

**Mortgage Bankers/Brokers Professional Indemnity  
Certificate Number: MBB0845009A09**

The Underwriters, in consideration of an agreed premium, and in reliance upon all statements made and information furnished to them by the **Insured** in the proposal for this Certificate, hereby undertake and agree, subject to the terms, definitions, exclusions, limitations, conditions and endorsements of this Certificate, with the **Insured** as follows:

**I. Insuring Agreement**

**Professional Indemnity Coverage**

The Underwriters agree to indemnify the **Insured** for all sums that the **Insured** shall become legally obligated to pay as **Damages** and **Defense Expenses** resulting from any **Claim** arising out of any **Wrongful Act** taking place on or subsequent to the **Retroactive Date** and prior to the expiration of the **Certificate Period**, in the **Insured's** rendering of, or failure to render, **Professional Services**, and which **Claim** is first made against the **Insured** during the **Certificate Period** or an **Extended Reporting Period** and reported to Underwriters within the time period specified by the Certificate.

**II. Definitions**

For the purposes of this Certificate:

- (A) **Bodily Injury** means injury to the body, sickness, or disease sustained by any person, including death resulting from such injuries, or mental injury, mental anguish, mental tension, emotional distress, pain or suffering or shock sustained by any person whether or not resulting from injury to the body, sickness, disease or death of any person.
- (B) **Certificate Period** means the period of Certificate coverage for the **Insured** which is stated in **Item 2** of the **Declarations**, or if the period between the effective date of this Certificate and the expiration of this Certificate is less, such lesser period.
- (C) **Claim** means a written demand upon the **Insured** for **Damages** arising out of any **Wrongful Act** in the rendering of or failure to render **Professional Services**. A demand shall include, but shall not be limited to, any summons or paper instituting suit or arbitration proceedings against the **Insured**. All **Claims** for **Damages** arising out of the same or related acts, errors or omissions shall be deemed to be one **Claim** without regard to the number of demands, suits, proceedings or claimants. A **Claim** shall be deemed to have been made when the **Insured** first receives notice of the **Claim** from a claimant or his legal representative or agent.
- (D) **Damages** mean judgments, awards and settlements, provided any settlement is approved by Underwriters. **Damages** shall not include the return, reimbursement, restitution, reduction or set-off of fees, costs or expenses paid to or charged by any **Insured**, civil or criminal fines, sanctions, or penalties imposed on the **Insured** by law, punitive or exemplary damages, the multiplied portion of multiplied damages, amounts for which the **Insured** is not financially liable or which are without legal recourse to the **Insured** or which may be deemed uninsurable under the law. **Damages** shall not include any form of injunctive or declaratory relief.

**Damages** shall not include the value of any **Professional Services** rendered or expense incurred by the **Insured** for modification or correction of previous work for a client, as necessitated by or consented to as the result of any settlement or final disposition of a **Claim**, or any return, withdrawal, or reduction of professional fees.

- (E) **Defense Expenses** means reasonable and necessary costs and expenses of investigation, adjustment, appraisal, defense, attorneys' fees, litigation, arbitration, mediation, and all related fees and expenses paid or incurred by the **Insured** with the prior written consent of the Underwriters, or such costs or expenses incurred by the Underwriters in the settlement, litigation, mediation, or arbitration of a **Claim** under this Certificate, provided always that **Defense Expenses** do not include: (1) salary charges of employees or officials of the **Insured** or (2) salary or administration or overhead charges, or charges of any kind or character whatsoever attributable to any in-house counsel or captive out of house counsel for the **Insured**.
- (F) **Extended Reporting Period** means that period of time as set forth more fully in **IV. Conditions** (H) of the Certificate following the expiration of the **Certificate Period** for the reporting in writing by the **Insured** to the Underwriters of **Claims** arising out of **Wrongful Acts** which took place on or subsequent to the **Retroactive Date** and prior to the expiration of the **Certificate Period**.
- (G) **Insured** means the entity named in **Item 1** of the **Declarations** (which entity is herein referred to as the "**Principal Insured**,"), and:
- (1) any person who was or now is a director, officer or employee of the **Insured**, but only with respect to such person performing **Professional Services** on behalf of the **Principal Insured**; and,
  - (2) any estate, heir, legal representative or assign of any person described in paragraph (1) above, but only in the event of such person's death, incapacity or bankruptcy, and only for such person's liability as otherwise covered herein.
- (H) **Pollutants** means any noise, solid, semi-solid, liquid, gaseous or thermal irritant or contaminant, including without limitation, smoke, vapor, soot, fumes, mists, acids, alkalis, chemicals, biological agents or materials, electromagnetic or ionizing radiation and energy, genetically engineered materials, carcinogenic materials, waste and any other irritant or contaminant. "Biological agents or materials" include any agents or materials causing disease, malformation or mutation. "Waste" shall include any materials to be disposed, recycled, reconditioned or reclaimed.
- (I) **Principal Insured** means the entity first listed in **Item 1** of the **Declarations**.
- (J) **Professional Services** means those services rendered by the **Insured** to others in the ordinary course of the **Principal Insured's** business as a mortgage banker and/or mortgage broker with respect to loan origination, loan processing, loan marketing, loan closing, warehousing, loan accounting and loan servicing.
- (K) **Retroactive Date** means the date specified in **Item 4** of the **Declarations**.
- (L) **Wrongful Act** means any negligent act, negligent error or negligent omission.

