
ERRORS & OMISSIONS PROFESSIONAL LIABILITY INSURANCE COVERAGE FORM

THIS COVERAGE PART PROVIDES LIABILITY COVERAGE ONLY ON A CLAIMS MADE AND REPORTED BASIS. TO BE COVERED, A LIABILITY CLAIM MUST BE BOTH FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY IN WRITING DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF ANY.

ALL LIABILITY COVERAGES INCLUDE CLAIM EXPENSES WITHIN THEIR LIMITS OF LIABILITY, AND OUR PAYMENTS OF CLAIM EXPENSES REDUCE THE LIMITS OF LIABILITY AVAILABLE TO PAY SETTLEMENTS OR JUDGMENTS.

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy the words “you” and “your” refer to the **Named Insured** shown on the Declarations Page. The words “we”, “us” and “our” refer to the **Company** providing this insurance as shown on the Declarations Page.

Words and phrases that appear in bold have special meaning. Refer to **SECTION II – DEFINITIONS**. Headings are included for convenience only and shall not affect the construction or interpretation of any of the Policy provisions.

SECTION I - INSURING AGREEMENT

A. Payment of Damages or Claim Expenses

The **Company** will pay on behalf of an **Insured** all **Damages** or **Claim Expenses** in excess of the Deductible that the **Insured** becomes legally obligated to pay arising out of any **Claim**; provided:

1. The **Claim** is both first made against the **Insured** and reported to the **Company** in writing during the **Policy Period** or **Extended Reporting Period**, if any, in accordance with **SECTION V – NOTICE AND CONDITIONS** of this Coverage Form;
2. The **Claim** arises out of a **Wrongful Act** committed by an **Insured**:
 - a. On or after the earlier of **(1)** the applicable Retroactive Date, if any, as shown on the Declarations Page, or **(2)** the Policy Effective Date; and
 - b. Prior to the earlier of **(1)** the effective date of the cancellation of this Policy, or **(2)** the Policy Expiration Date;

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3. No **Insured** reported facts, circumstances, situations, transactions, or events related to the **Claim** under any prior insurance policy; and
 4. Prior to the Effective Date of this Policy, or the beginning of any prior policy of which this Policy is a renewal policy issued by us or an affiliated company, no **Insured** was aware of or could have reasonably foreseen that facts, circumstances, situations, transactions, or events related to the incident might have resulted in a **Claim**.

The most we will pay for all **Loss** is limited as described in **SECTION III – LIMITS OF LIABILITY AND DEDUCTIBLE**.

B. Duty to Defend

The **Company** shall have the right and the duty to defend any **Claim** to which this insurance applies, including the right but not the obligation to select defense counsel, even if any allegations of the **Claim** are groundless, false, or fraudulent. The **Company's** right and duty to defend any **Claim** shall end when the applicable **Limit of Liability** has been exhausted by payment of **Damages** or **Claim Expenses**, or has been tendered to, or on behalf of, the **Insured**, or to a court of competent jurisdiction, and the **Company** shall thereafter be relieved of any and all liability for the payment of **Damages** or **Claim Expenses**.

In the event it is determined that some or all of the **Claims** are not covered under this Policy, the **Insureds** shall reimburse the **Company** for all payments made for **Damages** or **Claim Expenses** in connection with such uncovered **Claims**. Such amounts shall, upon written demand by the **Company** to the **Named Insured**, be paid within thirty (30) days. If the **Named Insured** fails to pay such amounts for uncovered **Claims**, then all **Insureds** shall be jointly and severally obligated to pay.

C. Supplemental Benefits

1. Disciplinary Proceedings

If a **Disciplinary Proceeding** is both commenced against an **Insured** and reported to the **Company** in writing during the **Policy Period**, the **Company** will reimburse the **Insured** reasonable and necessary fees, costs and expenses incurred in the defense of such matters, provided that the **Insured** does not admit liability or agree to any stipulation or judgment without our prior written consent. The **Company's** determination as to the reasonableness of fees, costs and expenses will be conclusive. The most the **Company** will reimburse under this paragraph is \$10,000 in the aggregate for all **Disciplinary Proceedings**. Any reimbursements made hereunder will be in addition to the **Limits of Liability** as shown on the Declarations Page and the Deductible shall not apply.

