

# MANAGEMENT CONSULTING PROFESSIONAL LIABILITY INSURANCE

## Claims - Made and Reported

THIS IS A **CLAIMS - MADE AND REPORTED** POLICY. PLEASE READ THIS POLICY CAREFULLY. OUR LIMIT OF LIABILITY AVAILABLE WILL BE REDUCED BY THE AMOUNTS PAID FOR **DAMAGES AND CLAIM EXPENSES**.

Throughout this policy the words you and your refer to the **Named Insured** as defined in Section II. L. The words we, us and our refer to Admiral Insurance Company (Company). Words which are in **bold** writing throughout this document are defined terms within the Definitions section of this policy.

In consideration of the premium paid, in reliance upon the statements in the Application(s) which are made a part of this policy and subject to the terms and conditions of this policy, the Company agrees with the **Named Insured** as follows:

### I. INSURING AGREEMENTS

- A. We will pay on behalf of the **Insured** those amounts which the **Insured** is legally obligated to pay as **damages** caused by a **professional incident** taking place within the policy territory and subsequent to the retroactive date and prior to the expiration or termination date of this policy, for which a **claim** is first made against the **Insured** during the **policy period** and reported to us in writing during the **policy period** or any applicable extended reporting period, as described in Section VI. Extended Reporting Period; provided that prior to the inception date of this policy, no **Insured** knew, nor could have reasonably foreseen, that the **professional incident** might result in a **claim**.
- B. We have the right and duty to defend any **claim** brought against the **Insured** seeking **damages** caused by a **professional incident** to which this insurance applies, including the right to appoint counsel to defend the **Insured**, and will do so even if any of the allegations of the **claim** are groundless, false or fraudulent. We may make such investigation of any **claim** as we deem expedient. Our right and duty to defend ends when we have used up the applicable Limits of Liability in the payment of **damages** and/or **claim expenses**, or have tendered the applicable Limits of Liability to a court of competent jurisdiction. We have no obligation or duty to defend any **claim** for which coverage is excluded hereunder or not otherwise afforded by this policy and we are not obligated to pay any **claim expenses** incurred by the **Insured** in the defense of any **claim** not covered by this policy.
- C. We will have the right to make, with the consent of the **Named Insured**, any settlement of a **claim** under this policy. If the **Named Insured** refuses to consent to a settlement within the policy's applicable Limits of Liability that is recommended by us and acceptable to the claimant(s), then the Limits of Liability under this policy will be reduced to the sum of the amount of **damages** for which the **claim** could have been settled, plus all **claim expenses** incurred up to the time we made our recommendation. Additionally, we shall pay fifty percent (50%) of all **claim expenses** and **damages** incurred after the **Named Insured's** refusal to consent, subject at all times to the applicable Limits of Liability as specified in Section VII. LIMITS OF LIABILITY AND DEDUCTIBLE. At all times, we shall retain the right and duty to defend any **claim** brought against the **Insured** seeking **damages** caused by a **professional incident** to which this insurance applies, including the right to appoint counsel.

### II. DEFINITIONS

- A. **Advertising Activities** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purpose of this definition:
  - 1. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - 2. Only that part of a web-site that promotes your goods, products or services for the purpose of attracting customers or supporters shall be considered **Advertising Activities**.

- B. Advertising Injury** means injury arising out of one or more of the following offenses committed in the course of the **Named Insured's Advertising Activities**:
1. Libel, slander or defamation;
  2. Disparaging a person's or organization's goods, products or services;
  3. Misappropriation of advertising ideas or style of doing business;
  4. Piracy or unfair competition;
  5. Use of another's advertising ideas; or
  6. Infringing upon another's copyright, title, slogan, patent, trademark, trade name, trade dress or service mark in your **advertising activities**.

**C. Automobile** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto). **Automobile** also includes vehicles commonly described as mobile equipment, whether or not self-propelled, subject to vehicle registration or designed for use principally off public roads.

**D. Bodily Injury** means physical injury, sickness, disease, mental anguish, or emotional distress sustained by a person, including death resulting from any of these at any time.

**E. Claim** means:

1. a written demand received for money or services by any **Insured** resulting from a **professional incident**.
2. service of **suit** against an **Insured**.

**Claim** includes **Related Claims**. **Related Claims** means two or more **Claims** arising out of a **Professional Incident** or **Professional Incidents** that are logically or causally connected.

