

**GENERAL PARTNERS LIABILITY POLICY
(INCLUDING PARTNERSHIP REIMBURSEMENT)**

NOTICE: THIS IS A CLAIMS MADE AND REPORTED POLICY. EXCEPT AS MAY BE OTHERWISE PROVIDED HEREIN, THE COVERAGE UNDER THIS POLICY IS LIMITED TO LIABILITY FOR WRONGFUL ACTS FOR WHICH CLAIMS ARE FIRST MADE WHILE THE POLICY IS IN FORCE AND WHICH ARE REPORTED TO THE INSURER NO LATER THAN SIXTY (60) DAYS AFTER THE TERMINATION OF THE POLICY. THE LIMIT OF LIABILITY AVAILABLE TO PAY LOSS, INCLUDING JUDGMENT OR SETTLEMENT AMOUNTS, SHALL BE REDUCED BY AMOUNTS INCURRED FOR COSTS, CHARGES AND EXPENSES AS PROVIDED FOR UNDER THE POLICY. FURTHER NOTE THAT AMOUNTS INCURRED FOR COSTS, CHARGES AND EXPENSES SHALL BE APPLIED AGAINST THE APPLICABLE RETENTION AMOUNT.

THIS POLICY DOES NOT PROVIDE FOR ANY DUTY OR OBLIGATION ON THE PART OF THE INSURER TO DEFEND ANY INSURED(S).

In consideration of the payment of the premium, in reliance on the statements in the **Proposal** and subject to all of the provisions of and endorsements to this Policy, the Insurer and the **Insured(s)** agree as follows:

I. INSURING AGREEMENTS

A. GENERAL PARTNERS LIABILITY

1. The Insurer shall pay on behalf of any **Insured General Partner(s)** Loss which the **Insured General Partner(s)** is legally obligated to pay and which is not indemnified by any **Insured Partnership** (either by reason of **Insolvency** of the **Insured Partnership**, or because the **Insured Partnership** is not permitted to indemnify the **Insured General Partner(s)**), and which arises from any **Claim** first made and reported against the **Insured General Partner(s)** during the Policy for a **Wrongful Act(s)**.
2. The Insurer shall pay on behalf of an **Insured Partnership Loss** which the **Insured Partnership** pays as indemnification to any **Insured General Partner(s)** arising from any **Claim** first made and reported during the **Policy Period** for a **Wrongful Act(s)**.

B. PARTNERSHIP LIABILITY

The Insurer will pay on behalf of the **Insured Partnership Loss** which the **Insured Partnership** is legally obligated to pay and which arises from any **Claim** first made and reported against the **Insured Partnership** during the **Policy Period** for a **Wrongful Act(s)**.

C. EMPLOYMENT PRACTICES LIABILITY

The Insurer shall pay on behalf of the **Insured(s) Loss** arising from any **Claim** first made and reported during the **Policy Period** for a **Wrongful Act(s)** brought by or on behalf of any **Insured General Partner(s)**.

D. FIDUCIARY LIABILITY

The Insurer shall pay on behalf of the **Named Insured** and any **Insured General Partner(s) Loss** arising from any **Claim** first made and reported during the **Policy Period** for a **Wrongful Act(s)**.

II. DEFINITIONS

A. Change in Control means:

1. the acquisition by any person or entity of a controlling interest of greater than fifty percent in the outstanding equity interest or securities controlling the right to manage the affairs of the **Insured Partnership**;
2. the merger of the **Insured Partnership** into another entity such that the **Insured Partnership** is not the surviving entity;
3. the consolidation of the **Insured Partnership** with another entity, or the acquisition of substantially all of the assets of the **Insured Partnership** by another entity;
4. the dissolution of the **Insured Partnership**, or the appointment of a conservator, receiver or administrator to manage the affairs of the **Insured Partnership**; or
5. the withdrawal, resignation, replacement or substitution of a majority of the **Insured General Partner(s)**.

