

PROFESSIONAL (NON-MEDICAL) LIABILITY COVERAGE FORM

CLAIMS-MADE COVERAGE. (EXPENSES WITHIN THE LIMITS OF INSURANCE)

PLEASE READ THE ENTIRE FORM CAREFULLY.

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under WHO IS AN INSURED (SECTION II).

Other words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS (SECTION V).

SECTION I – COVERAGE

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of the rendering of or failure to render "professional services" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any incident and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE (SECTION III); and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered.

- b. This insurance applies to "professional services" only if:

- (1) The rendering of or failure to render "professional services" takes place in the "coverage territory";
- (2) The rendering of or failure to render "professional services" did not occur before the Retroactive Date, if any, shown in the Declarations or after the end of the policy period; and
- (3) A claim for damages because of the rendering of or failure to render "professional services" is first made against any insured, in accordance with paragraph c. below, during the policy period or the Discovery Period, if any.

- c. A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

- (1) When notice of such claim is received by any insured or by us, whichever comes first; or
- (2) When we make settlement in accordance with paragraph 1.a. above.

All claims for damages causing loss to the same person or organization will be deemed to have been made at the time the first of those claims is made against any insured.

2. Exclusions

This insurance does not apply to:

- a. "Bodily injury" or "property damage", except "bodily injury" or "property damage" arising out of a negligent act, error or omission in the rendering of or failure to render "professional services";
- b. Any dishonest, fraudulent, criminal or malicious act or omission by any insured;
- c. "Personal / Advertising Injury";
- d. Any claim arising out of fiduciary duty,

responsibility or obligation;

- e. Any obligation of any insured to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that any insured would have in the absence of the contract or agreement;
- f. Any claim based upon a warranty or guarantee, or breach of contract in respect of any agreement to perform "Professional Services" for a specified fee;
- g. Any claim made by:
 - (1) Any business enterprise in which an insured owns an interest, is a partner, or which is a parent, affiliate, subsidiary or sister company of any insured; or
 - (2) Any business enterprise directly or indirectly controlled, operated or managed by a business enterprise named in the Declarations; or
 - (3) A present, former or prospective partner, officer, director, stockholder or employee of any insured; or
 - (4) Any claim made by any insured against any other insured;
- h. Any claim based upon the insolvency or bankruptcy of any person, firm or organization;
- i.
 - (1) Any "incident" resulting in the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time;
 - (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

Pollutants means any solid, liquid, gaseous,

or thermal irritant or contaminant including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

- j. Any obligation of the insured under a Worker's Compensation, disability benefits or unemployment compensation law, or any similar law;
- k. Any violation of the Federal Securities Act of 1933 or Securities Exchange Act of 1934 or any other Federal or State securities law or any amendments thereof or additions thereto, or rules or regulations promulgated thereunder;
- l. Any claim attributable to any actual or alleged violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961 *et. seq.*, and any amendments thereto, or any rules or regulations promulgated thereunder;
- m. Any violation of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et. seq.*, or any amendments thereto or rules or regulations promulgated thereunder, or any similar provisions of any law.

CLAIM EXPENSES LIMITATIONS

We will pay, with respect to any claim we investigate or settle or any "suit" against an insured we defend:

- 1. All expenses we incur, except those which are subject to the deductible shown in the Declarations;
- 2. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds;
- 3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work;
- 4. All costs taxed against the insured in the "suit";
- 5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer;

6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments are within the Limits of Insurance.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner;
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business;
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers;
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your “executive officers” and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
2. Each of the following is also an insured:
 - a. Your “employees”, other than either your “executive officers”(if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business;
 - b. Any person or organization having proper temporary custody of your property if you die, but only until your legal representative has been appointed;
 - c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or form

which provides “professional services”; other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 30th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage does not apply to the rendering of or failure to render “professional services” before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or “suits” brought; or
 - c. Persons or organizations making claims or bringing “suits”;
2. The Each Claim Limit is the most we will pay for the sum of damages and “claim expenses” arising out of any one “incident”,
3. The Aggregate Limit is the most we will pay for the sum of damages and “claim expenses” during the policy period.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured’s estate will not relieve us of our obligations under this Coverage Part;

2. Duties In The Event Of Incident, Claim Or Suit

- a. Notice of an "incident" is notice of a claim.
- b. You must see to it that we are notified as soon as practicable of an "incident" involving the rendering of or failure to render "professional services" which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the act, error or omission took place;
 - (2) The names and addresses of the potential claimants and other parties having relevant knowledge of it; and
 - (3) The amount of potential damages.
- c. If a claim is received by any insured, you must immediately record the specifics of the claim and the date received and see to it that we receive written notice of the claim as soon as practicable.
- d. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or a "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- e. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below;

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies on other than a claims-made basis, if:

- (1) No Retroactive Date is shown in the Declarations; or
- (2) The other insurance has a policy period which continues after the Retroactive Date shown in the Declarations.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Adjustment

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates;
- b. If the premium shown in this Coverage Part is an advance premium, at the close of each adjustment period we will compute the earned premium for that period.
Any additional premium is due and payable on notice to the first Named Insured;
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations and the Application forming a part of this policy are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance,

and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

SECTION V - DEFINITIONS

1. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
2. "Claim expenses" means:
 - a. Fees charged by lawyers retained by us;
 - b. Fees charged by lawyers retained by an insured with our written consent;
 - c. All other expenses we incur with respect to any claim we investigate or settle or any "suit" against an insured we defend.
3. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada; or
 - b. All parts of the world if the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.
4. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
5. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
6. "Incident" means a negligent act, error or omission in the rendering of or failure to render "professional services".

7. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
8. "Personal / Advertising injury" means injury, other than "bodily injury", arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
 - e. Oral or written publication of material that violates a person's right of privacy;
 - f. Infringement of copyright, patent, title, slogan, trademark, trade name or trade dress rights;
 - g. Misappropriation of advertising ideas or style of doing business;
 - h. Discrimination because of race, sex, age, religious creed, sexual preference, national origin, handicap, disability, or marital status.
9. "Professional services" means only those services of a professional nature specified in the Declarations in the conduct of your business, including clerical functions associated with such services, by you or by a person for whose acts or omissions any insured is legally responsible.
10. "Property damage" means:
 - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will be deemed to occur at the time of the physical injury that caused it; or
 - b. Loss of use of tangible property that is not physically injured. All such loss of use will be deemed to occur at the time of the "incident" that caused it.
11. "Suit" means a civil proceeding in which damages because of the rendering of or failure to render "professional services" to which this insurance applies are alleged. "Suit" includes:
 - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with out consent.
12. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.