

**DECLARATIONS
MISCELLANEOUS PROFESSIONAL LIABILITY INSURANCE POLICY**

THIS IS A CLAIMS MADE AND REPORTED POLICY. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSUREDS AND REPORTED IN WRITING TO THE INSURER DURING THE POLICY PERIOD OR THE OPTIONAL EXTENSION PERIOD, IF APPLICABLE. AMOUNTS INCURRED AS CLAIMS EXPENSES SHALL REDUCE AND MAY EXHAUST THE LIMIT OF LIABILITY AND ARE SUBJECT TO THE DEDUCTIBLE. PLEASE READ THIS POLICY CAREFULLY.

These Declarations along with the completed and signed **Application** and the Policy with endorsements shall constitute the contract between the **Insureds** and the Insurer.

Insurer: Beazley Insurance Company, Inc.

Policy No: {Response}

Item 1. Named Insured:

{Response}

Address:

{Response}

Item 2. **Policy Period:**

From: {Response}

To: {Response}

Both dates at 12:01 a.m. Local Time at the Address stated in Item 1.

Item 3. Limit of Liability:

(a) \${Response} Each **Claim** – includes **Claims Expenses**

(b) \${Response} Aggregate for the **Policy Period** – includes **Claims Expenses**



- Item 4. Deductible:
\${Response} Each **Claim** Deductible – includes **Claims Expenses**
- Item 5. Premium:
\${Response}
- Item 6. Retroactive Date:
{Response}
- Item 7. **Optional Extension Period:**
- (a) Premium for **Optional Extension Period:** {Response}% of the total premium as for the Policy
 - (b) Length of **Optional Extension Period:** {Response}
- Item 8. Notification under this Policy:
- a) Notification pursuant to Clause IX. shall be given to:
Tressler, Soderstrom, Maloney & Priess
Sears Tower
233 South Wacker Drive, 22nd Floor
Chicago, IL 60606
Attn: Carrie E. Cope
Tel: (312) 627-4000
Fax: (312) 627-1717
Email: ccope@tsmp.com
 - b) All other notices under this Policy shall be given to:
Beazley Insurance Company, Inc.
20 Stanford Drive
Farmington, CT 06032
Tel: (860) 677-3700
Fax: (860) 679-0247



Item 9. Professional Services:
{Response}

Item 10. Terrorism Coverage:
Coverage Purchased: [] Yes [] No
If "Yes", Terrorism Coverage Premium: \$

Item 11. Endorsements Effective At Inception:
{Response}

The Insurer has caused this Policy to be signed and attested by its authorized officers, but it shall not be valid unless also signed by another duly authorized representative of the Insurer.

[Signature]

Authorized Representative

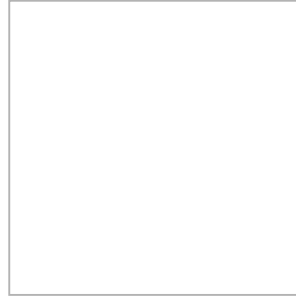
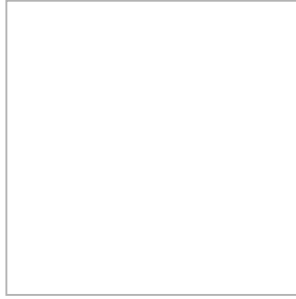
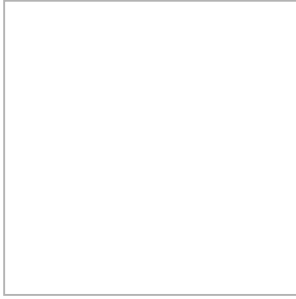
Date

[Signature]

Secretary

[Signature]

President



MISCELLANEOUS PROFESSIONAL LIABILITY INSURANCE POLICY

NOTICE: This Coverage is provided on a Claims Made and Reported Basis. Except as otherwise provided, this coverage only applies to **Claims** first made against the **Insured** and reported in writing to the Insurer during the **Policy Period**. The Limit of Liability available to pay **Damages** shall be reduced and may be completely exhausted by payment of **Claims Expenses**. Please review the coverage afforded under this Insurance Policy carefully and discuss the coverage hereunder with your insurance agent or broker.

