

# INSURANCE AGENTS AND BROKERS PROFESSIONAL LIABILITY INSURANCE

## Claims - Made and Reported

THIS IS A **CLAIMS - MADE AND REPORTED** POLICY. PLEASE READ THIS POLICY CAREFULLY. OUR LIMIT OF LIABILITY AVAILABLE WILL BE REDUCED BY THE AMOUNTS PAID FOR **DAMAGES AND CLAIM EXPENSES**.

Throughout this Policy the words you and your refer to the **Insured** as defined in the Definitions section of this Policy. The words we, us and our refer to the Company as stated on the Declarations Page of this Policy (Company). Words which are in **bold** writing throughout this document are defined terms within the Definitions section of this Policy.

In consideration of the premium paid, in reliance upon the statements in the Application(s) and subject to the terms and conditions of this Policy, the Company agrees with the **Named Insured** as follows:

### I. INSURING AGREEMENTS

#### A. PROFESSIONAL LIABILITY

We will pay on behalf of the **Insured** those amounts which the **Insured** is legally obligated to pay as **Damages** caused by a **Professional Incident** taking place within the Policy Territory and subsequent to the retroactive date and prior to the expiration or termination date of this Policy, for which a **Claim** is first made against the **Insured** during the **Policy Period** and reported to us in writing during the **Policy Period** or any applicable extended reporting period, as described in Section VI. EXTENDED REPORTING PERIOD.

### II. DEFINITIONS

A. **Advertising Activities** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purpose of this definition:

1. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
2. Only that part of a web-site that promotes your goods, products or services for the purpose of attracting customers or supporters shall be considered **Advertising Activities**.

B. **Advertising Injury** means injury arising out of one or more of the following offenses committed in the course of the **Named Insured's Advertising Activities**:

1. Libel, slander or defamation;
2. Disparaging a person's or organization's goods, products or services;
3. Misappropriation of advertising ideas or style of doing business;
4. Piracy or unfair competition;
5. Use of another's advertising ideas; or
6. Infringing upon another's copyright, title, slogan, patent, trademark, trade name, trade dress or service mark in your **advertising activities**.

C. **Automobile** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto). **Automobile** also includes vehicles commonly described as mobile equipment, whether or not self-propelled, subject to vehicle registration or designed for use principally off public roads.

D. **Bodily Injury** means physical injury, sickness, disease, mental anguish, or emotional distress sustained by a person, including death resulting from any of these at any time.

E. **Claim** means:

1. a written demand received for money, services, non-monetary relief or injunctive relief by any **Insured** resulting from a **Professional Incident**;

2. Service of **Suit** or arbitration proceedings against an **Insured** resulting from a **Professional Incident**.

F. **Claim Expenses** means:

1. Fees, costs and expenses resulting from the investigation, adjustment, settlement and defense of a **Claim**.
2. The premiums for appeal, attachment or similar bonds, but only for bond amounts within the applicable Limits of Liability. We do not have to furnish these bonds.
3. Prejudgment and post-judgment interest awarded against the **Insured** on that part of any covered judgment we pay. If we make an offer to pay the applicable Limits of Liability, we will not pay any prejudgment interest based on that period of time after the offer.
4. All interest on the full amount of any covered judgment that accrues after entry of the judgment and before we have paid, offered to pay, or have tendered or deposited to a court of competent jurisdiction the part of the judgment that is within the applicable Limits of Insurance.

**Claim Expenses** do not include:

1. salaries or expenses of our regular employees or officials;
2. fines, penalties, or taxes levied against the **Insured**;
3. fees, costs, or expenses incurred by the **Insured** without our prior written consent. These unilaterally incurred fees, costs, or expenses will not be reimbursed by us nor reduce the deductible under the Policy.

G. **Damages** means a monetary and compensatory judgment, award or settlement. **Damages** also include punitive or exemplary damages to the extent such amounts are insurable under the applicable law and/or statute most favorable to the insurability of punitive or exemplary damages which the **Insured** becomes legally obligated to pay as the direct result of a covered **Claim**.

However, **Damages** shall not include:

1. any **Damages**, other than punitive or exemplary **Damages**, which are a multiple of compensatory **Damages**, taxes or fees;
2. amounts the **Insured** is required to pay or return as restitution;
3. fines, penalties, sanctions, taxes or fees, other than punitive or exemplary **Damages**, assessed against the **Insured**;
4. judgments or awards arising from acts deemed uninsurable by law;
5. fees or charges, including over-charges or cost overruns incurred by any **Insured**;
6. collecting fees of an **Insured** from a third party;
7. the return of fees or other compensation paid to an **Insured**;
8. non-pecuniary relief.

H. **Disciplinary Proceeding** means any proceeding or investigation brought by any federal, state, or municipal agency, insurance department or quasi-governmental authority. However, **Disciplinary Proceeding** shall not include a criminal proceeding.

