

Accountants Professional Liability Policy

Executive Risk Indemnity Inc.

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**THIS IS A CLAIMS MADE POLICY
WITH DEFENSE EXPENSES INCLUDED IN THE LIMIT OF LIABILITY.
PLEASE READ THE ENTIRE POLICY CAREFULLY.**

EXECUTIVE RISK INDEMNITY INC.

ACCOUNTANTS PROFESSIONAL LIABILITY POLICY

Executive Risk Indemnity Inc. (the Underwriter) and the Insureds, subject to all of the terms, conditions and limitations of, and endorsements to, this Policy, agree as follows:

I. INSURING AGREEMENT

The Underwriter will pay on behalf of the **Insureds** all **Loss**, in excess of the applicable retention, resulting from any **Claim** first made against any **Insured** during the **Policy Period** or, if applicable, the Extended Reporting Period, for any **Wrongful Act** occurring before the expiration of the **Policy Period**.

II. DEFINITIONS

- (A) **“Affiliated Firm”** means any person or entity with which the **Insured Firm** has entered into a professional relationship and/or agreement, and which is performing **Professional Services** at the direction of or on behalf of the **Insured Firm** for clients of the **Insured Firm**.
- (B) **“Application”** means the application attached to and forming part of this Policy, including any materials submitted by the **Insured Firm** in connection with such application, all of which are on file with the Underwriter and are a part of this Policy, as if physically attached.
- (C) **“Claim”** means:
- (1) a written notice received by an **Insured** that it is the intention of any person or entity to hold any **Insured** responsible for the results of a **Wrongful Act**;
 - (2) a civil, judicial or administrative adjudicatory proceeding or an arbitration proceeding, including any appeal therefrom, against any **Insured**; provided, however, that **“Claim”** does not include any criminal proceeding;
 - (3) a written request received by an **Insured** to toll or waive a statute of limitations relating to any **Claim** described in clauses (1) or (2) above against an **Insured**; and

- (4) subject to Section III EXCLUSIONS (I), any written notice received by an **Insured** that any governmental authority has commenced or intends to commence an investigation of an **Insured**, or that any institute of accountants or formal, duly constituted standards board or similar professional body has commenced or intends to commence an investigation or disciplinary review of an **Insured**.
- (D) “**Defense Expenses**” means reasonable legal fees and expenses incurred to defend the **Insureds** against any **Claim**, including costs of appeal, attachment or similar bonds, provided that the Underwriter shall have no obligation to procure or furnish any such bond. **Defense Expenses** shall include charges by the **Named Insured** for time spent by its own personnel in participating with its counsel in the defense of a **Claim** covered hereunder if, and only to the extent, approved, in the Underwriter’s sole discretion, in advance in writing by the Underwriter. Except as specifically approved by the Underwriter, **Defense Expenses** shall not include salaries, wages, fees, overhead or benefit expenses of any **Insured**.
- (E) “**Insured**” means:
- (1) the **Insured Firm**;
 - (2) any person who is, was, or in the future becomes a partner, principal, shareholder, officer, director, member, retired partner or employee of the **Insured Firm**, but only in the capacity of, and when performing, **Professional Services** for others in the name of or on behalf of the **Insured Firm**; or
 - (3) the estate, heirs, executors, administrators and legal representatives of any person described in clause (2) above, in the event of such person’s death, disablement, incapacity, insolvency or bankruptcy, but only with respect to liability arising out of **Professional Services** rendered by such person on behalf of the **Insured Firm** prior to such person’s death, disablement, incapacity, insolvency, or bankruptcy.

An **Affiliated Firm** is not an **Insured** under this Policy.

- (F) “**Insured Firm**” means the **Named Insured** or any **Predecessor Firm**.