B. Claim means:

1. any written demand for monetary damages or non-monetary relief against the **Insured(s)** commenced by receipt of such demand by the **Insured(s)** for a **Wrongful Act(s)**;
2. any civil, judicial, administrative, regulatory or arbitration proceeding commenced by the service of a complaint or similar pleading initiated against the **Insured(s)** for a **Wrongful Act(s)**, including any appeal therefrom;
3. any administrative or regulatory investigation commenced by a formal order of investigation, target letter or other similar document against the **Insured(s)** for a **Wrongful Act(s)**;

4. criminal proceedings against the **Insured(s)** for a **Wrongful Act(s)** commenced by the return of an indictment or the filing of an information, including any appeal therefrom; or
 5. a written agreement with the **Insured(s)** to toll any applicable statute of limitations prior to the commencement of any judicial, administrative, regulatory or arbitration proceeding involving a **Wrongful Act(s)**;
- C. Costs, Charges and Expenses** mean reasonable and necessary legal fees and expenses (including expert fees) and cost of attachment or similar bonds incurred by the **Insured(s)** in defense of any **Claim**, but shall not include:
1. directors' fees, salaries, wages, overhead or benefit expenses associated with directors, officers, equivalent executives or employees of the **Insured Partnership**, or
 2. any amounts incurred in defense of any **Claim** for which any other insurer has a duty to defend.
- D. Discrimination** means termination of the employment relationship, a demotion or failure or refusal to hire or promote or denial of an employment benefit or the taking of any adverse or differential employment action including, but not limited to, retaliation because of race, color, religion, age, sex, sexual orientation, sexual preference, disability (including "AIDS"), pregnancy or national origin, or any other basis prohibited by federal, state or local law.
- E. Employee Benefit Plan** means any plan as scheduled by endorsement to this Policy.
- F. Harassment** means unwelcome sexual or non-sexual advances, requests for sexual or non-sexual favors or other verbal or physical conduct of a sexual or non-sexual nature that: (1) explicitly or implicitly are made a condition of employment; (2) are used as a basis for employment decisions; or (3) create a work environment that interferes with performance. **Harassment** includes allegations of assault and battery, but only if they are related to a charge of sexual harassment.
- G. Insolvency** means the status of an **Insured Partnership** as a result of the appointment of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the **Insured Partnership**, or the **Insured Partnership** becoming a debtor-in-possession.
- H. Insured(s)** means any:
1. **Insured Partnership**; or
 2. **Insured General Partner(s)**.

- I. Insured General Partner(s)** means:
1. For purposes of Insuring Agreement A., any natural person who was, is or shall become a duly appointed or elected director, officer, general partner, managing member or equivalent executive of any **Insured Partnership**;
 2. For purposes of Insuring Agreement C., any natural person who was, is or shall become a duly appointed or elected director, officer, general partner, managing member or equivalent executive of an **Insured Partnership** or any employee of an **Insured Partnership**;
 3. For purposes of Insuring Agreement D., any natural person who was, is or shall become an employee of the **Named Insured**, but solely in connection with creating, administering, operating or terminating an **Employee Benefit Plan**.
- J. Insured Partnership** means the **Named Insured** or any partnership entity pursuant to an endorsement to this Policy and any **Subsidiary** thereof.
- K. Interrelated Wrongful Acts** mean any **Wrongful Act(s)** which has as a common nexus any fact, circumstance, situation, event, transaction or series of facts, circumstances, situations, events or transactions.
- L. Loss** means damages, judgments, settlements and **Costs, Charges and Expenses** incurred by the **Insured(s)** including punitive damages where insurable under the law of the most favorable venue to the **Insured(s)** pursuant to which this Policy shall be construed; however, **Loss** shall not include:
1. the multiple portion of any multiplied damage award or fines or penalties other than, with respect to Insuring Agreement D. only, the five percent or less civil fine or penalty under Section 502(i) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), or the twenty percent or less civil fine or penalty under Section 502(l) of ERISA, imposed upon the **Named Insured** or any **Insured General Partner(s)**;
 2. taxes or the loss of tax benefits, criminal or civil fines or penalties imposed by law;
 3. matters deemed uninsurable under the law pursuant to which this Policy shall be construed;
 4. any amount allocable to uncovered **Loss** under this Policy;
 5. any non-monetary relief;
 6. any amount for which the **Insured(s)** is not financially responsible or which is without valid legal recourse;
 7. the return or disgorgement of any money, assets or personal profit received by an **Insured(s)** to which such **Insured(s)** is not legally entitled;

