

NOTICE: THIS IS A CLAIMS MADE AND REPORTED COVERAGE SECTION. IT APPLIES ONLY TO THOSE CLAIMS THAT ARE BOTH FIRST MADE AGAINST THE INSURED AND REPORTED IN WRITING TO THE COMPANY DURING THE POLICY PERIOD THAT ARE THE RESULT OF WRONGFUL ACTS COMMITTED ON OR SUBSEQUENT TO THE RETROACTIVE DATE SPECIFIED IN THE DECLARATIONS. PLEASE REVIEW THIS POLICY CAREFULLY AND DISCUSS THIS COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

I. INSURING AGREEMENTS

Professional Liability Coverage

The Company will pay on behalf of the **Insured** all sums which the **Insured** shall become legally obligated to pay as **Damages** and **Claim Expenses** resulting from any **Professional Liability Claim** both first made against the **Insured** and reported to the Company in writing during the **Policy Period** alleging any **Wrongful Act** by the **Insured**, or by someone for whose **Wrongful Acts** the **Insured** is legally responsible, provided, however, that such **Wrongful Act** was committed on or subsequent to the **Retroactive Date**.

II. DEFINITIONS:

- A. **Bodily Injury** means injury to the body sickness, disease, emotional distress, mental anguish or death of any person.
- B. **Damages** means judgments, awards and settlements, provided any settlement is negotiated with the Company's written consent. **Damages** includes prejudgment interest awarded against the **Insured** on that part of the judgment the Company offers to pay. If the Company makes an offer to pay the applicable Limits of Liability, it will not pay any prejudgment interest based on that period of time after the offer. **Damages** shall also include punitive, exemplary or multiple damages, if insurable, to the fullest extent permitted by any applicable law. Where the **Insured** reasonably determines that punitive, exemplary or multiple damages are insurable under any applicable law, the Company shall not challenge that determination of insurability.

Damages shall not include:

- 1. the return or restitution of fees, expenses or costs for **Professional Services** performed or to be performed by the **Insured**;
- 2. civil or criminal fines, sanctions, penalties, or forfeitures, whether pursuant to law, statute, regulation or court rule, and injuries that are a consequence of any of the foregoing;
- 3. the multiplied portion of multiplied awards;
- 4. any matter, sum or award that is uninsurable under the law pursuant to which this Policy shall be construed; or
- 5. injunctive or declaratory relief.

C. **Insured** means:

- 1. the **Named Insured** and any **Subsidiary**; and,

2. any person who is or becomes a partner, officer, director, leased employee or employee of the **Named Insured** or any **Subsidiary** but only for **Professional Services** performed on behalf of the **Named Insured** or any **Subsidiary**; or,
 3. any person who was affiliated with the **Named Insured** or any **Subsidiary** as a partner, officer, director, trustee, or employee but solely for **Professional Services** performed on behalf of the **Named Insured** at the time of such affiliation.
- D. **Retroactive Date** means the date specified as such in the Item 4.B.1. of the Declarations on, or after which a **Wrongful Act** must have been committed for coverage under this **Coverage Part** to apply.
- E. **Wrongful Act** means any actual or alleged error, misstatement, misleading statement, omission, neglect or breach of duty committed in the performance of **Professional Services**.

III. EXCLUSIONS

This **Coverage Part** does not apply to any **Professional Liability Claim**:

- A. for **Bodily Injury** or **Property Damage**;
- B. based upon or arising out of:
 1. charges of price fixing, restraint of trade, monopolization or unfair trade; or
 2. any actual or alleged violation of:
 - a. the Federal Trade Commission Act, the Sherman Act, the Clayton Act, or any federal statutory provision regarding anti-trust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade; or
 - b. any rules or regulations promulgated under or in connection with the above statutes; or
 - c. any similar provision of any state, federal or local statutory law or common law;
- C. based upon or arising out of **Media Activity**;
- D. based upon or arising out of:
 1. an **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees; or
 2. liability of others assumed by the **Insured** under any oral or written contract or agreement,

except that coverage otherwise available to an **Insured** shall apply to such **Insured's** liability that exists in the absence of such contract or agreement;
- E. based upon or arising out of the same facts alleged or contained in, or to the same or related **Wrongful Acts** alleged or contained in:
 1. any **Professional Liability Claim** which has been previously reported under any policy of which this Policy is a renewal or replacement or which this Policy may succeed in time; or
 2. any notice of a potential **Professional Liability Claim** or circumstances which may have been expected to give rise to a **Professional Liability Claim**, which has been given under

any policy of which this Policy is a renewal or replacement or which this Policy may succeed in time;

- F. made by or on behalf of any of the other **Insureds**, in any capacity ;
- G. based upon or arising out of **Professional Services** performed for any entity, not named in the Declarations, if at the time of the act or omission giving rise to such **Professional Liability Claim**:
 - 1. any **Insured** controlled, owned, operated or managed such entity; or
 - 2. any **Insured** was an owner, partner, director, officer or employee of such entity;
 - 3. any **Insured was** owned, operated or controlled by such entity.