- (G) “**Loss**” means damages, including punitive damages (if insurable under the law pursuant to which this Policy is construed), judgments, awards, settlements and **Defense Expenses** which an **Insured** is legally obligated to pay as a result of a **Claim**. **Loss** shall also include fines and penalties assessed against clients of the **Insured** by the Internal Revenue Service, or by any state or municipal tax authority. **Loss** shall not include:
- (1) any multiplied damage award which is in excess of the damage award so multiplied;
 - (2) fines, sanctions, taxes or penalties imposed by law, except with respect to fines and penalties assessed against clients of the **Insured** by the Internal Revenue Service, or by any state or municipal tax authority, as set forth above;
 - (3) matters which may be deemed uninsurable under the law pursuant to which this Policy shall be construed; or
 - (4) the value of any **Professional Services** rendered or expenses incurred by the **Insured** for modification or correction of previous work for a client of the **Insured**.
- (H) “**Named Insured**” means the entity designated in ITEM 1 of the Declarations.
- (I) “**Policy Period**” means the period from the Inception Date to the Expiration Date in ITEM 2 of the Declarations, or to any earlier cancellation date.
- (J) “**Predecessor Firm**” means a sole proprietorship, partnership, professional corporation or other organization:
- (1) properly established under state law and operated for the purpose of rendering **Professional Services**; and
 - (2) which has undergone a change in name or organizational structure; and
 - (3) of which the owners, partners, members or officers responsible for producing in excess of fifty percent (50%) of the gross annual billings have become owners, partners, members or officers of the **Named Insured**; provided such billings have been assigned to or otherwise obtained by the **Named Insured**.

(K) **“Professional Services”** means:

- (1) advice given or services performed of whatsoever nature for others by or on behalf of the **Insured Firm** by any **Insured** or by any **Affiliated Firm** or any other person or entity for whose conduct the **Insured Firm** is legally responsible (whether assumed by contract or otherwise), provided that all or any portion of the fee accruing from such work inures to the benefit of the **Insured Firm** (unless such work is performed on a pro bono basis with the knowledge and consent of the **Insured Firm**); and
- (2) advice given or services performed by an **Insured** solely in connection with the evaluation, by members of any institute of accountants or any formal, duly constituted standards board or similar professional body, of any individual or entity, whether or not on behalf of the **Insured Firm**.

In clarification and not in limitation of the foregoing, **Professional Services** shall include the provision to clients of computer software packages and products prepared by an **Insured**, or publications prepared or written by an **Insured**.

- (L) **“Related Claims”** means all **Claims** for **Wrongful Acts** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions or events, or the same or related series of facts, circumstances, situations, transactions or events.
- (M) **“Wrongful Act”** means any actual or alleged act, error or omission, breach of contract or duty, or libel or slander, committed by an **Insured**, or by any **Affiliated Firm** or by any person other than an **Insured** for whose actions the **Insured Firm** is legally responsible, but only in connection with the rendering of or failure to render **Professional Services**.

III. EXCLUSIONS

The Underwriter shall not pay **Loss** in connection with any **Claim**:

- (A) arising out of any **Wrongful Act** or any matter, fact, circumstance, transaction or event which has been the subject of any **Claim** or **Related Claims** made prior to the effective date of this Policy or of any notice given under any prior policy of which this Policy is a successor, or which was described in the **Application** or an application for any policy of which this Policy is a renewal or a replacement;

