

NON-PROFIT ORGANIZATION LIABILITY INSURANCE

(THIS IS A CLAIMS MADE POLICY)

THIS POLICY IS LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. DEFENSE COSTS REDUCE THE LIMIT OF LIABILITY PROVIDED. PLEASE REVIEW THIS POLICY CAREFULLY WITH YOUR INSURANCE BROKER OR ADVISOR.

In consideration of the payment of the premium, the undertaking of the **INSURED** to pay the deductible herein and in reliance upon all statements made and information in the application, which is attached hereto and made a part of this Policy, and subject to all the terms and conditions of this Policy, the Company agrees with the **INSURED** as follows:

I. INSURING AGREEMENT

The Company shall pay on behalf of the **INSURED** all **LOSS** and **DEFENSE COSTS** that the **INSURED** becomes legally obligated to pay solely because of a **CLAIM** first made against the **INSURED** during the **POLICY PERIOD**, or the Extended Reporting Period if in effect, for a **WRONGFUL ACT** committed or allegedly committed by the **INSURED**.

II. DEFENSE, INVESTIGATION AND SETTLEMENT OF CLAIMS

As respects such insurance as is afforded by this Policy, the Company shall have the right and duty to defend, including the selection of counsel, any **CLAIM** against the **INSURED** seeking damages for **LOSS**, even if any of the allegations are groundless, false or fraudulent. The Company shall have the right to make such investigation, negotiation and settlement of any **CLAIM** as it deems appropriate, subject to the rights of the **INSURED** as set forth in Clause VII(G)(1).

III. DEFINITIONS

A. **CLAIM** means:

1. a written demand for monetary relief; or
2. a civil, arbitration, regulatory or administrative proceeding for monetary relief or non-monetary relief which is commenced by:
 - a. service of a complaint or similar pleading;
 - b. demand for arbitration or similar document; or
 - c. receipt of notice of charges or similar document.

B. **DEFENSE COSTS** means fees and expenses incurred in defending, investigating, or appealing a **CLAIM** insured herein. **DEFENSE COSTS** shall not include fees and expenses incurred with respect to any criminal action or proceeding, or with regard to any salary charges of regular employees or officials of the Company nor salary or wages of the **INSURED**.

C. **INSURED** means the **ORGANIZATION** set forth in Item 1 of the Declarations, and any past, present or future duly elected or appointed Directors, Officers, Trustees, Employees, Volunteers or Committee Members of the **ORGANIZATION** in their capacity as such, or the estates, heirs, legal representatives or assigns of such persons who are deceased or incompetent, and