### **III. General Agreement**

#### **Indemnification of Defense Expenses**

- (A) **Defense Expenses** may be recovered as part of any covered **Claim**. Subject to the rights of Underwriters hereunder, however, it shall be the duty of the **Insured** and not the duty of the Underwriters to defend **Claims** made against the **Insured**.
- (B) Underwriters shall have the right and shall be given the opportunity to effectively associate with the **Insured** in the investigation, defense and settlement, including but not limited to the negotiation of a settlement, of any **Claim**, suit or legal proceeding referred to in paragraph (A) above.

At the Underwriters' election and with the written consent of the **Insured**, the **Insured** shall permit the Underwriters to conduct the defense of any **Claim** in the **Insured's** name, through attorneys of the Underwriters' selection.

The **Insured** agrees to provide Underwriters with all information, assistance and cooperation which the Underwriters reasonably request and agree that in the event of a **Claim**, the **Insured** will do nothing that may prejudice the Underwriters' position or their potential or actual rights of recovery.

- (C) The **Insured** agrees not to admit to any liability or to settle any **Claim**, or incur any **Defense Expenses**, or otherwise assume any contractual obligation or admit any liability with respect thereto, without the Underwriter's written consent, which shall not be unreasonably withheld. Underwriters shall not be liable for any settlement of a loss or **Claim**, **Defense Expenses**, court costs or attorneys' fees, or any other costs or fees, assumed obligation or admission of liability to which they have not consented. The **Insured** shall not unreasonably withhold consent to a settlement by the Underwriters of any suit or legal proceeding.
- (D) **Defense Expenses** indemnified to the **Insured** shall be a part of and not in addition to the Aggregate Limit of Indemnity stated in **Item 3** of the **Declarations** and payments made under this Certificate shall reduce the amount of the Aggregate Limit of Indemnity stated in **Item 3** of the **Declarations**.

#### **IV. Conditions**

(A) **Statement Concerning Nature of this Insurance**

This Certificate shall apply only as excess of any other valid and collectible insurance, including the errors and omissions coverage under the standard Mortgage Bankers or similar Certificate available to the **Principal Insured** or any person or entity covered under this Certificate. Underwriters shall not make any payment under the insurance afforded by this Certificate unless and until the amount of coverage available under such other certificate shall be exhausted.

(B) **Reporting of Claims and Potential Claims**

(1) **Reporting of Potential Claims and Claims**

As a condition precedent to the right to recover under this Certificate, the **Insured** shall give to Underwriters written notice at the earliest practicable moment, but in no event later than sixty (60) days, after becoming aware of:

- (a) any act, error or omission which may reasonably be anticipated to give rise to a **Claim** against the **Insured**;
- (b) any notice, advice or threat, written or oral, that any person or organization intends to hold the **Insured** liable for any alleged **Wrongful Act**; and
- (c) any **Claim** made against the **Insured**.

The written notice shall provide full particulars about the potential **Claim** or **Claims**, including the identity of the person(s) bringing or anticipated to bring the potential **Claim** or **Claims**, the identity of the person(s) responsible for the acts giving rise to the potential **Claim** or **Claims**, how the **Insured** first became aware of the potential **Claim** or **Claims**, the identity of the covered individual or entity involved, the amount of potential **Damages** or **Defense Expenses** involved, and such other information which the **Insured** may so possess.