**F. Claim Expenses** means:

1. Fees, costs and expenses resulting from the investigation, adjustment, settlement and defense of a **claim**.
2. Allowable expenses of \$250 per day but no more than \$5,000 in total for the compensation of all **Insureds** for personally attending any legal proceeding at our request. These allowable expenses shall not be applied to the applicable limit of liability or to the deductible.
3. The premiums for appeal, attachment or similar bonds, but only for bond amounts within the applicable Limits of Liability. We do not have to furnish these bonds.
4. Prejudgment interest awarded against the **Insured** on that part of any covered judgment we pay. If we make an offer to pay the applicable Limits of Liability, we will not pay any prejudgment interest based on that period of time after the offer.
5. All interest on the full amount of any covered judgment that accrues after entry of the judgment and before we have paid, offered to pay, or have tendered or deposited to a court of competent jurisdiction the part of the judgment that is within the applicable Limits of Insurance.

**Claim Expenses** do not include:

1. salaries or expenses of our regular employees or officials;
2. fines, penalties, or taxes levied against the **Insured**;
3. fees, costs, or expenses incurred by the **Insured** without our prior written consent. These unilaterally incurred fees, costs, or expenses will not be reimbursed by us nor reduce the deductible under the policy.

**G. Damages** means a monetary and compensatory judgment, award or settlement, including punitive or exemplary **damages** to the extent such amounts are insurable and defined by applicable law and, or statute.

Any insurance afforded by this policy for punitive or exemplary **damages** shall be subject to a sub-limit in the maximum amount of \$250,000.

The sub-limit for punitive or exemplary **damages** is included within and is not in addition to the policy's Limits of Liability.

However, **damages** shall not include:

1. any **damages**, other than punitive or exemplary **damages**, which are a multiple of compensatory **damages**, taxes or fees;

2. amounts the **Insured** is required to pay or return as restitution;
3. fines, penalties, sanctions, taxes or fees, other than punitive or exemplary **damages**, assessed against the **Insured**;
4. judgments or awards arising from acts deemed uninsurable by law;
5. fees or charges, including over-charges or cost overruns incurred by an **Insured**;
6. collecting fees of an **Insured** from a third party;
7. the return of fees or other compensation paid to an **Insured**;
8. non-pecuniary relief.

**H. Disciplinary Proceeding** means any proceeding by an administrative, regulatory or disciplinary official, board, or agency to investigate charges of professional misconduct in the performance of or failure to perform **professional services**. However, **Disciplinary Proceeding** shall not include a criminal proceeding.

**I. Insured** means:

1. the **Named Insured**;
2. your principals, partners, executive officers, directors, members, managers, stockholders, trustees, and current and former employees while acting on your behalf within the course and scope of their duties as such;
3. in the event of death or incapacity of any **Insured**, their legal representative in his or her capacity as such, for any **claim** against the **Insured**;
4. leased personnel under your supervision, but only while acting on your behalf within the course and scope of their lease agreement and only if the **Named Insured** has agreed in writing to provide insurance to leased personnel;
5. a temporary worker under your supervision, who is furnished to you to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions;
6. any **Subsidiary**.

**J. Intellectual Property** means property that is created through the intellectual efforts of its creator which is claimed to be protected by law.

**K. Mediation** means the voluntary and nonbinding process by which the **Insured** and claimant(s) agree to use a neutral and qualified third party to intercede between the **Insured** and claimant(s) with the intention to reconcile the **Insured** and claimant(s) to resolve a **claim**. Court ordered or imposed mediation or other court ordered dispute resolution are specifically excluded from this definition.

**L. Named Insured** means the entity or individual named in the Declarations.

**M. Newly Acquired Subsidiary** means any entity newly formed or acquired by the **Named Insured** during the **policy period** in which the **Named Insured** has more than 50% of the legal or beneficial interest, but only if each of the following conditions have been satisfied:

1. Within 60 days of such formation or acquisition, the **Named Insured** has provided the Company with full particulars of such **newly acquired subsidiary** and the Company has agreed in writing to insure such **newly acquired subsidiary**, but the Company shall not be required to insure such **newly acquired subsidiary**; and
2. 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.

Coverage for any **newly acquired subsidiary** provided under this policy is limited to **claims** arising out of a **professional incident** that is committed on or after the date such **newly acquired subsidiary** became a **newly acquired subsidiary** and prior to the date such **newly acquired subsidiary** ceased to be a **newly acquired subsidiary**. An entity ceases to be a **newly acquired 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%.

