

TECHNOLOGY ERRORS & OMISSIONS LIABILITY INSURANCE POLICY

THIS IS A CLAIMS MADE AND REPORTED POLICY. Coverage is limited to only those **CLAIMS** that are first made against **YOU** and reported to **US** during the **POLICY PERIOD** or Extended Reporting Period, if applicable, as a result of any **WRONGFUL ACT** which occurred prior to the end of the **POLICY PERIOD**. However, if the renewal policy is written by **US**, **YOU** will have sixty (60) days after the expiration date of this policy to report any **CLAIM** first made in this **POLICY PERIOD**. **CLAIM EXPENSE** is included within **OUR** Limits of Liability and is subject to the **DEDUCTIBLE**.

I. INSURING AGREEMENT

A. WE will pay all sums in excess of the **DEDUCTIBLE** that **YOU** become legally obligated to pay as **DAMAGES** and **CLAIM EXPENSE** as a result of a **CLAIM** arising out of a **WRONGFUL ACT** provided that:

1. the **CLAIM** is first made against **YOU** and reported to **US** in writing during the **POLICY PERIOD** or Extended Reporting Period, if applicable. A **CLAIM** will be deemed to have been first made on the earlier of the date **YOU** or **WE** receive notice of such **CLAIM**. A **CLAIM** is deemed to have been reported to **US** on the date **WE** receive a written report of the **CLAIM**;
2. the **WRONGFUL ACT** giving rise to the **CLAIM** occurred on or after the **RETROACTIVE DATE** and before the end of the **POLICY PERIOD**;
3. notice of the **WRONGFUL ACT** giving rise to the **CLAIM** was not given nor required to be given to:
 - a. any prior insurer; or
 - b. **US** with respect to any insurance **WE** provided **YOU** prior to this **POLICY PERIOD**; and
4. prior to the **ORIGINAL INCEPTION DATE**, none of **YOUR** directors, officers, principals, partners, or persons responsible for reporting **CLAIMS** knew of any suit, arbitration proceedings, mediation or any other Alternate Dispute Resolutions, or any act, error, omission, circumstance, incident or allegation that could reasonably be expected to result in a **CLAIM**.

B. WE have the right and duty to defend any **CLAIM** against **YOU** seeking **DAMAGES** because of a **WRONGFUL ACT** even if any of the allegations of the **CLAIM** or suit are groundless, false or fraudulent. However, **WE** have no duty to defend any **CLAIM** or suit to which this policy does not apply or that arises out of allegations that are excluded under this policy.

C. WE have the right to investigate any **CLAIM**.

D. WE have the right to appoint counsel and may, at **OUR** discretion, approve counsel to defend the **CLAIM**. **WE** are not obligated to pay any **DAMAGES** or **CLAIM EXPENSE** or defend any **CLAIM** after **OUR** Limits of Liability have been exhausted by payment of **DAMAGES** or **CLAIM**.

E. WE will not settle a **CLAIM** or suit without the written consent of the **FIRST NAMED INSURED**. If consent is refused and **YOU** elect to contest the **CLAIM** or continue legal proceedings, then **OUR** liability for the **CLAIM** will not exceed the amount for which the **CLAIM** could have been settled, plus **CLAIM EXPENSE** incurred up to the date of **YOUR** refusal.

F. WE have the right, but no duty, to appeal any judgment.

G. YOU, except at **YOUR** own cost and for **YOUR** own account, will not:

1. make any payment;
2. admit any liability;
3. settle any **CLAIM**;
4. assume any obligation; or
5. incur any expense

without **OUR** prior, written consent.

II. SUPPLEMENTAL PAYMENTS

WE will pay, in addition to **OUR** Limits of Liability:

1. Costs taxed against **YOU** in any **CLAIM** or suit **WE** defend.
2. Interest only on that part of any judgment which does not exceed either:
 - a. **OUR** Limit of Liability; or
 - b. the amount for which the **CLAIM** could have been settled had **YOU** not refused to settle the **CLAIM**;

which accrues after the entry of the judgment and before **WE** have paid, offered to pay, or deposited in court that part of the judgment that does not exceed either **OUR** Limit of Liability or the amount for which the **CLAIM** could have been settled had **YOU** not refused to settle the **CLAIM**.

3. Premium on appeal bonds required in any suit **WE** defend and the cost of attachment or similar bonds.
4. Up to \$300 to each of **YOU** for each day or part of the day for **YOUR** attendance at a trial, hearing, arbitration proceeding, mediation or any other Alternative Dispute Resolutions at which **WE** request **YOUR** attendance. The maximum amount payable by **US** during the **POLICY PERIOD** shall not exceed \$5,000 in the aggregate. The **DEDUCTIBLE** provision of this policy will not apply to the expenditures **WE** incur under this provision.