I. **Insured** means:

1. the **Named Insured**;
2. your current and former principals, partners, executive officers, directors, members, managers, stockholders, trustees, and current and former employees while acting on your behalf within the course and scope of their duties as such;
3. in the event of death, incapacity, bankruptcy or insolvency of any **Insured**, their heirs, estate, executors, administrators and legal representatives in his or her capacity as such, but only with respect to matters for which the **Insured** otherwise would have been entitled to coverage under this Policy;
4. leased personnel under your supervision, but only while acting on your behalf within the course and scope of their lease agreement and only if the **Named Insured** has agreed in writing to provide insurance to leased personnel;
5. Employed notaries while acting on your behalf within the course and scope of their duties as such;
6. a temporary worker under your supervision, who is furnished to you to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions;

7. any **Subsidiary**, but only with respect to **Professional Incident(s)** that occur while such entity is a **Subsidiary** of the **Named Insured**;
  8. any Independent contractors who are natural persons, but only while acting under your direct supervision and on your behalf;
  9. Any spouse or legally recognized domestic partner (whether by state or federal law) of any person otherwise qualifying as an **Insured**, but only with respect to their status as such.
- J. **Intellectual Property** means property that is created through the intellectual efforts of its creator which is claimed to be protected by law.
- K. **Mediation** means the voluntary and nonbinding process by which the **Insured** and Claimant(s) agree to use a neutral and qualified third party to intercede between the **Insured** and Claimant(s) with the intention to reconcile the **Insured** and Claimant(s) to resolve a **Claim**. Court ordered or imposed mediation or other court ordered dispute resolution are specifically excluded from this definition.
- L. **Named Insured** means the entity or individual named in the Declarations.
- M. **Other Insurance** includes, but is not limited to, coverage or benefits provided by self-insurance arrangements, pools, self-insurance trusts, captive insurance companies, inter-insurance exchanges, mutual insurance companies, stock insurance companies, risk retention groups, reciprocal exchanges, mutual benefit or assistance programs, or any other plan or agreement of risk assumption. This definition applies regardless of whether applicable law would consider such coverage or benefits to be "Other Insurance".
- N. **Personal Injury** means injury arising out of one or more of the following offenses:
1. false arrest, detention or imprisonment;
  2. malicious prosecution;
  3. wrongful entry or wrongful eviction;
  4. invasion of right of private occupancy;
  5. oral or written publication of material that slanders or libels a person or organization or defames or disparages a person's or organization's goods, products or services;
  6. oral or written publication of material that violates a person's right of privacy.
- O. **Policy Period** means the period from the inception date stated in the Declarations to the expiration date stated in the Declarations, or its earlier termination date, if any.
- P. **Professional Incident** means:
1. **Personal Injury** committed by the **Insured** in the rendering of or failure to render **Professional Services** by the **Insured** or a person acting under the **Insured's** direction, control or supervision and for whose acts, errors or omissions the **Insured** is legally liable; or
  2. a negligent act, error or omission in the rendering of or failure to render **Professional Services** by the **Insured** or a person acting under the **Insured's** direction, control or supervision and for whose acts, errors or omissions the **Insured** is legally liable.
- All **Professional Incidents** that are logically or causally connected will be deemed one **Professional Incident** that, for the purpose of determining coverage under this Policy, occurred at the time of the earliest act, error or omission.
- Q. **Professional Services** means services performed by an **Insured** for others for a fee, commission or other consideration involving specialized training, knowledge and skill while in the pursuit of the business stated in the Declarations.
- R. **Property Damage** means:
1. physical injury to or destruction of tangible property, including all resulting loss of use of that property; or
  2. clean up costs other than for clean up or removal of hazardous substances; or
  3. loss of use of tangible property that has not been physically injured or destroyed.
- S. **Related Claims** means **Claims** based upon, arising from, in consequence of, directly or indirectly resulting from, or involving in any way continuous, repeated, the same, related or substantially similar facts, circumstances, subjects, situations, decisions, causes, transactions, events, or series thereof.

T. **Subsidiary** means:

1. any entity of which the **Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest, on or before the inception date of this Policy;
2. any entity which has met the conditions as set forth in Section XI. CONDITIONS, N.2.

U. **Suit** means a civil proceeding in which **Damages** resulting from a **Professional Incident** are alleged. **Suit** includes an arbitration proceeding to which the **Insured** is required to submit or to which the **Insured** has submitted with our consent.

### III. INCIDENT REPORTING PROVISIONS

If during the **Policy Period**, you first become aware of any specific and identifiable **Professional Incident** and during the **Policy Period** give written notice to us of:

- a. The specific **Professional Incident** including the date(s) and parties involved; and
- b. The **Damages** which have or may result from such **Professional Incident**; and
- c. The circumstances by which you first became aware of such **Professional Incident**.

For the purposes of this insurance, a **Professional Incident** reported under this provision shall be deemed a **Claim**.

### IV. POLICY TERRITORY

This Policy applies to **Professional Incidents** and **Disciplinary Proceedings** anywhere in the world except any location that is subject to trade or other economic sanctions or embargo by the United States of America, or where coverage is otherwise prohibited by the United States Office of Foreign Assets Control.

