

**Managed Care Errors and Omissions Liability Policy**

**THIS POLICY APPLIES ONLY TO CLAIMS FIRST MADE AGAINST YOU DURING THE POLICY PERIOD OR APPLICABLE EXTENDED REPORTING PERIOD. CLAIM EXPENSES ARE PART OF AND NOT IN ADDITION TO THE LIMITS OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY.**

In consideration of the payment of the premium, and in reliance on all statements made and information furnished to **us**, and subject to all of the terms and conditions of this Policy (including all endorsements hereto), **you** and **we** agree as follows:

**I. WHAT THIS POLICY COVERS**

**A. Claims Made**

This is a claims made policy that applies to **Claims** first made against **you** during the **Policy Period** or applicable Extended Reporting Period, provided that the **Claims** are reported to **us** in accordance with the Your Reporting Obligations Section of this Policy.

**B. What We Will Pay**

**We** will pay **Damages** and **Claim Expenses** on **your** behalf as a result of a **Claim** for an act, error, or omission committed or allegedly committed by **you** or on **your** behalf in the performance, development, management, or administration of any managed care or healthcare insurance service, including: (1) **Antitrust Activity** by **you** or on **your** behalf in the performance of the managed care or healthcare insurance service; or (2) **Vicarious Liability** for the act, error, or omission in the performance of the managed care or healthcare insurance service.

**We** will also pay **Damages** and **Claim Expenses** on **your** behalf as a result of a **Claim** for **Vicarious Liability** for the conduct of a person or entity other than **you** in rendering, or failing to render, **Medical Services**.

**II. WHAT THIS POLICY EXCLUDES**

No coverage will be available under this Policy for any **Claim**, **Damages**, or **Claim Expenses**:

**A.** based upon or arising out of any:

- (1) dishonest, fraudulent, criminal, or malicious act, error, or omission committed or allegedly committed by, or on behalf of, or in the name or right of, or for the benefit of any of **you**;
- (2) willful violation of any local, state, federal, or foreign act, statute, rule, regulation, requirement, ordinance, common law, or other law by, or on behalf of, or in the name or right of, or for the benefit of any of **you**; or

- (3) gaining of any profit, remuneration, or advantage to which any of **you** is not legally entitled;

provided that: (a) for purposes of determining the applicability of this Exclusion, no act, error, or omission committed or allegedly committed by any of **you** will be imputed to any other of **you** who was not aware of and did not participate in the act, error, or omission; and (b) this Exclusion shall not apply unless the act, error, or omission has been established by a final adjudication of the **Claim**, a final adjudication in any judicial or other proceeding, or an admission by any employee, director, officer, or other representative of any **Named Insured** appointed, authorized, or otherwise empowered to bind **you**;

- B.** based upon or arising out of any actual or alleged act, error, or omission in rendering, or failing to render, any **Medical Services**; provided that this Exclusion will not apply to **your** participation in health fairs, **your** administration of flu shots, wellness programs or screenings, nurse call lines, or employee assistance programs, or **your** voluntary performance of emergency **Medical Services** without expectation or receipt of remuneration;

- C.** based upon or arising out of any allegation or demand made:

- (1) by, or on behalf of, or in the name or right of, or for the benefit of any of **you**; or
- (2) by, or on behalf of, or in the name or right of, or for the benefit of any person or entity holding any legal, security, equity, or other interest in any **Named Insured**;

provided that this Exclusion will not apply to: (a) any **Claim** brought by an **Insured Person** as a participant in a health care plan administered by the **Named Insured**; or (b) **Claim Expenses** as a result of any **Claim** brought by an **Insured Person** on behalf of the federal government as a *qui tam* action alleging violations of the False Claims Act of 1863;

- D.** based upon or arising out of any:

- (1) actual or alleged act, error, or omission if, before the Inception Date of this Policy stated in the Declarations, the law or risk management department of the **Named Insured** knew or should reasonably have known that the act, error, or omission would give rise to a **Claim**;
- (2) actual or alleged act, error, or omission that, before the Inception Date of this Policy stated in the Declarations, was the subject of any notice under any prior or concurrent policy; or
- (3) prior or pending litigation or other proceeding against any of **you** as of the Inception Date of this Policy, or the same or substantially the same act, error, or omission underlying or alleged therein;

provided that if this Policy is a renewal of one or more policies previously issued by **us** to the **Named Insured**, and the coverage provided by **us** to the **Named Insured** was in effect, without interruption, for the entire time between the inception date of the first such other policy and the Inception Date of this Policy, the reference in this Exclusion to the Inception Date will be deemed to refer instead to the inception date of the first policy under which **we** began to provide the **Named Insured** with the continuous and uninterrupted coverage of which this Policy is a renewal;