III. TERRITORY

This policy applies to **WRONGFUL ACTS** which happen anywhere in the world, provided the **CLAIM** is made and the suit is brought within the United States, its possessions and its territories or Canada.

IV. DEFINITIONS

Whenever used in this policy, the following words have these meanings:

1. **AUTO**—means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the

state where it is licensed or principally garaged.

2. **BODILY INJURY**— means physical injury, sickness, shock, mental anguish, mental illness, emotional distress, death or disease sustained by any person.
3. **CLAIM(S)**—means an oral or written notice from any party that it is their intention to hold **YOU** responsible for any **WRONGFUL ACT**. **CLAIM(S)** also means **YOUR** knowledge of circumstances which could reasonably be expected to give rise to such notice. **YOU** must tell **US** of such **CLAIMS** or circumstances in writing during the **POLICY PERIOD** or Extended Reporting Period, if applicable. Notice includes, but is not limited to, service of suit, institution of arbitration proceedings, mediation or any other Alternate Dispute Resolutions.
4. **CLAIM EXPENSE**—means expenditures authorized by **US** and allocated to a specific **CLAIM** for investigation, defense or settlement including, but not limited to:
 - a. fees charged by attorneys;
 - b. costs of investigations;
 - c. fees charged by experts;
 - d. court costs;
 - e. all reasonable expenses incurred by **YOU** at **OUR** request or with **OUR** prior, written consent to assist **US** in the investigation or defense of the **CLAIM**;
 - f. prejudgment interest that **YOU** are legally required to pay, but only on that part of any judgment which does not exceed either:
 - (1) **OUR** Limit of Liability; or
 - (2) the amount for which the **CLAIM** could have been settled had **YOU** not refused to settle a **CLAIM**; and
 - g. other similar expenses **WE** incur in the investigation, adjustment, defense or appeal of a **CLAIM** or suit.

CLAIM EXPENSE does not include:

- (1) Salary, charges or expenses of **OUR** regular employees, other than that portion of **OUR** employed attorney's fees, salaries and expenses allocated to a specific **CLAIM**; or

(2) Payments made under Section II. **SUPPLEMENTAL PAYMENTS** of this policy.

5. **DAMAGES**—means a monetary judgment that **YOU** are legally obligated to pay to others or a monetary settlement negotiated with **OUR** approval. **DAMAGES** include punitive damages, exemplary damages or any damages which are a multiple of compensatory damages awarded against **YOU**, including double or treble damages, provided such amounts are insurable by law in the jurisdiction in which the judgment is awarded.

DAMAGES do not include:

- a. Civil or criminal fines, sanctions, restitution or penalties, whether pursuant to any civil or criminal law or statute;
- b. Amounts paid to **YOU** as fees, costs or expenses for services performed which are to be reimbursed or discharged as part of the judgment or settlement;
- c. Equitable relief, injunctive relief, declaratory relief or any other relief or recovery that is not seeking monetary judgment, award or settlement;
- d. Any fees, costs or expenses, including but not limited to claimant/plaintiff attorney fees, related to equitable relief, injunctive relief, declaratory relief or any other relief or recovery that is not seeking a monetary judgment, award or settlement;
- e. Judgments or awards arising from acts deemed uninsurable by law;
- f. Fines or penalties; or
- g. The cost of correcting, performing or repeating **YOUR SERVICES**.

6. **DEDUCTIBLE**—means the amount **YOU** must pay for **DAMAGES** or **CLAIM EXPENSE** before **WE** are obligated to make any payments under this policy.

7. **ELECTRONIC DATA**—means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells,

data processing devices or any other media which are used with electronically controlled equipment.

8. **EMPLOYEE**—means any employee, including an employee leased from a labor leasing firm.

9. **FIRST NAMED INSURED**—means the first person or entity listed in Item 1. on the Declarations.

10. **INSURED**—means any person, entity or organization as described in Section V. **WHO IS AN INSURED** of this policy.

11. **INTELLECTUAL PROPERTY RIGHT**—means a right to any patent, copyright, trademark, trade dress, trade name, certification mark, service mark, domain name, service name, title or slogan, trade secret, name, likeness, expression or idea.