1. Any non-profit subsidiary created during the **POLICY PERIOD**;

2. Any non-profit subsidiary acquired subsequent to the inception date of this Policy, but only for a period of 180 days from the date of acquisition or up to the end of the **POLICY PERIOD**, whichever is less. If coverage is desired beyond the foregoing term, the **ORGANIZATION** must make a specific written application to the Company requesting coverage for this subsidiary;
 3. If the Company agrees to provide such coverage under Clause VII(B), any for-profit subsidiary created or acquired during the **POLICY PERIOD**; and
 4. The spouses of any past, present, or future duly elected or appointed Directors, Officers, Trustees, Employees, Volunteers or Committee Members of the **ORGANIZATION**, or the estates, heirs, legal representatives, or assigns of such persons, but only to the extent that **CLAIMS** are asserted against such spouses arising solely out of any actual or alleged **WRONGFUL ACT** of the spouse who is insured under this definition.
- D. **LOSS** means the amount paid by the Company on behalf of the **INSURED** for damages, judgements, and settlements with respect to **CLAIMS** for which coverage hereunder applies. **LOSS** shall not include any amount which the **INSURED** is not legally obligated to pay. **LOSS** also shall not include any civil or criminal fines, penalties, sanctions or taxes, any punitive or exemplary damages or the multiplied portion of any multiplied damage award, or any matters which may be deemed uninsurable under the law pursuant to which this insurance shall be construed.
- E. **ORGANIZATION** means the Non-Profit Organization named in Item 1 of the Declarations and any subsidiary, listed in the written application for coverage as of the inception date of this Policy, that has been accepted by the Company.
- F. **PERSONAL INJURY** means any actual or alleged:
1. false arrest, wrongful detention or imprisonment or malicious prosecution;
 2. libel, slander, defamation of character or invasion of privacy;
 3. wrongful entry, eviction or other invasion of the right of privacy;
 4. infringement of copyright or trademark or other unauthorized use of title; or
 5. plagiarism or misappropriation of ideas.
- G. **POLICY PERIOD** means the period from the inception date stated in Item 3 of the Declarations to the expiration date or earlier date of termination of this Policy.
- H. **THIRD-PARTY DISCRIMINATION** means any actual or alleged discrimination or sexual harassment of a client, customer or vendor of, or visitor to, the **ORGANIZATION**, or violation of that person's civil rights relating to such discrimination or sexual harassment.
- I. **WRONGFUL ACT** means any error, misstatement, misleading statement, act, omission, neglect or breach of duty committed, attempted or allegedly committed or attempted, by any **INSURED**, individually or otherwise, in an **INSURED** capacity, including **WRONGFUL EMPLOYMENT PRACTICES**, **PERSONAL INJURY** or **THIRD PARTY DISCRIMINATION**.
- J. **WRONGFUL EMPLOYMENT PRACTICES** means any actual or alleged:
1. wrongful dismissal or discharge or termination of employment whether actual or constructive;
 2. employment related misrepresentations;
 3. violation of any federal, state or local law concerning employment or discrimination in employment, including but not limited to, the Americans with Disabilities Act of 1992, the Civil Rights Act of 1991, the Age

Discrimination in Employment Act of 1967, Title VII of the Civil Rights Act of 1964 (as amended), the Pregnancy Discrimination Act of 1978, the Civil Rights Act of 1866, the Family Medical Leave Act of 1993, the Older Workers Benefit Protection Act of 1990, the Fifth and Fourteenth Amendments of the United States Constitution, or any rule or regulation promulgated thereunder;

4. sexual or other harassment in the workplace;
5. wrongful deprivation of career opportunity, employment or promotion; or
6. wrongful hiring, retention, discipline or evaluation or failure to adopt adequate employment or workplace policies and procedure.

IV. TERRITORY

This Policy applies to **WRONGFUL ACTS** committed by an **INSURED** anywhere in the world, provided that the **CLAIM** is made against the **INSURED** in the United States of America, its territories or possessions, or Canada.

V. EXCLUSIONS

This Policy does not apply to any **CLAIM**:

- A. based on or involving facts or circumstances which at the original inception date of this Policy, any **INSURED** had a reasonable basis to believe such facts and circumstances might lead to a **CLAIM** against any **INSURED**. Knowledge possessed by any one **INSURED** shall not be imputed to any other **INSURED** for the purpose of determining the application of this exclusion. The term "original inception date" shall mean the date when continuous coverage was first issued to the **INSURED** through Professional Indemnity Agency, Inc.;
- B. based on or involving facts or circumstances about which an **INSURED** has provided notice to any prior insurer;
- C. based on or involving bodily injury to, or sickness, disease, death or emotional distress of any person, or loss of use of, damage to or destruction of any tangible property. To the extent a **CLAIM** is made for **WRONGFUL EMPLOYMENT PRACTICES** or **THIRD PARTY DISCRIMINATION**, emotional distress is deleted from this exclusion;
- D. based on or involving seepage, pollution or contamination of any kind;
- E. based on any **WRONGFUL ACT**, which is, or alleged to be, an assault and/or battery, a willful or reckless violation of any statute, or any conduct which is dishonest, willful, malicious, fraudulent or otherwise intended to cause damage or injury to persons or property. However, notwithstanding the foregoing, the **INSUREDS** shall be protected under the terms of this Policy as to any **CLAIMS** made against them by reason of any alleged dishonesty on the part of the **INSUREDS** unless a judgement or other final adjudication thereof adverse to such **INSUREDS** shall establish that acts of active deliberate dishonesty committed by such **INSUREDS** were material to the cause of action so adjudicated;
- F. based on an actual or alleged violation of the Employee Retirement Income Security Act of 1974 and any amendments thereto or similar provisions of any federal, state or local statutory law or common law;
- G. which are brought by or on behalf of the **ORGANIZATION** or any entity which is controlled by, controls or is under common control with the **ORGANIZATION** or brought by or on behalf of any **INSURED**; however, this exclusion shall not apply to **CLAIMS** for **WRONGFUL EMPLOYMENT PRACTICES** brought by a present or former Employee;
- H. based on any actual or alleged breach of contract or agreement, express or implied, written or oral; however, this exclusion shall not apply to any **CLAIM** for breach of contract to provide services for which the **ORGANIZATION** is chartered or **CLAIMS** for **WRONGFUL EMPLOYMENT PRACTICES** if liability would have attached to the **ORGANIZATION** in the absence of any express contract or agreement which is the subject of such **CLAIM**.