The Insurer agrees with the Named Insured, set forth at Item 1. of the Declarations made a part hereof, in consideration of the payment of the premium and reliance upon the statements in the **Application** which is made a part of and deemed attached to this Insurance Policy (hereinafter referred to as the "Policy" or "Insurance") and subject to the Limit of Liability, deductible, exclusions, conditions and other terms of this Insurance:

I. INSURING CLAUSE

To pay on behalf of any **Insured Damages** and **Claims Expenses**, in excess of the Each **Claim** Deductible, which the **Insured** shall become legally obligated to pay because of any **Claim** first made against any **Insured** and reported in writing to the Insurer during the **Policy Period** or **Optional Extension Period** (if applicable) arising out of any negligent act, error or omission of the **Insured** in rendering or failing to render Professional Services as stated in Item 9. of the Declarations, for others, on behalf of the **Insured Organization** and caused by the **Insured** except as excluded or limited by the terms, conditions and exclusions of this Policy.

II. DEFENSE, SETTLEMENT, AND INVESTIGATION OF CLAIMS

- A. The Insurer shall have the right and duty to defend, subject to the Limit of Liability, exclusions and other terms and conditions of this Policy, any **Claim** against the **Insured** seeking **Damages** which are payable under the terms of this Policy, even if any of the allegations of the **Claim** are groundless, false or fraudulent.
- B. When the Insurer defends a **Claim**, it will pay **Claims Expenses** incurred with its prior written consent. The Limit of Liability available to pay **Damages** shall be reduced and may be completely exhausted by payment of **Claims Expenses**. **Damages** and **Claims Expenses** shall be applied against the Each **Claim** Deductible.
- C. The Insurer shall have the right to make any investigation it deems necessary, including, without limitation, any investigation with respect to the **Application** and statements made in the **Application** and with respect to coverage.
- D. If the **Insured** refuses to consent to any settlement or compromise recommended by the Insurer and acceptable to the claimant and elects to contest the **Claim**, the Insurer's liability for any **Damages** and **Claims Expenses** shall not exceed the amount for which the **Claim**

could have been settled, less the remaining Each **Claim** Deductible, plus the **Claims Expenses** incurred up to the time of such refusal, or the applicable Limit of Liability, whichever is less, and the Insurer shall have the right to withdraw from the further defense thereof by tendering control of said defense to the **Insured**.

- E. It is further provided that the Insurer shall not be obligated to pay any **Damages** or **Claims Expenses**, or to undertake or continue defense of any suit or proceeding after the applicable Limit of Liability has been exhausted by payment of **Damages** and/or **Claims Expenses** or after deposit of the applicable Limit of Liability in a court of competent jurisdiction, and that upon such payment, the Insurer shall have the right to withdraw from the further defense thereof by tendering control of said defense to the **Insured**.

III. THE INSURED AND THE INSURED ORGANIZATION

As used throughout this Policy, whether expressed in singular or plural, "**Insured**" shall mean:

- A. The Named Insured and any **Subsidiaries** of the Named Insured (together the "**Insured Organization**");
- B. A director or officer of the **Insured Organization**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**;
- C. An employee of the **Insured Organization**, but only for work done while acting within the scope of his or her employment and related to the conduct of the **Insured Organization's** business;
- D. A principal if the Named Insured is a sole proprietorship, or a partner if the Named Insured is a partnership, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**;
- E. Any person who previously qualified as an **Insured** under B, C or D above prior to the termination of the required relationship with the **Insured Organization**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organization**; and
- F. The estate, heirs, executors, administrators, assigns and legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Policy.

IV. EXCLUSIONS

The coverage under this Insurance does not apply to **Damages** or **Claims Expenses** in connection with or resulting from any **Claim**:

- A. Arising out of or resulting from any criminal, dishonest, fraudulent or malicious act, error or omission committed by any **Insured**; however, the insurance afforded by this Policy shall apply to **Claims Expenses** incurred in defending any such **Claim** alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction

against any **Insured**, or admission by an **Insured**, establishing such criminal, dishonest, fraudulent or malicious conduct or a plea of *nolo contendere* or no contest regarding such conduct, at which time the Named Insured shall reimburse the Insurer for all **Claims Expenses** incurred defending the **Claim** and the Insurer shall have no further liability for **Claims Expenses**;

