if it is established in fact that the **Insured** participated in or acquiesced in the knowing, intentional, fraudulent, or dishonest act, the willful or intentional violation, or the gaining of profit, remuneration or advantage; and

provided further, that with respect to any **Claim** based on or directly or indirectly arising out of or resulting from, in whole or in part, an **Insured's** commission of or knowing participation in any embezzlement, misappropriation, commingling of funds, or criminal act, if, upon the final disposition of such a **Claim**, an **Insured** to whom Exclusions III.A. and/or III.H. of this Policy applies shall have been found by a court of competent jurisdiction not to have committed or knowingly participated in such embezzlement, misappropriation, commingling, or criminal act, the **Company** will reimburse that **Insured's Claim Expenses** in connection with the **Claim**, such reimbursement to constitute payment of **Claim** under this **Policy** and to be subject to any applicable retention and limit of liability under this **Policy**; and

provided further, that with respect to any other **Claim**, each **Insured** agrees that, if it is finally established that the **Company** has no liability to an **Insured** with respect to a **Claim** by reason Exclusions III.A. and/or III.H. of this Policy, such **Insured** will repay the Underwriter upon demand all **Claim Expenses** paid on behalf of such **Insured** in connection with the **Claim**;

IV. TERRITORY

This Policy applies to any **Wrongful Act** committed by the **Insured** anywhere in the world.

However, if a **Claim** is made and suit or arbitration proceedings are brought against the **Insured** outside the United States of America, its territories and possessions, Puerto Rico or Canada, the **Company** shall have the right but not the duty to investigate, settle or defend, the **Claim**, suit or arbitration proceedings. If the **Company** elects not to investigate, settle or defend the **Claim**, the **Insured**, under the supervision of the **Company**, shall make or cause to be made such investigation and defense as reasonably necessary and, subject to prior written authorization by the **Company**, may effect settlement. The **Company** will reimburse the **Insured** for **Claim Expenses** and **Damages** in excess of the applicable self-insured retention (if any) and subject to the applicable Limits of Liability set forth in Item 4 of the Declarations.

All monetary terms of this Policy are in United States of America dollars. If judgment is rendered, settlement is denominated or another element of **Damages** or **Claim Expenses** is stated

in a currency other than United States of America dollars, payment under this Policy shall be made in United States of America dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is reached, the amount of the settlement is agreed upon or the element of **Damages** or **Claim Expenses** is due, respectively.

No coverage will be available under this Policy for any **Claim** brought against the **Insured** in any country with which the United States of America does not have active diplomatic relations at the time such **Claim** is made.