If written notice is provided pursuant to paragraph (1)(a) or (b) above, then any **Claim** which arises out of such circumstance(s) or event(s) which is subsequently made against the **Insured** and which is reported to Underwriters in accordance with paragraph (3), below, shall be deemed for the purposes of this Certificate to have been made and reported at the time such earlier notice of the circumstance(s) or event(s) was provided to Underwriters

(2) **Action Against Underwriters**

It is agreed that the Insurance granted under this Certificate shall be for the exclusive benefit of the **Insured** and that in no event shall any other party have any right of action under this Certificate.

Legal proceedings for recovery under this Certificate with respect to any **Claim** hereunder shall not be brought after the expiration of 24 months after there has been full compliance with all of the terms of this Certificate and after the amount of the **Insured's** obligation to pay shall have been finally determined either by an adjudication against the **Insured** or by written agreement of the **Insured**, the claimant and Underwriters.

(3) **Reporting and Notification to Underwriters**

The written notice required under **IV. Conditions** (B)(1) above, shall be forwarded to those identified in **Item 7** of the **Declarations**.

(C) **Joint Insured**

The **Principal Insured** shall act for all **Insureds** for all the purposes of this Certificate. The **Principal Insured** represents that it is empowered by all **Insureds** hereunder to negotiate and agree on their behalf all amendments to the terms, conditions and limitations of this Certificate. The **Principal Insured** further represents that they are empowered to receive on behalf of all **Insureds** hereunder all Notices including Notice of Cancellation and agree that all Notices by Underwriters to the **Principal Insured** shall be binding on all **Insureds** hereunder. Underwriters need take no further action.

The liability of the Underwriters for all **Claims** made under this Certificate shall not exceed the amount for which the Underwriters would be liable had all such **Claims** been made against any one person or entity. Payment by the Underwriters to the **Principal Insured** of **Claims** involving any **Insured** shall fully release the Underwriters with respect to such **Claim**.

(D) **Limit of Indemnity**

(1) **Aggregate Limit of Indemnity**

The Underwriters' total liability for all **Claims** made during the **Certificate Period** shown in **Item 2** of the **Declarations**, and during any **Extended Reporting Period**, including **Defense Expenses**, is limited to the Aggregate Limit shown in **Item 3** of the **Declarations**, irrespective of the total amount of such **Claims**.

The Aggregate Limit of Indemnity shall be reduced by the amount of any payment made under this Certificate. Upon exhaustion of the Aggregate Limit of Indemnity, the Underwriters shall have no further duty:

- (a) to indemnify the **Insured** for any **Claims**; and/or
- (b) to indemnify the **Insured** for any **Defense Expenses** in connection with such **Claims**; and/or

- (c) to continue the defense of the **Insured**, in the event of the Underwriters' prior election to conduct the defense of any **Claim**. Upon notice by the Underwriters to the **Insured** that the Aggregate Limit of Indemnity has been exhausted, the **Insured** shall assume all responsibility for its defense at its own cost and shall promptly reimburse to the Underwriters all amounts paid in excess of the aggregate limit.

The Aggregate Limit of Indemnity shall not be re-established in whole or in part by any recovery effected subsequent to any payment made under this Certificate.

(2) **Multiple Insureds Claims and Claimants**

The inclusion herein of more than one covered person or entity or the making of **Claims** or the bringing of suits by more than one person or entity shall not operate to increase the Limit of Indemnity under this Certificate. If additional **Claims** are subsequently made against the **Insured** and arise out of the same, related or continuing acts, errors or omissions in a **Claim** already made, all such **Claims**, whenever made, shall be considered to be a single **Claim** and such **Claim** shall be deemed first made at the time the earliest **Claim** arising out of such acts, errors or omissions was first made or notice of a potential **Claim** arising out of such acts, errors or omissions was initially given pursuant to **IV. Conditions** (B).

(E) **Cooperation**

Upon the Underwriters' request and at all reasonable times and places designated by the Underwriters, the **Insured** shall

- (1) submit to examination by the Underwriters and subscribe to the same under oath, and
- (2) produce for the Underwriters' examination all pertinent records including the audit records of its accountants, and
- (3) cooperate with the Underwriters in all matters pertaining to any **Claim** and/or all matters reported to Underwriters pursuant to **IV. Conditions** (B)(I).

The **Insured** shall execute all papers and render all assistance as requested by the Underwriters.

The **Insured** shall do nothing after a **Claim** has been made to prejudice the Underwriters' rights.

(F) **Deductible**

The Underwriters shall be liable hereunder, subject to **IV. Conditions** (D), only for the amount by which each and every **Claim** exceeds the Deductible amount stated in **Item 3** of the **Declarations**.