- I. For or relating to the cost of providing any of the reasonable accommodations required by, or made as a result of, the Americans with Disabilities Act of 1992.

VI. WAIVER OF EXCLUSION AND CONDITIONS

Whenever coverage under any provision of this Policy would be excluded, suspended or lost:

- A. because of Exclusion E relating to a dishonest, willful, malicious or fraudulent act, or a willful or reckless violation of any statute, by an **INSURED** and with respect to which any other **INSURED** did not personally participate or personally acquiesce or remain passive after having personal knowledge thereof, or
- B. because of noncompliance with any condition relating to giving of notice to the Company with respect to which any other **INSURED** shall be in default, solely because of the default or concealment of the default by any other **INSURED** responsible for the **LOSS** or damage otherwise insured hereunder,

the Company agrees that such insurance as would otherwise be afforded under this Policy shall continue in effect, cover and be paid with respect to each and every **INSURED** who did not personally commit or personally participate in committing or personally acquiesce in or remain passive after having personal knowledge of one or more of the acts or omissions described in any such exclusion or condition; provided that if the condition be one with which such **INSURED** can comply, after receiving knowledge thereof, the **INSURED** entitled to the benefit of this Waiver of Exclusion and Conditions shall comply with such condition promptly after obtaining knowledge of the failure of another **INSURED** to comply therewith. If the **INSURED** does not comply with the condition promptly after obtaining knowledge of the failure of another **INSURED** to comply, then the provisions of this Clause VI. shall not apply and no waiver of exclusions and conditions shall be afforded to such **INSURED**.

VII. OTHER CONDITIONS AND AGREEMENTS

A. LIMIT OF LIABILITY, DEDUCTIBLE AND OTHER INSURANCE:

1. The Company's obligation to pay **LOSS** and **DEFENSE COSTS** because of all **CLAIMS** first made against the **INSURED** during the **POLICY PERIOD** is subject to and shall never exceed the amount of the Company's Limit of Liability stated in Item 4 of the Declarations. Any payment of **LOSS** and/or **DEFENSE COSTS** by the Company will reduce the stated Limit of Liability. Once the Limit of Liability is exhausted by such payments, the Company will have no further obligations under this Policy to pay **LOSS** or **DEFENSE COSTS**.
2. The Company shall only be liable to pay, subject to the Limit of Liability, for **LOSS** and/or **DEFENSE COSTS** in excess of the deductible stated in Item 5 of the Declarations. The deductible applies to **LOSS** and **DEFENSE COSTS** with respect to each **CLAIM** insured.
3. This insurance is excess of any other valid and collectible insurance available to the **INSURED**, whether such insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as a specific excess insurance over the Limit of Liability stated in Item 4 of the Declarations of this Policy.