8. the costs to modify or adapt any building or property to be more accessible or accommodating to any disabled person;
 9. with respect to Insuring Agreement C., any salary, front and back pay, benefits or other remuneration contemplated by any express employment agreement;
 10. with respect to Insuring Agreement C., any direct, indirect or derivative consequential damages to any claimant's domestic partner, spouse, parent, child, brother, sister, step-parent, step-child, step-brother or step-sister; or
 11. with respect to Insuring Agreement D.:
 - a. benefits paid or payable to a participant or beneficiary of an **Employee Benefit Plan** if such benefits are or may be lawfully paid from the **Employee Benefit Plan**; or
 - b. contributions paid or payable to the **Employee Benefit Plan** pursuant to the obligation of the **Insured(s)** to fund the **Employee Benefit Plan**.
- M. Named Insured** means the entity named in Item A. of the Declarations of this Policy.
- N. Non-Profit Entity** means any non-profit corporation, community chest, fund or foundation that (i) is not included in the definition of **Insured Partnership**, and (ii) is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
- O. Optional Extension Period** means the period described in Clause XI. A. of this Policy.
- P. Outside Position** means the position of director, managing member, officer, trustee, or other equivalent executive position held by an **Insured General Partner(s)** in:
1. any **Non-Profit Entity**; or
 2. any entity other than a **Non-Profit Entity**, provided that such coverage is specifically granted by endorsement to this Policy, if such position is with the knowledge and consent or at the request of the **Insured Partnership**.
- Q. Policy Period** means the period from the effective date and hour of this Policy to the Policy expiration date and hour, as set forth in Item B. of the Declarations of this Policy, or its earlier cancellation date and hour, if any.
- R. Proposal** means the proposal for this Policy or any policy or policies of which this Policy is a renewal or replacement.

S. Subsidiary means any entity:

1. which at the inception date of this Policy, is named in the **Proposal**; and
2. in which more than fifty percent (50%) of the ownership interest is owned directly or indirectly by any **Insured Partnership** either directly or through one or more of its **Subsidiaries**.

T. Wrongful Act(s) means:

1. with respect to Insuring Agreements A.(1) and A.(2), any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act by an **Insured General Partner(s)** in his or her capacity as such, or any matter claimed against him or her solely by reason of his or her status as an **Insured General Partner(s)**;
2. with respect to Insuring Agreement B., any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act by an **Insured Partnership** in its capacity as such, or any matter claimed against it solely by reason of its status as an **Insured Partnership**;
3. with respect to Insuring Agreement C., any **Wrongful Employment Practices**;
4. with respect to Insuring Agreement D., any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act by the **Named Insured** or any **Insured General Partner(s)** solely in connection with the creation, administration, operation or termination of an **Employee Benefit Plan**.

U. Wrongful Employment Practices means any actual or alleged:

1. **Discrimination**;
2. **Harassment**;
3. termination, actual or constructive, of an employment relationship in any manner which is allegedly against the law and wrongful;
4. wrongful demotion, termination, disciplinary action or other employment decision which violates public policy or the Family Medical Leave Act or similar state law, or retaliation, misrepresentation, promissory estoppel and intentional interference with a contract, which arises from an employment relationship;
5. libel, slander, defamation, infliction of emotional distress or mental anguish, humiliation, false imprisonment, invasion of privacy and other personal injury allegations which arises from the employment relationship;
6. breach of an implied employment contract and breach of the covenant of good faith and fair dealing in an employment contract;

7. violations of the Uniformed Services Employment and Reemployment Rights Act;
8. breach of an employee's federal, state or local civil rights including, but not limited to, any violation of the Civil Rights Act of 1866 or 42 U.S.C. Section 1983;
9. retaliation against any **Insured General Partner(s)** including, but not limited to, retaliation for filing claims under the Federal False Claims Act, retaliation in connection with whistleblowing, retaliation for union activities or in connection with strikes or lockouts;
10. wrongful deprivation of career opportunity which arises from the employment relationship; or
11. negligent hiring, negligent supervision or negligent retention in connection with (1) or (2) above.

III. EXTENSIONS

A. ESTATE AND REPRESENTATIVES EXTENSION

Subject otherwise to the terms hereof, this Policy shall cover **Loss** arising from a **Claim** first made during the **Policy Period** against the estates, heirs, or legal representatives of any deceased **Insured General Partner(s)**, and the legal representatives of any **Insured General Partner(s)** in the event of incompetency, insolvency or bankruptcy, who was an **Insured General Partner(s)** at the time the **Wrongful Act(s)** upon which such **Claim** is based was committed.