V. LIMITS OF LIABILITY

- A.** The liability of the **Company** for all **Claim Expenses** and **Damages** for each **Claim** FIRST MADE AGAINST THE **INSURED** AND REPORTED TO THE **COMPANY** DURING THE **POLICY PERIOD**, THE AUTOMATIC EXTENDED REPORTING PERIOD OR THE OPTIONAL EXTENDED REPORTING PERIOD, IF PURCHASED, shall not exceed the amount stated in Item 4(A) of the Declarations for each **Claim**.
- B.** The total liability of the **Company** for all **Claim Expenses** and **Damages** for all **Claims** FIRST MADE AGAINST THE **INSURED** AND REPORTED TO THE **COMPANY** DURING THE **POLICY PERIOD**, THE AUTOMATIC EXTENDED REPORTING PERIOD OR THE OPTIONAL EXTENDED REPORTING PERIOD, IF PURCHASED, shall not exceed the amount stated in Item 4(B) of the Declarations as **Policy Period Aggregate**.
- C.** The Limits of Liability for **Claims** FIRST MADE AND REPORTED DURING THE AUTOMATIC EXTENDED REPORTING PERIOD OR THE OPTIONAL EXTENDED REPORTING PERIOD shall be part of, and not in addition to the Limits of Liability as stated in Item 4 of the Declarations and as stated above. If any **Insured** has purchased or does purchase other insurance covering **Claims** FIRST MADE AND REPORTED DURING THE AUTOMATIC EXTENDED REPORTING PERIOD OR THE OPTIONAL EXTENDED REPORTING PERIOD, the coverage provided under this Policy for such **Claims** shall apply in excess of such insurance.
- D. Self-Insured Retention.**
 - (1) The retention set forth in Item 5 (A) of the Declarations shall be the retention which shall apply to **Damages** and **Claim Expenses** resulting from any **Claim** made against a **Registered Representative** who is a **Natural Insured**, unless the **Claim** is also made against the **Broker/Dealer**, any **Individual Insured**, or any other **Registered Representative** that is not a **Natural Insured**, in which case the provisions of (2) below shall apply.
 - (2) The retention set forth in Item 5 (B) of the Declarations shall be the retention which shall apply to **Damages** and **Claim Expenses** resulting from any **Claim** made against a **Registered Representative** that is not a **Natural Insured**, unless the **Claim** is also made against the **Broker/Dealer** or any **Individual Insured**, in which case the provisions of (3) below shall apply. In the event that a **Registered Representative** that is not a **Natural Insured** is one of multiple **Registered Representatives** named in a **Claim**, the **Registered Representatives** that are not **Natural Insureds** shall be responsible, on a pro rata basis, for the entire applicable retention. The **Registered Representatives** agree to indemnify and hold harmless the **Company** for all or any portion of the retention owed by any other **Registered Representative**.

(3) The retention set forth in Item 5 (C) of the Declarations shall be the retention which shall apply to **Damages** and **Claim Expenses** resulting from any **Claim** made against the **Broker/Dealer** or any **Individual Insured**, whether severally or jointly with one or more **Registered Representative(s)**. In the event the **Broker/Dealer** or any **Individual Insured** is one of multiple **Insureds** named in a **Claim**, the **Broker/Dealer** shall be responsible for the entire applicable retention. The **Broker/Dealer** agrees to indemnify and hold harmless the **Company** for all or any portion of the retention owed by any **Individual Insured** or **Registered Representative**.

- E. Multiple Insureds, Claims and Claimants.** The inclusion herein of more than one **Insured** shall not operate to increase the **Company's** Limits of Liability. **Claims** alleging, based upon, arising out of or attributable to the same or related **Wrongful Act(s)** shall be treated as a single **Claim** regardless of whether made against one or more than one **Insured**. All such **Claims**, whenever made, shall be considered first made during the **Policy Period**, the Automatic Extended Reporting Period, or Optional Extended Reporting Period, if purchased, in which the earliest **Claim** arising out of such **Wrongful Act(s)** was first made, and all such **Claims** shall be subject to the Limits of Liability and retention set forth in such Policy.

VI. CLAIMS

- A. Notice of Claims.** As a condition precedent to coverage under this Policy, the **Insured** shall provide the **Company** written notice of any **Claim** made against any **Insured** as soon as practicable, but in no event later than: (1) the expiration date of this Policy; (2) the expiration date of the Automatic Extended Reporting Period; or (3) the expiration date of the Optional Extended Reporting Period, if purchased.

In the event a **Claim** is brought against any **Insured**, the **Insured** shall forward to the **Company** every demand, notice, summons, complaint or other process or any threat of an intention to hold the **Insured** responsible for any **Wrongful Act** received directly by the **Insured** or by the **Insured's** representatives. Written notice of any **Claim** against any **Insured**, as well as of each demand on or suit against the **Insured**, shall be delivered to the **Company** at the address stated in Item 11 of the Declarations.