12. **LOADING OR UNLOADING**—means the handling of property:

- a. after it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or **AUTO**;
- b. while it is in or on an aircraft, watercraft or **AUTO**; or
- c. while it is being moved from an aircraft, watercraft or **AUTO** to the place where it is finally delivered.

13. **NAMED INSURED**—means the persons, entities or organizations named in Item 1. of the Declarations.

14. **ORIGINAL INCEPTION DATE**—means the date of the first policy issued to **YOU** by **US** and continuously renewed by **US**.

15. **PERSONAL INJURY**—means injury arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;

- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy.

16. POLICY PERIOD—means the period of time stated in Item 2. of the Declarations or any shorter period resulting from policy cancellation.

17. PROPERTY DAMAGE—means:

- a. physical injury to or destruction of tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the occurrence that caused it.

For purposes of this insurance, **ELECTRONIC DATA** is not tangible property.

18. RELATED WRONGFUL ACTS—means **WRONGFUL ACTS** that are logically or causally connected by any common fact, decision, advice, event, transaction or situation.

19. RETROACTIVE DATE—means the date specified in Item 3. on the Declarations. This policy shall not apply to any **CLAIM** arising from a **WRONGFUL ACT** which occurred prior to this date.

20. SUBROGATION EXPENSES—means expenditures including, but not limited to:

- a. all expense of lawyers **WE** are required by law to pay to defend **YOU**;
- b. costs of investigations;
- c. experts;
- d. court costs; and
- e. other similar expenses **WE** incur in the subrogation process.

21. TECHNOLOGY PRODUCTS—means computer, electronic, network, Web site, or internet hardware, software, firmware, equipment, systems, programs, components, peripherals or related devices and accessories.

22. TECHNOLOGY SERVICES—means consultation, analysis, programming, management, integration, hosting, installation, service, maintenance, training, support or processing services in connection with **TECHNOLOGY PRODUCTS** or **ELECTRONIC DATA**.

23. WE, US and OUR—means the Company providing this insurance.

24. WRONGFUL ACT—means any actual or alleged negligent act, error or omission that arises out of the:

- a. performance of or failure to perform **YOUR SERVICES**; or
- b. failure of **YOUR PRODUCT** to perform or function as intended.

WRONGFUL ACT also means any actual or alleged **PERSONAL INJURY** based upon, attributable to or arising out of **YOUR SERVICES**.

25. YOU and YOUR—means any **INSURED**;

26. YOUR PRODUCT—means any **TECHNOLOGY PRODUCT** sold, leased, handled, distributed, licensed, manufactured, created, developed, designed, modified, or assembled for others in exchange for monetary compensation by **YOU** or on **YOUR** behalf at **YOUR** direction.

However, **YOUR PRODUCT** does not include warranties or representations made at any time with respect to the fitness, quality, durability or performance of any **TECHNOLOGY PRODUCT**.

27. YOUR SERVICES—means **TECHNOLOGY SERVICES** performed for others in exchange for monetary compensation, provided such services are performed by **YOU** or on **YOUR** behalf at **YOUR** direction.

V. WHO IS AN INSURED

The following persons or entities are **INSUREDS** under this policy:

A. The NAMED INSURED.

B. Additionally, if the NAMED INSURED is:

- 1. an individual, the **NAMED INSURED'S** spouse is an **INSURED**, but only with respect to the conduct of a business of which the **NAMED INSURED** is the sole owner;
- 2. a partnership or joint venture, the **NAMED INSURED'S** current and past members,

partners and their spouses are also **IN-SUREDS**, but only with respect to the conduct of the **NAMED INSURED'S** business;

3. a limited liability company, the **NAMED INSURED'S** current and past members are also **INSUREDS**, but only with respect to the conduct the **NAMED INSURED'S** business; the **NAMED INSURED'S** current and past managers are **INSUREDS**, but only with respect to their duties as the **NAMED INSURED'S** managers; and
4. an organization other than a partnership, joint venture or limited liability company, the **NAMED INSURED'S** current and past executive officers and directors are **IN-SUREDS**, but only with respect to their duties as the **NAMED INSURED'S** officers or directors. The **NAMED INSURED'S** current and past stockholders are also **INSUREDS**, but only with respect to their liability as stockholders.

C. The **NAMED INSURED'S** current and past **EMPLOYEES** are **INSUREDS**, but only for acts within the scope of their employment by the **NAMED INSURED**.

D. The estate, heirs, executors, administrators, assigns and legal representatives of anyone listed in **A.**, **B.** or **C.** above in the event of their death, incapacity, insolvency or bankruptcy, but only to the extent that they would otherwise be provided coverage under this policy.