B. ADJUSTMENTS:

If after the Inception Date stated in Item 3 of the Declarations, the **ORGANIZATION** acquires or assumes all or substantially all of the equity, assets or liabilities of, or merges with, any for-profit entity or creates a for-profit subsidiary, there shall be no coverage under this Policy for **LOSS** or **DEFENSE COSTS** in connection with any **CLAIM** for **WRONGFUL ACTS** arising out of or in any way relating to the for-profit entity, or the equity, assets or liabilities acquired, assumed, merged with or created thereby, unless

1. the Company receives from the **ORGANIZATION** full details of such transaction or event, and
2. the Company, at its sole discretion, agrees by written endorsement to this Policy to provide coverage to the for-profit entity upon such terms, conditions and limitations as the Company may require.

C. INTERRELATED ACTS:

A **CLAIM** or **CLAIMS** by one or more claimants made against one or more **INSUREDS** which arise out of the same **WRONGFUL ACT** or interrelated **WRONGFUL ACTS** shall be deemed to be a single **CLAIM** and shall be deemed to have been made when the first of such **CLAIMS** is made. Any interrelated **WRONGFUL ACTS** shall be deemed to have been committed when the first of any such **WRONGFUL ACTS** was committed.

D. REPORTING OF **WRONGFUL ACTS**:

If during the **POLICY PERIOD** or the Extended Reporting Period, if in effect, the **INSURED** first becomes aware of any specific and identifiable **WRONGFUL ACT** which could give rise to a **CLAIM** and written notice of such **WRONGFUL ACT** is given to the Company, including the circumstances by which the **INSURED** first became aware of such **WRONGFUL ACT**, then any **CLAIM** that is subsequently made against the **INSURED** arising out of such **WRONGFUL ACT** shall be deemed for the purpose of this Policy to have been made against the **INSURED** during the **POLICY PERIOD**. The **INSURED** shall not have the right to report any **WRONGFUL ACT** to the Company if such takes place or commences subsequent to the expiration date or earlier date of termination of the Policy. The **INSURED** shall cooperate with and assist the Company and its representatives in the investigation of any **WRONGFUL ACT** reported under this Clause VII(D).

E. EXTENDED REPORTING PERIOD OPTION:

If the Company or the **ORGANIZATION** shall cancel or refuse to renew this Policy, the **ORGANIZATION** shall have the right, upon payment of an additional premium of seventy-five (75) percent of the annual premium stated in Item 6 of the Declarations, to an additional period of twelve (12) months following the effective date of such cancellation or the expiration date of the Policy in which to give written notice of **CLAIMS** first made against the **INSURED** during the Extended Reporting Period, but only in respect of any **WRONGFUL ACT** committed or allegedly committed prior to the effective date of such cancellation or expiration date of the Policy and subsequent to the Prior Acts Exclusion Date, if any. This right of extension shall terminate unless written notice of such election is received by the Company within ten (10) days of the effective date of cancellation or the expiration date of the Policy. For purposes of the Limit of Liability, the Extended Reporting Period shall be deemed part of the **POLICY PERIOD** and not in addition thereto, and shall not change or enlarge the Company's Limit of Liability. This clause and the rights contained herein shall not apply to any cancellation resulting from non-payment of premium.

F. NOTICE:

As a condition precedent to the **INSURED'S** right to coverage under this Policy, the **INSURED** shall:

1. give written notice to the Company as soon as practicable of any **CLAIM** made against the **INSURED**, and at their own expense, cooperate with and assist the Company and its Representatives, as the Company may require, in the settlement, defense, appeal and/or investigation of such **CLAIM**;
2. Immediately notify the Company of any complaint, demand for arbitration or notice of charges served upon the **INSURED** and provide the Company with copies of all such documents;

With regard to Paragraph 1 above, knowledge of a **CLAIM** possessed by one **INSURED** shall not be imputed to any other **INSURED**;

Any notice to the Company under this Clause VII(F) shall be given to Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, 150 East 42nd Street, New York, New York 10017.