- B. Discovery Clause.** If during the **Policy Period** any **Insured** first becomes aware or has reasonable grounds to suspect that an **Insured** has committed or may have committed a specific **Wrongful Act** for which coverage is otherwise provided hereunder, and provided the **Insured** during the **Policy Period** gives notice to the **Company** of:

1. the specific **Wrongful Act**;
2. the injury or damage which has resulted or may result from such **Wrongful Act**; and
3. the circumstances by which the **Insured** first became aware of or suspected such **Wrongful Act**;

then any **Claim** that may subsequently be made against any **Insured** arising out of such **Wrongful Act** shall be deemed for the purposes of this insurance to have been made during the **Policy Period**.

- C. Assistance and Cooperation of the Insured.** The **Insured** shall cooperate with the **Company** and upon the **Company's** request shall (1) provide to the **Company** copies of documents and such other things held by or available to the **Insured** which relate to any **Claim** or to the **Wrongful Act**, transactions or other events which shall have given rise to such **Claim**, (2) submit to examination and interview by a representative of the **Company**, under oath if required, (3) attend hearings, depositions and trials, (4) assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits and other proceedings, as well as in the giving of a written statement or statements to the **Company's** representatives and meeting with such representatives for the purpose of investigation and/or defense and, (5) render written status reports regarding each **Claim** no less frequently than every three months and otherwise as may be necessary in order to keep the **Company** currently informed as to fees, costs and expenses being incurred in connection with such **Claim** and as to all material developments or anticipated developments in connection with such **Claim**, including but not limited to such subjects as settlement, potentially dispositive motions as to the **Claim** in its entirety or any aspect thereof and the deposition of any **Insured**, all without charge to the **Company**.

The **Insured** shall further cooperate with the **Company** and do whatever is necessary to secure and affect any rights of indemnity, contribution or apportionment which any **Insured** may have. The **Insured** shall exercise the right to either reject or demand the arbitration of any **Claim** made against the **Insured** in accordance with the written instructions of the **Company**. The **Insured** shall not, except at the **Insured's** own cost, make any payment, admit any liability, settle any **Claims**, or assume any obligation, provided, however, the **Insured** shall have the right to make any settlement of any **Claim** covered by the terms of this Policy subject to the condition that the aggregate amount of such settlement and of the **Claim Expenses** incurred in connection with such **Claim** shall not exceed the self-insured retention amount stated in Item 5 of the Declarations.

- D. False or Fraudulent Claims.** If any **Insured** shall knowingly submit a false **Claim** or commit fraud in proffering any **Claim** under this Policy, as regards amount or otherwise as to any material fact, the insurance provided under this Policy shall become void as to such **Insured** from the date such false or fraudulent **Claim** is proffered, without regard to whether the **Company** has actually relied upon or been damaged by such **Claim**.

VII. EXTENDED REPORTING PERIODS

- A. Automatic Extended Reporting Period.** If the **Company** or the **Named Insured** shall cancel or refuse to renew this Policy, then the **Company** shall provide the **Named Insured** an automatic and noncancellable extension of this Policy, subject otherwise to its terms, Limits of Liability, exclusions and conditions, to apply to **Claims** first made against the **Insured** during the sixty (60) days immediately following the effective date of such nonrenewal or cancellation, for any **Wrongful Act** committed before the effective date of such nonrenewal or cancellation and after the **Retroactive Date**, and otherwise covered by this insurance. This Automatic Extended Reporting Period shall terminate after sixty (60) days from the effective date of such nonrenewal or cancellation.
- B. Optional Extended Reporting Period.** If the **Company** or the **Named Insured** shall cancel or refuse to renew this Policy, then the **Named Insured**, upon payment of an additional premium as set forth herein, shall have the option to extend this Policy, subject otherwise to its terms, Limits of Liability, exclusions and conditions, to apply to **Claims** first made against the **Insured** during the 12, 24, 36, 48, or 60 months as purchased immediately following the

effective date of such nonrenewal or cancellation, for any **Wrongful Act** committed before the effective date of such nonrenewal or cancellation and after the **Retroactive Date**, and otherwise covered by this insurance. The extension, if purchased, shall be endorsed hereto and shall be referred to as the "Optional Extended Reporting Period." The premium for the Optional Extended Reporting Period, if purchased, shall be 12 months at 100%, 24 months at 150%, 36 months at 200%, 48 months at 225%, or 60 months at 250%, of the full annual premium for this Policy, plus any additional premium owed for this Policy.