The Supplemental Benefits under this paragraph do not apply to any **Disciplinary Proceeding**:

- a. that arises out of **Professional Services** that are not covered under this Policy or would be specifically excluded if brought as a **Claim** under this Policy; or
- b. that, prior to the effective date of the first Errors & Omissions Professional Liability Insurance Policy issued by the **Company** to the **Named Insured** and continuously renewed and

maintained in effect to the Effective Date of this Policy, the **Insured** knew or should have known would be commenced.

Any request for reimbursement under this paragraph must be made to the **Company** as soon as practicable, but in no event later than the effective date this Policy is cancelled or expires, and such request must be accompanied by specific details of the fees, costs or expenses and sufficient proof of payment.

2. Attendance at Trial

If the **Company** requests in writing that an **Insured** attend a trial, hearing, or arbitration proceeding pursuant to the resolution of a **Claim**, the **Company** will pay the **Insured** up to \$500 per day for loss of earnings for each such day or part thereof the **Insured** attends. The most the **Company** will pay under this paragraph is \$5,000 each **Claim** and \$10,000 in the aggregate for all **Claims** made during the **Policy Period** or the **Extended Reporting Period**, if any. Any payment hereunder will be in addition to the **Limits of Liability** as shown on the Declarations Page and the Deductible shall not apply.

3. Contingent Bodily Injury or Property Damage Liability

The **Company** will pay on behalf of an **Insured** all **Damages** or **Claim Expenses** in excess of the Deductible that the **Insured** becomes legally obligated to pay as a result of any **Claim** first made against that **Insured** during the **Policy Period** or **Extended Reporting Period** arising out of **Bodily Injury** or **Property Damage** caused as a direct result of the rendering or failing to render **Professional Services**. Coverage will only be provided pursuant to this section in the event that no other insurance applies to such **Claim**, regardless of whether or not such insurance is collectible. We will not defend or pay any **Claim** based on or arising out of ownership, maintenance, operation, use, entrustment to others, loading, or unloading of any motor vehicle, aircraft or watercraft owned or operated by or rented or loaned to you or based on or arising out of any act or omission for which any **Insured** or any carrier as its insurer may be held liable under a worker's compensation, unemployment compensation or disability benefits law or under similar law.

4. Public Relations and Image Repair

The **Company** will reimburse an **Insured** for any reasonable sums necessarily incurred with the **Company's** prior written agreement for the services of a public relations consultancy to avert or mitigate damage to that **Insured's** reputation or brand, as a direct result of any media report that names that **Insured** and publicizes an act or event that is the subject of a **Claim** for which you are entitled to indemnity under this Policy. The most the **Company** will pay under this paragraph is \$5,000 each **Claim** and \$10,000 in the aggregate for all **Claims** made during the **Policy Period** or the **Extended Reporting Period**, if any. Any payment hereunder will be in addition to the **Limits of Liability** as shown on the Declarations Page and the Deductible shall not apply.

SECTION II – DEFINITIONS

Whenever specially defined terms are used in the Coverage Part, they will be printed in boldface type and shall have the meanings indicated below.

A. Additional Insured

Any person or organization listed on the Declarations Page as such under this Coverage Part and only to the extent afforded coverage by endorsement to this Policy.

B. Automatic Extended Reporting Period

The additional period of time for reporting **Claims** beginning with the effective date this Policy is cancelled or expires and ending at the earliest of the following dates:

1. Sixty (60) days after such cancellation or expiration takes effect; or
2. The date any other policy obtained by the **Named Insured** that provides similar coverage takes effect.