- (B) where it is established by an admission of an **Insured** or by a finding in any judicial or administrative proceeding that the **Insured** committed or personally acquiesced in any dishonest, fraudulent or criminal **Wrongful Act**; provided that this EXCLUSION (B) shall not apply to any other **Insured** who has neither admitted nor been found in any such proceeding to have committed or personally acquiesced in such dishonest, fraudulent or criminal act; except that the Underwriter shall, in such event, pay **Loss** only in excess of the full extent of the assets in the **Insured Firm** of any individual **Insured** who has admitted or been found in any such proceeding to have committed or personally acquiesced in such fraud, dishonest or criminal act as described above; and any assets of such **Insured** recovered by the **Insured Firm** (or any other **Insured**) shall inure to the benefit of the Underwriter to the extent of the amount paid by the Underwriter under this Policy;
- (C) for any bodily injury, emotional distress, mental anguish, sickness, disease or death of any person, or loss of consortium, support, companionship or services of any kind resulting therefrom;
- (D) for damage to, or destruction of, or loss of use of, tangible property; provided, that this EXCLUSION (D) shall not apply to damage to, or destruction of, or loss of use of, client records in the possession of any **Insured**;
- (E) for any actual or alleged act, error, omission, breach of contract or duty, or libel or slander committed by any **Insured** in his, her or its capacity as a “fiduciary,” as defined and described in the Employee Retirement Income Security Act of 1974 and any amendments thereto or any regulations or orders promulgated thereunder or similar provisions of any federal, state or local statute or common law;
- (F) arising out of the service of any **Insured** in his or her capacity as a member, partner, principal, shareholder, regent, governor, director, officer or employee of any entity, organization, association or other business enterprise, other than the **Named Insured**;
- (G) subject to EXTENSIONS OF COVERAGE (B), arising out of a **Wrongful Act** by such **Insured** committed or allegedly committed prior to the time that such **Insured** became a member, partner, principal, shareholder, director, officer or employee of the **Insured Firm**; provided that this EXCLUSION (G) shall not apply to any **Claim** arising out of a **Wrongful Act** committed or allegedly committed by a **Predecessor Firm**;

- (H) arising out of any brokerage, offer or sale by the **Insured** of securities, ownership interests, real estate or other investment vehicles, or any solicitation by the **Insured** to offer, sell or purchase securities, ownership interests, real estate or other investment vehicles; provided that this EXCLUSION (H) shall not apply to any **Claim** arising out of financial planning, investment advice or the preparation of a prospectus or pro forma financial statements, rendered in connection with the performance of **Professional Services**;
- (I) arising out of a governmental investigation, or an investigation or disciplinary review conducted by any institute of accountants or any formal, duly constituted standards board or similar professional body; provided that this EXCLUSION (I) shall not apply to **Defense Expenses** incurred in connection with any such **Claim**;
- (J) with respect to property of which an **Insured** is, or is alleged to be, an owner or operator in a fiduciary or any other capacity, arising out of:
 - (1) any actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of, any smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials (including materials which are intended to be or have been recycled, reconditioned or reclaimed) or other irritants, pollutants or contaminants; or
 - (2) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any of the foregoing, or any action taken in contemplation or anticipation of any such regulation, order, direction or request; or
- (K) by or on behalf of, or in the name or right of:
 - (1) any **Insured**; or
 - (2) any entity in which the **Insureds**, individually or collectively, own or control a fifty percent (50%) or greater ownership interest.

IV. **EXTENSIONS OF COVERAGE**

(A) **Extended Reporting Period:**

- (1) In the event that the **Named Insured** cancels, declines or refuses to renew this Policy, or if the Underwriter declines or refuses to renew this Policy, the **Named Insured** shall have the right to an Extended Reporting Period as follows:

(a) AUTOMATIC EXTENDED REPORTING PERIOD

Without any additional premium being required, the **Insureds** shall have sixty (60) days after the effective date of such cancellation or, in the event of non-renewal, after the date upon which the **Policy Period** ends, to report any **Claim** first made against the **Insureds** during such sixty (60) day period; provided that this EXTENSION OF COVERAGE (A)(1) shall not apply, and the **Insureds** shall not be entitled to any such Extended Reporting Period, in the event that any new professional liability insurance policy is obtained by the **Insured**.

(b) OPTIONAL EXTENDED REPORTING PERIOD

The **Named Insured** may purchase an Extended Reporting Period for the additional premium and period set forth in ITEM 6 of the Declarations. The **Named Insured** must notify the Underwriter in writing by certified mail at the address set forth in the Declarations of its decision to purchase such an Extended Reporting Period, and must pay the additional premium, within thirty (30) days after (i) the effective date of cancellation; or, (ii) in the event of non-renewal, the date the **Policy Period** ends. Payment of the full additional premium by the due date is a strict condition precedent to the right to purchase an Extended Reporting Period. The full additional premium shall be deemed fully earned upon commencement of the Extended Reporting Period.