**N. Other Insurance** includes, but is not limited to, coverage or benefits provided by self-insurance arrangements, pools, self-insurance trusts, captive insurance companies, inter-insurance exchanges, mutual insurance companies, stock insurance companies, risk retention groups, reciprocal exchanges, mutual benefit or assistance programs, or any other plan or agreement of risk assumption.

- O. Personal Injury** means injury arising out of one or more of the following offenses:
1. false arrest, detention or imprisonment;
  2. malicious prosecution;
  3. wrongful entry or wrongful eviction;
  4. invasion of right of private occupancy;
  5. oral or written publication of material that slanders or libels a person or organization or defames or disparages a person's or organization's goods, products or services;
  6. oral or written publication of material that violates a person's right of privacy.
- P. Policy Period** means the period from the inception date stated in the Declarations to the expiration date stated in the Declarations, or its earlier termination date, if any.
- Q. Professional Incident** means:
1. **personal injury** committed by the **Insured** in the rendering of or failure to render **professional services** by the **Insured** or a person acting under the **Insured's** direction, control or supervision and for whose acts, errors or omissions the **Insured** is legally liable; or
  2. a negligent act, error or omission in the rendering of or failure to render **professional services** by the **Insured** or a person acting under the **Insured's** direction, control or supervision and for whose acts, errors or omissions the **Insured** is legally liable.
- All **professional incidents** that are logically or causally connected will be deemed one **professional incident** that, for the purpose of determining coverage under this policy, occurred at the time of the earliest act, error or omission.
- R. Professional Services** means services performed by an **Insured** for others involving specialized training, knowledge and skill while in the pursuit of the business stated in the Declarations.
- S. Property Damage** means:
1. physical injury to or destruction of tangible property, including all resulting loss of use of that property; or
  2. clean up costs other than for clean up or removal of hazardous substances; or
  3. loss of use of tangible property that has not been physically injured or destroyed.
- T. 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**.
- U. Suit** means a civil proceeding in which **damages** resulting from a **professional incident** are alleged. **Suit** includes an arbitration proceeding to which the **Insured** is required to submit or to which the **Insured** has submitted with our consent.

### III. INCIDENT REPORTING PROVISIONS

If during the **Policy Period**, you first become aware of any specific and identifiable **professional incident** and during the **Policy Period** give written notice to us of:

- a) The specific **professional incident** including the date(s) and parties involved; and
- b) The **damages** which have or may result from such **professional incident**; and
- c) The circumstances by which you first became aware of such **professional incident**.

For the purposes of this insurance, a **professional incident** reported under this provision shall be deemed a **claim**.

### IV. POLICY TERRITORY

#### Worldwide

This policy applies to **professional incidents** anywhere in the world except any location that is subject to trade or other economic sanctions or embargo by the United States of America, or where coverage is otherwise prohibited by the United States Office of Foreign Assets Control.

#### **A. Claims Outside of the United States of America, Puerto Rico and Canada**

If a **Claim** is brought outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, the following shall apply:

1. We will have the right but not the duty to defend the **claim** or **suit**.
2. The **Insured** will initiate a defense of the **claim** or **suit** in accordance with the following conditions:
  - a. We retain the right to assume and control the investigation, adjustment or defense of any **claim** or **suit** at any time.
  - b. In the event we do not exercise our right or are prevented from doing so because we are not licensed or permitted by law in the applicable jurisdiction to defend the **Insured**, we will reimburse the **Insured** for any reasonable and necessary **claim expenses** incurred for the investigation of a **claim** or defense of a **suit** seeking **damages** to which this insurance applies, that we would have paid had we exercised our right to defend. No such **claim expenses** or **damages** shall be paid by any **Insured** without our prior written consent.

#### **B. Payment of Sums Outside of the United States of America, Puerto Rico and Canada**

1. If the **Insured** becomes legally obligated to pay sums because of **damages** to which this insurance applies in a part of the policy territory outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented from paying such sums and associated **claim expenses**, if applicable, because we are not licensed or permitted by law in the applicable jurisdiction to pay such sums on the **Insured's** behalf, we will reimburse the **Insured** for such sums to the extent permitted by law.
2. The premium and all payments or reimbursements we make for **damages** and **claim expenses** because of judgments or settlements are payable when due in United States currency unless otherwise specified in the Declarations. If judgment is rendered, settlement is made or another element of sums paid for **damages** or **claim expenses** is stated in a currency other than United States currency, then payment under this insurance shall be made in the currency stated in the Declarations at the prevailing rate of exchange as published on OANDA.com as of the date payment is made. In no event shall we pay more than the Limits of Insurance shown in the Declarations.