- B. Arising out of or resulting from any act, error or omission committed prior to the inception date of this Insurance:
1. if any **Insured** on or before the inception date of this Policy knew or could have reasonably foreseen that such act, error or omission might be expected to be the basis of a **Claim**; or
 2. in respect of which any **Insured** has given notice of a circumstance which might lead to a **Claim** to the insurer of any other policy in force prior to the inception date of this Policy;
- C. For, arising out of, or resulting from **Bodily Injury** or **Property Damage**;
- D. For, arising out of, or resulting from any liability or obligation of the **Insured** under any contract or agreement, either oral or written, including but not limited to any warranties, representations, liquidated damages or guarantees, except and only to the extent the **Insured** would have been liable in the absence of such contract or agreement;
- E. For or arising out of, or resulting from delay in delivery or performance, or failure to deliver or perform at or within an agreed upon period of time;
- F. For or arising out of or resulting from:
1. inaccurate, inadequate, or incomplete description of the price of goods, products or services;
 2. cost guarantees, cost representations, contract price estimates of probable costs or cost estimates actually or allegedly exceeded;
 3. the failure of goods, products or services to conform with any represented quality or performance contained in advertising; or
 4. any actual or alleged gambling, contest, lottery, promotional game or other game of chance;
- G. Arising out of or resulting from the advising or requiring of, or failure to advise or require, or failure to maintain any form of insurance, suretyship or bond, either with respect to the **Insured** or any other person or entity;
- H. For or arising out of any actual or alleged antitrust violation, restraint of trade, unfair competition, violation of the Sherman Anti-Trust Act, the Clayton Act, the Robinson-Patman

Act, as amended, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive or misleading advertising;

- I. Brought by or on behalf of any governmental entity, quasi-governmental entity or other regulatory entity, in such entity's regulatory or official capacity;
- J. For or arising out of any actual or alleged:
 - 1. infringement or misappropriation of any intellectual property right, including but not limited to infringement of patent, copyright, title, trademark, servicemark, design, trade dress or misappropriation of trade secret; or
 - 2. plagiarism, piracy or misappropriation of ideas under implied contract;
- K. For or arising out of libel, slander, or any other form of defamation, disparagement or harm to the reputation or character of any person or organization, or for or arising out of invasion of or interference with a person's right to privacy;
- L. For or arising out of any actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal law or legislation, or law or legislation of any state, province or other jurisdiction similar to the foregoing, whether such law is statutory, regulatory or common law;
- M. For or arising out of any actual or alleged violation of any securities law, regulation or legislation, including but not limited to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Act of 1940, the Sarbanes-Oxley Act of 2002, any state or provincial blue sky or securities law, any other federal securities law or legislation, or any similar law or legislation of any state, province or other jurisdiction, or any amendment to the above laws, or any violation of any order, ruling or regulation issued pursuant to the above laws;
- N. By or on behalf of one or more **Insureds** under this Insurance against any other **Insured** or **Insureds** under this Insurance;
- O. Made by any business enterprise in which any **Insured** has greater than a fifteen percent (15%) ownership interest or made by any parent company or other entity which owns more than fifteen percent (15%) of the Named Insured, or arising out of or resulting from any **Insured's** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the **Insured Organization**;
- P. Arising out of Professional Services performed for any entity which:
 - 1. is operated, managed or controlled by an **Insured** or in which any **Insured** has an ownership interest in excess of fifteen percent (15%); or in which any **Insured** is an officer or director; or