C. Bodily Injury

Physical injury, sickness, disease, or death of any person.

D. Claim

A written demand for money or services received by an **Insured** as the result of a **Wrongful Act**, including but not limited to the service of suit or institution of other similar legal proceedings. **Claim** does not include any criminal proceeding, nor does it include any regulatory, administrative, or licensing proceeding, or any proceeding by or before any self-regulatory organization.

E. Claim Expenses

1. Reasonable and necessary fees charged by any lawyer designated by the **Company**;
2. Any third party legal and professional expenses (including disbursements) reasonably incurred in the defense of **Claims** or circumstances which could reasonably be expected to give rise to a **Claim** or in quashing or challenging the scope of any injunction, subpoena, or witness summons;
3. All reasonable and necessary fees and expenses charged by any lawyers selected by the **Insured** as independent counsel, where a conflict of interest exists, and applicable law permits the **Insured** to select such independent counsel and requires the **Company** to pay for such independent counsel;
4. All other fees, costs and expenses resulting from the investigation, adjustment, defense, and appeal of a **Claim**, including **Post-Judgment Interest**; and

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5. Premiums on appeal bonds and premiums on bonds to release attachments, but not for bond amounts in excess of the applicable **Limits of Liability** of this Policy. The **Company** shall have no obligation to pay for or furnish any bond.

However, **Claim Expenses** does not include the salary, expenses, or wages of any **Insured** or any director, officer, shareholder, member, partner, associate, or **Employee** of the **Named Insured**.

F. **Company**

The entity issuing this Policy as shown on the Declarations Page.

G. **Computer System**

Computer, hardware, software, communications system, electronic device (including, but not limited to, any smart phone, laptop, tablet, or wearable device), server, cloud, or microcontroller, including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the **Insured** or any other party.

H. **Damages**

Compensatory recovery in the form of monetary awards, judgments, or settlements and **Prejudgment Interest** on any such judgments. **Damages** does not include:

1. Fines or penalties imposed by law, punitive, exemplary damages or multiplied damages, taxes, or sanctions imposed against an **Insured**;
2. Any amount awarded in any **Disciplinary Proceeding**;
3. The return or reduction of fees, costs, expenses, or other consideration charged by an **Insured**, or the cost of correcting, re-performing, or completing **Professional Services**;
4. **Post-Judgment Interest**;
5. Equitable, injunctive, or other non-monetary relief; or
6. Matters which are uninsurable under applicable laws.

I. **Disciplinary Proceeding**

A proceeding in which a complaint alleging a **Wrongful Act**, a violation of any disciplinary rule or other professional misconduct is brought before a tribunal of competent jurisdiction which shall make a determination subject to appeal or other review or a final and enforceable determination as to whether such alleged professional misconduct is to be the subject of discipline.

J. Employee

Any full-time or part-time employee (including any leased or temporary employee or any volunteer), but only while in the course of their performance of work or services on behalf of or at the direction of the **Named Insured**.

K. Extended Reporting Period

The additional period of time for reporting **Claims** as set forth in, and pursuant to the terms and conditions of **SECTION VI – EXTENDED REPORTING PERIOD** of this Coverage Form.

L. Executive Officers

Your duly elected or appointed Chief Executive Officer and Chief Financial Officer; your Risk Manager and General Counsel; and your most senior executive responsible for each of the legal, risk management and human resources functions.

M. Insured

Each of the following is an **Insured** under this Coverage Part to the extent described below:

1. The **Named Insured**;
2. Any **Subsidiary**;
3. Any past, present, or future director, officer, owner, partner, member, manager, or **Employee** of the **Named Insured** or any **Subsidiary**, only while acting within the scope of their duties for the **Named Insured** or any **Subsidiary**;
4. Any spouse or domestic partner but only if the **Claim** against such spouse or domestic partner results from a **Wrongful Act** actually or allegedly committed by an **Insured**, to whom the spouse is married or with whom the domestic partner is residing;
5. An independent contractor, but only while performing **Professional Services** solely on behalf of the **Named Insured** or any **Subsidiary**;
6. Any **Additional Insured**, to the extent set forth in an endorsement attached to this Policy;
7. Any **Joint Venture** and any **Employee** of any such **Joint Venture**, but only if such **Joint Venture** is with respect to the performance of or failure to perform **Professional Services** by the **Named Insured**; and
8. Your legal representative if you die, but only with respect to duties as such.