A. **Suits, Disciplinary Proceedings**, Brought Outside of the United States of America, Puerto Rico and Canada

If a **Suit** or a **Disciplinary Proceeding** is brought against an **Insured** outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, the following shall apply:

1. We will have the right but not the duty to defend the **Suit**.
2. The **Insured** may initiate a defense of the **Suit** in accordance with the following conditions:
  - a. We retain the right to assume and control the investigation, adjustment or defense of such **Suit**.
  - b. In the event we do not exercise our right to defend or are prevented from doing so because we are not licensed or permitted by law in the applicable jurisdiction to defend the **Insured**, we will reimburse the **Insured** for any reasonable and necessary **Claim Expenses** that we would have paid had we exercised our right to defend and that are incurred by the **Insured** for the investigation of a **Claim** or defense of a **Suit**, seeking **Damages** to which this insurance applies. We will not reimburse any **Claim Expenses** or **Damages** incurred and/or paid by any **Insured** without our prior written consent.

B. **Payment of Sums Outside of the United States of America, Puerto Rico and Canada**

1. If the **Insured** becomes legally obligated to pay sums because of **Damages** to which this insurance applies in a part of the Policy Territory outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented from paying such sums and associated **Claim Expenses**, if applicable, because we are not licensed or permitted by law in the applicable jurisdiction to pay such sums on the **Insured's** behalf, we will reimburse the **Insured** for such sums to the extent permitted by law.
2. The premium and all payments or reimbursements we make for **Damages** and **Claim Expenses** because of judgments or settlements are payable when due in United States currency unless otherwise specified in the Declarations. If judgment is rendered, settlement is made or another element of sums paid for **Damages** or **Claim Expenses** is stated in a currency other than United States currency, then payment under this insurance shall be made in the currency stated in the Declarations at the prevailing rate of exchange as published on OANDA.com as of the date payment is made. In no event shall we pay more than the Limits of Insurance shown in the Declarations.

C. **Coverage Disputes**

1. Any legal disputes with us as to whether there is coverage under this Policy must be filed in state or federal courts within the United States of America (including its territories and possessions), Puerto Rico or Canada.

D. **Compulsory Coverage**

It is the duty of the **Insured** to fully maintain any insurance coverage required by law, regulation or other governmental authority during the **Policy Period**. We have no duties or obligations in that regard.

1. No Substitute for Compulsory Coverage

This insurance is not a substitute for any insurance coverage that is required by law, regulation or other governmental authority that is required to be in force to satisfy the legal requirements of a given jurisdiction.

2. Failure to Maintain Compulsory Coverage

Failure to maintain such insurance coverage required by law, regulation or other governmental authority will not invalidate this insurance; however, this insurance will apply as if the insurance coverage required by law, regulation or other governmental authority was in full effect.

V. EXCLUSIONS

This Policy does not apply to:

A. **Insured vs. Insured**

A **Claim** made by an **Insured** against any other **Insured**;

B. Intentional Acts

Any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, a wrongful, dishonest, fraudulent, criminal, malicious or intentional act if a final, non-appealable judgment or adjudication adverse to the **Insured** establishes such a wrongful, dishonest, fraudulent, criminal, malicious or intentional act.

This exclusion does not apply to **Claim Expenses** incurred in defending any such **Claim** alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction against any **Insured**, or admission by an **Insured**, establishing such wrongful, criminal, dishonest, fraudulent or malicious conduct or a plea of nolo contendere or no contest regarding such conduct, at which time the **Named Insured** shall reimburse us for all **Claim Expenses** incurred defending the **Claim** and we shall have no further liability for **Claim Expenses**.

This exclusion does not apply to any liability of the **Named Insured** or any **Insured** that did not personally participate in or personally commit the wrongful, dishonest, fraudulent, criminal or malicious act, if coverage would otherwise be afforded by this Policy for the resulting **Damages**.

C. Insolvency of an **Insured**

any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, the insolvency or bankruptcy of any **Insured**;

D. Sexual Abuse, Discrimination, Workers Compensation and Employment Laws

any **Claim** based upon or arising out of, in whole or in part, directly or indirectly:

1. sexual abuse, sexual harassment, coercion, quid-pro-quo offer
2. discrimination, violation of civil rights, or any allegation that a person was subjected to unfair treatment or a denial or reduction of benefits, privileges or accommodation in violation of any law, statute, ordinance or regulation designed to ensure equal access to opportunities, goods, services, facilities, and accommodations;
3. any **Claim** for which you or any carrier as your insurer may be liable, under any Workers' Compensation, Unemployment Compensation, Disability Benefits Law, the Employee Retirement Income Security Act of 1974 and as amended, or under any similar law or regulation; or to any liability of the **Insured** arising out of the injury, sickness, disease or death resulting therefrom of any employee of any **Insured** arising out of and in the course of his employment by the **Insured**;
4. refusal to employ; termination of employment; or coercion, demotion, discipline, evaluation, reassignment or other employment-related act, omission, policy or practice. This exclusion applies whether you are held liable as an employer or in any other capacity.