The Deductible amount stated in **Item 3** of the **Declarations** applies to each and every **Claim** made against the **Insured**, and shall be paid by or on behalf of the **Principal Insured**, or upon the **Principal Insured's** failure to pay, jointly and severally by such other covered entities or individuals and shall be applied to the payment of **Damages** and **Defense Expenses** resulting from all acts, errors or omissions giving rise to **Claims** for which written notice is received by Underwriters during the **Certificate Period** or any **Extended Reporting Period**.

The **Principal Insured** shall make direct payments within the deductible to appropriate parties as designated by Underwriters. In the event Underwriters advance any payment which is the responsibility of the **Principal Insured** pursuant to the deductible obligations,

the **Principal Insured**, or upon the **Principal Insured's** failure to pay, all covered entities and individuals, jointly and severally, shall promptly reimburse Underwriters for such payment.

(G) **Termination**

This Certificate may be cancelled by the **Principal Insured** with respect to the interests of all persons and/or entities covered hereunder at any time by written notice or by surrender of the Certificate. This Certificate may also be cancelled by or on behalf of the Underwriters by delivering to the **Principal Insured** or by mailing to the **Principal Insured** by first class mail, or by that class of mail specified in the insurance regulations of the State where the **Principal Insured** is domiciled, to the **Principal Insured's** address as shown in **Item 1** of the **Declarations**, written notice stating when, in not less than sixty (60) days, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this Certificate shall terminate at the date and hour specified in such notice.

In the event of cancellation by the **Principal Insured** or Underwriters, it shall be the duty and responsibility of the **Principal Insured** to concurrently notify all the covered entities and individuals of the termination of the Certificate and Underwriters' liability to all the covered entities and individuals shall cease as of the effective date of cancellation, regardless of any failure of the **Principal Insured** to give proper notice.

If this Certificate shall be cancelled by the **Principal Insured** the Underwriters shall retain the short rate proportion per N.M.A.45 of the premium hereon, except that if this Certificate is on an adjustable basis the Underwriters shall receive the earned premium hereon or the short rate proportion of any minimum premium stipulated herein, whichever is the greater.

If this Certificate shall be cancelled by or on behalf of the Underwriters, the Underwriters shall retain the pro-rata proportion of the premium hereon, except that if this Certificate is on an adjustable basis the Underwriters shall receive the earned premium hereon or the pro-rata proportion of any minimum premium stipulated herein whichever is the greater.

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

(H) **Extended Reporting Period**

(1) Option to Purchase

If this Certificate is cancelled or non-renewed by Underwriters, then the **Principal Insured** shall have the right to purchase an **Extended Reporting Period** with respect to the reporting of **Claims** which are first made during such Period, BUT ONLY WITH respect to the reporting of any **Claim** resulting directly from a **Wrongful Act** occurring subsequent to the **Retroactive Date** and prior to the expiration of the **Certificate Period** in the manner set forth in **I. Insuring Agreement**.

Such option must be exercised by the **Principal Insured** within thirty (30) days after the expiration of the **Certificate Period** by providing: (1) written notice to Underwriters' authorized representative; and (2) with the written notice, the required premium.

The coverage provided by an **Extended Reporting Period** applies to the **Insured** and any other individual or entity covered under **I. Insuring Agreement** of the Certificate; however, the Underwriters shall have no obligation to provide notice to any individual or entity covered under **I. Insuring Agreement** of the availability of an **Extended Reporting Period** coverage for such individual or entity.

It is understood and agreed that the quotation of a different premium and/or deductible(s) and/or limit(s) of indemnity and/or a change in the terms does not constitute cancellation or non-renewal by Underwriters.

(2) Period of Time and Premium Charged

The **Extended Reporting Period** shall be for a period of 12 months at a premium for such 12 month period of 100% of the premium set forth in **Item 5** of the **Declarations**.

An **Extended Reporting Period** is not renewable.

(3) Limit of Indemnity

The liability of the Underwriters for all **Claims** reported during an **Extended Reporting Period** shall be part of and not in addition to the Limits of Indemnity for the **Certificate Period** as set forth in **Item 3** of the **DECLARATIONS** and in accordance with **IV. Conditions** (D) of this Certificate. In accordance with **IV. Conditions** (D), the limits available during an **Extended Reporting Period** may have been reduced by payments during the **Certificate Period**, and any payment made during an **Extended Reporting Period** shall also reduce the available Limit(s) of Indemnity.

