

Insurance Agents and Brokers Professional Liability Insurance Policy



LIBERTY INSURANCE UNDERWRITERS INC. (hereinafter called the “**Company**”): In consideration of and subject to the payment of the premium, the agreement of the **Named Insured** to pay the Deductible amount stated in the Declarations and described herein, and in reliance upon the particulars, statements, representations, attachments and exhibits contained in and submitted with the Application which shall be the basis of this Policy and deemed to be incorporated herein, and subject to all the terms, conditions, limitations and any endorsements to this Policy, the Company and **Named Insured** agree as follows:

The words You, Your and Yours mean the **Insured** and the words We, Us, and Our refer to the company providing this insurance. All words that are in bold face type, other than the caption titles, have special meanings set forth in Section **III. DEFINITIONS** of the Policy.

I. Insuring Agreement

We shall pay on Your behalf all sums which You shall become legally obligated to pay as **Damages** resulting from any **Claim** first made against You during the **Policy Period** for any **Wrongful Act** of Yours or of any other person for whose actions You are legally responsible, but only if the **Wrongful Act** is first committed on or after the Retroactive Date stated in Item 5 of the Declarations and before the end of the **Policy Period**.

II. Extensions of Coverage

We will provide coverage to You for certain **Defense Costs** incurred as a result of defending the following **Claims**:

- a) **Administrative Proceeding**: We shall pay up to \$35,000 in the aggregate for reasonable and necessary **Defense Costs** in the event that an **Administrative Proceeding** is initiated and reported during the **Policy Period** and provided You did not engage in the wrongful practices alleged and/or do not admit all or any part of the allegations.
- b) **Subpoena Inquiry**: We shall pay up to \$10,000 in the aggregate for reasonable and necessary **Defense Costs** in the event that a **Subpoena Inquiry** is initiated and reported during the **Policy Period**.
- c) **Certain Insured Costs**: if You are required to attend a trial, hearing or arbitration proceeding pursuant to the resolution of a **Claim** as afforded certain coverage outlined above in sub-sections a. or b., then We will pay for Your reasonable expenses for each such day or part thereof that You are required to attend. However, the most We will pay under this sub-section c. is \$10,000 each **Claim** and \$30,000 in the aggregate for all **Claims** made during the **Policy Period** or Extended Reporting Period, if applicable.

Any payments made pursuant to the foregoing sub-sections a., b. or c. will be made in addition to the limits of liability set forth in the Declarations. Further, We will waive the deductible with respect to Our payments made under the foregoing sub-sections a., b. or c.

III. Definitions

Certain words, identified by bold text throughout this Policy, are defined as follows:

1. “**Administrative Proceeding**” means any proceeding or investigation brought by any federal, state, or municipal agency, insurance department or quasi-governmental authority.

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2. **“Claim”** means any civil action, suit, proceeding or written demand seeking to hold You responsible for monetary **Damages** resulting from any actual or alleged **Wrongful Act**. **Claim** shall also include any **Administrative Proceeding** or **Subpoena Inquiry**.
3. **“Damages”** means a monetary judgment or settlement, but does not include: fines or statutory penalties; sanctions whether imposed by law or otherwise; the return of or restitution of fees, commissions or charges; costs and expenses; amounts for which You are not financially liable; equitable relief, including any fees, costs or expenses incurred by the **Insured** to comply with any such equitable relief; or for **Damages** which may be deemed uninsurable under applicable law.
4. **“Defense Costs”** means reasonable expenses and legal fees incurred with Our prior approval, in the investigation, adjustment, defense or appeal of a **Claim** against You. **Defense Costs** shall not include salaries, overhead or benefit expenses of Yours, or salaries, overhead or benefit expenses of Our employees, officers or staff attorneys, with the exception of **Certain Insured Costs** specifically outlined in Section II. **EXTENSIONS OF COVERAGE**.
5. **“Independent Contractor”** means an individual who contracts with and/or any otherwise covered **Subsidiary**, and performs **Professional Services**, which are reported on IRS Form 1099, on behalf of the **Named Insured**.
6. **“Insured”** means the individual, partnership, corporation, limited liability company or other entity named in Item 1 of the Declarations, and shall include any past, present or future:
 - a. partner, principal, director, officer, managing member, or employee of the **Named Insured** or any **Subsidiary** solely while acting in the scope of his or her duties as such;
 - b. temporary or leased employee or intern hired as such by the **Named Insured** and/or any otherwise covered **Subsidiary**, working under the direct supervision of an **Insured** and on behalf of such **Insured**;
 - c. the lawful spouse or domestic partner (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) of any **Insured**; provided, however, coverage will apply only if the spouse or domestic partner is a party to any **Claim** solely in his or her capacity as a spouse or domestic partner of such **Insured** person; and the **Claim** seeks **Damages** recoverable from marital community property, property jointly held by such **Insured** and spouse or domestic partner, or property transferred from such **Insured** to the spouse or domestic partner;
 - d. the estate, heirs, executors and legal representatives of an **Insured** in the event of the **Insured’s** death, disability incapacity, insolvency, or bankruptcy, but only to the extent such **Insured** would have otherwise been provided coverage under this Policy;
 - e. **Independent Contractor**, but only with respect to **Professional Services** which were rendered or should have been rendered on behalf of the **Named Insured** and/or any otherwise covered **Subsidiary**;
 - f. **Subsidiary** but only with respect to any **Wrongful Act** that occurs while such entity was a **Subsidiary** of the **Named Insured**.