This exclusion, however, shall not apply to an otherwise covered **Professional Incident**.

E. Outside Activities/Owned and Affiliated

any **Claim** based upon or arising out of, in whole or in part, directly or indirectly:

1. any **Insured's** activities as owner, sole proprietor, superintendent, executive officer, director, partner, trustee or employee of any organization which is not shown as a **Named Insured** on this Policy;
2. any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, indirectly involving any benefit plan, insurance program or trust owned or sponsored by any **Insured's** or in which any **Insured** is a participant, trustee or a named fiduciary;

3. the **Insured's** ownership or management of any insurer, reinsurer, risk retention group, captive or any other entity which was formed or acquired to assume risk;
- F. Intellectual Property
- any **Claim** based upon or arising out of, directly or indirectly, in whole or in part, any misappropriation, infringement, or use of a copyright, title, slogan, patent, trademark, trade-name, trade dress, service mark, domain name, trade secret or any violation of an intellectual property right or law;
- This exclusion, however, shall not apply to an otherwise covered **Professional Incident**.
- G. **Bodily Injury and Property Damage**
- any **Claim** based upon or arising out of, directly or indirectly, in whole or in part, **Bodily Injury, Property Damage, Advertising Injury**;
- This exclusion, however, shall not apply to an otherwise covered **Professional Incident**.
- H. Contractual Liability
- any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, liability you assume under any contract or agreement; however, this exclusion does not apply to liability you would have in the absence of such contract or agreement;
- This exclusion, however, shall not apply to an otherwise covered **Professional Incident**.
- I. Governmental Actions
- any **Claim** against an **Insured** that is brought by or on behalf of any federal, state or local government agency or professional or trade licensing organization;
- This exclusion, however, shall not apply to an otherwise covered **Professional Incident**.
- J. Fee Disputes
- any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, fee disputes;
- This exclusion, however, shall not apply to an otherwise covered **Professional Incident**.
- K. Product Liability
- any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, the deficiency or malfunction of any product, or equipment which is sold, manufactured or furnished by or on behalf of the **Insured**.
- L. Prior Knowledge
1. Any **Claim** based upon or arising out of, directly or indirectly, any **Claim** or circumstance that is reported to any other insurer by any **Insured** prior to the effective date of this Policy;
  2. Any actual or alleged **Professional Incident**, fact, circumstance, subject, decision, transaction, situation or cause of which any **Insured** knew, or could have reasonably foreseen, that the **Professional Incident** fact, circumstance, subject, decision, transaction, situation or cause could reasonably have been expected to give rise to a **Claim** or **Suit**;
  3. Any actual or alleged **Professional Incident**, fact, circumstance, subject, decision, transaction, situation or cause which has been reported, noticed or identified to any **Other Insurance** carrier, third party administrator or **Claims** handler under any **Other Insurance** policy, application or agreement.
  4. Any actual or alleged **Professional Incident** committed or which took place in whole or in part before the Retroactive Date of this Policy, as set forth on the Policy's Declarations Page.
  5. Any prior or pending litigation, **Professional Incident**, fact, circumstance, subject, decision, transaction, situation, cause, proceeding or investigation made, presented, transmitted, filed or commenced on or before the Effective Date of this Policy, or alleging or derived from the same litigation, **Professional Incident**, fact, circumstance, subject, decision, transaction, situation, cause, proceeding or investigation underlying or alleged therein.
- M. Commingling of funds
- any **Claim** based upon or arising out of, in whole or in part, directly or indirectly any intentional commingling, conversion or misappropriation of funds or accounts; or the intentional failure to pay or collect premium, commission, claim or tax money;

N. Carrier Insolvency

any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, a cease and desist order, insolvency, bankruptcy, licensing, receivership, liquidation or inability to pay of any insurer, trust, organization, risk retention group, health maintenance organization, preferred provider organization or other vehicle directly or indirectly in which any **Insured** has placed or obtained insurance coverage or placed the funds of a client or account; however, this exclusion shall not apply to any **Claim** arising out of a cease and desist order, insolvency, bankruptcy, licensing, receivership, liquidation or inability to pay of a state compensation insurance fund or any insurer rated B+ or better according to A.M. Best Ratings, or A or better according to Demotech Ratings, at the time of the placement of such coverage.;

O. Notary Public

any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, the notarized certification or acknowledgement of a signature without the physical appearance before a notary public, who is **Insured** hereunder, of the person who is, or claims to be, the person signing said instrument. However, this exclusion does not apply to **Claim Expenses** incurred in defending any such **Claim** alleging the foregoing until such time as there is a final and non-appealable adjudication that a signature was false.

