

PROFESSIONAL SERVICES LIABILITY POLICY

THIS POLICY IS LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. CLAIMS EXPENSES REDUCE AND MAY EXHAUST THE COVERAGE LIMITS, AND ARE SUBJECT TO THE DEDUCTIBLE.

POLICY NUMBER

LONDON COMPANIES AND UNDERWRITERS AT LLOYD'S

DECLARATIONS

Item 1. Name and Address of Insured:

SPECIMEN

A. Insured's Profession: _____

Item 2. Policy Period (Month Day Year)

From:

To:

12:01 A.M. Local Time at the Address of the Organization as stated in Item 1 above.

Item 3. Limit of Liability (Inclusive of Defense Costs):

\$ _____ Aggregate for each Policy Period.

Item 4. Retention: \$ _____ each Claim

Item 5. The Premium for this Policy is: \$ _____

Item 6. Retroactive Date:

Item 7. Coverage Date:

Item 8. Notice Pursuant to Article VI:

Item 9. Endorsements Attached at Issuance:

Authorized Representative: _____

Signature

_____ Date

PROFESSIONAL SERVICES LIABILITY POLICY

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In consideration of the payment of the premium, reliance by the Company upon the statements made to the Company in the application attached hereto and made a part hereof, and subject to the terms, conditions, definitions, exclusions and limitations hereinafter provided, the Company agrees with the **INSURED** as follows:

I. INSURING AGREEMENT

The Company will pay on behalf of the **INSURED LOSS** in excess of the Retention stated in Item 4 of the Declarations which the **INSURED** shall become legally obligated to pay as a result of any **CLAIM** first made against the **INSURED** during the **POLICY PERIOD** for a **WRONGFUL ACT** that occurred on or after the Retroactive Date stated in Item 6 of the Declarations.

II. DEFENSE AND SETTLEMENT

Subject to Article V.B., the Company shall have the right and duty to defend any **CLAIM** against the **INSURED** to which this insurance applies, even if any of the allegations of the **CLAIM** are groundless, false or fraudulent.

The Company shall have the right to negotiate the settlement of any **CLAIM**, whether within or above the Retention, but the Company shall not commit the **INSURED** to any settlement without the **INSURED'S** consent, such consent not to be unreasonably withheld. The **INSURED** shall not admit liability for or settle any **CLAIM** or incur any **DEFENSE COSTS** without the written consent of the Company, such consent not to be unreasonably withheld. If the **INSURED** refuses to consent

to any settlement recommended by the Company and agreed to by the claimant, and elects to contest any **CLAIM** or continue any legal proceedings in connection with such **CLAIM**, then, subject to the Limit of Liability of this Policy, the Company's liability for the **CLAIM** shall be limited to the amount in excess of the Retention which the Company would have contributed to the settlement had the **INSURED** consented to such settlement plus the **DEFENSE COSTS** incurred up to the date of such refusal.

III. DEFINITIONS

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A. **"INSURED"** means the individual, partnership, corporation or other entity named in Item 1 of the Declarations and shall include all persons who were, are or shall become: 1) directors, officers, partners or employees of the **INSURED** while acting within the scope of their duties as such; and 2) the executors, heirs, legal representatives or assigns of each **INSURED** otherwise insured herein in the event of his or her death, incompetency, insolvency or bankruptcy.

B. **"WRONGFUL ACT"** means any actual or alleged negligent act, negligent error or negligent omission committed by the **INSURED** solely in the performance of or failure to perform professional services for others in the **INSURED'S** Profession as stated in Item 1.A. of the Declarations.

C. **"LOSS"** means money damages, settlements, and **DEFENSE COSTS**. **LOSS** shall not include:

1. punitive or exemplary damages or the multiplied portion of a multiplied damages award;
2. criminal or civil fines or penalties imposed by law;
3. taxes;

4. matters that may be deemed uninsurable under the law pursuant to which this Policy shall be construed.

D. **"POLICY PERIOD"** means the period from the inception date of this Policy to the expiration date stated in Item 2 of the Declarations, or to any earlier cancellation date of this Policy.

E. **"DEFENSE COSTS"** means reasonable and necessary legal fees and expenses incurred with the approval of the Company in connection with the investigation, adjustment, settlement, defense or appeal of a **CLAIM** made against an **INSURED** for a **WRONGFUL ACT**, and shall include the cost of attachment or similar bonds. Payment of **DEFENSE COSTS** by the Company shall reduce, and may exhaust, the Limit of Liability under this Policy.