B. OUTSIDE POSITION LIABILITY

The Insurer shall pay on behalf of the **Insured Partnership Loss** which the **Insured Partnership** pays as indemnification to the **Insured General Partner(s)** arising from a **Claim** first made during the **Policy Period** for any **Wrongful Act(s)** while serving in an **Outside Position**, but such coverage shall be specifically excess of any indemnity or insurance available from or provided by the entity in which the **Insured General Partner(s)** serves in such **Outside Position**.

C. SPOUSAL EXTENSION

Subject otherwise to the terms hereof, this Policy shall cover **Loss** arising from a **Claim** first made during the **Policy Period** against the lawful spouse (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) of any **Insured General Partner(s)** for a **Claim** arising solely out of his or her status as the spouse of any **Insured General Partner(s)**, including any **Claim** that seeks damages recoverable from marital community property, property jointly held or transferred from the **Insured General Partner(s)** to the spouse.

D. **OPTIONAL EXTENSION PERIOD**

1. If this Policy is not renewed by the **Named Insured** or the Insurer for reasons other than nonpayment of premium, then the **Insured(s)** shall have the right, upon payment of an additional premium calculated at the percentage(s) shown in Item G. of the Declarations of the total annual premium for this Policy, to elect an extension of coverage granted by this Policy with respect to any **Claim** first made during the period of time set forth in Item G. of the Declarations after the effective date of the Policy expiration date, but only with respect to any **Wrongful Act(s)** committed before such expiration date.
2. As a condition precedent to election of the **Optional Extension Period**, the total premium for this Policy must have been paid. The election of the **Optional Extension Period** shall terminate unless written notice together with full payment of premium for the **Optional Extension Period** is given to the Insurer within thirty (30) days after the Policy expiration date. If such notice and premium payment is not timely given to the Insurer, there shall be no right to elect or purchase the **Optional Extension Period**.
3. In the event of the purchase of the **Optional Extension Period**, the entire premium therefore shall be deemed earned at its commencement.
4. The exercise of the **Optional Extension Period** shall not in any way increase the Limit of Liability of the Insurer.
5. The rights contained in Clause III.D. of this Policy shall not apply to any cancellation resulting from the nonpayment of premium.

IV. **EXCLUSIONS**

The Insurer shall not be liable to make any payment in connection with any **Claim**:

- A. for bodily injury, sickness, disease, death, false arrest, false imprisonment, damage to or destruction of tangible property (including loss of the use thereof), and, except to the extent a **Claim** is made for **Wrongful Act(s)** defined under Clause II.T.3., assault, battery, invasion of privacy, emotional distress, libel, slander or defamation;
- B. for, based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:
 1. any demand, suit, action or other proceeding against any **Insured(s)** which was pending on or existed prior to the date stated in Item H. of the Declarations, or based upon or arising from the same or substantially similar facts, circumstances or allegations which are the subject of the basis for such demand, suit, action or other proceeding;

2. any **Wrongful Act(s)** or any fact, circumstance or situation which has been the subject of any notice given prior to the **Policy Period** or policy period under any other policy or policies of which this Policy is a renewal or replacement; or
 3. any other **Wrongful Act(s)**, fact, circumstance or allegation, whenever occurring, which, together with a **Wrongful Act(s)** which has been the subject of such prior notice, would constitute **Interrelated Wrongful Acts**;
- C. for, based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving, actual or alleged seepage, pollution or contamination of any kind; provided, however, this exclusion will not apply to **Loss** for which the **Insured General Partner(s)** is not entitled to indemnification from the **Insured Partnership** or any third party;
- D. brought about or contributed to by any dishonest, fraudulent or criminal act or omission as established by a judgment or other final adjudication adverse to an Insured;
- E. for, based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving, the gaining of any personal profit or advantage or the receiving any remuneration to which a judgment or other final adjudication adverse to an Insured establishes that the **Insured(s)** was not legally entitled;
- F. for the liability of any **Insured(s)** arising under any express contract or agreement, regardless of whether such liability is direct or assumed, unless such liability would have existed without such contract or agreement;
- G. by or on behalf of any **Insured(s)**; provided, however, this exclusion shall not apply to:
1. a **Claim** brought directly or derivatively by a security or interest holder of an **Insured Partnership**, if such **Claim** is brought and maintained without the solicitation or assistance of any **Insured(s)**; provided, however, that with respect to any **Claim** against the **Insured Partnership** brought on behalf of any **Insured(s)** who also is an interest holder in any **Insured Partnership**, such **Claim** will not be excluded solely because such **Insured(s)** may be an interest holder in the **Insured Partnership** if such **Claim** is brought without the solicitation or assistance of any other **Insured(s)**;
 2. a cross-claim or third party complaint or similar judicial process brought by an **Insured General Partner(s)** seeking contribution or indemnity which is part of, and results directly from, a **Claim** not otherwise excluded by this Policy;
 3. a **Claim** brought by or on behalf of any **Insured General Partner(s)** for **Wrongful Employment Practices**, except under Insuring Agreement D. where the **Insured Partnership** is a corporate entity and such **Claim** is brought by or on behalf of any **Insured General Partner(s)** who owns or controls twenty-five percent (25%) or more of the voting stock of the **Insured Partnership**;