2. operates, controls or manages the Named Insured, or has an ownership interest of more than fifteen percent (15%) in the Named Insured;
- Q. Arising out of or resulting from the insolvency or bankruptcy of any **Insured** or of any other entity including but not limited to the failure, inability, or unwillingness to pay **Claims**, losses, or benefits due to the insolvency, liquidation or bankruptcy of any such individual or entity;
- R. For or arising out of or resulting from:
1. any employer-employee relations, policies, practices, acts or omissions, or any actual or alleged refusal to employ any person, or misconduct with respect to employees, whether such **Claim** is brought by an employee, former employee, applicant for employment, or relative of such person;
 2. any actual or alleged violation of the Fair Labor Standards Act of 1938, the National Labor Relations Act, the Worker Adjustment and Retraining Act of 1988, the Certified Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act of 1970, any similar law or legislation of any state, province or other jurisdiction, or any amendment to the above law or legislation, or any violation of any order, ruling or regulation issued pursuant to the above laws or legislation;
 3. any actual or alleged discrimination of any kind including but not limited to age, color, race, sex, creed, national origin, marital status, sexual preference, disability or pregnancy;
 4. any actual or alleged acts, errors or omission related to any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts; or any violation of any provision of the Employee Retirement Income Security Act of 1974, or any similar federal law or legislation, or similar law or legislation of any state, province or other jurisdiction, or any amendment to the Act or any violation of any regulation, ruling or order issued pursuant to the Act or such similar laws or legislation; or
 5. any actual or alleged act, error or omission or breach of duty by any director or officer in the discharge of their duty if the **Claim** is brought by the Named Insured, a **Subsidiary**, or any directors, officers, stockholders, or employees of the Named Insured or a **Subsidiary** in his or her capacity as such;
- S. For or arising out of any failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture;
- T. For or arising out of any actual or alleged commingling of or inability or failure to pay, collect, or safeguard funds;
- U. For or arising out of any loss sustained or alleged to have been sustained through the fluctuation in the market value of any security or property, including real property; or

V. Either in whole or in part, directly or indirectly arising out of, or resulting from or in consequence of, or in any way involving:

1. asbestos, or any materials containing asbestos in whatever form or quantity;
2. the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind; any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins; or any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins.

The Insurer will have no duty or obligation to defend any **Insured** with respect to any **Claim** or governmental or regulatory order, requirement, directive, mandate or decree which either in whole or in part, directly or indirectly arises out of, or results from or in consequence of, or in any way involves the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind;

3. the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property;
4. the actual, alleged, or threatened discharge, dispersal, release or escape of Pollutants; or any governmental, judicial or regulatory directive or request that the **Insured** or anyone acting under the direction or control of the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including gas, acids, alkalis, chemicals, heat, smoke, vapor, soot, fumes or waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.

W. If a Retroactive Date is applicable to this coverage, it will appear at Item 6. of the Declarations and the following exclusion shall apply:

The coverage under this Insurance does not apply to **Damages** or **Claims Expenses** in connection with or resulting from any **Claim** or circumstance that might lead to a claim arising out of any act, error or omission which took place, or is alleged to have taken place, prior to the Retroactive Date as set forth in Item 6. of the Declarations.

V. DEFINITIONS

Wherever used in this Policy in boldface type, the following definitions shall apply.

- A. “**Application**” means all signed applications, including all attachments and other materials submitted therewith or incorporated therein, and any other such documents submitted in connection with the underwriting of this Policy including any endorsement or other part thereof, or any other professional liability policy issued by the Insurer, of which this Policy is a renewal or replacement or which succeeded it in time.
- B. “**Bodily Injury**” means physical injury, sickness, disease or the death of any person including any mental anguish or emotional distress resulting therefrom.
- C. “**Claim**” means a demand received by any **Insured** for money or services, including the service of suit or institution of arbitration proceedings.

Multiple **Claims** arising from the same or a series of related or repeated acts, errors or omissions or from any continuing acts, errors or omissions shall be considered a single **Claim** for the purposes of this Policy, irrespective of the number of Claimants or **Insureds** involved in the **Claim**. All such **Claims** shall be deemed to have been made at the time of the first such **Claim**.

- D. “**Claims Expenses**” means:
 - 1. reasonable and necessary fees charged by an attorney designated by the Insurer; and
 - 2. all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **Claim**, suit or proceeding arising in connection therewith, or circumstance which might lead to a **Claim**, if incurred by the Insurer, or by an **Insured** with the written consent of the Insurer.

Claims Expenses does not include any salary, overhead or other charges of or by an **Insured** for any time spent in cooperating in the defense and investigation of any **Claim** or circumstance that might lead to a **Claim** notified under this Insurance.

- E. “**Damages**” means a monetary judgment, award or settlement.