- (2) The coverage otherwise afforded under this Policy will be extended to apply for any Extended Reporting Period, subject to all of this Policy's terms, conditions, limitations and endorsements, to **Loss**, including **Defense Expenses** from **Claims** first made against any **Insured** during such Extended Reporting Period for **Wrongful Acts** before the effective date of such cancellation or, in the event of non-renewal, before the date upon which the **Policy Period** ends.
- (3) Any **Claim** made during an Extended Reporting Period shall be deemed to have been made during the **Policy Period**. The maximum aggregate limit of liability set forth in ITEM 3 of the Declarations shall be the maximum aggregate limit of liability for the **Policy Period** and, if applicable, the Extended Reporting Period. The Policy's maximum aggregate limit of liability is not increased, reinstated or renewed by virtue of the applicability of any Extended Reporting Period.

(B) **Acquisitions or Mergers – Adjustments:**

(1) **ADDITIONAL COVERAGE AT OPTION OF NAMED INSURED**

If, after the effective date of this Policy, the **Named Insured** acquires another entity or merges with another entity such that the **Named Insured** is the surviving entity and (a) the gross annual billings of the acquired or merged entity do not exceed ten percent (10%) of the gross annual billings of the **Named Insured** as reflected in the **Named Insured s** most recent consolidated financial statements prior to such acquisition or merger, and (b) the **Named Insured** gives written notice to the Underwriter of such acquisition or merger, in the form of a completed merger or acquisition questionnaire so designated by the Underwriter, within thirty (30) days after the effective date of such acquisition or merger, then (i) coverage shall be provided under this Policy, subject to its terms, conditions, limitations and exclusions, for any **Claim** against the **Insureds** arising from **Professional Services** provided by the acquired or merged entity, and (ii) such acquired or merged entity, and the members, partners, shareholders, principals, directors, officers and employees of such entity who join the **Named Insured** as a result of such acquisition or merger, shall be deemed to be **Insureds** as of the effective date of such acquisition or merger. No coverage will be available under this Policy for **Loss** from any **Claim** against any such acquired or merged entity, or the members, partners, shareholders, principals, directors, officers and employees of such entity, arising out of any **Wrongful Act** or any matter, fact, circumstance, transaction or event which was (i) the subject of any notice given under any policy of insurance in effect prior to the effective date of such acquisition or merger, or (ii) known to such entity, or any member, partner, shareholder, principal, director or officer of such entity, prior to the effective date of such acquisition or merger, and which such entity or member, partner, shareholder, principal, director or officer of such entity knew or reasonably should have expected would result in a **Claim**.

(2) **OPTIONAL COVERAGE**

If, after the effective date of this Policy, the **Named Insured** acquires another entity or merges with another entity such that the **Named Insured** is the surviving entity and the gross annual billings of the acquired or merged entity exceed ten percent (10%) of the gross annual billings of the **Named Insured** as reflected in the **Named Insured s** most recent consolidated financial statements prior to such acquisition or merger, then the **Named Insured** must promptly give the Underwriter written notice thereof, in the form of a completed merger or acquisition questionnaire so designated by the Underwriter, together with such additional information

as the Underwriter may require, and the Underwriter will be entitled to impose such additional coverage terms and charge such additional premium in connection therewith as the Underwriter, in its sole discretion, may require. No coverage will be available under this Policy for **Loss** from any **Claim** against any such acquired or merged entity, or the members, partners, shareholders, principals, directors, officers and employees of such entity, for any **Wrongful Act** committed or allegedly committed before the date of such acquisition or merger unless explicitly agreed to by the Underwriter.

V. CONDITIONS

(A) Territory:

This Policy applies to any **Wrongful Act** occurring, and any **Claim** made, anywhere in the world.