4. a **Claim** brought by any **Insured Partnership** where, in the opinion of independent legal counsel selected by and at the expense of an **Insured Partnership** (selection of such counsel being subject to the approval of the Insurer, such consent not to be unreasonably withheld), the failure to make such **Claim** would result in liability upon the directors, officers, or equivalent executives of the **Insured Partnership**, for failure to assert such **Claim**;
 5. a **Claim** brought by a natural person who formerly was a duly appointed or elected director, officer, or equivalent executive of any **Insured Partnership** more than three years prior to the effective date of this Policy; or
 6. a **Claim** brought by or on behalf of an **Insured General Partner(s)** as defined under Clause II.I.2. pursuant to Insuring Agreement C.
- H.** for that part of **Loss**, other than **Costs, Charges and Expenses**, for, based upon, or arising out of, directly or indirectly resulting from, in consequence of, or in any way involving, the return or reimbursement of fees or other compensation;
- I.** for, based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving, any actual or alleged violation of the responsibilities, obligations and duties imposed by ERISA or any similar federal, state, local or common law in connection with the activities of any **Insured(s)** as a fiduciary for, or in the administration of, any pension and/or welfare plan sponsored, established, created or maintained for the benefit of the employees of any **Insured Partnership**, except: (i) with respect to any **Claim** under Insuring Agreement C. for retaliation for the filing for benefits under such laws; or (ii) to the extent that coverage is provided under Insuring Agreement D.;
- J.** in their capacities as directors and officers of any **Subsidiary** for any actual or alleged **Wrongful Act(s)** occurring at any time when such corporation was not a **Subsidiary**;
- K.** for, based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving, the actual or alleged commingling of funds;
- L.** for, based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving, such **Insured General Partner(s)** serving as a director, officer, partner, trustee, regent, governor or employee of any organization other than the **Insured Partnership** even if such service is at the direction or request of the **Insured Partnership**, except where such coverage is provided under Section III.B. of this policy.
- M.** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any initial public offering undertaken by the **Insured Partnership** after the inception date of this Policy, including all activities in connection therewith and the purchase or sale of such securities subsequent to such initial public offering; provided, however, that this exclusion shall not apply to the private placement of the **Insured Partnership's** securities if such securities are sold directly to a limited number

of investors and are exempted from the registration requirements of the Securities Act of 1933;

It is agreed that the acts of any **Insured(s)** shall not be imputed to any **Insured(s)** for the purpose of determining the applicability of the above stated Exclusions.