- E. based upon or arising out of any **Claim** made against any of **you** for any act, error, or omission committed or allegedly committed during any time when such person or entity was not an **Insured Person** or a **Named Insured**;
- F. based upon or arising out of any actual or alleged: (1) creation, development, design, manufacture, programming, leasing, licensing, distribution, assembly, installation, alteration, modification, or sale of any computer, computer component (including but not limited to any hardware, network, terminal device, data storage device, input and output device, or back up facility), application, program, software, code, script, or data of any type, nature, or kind; (2) unauthorized or unintentional taking, obtaining, using, disclosing, distributing, disseminating, transmitting, gathering, collecting, acquiring, corrupting, damaging, destroying, deleting, or impairing of any information or data of any type, nature, or kind, including but not limited to any personally identifiable information or personally identifiable health information; or (3) failure or inability of any computer or other operating system of any **Named Insured** to perform or function as planned or intended, including but not limited to any failure or inability to prevent any distribution, dissemination, or transmission of any unauthorized or unintended computer virus, contaminant, or other application, program, software, code, or script of any type, nature, or kind;
- G. based upon or arising out of any actual or alleged infringement, misappropriation, misuse, gaining, or taking of, or any inducement to infringe, misappropriate, misuse, gain, or take, any patent, process, idea, style of doing business, intellectual property, copyright, title, slogan, trademark, trade name, trade dress, service mark, service name, trade secret, confidential or proprietary information, or other similar information or property of any type, nature, or kind;
- H. based upon or arising out of any actual or alleged violation of any responsibility, duty, or obligation imposed under the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisors Act of 1940, any Blue Sky or other securities law, or any similar local, state, federal or foreign act, statute, rule, regulation, requirement, ordinance, common law, or other law, including but not limited to any amendment thereto or any regulation promulgated thereunder;
- I. based upon or arising out of any act, error, or omission committed or allegedly committed before the Retroactive Date of this Policy stated in the Declarations;
- J. brought or maintained by, or on behalf of, or in the name or right of, or for the benefit of any local, state, federal, or foreign administrative, governmental, or regulatory agency, body, entity, or tribunal; provided that this Exclusion will not apply to any **Claim** brought by a local, state, federal, or foreign administrative, governmental, or regulatory agency, body, entity, or tribunal: (1) for **Antitrust Activity** by **you** or on **your** behalf in the performance of the applicable managed care or healthcare insurance service provided by **you** or on **your** behalf; or (2) where the administrative, governmental, or regulatory agency, body, entity, or tribunal is the payor for the applicable managed care or healthcare insurance service provided by **you** or on **your** behalf; or
- K. due to the insolvency, receivership, trusteeship, bankruptcy, liquidation, or financial inability to pay of any of **you**.

### III. DEFINITIONS

- A. **Antitrust Activity** means any actual or alleged: price fixing; restraint of trade; price discrimination; predatory pricing; monopolization; or violation of the Federal Trade Commission Act of 1914, the Sherman Antitrust Act of 1890, the Clayton Act of 1914, any similar state,

federal, or local antitrust statute or law, or any rule or regulation promulgated under the Act, statute, or law.

**B. Application** means any information and statements submitted to **us** in applying for the insurance under this Policy. This information and statements are incorporated in and form a part of this Policy as if physically attached.

**C. Claim** means any written demand (including a written demand in electronic form) from any person or entity seeking money or services or civil, injunctive, or administrative relief from **you**. **Claim** does not include:

- (1) any demand or other notice for an internal review or appeal of or under any of **your** policies, practices, procedures, systems, or rules; or
- (2) any audit, investigation, or subpoena, including but not limited to any audit, investigation, or subpoena by, or on behalf of, or in the name or right of, or for the benefit of any local, state, federal, or foreign administrative, governmental, or regulatory agency, body, entity, or tribunal.

A **Claim** will be deemed to have been first made against **you** when it is first received by the law or risk management department of any **Named Insured**.