P. Financial Consulting

any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, investment advice or while acting as an investment counselor, securities or investment broker or financial advisor, or arising out of the failure to invest or the lack of performance of any investment or from any variation in the market value of any investment, or the sale of mutual funds or variable annuities; however, this exclusion shall not apply to the sale of fixed annuity products related to the **Insured's** activities as a Life Insurance Agent.

Q. Unsolicited Communications

any **Claim** based upon or arising out of, in whole or in part, directly or indirectly, the unsolicited dissemination of any communication to actual or prospective customers of the **Insured** or any third party, including, but not limited to, actions brought under the Telephone Consumer Protection Act, the CAN-SPAM Act, or any other federal, state or local legislation, regulation or law protecting a person's or entity's right of seclusion or privacy;

VI. EXTENDED REPORTING PERIOD

As a condition precedent to your right to obtain an Automatic Extended Reporting Period (AERP) or an Extended Reporting Period (ERP), the full premium of this Policy, premium for endorsements and payment of deductibles must have been paid in full. Neither the AERP nor the ERP reinstate or increase the Limits of Liability. Neither the AERP nor the ERP extend the **Policy Period** or change the scope of coverage afforded by this Policy.

A. Automatic Extended Reporting Period (AERP)

If we or you cancel or non-renew this Policy for any reason other than non-payment of premium, non-payment of deductible, non-compliance with any terms and conditions of this Policy, fraud or material misrepresentation then you shall be entitled to an Automatic Extended Reporting Period (AERP) period of (60) sixty days from the date of Policy expiration or cancellation to report **Claims** in writing to us which are first made against the **Insured** during the **Policy Period** and arise out of a **Professional Incident** which takes place subsequent to the retroactive date and prior to the Policy expiration or cancellation date. If the ERP in Section B. below is purchased then this AERP shall be included within such ERP.

B. Extended Reporting Period (ERP)

If we or you cancel or non-renew this Policy for any reason other than non-payment of premium, non-payment of deductible, non-compliance with any terms and conditions of this Policy, fraud or material misrepresentation then you shall be entitled to purchase an ERP from the options below which begins from the date of Policy expiration or cancellation to report **Claims** in writing to us which are first made against the **Insured** during the **Policy Period** or ERP and arise out of a **Professional Incident** which takes place subsequent to the retroactive date and prior to the Policy expiration or cancellation date.

1. ERP Options

- a. One year for a premium not to exceed 125% of the annual premium.
- b. Two years for a premium not to exceed 150% of the annual premium.
- c. Three years for a premium not to exceed 175% of the annual premium.

2. Your right to purchase the ERP must be exercised by notice in writing to us no later than (30) thirty days after the expiration or cancellation date of this Policy and must include payment of premium for the ERP. Upon receipt of the written notice to us and the premium for the ERP, the entire premium is deemed fully earned and is non-refundable.

## VII. LIMITS OF LIABILITY AND DEDUCTIBLE

- A. The Limits of Liability stated in the Declarations is the maximum amount we are obligated to pay for all **Damages** and **Claim Expenses** from each **Claim** or **Related Claims** under this Policy, regardless of the number of **Insureds**, individuals or organizations that make a **Claim**, or number of **Claims** made.
- B. **Limits of Liability – Aggregate**  
The Limits of Liability – Aggregate, as stated in the Declarations, is the maximum amount we will pay for all **Claim Expenses** and **Damages** for all **Claims** covered under this Policy.
- C. **Limits of Liability – Each Claim**  
Subject to the Limits of Liability - Aggregate, the Limits of Liability – Each **Claim**, as stated in the Declarations, is the maximum amount we will pay for **Claim Expenses** and **Damages** attributable to any one **Claim** (including **Related Claims**) covered under this Policy.
- D. Our duty to defend will end when our Limits of Liability have been exhausted by payment of **Claim Expenses** and/or **Damages** or have been tendered to a court of competent jurisdiction.
- E. **Deductible**  
The deductible amount stated in the Declarations applies to each **Claim** and shall be paid by the **Named Insured**. The deductible applies to **Claim Expenses** and **Damages** and is part of and not in addition to the Limits of Liability stated in the Declarations. Only one deductible shall apply to any **Claim** based upon, arising from, in consequence of, directly or indirectly resulting from, or involving in any way continuous, repeated, the same, related or substantially similar facts, circumstances, situations, transactions, or events. We may advance payment of part or all of the deductible amount and upon notification of such payment being made, the **Insured** must promptly reimburse the Company for the deductible amounts advanced by us.
- F. **Mediation of Claim**  
If **Mediation** is used as a means to resolve a **Claim** made against the **Insured**, and such **Claim** is resolved solely, directly and immediately by the **Mediation**, then the deductible obligation of the **Insured** shall be reduced by 50%, subject to a maximum credit of \$25,000. We shall reimburse the **Insured** for any applicable payment made prior to the **Mediation** as soon as practicable after the conclusion of the **Mediation**.
- G. **Multiple Claims, Professional Incidents**  
The inclusion herein of more than one **Insured** or the making of **Related Claims** by more than one person or organization shall not operate to increase the Company's Limit of Liability. For purposes of this insurance, all **Claims** for **Damages** or **Claim Expenses** directly or indirectly arising out of a single **Professional Incident** that are logically or causally connected shall be treated as a single **Claim**. All such **Related Claims**, whenever made, shall be considered first made and reported to the Company during the **Policy Period** in which the first of all such **Claims** was first made against any **Insured** or reported to the Company. All **Related Claims** arising out of a single **Professional Incident** or logically or causally connected **Professional Incidents** shall be deemed to constitute a single **Claim** and be subject to the same Limit of Liability – Each **Claim**, as stated in the Declarations.