V. LIMIT OF LIABILITY, RETENTIONS AND DATE OF CLAIM

- A. The Insurer shall be liable to pay the percentage of **Loss** set forth in Item G. of the Declarations in excess of the amount of the individual Retentions set forth in Item D. of the Declarations up to the Limit of Liability, it being warranted that the remaining percentage of **Loss** shall be uninsured.
- B. In the event a single **Claim** is covered in part under more than one of the Retentions set forth in Item D. of the Declarations, each applicable Retention shall be applied separately to that part of the **Loss** resulting from such **Claim** covered by each Insuring Agreement. The sum of the total Retentions as finally applied shall constitute the Retention applicable to such **Claim**. The total Retentions as finally determined shall in no event exceed the largest single Retention.
- C. The Insurer's maximum liability under the policy, whether covered under one or more Insuring Agreements, shall be the Limit of Liability shown in Item C. of the Declarations of this Policy.
- D. More than one **Claim** involving the same **Wrongful Act(s)** or **Interrelated Wrongful Acts** shall be deemed to constitute a single **Claim** and shall be deemed to have been made at the earliest of the following times:
 - 1. the time at which the earliest **Claim** involving the same **Wrongful Act(s)** or **Interrelated Wrongful Acts** is first made, or
 - 2. the time at which the **Claim** involving the same **Wrongful Act(s)** or **Interrelated Wrongful Acts** shall be deemed to have been made pursuant to Section VIII.
- E. Payments of **Loss** by the Insurer, including **Costs, Charges and Expenses**, shall reduce the Limit of Liability.
- F. The Retentions applicable to Insuring Agreement A(2) shall apply to Loss covered by such Insuring Agreement if indemnification by the **Insured Partnership** is required by law or legally permissible to the fullest extent permitted by law, regardless whether actual indemnification is made, unless the **Insured Partnership** is unable to make such actual indemnification by reason of its **Insolvency**.

VI. SETTLEMENTS AND DEFENSE

As a condition precedent to coverage, no settlement negotiations or settlement agreements shall occur and no **Costs, Charges and Expenses** shall be incurred without the Insurer's written consent, such consent not to be unreasonably withheld.

The Insurer shall have the right to associate themselves in the defense and settlement of any **Claim**. The Insurer may make any investigation it deems appropriate; however, it shall be the duty of the **Insured(s)**, and not the duty of the Insurer, to defend any **Claim**.

The Insurer shall pay **Costs, Charges and Expenses** no more than once every ninety days.

VII. ALLOCATION

If both **Loss** covered under this Policy and **Loss** not covered by this Policy are incurred in connection with any **Claim**, the **Insured Person(s)**, the **Insured Partnership** and the Insurer shall use all reasonable efforts to agree upon a fair and proper allocation of such amount between covered **Loss** and uncovered **Loss**.

If there can be an agreement on **Costs, Charges and Expenses**, the Insurer shall advance on a current basis **Costs, Charges and Expenses** allocated to covered **Loss**. If there can be no agreement on an allocation of **Loss**:

- A. no presumption as to allocation shall exist in any arbitration, suit or other proceeding;
- B. The Insurer shall advance on a current basis **Costs, Charges and Expenses** which the Insurer believes to be covered under the Policy until a different allocation is negotiated, arbitrated or judicially determined; and
- C. The Insurer, if requested by the **Insured General Partner(s)** or the **Insured Partnership**, shall submit such dispute to binding arbitration. The rules of the American Arbitration Association shall apply except with respect to the selection of the arbitration panel, which shall consist of one arbitrator selected by the **Insured General Partner(s)** or the **Insured Partnership**, one arbitrator selected by the Insurer, and a third independent arbitrator selected by the first two arbitrators.

Any negotiated, arbitrated or judicially determined allocation of **Costs, Charges and Expenses** on account of a **Claim** shall be applied retroactively to all **Costs, Charges and Expenses** on account of such **Claim**, notwithstanding any prior advancement to the contrary. Any allocation or advancement of **Costs, Charges and Expenses** on account of a **Claim** shall not apply to or create any presumption with respect to the allocation of other **Loss** on account of such **Claim**.

VIII. NOTIFICATION

The **Insured(s)** shall, as a condition precedent to their rights to payment under this Policy, give to the Insurer notice in writing of any **Claim** as soon as practicable but in no event later than 60 days after the end of the **Policy Period**.

If, during the **Policy Period**, the **Insured(s)** first become aware of any specific **Wrongful Act(s)**, and if the **Insured(s)** during the **Policy Period** gives written notice to the Insurer of: (1) the specific **Wrongful Act(s)**; (2) the consequences which have resulted or may result therefrom; and (3) the circumstances by which the **Insured(s)** first became aware thereof,

then any **Claim** made subsequently arising out of such **Wrongful Act(s)** shall be deemed for the purposes of this Policy to have been made at the time such notice was first given.

Notice to the Insurer shall be given in writing to the individual identified in Item J. of the Declarations.