(4) Premium Fully Earned

The premium paid for an **Extended Reporting Period** shall be deemed fully earned. In the event, however, that the **Insured** purchases any contract of insurance or other indemnity which replaces, in whole or in part, the coverage afforded under an **Extended Reporting Period**, such Period shall cease and the Underwriters shall refund, as if unearned, the pro rata portion of the premium.

(5) No Extension of **Certificate Period**

The **Certificate Period** is not extended by the granting of an **Extended Reporting Period**. Such Period shall not be construed to be a new certificate and any **Claim** reported during such Period shall otherwise be governed by all the terms and conditions of this Certificate.

If, during any **Extended Reporting Period**, the **Insured** gives written notice to the Underwriters of a **Claim**, that **Claim** shall be deemed to have been made on the last day of the **Certificate Period** and any subsequent **Claims** arising out of the same or related acts, errors or omissions shall also be deemed to have been made on the last day of the **Certificate Period**.

(6) No Option in Event of Non-Payment or Fraud

If the Certificate is cancelled or non-renewed for non-payment of premium, misrepresentation, non-disclosure or fraud, then no **Extended Reporting Period** shall be afforded under this Certificate.

(I) **Subrogation**

It is agreed that Underwriters, upon the payment of any **Claim** hereunder, shall become subrogated to the extent of such payment to all the rights and remedies of the **Insured** in respect of such **Claim**, and the **Insured** agrees to execute all necessary documents and to otherwise co-operate fully in securing to Underwriters all such subrogated rights and remedies. Underwriters agree to waive any rights of subrogation against employees, officers, directors or trustees of the **Insured**.

Any amount so recovered shall be apportioned as follows: first, for the repayment of costs and expenses incurred toward subrogation; second, to any amounts paid by the **Insured** in excess of the deductible; third, to any amounts paid by Underwriters; fourth, to any amounts paid by any other insurance carrier; and last, to the amount of the **Insured's** deductible.

(J) **Representation of Insured**

The **Principal Insured** agrees:

- (1) that any and all information and statements supplied by the **Insured** to the Underwriters are true, accurate and complete and shall be deemed to constitute material representations made by the **Insured**;
- (2) that the Underwriters have issued this Certificate in reliance upon the representations of the **Principal Insured** and/or by any third party acting on behalf of the **Insured**; and
- (3) that this Certificate, endorsements thereto, together with the completed and signed application and any and all supplementary information and statements provided by the **Insured** to the Underwriters (all of which are deemed to be incorporated herein) embodies all of the agreements existing between the **Insured** and the Underwriters and shall constitute the entire contract between the **Insured** and the Underwriters.

The misrepresentation or non-disclosure of any matter by the **Insured** or the **Insured's** agent will render the Certificate null and void and relieve the Underwriters from all liability herein.

(K) **Terms of Certificate Conformed to Statute**

The terms of this Certificate, including any limitation as to time, which are in conflict with the statutes of the state wherein this Certificate is issued are hereby amended to conform to such statutes effective as of the inception date of the Certificate.

(L) **Service of Suit**

It is agreed that in the event of the failure of the Underwriters to pay any amount claimed to be due hereunder, the Underwriters, at the request of the **Insured**, will submit to the jurisdiction of a Court a competent jurisdiction within the United States. Nothing herein shall constitute or should be understood to constitute a waiver of the Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States.

It is further agreed that service of process in such suit may be made upon the persons named in **Item 8** of the **Declarations**, and that in any suit instituted against any one of them upon this Certificate, the Underwriters will abide by the final decision of such Court or any Appellate Court in the event of an appeal.

The firm named in **Item 8** of the **Declarations** is authorized and directed to accept service of process on behalf of the Underwriters in any such suit and/or upon the request of the **Insured** to give a written undertaking to the **Insured** that they will enter a general appearance upon the Underwriters' behalf in the event that such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, the Underwriters hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by the **Insured** and hereby designate the firm named in **Item 8** of the **Declarations** as the persons to whom the said officer to mail such process or a true copy thereof



(M) **Mergers and Acquisitions**

The **Principal Insured** shall be required to give written notice to the Underwriters prior to the completion of a merger or acquisition including any change in control by 50%, by or of the **Principal Insured** and Underwriters expressly reserve the right to demand a premium adjustment if this insurance is to remain in force subsequent to any merger or acquisition.