(B) Notice; Timing and Interrelationship of Claims:

- (1) As a condition precedent to any right to payment in respect of any **Claim**, including any **Claim** for a **Wrongful Act** of which notice was previously given under CONDITION (B)(2), the **Insured** must give the Underwriter written notice of such **Claim**, with full details, as soon as practicable after it is first made, but in no event later than ninety (90) days after such **Claim** is first made. A **Claim** is first made when any **Insured** receives a written notice or request with respect to such **Claim**, or when any **Insured** first becomes aware, through service of process or otherwise, of the filing of a complaint, motion for judgment, notice of charges, formal investigative order or similar document or pleading commencing a civil, administrative, regulatory or other proceeding against an **Insured**.
- (2) If, during the **Policy Period**, the **Insured** first becomes aware of a **Wrongful Act** which may subsequently give rise to a **Claim** and as soon as practicable thereafter, but before the expiration or cancelation of the Policy:
 - (a) gives the Underwriter written notice of such **Wrongful Act**, including a description of the **Wrongful Act** in question, the identities of the potential claimants, the consequences which have resulted or may result from such **Wrongful Act**, the damages which may result from such **Wrongful Act** and the circumstances by which the **Insured** first became aware of such **Wrongful Act**; and

- (b) requests coverage under this Policy for any subsequently resulting **Claim** for such **Wrongful Act**;

then the Underwriter will treat any such subsequently resulting **Claim** as if it had been first made during the **Policy Period**.

- (3) All notices under CONDITIONS (B)(1) and (2) must be in writing and sent to the Underwriter at the address of the Underwriter set forth in the Declarations.
- (4) All **Related Claims** will be treated as a single **Claim** made when the earliest of such **Related Claims** was first made, or when the earliest of such **Related Claims** is treated as having been made in accordance with CONDITION (B)(2), whichever is earlier.

(C) **Defense and Settlement of Claims:**

- (1) The **Insureds**, and not the Underwriter, shall have the right, duty and obligation to investigate and defend all **Claims**, including the selection and retention of qualified counsel to represent the **Insureds** in defense of any **Claim**. The Underwriter shall have the right to consent to the **Insureds** selection of counsel, such consent not to be unreasonably withheld. If more than one **Insured** is involved in a **Claim**, it shall not be unreasonable for the Underwriter to withhold its consent to separate counsel for one or more of such **Insureds** unless there is a material, actual or potential conflict of interest among such **Insureds**.
- (2) The Underwriter will, upon written request, pay on a current basis **Defense Expenses** for which this Policy provides coverage. Except for **Defense Expenses** advanced in accordance with this CONDITION (C)(2), the Underwriter shall have no obligation to pay any **Loss** before the final disposition of a **Claim**.
- (3) As a condition of any payment of **Defense Expenses** under CONDITION (C)(2), the Underwriter may require a written undertaking on terms and conditions satisfactory to the Underwriter guaranteeing the repayment of any **Defense Expenses** paid to or on behalf of any **Insured** if it is finally determined that **Loss** incurred by such **Insured** would not be covered under this Policy.

- (4) Except as expressly provided in this CONDITION (C)(4), no **Insured** may admit any liability or consent to any judgment, or settle any **Claim**, without the Underwriter's prior written consent, such consent not to be unreasonably withheld. However, the **Insureds** may settle any **Claim** without the Underwriter's prior written consent if the total **Loss** resulting from such **Claim**, together with the total **Loss** resulting from all prior **Claims** made during the **Policy Period**, in the aggregate, does not exceed fifty percent (50%) of the retention stated in ITEM 4(a) of the Declarations; provided that the **Insureds** must promptly advise the Underwriter of any such settlement and provide the Underwriter with any information that the Underwriter may request in connection therewith. If the total **Loss** resulting from any such **Claim**, when aggregated with the total **Loss** resulting from all prior **Claims** made during the **Policy Period** will exceed fifty percent (50%) of such retention, the **Insureds** must obtain the written consent of the Underwriter prior to entering into the settlement, such consent not to be unreasonably withheld.
- (5) The Underwriter will maintain the right to make investigations and conduct negotiations and, with the consent of the **Insureds**, to enter into such settlement of any **Claim** as the Underwriter deems appropriate. If the **Insureds** refuse to consent to a settlement acceptable to the claimant in accordance with the Underwriter's recommendation, the Underwriter's liability for such **Claim** will not exceed the amount for which the **Claim** could have been settled plus any **Defense Expenses** incurred with the Underwriter's consent up to the date the **Insureds** refused to settle such **Claim**.