E. An independent contractor, but only when such independent contractor is performing **TECHNOLOGY SERVICES** on behalf of the **NAMED INSURED** under a written contract that requires the **NAMED INSURED** to include the independent contractor as an **INSURED** under this policy.

F. Any entity that the **NAMED INSURED** forms or acquires during the **POLICY PERIOD** is an **INSURED**, along with any person who would qualify as an **INSURED** under **B.**, **C.** and **D.** above if such entity were listed as a **NAMED INSURED**, but only for **TECHNOLOGY SERVICES** performed or **TECHNOLOGY PRODUCTS** provided on or after the date such entity was formed or acquired. This provision applies for the lesser of sixty (60) days or until the end of the **POLICY PERIOD**, whichever occurs first, and only if:

1. there is no other similar insurance available to such entity; and
2. **YOU** advise **US** of the formation or acquisition within sixty (60) days of its formation or acquisition and provide **US** with information **WE** deem necessary to evaluate any material change in conditions which may affect the insurance afforded by this policy; and
3. **YOU** agree to pay **US** any additional premium due as a result of the newly formed or acquired entity in accordance with **OUR** rules and rates.

No person is or entity is an **INSURED** for operations of any entity that is not listed as a **NAMED INSURED**, except to the extent provided for in **V.F.** above.

VI. EXCLUSIONS

This policy does not apply:

1. to any **CLAIM** based upon or arising out of any dishonest, fraudulent, criminal, or malicious acts committed by **YOU** or with **YOUR** knowledge or consent;
2. to any **CLAIM** arising out of any conduct intended by the **INSURED** to cause **DAMAGES** or that would be expected to cause **DAMAGES** from the standpoint of a reasonable person in the circumstances of any **INSURED**;
3. to any **CLAIM** arising out of wear and tear, gradual deterioration, or obsolescence;
4. to any **CLAIM** arising out of any **WRONGFUL ACT** committed by **YOU** in connection with any business enterprise that is not a **NAMED INSURED** or an **INSURED** under Section **V. WHO IS AN INSURED**, subsection **F.**;
5. to any **CLAIM** arising out of any circumstances due to nuclear reaction, radiation or contamination, or any other nuclear incident regardless of cause;
6. to any **CLAIM** based on or arising out of discrimination, harassment or misconduct by **YOU**, including but not limited to **CLAIMS** based on an individual's race, creed, color, age, sex, national origin, religion, disability, physical or mental handicap, disease, marital status or sexual preference;

7. to any **CLAIM** made by **YOU** against any other **INSURED**;

8. to any **DAMAGES**:

a. which would not have occurred in whole or in part, but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants, asbestos or fungi;

b. for any loss, cost or expense arising out of any:

(1) request, demand or order that **YOU** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants, asbestos or fungi; or

(2) **CLAIM** or suit by or on behalf of a governmental authority for **DAMAGES** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants, asbestos or fungi.

Pollutants means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed;

Asbestos means asbestos in any form, including its presence or use in any alloy, by-product, compound or other material or waste. Waste includes material to be recycled, reconditioned or reclaimed.

Fungi means any form of fungus, including but not limited to yeast, mold, mildew, rust, smut or mushroom, and any spores, mycotoxins, odors or any other products or by-products produced by, released by, or arising out of the current or past presence of fungi;

9. to any **CLAIM** based upon or arising out of the liability of others assumed by **YOU** under any contract or agreement, unless such liability would have been covered in the absence of such contract or agreement;

10. to any **CLAIM** based upon or arising out of any insolvency or bankruptcy of a **NAMED**

INSURED or any entity who qualifies as an **INSURED** under part E. of Section V. **WHO IS AN INSURED**;

11. to any **CLAIM** based upon or arising out of a circumstance for which **YOU** or **YOUR** insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law, or under any similar law;

12. to any **CLAIM** based upon or directly or vicariously arising out of piracy or the assertion, infringement or violation of any **INTELLECTUAL PROPERTY RIGHT**;

13. to any **CLAIM** based upon or directly or vicariously arising out of:

a. any violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended or any Blue Sky or securities law, any similar state or federal statute and any regulation or order issued pursuant to any of the foregoing statutes or regulations; or

b. actual or alleged violation of any federal, state or local statutes or regulations, unfair competition, unfair or deceptive trade practices, restraint of trade or any other violation of antitrust laws;

14. to any **CLAIM** based upon or directly or vicariously arising out of, or as a consequence of, war, invasion, acts of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, nationalization, requisition or destruction of or **DAMAGE** to property by or under the order of any government, public or local authority;