**V. Exclusions**

**This certificate does not cover any Damages or Defense Expenses incurred with respect to:**

- (A) any **Claim** arising out of any criminal, dishonest, fraudulent or malicious act, error, or omission of the **Insured**, or any one acting on its behalf, including its employees, officers, directors or trustees;
- (B) any **Claim** arising out of or related to any finding that an **Insured** gained any personal profit or advantage to which they were not legally entitled;

Exclusion (A) and (B), however, shall not apply to an individual or entity covered under this Certificate, where such individual or entity did not personally commit, acquiesce in, or remain passive after having knowledge of the actions giving rise to the **Claim**.

- (C) any **Claim** by one **Insured** under this insurance against another **Insured** under this insurance;
- (D) any **Claim** arising out of, resulting from or in consequence of, or in any way involving **Bodily Injury**, or injury to or destruction of any tangible property, including the loss of use thereof,
- (E) any **Claim** arising out of the insolvency or bankruptcy of any **Insured** or of any other entity including but not limited to the failure, inability, or unwillingness to pay **Claims**, losses, or benefits due to the insolvency, liquidation or bankruptcy of any such individual or entity;
- (F) any **Claim** made by or against or in connection with any business enterprise (including the ownership, maintenance or care of any property in connection therewith), not named in the **Declarations**, which is owned by any **Insured** or in which any **Insured** or **Insured's** spouse is a trustee, partner, officer, director or employee or more than a 5% shareholder;
- (G) any **Claim** arising out of any acts, errors, or omissions that took place prior to the effective date of this insurance, if any **Insured** on the effective date knew or could have reasonably foreseen that such acts, errors or omissions might be expected to be the basis of a **Claim** or any **Claim** or circumstance which might lead to a **Claim** in respect of which any **Insured** has given notice to the insurer of any other certificate in force prior to the effective date of this Certificate;
- (H) any **Claim** arising out of or relating to any liability assumed by any **Insured** under any contract or agreement, whether written or oral, including but not limited to any express warranties or guarantees, or estimates of cost, unless such liability would have attached to the **Insured** in the absence of such agreement;
- (I) any **Claim** arising out of the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto;
- (J) any punitive or exemplary damages, any **Damages** which are a multiple of compensatory damages, fines, sanctions or penalties, including any alleged violation of the federal RICO statute or any state equivalent for or the return of or reimbursement for fees, costs or expenses charged by any **Insured**;

- (K) any **Claim** arising out of libel or slander or other defamatory or disparaging material, or a publication or an utterance in violation of an individual's right of privacy; or arising out of plagiarism, infringement of copyright or trademark or patent or any **Claim** arising out of the use or misuse of confidential or proprietary information;
- (L) any **Claim** arising out of discrimination including, but not limited to, discriminatory employment practices.
- (M) any **Claim** arising out of, resulting from or in consequence of, or in any way involving, whether suddenly or over a long period of time:
  - (1) the actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of **Pollutants**.
  - (2) any injury, damage, payments, costs or expense incurred as a result of any testing for, monitoring, removal, containment, treatment, detoxification., neutralization or cleanup of **Pollutants**.
- (N) any **Claim** arising out of any actual or alleged commingling of or inability or failure to pay, collect or safeguard funds;
- (O) any **Claim** arising out of or based upon a loss alleged to have been sustained through fluctuation in the market value of any security or property including real property;
- (P) any **Claim** seeking non-pecuniary relief;
- (Q) any **Claim** arising out of any defect in title not disclosed of public record of which (defect in title) any **Insured** had actual or constructive knowledge at the date of issuance of such title;
- (R) any **Claim** brought by on behalf of or in the right of any other Underwriter or insurer providing coverage to any **Insured** to recoup all or a portion of any amounts paid by such Underwriter whether by subrogation, assignment or otherwise;
- (S) any **Claim** based upon or arising out of any transaction in which any **Insured** has a financial interest as a buyer or seller of real property;
- (T) any **Claim** arising out of any guarantee, promise, representation or other advice concerning the availability of funds, costs associated with obtaining those funds, or interest rates that may be charged;
- (U) any **Claim** arising out of, related to or based upon the financial inability to pay, insolvency, receivership, bankruptcy or liquidation of any Underwriter, insurer, reinsurer, intermediary or others acting on their behalf,
- (V) any **Claim** directly or indirectly occasioned by, happening through or in consequence of war, invasion acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction or damage to property by or under the order of any government or public or local authority;.
- (W) any **Claim** arising out of, resulting from or in consequence of, or in any way involving any nuclear contamination, nuclear reaction, or radiation regardless of cause;
- (X) any **Claim** arising out of the loss of intangible property ; and,
- (Y) indirect or consequential loss of any nature.