(D) **Limit of Liability:**

- (1) The amount stated in ITEM 3 of the Declarations shall be the maximum aggregate limit of liability of the Underwriter under this Policy for all **Loss**, including **Defense Expenses**, from all **Claims** first made or deemed made during the **Policy Period**, regardless of the time of payment by the Underwriter, the number of **Claims**, the number of persons or entities included within the definition of "**Insured**," the number of claimants who make **Claims** against the **Insureds**, or the number of **Insureds** named as defendants in any **Claim**.
- (2) **Defense Expenses** will be part of and not in addition to the Underwriter's limit of liability, and payment of **Defense Expenses** by the Underwriter will reduce, and may exhaust, its limit of liability.

- (3) The obligation of the Underwriter to pay **Loss** in connection with any **Claim** will only be in excess of the applicable retention stated in ITEM 4 of the Declarations. The **Insureds** must pay the full amount of the retention at their own expense. The Underwriter shall have no obligation whatsoever, to the **Insureds** or to any other person or entity, to pay all or any portion of the retention amount on behalf of an **Insured**. The Underwriter shall, however, at its sole discretion, have the right and option to do so, in which event the **Insureds** must repay the Underwriter any such amounts promptly upon demand.

(E) **Cancellation:**

- (1) The Underwriter may cancel this Policy for non-payment of any premium when due by providing to the **Named Insured** written notice stating when, not less than twenty (20) days thereafter, such cancellation shall be effective.
- (2) The **Named Insured** may cancel this Policy on behalf of all of the **Insureds** by mailing to the Underwriter written notice stating when thereafter such cancellation will be effective. Notice of cancellation must be sent to the Underwriter by certified mail to the address set forth in the Declarations. In such event, 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.
- (3) The Underwriter will not be required to renew this Policy upon its expiration. If the Underwriter elects not to renew this Policy, the Underwriter will deliver or mail to the **Named Insured** written notice to that effect, including the reason(s) for such non-renewal, at least sixty (60) days before the Expiration Date set forth in ITEM 2(b) of the Declarations.

(F) **Other Insurance:**

All **Loss** payable under this Policy will be specifically excess of and will not contribute with other valid insurance (whether collectible or not), including but not limited to any insurance under which there is a duty to defend, or any risk retention plan available to the **Insureds**, unless such other insurance or risk retention plan is specifically in excess of this Policy. This Policy will not be subject to the terms of any other insurance.

(G) **Cooperation and Subrogation:**

- (1) In the event of a **Claim**, or after giving the Underwriter notice of a **Wrongful Act** which may subsequently give rise to a **Claim**, the **Insureds** must provide the Underwriter with all information, assistance and cooperation as the Underwriter reasonably may request. The **Insureds** will do nothing that may prejudice the Underwriter's position or potential or actual rights of recovery.
- (2) In the event of payment under this Policy, the Underwriter will be subrogated to, and entitled to an assignment of, all of the rights of recovery of the **Insureds**. The **Insureds** shall execute all papers and do everything that may be necessary to secure such rights, including the execution of such documents as may be necessary to enable the Underwriter effectively to pursue and enforce such rights and to bring suit in the name of the **Insureds** or any of them.

Notwithstanding the foregoing, no right of subrogation shall accrue to the Underwriter against any **Insured** unless such **Insured** shall have been adjudged, or has admitted, to have committed or personally acquiesced in, active and deliberate fraud or dishonesty with actual fraudulent or dishonest purpose and intent in relation to the **Claim** in question.