The term **Damages** shall not include or mean:

- 1. profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**, or the costs of complying with orders granting injunctive or equitable relief;
- 2. return or offset of fees, charges, or commissions for goods or services already provided or contracted to be provided;
- 3. punitive or exemplary damages, or any damages which are a multiple of compensatory damages, fines, taxes or loss of tax benefits, sanctions or penalties;

4. discounts, coupons, prizes, awards or other incentives offered to the **Insured's** customers or clients;
 5. any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**; or
 6. matters deemed uninsurable under the law pursuant to which this Policy shall be construed.
- F. **"Optional Extension Period"** means the period described in Clause X.
- G. **"Policy Period"** means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of this Insurance and specifically excludes any **Optional Extension Period** or any prior policy period or renewal period.
- H. **"Property Damage"** means physical injury to or destruction of any tangible property, including any resulting loss of use thereof.
- I. **"Subsidiary"** means any corporate entity while more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of such entity's directors are owned by the Named Insured directly or indirectly, if such entity was so owned on the inception date of this Policy, or:
1. was so owned prior to the inception date of this Policy and was insured under a policy issued by the Insurer of which this Policy is a renewal;
 2. becomes so owned after the inception date of this Policy provided the revenues of the entity do not exceed ten percent (10%) of the Named Insured's Annual Revenues as set forth in their most recent **Application**; or
 3. becomes so owned after the inception date of this Policy provided that if the revenues of the entity exceed ten percent (10%) of the Named Insured's Annual Revenues as set forth in their most recent **Application**, the provisions of Clause XV., Mergers and Acquisitions, must be fulfilled.

Provided that this Policy only provides coverage for negligent acts, errors or omissions taking place while the corporate entity is so owned by the Named Insured.

VI. LIMIT OF LIABILITY

- A. The Limit of Liability stated in Item 3.(a) of the Declarations for "Each **Claim**" is the limit of the Insurer's Liability for all **Damages** and **Claims Expenses** arising out of each **Claim**.
- B. The "Aggregate for the **Policy Period**" stated in Item 3.(b) of the Declarations is the Insurer's combined total Limit of Liability for all **Damages** and **Claims Expenses** arising out of all **Claims** or circumstances which might lead to a **Claim** which are covered under the

terms and conditions of this Policy, and neither the inclusion of more than one **Insured** under this Policy, nor the making of **Claims** by more than one person or entity shall increase the Limit of Liability.

- C. The Limit of Liability for the **Optional Extension Period** shall be part of and not in addition to the Limit of Liability of the Insurer for the **Policy Period**.

VII. DEDUCTIBLE

The "Each **Claim** Deductible" stated in Item 4. of the Declarations applies separately to each **Claim**. The Each **Claim** Deductible shall be satisfied by monetary payments by the Named Insured of **Damages** and **Claims Expenses** resulting from **Claims** first made and reported to the Insurer during the **Policy Period** and the **Optional Extension Period**. Satisfaction of the Each **Claim** Deductible is a condition precedent to the payment by the Insurer of any amounts hereunder, and the Insurer shall be liable only for the amounts in excess of the Each **Claim** Deductible subject to the Insurer's total liability not exceeding the Limits of Liability stated in Items 3.(a) and 3.(b) of the Declarations. The Named Insured shall make direct payments within the Each **Claim** Deductible to appropriate other parties designated by the Insurer.

VIII. INNOCENT INSURED

- A. Whenever coverage under this Insurance would be excluded, suspended or lost because of Exclusion IV.A relating to criminal, dishonest, fraudulent or malicious acts, errors or omissions by any **Insured**, and with respect to which any other **Insured** did not personally participate or personally acquiesce or remain passive after having personal knowledge thereof, then the Insurer agrees that such insurance as would otherwise be afforded under this Policy shall cover and be paid with respect to those **Insureds** who did not personally commit or personally participate in committing or personally acquiesce in or remain passive after having personal knowledge of one or more of the acts, errors or omissions described in Exclusion IV.A.

This provision is inapplicable to any **Claim** or circumstance that could reasonably be the basis of a **Claim** against the **Insured Organization** arising from acts, errors or omissions known to any present or former principal, partner, director or officer of the **Insured Organization**.

- B. With respect to this provision, the Insurer's obligation to pay in such event shall be in excess of the full extent of any recoverable assets of any **Insured** to whom Exclusion IV.A applies and shall be subject to the terms, conditions and limitations of this Policy.

IX. NOTICE OF CLAIM, OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM

- A. If any **Claim** is made against the **Insured**, the **Insured** shall immediately forward to the Insurer through persons named in Item 8.(a) of the Declarations written notice of such **Claim** in the form of telecopy, or express or certified mail together with every demand, notice, summons or other process received by the **Insured** or the **Insured's** representative.