## VIII. DEFENSE AND SETTLEMENT

- A. We have the right and duty to defend any **Claim** brought against the **Insured** seeking **Damages** caused by a **Professional Incident** to which this insurance applies, including the right to appoint counsel to defend the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false or fraudulent. We may make such investigation of any **Claim** as we deem expedient. Our right and duty to defend ends when we have exhausted the applicable Limits of Liability in the payment of **Damages** and/or **Claim Expenses**, or have tendered the applicable Limits of Liability to a court of competent jurisdiction. We have no obligation or duty to defend any **Claim** for which coverage is excluded hereunder or not otherwise afforded by this Policy and we are not obligated to pay any **Claim Expenses** incurred by the **Insured** in the defense of any **Claim** not covered by this Policy.
- B. We will have the right to make, with the consent of the **Named Insured**, any settlement of a **Claim** under this Policy. If the **Named Insured** refuses to consent to a settlement within the Policy's applicable Limits of Liability that is recommended by us and acceptable to the Claimant(s), then the Limits of Liability under this Policy will be reduced to the sum of the amount of **Damages** for which the **Claim** could have been settled, plus all **Claim**



**Expenses** incurred up to the time we made our recommendation. Additionally, we shall pay eighty percent (80%) of all **Claim Expenses** and **Damages** incurred after the **Named Insured's** refusal to consent, subject at all times to the applicable Limits of Liability as specified in Section VII. LIMITS OF LIABILITY AND DEDUCTIBLE. At all times, we shall retain the right and duty to defend any **Claim** brought against the **Insured** seeking **Damages** caused by a **Professional Incident** to which this insurance applies, including the right to appoint counsel.

#### IX. SUPPLEMENTARY PAYMENTS

##### A. Disciplinary Proceeding Payment

We will reimburse the **Insured** up to \$50,000 in the aggregate for the **Policy Period** for those reasonable and necessary legal fees and expenses that you incur in responding to a **Disciplinary Proceeding** that is first commenced against the **Insured** and reported in writing to the **Company** during the **Policy Period** or any applicable extended reporting period, as described in Section VI. EXTENDED REPORTING PERIOD, by reason of a **Professional Incident** in the performance of **Professional Services** taking place subsequent to the retroactive date and prior to the expiration date or termination date of this Policy. The maximum amount payable, regardless of the number of **Disciplinary Proceedings** or the number of **Insureds**, shall be \$50,000 per **Policy Period**. The **Company** shall not be obligated to pay any fine, penalty or award resulting from any **Disciplinary Proceeding**. Any payment made by us under this provision shall be in addition to the applicable Limits of Liability of this Policy and shall not be subject to any deductible. However, the **Company** will not be obligated to reimburse any **Insured** for any expense after the Limits of Liability – Aggregate of this Policy have been exhausted.

##### B. Subpoena

We will have the right and duty to pay on behalf of the **Insured** all reasonable attorney's fees, costs and expenses directly resulting from a subpoena for documents or testimony which is served upon the **Insured** during the **Policy Period**. We shall have the right to appoint counsel to represent the **Insured** in responding to the subpoena.

Provided that:

1. The **Insured** must provide the **Company** with a full copy of the subpoena in a timely manner during the **Policy Period**,
2. The subpoena must be related to the performance of **Professional Services**, but not arise out of a lawsuit to which the **Insured** is a party and to which the **Insured** has been engaged to provide advice or testimony in connection with the lawsuit;
3. The maximum amount payable, under the terms of this coverage, regardless of the number of subpoenas, or **Insureds**, shall be \$10,000 per **Policy Period**.
4. Any legal fees and expenses or other costs incurred prior to notice being received by the **Company** or incurred without the **Company's** prior written approval will not be covered.

Any payment made by us under this provision shall be in addition to the applicable Limits of Liability of this Policy and shall not be subject to any deductible.

#### X. OTHER PAYMENTS

##### A. Pre **Claim** Assistance

If during the **Policy Period**, you report a **Professional Incident** to us in the accordance with Section III. INCIDENT REPORTING PROVISIONS, we will pay all costs or expenses we incur, or that you incur with our prior written consent, for purposes of investigating, mitigating or avoiding a **Claim**.

Any payment made by us under this provision shall be in addition to the applicable Limit of Liability of this Policy and shall not be subject to any deductible.