#### **C. Coverage Disputes**

1. Any disputes between you and us as to whether there is coverage under this insurance must be filed in the courts of the United States of America (including its territories and possessions), Puerto Rico or Canada.

#### **D. Compulsory Coverage**

The **Insured** must fully maintain any insurance coverage required by law, regulation or other governmental authority during the **policy period**, except for reduction of the aggregate Limits of Insurance as shown in the declarations due to payments of **claims**, settlements or judgments, **damages**, or **claim expenses**.

##### **1. No Substitute for Compulsory Coverage**

This insurance is not a substitute for any insurance coverage that is required by law, regulation or other governmental authority that is required to be in force to satisfy the legal requirements of a given jurisdiction.

##### **2. Failure to Maintain Compulsory Coverage**

Failure to maintain such insurance coverage required by law, regulation or other governmental authority will not invalidate this insurance; however, this insurance will apply as if the insurance coverage required by law, regulation or other governmental authority was in full effect.

#### **V. EXCLUSIONS**

This policy does not apply to:

- A.** A **claim** made by an **Insured** against any other **Insured**;
- B.** Any **claim** based upon or arising out of, in whole or in part, directly or indirectly, a wrongful, dishonest, fraudulent, criminal or malicious act if a final, non-appealable judgment or adjudication adverse to the **Insured** establishes such a wrongful, dishonest, fraudulent, criminal or malicious act.

This exclusion does not apply to **Claim Expenses** incurred in defending any such **Claim** alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction against any **Insured**, or admission by an **Insured**, establishing such wrongful, criminal, dishonest, fraudulent or malicious conduct or a plea of nolo

contendere or no contest regarding such conduct, at which time the **Named Insured** shall reimburse us for all **Claim Expenses** incurred defending the **Claim** and we shall have no further liability for **Claim Expenses**.

This exclusion does not apply to any liability of the **Named Insured** or any **Insured** that did not personally participate in or personally commit the wrongful, dishonest, fraudulent, criminal or malicious act, if coverage would otherwise be afforded by this policy for the resulting **damages**.

- C. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, the ownership, maintenance, use, loading, unloading, or entrustment to others, including the loaning thereof, of:
  - 1. any airplane, helicopter or aircraft;
  - 2. any **automobile**, motorcycle, moped, truck, three-wheeler, snowmobile or other motor vehicle of whatever type or nature, whether designed for travel on or off public roads; or
  - 3. any motor or sail boats or other watercraft, of whatever type or nature, owned, operated, rented by or loaned to any **Insured**.
- D. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, the insolvency or bankruptcy of any **Insured** or any person, firm or organization;
- E. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, discrimination, violation of civil rights, or any allegation that a person was subjected to unfair treatment or a denial or reduction of benefits, privileges or accommodation in violation of any law, statute, ordinance or regulation designed to ensure equal access to opportunities, goods, services, facilities, and accommodations;
- F. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, sexual harassment, coercion, quid-pro-quo offer of **professional services** for sexual favors, or other verbal or physical conduct of a sexual nature;
- G. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, sexual abuse;
- H. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, any **Insured's** activities as owner, sole proprietor, superintendent, executive officer, director, partner, trustee or employee of any organization which is not shown as a **Named Insured** on this policy;
- I. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, the presence, discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, oil or other petroleum substances or derivatives, waste materials or other irritants, contaminants, pollutants or any substances including asbestos which are or may be injurious to public health or the environment (herein called hazardous substances) into or upon land, the atmosphere or any water course or body of water or indoors.