- C. The **Named Insured's** option to elect the Optional Extended Reporting Period must be exercised by notice in writing to the **Company** not later than thirty (30) days after the effective date of the nonrenewal or cancellation of this Policy. If the premium for the Optional Extended Reporting Period is not paid within thirty (30) days of the effective date of the nonrenewal or cancellation of this Policy, the option to elect the Optional Extended Reporting Period shall be void.
- D. At the commencement of the Optional Extended Reporting Period, the entire premium shall be deemed fully earned, and in the event the **Named Insured** terminates the Optional Extended Reporting Period for any reason, the **Company** shall not be liable to return to the **Named Insured** any portion of the premium for the Optional Extended Reporting Period.
- E. As a condition precedent to the **Named Insured's** option to elect the Optional Extended Reporting Period, any and all premiums and self-insured retentions that are due must have been paid and the **Named Insured** must have complied with all other terms and conditions of this Policy. If such conditions precedent are not satisfied or if the notice required under this Section VII. C. is not timely given to the **Company**, the **Named Insured** shall not at a later date be able to exercise such option.
- F. If this Policy is cancelled or nonrenewed due to the nonpayment of premium, the Automatic Extended Reporting Period or Optional Extended Reporting Period shall not be available to any **Insured**. The Automatic Extended Reporting Period or Optional Extended Reporting Period shall not be available to any **Insured**: (1) whose fraud causes this Policy to be cancelled or nonrenewed, or (2) whose license, right to practice, or right to conduct business has been revoked, suspended by, or surrendered at the request of, any regulating authority.
- G. The fact that the period during which **Claims** must first be made against the **Insured** and reported to the **Company** under this Policy is extended by virtue of any Automatic Extended Reporting Period or Optional Extended Reporting Period shall not in any way increase the Limits of Liability of this Policy.
- H. The first sixty (60) days of the Optional Extended Reporting Period, if purchased, shall run concurrently with the Automatic Extended Reporting Period.

VIII. CONDITIONS

- A. **Subrogation.** In the event of any payment under this Policy, the **Company** shall be subrogated to all the **Insured's** rights of recovery therefore against any person or organization. The **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights and the **Insured** shall do nothing to prejudice such rights. Any amount recovered upon the exercise of such rights of subrogation shall be applied as follows: first, to the repayment of expenses incurred toward subrogation; second, to **Damages** and/or **Claim Expenses** paid by the **Insured** in excess of the Limits of Liability

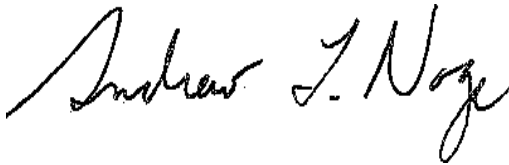
hereunder; third, to **Damages** and/or **Claim Expenses** paid by the **Company**; fourth, to **Damages** and **Claim Expenses** paid by the **Insured** in excess of the self-insured retention; and last, to repayment of the self-insured retention.