15. to any **CLAIM** based upon or directly or vicariously arising out of any gain, profit or advantage to which **YOU** are not legally entitled, or disputes over fees, deposits, commissions, or charges for goods or services;

16. to any **CLAIM** brought by or on behalf of any governmental, administrative or regulatory authority or by a public official or any employee of a governmental body, subdivision or agency; however, this exclusion does not apply when such **CLAIM** arises out of:

a. **YOUR SERVICES** for; or

- b. **YOUR PRODUCTS** provided to such governmental, administrative or regulatory authority;
17. to any **CLAIM** based upon or arising out of the withdrawal or recall, inspection, repair, adjustment, removal or disposal of any of **YOUR PRODUCTS** or **YOUR SERVICES** from the market or from use by others. This exclusion does not apply to costs or expenses incurred by **YOUR** customers to withdraw or recall **YOUR PRODUCTS** from the market or from use by others if the withdrawal or recall is solely the result of **YOUR WRONGFUL ACT**;
18. to any **CLAIM** based upon or arising out of actual or alleged breach of express or implied warranty, guarantee, contract or agreement including the delay in performance of any contract or agreement or for cost guarantees or estimates being exceeded;
19. to any **CLAIM** based upon or arising out of the decision of any **INSURED** not to provide or to cease providing training, maintenance or support;
20. to any **CLAIM** based upon or arising out of any actual or alleged failure to:
- a. prevent the unauthorized access to or use of any computer, software, network, portable electronic device or electronic information system; or
 - b. prevent introduction of a computer virus or other harmful or malicious electronic code into any computer, software, network, portable electronic device or electronic information system.

However, this exclusion does not apply if such unauthorized access or introduction arises from **YOUR WRONGFUL ACT**.

21. to any **CLAIM** based upon or arising of any actual or alleged unauthorized access to, destruction, deletion, alteration, removal, disclosure or copying of any personal confidential information.
- Personal confidential information means any personally identifiable information which can potentially be used to uniquely identify, contact, or locate a single person or any non-public information about a person's health, private life, finances or financial accounts; or

22. to any **CLAIM** arising out of any products or services provided:
- a. in connection with any aircraft, missile or spacecraft or their component parts; or
 - b. any products or services used in the design, manufacture, maintenance, service, repair, analysis, management, navigation, guidance, tracking of or communication with aircraft, missile or spacecraft.

23. to **BODILY INJURY** to:

- a. an employee of **YOURS** arising out of and in the course of employment by **YOU**; or
- b. the spouse, child, parent, brother or sister of that employee as a consequence of a. above.

This exclusion applies:

- (1) whether **YOU** are liable as an employer or in any other capacity; and
- (2) to any obligation to share **DAMAGES** with or repay someone else who must pay **DAMAGES** because of the injury;

24. to **BODILY INJURY** or **PROPERTY DAMAGE** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **AUTO** or watercraft owned or operated by or rented or loaned to any of **YOU**. Use includes operation and **LOADING OR UNLOADING**; or

25. to **PROPERTY DAMAGE** to:

- a. property **YOU** own, rent or occupy, including any costs or expenses incurred by **YOU**, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or **DAMAGE** to another's property;
- b. premises **YOU** sell, give away or abandon, if the **PROPERTY DAMAGE** arises out of any part of those premises;
- c. property loaned to **YOU**; or
- d. personal property in **YOUR** care, custody or control.

VII. INNOCENT INSURED PROTECTION

Whenever coverage under any provision of this policy would otherwise be excluded, suspended, or lost because of:

1. Section **VI. EXCLUSIONS 1.** relating to any **CLAIM** based upon or arising out of any dishonest, fraudulent, criminal, malicious or intentional **WRONGFUL ACTS** committed by **YOU**; or
2. concealment of a **CLAIM** by any of **YOU**,

WE agree that the coverage as would be afforded by this policy will apply to each of **YOU** who did not personally commit or participate in the **WRONGFUL ACTS** or agree to the concealment.

For coverage to apply, **YOU** must notify **US** of the **WRONGFUL ACTS** or concealment as soon as **YOU** become aware of them.