**D. Claim Expenses** means the reasonable and necessary legal and expert fees and expenses incurred in the investigation, adjustment, or defense of any **Claim**, including the costs of electronic discovery and, with **our** prior written consent, public relations consultant expenses. **Claim Expenses** does not include:

- (1) any remuneration, salary, wage, fee, expense, overhead, or benefit expense of any of **you**;
- (2) any fee, cost, or expense incurred prior to the time that a **Claim** is first made against any of **you** or incurred in pursuing any claim, counterclaim, cross-claim, or other relief brought or maintained by, or on behalf of, or in the name or right of, or for the benefit of any of **you**; or
- (3) any fine, penalty, forfeiture, sanction, tax, or fee.

**E. Damages** means any settlements, judgments, pre-judgment interest, post-judgment interest, or other amounts (including punitive, multiple, or exemplary damages if insurable under the **Law Most Favorable to Insurability**) which **you** are legally obligated to pay as a result of a **Claim**. **Damages** does not include:

- (1) any fine, penalty, forfeiture, sanction, tax, fee, or liquidated damages; provided that **Damages** will include fines or penalties which **you** are legally obligated to pay as a result of a **Claim** for **Antitrust Activity** or a violation of the Health Insurance Portability and Accountability Act or equivalent state law regulating the privacy of personally identifiable health information, if such fine or penalty is insurable under the **Law Most Favorable to Insurability**;
- (2) any non-monetary or equitable relief or redress, including but not limited to any cost or expense of complying with any injunctive, declaratory, or administrative relief or specific performance award;

- (3) any payment, restitution, return, or disgorgement of any fee, profit, royalty, premium, commission, or charge, or any fund allegedly wrongfully or unjustly held or obtained;
- (4) any amount any of **you** pay or may be obligated to pay under any contract or agreement, including but not limited to any policy, bond, benefit plan, or provider agreement;
- (5) any loss, cost, or expense of correcting, changing, modifying, or eliminating any policy, practice, procedure, system, or rule; or
- (6) any matter that is uninsurable under applicable law.

**F. Insured Person** means:

- (1) any past, present, or future employee, director, officer, trustee, member of the board of managers, governor, or medical director of, or volunteer for, the **Named Insured**; and
- (2) any natural person duly authorized by the **Named Insured** to participate on any review board or committee of the **Named Insured** or to conduct credentialing, peer review, or utilization review on behalf of the **Named Insured**,

but only while any such natural person is acting within the scope and capacity of his or her duties for the **Named Insured**.

In the event of the death, incapacity, or bankruptcy of an **Insured Person**, any **Claim** made against the heir, legal representative, or assign of such **Insured Person** in his or her capacity as such will be deemed to be a **Claim** made against such **Insured Person**.

**G. Law Most Favorable to Insurability** means the applicable law most favorable to the insurability of the applicable **Damages**, which shall be the law of the jurisdiction where the actual or alleged act, error, or omission giving rise to liability took place, the applicable **Damages** were awarded, the **Named Insured** is incorporated or has its principal place of business, or **we** are incorporated or have **our** principal place of business.

**H. Medical Services** means health or medical care or treatment provided or prescribed to any person, including but not limited to any of the following: medical, surgical, dental, psychiatric, mental health, chiropractic, osteopathic, nursing, or other professional health or medical care; the use, prescription, furnishing, or dispensing of medications, drugs, blood, blood products, or medical, surgical, dental, or psychiatric supplies, equipment, or appliances in connection with such care; the furnishing of food or beverages in connection with such care; the providing of counseling or other social services in connection with such care; or the handling of, or the performance of post-mortem examinations on, human bodies.

**I. Named Insured** means the first named entity and any other entity stated in the Declarations.

**J. Policy Period** means the period from the Inception Date of this Policy stated in the Declarations to the Expiration Date of this Policy stated in the Declarations or to any earlier cancellation or termination of this Policy.

**K. Related Claims** means all **Claims** based upon or arising out of the same or related acts, errors, omissions, or course of conduct.

L. **Vicarious Liability** means liability imposed on **you** for the acts of a person or entity other than any of **you** under a theory of ostensible agency, apparent agency, or *respondeat superior*.

M. **We, us, and our** means the Underwriting Company as set forth in the Declarations of this Policy.

N. **You and your** means:

- (1) any **Named Insured**; and
- (2) any **Insured Person**.