- B. Action Against the Company.** No action shall lie against the **Company** unless, as a condition precedent thereto, the **Insured** shall have fully complied with all the terms of this Policy, nor until the amount of the obligation of the **Insured** to pay shall have been fully and finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the claimant and the **Company**. In the event any person or organization or the legal representative thereof has secured a judgment against an **Insured** and such judgment remains unsatisfied after the expiration of thirty (30) days from the service of notice of entry of the judgment upon the attorney for the **Insured**, or upon the **Insured**, and upon the **Company**, then an action may, except during a stay or limited stay of execution against the **Insured** on such judgment, be maintained against the **Company** under this Policy for the amount of such judgment to the extent of the insurance afforded by this Policy. Nothing contained in this Policy shall give any person or organization the right to join the **Company** as a party in any action against any insured to determine the **Insured's** liability. Bankruptcy or insolvency of any **Insured** or of the **Insured's** estate shall not relieve the **Company** of any of its obligations hereunder.
- C. Representations and Severability.** In issuing this Policy, the **Company** has relied upon the statements, representations and information contained in the **Application**. Every **Insured** acknowledges and agrees that all such statements, representations and information (i) are true and accurate, (ii) were made or provided in order to induce the **Company** to issue this Policy, and (iii) are material to the **Company's** acceptance of the risk to which this Policy applies. If any of the statements, representations or information in the **Application** (hereafter referred to as "Facts") are not true and accurate, there shall be no coverage for any **Claim** made pursuant to this Policy with respect to any **Insured Person** who knew, as of the effective date of the **Policy Period**, of any Facts that were not truthfully and accurately disclosed in the **Application**. The knowledge of any **Insured Person** shall not be imputed to any other **Insured Person** for the purposes of determining coverage.
- D. Other Insurance.** This insurance shall be in excess of the amount of the applicable self-insured retention of this Policy and any other valid insurance available to the **Insured** whether such insurance is collectible or uncollectible only because the Limits of Liability thereof shall have been exhausted, whether such other insurance is stated to be primary, pro rata, contributory, excess, contingent or otherwise, unless such other insurance is written only as a specific excess insurance over the Limits of Liability provided in this Policy.
- E. Changes.** Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the **Company** shall not affect a waiver or a change in any part of this Policy or estop the **Company** from asserting any right under the terms of this Policy, nor shall the terms of this Policy be waived or changed, except by written endorsement issued to form a part of this Policy.
- F. Assignment.** Assignment of interest under this Policy shall not bind the **Company** unless its consent is endorsed in writing hereon.
- G. Cancellation.** This Policy may be canceled by the **Named Insured** by mailing or delivering prior written notice to the **Company** or by surrender of this Policy to the **Company**. If this Policy is canceled by the **Named Insured**, the **Company** shall retain the greater of the

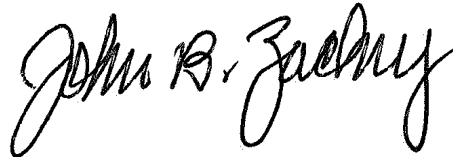
customary short rate proportion of the premium hereon or the Earned Minimum Premium set forth in Item 6(B) of the Declarations. This Policy may also be canceled by or on behalf of the **Company** by delivering to the **Named Insured** by registered, certified or other first class mail, or by electronic means, written notice stating when not less than ninety (90) days after the date of such notice the cancellation shall be effective. The proof of delivery of such notice shall be sufficient proof of notice. If this Policy is canceled by or on behalf of the **Company**, the **Company** shall retain the pro rata proportion of the premium hereon. The **Company** may cancel this Policy on ten (10) days notice for nonpayment of premium due.

- H. Conformity to Statute.** Any terms of this Policy which are in conflict with the terms of any applicable laws construing this Policy are hereby amended to conform to such laws.
- I. Singular Form of a Word.** Whenever the singular form of a defined word is used herein, the same shall include the plural when required by context.
- J. Named Insured Authorization.** By acceptance of this Policy, the **Named Insured** agrees to act on behalf of every **Insured** with respect to the payment or return of premium, the receipt and acceptance of any endorsements, the cancellation of the Policy, the negotiation of renewal, and the giving and receiving of any notice provided for by the terms and conditions of this Policy.

IN WITNESS WHEREOF, the **Company** has caused this Policy to be signed by our President and Secretary and countersigned where required by law on the Declarations page by our duly Authorized representative.



Secretary



President