IX. OTHER INSURANCE

If any **Loss** arising from any **Claim** is insured by another valid policy or policies, then this Policy shall apply only in excess of the amount of any deductibles, retentions and limits of liability under such other policy or policies, whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically excess of this policy by reference in such other policy or policies to the Policy Number indicated on this policy's Declarations page.

X. GENERAL CONDITIONS

A. WARRANTY CLAUSE

It is warranted that the particulars and statements contained in the **Proposal** and the information incorporated by reference therein are the basis of this Policy and are to be considered as incorporated into and constituting a part of this Policy.

By acceptance of this Policy, the **Insured(s)** agrees that:

1. the statements in the **Proposal** are its representations and warranties, that it shall be deemed material to the acceptance of the risk or the nature of the risk assumed by the Insurer under this Policy and that this Policy is issued in reliance upon the truth of such representations and warranties;
2. in the event the **Proposal** contains misrepresentations which materially affect either the acceptance of the risk or the nature of the risk assumed by the Insurer under this Policy, this Policy in its entirety shall be void and of no effect whatsoever with respect only to that **Insured(s)** who had knowledge of any such misrepresentation; and
3. except as provided in Clause X.A.2. above, this Policy shall be deemed a single unitary contract and not a severable contract of insurance or a series of individual contracts of insurance with each **Insured(s)**.

B. ACQUISITIONS, MERGERS, SUBSIDIARIES AND MATERIAL CHANGES

1. In the event that after the inception of this Policy the **Named Insured**:
 - a. acquires all or substantially all the assets of another organization representing less than 25% of the **Named Insured's** total assets,

- b. merges with another organization such that the **Named Insured** is the surviving organization and the other organization's assets were less than 25% of the **Named Insured's** total assets, or
- c. creates a new subsidiary representing less than 25% of the **Named Insured's** total assets,

then coverage shall automatically apply to any **Claim** first made against such new organization acquired by the **Named Insured** following the formation or sponsorship of such acquisition or merger. Such automatic coverage shall be subject to the Insurer's receipt of written notice of the aforementioned event from the **Named Insured** not more than ninety (90) days after the effective date thereof.

2. No coverage shall be afforded under this Policy for the assets acquired by the **Named Insured**, for **Wrongful Act(s)** or **Wrongful Employment Practices** of the organization merged with, acquired by or created by the **Named Insured**:

- a. for the creation of new subsidiaries or for new acquisitions, mergers or changes involving another organization whose assets are equal to or greater than 25% of the **Named Insured** total assets under management at the time of acquisition, merger or change, or

- b. where, after the inception of this Policy, the **Named Insured** otherwise changes its business as described in the **Proposal** in a manner material to the risk underwritten by the Insurer, unless and until:

- a. the **Named Insured** provides written notice of the aforementioned event to the Insurer not more than ninety (90) days after the effective date thereof;

- b. the **Named Insured** provides the Insurer with such information in connection therewith as the Insurer may deem necessary;

- c. the **Named Insured** accepts any special terms, conditions, exclusions or additional premium required by the Insurer; and

- d. the Insurer in its sole discretion specifically agrees in writing to provide such coverage.

3. If the Insurer does agree to provide coverage for the newly purchased or created organization or subsidiary, or the **Named Insured** otherwise changes its business activities, such coverage will be only for any **Wrongful Act(s)** or **Wrongful Employment Practices** first committed following the effective date of the aforementioned event.

4. In the event of a **Change in Control**, the coverage provided by this Policy, subject to its terms, shall apply to any **Insured(s)** with respect to **Claims** made during the **Policy Period** only for a **Wrongful Act(s)** committed or allegedly committed prior to such **Change in Control**.

XI. CANCELLATION AND TERMINATION OF COVERAGE

- A.** By acceptance of this Policy, the **Insured(s)** hereby confers the exclusive power and authority to cancel this Policy on its behalf to the **Named Insured**. Such entity may cancel this Policy by surrender thereof to the Insurer, or by mailing to the Insurer written notice stating when thereafter such cancellation shall be effective. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice shall be equivalent to mailing.
- B.** The Insurer may cancel this Policy only for nonpayment of premium by mailing to the **Named Insured** written notice stating when, not less than 10 days thereafter, such cancellation shall be effective. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice by the Insurer shall be equivalent to mailing. If the foregoing notice period is in conflict with any governing law or regulation, then such period shall be amended to afford the minimum notice period permitted thereunder.
- C.** If this Policy is cancelled pursuant to paragraph A. hereinabove, the Insurer shall retain the customary short rate proportion of the premium hereon. If this Policy is cancelled pursuant to paragraph B. hereinabove, the Insurer shall retain the pro rata proportion of the premium hereon. Payment or tender of any unearned premium by the Insurer shall not be a condition precedent to the effectiveness of cancellation.