##### B. Court Attendance Costs

If you are required to attend a trial, hearing or arbitration proceeding pursuant to a covered **Claim**, then we will reimburse the **Insured** a maximum of \$500 per day up to \$10,000 in the aggregate for the **Policy Period** for those reasonable and necessary expenses incurred in connection with such attendance. In order for coverage to apply, the **Insured** must submit all records, documents and detailed calculation of reasonably incurred expenses within the **Policy Period** or any applicable Extended Reporting Period.

Any payment made by us under this provision shall be in addition to the applicable Limit of Liability of this Policy and shall not be subject to any deductible.

## XI. CONDITIONS

### A. INSURED'S DUTIES IN THE EVENT OF A CLAIM

1. If a **Claim** to which this Policy applies is made against an **Insured**, you must give us written notice, as soon as practicable, but in no event, subject to Section VI. EXTENDED REPORTING PERIOD, later than Policy expiration or cancellation date.

That notice shall be made to:

Admiral Insurance Group (A Berkley Company),  
Attention: Claims Department  
Mt. Laurel Corporate Park,  
1000 Howard Blvd., Suite 300, Mt. Laurel, NJ 08054  
Or e-mail: [admClaims@admiralins.com](mailto:admClaims@admiralins.com).

2. All **Insureds** must fully cooperate with us in the conduct, defense and investigation of any **Claim** or **Suit**. Upon the Company's request, we may require the **Insured** to submit to an examination under oath; provide us with written statements as requested by us or your attendance at meetings with us; produce and make available records, documents and other materials which we deem relevant to the **Claim**; attend hearings, depositions and trials; assist in affecting settlements, securing and giving evidence and obtaining the attendance of witnesses.
3. The **Insured** must not make any payment, admit any liability, settle any **Claim**, assume any obligations, or accept or reject arbitration without our prior written consent.
4. The **Insured** must do whatever is necessary to secure and affect any rights of indemnity, contribution or apportionment that the **Insured** may have.
5. The **Insured** shall accept our assignment of counsel and the **Insured** shall refrain from discussing any **Claim** or **Suit** with anyone other than counsel retained to represent the **Insured** or our representatives.

### B. Transfer of Rights of Recovery

If there is a payment made by us, we shall be subrogated to all of the **Insured's** rights of recovery against any person or organization. The **Insured** will cooperate with us and do whatever is necessary to secure these rights, including but not limited to executing any documents necessary to enable us to effectively bring **Suit** in the **Insured's** name. The **Insured** shall do nothing that may prejudice the Company's position or potential or actual rights of recovery. The obligations of the **Insured** hereunder shall survive the expiration, cancellation, or termination of this Policy.

Any amount recovered by us upon our exercise of such rights of recovery will be applied on the following terms and in the following order:

1. Repayment of our expenses incurred by exercise of such subrogation rights, including the cost of any authorized representatives who assist in that process;
2. Repayment of **Damages** or **Claim Expenses**, paid by the **Named Insured** in excess of the Limits of Liability provided by this Policy;
3. Repayment of **Damages** or **Claim Expenses**, paid by the Company; and
4. Amounts paid by the **Named Insured** toward the Deductible.

### C. Other Insurance

This Insurance shall apply in excess of any other valid and collectible insurance available to any **Insured**, whether such insurance is stated to be primary, contributory, excess, contingent or other, including any self-Insured retention or deductible portion thereof, unless such **Other Insurance** is written only as a specific excess insurance over the Limit of Liability provided in this Policy.

### D. Changes Made to this Policy

The terms and conditions of this Policy cannot be waived or changed except by specific written endorsement issued by us and made part of this Policy.

### E. Assignment of the **Insured's** Interest

The interest of the **Insured** under this Policy is not assignable to any other person or organization, except with the Company's written consent.

F. Cancellation

This Policy may be canceled by the **Named Insured** by returning the Policy to us or our authorized representatives. The **Named Insured** can also cancel this Policy by written notice to the Company stating at what future date cancellation is to be effective. If the **Named Insured** cancels, the earned premium shall be computed using the customary short rate table or the amount stated elsewhere in this Policy as Minimum Earned Premium, whichever is greater, subject, however, to a retention by the Company of not less than twenty five percent (25%) of the premium as shown on the Declarations.

We may cancel this Policy by mailing written notice of cancellation to the **Named Insured** for the following reasons only and at least:

- a. 10 days before the effective date of cancellation for nonpayment of premium or deductible; or
- b. 30 days before the effective date of cancellation for material misrepresentation or fraud; or
- c. 60 days before the effective date of cancellation for any other reason

The mailing of any notice of cancellation shall be sufficient proof of notice. This Policy will terminate on the effective date of the cancellation. Return of unearned premium is not a condition of cancellation. Unearned premium will be returned by us as soon as practicable.

G. Bankruptcy

Bankruptcy or insolvency of the **Insured** or the **Insured's** estate shall not relieve us of any of our obligations under this Policy.