It is further agreed that this policy does not apply to any **claim** or liability including expenses for:

- 1. the costs of clean up or removal of hazardous substances; or
  - 2. the cost of such actions as may be necessary to monitor, assess and evaluate, the presence, discharge, dispersal, escape, release, or threat of same, of hazardous substances; or
  - 3. the cost of disposal of hazardous substances or the taking of such other action as may be necessary to temporarily or permanently prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result; or
  - 4. any loss, cost, or expense arising out of any government direction or request that the **Named Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants.
- J. any **claim** for which you or any carrier as your insurer may be liable, under any Workers' Compensation, Unemployment Compensation, Disability Benefits Law, the Employee Retirement Income Security Act of 1974 and as amended, or under any similar law or regulation; or to any liability of the **Insured** arising out of the injury, sickness, disease or death resulting therefrom of any employee of any **Insured** arising out of and in the course of his employment by the **Insured**;
  - K. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any nuclear reaction, radiation or contamination, under any circumstances and regardless of cause, within or originating from a nuclear facility;
  - L. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any misappropriation, infringement, or use of a copyright, title, slogan, patent, trademark, trade-name, trade dress, service mark, domain name, trade secret or any violation of an intellectual property right or law;

- M. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, **bodily injury, property damage, advertising injury**;
- N. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, liability you assume under any contract or agreement; however, this exclusion does not apply to liability you would have in the absence of such contract or agreement;
- O. any **claim** against an **Insured** that is brought by or on behalf of any federal, state or local government agency or professional or trade licensing organization; however, this exclusion shall not apply where the **claim** alleges a **professional incident**;
- P. any **claim** alleging, in whole or in part, directly or indirectly, an **Insured** exceeded a contract price, cost guarantee or cost estimate;
- Q. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, express warranties or guarantees;
- R. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, fee disputes;
- S. any **claim** based upon or arising out of, in whole or in part, directly or indirectly, any deficiency or malfunction of any product, process, technique or equipment which is sold, manufactured or furnished by or on behalf of the **Insured**;
- T. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any **claim** or circumstance that is reported to any other insurer by any **Insured** prior to the effective date of this policy;
- U. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any refusal to employ; termination of employment; or coercion, demotion, discipline, evaluation, reassignment or other employment-related act, omission, policy or practice. This exclusion applies whether you are held liable as an employer or in any other capacity;
- V. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, unfair competition;
- W. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, services performed by or for the **Insured** in the preparation or approval of maps, plans, opinions, estimates, surveys, designs or specifications of supervisory, inspection, or engineering services;
- X. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, the advising or requiring of or failure to advise or require, or failure to maintain, any form of insurance, reinsurance, self-insurance, suretyship or bond;
- Y. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, the giving of investment advice or while acting as an investment counselor or financial advisor;
- Z. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, the failure to invest or the lack of performance of any investment or from any variation in the market value of any investment;
- AA. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any **Insured** gaining any profit or advantage to which the **Insured** is not legally entitled;
- BB. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, the performance of **Professional Services** with respect to the management of assets under a discretionary or non-discretionary contract, whether written or oral;
- CC. any **claim** based upon or arising out of, directly or indirectly, in whole or in part, any merger, acquisition, restructuring or divestiture.

## VI. EXTENDED REPORTING PERIOD

As a condition precedent to your right to obtain an Automatic Extended Reporting Period (AERP) or an Extended Reporting Period (ERP), the full premium of this policy, premium for endorsements or audits, and payment of deductibles must have been paid in full. Neither the AERP nor the ERP reinstate or increase the Limits of Liability. Neither the AERP nor the ERP extend the **policy period** or change the scope of coverage afforded by this policy.

### A. Automatic Extended Reporting Period (AERP)

If we or you cancel or non-renew this policy for any reason other than non-payment of premium, non-payment of deductible, non-compliance with any terms and conditions of this policy, fraud or material misrepresentation then you shall be entitled to an Automatic Extended Reporting Period (AERP) period of (60) sixty days from the date of policy expiration or cancellation to report **claims** in writing to us which are first made against the **Insured** during the

**policy period** and arise out of a **professional incident** which takes place subsequent to the retroactive date and prior to the policy expiration or cancellation date. If the ERP in Section B below is purchased then this AERP shall be included within such ERP.

**B. Extended Reporting Period (ERP)**

If we or you cancel or non-renew this policy for any reason other than non-payment of premium, non-payment of deductible, non-compliance with any terms and conditions of this policy, fraud or material misrepresentation then you shall be entitled to purchase an ERP from the options below which begins from the date of policy expiration or cancellation to report **claims** in writing to us which are first made against the **Insured** during the **policy period** or ERP and arise out of a **professional incident** which takes place subsequent to the retroactive date and prior to the policy expiration or cancellation date.