"DEFENSE COSTS" shall not include salaries, wages, fees, overhead, overtime or benefit expenses incurred by or associated with the **INSUREDS**.

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F. **"CLAIM"** means a written demand for money damages received by an **INSURED**, including service of suit and the institution of administrative or arbitration proceedings.

G. **"INTERRELATED WRONGFUL ACTS"** means **WRONGFUL ACTS** that have as a common nexus any fact, circumstance, situation, event or transaction or series of facts, circumstances, situations, events or transactions.

H. **"MONEY LAUNDERING"** means:

- (i) the concealment, or disguise, or conversion, or transfer, or removal of **CRIMINAL PROPERTY** (including concealing or disguising its nature, source, location, disposition, movement or ownership or any rights relating thereto); or
- (ii) the entering into or becoming in any way concerned in an arrangement which is known or suspected to facilitate (by whatever means) the acquisition, retention, use or control of **CRIMINAL PROPERTY** by or on behalf of another person; or
- (iii) the acquisition, use or possession of **CRIMINAL PROPERTY**; or

- (iv) any act which constitutes an attempt, conspiracy or incitement to commit any act or acts mentioned in the foregoing paragraphs (i), (ii) or (iii); or
- (v) any act which constitutes aiding, abetting, counseling or procuring the commission of any act or acts mentioned in the foregoing paragraphs (i), (ii) or (iii).

I. **“CRIMINAL PROPERTY”** means property which constitutes a benefit obtained from or as a result of or in connection with criminal conduct or represents such a benefit (in whole or part and whether directly or indirectly) which the **INSURED** (or any person or entity acting on their behalf) knows or suspects or reasonably should have known or suspected that it constitutes or represents such a benefit.

J. **“CRIMINAL CONDUCT”** means conduct which constitutes (or would constitute) an offence in any part of the world.

K. **“ACT OF TERRORISM”** means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s) committed for political, religious, ideological, or similar purposes, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

IV. EXCLUSIONS

This Policy does not apply to **LOSS** in connection with any **CLAIM**:

A. based upon or directly or indirectly arising out of or resulting from an **INSURED** gaining in fact any personal profit or advantage to which the **INSURED** is not legally entitled;

B. that results in a judgment or final adjudication that any **INSURED** has committed any criminal, dishonest, intentionally malicious, or fraudulent act, error or omission.

However, any **WRONGFUL ACT** pertaining to any of the **INSUREDS** shall not be imputed to any other person for the purposes of determining the applicability of Exclusions A. and B.

C. based upon or directly or indirectly arising out of or resulting from any actual or alleged bodily injury, sickness, disease, or death, including but not limited to loss of consortium or services, or any actual or alleged damage to or loss of or destruction of any tangible property, including loss of use thereof;

D. brought by or on behalf of one **INSURED** under this Policy against another **INSURED** under this Policy, except where:

1. such **CLAIM** arises out of the performance of or failure to perform professional services for the claimant **INSURED** as a client in the **INSURED'S** Profession as stated in Item 1.A. of the Declarations; or
2. such **CLAIM** is in the form of a cross claim, third-party claim or otherwise for contribution or indemnity and is part of and results directly from a **CLAIM** which is not otherwise excluded by the terms of this Policy;

E. based upon or directly or indirectly arising out of or resulting from any actual or alleged activities of an **INSURED** in a fiduciary capacity with respect to any employee benefit or pension plan, or based upon the Employee Retirement Income Security Act of 1974, any and all amendments thereto, any rule, regulation, or order issued pursuant thereto, or any similar provisions of any other federal, state or local statutory law or common law;

F. based upon or directly or indirectly arising out of or resulting from:

1. any actual or alleged seepage, pollution or contamination of any kind, including but not limited to the storage, transportation, treatment, discharge, dispersal, release, emission or escape of smoke, vapors, soot, fumes, acids,

alkalis, toxic materials, chemicals, radon, liquids or gases, waste materials or other irritants, contaminants, or pollutants into or upon land, the atmosphere or any watercourse or body of water, or otherwise, or

2. any regulation, order, direction or request that the Insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any of the foregoing;

G. based upon or directly or indirectly arising out of or resulting from any actual or alleged (1) false arrest, malicious prosecution, abuse of process, false detention or false imprisonment; (2) assault and battery; (3) libel, slander or defamation of character; (4) wrongful entry or eviction; or (5) invasion of any right of privacy;

H. based upon or directly or indirectly arising out of or resulting from any actual or alleged failure or omission on the part of any **INSURED** to procure or adequately maintain insurance, suretyship, or bonds;