- B. If during the **Policy Period** the **Insured** first becomes aware of any circumstance that could reasonably be the basis for a **Claim**, the **Insured** must give written notice to the Insurer in the form of a telecopy, or express or certified mail through persons named in Item 8.(a) of the Declarations as soon as practicable during the **Policy Period** of:
1. the specific details of the negligent act, error or omission that could reasonably be the basis for a **Claim**;
 2. the injury or damage which may result or has resulted from the circumstance; and
 3. the facts by which the **Insured** first became aware of the negligent act, error or omission.

Any subsequent **Claim** made against the **Insured** arising out of such circumstances who is the subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to the Insurer.

- C. A **Claim** shall be considered to be reported to the Insurer when written notice is first received by the Insurer in the form of telecopy, or express or certified mail through persons named in Item 8.(a) of the Declarations of the **Claim** or of a negligent act, error, or omission, which could reasonably be expected to give rise to a **Claim** if provided in compliance with Clause IX.B. above.

X. **OPTIONAL EXTENSION PERIOD**

- A. If this Policy is cancelled by the Named Insured or if the Insurer nonrenews this Policy, then the Named Insured shall have the right, upon payment of an additional premium calculated at that percentage shown in Item 7.(a) of the Declarations of the total premium for this Policy, to an extension of the coverage granted by this Policy with respect to any **Claim** first made against any **Insured** and reported in writing to the Insurer during the period of time set forth in Item 7.(b) of the Declarations after the end of the **Policy Period**, but only with respect to any negligent act, error or omission committed on or after the Retroactive Date and before the effective date of cancellation or nonrenewal.
- B. As a condition precedent to the right to purchase the **Optional Extension Period**, the total premium for this Policy must have been paid. The right to purchase the **Optional Extension Period** shall terminate unless written notice together with full payment of the premium for the **Optional Extension Period** is given to the Insurer within thirty (30) days after the effective date of cancellation or nonrenewal. If such notice and premium payment is not so given to the Insurer, there shall be no right to purchase the **Optional Extension Period**.
- C. In the event of the purchase of the **Optional Extension Period**, the entire premium for the **Optional Extension Period** shall be deemed earned at its commencement.
- D. The purchase of the **Optional Extension Period** shall not in any way increase the Limit of Liability of the Insurer.

- E. The offer of renewal terms, conditions or premiums different from those in effect prior to renewal shall not constitute a refusal to renew for purposes of this Clause X.

XI. REPRESENTATIONS BY THE INSURED

By acceptance of this Policy, all **Insureds** agree that the statements contained in the **Application** are their agreements and representations, that they shall be deemed material to the risk assumed by the Insurer, and that this Policy is issued in reliance upon the truth thereof.

XII. OTHER INSURANCE

This Insurance shall apply in excess of any other valid and collectible insurance available to any **Insured**, including any self insured retention or deductible portion thereof unless such other insurance is written only as specific excess insurance over the Limit of Liability of this Policy.

XIII. ASSIGNMENT

The interest hereunder of any **Insured** is not assignable. If the **Insured** shall die or be adjudged incompetent, such Insurance shall cover that **Insured's** legal representative as an **Insured** as would be permitted by this Policy.

XIV. CANCELLATION/NONRENEWAL

- A. The Named Insured may cancel this Policy by surrender thereof to the Insurer, or by mailing to the Insurer written notice stating when thereafter the 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 by mailing or delivering to the Named Insured written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. However, if the Insurer cancels this Policy because the **Insured** has failed to pay a premium when due, this Policy may be cancelled by the Insurer by mailing or delivering a written notice of cancellation to the Named Insured stating when not less than ten (10) days thereafter such cancellation shall be effective. The notice of cancellation shall state the reason for cancellation. 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.
- C. If this Policy is cancelled pursuant to A. hereinabove, the Insurer shall retain the customary short rate portion of the premium hereon. If this Policy is cancelled pursuant to B. hereinabove, the Insurer shall retain the pro rata portion 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.

- D. If the Insurer decides not to renew this Policy, the Insurer shall mail or deliver written notice to the Named Insured at least sixty (60) days before the end of the **Policy Period**. The notice of nonrenewal shall state the reason for nonrenewal.