G. SETTLEMENT OF CLAIM:

1. The Company shall not settle or satisfy any **CLAIM** without the consent of the **INSURED**. If the **INSURED** elects not to settle or satisfy a **CLAIM** as recommended by the Company and acceptable to the claimant, then subject to the Limit of Liability of this Policy, the Company will not be liable for any **LOSS** in excess of the amount of the recommended settlement, or for any **DEFENSE COSTS** incurred after the date of the **INSURED'S** election not to settle or satisfy a **CLAIM** as recommended by the Company. In no event shall the Company be liable in excess of the available Limit of Liability.
2. The **INSURED** shall not assume or admit liability for, or pay, settle or satisfy any **CLAIM**, either as to **LOSS** or **DEFENSE COSTS**, without the Company's prior written consent, except at the **INSURED'S** own expense.

H. CANCELLATION:

1. This Policy may be cancelled by the **ORGANIZATION** at any time by written notice to the Company stating when thereafter the cancellation shall be effective or by surrender of this Policy to the Company.
2. This Policy may also be cancelled by or on behalf of the Company by delivering to the **INSUREDS'** representative designated in the application, or by mailing to the **INSUREDS'** representative by registered, certified, or other first class mail, written notice stating when, not less than thirty (30) days thereafter (or ten (10) days in the event of non-payment of premium), the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this Policy shall terminate at the date and hour specified in such notice.
3. If this Policy shall be cancelled by the Company, the Company shall retain the customary pro rata earned premium.
4. If this Policy shall be cancelled by the **ORGANIZATION**, the Company shall retain the customary short rate earned premium.
5. Payment or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable. If the period of limitation relating to the giving of notice of cancellation is prohibited or made void by any law controlling the construction thereof, such period shall be amended so as to be equal to the minimum period of limitations permitted by any such law.
6. For the purpose of this Policy, notice of cancellation given to the **INSUREDS'** representative pursuant to this paragraph shall be deemed to be notice to all **INSUREDS**.

I. REPRESENTATIONS AND SEVERABILITY:

The Company, in issuing this Policy, has relied upon the declarations and statements contained in the written application for coverage and the documents attached thereto. All the declarations, statements and documents are the basis of coverage, and shall be considered incorporated in and constituting part of the Policy. The written application for coverage shall be construed as a separate application by each **INSURED**. With respect to the declarations, statements and documents contained in the written application for coverage, no statement or knowledge possessed by an **INSURED** shall be imputed to any other **INSURED** in determining whether coverage is available for any **CLAIM** made against an **INSURED**.

J. ACTION AGAINST THE COMPANY:

No action shall lie against the Company unless, as a condition precedent thereto, the **INSURED** shall have fully complied with all the terms of this Policy, nor until the amount of the **INSURED'S** obligation to pay shall have finally determined either by judgement 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 judgement or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. No person or **ORGANIZATION** shall have any right under this Policy to join the Company as a party to any action against the **INSURED** to determine the **INSURED'S** liability, nor shall the Company be impleaded by the **INSURED** or his legal representative. Bankruptcy or insolvency of the **INSURED** or of the **INSURED'S** estate shall not relieve the Company of any of its obligations hereunder.

K. ASSIGNMENT:

Assignment of interest under this Policy shall not bind the Company without its written consent.

L. SUBROGATION:

In the event of any **CLAIM** or payment under this Policy, the Company shall be subrogated to the extent of such payment to all rights of recovery therefor, and the **INSURED** shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit in the name of the **INSURED**. The **INSURED** shall do nothing after **CLAIM** is made against them to prejudice such rights. Any recovery shall be first paid to the Company to the extent of any **LOSS** paid by the Company with the balance paid to the **INSURED**.

M. ENTIRE AGREEMENT:

By acceptance of the Policy, the **INSURED** and the Company agree that this Policy embodies all agreements existing between them or any of their representatives relating to this insurance.

N. NOTICE TO **INSUREDS**:

All **INSUREDS** appoint the person designated in the application, at the address of the **ORGANIZATION** stated in Item 2 of the Declarations, as their representative to receive any notice or communication from the Company.

O. CHANGES:

Notice to or knowledge possessed by any agent of the Company shall not effect a waiver or a change in any part of this Policy nor estop the Company from asserting any rights under the terms of this Policy. The terms of this Policy cannot be waived or changed, except by endorsement issued to form a part of this Policy, signed by an authorized representative of the Company.