- (3) The obligations of the **Insureds** under this CONDITION (G) shall survive the Policy.

(H) **Representations; Severability:**

The **Insureds** represent that the particulars and statements contained in the **Application** are true, accurate and complete, and agree that this Policy is issued in reliance upon the truth of that representation, and that such particulars and statements, which are deemed to be incorporated into and to constitute a part of this Policy, are the basis of this Policy and are material to the Underwriter's acceptance of this risk. This Policy shall not, however, be avoided as to any **Insured** on account of the untruth of the particulars or statements contained in the **Application** unless:

- (1) such **Insured** knew of the untruth of such particular or statement, in which event such knowledge shall be imputed only to such **Insured**; or
- (2) the person providing such particular or making such statement in the **Application** knew of its untruth, in which event such knowledge shall be imputed to all **Insureds**.

(I) **Dispute Resolution:**

All disputes which may arise between the Underwriter and the **Insureds** out of or in relation to the Policy, including disputes as to its validity, construction or enforceability, or for breach of its terms or conditions, shall be submitted to non-binding mediation before a mutually agreeable mediator. If the parties cannot agree to a mutually agreeable mediator, or if a dispute is not resolved through non-binding mediation, it is agreed that either party may commence an action in any court of competent jurisdiction in the United States.

(J) **No Action Against the Underwriter:**

- (1) No action may be taken against the Underwriter unless, as conditions precedent thereto, there has been full compliance with all of the terms of this Policy, and the amount of the **Insureds** obligation to pay has been finally determined either by judgment against the **Insureds** after adjudicatory proceedings, or by written agreement of the **Insureds**, the claimant and the Underwriter.
- (2) No person or entity shall have any right under this Policy to join the Underwriter as a party to any **Claim** to determine the liability of an **Insured**, nor may the Underwriter be impleaded by an **Insured** or legal representative in any such **Claim**.

(K) **Authorization and Notices:**

- (1) The entity first named in ITEM 1 of the Declarations is designated by the **Insureds** to act on their behalf with respect to all matters under this Policy, including, but not limited to, giving and receiving notices and other communications, effecting or accepting any endorsements to or cancelation of this Policy, the payment of premiums and the receipt of any return premiums, and the purchase of any Extended Reporting Period.
- (2) Unless otherwise specified, all notices permitted or required by this Policy shall be given in writing and shall be sent by first class or certified mail to the respective addresses of the entity first named in ITEM 1 of the Declarations, if to the **Insureds**, or of the Underwriter, if to the Underwriter, as set forth in the Declarations.

(L) **Changes:**

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Underwriter will not effect a waiver or change in any part of this Policy or estop the Underwriter from asserting any right under the terms, conditions and limitations of this Policy. The terms, conditions, limitations and endorsements of this Policy may not be waived or changed except by written endorsements issued to form a part of this policy.

(M) **No Transfer or Assignment of Insured Interest:**

No assignment of interest under this Policy or of any cause of action against the Underwriter arising out of its performance of, or alleged failure to perform in accordance with, the terms and conditions of this Policy will be effective without the Underwriter's written consent.

(N) **Exhaustion:**

If the Underwriter's limit of liability is exhausted by the payment of **Loss**, including **Defense Expenses**, the premium will be fully earned, all obligations of the Underwriter under this Policy will be completely fulfilled and exhausted, and the Underwriter will have no further obligations of any kind or nature whatsoever under this Policy.


(O) **Entire Agreement:**

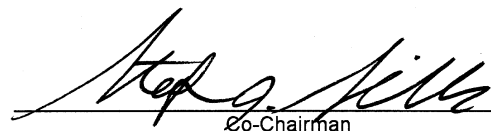
The **Insureds** agree that this Policy, including the **Application**, Declarations, and any endorsements, constitutes the entire agreement existing between them and the Underwriter or any of its agents relating to this insurance.

(P) **Headings:**

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

In Witness Whereof, the Underwriter has caused this Policy to be executed by its authorized officers.


Secretary


Co-Chairman