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7. **“Interrelated Wrongful Acts”** means all **Wrongful Acts** based on, arising out of, directly or indirectly from, or in any way involving the same or related facts, circumstances, situations, transactions or events.
8. **“Named Insured”** means the individual, partnership, corporation, limited liability company or other entity named in Item 1 of the Declarations.
9. **“Personal Injury”** means false arrest, detention, imprisonment, malicious prosecution, wrongful entry, eviction or other invasion of private occupancy, libel, slander or other defamatory or disparaging material, or publication or utterance in violation of an individual’s right of privacy.
10. **“Policy Period”** means the period from the inception date to the expiration date stated in Item 2 of the Declarations, or any earlier cancellation date of this Policy.
11. **“Professional Services”** means services performed by or on behalf of the **Named Insured** for others for a fee, commission or pro-bono, as a property, casualty, surety, life, accident, health or other insurance agent; insurance broker; insurance consultant; educator; expert witness; managing general agent; managing general underwriter; program administrator; general agent; surplus lines broker; wholesale broker; claims adjuster; claims appraiser; notary; premium financing coordinator; or as part of any loss control or risk management service. **Professional Services** shall include such services as provided via electronic means or methods as well as electronic dissemination of insurance or risk related content or material.
12. **“Subsidiary”** means any entity in which the **Named Insured** directly or indirectly has an ownership interest of fifty percent (50%) or greater. No coverage shall apply to any **Subsidiary** for any **Wrongful Act**:
 - a. which takes place prior to its becoming a **Subsidiary** of the **Named Insured** unless specifically endorsed hereon, or
 - b. until the conditions set forth in Section **VI. CONDITIONS**, 5. Acquisitions/Creations and Sale of Subsidiaries are satisfied.
13. **“Subpoena Inquiry”** means any subpoena to produce documents for litigation to which the **Insured** is not a party. In order for this coverage to apply, the subpoena must be received during the **Policy Period** and reported to Us within sixty (60) days of receipt by the **Insured**. Any costs incurred prior to notice being received by Us or incurred without Our prior approval will not be covered.
14. **“Wrongful Act”** means any actual or alleged act, error or omission including a **Personal Injury** committed solely in the performance of or failure to perform **Professional Services**.

IV. Defense of Claims

1. Duty to Defend

We shall have the right and the duty to defend any **Claim** brought against you seeking **Damages** because of a **Wrongful Act**, even if it is groundless. We shall pay **Defense Costs** on Your behalf resulting from such **Claim**. You shall attend hearings, trials and depositions and assist in securing and giving evidence and obtaining the attendance of witnesses.

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2. Settlement

We may investigate and solicit settlement offers for any **Claim**. No offer to settle a **Claim** will be accepted without Your consent. If We recommend that You accept the judgment of the trial court, appellate court, or any negotiated settlement or settlement offer and You are not willing to accept such judgment or settlement, Our liability for such **Claim** shall not exceed the amount for which We could have resolved such **Claim**, (Proposed Resolution Amount) **Defense Costs** incurred up to the date We made the recommendation to resolve the **Claim**, plus 50% of any **Damages**, including **Defense Costs**, exceeding the Proposed Resolution Amount. The remaining 50% of any **Damages**, including **Defense Costs**, shall be borne by You at your own risk. However, in no event shall We pay more the applicable limits of liability set forth in Item 3 of the Declarations.