N. Joint Venture

A business enterprise or business endeavor in which the **Named Insured** or **Subsidiary** participates pursuant to a written agreement, but only for **Professional Services** performed by the **Named Insured** or **Subsidiary**.

O. Limit of Liability

The maximum amount of the **Company's** liability under this Policy pursuant to the terms and conditions of **SECTION III – LIMITS OF LIABILITY AND DEDUCTIBLE**. Whenever used in the plural, the reference applies to the **Limit of Liability** for **a.** each **Claim** and **b.** in the aggregate.

P. Named Insured

The individual, corporation, partnership, limited liability company, limited partnership, or other entity designated as such on the Declarations Page.

Q. Nuclear Material

Source material, special nuclear material or by-product material as defined in the Atomic Energy Act of 1954 or in any law amendatory thereof. **Nuclear Material** includes any waste material containing byproduct material; and resulting from the operation by any person or organization of any nuclear facility.

R. Optional Extended Reporting Period

The additional period of time for reporting **Claims** beginning with the effective date this Policy is cancelled or expires and ending at the earlier of the following dates:

1. The expiration date specified in the applicable **Optional Extended Reporting Period** Endorsement; or
2. When the **Limits of Liability** have been exhausted.

S. Personal Injury

Injury arising out of one or more of the following:

1. False arrest, humiliation, detention or imprisonment, wrongful entry, eviction or other invasion of private occupancy, abusive litigation (criminal or civil), abuse of process, or malicious prosecution; or
2. The publication or utterance of libel or slander or other defamatory or disparaging material, or a publication or utterance in violation of an individual's right of privacy.

T. Policy Period

The period from the Effective Date of this Policy to the Policy Expiration Date as shown on the Declarations Page or its earlier termination date, if any.

U. Pollutant

Any material which after its release can or may cause or threaten loss of or damage to natural resources, human health or human welfare or can or may cause or threaten environmental damage,

deterioration, loss of value, marketability or loss of use to property including, but not limited to, smoke, vapors, soot, acids, alkalis, toxic chemicals, liquids or gases, asbestos, lead, thermal irritants or contaminants, bacteria, mold, fungi, virus or hazardous substances as listed in the Federal Water Pollution Control Act (CWA), Clean Air Act (CAA), Resource Conservation and Recovery Act of 1976 (RCRA), and Toxic Substance Control Act (TSCA), including any of their amendments, or as determined by the U. S. Environmental Protection Agency (EPA).

V. Post-Judgment Interest

Interest added to a verdict, award or judgment based on the amount of time accruing after the verdict, award, or judgment.

W. Prejudgment Interest

Interest added to a verdict, award or judgment based on the amount of time accruing prior to the verdict, award, or judgment, but only as respects that part of the judgment which does not exceed the **Limit of Liability** thereof.

X. Professional Services

Services and activities that are rendered to others by any **Insured** in the usual and customary conduct of the Professional Services set forth on the Declarations Page for a fee or other business consideration (or on a *pro bono* basis with the prior approval of the **Named Insured**) inuring to the benefit of the **Insured**.

Y. Property Damage

Any injury to or destruction of any tangible property or loss of use therefrom. Tangible property does not include currency or negotiable instruments.

Z. Related Wrongful Act

Wrongful Acts which are logically and causally connected by reason of any fact, circumstance, situation, event, transaction, or decision.