**1. ERP Options**

- a.** One year for a premium not to exceed 125% of the annual premium.
- b.** Two years for a premium not to exceed 150% of the annual premium.
- c.** Three years for a premium not to exceed 175% of the annual premium.

**2.** Your right to purchase the ERP must be exercised by notice in writing to us no later than (30) thirty days after the expiration or cancellation date of this policy and must include payment of premium for the ERP. Upon receipt of the written notice to us and the premium for the ERP, the entire premium is deemed fully earned and is non-refundable.

**VII. LIMITS OF LIABILITY AND DEDUCTIBLE**

**A.** The Limits of Liability stated in the Declarations is the maximum we will pay regardless of the number of **Insureds**, individuals or organizations that make a **claim**, or number of **claims** made.

**B. Limit of Liability – Aggregate**

The Limit of Liability – Aggregate, as stated in the Declarations, is the maximum amount we will pay for all **claim expenses** and **damages** for all **claims** covered under this policy.

**C. Limit of Liability – Each Claim**

Subject to the Limit of Liability - Aggregate, the Limit of Liability – Each **Claim**, as stated in the Declarations, is the maximum amount we will pay for **claim expenses** and **damages** attributable to any one **claim** covered under this policy.

**D.** Our duty to defend will end when our Limits of Liability have been exhausted by payment of **claim expenses** and/or **damages** or have been tendered to a court of competent jurisdiction.

**E. Deductible**

The deductible amount stated in the Declarations applies to each **claim** and shall be paid by the **Named Insured**. The deductible applies to **claim expenses** and **damages** and is part of and not in addition to the Limits of Liability stated in the Declarations. We may advance payment of part or all of the deductible amount and upon notification of such payment being made, the **Insured** must promptly reimburse the Company for the deductible amounts advanced by us.

**F. Mediation of Claim**

If **mediation** is used as a means to resolve a **claim** made against the **Insured**, and such **claim** is resolved solely, directly and immediately by the **mediation**, then the deductible obligation of the **Insured** shall be reduced by 50%, subject to a maximum credit of \$25,000. We shall reimburse the **Insured** for any applicable payment made prior to the **mediation** as soon as practicable after the conclusion of the **mediation**.

**G. Supplementary Payments**

We will reimburse the **Insured** for reasonable attorney's fees, costs and expenses incurred in responding to a **disciplinary proceeding** that is both first brought by a licensing authority against the **Insured** and reported in writing to the **Company** during the **policy period** by reason of a **professional incident** in the performance of **Professional Services** taking place subsequent to the retroactive date and prior to the expiration date or termination date of this policy. The maximum amount payable, regardless of the number of **disciplinary proceedings** or the number of **In-**

**sureds**, shall be \$5,000 per **policy period**. The Company shall not be obligated to defend any **disciplinary proceeding**, or pay any fine, penalty or award resulting from any **disciplinary proceeding**. Any payment made by us under this provision shall be in addition to the applicable Limit of Liability of this Policy and shall not be subject to any retention.

## VIII. CONDITIONS

### A. INSURED'S DUTIES IN THE EVENT OF A CLAIM

1. If a **claim** to which this policy applies is made against an **Insured**, you must give us written notice, as soon as practicable, but in no event, subject to Section VI EXTENDED REPORTING PERIOD, no later than policy expiration or cancellation date at Admiral Insurance Company, Attention: Claims Department, 1255 Caldwell Road, Cherry Hill, NJ 08034-3220. Or e-mail: [admclaims@admiralins.com](mailto:admclaims@admiralins.com).
2. All **Insureds** must fully cooperate with us in the conduct, defense and investigation of any **claim** or **suit**. Upon the Company's request, we may require the **Insured** to submit to an examination under oath; provide us with written statements as requested by us or your attendance at meetings with us; produce and make available records, documents and other materials which we deem relevant to the **claim**; attend hearings, depositions and trials; assist in affecting settlements, securing and giving evidence and obtaining the attendance of witnesses.
3. The **Insured** must not make any payment, admit any liability, settle any **claim**, assume any obligations, or accept or reject arbitration without our prior written consent.
4. The **Insured** must do whatever is necessary to secure and affect any rights of indemnity, contribution or apportionment that the **Insured** may have.
5. The **Insured** shall accept our assignment of counsel and the **Insured** shall refrain from discussing any **claim** or **suit** with anyone other than counsel retained to represent the **Insured** or our representatives.