VIII. LIMITS OF LIABILITY

Regardless of the number of:

- a. **YOU** who are insured under the policy;
- b. persons or organizations who sustain **DAMAGES** payable under this policy; or
- c. suits brought on account of coverage afforded by the policy,

OUR liability is limited as follows:

1. The Limit of Liability stated in Item 4.(A) of the Declarations page is the limit of **OUR** liability for all **DAMAGES** and **CLAIM EXPENSE** arising out of each **CLAIM** first made and reported in writing during the **POLICY PERIOD** or any applicable Extended Reporting Period.
2. The Limit of Liability stated in Item 4.(B) of the Declarations page is subject to the above provision respecting Each **CLAIM** and is the maximum limit of **OUR** liability for each **POLICY PERIOD**. In no event will **OUR** total Limit of Liability be increased by any Extended Reporting Period.
3. **CLAIM EXPENSE** is included within **OUR** Limits of Liability and is subject to the **DEDUCTIBLE**. **CLAIM EXPENSE** will be subtracted from the Limits of Liability first as it is incurred for each **CLAIM**. The remaining amount will be the amount available to pay **DAMAGES**.
4. Subject to the Limits of Liability, **WE** will only be liable to pay **DAMAGES** and **CLAIM EXPENSE** in excess of the **DEDUCTIBLE**. **YOUR DEDUCTIBLE** for all **DAMAGES** and **CLAIM EXPENSE** in any **POLICY PERIOD** is limited by the Annual Aggregate amount stated in Item 5. of the Declarations page. Each of **YOU** under

the policy is individually liable for the payment of the **DEDUCTIBLE**. In the event that **WE** expend funds for **DAMAGES** or **CLAIM EXPENSE** on **YOUR** behalf, **YOU** will reimburse **US** for such expenditures up to the amount of the **DEDUCTIBLE** shown in this policy. Reimbursement of the **DEDUCTIBLE** will be due within sixty (60) days from the date **WE** bill **YOU**.

5. One or more **CLAIMS** based on or arising out of the same **WRONGFUL ACT** or a series of **RELATED WRONGFUL ACTS** of one or more of **YOU** will be considered a single **CLAIM**. Unless otherwise endorsed, the **CLAIM** will be subject to the Limit of Liability in effect at the time such **CLAIM** was first reported to **US** in writing.

In no event will this policy apply to any **CLAIM** for **RELATED WRONGFUL ACTS**:

- a. if **YOU** had knowledge prior to the **ORIGINAL INCEPTION DATE** of any of the **RELATED WRONGFUL ACTS** giving rise to the **CLAIM**; or
- b. for which notice of any of the **RELATED WRONGFUL ACTS** giving rise to the **CLAIM** was given or required to be given to a prior insurer.

IX. NOTIFICATION OF CLAIMS OR WRONGFUL ACTS

1. If during the **POLICY PERIOD** or any applicable Extended Reporting Period:
 - a. **YOU** receive written or oral notice from any party that it is the intention of such party to hold **YOU** responsible for any **WRONGFUL ACT(S)**; or
 - b. **YOU** become aware of any suit, arbitration proceedings, mediation or any other Alternate Dispute Resolutions, or any act, error, omission, circumstance, incident or allegation that could reasonably be expected to result in a **CLAIM**,

then:

YOU will tell **US** in writing as soon as practicable, but no later than the end of the **POLICY PERIOD** or any applicable Extended Reporting Period. Any subsequent **CLAIM** made against **YOU** arising out of such **WRONGFUL ACT(S)** shall be deemed to have been made during the **POLICY PERIOD** or Extended Reporting Period.

No coverage for such **CLAIM** shall exist under any subsequent policy written by **US**. However, if the renewal policy is written by **US** without any lapse in continuous coverage, **YOU** will have sixty (60) days after the expiration date of this policy to report any **CLAIM** first made against **YOU** during this **POLICY PERIOD**.

2. In the event of any **CLAIM** occurring, the **NAMED INSURED** shown in Item 1. of the Declarations will provide **US** with written notice. Proof of mailing to the address shown in Item 7. of the Declarations will be sufficient proof of notice.

X. INSURED'S DUTIES IN THE EVENT OF CLAIM OR SUIT

1. In the event of a **CLAIM**, the **NAMED INSURED** must give **US** written notice of:
 - a. the specific **WRONGFUL ACT**;
 - b. the injury or **DAMAGE** which has or may result from the **WRONGFUL ACT**;
 - c. the names and addresses of the claimants or potential claimants; and
 - d. the circumstances by which **YOU** first became aware of such **WRONGFUL ACT**.
2. If a **CLAIM** is made or suit is brought against **YOU**, **YOU** will immediately forward to **US** every demand, notice, summons or other process received by **YOU** or **YOUR** representative.
3. **WE** will have full discretion in the handling of any **CLAIM**, and **YOU** will give full information and assistance as **WE** may reasonably require. **YOU** will cooperate with **US** and, at **OUR** request, consent to being examined and questioned by **OUR** representative, under oath, if necessary. At **OUR** request, **YOU** will attend hearings, depositions and trials and will assist in effecting settlement, securing and giving evidence, and obtaining the attendance of witnesses. **YOU** will cooperate in the conduct of suits as well as in giving written statements to **OUR** representatives and defense counsel.
4. **YOU** must pay the **DEDUCTIBLE** within sixty (60) days from the date **WE** bill **YOU**.