#### IV. HOW CLAIMS WILL BE HANDLED

**You** have the right and duty to defend a covered **Claim** until the Self-Insured Retention for the **Claim** is exhausted. **You** also have the right and duty to settle, and otherwise pay **Damages** and **Claim Expenses** as a result of, a covered **Claim** up to the amount of the Self-Insured Retention. At **our** own cost, **we** have the right to investigate, or associate in the defense of, a covered **Claim** that **you** are defending.

Upon exhaustion of the Self-Insured Retention with respect to a covered **Claim**, **we** assume the right and duty to defend the **Claim**, including but not limited to the right to select counsel to represent **you** in connection with the **Claim**; provided that **we** will not unreasonably replace counsel previously selected by **you**. **We** have the right to investigate, direct the defense, and conduct negotiations and, with **your** consent which will not be unreasonably withheld, enter into a settlement of the **Claim**. **We** may elect to appeal a judgment in connection with the **Claim**, but **we** have no duty to appeal the judgment.

**You** will not settle any **Claim**, or incur any expense, make any payment, admit any liability, or assume any obligation with respect to any **Claim**, that will exceed, is reasonably likely to exceed, or has exceeded the Self-Insured Retention without **our** prior written consent, and no coverage will be available under this Policy for any such settlement, expense, payment, liability, or obligation.

#### V. LIMITS OF LIABILITY AND SELF-INSURED RETENTION

A. **Each Claim Limit of Liability.** The amount stated as the Each Claim Limit of Liability in the Declarations will be **our** maximum Limit of Liability for all **Damages** and all **Claim Expenses** from each **Claim** or **Related Claims** for which this Policy provides coverage. This Limit of Liability will be part of, and not in addition to, the Policy Aggregate Limit of Liability stated in the Declarations.

B. **Policy Aggregate Limit of Liability.** The amount stated as the Policy Aggregate Limit of Liability in the Declarations will be **our** maximum aggregate Limit of Liability for all **Damages** and all **Claim Expenses** from all **Claims** and all **Related Claims** for which this Policy provides coverage.

C. The applicable Limits of Liability described in this Policy will apply regardless of the time of the payment under this Policy, the number of persons or entities included within the definition of **you**, or the number of **Claims** or acts, errors, or omissions under this Policy.

D. **Claim Expenses** are part of, and not in addition to, the applicable Limits of Liability, and payment of **Claim Expenses** by **us** will reduce, and may exhaust, the applicable Limits of Liability.

E. **We** will have no obligation to pay **Damages** or **Claim Expenses** after the applicable Limit of

Liability has been exhausted by payments by **us**. If the Policy Aggregate Limit of Liability stated in the Declarations is exhausted by payments by **us**, the premium for this Policy will be fully earned, all of **our** obligations under this Policy will be completely fulfilled and exhausted, and **we** will have no further obligations of any type, nature, or kind under this Policy.

**F. Self-Insured Retention.** **You** will be responsible for payment in full of the amount stated as the Self-Insured Retention in the Declarations, which will apply to **Damages** and **Claim Expenses** from each **Claim** for which this Policy provides coverage. **Our** obligation to make any payment under this Policy for any **Claim** will be excess of the Self-Insured Retention. If **you** are unable or unwilling to pay the full amount of the Self-Insured Retention, the **Named Insured** will be responsible for payment in full of the Self-Insured Retention on **your** behalf. **We** have no obligation whatsoever to pay any portion of the Self-Insured Retention; however, **we** may choose to pay a portion of the Self-Insured Retention, in which case **you** will repay **us** any amounts paid by **us**, and the amounts paid will be credited against and will reduce the applicable Limits of Liability unless and until they are repaid in full by **you**. **Your** inability to pay, failure to pay, or refusal to pay any portion of the Self-Insured Retention will not alter or increase **our** obligations under the Policy. **You** may not insure any portion of the Self-Insured Retention without **our** prior written consent.

## **VI. HOW WE WILL TREAT RELATED CLAIMS**

All **Related Claims** will constitute a single **Claim** regardless of: (1) the number, identity, or addition of parties, theories of liability, or requests for relief; (2) the number or timing of the **Related Claims**, even if the **Related Claims** were made in more than one policy period; or (3) whether the **Related Claims** are asserted in a class action or otherwise. All **Related Claims** will be treated as a single **Claim** made when the earliest of the **Related Claims** was first made against **you** or is treated as having been first made in accordance with the Your Reporting Obligations Section of this Policy, whichever is earlier.