You must cooperate with Us and, upon Our request, assist in making settlements with respect to any **Claim**. You may not, except at Your own expense, voluntarily make any payment, assume any obligation or incur any expense without Our consent.

3. Defense Costs

If **ITEM 3.c** of the Declarations is marked "Yes", and the Policy is so endorsed, then **Defense Costs** shall be in addition to the limit of liability stated in **ITEM 3.a**. **ITEM 3.d** of the Declarations reflects the amount of limit available in any one policy year for **Defense Costs**. Once the limit stated in **ITEM 3.d** is exhausted, subsequent **Defense Costs** shall be part of and not in addition to the applicable limits of liability as designated by **ITEM 3.a** and **3.b** of the Declarations.

If item 3c of the Declarations is marked "No", then **Defense Costs** shall be part of and not in addition to the applicable limits of liability, and payment of **Defense Costs** by Us shall reduce, and may exhaust, the applicable limits of liability.

V. Exclusions

This Policy shall not apply to any **Claim** based on, directly or indirectly arising out of or resulting from any actual or alleged:

1. criminal, fraudulent, discriminatory and / or dishonest act or omission. We shall defend the **Insured** until a judgment or other final adjudication adverse to the **Insured** establishes such conduct, but only if these allegations arise out of **Professional Services** which are otherwise covered under this Policy. The **Insured** shall reimburse Us for all **Defense Costs** if such conduct is established as a matter of fact in a civil, arbitration or other proceeding, or is admitted to by the **Insured**. However, this exclusion shall not apply to any **Insured** who did not actually commit, or have knowledge of, or participate in such conduct and the conduct or knowledge of one **Insured** shall not automatically be imputed to another **Insured**.
2. any act or omission committed with knowledge of its wrongful nature or with intent to cause damage. However such conduct or knowledge of one **Insured** shall not automatically be imputed to another **Insured**.
3. any act, error, omission, fact or circumstance which is the subject of any notice or **Claim** under any prior Policy, or any other act, error, omission, fact or circumstance logically or causally connected to such notice or **Claim**.

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4. any **Wrongful Act** first committed prior to the beginning of the **Policy Period** if, before the inception date of this Policy, You knew or could have reasonably foreseen that such **Wrongful Act** did or could result in a **Claim**. However, if this Policy is a renewal of one or more policies previously issued by Us to You, and the insurance provided by Us to You was in effect without interruption for the entire time between the inception date of the first such other Policy and the inception date of this Policy, then the reference above to the inception date of this Policy will instead refer to the inception date of the first Policy under which We began to provide You with the continuous and uninterrupted insurance.
5. any bodily injury to or sickness, disease or death of any person, or damage to or destruction of any property, including the loss of use thereof. However, this exclusion shall not apply to a **Claim** resulting from **Professional Services**.
6. any actual or alleged unfair competition, or infringement of any patent, trademark, trade dress, service mark, trade secret, slogan or copyright. However, this exclusion shall not apply to any **Claim** of accidental or unintentional copyright infringement arising out of insurance or risk related content or material first electronically disseminated by the **Insured** on or after the **Retroactive Date**.
7. placement of or failure to place any reinsurance, or sale of or failure to sell any securities. However for the purposes of this exclusion, mutual funds, annuities and life insurance shall not be considered securities.
8. performance of or failure to perform any actuarial services, or the commingling of or failure to collect or safeguard any money.
9. any guarantee of any future premium payment, of any investment result or return, of any interest rate or yield, or of any tax consequence in connection with any life insurance product, annuity, mutual fund or security.
10. any performance or failure to perform **Professional Services** for any person or entity which is owned or controlled by any **Insured**, or which owns or controls any **Insured**, or which is affiliated with any **Insured** through any common ownership or control, or any **Claim** brought by one **Insured** against another **Insured**.
11. the bankruptcy of, suspension of payments or failure to pay monies due, in whole or in part, by any:
 - a. broker or dealer in securities or commodities; or
 - b. bank or banking firm; or
 - c. insurance, reinsurance or bonding company; or
 - d. self-insurance plan, insurance pool or reciprocal, captive insurance company or risk retention group; or
 - e. managed care organization, health maintenance organization, preferred provider organization, independent physician organization or physician hospital organization.

However, the foregoing exclusion shall not apply if, as of the effective date of a bond or insurance policy issued to Your client, the bonding or insurance company issuing the bond or insurance policy was rated B+ or higher by A.M. Best Company.