XI. EXTENDED REPORTING PERIOD

Only the **NAMED INSURED** can exercise the option to purchase one of the Supplemental Extended

Reporting Periods described in paragraph 3. of this provision.

1. One or more Extended Reporting Periods described below will be provided if the policy is canceled or nonrenewed or if **WE** renew or replace coverage with insurance that provides coverage on other than a Claims Made basis.
2. A Basic Extended Reporting Period is automatically provided without additional charge. This period begins at the end of the **POLICY PERIOD** and lasts for sixty (60) days. The Basic Extended Reporting Period does not apply to **CLAIMS** covered under any subsequent policy.
3. In addition, the **NAMED INSURED** may purchase one of the Supplemental Extended Reporting Periods described below if **YOU** are in compliance with the terms and conditions of this policy:
 - a. A twelve (12) month Supplemental Extended Reporting Period for one hundred percent (100%) of the full annual premium of this policy;
 - b. A twenty-four (24) month Supplemental Extended Reporting Period for one hundred fifty percent (150%) of the full annual premium of this policy; or
 - c. A thirty-six (36) month Supplemental Extended Reporting Period for one hundred eighty-five percent (185%) of the full annual premium of this policy.
4. Coverage for a Supplemental Extended Reporting Period must be added by endorsement for which an additional premium charge must be paid. Such period starts sixty (60) days after the end of the **POLICY PERIOD**.
5. The right to purchase a Supplemental Extended Reporting Period will terminate unless:
 - a. **WE** receive a written request for a Supplemental Extended Reporting Period; and
 - b. the additional premium is paid within sixty (60) days of the end of the **POLICY PERIOD**.

The **NAMED INSURED'S** request must specify the length of the Supplemental Extended Reporting Period desired. Once in effect, Extended Reporting Periods may not be canceled.

6. An Extended Reporting Period does not extend the **POLICY PERIOD** or change the scope of coverage provided. Subject otherwise to the policy's terms, Limits of Liability, exclusions and conditions, the policy is extended to apply to **CLAIMS** first made against **YOU** and reported to **US** in writing during the Basic Extended Reporting Period or, if purchased, the Supplemental Extended Reporting Period, but only for **CLAIMS** due to **WRONGFUL ACTS** which happened on or after the **RETROACTIVE DATE** and on or before the expiration of the **POLICY PERIOD**.
7. Extended Reporting Periods do not reinstate or increase the policy's Limits of Liability. **CLAIMS** which are first made and reported during the Basic Extended Reporting Period or the Supplemental Extended Reporting Period, if it is in effect, will be deemed to have been made on the last day of the **POLICY PERIOD**.

XII. CONDITIONS

1. **CANCELLATION.** This policy may be canceled by the **NAMED INSURED** by surrendering the policy to **US** or any of **OUR** authorized agents or by mailing written notice to **US** stating when the cancellation is to be effective. The cancellation shall be effective on requested cancellation date or the day after **WE** receive such request, whichever is later.

WE may cancel this policy by mailing to the **NAMED INSURED** at the address shown on the Declarations a written notice stating when the cancellation is to be effective. **WE** will give the **NAMED INSURED** ten (10) days notice of cancellation for nonpayment of premium and sixty (60) days notice of cancellation for any other valid reason.

The mailing of notice will be sufficient proof of notice. The **POLICY PERIOD** will be amended to end on the effective date and hour of cancellation stated in the notice. Delivery of written notice either by the **NAMED INSURED** or by **US** will be equivalent to mailing.

If this policy is canceled, **WE** will send the **NAMED INSURED** any premium refund due. If **WE** cancel, the refund will be pro rata. If the **NAMED INSURED** cancels, the refund will be reduced by ten percent (10%). **WE** will make the premium refund as soon as practicable after the

date of cancellation. However, the premium refund is not a condition of cancellation.

Notice of cancellation will only be sent to the **FIRST NAMED INSURED** and will serve as notice to all of **YOU**.