I. based upon or directly or indirectly arising out of or resulting from any actual or alleged use, exposure, presence, existence, detection, removal, elimination or avoidance of asbestos, or any actual or alleged asbestos-related injury or damages;

J. seeking relief or redress in any form other than money damages including but not limited to **CLAIM(S)** for injunctive relief in any form whatsoever and including disciplinary proceedings;

K. for breach of any contract or agreement or the return of fees or charges for professional services performed by any Insured, or based upon or directly or indirectly arising out of or resulting from the breach of an express warranty or guarantee;

L. based upon or directly or indirectly arising out of or resulting from any actual or alleged infringement of copyright, title, slogan, patent, trademark, trade dress, service mark or service name;

M. based upon or directly or indirectly arising out of or resulting from any actual or alleged unfair competition, interference with contract or violation of anti-trust laws;

N. to the extent that there is coverage under any other existing valid policy or policies, whether such other insurance is stated to be contributory, excess, contingent or otherwise and regardless of whether or not such **LOSS** is collectible or recoverable under such other insurance; provided, however, that this exclusion shall not apply to any **LOSS** in excess of the retention and limit of liability of such other policy or policies where such **CLAIM** is otherwise covered under the terms of this Policy.

O. based upon or directly or indirectly arising out of or resulting from any actual or alleged:

1. **WRONGFUL ACT** or matter, fact, circumstance, situation, event or transaction that has been the subject of any claim made prior to the inception of this Policy or of any notice given during any prior policy;
2. **WRONGFUL ACT** which, together with a **WRONGFUL ACT** that has been the subject of any claim or notice identified in O.1. above, would constitute **INTERRELATED WRONGFUL ACTS**; or
3. Matter, fact, circumstance, situation, event or transaction known to an **INSURED** prior to the Coverage Date set forth in Item 7 of the Declarations if such matter, fact or circumstance would cause a reasonable person to believe that a **CLAIM** for a **WRONGFUL ACT** may be made;

P. based upon or directly or indirectly arising out of or resulting from any violation of any civil rights laws, including but not limited to discrimination by the Insured on the basis of age, color, race, creed, sex, size, national origin or marital status;

Q. based upon or directly or indirectly arising out of or resulting from any actual or alleged assumption by the **INSURED** under any contract or agreement of the liability of others, unless such liability would have attached to the **INSURED** in the absence of such contract or agreement;

R. based upon or directly or indirectly arising out of or resulting from any actual or alleged:

1. electronic or software failure, or
2. failure, breakdown or malfunction of any machine or system of machines;

S. based upon or directly or indirectly arising out of or resulting from any actual or alleged **MONEY LAUNDERING** or any actual or alleged act which is in breach of and/or constitutes an offence under any money laundering legislation (or any provisions and/or rules or regulations made by any regulatory body or authority thereunder);

T. based upon or directly or indirectly arising out of or resulting from any actual or alleged advertising or solicitation activities of an **INSURED**;

U. based upon or directly or indirectly arising out of or resulting from any of the following, regardless of any other cause or event contributing concurrently or otherwise to the loss:

1. war, invasion, acts of foreign enemies, hostilities, or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or

2. any **ACT OF TERRORISM**;

This exclusion applies to all **LOSS** based upon, directly or indirectly arising out of or resulting from any action taken in controlling, preventing, suppressing or in any way relating to 1. or 2. above.

V. brought by or on behalf of any governmental authority, quasi-governmental authority or other regulatory authority or agency, except when acting in the capacity of a customer or client of the **INSURED** or on behalf of a customer or client of the **INSURED** and when such **CLAIM** arises from Professional Services rendered or that should have been rendered to such authority or customer or client.

V. LIMIT OF LIABILITY AND RETENTION

A. LIMIT OF LIABILITY

The Limit of Liability stated in Item 3 of the Declarations shall be the maximum aggregate Limit of Liability of the Company for all **LOSS** under the Policy, including **DEFENSE COSTS**, regardless of the number of **CLAIMS** made against the **INSUREDS** or the time when **LOSS** payments are made by the Company.

B. EXHAUSTION OF LIMIT

The Company shall not be obligated to pay any **LOSS**, including **DEFENSE COSTS**, or defend any **CLAIM** after the available Limit of Liability has been exhausted by payment of money damages, settlements or **DEFENSE COSTS**.