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VI. Conditions

1. Territory: This Policy applies to **Wrongful Acts** committed anywhere in the world.
2. Notice of Claim: You must give written notice of any **Claim** made against You as soon as practicable but in no event later than sixty (60) days after the end of the **Policy Period** or, if applicable, the Optional Extended Reporting Period.

- a. Reporting:

Written notice shall be sent to:

Liberty Insurance Underwriters, Inc.
c/o Claims Division
55 Water Street, 18th Floor
New York, NY 10041

- b. Special Reporting Clause:

If You become aware of any circumstances which You might reasonably be expected to give rise to a **Claim** against You, and provided You give Us written notice during the **Policy Period** of the nature and date of the circumstances, specifics of the possible **Wrongful Act** and the name of the potential claimant, then any **Claim** subsequently made against You arising from such **Wrongful Act** shall be deemed to have been made on the last day of the **Policy Period**.

3. Limits of Liability: Regardless of the number of **Claims**, the number of persons or entities included within the definition of **Insured**, or the number of claimants who make **Claim** against You:
 - a. The amount stated in Item 3a of the Declarations shall be the maximum limit of Our liability to pay for all **Damages** and, if Item 3c of the Declarations is marked "No", for all **Defense Costs** resulting from each **Wrongful Act** or series of continuous, repeated or **Interrelated Wrongful Acts**. If additional **Claims** are subsequently made which arise out of the same **Wrongful Act** or series of continuous, repeated or **Interrelated Wrongful Acts** as **Claims** already made, all such **Claims**, whenever made, shall be considered first made within the **Policy Period** or Extended Reporting Period in which the earliest **Claim** arising out of such **Wrongful Act** was first made, and all such **Claims** shall be subject to one limit of liability.
 - b. The amount stated in **ITEM 3.b** of the Declarations shall be the maximum limit of Our liability to pay for all **Damages**.
 - c. If **ITEM 3.c** of the Declarations is:
 - i. marked "No", then **Defense Costs** shall be part of and not in addition to the applicable limits of liability, and payment of **Defense Costs** by Us shall reduce, and may exhaust, the applicable limits of liability.
 - ii. marked "Yes", then **Defense Costs** shall not be part of and are in addition to the applicable limits of liability, and payment of **Defense Costs** by Us shall not reduce or exhaust, the applicable limits of liability.

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We shall not be obligated to pay any **Damages** or **Defense Costs** or to defend or continue to defend any **Claim** after the applicable limit of liability has been exhausted., or if Section **IV. DEFENSE OF CLAIMS** is applicable.

4. **Deductible:** We shall only be obligated to pay **Damages** and **Defense Costs** which are in excess of the deductible stated in Item 4 of the Declarations. This deductible shall be borne by You, shall remain uninsured and its payment is a condition precedent to any payment by Us on Your behalf under this Policy. We shall have no obligation to pay all or any part of the deductible on your behalf, but We shall, at Our sole discretion, have the right and option to do so, in which event You will repay Us any amounts so paid upon Our demand.
5. **Acquisitions/Creations and/or Sale of Subsidiaries:**
 - a. An entity in which the **Named Insured** directly or indirectly has an ownership interest of fifty percent (50%) or greater, which is disclosed to Us on one or more application(s) or supplemental application(s) for this coverage received by Us or our authorized representative prior to the inception date unless otherwise noted, shall, at the inception date of this Policy, be considered a **Subsidiary** and an **Insured** under this Policy.
 - b. If during the Policy Period, the **Named Insured:**
 - i. acquires or creates a **Subsidiary**, such entity shall be considered an **Insured** under this Policy:
 - 1) for a period of ninety (90) days from the effective date of the acquisition or creation, but only for **Wrongful Acts** which occur while the entity is a **Subsidiary**.
 - 2) Such coverage will apply beyond the ninety (90) day period if:
 - a) written notice of such acquisition or creation with all the particulars and details about the entity and its acquisition or creation that We may require is provided to Us, and
 - i) You accept any terms, conditions, or exclusions proposed by Us relative to the **Subsidiary** and, if applicable, promptly pay Us any premiums that We may require for the inclusion of the **Subsidiary**, and
 - ii) We agree in writing to provide such coverage; or
 - b) if the **Subsidiary** becomes so owned after the inception date of the Policy, and:
 - i) its gross annual revenues do not exceed 25% of the **Named Insured's** gross annual revenues at the time it becomes so owned; and
 - ii) that all business lines and insurance products provided by this entity were also previously provided by the **Insured** and fall within the scope of the **Professional Services** of the **Named Insured** as disclosed to Us on one or more application(s) or supplemental application(s) for this coverage.