2. **NONRENEWAL.** If **WE** do not renew this policy, **WE** will mail written notice to the **NAMED INSURED** at least sixty (60) days before the end of the **POLICY PERIOD**.
3. **ASSIGNMENT.** Assignment of interest under this policy will not bind **US** unless **WE** endorse the policy in writing assigning **YOUR** interest to another party.
4. **CHANGES.** The terms of this policy will not be waived or changed except by endorsement issued by **US** and made a part of this policy.
5. **CONFLICTING STATUTES.** Any part of this policy which is in conflict with the statutes of the state in which this policy is issued is amended to conform to such statutes.

6. **SUBROGATION CLAUSE.** **YOU** will transfer to **US** **YOUR** rights of recovery against any other party for any **DAMAGES** **WE** have paid on **YOUR** behalf. **YOU** must do everything necessary to secure these rights and do nothing that would jeopardize them.

WE will not exercise **OUR** right to recover against any of **YOU** unless the **DAMAGES** result from any dishonest, fraudulent, criminal, malicious or intentional **WRONGFUL ACTS** committed by **YOU**.

Any amount recovered from subrogation shall be apportioned as follows:

Any amount recovered shall first, be used for repayment of **SUBROGATION EXPENSES**; second, to any **DAMAGES** and/or **CLAIM EXPENSE** paid by **US**; third, to any **DAMAGES** and **CLAIM EXPENSE** paid by an excess insurer on **YOUR** behalf; fourth, to any **DAMAGES** and **CLAIM EXPENSE** paid by any other primary insurer on **YOUR** behalf; and last, to repayment of **YOUR DEDUCTIBLE**.

7. **APPLICATION.** The application and any supplements or addendums, copies of which are attached to this policy, and the Declarations, are part of this policy. They are to be considered as incorporated in and constituting part of this

policy. The particulars and statements contained in the application and any supplements or addendums and the conditions and exclusions set forth in this policy will be construed as a separate agreement with each of **YOU**. By acceptance of this policy, **YOU** agree that the statements in the application are **YOUR** representations, that they shall be deemed material and that this policy is issued upon the truth of such representations. Nothing in this provision will be construed to increase **OUR** Limits of Liability as set forth in the Declarations.

8. **OTHER INSURANCE.** If **YOU** have other insurance which applies to **CLAIMS** reported under this policy, **WE** will be excess of the amount of the applicable **DEDUCTIBLE** and any other valid and collectible insurance whether such other insurance is primary, pro rata, contributory, excess, contingent or any other basis, unless such other insurance is written only as specific excess insurance over the Limit of Liability provided in this policy.

If a loss occurs involving two or more policies, each of which provides that its insurance will be excess, then each policy will contribute on a pro rata basis. This means that **WE** will pay no more than **OUR** percentage of the total amount of the insurance covering the **CLAIM**, less the **DEDUCTIBLE**. For example:

The limit of coverage under this policy is \$100,000. Another insurance policy with a limit of \$300,000 also covers a **CLAIM** covered by this policy. **WE** will not pay more than twenty-five percent (25%) (\$100,000/\$400,000) of the **DAMAGES** and **CLAIM EXPENSE**, less the **DEDUCTIBLE**.

9. **ACTION AGAINST US.** No action will lie against **US** unless **YOU** have fully complied with all the terms and Conditions of this policy prior to bringing the action.

10. **INSPECTION AND AUDIT.** **YOU** agree to allow **US** to examine and audit **YOUR** premises, management procedures and records as they relate to this insurance during normal business hours while this policy is in force. **WE** are not, however, required to make inspections nor will **WE** guarantee that **YOUR** procedures are adequate or that they conform to any laws, rules or regulations.

11. **BANKRUPTCY.** In the event of **YOUR** bankruptcy or insolvency, **WE** will not be relieved of **OUR** obligations under the terms and conditions of this policy.

12. **SOLE AGENT.** By acceptance of this policy, the **FIRST NAMED INSURED** agrees to act on **YOUR** behalf with respect to:

- a. exercising the option to purchase an Extended Reporting Period;
- b. the giving and receiving of notice of **CLAIMS** or cancellation;
- c. the payment of premiums that may become due under this policy; and
- d. the payment of **DEDUCTIBLES** that may become due under this policy.

Each of **YOU** agree that the **FIRST NAMED INSURED** will act on **YOUR** behalf.

13. **PREMIUM.** All premiums for this policy shall be computed in accordance with **OUR** rules, rates, rating plans, premiums and minimum premiums applicable to the insurance afforded herein.