If a **Claim** is made against **you** during the **Policy Period** or applicable Extended Reporting Period that would otherwise be covered under this Policy but:

- (1) the **Claim** is related to a prior claim made during the policy period of a prior policy issued by another insurer; and
- (2) the other insurer has denied coverage for the **Claim** on the sole ground that the **Claim** is not related to the prior claim,

then **we** will pay **Damages** and **Claim Expenses** on **your** behalf as a result of the **Claim** under a reservation of rights. **We** may elect to seek a judicial determination or otherwise pursue any right of contribution, indemnity, or other obligation in connection with the **Claim**, but **we** have no duty to do so.

## **VII. YOUR REPORTING OBLIGATIONS**

With respect to a **Claim** first made against **you** during the **Policy Period** or any applicable Extended Reporting Period and that:

- A.** exceeds or is reasonably likely to exceed fifty percent (50%) of the Self-Insured Retention;
- B.** is seeking certification as a class action;
- C.** is alleging **Antitrust Activity**; or
- D.** is brought as a *qui tam* action alleging violations of the False Claims Act of 1863,

**you** must, as a condition precedent to any right to coverage under this Policy, give **us** written notice of the **Claim** as soon as practicable thereafter and in no event later than:

- (1) sixty (60) days after the Expiration Date of this Policy stated in the Declarations or any earlier cancellation or termination of this Policy; or
- (2) the expiration of any applicable Extended Reporting Period.

**Your** timely and sufficient notice of a **Claim** will be deemed timely and sufficient notice for all of **you** involved in the **Claim**. The notice must give full particulars of the **Claim**, including but not limited to: information about the **Claim** and the act, error, or omission; the identity of all potential claimants and any of **you** involved; a description of the damages that resulted from the act, error, or omission; and the manner in which **you** first became aware of the act, error, or omission.

If, during the **Policy Period**, **you** first become aware of an act, error, or omission that is reasonably likely to give rise to a **Claim** and give **us** written notice thereof as soon as practicable thereafter but in any event during the **Policy Period**, then any covered **Claim** subsequently made against **you** arising out of the act, error, or omission will be treated as if it had been first made during the **Policy Period**, provided that **you** give **us** written notice of the covered **Claim** as soon as practicable thereafter. The notice must give full particulars of the act, error, or omission, including but not limited to: information about the **Claim** and the act, error, or omission; the identity of all potential claimants and any of **you** involved; the manner in which **you** first became aware of the act, error, or omission, and the reasons **you** believe it likely to give rise to a **Claim**.

### **VIII. GENERAL CONDITIONS**

#### **A. Assistance and Cooperation**

**You** are obligated to provide **us** with all information, assistance, and cooperation that **we** reasonably request, including but not limited to information, assistance, and cooperation in the investigation, association, defense, settlement, or other resolution of a **Claim**; the pursuit or enforcement of any right of subrogation, contribution, indemnity, or other obligation from another; or conduct with respect to any action, suit, appeal, or other proceeding.

#### **B. Subrogation**

In the event of any payment under this Policy, **we** will be subrogated to the extent of the payment to all of **your** rights of recovery from any person or entity other than one of **you**. **You** must do everything necessary to secure these rights, including but not limited to executing any documents necessary to allow **us** to effectively bring suit in **your** name. **You** also must do nothing that may prejudice **our** position or **our** potential or actual rights of recovery.

#### **C. Other Insurance**

The coverage provided under this Policy shall be specifically excess of, and will not contribute with: (1) any other insurance or self-insurance, regardless of whether the other insurance or self-insurance is collectible or is stated as primary, *pro rata*, contributory, excess, contingent, or otherwise, unless the other insurance or self-insurance is specifically written as excess of this Policy; or (2) any defense, hold harmless, or indemnification that **you** are entitled to from any person or entity other than one of **you**.