XV. MERGERS AND ACQUISITIONS

- A. During the **Policy Period**, if the Named Insured or any **Subsidiary** acquires another entity whose annual revenues are more than ten percent (10%) of the Named Insured's total annual revenues as set forth in the most recent **Application**; then no **Insured** shall have coverage under this Policy for any **Claim** that arises out of any act, error or omission, whether committed either before or after such acquisition:
1. by the acquired entity or any person employed by the acquired entity; or
 2. involving or relating to the assets or liabilities of the acquired entity.

The foregoing provision shall not apply if the Named Insured gives the Insurer written notice at least thirty (30) days prior to the acquisition, obtains the written consent of the Insurer to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by the Insurer.

- B. If during the **Policy Period** the Named Insured consolidates or merges with another entity such that the Named Insured is not the surviving entity, is acquired by another entity, or sells substantially all of its assets to any other entity, then coverage under this Policy shall continue until termination of this Policy, but only with respect to any **Claim** that arises out of any act, error or omission committed, attempted, or allegedly committed by the **Insureds** prior to such merger or consolidation. The Named Insured shall provide written notice of such merger or consolidation to the Insurer as soon as practicable, together with such information as the Insurer may require.

XVI. ASSISTANCE AND COOPERATION OF THE INSURED

The **Insured** shall cooperate with the Insurer in all investigations, including investigations regarding the **Application** for and coverage under this Policy. The **Insured** shall execute or cause to be executed all papers and render all assistance as is requested by the Insurer. The **Insured** agrees not to take any action which in any way increases the Insurer's exposure under the Policy.

Upon the Insurer's request, the **Insured** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of negligent acts, errors or omissions with respect to which insurance is afforded under this Policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

The **Insured** shall not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, stipulate to any judgement or award or dispose of any **Claim** without the written consent of the Insurer.

Expenses incurred by the **Insured** in assisting and cooperating with the Insurer, as described above, do not constitute **Claims Expenses** under the Policy.

XVII. ACTION AGAINST THE INSURER

No action shall lie against the Insurer unless, as a condition precedent thereto, the **Insured** shall have fully complied with all terms of this Policy nor until the amount of the **Insured's** obligation to pay shall have been fully and finally determined either by judgment against them or by written agreement between them, 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** to determine their liability, nor shall the Insurer be impleaded by the **Insureds** or their legal representatives in any **Claim**.

XVIII. SUBROGATION

In the event of any payment under this Insurance, the Insurer shall be subrogated to all the **Insureds'** rights of recovery therefore against any person or organization, and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to **Damages** and **Claims Expenses** paid by the Insurer, and third to the Each **Claim** Deductible. Any additional amounts recovered shall be paid to the Named Insured.

XIX. ENTIRE AGREEMENT

By acceptance of this Policy, all **Insureds** agree that this Policy embodies all agreements between them and the Insurer relating to this Insurance. Notice to any agent or knowledge possessed by any agent or by any other person 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 of this Policy be waived or changed, except by written endorsement issued to form a part of this Policy, signed by the Insurer.

XX. TERRITORY

This Insurance applies to negligent acts, errors or omissions which take place anywhere in the world provided the **Claim** is first made against the **Insured** within the United States of America, its territories or possessions, or Canada during the **Policy Period** or **Optional Extension Period** purchased in accordance with Clause X.

XXI. VALUATION AND CURRENCY

All premiums, limits, deductibles, **Damages** and other amounts under this Policy are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of **Damages** under this Policy is stated in a currency other than United States dollars or if **Claims Expenses** are paid in a currency other than United States dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final or

payment of the settlement or other element of **Damages** is due or the date such **Claims Expenses** are paid.

XXII. BANKRUPTCY

Bankruptcy or insolvency of the Named Insured shall not relieve the Insurer of its obligations nor deprive the Insurer of its rights or defenses under this Policy.

XXIII. AUTHORIZATION

By acceptance of this Policy, the **Insureds** agree that the Named Insured will act on their behalf with respect to the giving and receiving of any notice provided for in this Policy, the payment of premiums and the receipt of any return premiums that may become due under this Policy, and the agreement to and acceptance of endorsements.

XXIV. HEADINGS

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