XII. INSURED PARTNERSHIP AUTHORIZATION CLAUSE

By acceptance of this Policy, the **Insured(s)** agrees that the **Named Insured** will act on its behalf with respect to the giving of all notices to the Insurer, the receiving of notices from the Insurer, the payment of the premium and the receipt of any return premium.

XIII. TERRITORY

This Policy extends to any **Wrongful Act(s)** taking place or a **Claim** made anywhere in the world.

XIV. ASSISTANCE, COOPERATION, SUBROGATION AND RECOVERIES

- A.** As a condition precedent to coverage, the **Insured(s)** agrees to provide the Insurer with such information, assistance and cooperation as the Insurer or its counsel may reasonably request in connection with the defense, negotiation and settlement of any **Claim**, and the **Insured(s)** further agrees that it shall not take any action which in any way increases the Insurer's exposure under this Policy.
- B.** In the event of any payments under this Policy, the Insurer shall be subrogated to the rights of recovery of the **Insured(s)** against any person or entity. The **Insured(s)** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents as are necessary to enable the Insurer

effectively to bring suit in its name, and shall provide all other assistance and cooperation which the Insurer may reasonably require.

- C. All recoveries from third parties for payments made under this Policy shall be applied (after first deducting the costs and expenses incurred in obtaining in such recovery) in the following order of priority:
1. the **Insured(s)** shall first be reimbursed for the amount by which its legal liability exceeds the amounts paid under this Policy;
 2. the Insurer shall then be reimbursed for the amount of its liability under this Policy; and
 3. any remaining sum shall be applied towards reimbursement of the Retention borne by the **Insured(s)** under this Policy.

XV. ASSIGNMENTS AND ACTION AGAINST THE INSURER

No action shall lie against the Insurer unless, as a condition precedent thereto, the **Insured(s)** shall have fully complied with all of the terms of this Policy and the amount of the obligation of the **Insured(s)** to pay shall have been fully and finally determined either by judgment against it or by written agreement between it, the claimant and the Insurer. Nothing contained herein shall give any person or organization any right to join the Insurer as a party to any **Claim** against the **Insured(s)** to determine its liability, nor shall the Insurer be impleaded by the **Insured(s)** or its legal representative in any **Claim**.

Assignment of interest under this Policy shall not bind the Insurer unless its consent is endorsed hereon.

XVI. ENTIRE AGREEMENT

By acceptance of this Policy, the **Insured(s)** agrees that this Policy embodies all agreements existing between it and the Insurer or any of its agents relating to this Policy. Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Insurer shall not effect a waiver or a change in any part of this Policy or estop the Insurer from asserting any right under the terms of this Policy, nor shall the terms be waived or changed except by written endorsement or rider issued by the Insurer to form a part of this Policy.

XVII. SERVICE OF SUIT

It is agreed that in the event of the failure of the Insurer to pay any amount claimed to be due hereunder, the Insurer, at the request of the **Insured(s)**, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of the Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any State in the United States. It is further agreed that service of process in such suit may be made upon Director of Claims,

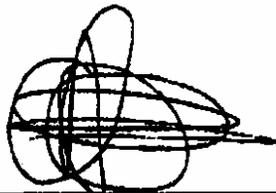
Professional Indemnity Agency, Inc. 37 Radio Circle Drive, Mount Kisco, New York 10549, and that in any suit instituted against any one of them upon this contract, the Insurer will abide by the final decision of such court or of any appellate court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of the Insurer in any such suit and/or upon the request of the **Insured(s)** to give a written undertaking to the **Insured(s)** that it will enter a general appearance upon the Insurer's behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefore, the Insurer hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or such individual's successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the **Insured(s)** or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above-named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.

BY Michael J. Schell
PRESIDENT


SECRETARY