### B. Transfer of Rights of Recovery

If there is a payment made by us, we shall be subrogated to all of the **Insured's** rights of recovery against any person or organization. The **Insured** will cooperate with us and do whatever is necessary to secure these rights.

### C. Other Insurance

This Insurance shall apply in excess of any other valid and collectible insurance available to any **Insured**, whether such insurance is stated to be primary, contributory, excess, contingent or other, including any self-insured retention or deductible portion thereof, unless such **other insurance** is written only as a specific excess insurance over the Limit of Liability provided in this Policy.

This condition does not apply to **other insurance** that is written to apply in excess of the limits provided by this policy.

### D. Changes Made to this Policy

The terms and conditions of this policy cannot be waived or changed except by specific written endorsement issued by us and made part of the policy.

### E. Assignment of the **Insured's** Interest

The interest of the **Insured** under this policy is not assignable to any other person or organization, except with the Company's written consent.

### F. Cancellation

This policy may be canceled by the **Named Insured** by returning the policy to us or our authorized representatives. The **Named Insured** can also cancel this policy by written notice to us stating at what future date cancellation is to be effective. If the **Named Insured** cancels, earned premium shall be computed using the customary short rate table or the amount stated elsewhere in this policy as Minimum Earned Premium, whichever is greater.

We can cancel the policy by written notice to the **Named Insured**, at the address last known to us. We will provide written notice at least thirty (30) days before cancellation is to be effective and the earned premium will be computed pro rata. However, if we cancel because you fail to pay a premium or deductible when due, only ten (10) days written notice of cancellation will be given and earned premium will be computed using the customary short rate table.

The mailing of any notice of cancellation shall be sufficient proof of notice.

This policy will terminate on the effective date of the cancellation. Return of unearned premium is not a condition of cancellation. Unearned premium will be returned by us as soon as practicable.

**G. Bankruptcy**

Bankruptcy or insolvency of the **Insured** or the **Insured's** estate shall not relieve us of any of our obligations under this policy.

**H. Application**

The statements made in any Application(s) and any supplementary material(s) are deemed to be made on behalf of the **Named Insured** and all other **Insureds** and are deemed material. Upon the binding of coverage, the Application(s) shall be attached and become part of this policy. This policy is issued based upon the truth and accuracy of the representations made in any Application(s) and any supplementary material(s). This policy is void as to the **Named Insured** and all other **Insureds** in any case of fraud and/or misrepresentation made in any Application(s) or any supplementary material(s).

**I. Audit**

We may examine and audit your books and records at any time during the **policy period** and within three (3) years after the expiration or termination date of this policy, as far as they relate to this policy.

**J. Action Against Us**

No action shall be brought against us by any **Insured**, unless, as a condition precedent thereto:

1. all **Insureds** have fully complied with all the terms and conditions of this policy; and
2. the amount of **damages** has been fixed or rendered certain:
  - a. by final judgment against the **Insured** after trial of the issues; or
  - b. the time to appeal such judgment has expired without an appeal being taken; or
  - c. if appeal is taken, after the appeal has been determined; or
  - d. the **claim** is settled in accordance with the terms and conditions of this policy.

In no event shall any action brought by anyone be maintained against us unless such action is brought within twenty-four (24) months from the time the right to bring action first became available.

**K. False or Fraudulent Claims**

If an **Insured** reports any **claim** knowing such **claim** to be false or fraudulent, this policy shall become void and all insurance coverage hereunder shall be forfeited as of the inception date of this policy.

**L. Terms and Conditions of Policy Conformed to Statute**

Where necessary, the terms and conditions of this policy will be amended to conform to applicable law.

**M. Premium**

The premium amount for this policy is stated in the Declarations and is for coverage for the **policy period**. If during the **policy period** there is a change in coverage afforded, we have the right to adjust the premium as of the date of change. Any premium adjustment shall be made in accordance with our prevailing rules and rates.

Premium shown as advance premium is a minimum and deposit premium. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable by notice to the first **Named Insured**.

If the premium for this policy is a flat premium, it is not subject to adjustment.

This policy shall not be binding upon the Company unless completed by an Application(s) which is/are made a part of this policy and a Declarations Page, countersigned on the aforesaid Declarations Page by a duly authorized representative of the Company.