H. Application

The statements contained in the Application, and any and all attachments, constitute the representations of all **Insureds** and are material. This Policy is issued and continued in force by the Company in reliance upon the truth, accuracy and completeness of such representations, which are the basis of this Policy and current as of the date of binding.

No knowledge or information possessed by any **Insured** shall be imputed to any other **Insured**, except for material facts or information that were or should have been known to the person or persons who signed the application. In the event of any material untruth, misrepresentation or omission in connection with any of the particulars or statements in the Application, this Policy shall be void with respect to any **Insured** who knew of such untruth, misrepresentation or omission or to whom such knowledge is imputed.

I. Audit

If the Declarations Page of this Policy notes it as Auditable, then we may examine and audit your books and records at any time during the **Policy Period** and within three (3) years after the expiration or termination date of this Policy, as far as they relate to this Policy.

J. Action Against Us

No action shall be brought against us by any **Insured**, unless, as a condition precedent thereto:

1. all **Insureds** have fully complied with all the terms and conditions of this Policy; and
2. the amount of **Damages** has been fixed or rendered certain:
  - a. by final judgment against the **Insured** after trial of the issues; or
  - b. the time to appeal such judgment has expired without an appeal being taken; or
  - c. if appeal is taken, after the appeal has been determined; or
  - d. the **Claim** is settled in accordance with the terms and conditions of this Policy.

In no event shall any action brought by anyone be maintained against us unless such action is brought within twenty-four (24) months from the time the right to bring action first became available.

K. False or Fraudulent **Claims**

If an **Insured** reports any **Claim** knowing such **Claim** to be false or fraudulent, this Policy shall become void and all insurance coverage hereunder shall be forfeited as of the inception date of this Policy.

L. Terms and Conditions of Policy Conformed to Statute

Where necessary, the terms and conditions of this Policy will be amended to conform to applicable law.

M. Premium

The premium amount for this Policy is stated in the Declarations and is for coverage for the **Policy Period**. If during the **Policy Period** there is a change in coverage afforded, we have the right to adjust the premium as of the date of change. Any premium adjustment shall be made in accordance with our prevailing rules and rates.

Premium shown as advance premium is a minimum and deposit premium.

N. Change in Risk

If, during the **Policy Period**, an **Insured**:

1. is dissolved, sold, acquired by, merged into, or consolidated with another entity such that the **Insured** is not the surviving entity, or a third party receiver, conservator, trustee, liquidator, rehabilitator or any similar official is appointed for or with respect to the **Insured**, then coverage for this **Insured** shall continue in full effect and force until the Expiration Date or any earlier cancellation or termination date, but this Policy shall only apply to **Professional Incident(s)** first committed or allegedly committed before the effective date of such change;
2. acquires voting securities or creates another entity, acquires any entity by merger into or consolidation with the **Named Insured**, provided that the **Named Insured's** legal or beneficial interest in such entity is greater than 50%, then such entity shall be considered a **Subsidiary** and an **Insured** under this Policy, but only if each of the following conditions have been satisfied:
  - a. If the entity's gross annual revenues exceed 25% of the **Named Insured's** gross annual revenues as reflected in the **Named Insured's** most recent audited consolidated financial statements, then, within 60 days of such formation or acquisition, the **Named Insured** must provide the Company with full particulars and details about the entity. The Company shall not be required to insure such entity; any agreement by the Company to insure such entity shall be provided in writing; and
  - b. The **Named Insured** has paid the additional premium, if any, charged by the Company and has agreed to any amendment of the provisions of this Policy; or
  - c. If the entity's gross annual revenues do not exceed 25% of the **Named Insured's** gross annual revenues as reflected in the **Named Insured's** most recent audited consolidated financial statements and if all business lines and insurance products provided by such entity fall within the scope of the **Professional Services** of the **Named Insured** as disclosed on the most recent application submitted to the Company for this coverage, then such entity shall be considered a **Subsidiary** and an **Insured** under this Policy, but only with respect to **Professional Incidents** taking place after such acquisition or creation, unless the Company agrees to provide coverage by endorsement for **Professional Incidents** taking place prior to such acquisition or creation.

Coverage for any **Subsidiary** provided under this Policy is limited to **Claims** arising out of a **Professional Incident** that is committed on or after the date such **Subsidiary** became a **Subsidiary** insured under this Policy, and prior to the date such **Subsidiary** ceased to be a **Subsidiary** insured under this Policy. An entity ceases to be a **Subsidiary** insured under this Policy on the date during the **Policy Period** that the **Named Insured's** legal or beneficial interest in such entity becomes less than 50%.

If **Named Insured** becomes aware that any of the particulars provided in the application have materially changed, then the **Named Insured** must advise us as soon as practicable of such changes. We reserve the right to amend the terms, conditions or premium of this Policy accordingly.

If the premium for this Policy is a flat premium, it is not subject to adjustment

This Policy shall not be binding upon the Company unless completed by a Declarations Page and countersigned on the aforesaid Declarations Page by a duly authorized representative of the Company.