#### **D. Change In Risk**

- (1) If, during the **Policy Period**, a **Named Insured** acquires or creates another entity where the total annual revenues of such entity are less than ten percent (10%) of the **Named Insured's** total annual revenues as set forth in the **Application**, then such entity shall be included within the definition of **Named Insured**, but only with respect to an act, error, or omission by or on behalf of the **Named Insured** or its **Insured Persons** in the performance, development, management, or administration of any managed care or healthcare insurance service first committed or allegedly committed after the effective date of such transaction.
- (2) If, during the **Policy Period**, a **Named Insured**:
- (a) acquires or creates another entity where the total annual revenues of such entity are ten percent (10%) or more of the **Named Insured's** total annual revenues as set forth in the **Application**; or
  - (b) merges or consolidates with another entity such that the **Named Insured** is the surviving entity,

then for a period of sixty (60) days after the effective date of the transaction or until the Expiration Date of this Policy (whichever is shorter), such entity shall be included within the definition of **Named Insured**, but only with respect to an act, error, or omission by or on behalf of the **Named Insured** or its **Insured Persons** in the performance, development, management, or administration of any managed care or healthcare insurance service first committed or allegedly committed after the effective date of such transaction. Thereafter, there will be no coverage under this Policy for any **Claim** based upon, arising out of, or in any way involving such entity unless within such sixty (60) day period **we** have specifically agreed by written endorsement to this Policy to provide coverage for such entity and the **Named Insured** has accepted any terms, conditions, exclusions, or limitations, including payment of additional premium, as **we** may impose in connection with such transaction.

- (3) If, during the **Policy Period**, any of the following events occurs:
- (1) a **Named Insured** ceases to do business, is dissolved, sold, or acquired, or is merged into or consolidated with another entity such that the **Named Insured** is not the surviving entity;
  - (2) any person or entity acquires the right to elect or appoint more than fifty percent (50%) of a **Named Insured's** directors, trustees, or member managers or obtains more than fifty percent (50%) of the **Named Insured's** equity or assets; or
  - (3) a receiver, liquidator, conservator, trustee, rehabilitator, or similar official is appointed for or with respect to a **Named Insured**;

then coverage under this Policy shall continue in full force and effect with respect to the **Named Insured** and its **Insured Persons** until the Expiration Date of the Policy, but this Policy shall only apply to: an act, error, or omission in the performance, development, management, or administration of any managed care or healthcare insurance service first committed or allegedly committed by the **Named Insured** or its **Insured Persons** before the effective date of such event. There will be no coverage available under this Policy based upon or arising out of any act, error, or omission in the performance, development, management, or administration of any managed care or healthcare insurance service committed or allegedly committed by the **Named Insured** or its **Insured Persons** on or after the effective date of such event.

#### **E. Cancellation and Non-Renewal**

**We** may cancel this Policy for non-payment of premium by mailing to the **Named Insured** ten (10) days advance written notice. If **we** cancel this Policy, earned premium will be computed *pro rata*.

The **Named Insured** may cancel this Policy by mailing **us** written notice stating when thereafter such cancellation will be effective. If the **Named Insured** cancels this Policy, the earned premium will be computed in accordance with the customary short rate table and procedure. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

**We** are not required to renew this Policy upon its expiration. If **we** elect not to renew this Policy, **we** will mail to the **Named Insured** at least sixty (60) days advance written notice of nonrenewal. Any offer of renewal on terms involving a change of retention, premium, limit of liability, or other term or condition will not constitute, nor be construed as, a failure or refusal to renew this Policy.

#### **F. Extended Reporting Period**

If this Policy is canceled for any reason other than fraud, misrepresentation, or non-payment of premium or is not renewed by **us** or the **Named Insured**, then an additional period of time during which **Claims** may be reported (an "Extended Reporting Period") shall be made available, but any such Extended Reporting Period shall apply only to a **Claim** for an act, error, or omission by **you** or on **your** behalf in the performance, development, management, or administration of any managed care or healthcare insurance service first committed or allegedly committed before the effective date of such cancellation or non-renewal (the "Termination Date") or the effective date of any event described in the Change in Risk Section of this Policy (as applicable), whichever is earlier. No Extended Reporting Period shall in any way increase **our** Limits of Liability stated in the Declarations, and **our** Limit of Liability for all such **Claims** made during any Extended Reporting Period shall be part of, and not in addition to, the Policy Aggregate Limit of Liability stated in the Declarations. The Extended Reporting Period will apply as follows:

- (1) **Automatic Extended Reporting Period:** An Extended Reporting Period of sixty (60) days, beginning as of the Termination Date, will apply automatically and requires no additional premium; provided that such Extended Reporting Period will not apply if a renewal or replacement policy of insurance is purchased by **you**.
- (2) **Additional Extended Reporting Period:** The **Named Insured** may purchase an additional Extended Reporting Period for the period of time stated in the Declarations by notifying **us** in writing of its intention to do so no later than sixty (60) days after the Termination Date. The additional premium for this additional Extended Reporting Period shall be equal to the applicable amount stated in the Declarations and must be paid no later than sixty (60) days after the Termination Date. Such additional premium shall be deemed fully earned upon inception of such Extended Reporting Period.

If no election to purchase an additional Extended Reporting Period is made as described above, or if the additional premium for any such Extended Reporting Period is not paid within sixty (60) days after the Termination Date, there will be no right to purchase an additional Extended Reporting Period at any later time.

#### **G. Representations**

**You** represent that the information and statements in connection with the **Application** are true, accurate, and complete and agree that:

- (1) this Policy is issued and continued in force by **us** in reliance upon the truth of **your**

representations;

- (2) the information and statements are the basis of this Policy; and
- (3) the **Application** is incorporated in and forms a part of this Policy.

No knowledge or information possessed by any of **you** shall be imputed to any other of **you**, except for material facts or information 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 information or statements in connection with the **Application**, this Policy shall be void with respect to any of **you** who knew of such untruth, misrepresentation, or omission or to whom such knowledge is imputed.

#### **H. Action Against Us**

No action shall be brought against **us** unless, as conditions precedent thereto, **you** have fully complied with all of the terms of this Policy and the amount of **your** obligation to pay has been finally determined either by judgment against **you** after adjudicatory proceedings or by written agreement between **you**, the claimant, and **us**. No person or entity shall have any right under this Policy to join **us** as a party to any **Claim**, nor shall **we** be impleaded by **you** or any legal representative of **you** in any **Claim**.

#### **I. Service of Suit**

Pursuant to any statute of any state, territory, or district of the United States of America which makes provision therefor, **we** hereby designate the Superintendent of Insurance, Commissioner of Insurance, Director of Insurance, or other officer specified by statute for this purpose as its true and lawful attorney upon whom may be served any lawful process in any action brought by or on behalf of **you** in connection with this Policy.

#### **J. Your Insolvency**

**We** will not be relieved of any of **our** obligations under this Policy by **your** bankruptcy or insolvency.

#### **K. Authorization and Notices**

The **Named Insured** will act on behalf of all of **you** with respect to: the giving or receiving of any notice under this Policy; the payment of premiums to, or the receiving of return premiums from, **us**; the receiving and accepting of any endorsements issued to form a part of this Policy; and the exercising, or declining to exercise, any Extended Reporting Period. Any communication by **us** to the **Named Insured** shall constitute a communication to all of **you**.

#### **L. Notice**

Notice to **you** shall be sent to the **Named Insured** at the address designated for the **Named Insured** in the Declarations.

Notice to **us** shall be sent to **us** at the address designated for **us** in the Declarations.

#### **M. Changes**

Notice to or knowledge possessed by any agent or other person acting on behalf of **us** shall not effect a change, modification, or waiver of or with respect to this Policy, or any part thereof, or prevent or estop **us** from asserting any right under this Policy. This Policy, or any part thereof, can only be changed, modified, or waived by written endorsement issued to form a part of this Policy.

**N. Territory**

This Policy applies to a covered **Claim** for an act, error, or omission taking place anywhere in the world; provided that the **Claim** is made against **you** in the United States of America and is subject to and governed by the courts and laws of the United States of America.

**O. Economic and Trade Sanctions or Violations of Law**

Any **Claim** or matter or transaction uninsurable under any act, statute, rule, regulation, requirement, ordinance, common law, or other law of the United States of America concerning trade or economic sanctions or export control laws is not covered under this Policy.

**P. Assignment**

No assignment of interest under this Policy shall bind **us** without **our** prior written consent issued as a written endorsement to form a part of this Policy.

**Q. Entire Agreement**

**You** agree that this Policy, including the **Application**, Declarations, and any endorsements, constitutes the entire agreement between **you** and **us**.

**R. Headings**

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

**In witness whereof, we have caused this Policy to be executed by our authorized representative.**