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- ii. ceases to have an ownership interest of fifty percent (50%) or greater in any entity that previously qualified as a **Subsidiary** under the Policy, then coverage for such entity shall apply only to **Wrongful Acts** occurring prior to date the **Named Insured** ceased to have an ownership interest of fifty percent (50%) or more.

6. Extended Reporting Period:

- a. Automatic Extended Reporting Period: If You or We cancel or non-renew this Policy for any reason other than nonpayment of premium, then the insurance afforded by this Policy shall be automatically extended, subject otherwise to its terms, limits of liability, exclusions and conditions, to apply to **Claims** first made against You and reported during the sixty (60) days immediately following the effective date of such cancellation or non-renewal, but only by reason of a **Wrongful Act** occurring before the effective date of cancellation and otherwise covered by this insurance. Such period shall hereinafter be referred to as the "Automatic Extended Reporting Period." No Automatic Extended Reporting Period is in effect if this Policy is renewed with Us.
 - b. Optional Extended Reporting Period: If this Policy is not renewed for any reason or is cancelled for any reason other than for non-payment of premium, You shall have the right, upon the payment of an additional premium of seventy-five percent (75%) of the total annual premium, to a period of twelve (12) months immediately following the Automatic Extended Reporting Period in which to give Us written notice of **Claims** otherwise covered by this Policy. Your rights contained in this clause will terminate unless We receive written notice of Your intent to exercise such rights along with the additional premium due within thirty (30) days of the effective date of cancellation or non-renewal. This clause does not increase or renew the limits of Our liability and it does not apply to **Wrongful Acts** subsequent to the effective date of cancellation or non-renewal. A twenty-four (24) month Extended Reporting Period is available for one-hundred-thirty-five percent (135%) and thirty-six (36) months for one-hundred-seventy-five percent (175%). Premiums due under this clause will be fully earned when paid and once paid this coverage may not be cancelled.
7. Cancellation: You may cancel this Policy by surrendering it to Us or by delivering or mailing to Us notice stating when thereafter such cancellation shall be effective. We may cancel this Policy only for non-payment of premium or deductible by delivering or mailing to You by registered, certified or other first class mail written notice stating when not less than ten (10) days thereafter, cancellation shall be effective.
8. Authorization: The **Named Insured** shall be the sole agent and shall act on behalf of all **Insureds** with respect to all matters under this Policy, including giving and receiving notices, effecting or accepting endorsements to or cancellation of this Policy, the payment of premium and receipt of any return premiums, and the purchase of the Extended Reporting Period.
9. Changes: Notice to any agent or knowledge possessed by any agent or other person shall not effect a waiver or change in any part of this Policy or estop Us from asserting any of Our rights. The terms, conditions and limitations of this Policy can only be waived or changed by written endorsement issued to form a part of this Policy.

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10. Assignment: No assignment of interest under this Policy will be effective without Our written consent. However, in the event of Your death, incapacity or bankruptcy this Policy will apply to Your estate, heirs, legal representatives or assigns as if they were You, but only for **Wrongful Acts** committed by You otherwise covered by this Policy.
11. Subrogation: If We make any payment under this Policy, We shall be subrogated to all Your rights of recovery therefore. You shall do whatever is necessary to secure such rights, and You shall do nothing to prejudice such rights. Any amount recovered in excess of Our total payment shall be restored to You, less the cost to Us for the recovery.
12. Other Insurance: This Policy shall apply only as excess over, and shall not contribute with, any other valid and collectible insurance.
13. Action Against Us: No action shall be taken against Us unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy, and the amount of Your obligation to pay shall have been finally determined either by judgment against You after adjudicatory proceedings, or by written agreement between the claimant and Us. No person or entity shall have any right under this Policy to join Us as a party to any **Claim** against You to determine Your liability, nor shall We be impleaded by You or Your legal representative in any such **Claim**.
14. Bankruptcy: Bankruptcy or insolvency of You or of Your estate shall not relieve Us of any of Our obligations under this Policy.
15. Headings: The descriptions in the headings and sub-headings of this Policy are solely for convenience and form no part of the terms and conditions of the Policy.

IN WITNESS WHEREOF, the Company has caused this Policy to be executed and attested, but this Policy shall not be valid unless countersigned on the Declarations page by a duly authorized representative of the Company.



PRESIDENT
Christopher L. Peirce



VICE PRESIDENT and SECRETARY
Dexter R. Legg