For the purpose of this exclusion, a 10% or more owner of the voting stock of a publicly held corporation or a 50% or more owner of the voting stock of a privately held corporation shall be deemed to own such entity;
- H. based upon or arising out of actual or alleged violation of **ERISA or any Similar Act**;
- I. based upon or arising out of:
 - 1. the filing of any registration statement under the Securities Acts of 1933, or the Securities Exchange Act of 1934, any State Blue Sky Law, or any other state or local securities law; or
 - 2. the Securities Act of 1933, the Securities and Exchange Act of 1934, rules or regulations of the Securities Exchange Commission under either or both acts, similar securities laws or regulations of state, or any laws of any state relating to any transaction arising out of, involving, or relating to the public offering of securities;
- J. based upon, directly or indirectly arising out of, or in any way involving: any nuclear reaction, radiation, or contamination, or any actual, alleged or threatened discharge, release, escape, or disposal of, or exposure to, **Pollutants**; any request, direction or order that any of the **Insureds** test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to or assess the effect of **Pollutants** or nuclear reaction, radiation or contamination, or any voluntary decision to do so; or any actual or alleged **Property Damage, Bodily Injury**, or financial loss to **Insureds** resulting from any of the aforementioned matters;
- K. for any actual or alleged discrimination, humiliation, harassment or misconduct that includes but shall not be limited to **Claims** based on an individual's race, creed, color, age, sex, national origin, religion, handicap, marital status or sexual preference;
- L. made by or on behalf of any federal, state or local regulatory agency or office, whether such **Professional Liability Claim** is made in the name of such regulatory agency or office or by or on behalf of such regulatory agency or office or in the name of any other entity. This exclusion shall not apply to any **Professional Liability Claims** based upon **Professional Services** rendered by or an behalf of an **Insured** directly for any such regulatory agency or office who is a direct client of the **Named Insured**;

- M. based upon or arising out of the gaining in fact of any personal profit or advantage to which the **Insured** is not legally entitled;
- N. based upon or arising out of the commingling, misappropriation or improper use of funds;
- O. alleging dishonest, fraudulent or malicious acts or omissions, or intentional wrongdoing by any **Insured** or at the direction of any **Insured**;

With respect to Exclusions M, N and O above, the Company shall provide a defense for such **Professional Liability Claims** unless or until there is a final judgment or final adjudication adverse to the **Insured**. The **Insured** is obligated to reimburse all **Claim Expenses** if and when there is such a final judgment or final adjudication. Such defense will not waive any of the Company's rights under this Policy. Criminal proceedings are not covered under this Policy regardless of the allegations made against the **Insured**.

For the purpose of determining the applicability of Exclusions M, N and O above, the **Wrongful Act** of any **Insured** shall not be imputed to any other **Insured**.

IV. NOTICE OF PROFESSIONAL LIABILITY CLAIMS AND POTENTIAL PROFESSIONAL LIABILITY CLAIMS

- A. The **Insured**, as a condition precedent to the obligations of the Company under this **Coverage Part**, shall give written notice to the Company as soon as reasonably possible during the **Policy Period**:
 - 1. of any **Professional Liability Claim**; or
 - 2. of the **Insured's** receipt of any notice, advice or threat, whether written or verbal, that any person or organization intends to hold the **Insured** responsible for any alleged **Professional Services**.

The Company agrees with the **Insured** that the **Insured** may have up to, but not to exceed, sixty (60) days after the Policy expiration to report to the Company a **Professional Liability Claim** made against the **Insured** during the **Policy Period** if the reporting of such **Professional Liability Claim** is as soon as reasonably possible.

- B. If during the **Policy Period**, any **Insured** becomes aware of any act or omission which may reasonably be expected to be the basis of a **Professional Liability Claim** against any **Insured**, and gives written notice to the Company with all available particulars, including but not limited to:
 - 1. the specific act or omission;
 - 2. the dates and persons involved;
 - 3. the identity of anticipated or possible claimants; and
 - 4. the circumstances by which the **Insured** first became aware of the possible **Professional Liability Claim**,

then any such **Professional Liability Claim** which is made against the **Insured** and reported to the Company shall be deemed to have been made at the time such written notice was given to the Company.

V. EXTENDED REPORTING PERIOD

In case of cancellation or non-renewal of this Policy by either the **Named Insured** or the Company, for reasons other than the **Named Insured's** non-payment of premium or Deductible or non-compliance with the terms and conditions of this Policy, the **Named Insured** shall have the right to an Extended Reporting Period as follows:

A. Automatic Extended Reporting Period

The **Named Insured** shall have the right to a period of sixty (60) days following the effective date of such cancellation or non-renewal (referred to as the Automatic Extended Reporting Period), in which to give written notice to the Company of **Professional Liability Claims** first made against the **Insured** during said sixty (60) days period for any **Wrongful Act** committed prior to the end of the **Policy Period** and otherwise covered by this Policy.

B. Optional Extended Reporting Period

The **Named Insured** shall have the right upon payment of an additional premium to have issued an endorsement providing an Extended Reporting Period covering **Professional Liability Claims** first made against the **Insured** during the **Policy Period** or the Extended Reporting Period and reported to the Company during the Extended Reporting Period for **Wrongful Acts** committed prior to the effective date of such cancellation or non-renewal and otherwise covered by this Policy. The **Named Insured** may elect a twelve (12) month Extended Reporting Period for an additional premium of seventy-five percent (75%) of the total annual Policy premium ..

The right shall terminate, however, unless written notice of such election with the additional premium is received by the Company not later than thirty (30) days after the effective date of cancellation or non-renewal. A change in Policy terms, conditions, exclusions and/or premiums shall not be considered a non-renewal for purposes of triggering the rights to an Extended Reporting Period.

The first sixty (60) days of the Optional Extended Reporting Period, if it becomes effective, shall run concurrently with the Automatic Extended Reporting Period.