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C. MULTIPLE INSUREDS, CLAIMS OR CLAIMANTS

The inclusion herein of more than one **INSURED** or the making of **CLAIM(S)** by more than one person or organization shall not operate to increase the Company's Limit of Liability. **CLAIM(S)** arising out of a single **WRONGFUL ACT**, or **INTERRELATED WRONGFUL ACTS**, shall be treated as a single **CLAIM**, and such single **CLAIM** shall be considered first made:

1. when the earliest **CLAIM** within such single **CLAIM** was first made, or
2. when notice was first given under any policy of insurance of any **WRONGFUL ACT** or any matter, fact, circumstance, situation, event or transaction that underlies any **CLAIM** within such single **CLAIM**,

and all such **CLAIM(S)** shall be subject to the same Limit of Liability.

D. RETENTION

SPECIMEN

Subject to the Limit of Liability, the Company shall only be liable for **LOSS** in excess of the Retention stated in Item 4 of the Declarations. This Retention shall apply to each **CLAIM** made against the **INSUREDS**. The Retention shall be borne by the **INSURED** as its own uninsured risk and shall be fully paid by the **INSURED** before Underwriters shall incur any liability to pay any **LOSS**. The Retention applies to **DEFENSE COSTS**, whether or not any other **LOSS** is paid.

VI. NOTICE AND LOSS PROVISIONS

A. As a condition precedent to the availability of the rights provided under this Policy, the **INSURED** shall give written notice to the Company of any **CLAIM** made against the **INSURED** as soon as practicable, but in no event later than sixty (60) days after the date such **CLAIM** is first made.

B. If during the **POLICY PERIOD** or the Extended Reporting Period, if applicable, the **INSURED** shall first become aware of a specific **WRONGFUL ACT**, and during such period gives written notice to the Company as soon as practicable of:

1. the specific **WRONGFUL ACT** and the identities of the potential claimants;
2. the injury or damage which has or may result from such specific **WRONGFUL ACT**; and
3. the circumstances by which the **INSURED** first became aware of the specific **WRONGFUL ACT**

then any **CLAIM** which is subsequently made against the **INSURED** arising out of such **WRONGFUL ACT** shall, for the purposes of this Policy, be deemed to have been made when such written notice was first given.

C. The notifications provided for above shall be made to the party set forth in Item 8 of the Declarations.

VII. GENERAL CONDITIONS

A. APPLICATION

By acceptance of this Policy, all **INSUREDS** agree as follows:

1. The particulars and statements contained in the application, a copy of which is attached hereto, and any materials submitted therewith (which are on file with the Company and are deemed attached hereto, as if physically attached hereto) are true and are the basis of this Policy and are to be considered as incorporated into and constituting a part of this Policy;

2. the statements in the application and in any materials submitted therewith are the **INSUREDS'** representations and shall be deemed material to the acceptance of the risk or the hazard assumed by the Company under this Policy and this Policy is issued in reliance upon the truth of such representations;
3. in the event the application, including materials submitted therewith, contains any misrepresentation made with the actual intent to deceive or contains any misrepresentation that materially affects either the acceptance of the risk or the hazard assumed by the Company under this Policy, this Policy shall be void in its entirety and of no effect whatsoever; and
4. this Policy shall be deemed to be a single unitary contract and not a severable contract of insurance or a series of individual contracts of insurance with each of the **INSUREDS**.

SPECIMEN

B. EXTENDED REPORTING PERIOD

If the Company cancels this Policy other than for non-payment of premium or does not renew this Policy, the **INSURED** shall have the right, upon payment of an additional premium of 100% of the total policy premium hereunder to an extension of the insurance provided by this Policy with respect to any **CLAIM** made against the **INSURED** during the period of twelve (12) months after the effective date of such cancellation or non-renewal, but only with respect to any **WRONGFUL ACT** committed before the effective date of such cancellation or non-renewal and otherwise insured under this Policy.

The right to such an extension shall terminate unless written notice is received by the Company from the **INSURED** within thirty (30) days after the effective date of such cancellation or non-renewal with full payment of premium for the Extended Reporting Period, as well as payment of any premium and/or Retention amounts due to the Company. If such written notice and payment are

not received by the Company as aforesaid, the **INSURED** shall not have the right to such an extension.

An increase in premium, a change in the Limits of Liability, or a change in the terms and conditions of the Policy shall not constitute a nonrenewal of this Policy. Once purchased, an Extended Reporting Period may not be cancelled by either the **INSUREDS** or the Company; however, the Extended Reporting Period shall automatically terminate if the **INSUREDS** purchase other insurance that provides substantially the same coverage as this Policy or would so provide except for the exhaustion of its limits of liability. If the Extended Reporting Period is automatically terminated as set forth above, all of the premium shall be fully earned at the time of payment.

The Limit of Liability provided during the Extended Reporting Period shall be part of, and not in addition to, the Limit of Liability provided during the **POLICY PERIOD**, as stated in Item 3 of the Declarations. All other terms and conditions of this Policy shall apply to any **CLAIM** made during the Extended Reporting Period.

C. CANCELLATION

This Policy may be cancelled by the **INSURED** by mailing or delivering prior written notice thereof to the Company or by surrender of this Policy to the Company at its address stated in the Declarations. This Policy may also be cancelled by or on behalf of the Company by mailing to the **INSURED** by registered, certified, or other first class mail, at the **INSURED'S** address stated in Item 1 of the Declarations, written notice stating when, not less than sixty (60) days thereafter, the cancellation shall be effective. However, the Company may cancel this Policy for non-payment of premium due on ten (10) days' written notice thereof to the **INSURED**. The mailing of such notice as aforesaid shall be sufficient proof of the giving of such notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the **POLICY PERIOD**. If this Policy shall be cancelled by the **INSURED**, the Company shall retain the customary short rate proportion of the premium hereon. If this Policy shall be cancelled by the Company, the Company shall retain the pro rata proportion of the premium hereon. Payment or

tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of cancellation by the Company, but such payment shall be made as soon as practicable.

D. SUBROGATION

In the event of any payment under this Policy, the Company shall be subrogated to all the **INSURED'S** rights of recovery therefor against any person or organization, and the **INSURED** shall execute and deliver all instruments and papers and do whatever else is necessary to secure such rights. Any amount recovered in excess of the Company's total payment shall be paid to the **INSURED**, less the cost of the Company of such recovery.

E. ASSISTANCE AND COOPERATION

The **INSURED** shall cooperate with the Company and, upon the Company's request, shall submit to examination and interrogation by a representative of the Company, under oath if required, and shall attend hearings, depositions, and trials and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of suits, 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, all without charge to the Company. The **INSURED** shall further cooperate with the Company and do whatever is necessary, including authorizing claims, actions, or proceedings in the **INSURED'S** name against others, to secure and effect any rights of indemnity, contribution or apportionment which the **INSURED** may have. The **INSURED** shall not demand or agree to arbitration of any **CLAIM** made against the **INSURED** without the prior written consent of the Company thereto, which consent shall not be unreasonably withheld.

SPECIMEN

F. 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, conditions and provisions of the Policy, nor until the amount of the **INSURED'S** obligation to pay shall have been finally determined either by judgment against the **INSURED** after actual trial or by written agreement of the **INSURED**, the claimant, and the Company. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy only to the extent of the available insurance afforded by this Policy. Nothing contained in this Policy shall give any person or organization any right to join the Company as a co-defendant in any action against the **INSURED** to determine the **INSURED'S** liability except as provided by law.

G. ENTITY AUTHORIZATION CLAUSE

SPECIMEN

By acceptance of this Policy, the Entity named in Item 1 of the Declarations agrees to act on behalf of all **INSUREDS** with respect to the giving and receiving of notice of **CLAIM** or cancellation, the payment of premiums and the receiving of any return premiums that may become due under this Policy, and the **INSUREDS** agree that the Entity shall act on their behalf.

H. TERRITORY

This Policy only applies to **CLAIMS** made against the **INSUREDS** in the United States of America, its territories or possessions, or Canada.

I. ASSIGNMENT

This Policy and any and all rights hereunder are not assignable unless the written consent of the Company is endorsed hereon.

J. CONFORMITY TO STATUTE

Any provisions of this Policy that are in conflict with the statutes of the state wherein this Policy is issued are hereby amended to conform to such statutes.

K. CHANGES

Notice to any agent or knowledge possessed by any agent or by any other person acting on behalf of the Company shall not effect 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 endorsement issued to form part of this Policy.

L. ENTIRE AGREEMENT

The **INSUREDS** agree that this Policy, including the application and any materials submitted therewith, the Declarations and any written endorsements attached to and forming part of this Policy, constitute the entire agreement between the **INSUREDS** and the Company or any of its agents relating to this insurance.

M. FALSE OR FRAUDULENT CLAIM

If an **INSURED** shall fraudulently proffer any **CLAIM** with respect to the amount thereof or otherwise, this Policy shall become void and all coverage hereunder shall be forfeited.