AA. Sexual Misconduct or Sexual Molestation

Any activity which is sexual in nature (whether permitted or not permitted); and includes, but is not limited to: sexual assault, sexual battery, sexual relations, sexual acts, sexual activity, sexual handling, sexual massage, sexual exploitation, sexual exhibition, sexual stimulation, fondling, intimacy, exposure of sexual organs, lewd or lascivious behavior or indecent exposure, fornication, unauthorized touching, or the photographic, video or other reproduction of sexual activity. **Sexual Misconduct or Sexual Molestation** includes physical abuse.

BB. Subsidiary

Any entity identified as a **Subsidiary** on the Application, but only if the **Named Insured**:

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1. Owns, directly or indirectly, more than fifty percent (50%) of the issued and outstanding voting stock of such entity;
 2. Has the right to elect, appoint or designate more than fifty percent (50%) of such entity's board of directors, trustees, or managers; or
 3. Has majority control over the management and operations of the entity through a written agreement.

An entity or organization consisting of net assets, provided such entity was created or acquired by the **Named Insured**, either directly or indirectly, before the end of the **Policy Period**.

CC. Wrongful Act

Any actual or alleged act, error, omission of an **Insured**, or **Personal Injury** committed by an **Insured**, during the course and in the scope of rendering or failing to render **Professional Services**.

SECTION III - LIMITS OF LIABILITY AND DEDUCTIBLE

A. Limit of Liability – Each Claim

Subject to Paragraph **B.** of this **SECTION III – LIMITS OF LIABILITY AND DEDUCTIBLE**, the **Limit of Liability** of the **Company** for **Damages** or **Claim Expenses** for each **Claim** under this Coverage shall not exceed the amount as shown on the Declarations Page as **Limit of Liability – Each Claim**.

B. Limit of Liability – Aggregate

Subject to Paragraph **G.** of this **SECTION III – LIMITS OF LIABILITY AND DEDUCTIBLE**, the **Limit of Liability** of the **Company** for **Damages** or **Claim Expenses** for all **Claims** under this Coverage shall not exceed the amount as shown on the Declarations Page as **Limit of Liability - Aggregate**.

C. Multiple Claimants and Related Claims

The **Limits of Liability** as shown on the Declarations Page are the most the **Company** will pay as **Damages** or **Claim Expenses** regardless of the number of **Claims** made or persons or entities making such **Claims**. All **Claims** based upon or arising out of the same **Wrongful Act** or **Related Wrongful Acts** shall be considered a single **Claim**. Each **Claim** shall be deemed to be first made at the earliest of the following times:

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1. When the earliest **Claim** arising out of such **Wrongful Act** or **Related Wrongful Acts** was first made; or
 2. When Notice of Circumstances is given in accordance with Paragraph **A.** of **SECTION V – NOTICE AND CONDITIONS** of a fact, circumstance or situation giving rise to such **Claim**.

D. Deductible

The Deductible amount as shown on the Declarations Page shall be paid by the **Named Insured** and shall apply to each and every **Claim**. The **Company** shall only be liable for the amount of **Damages** or **Claim Expenses** arising from a **Claim** which is in excess of the Deductible amount as shown on the Declarations Page. Such amounts shall, upon written demand by the **Company** to the **Named Insured**, be paid within thirty (30) days. If the **Named Insured** fails to pay the Deductible, then all the **Insureds** shall be jointly and severally obligated to pay the Deductible. Any funds advanced by the **Company** shall serve to reduce the **Limits of Liability**.

If the **Company** brings suit to collect the Deductible, or any part thereof, and prevails therein, then the **Named Insured** shall also pay the legal fees, costs and expenses incurred by the **Company** in such suit.

E. Multiple Insurance Policies

In the event a **Claim** is deemed, either by the **Company** or a court of competent jurisdiction, to be covered under more than one Policy of Insurance or Coverage Form issued by the **Company** or an affiliated company, it is expressly understood and agreed that the maximum aggregate **Limit of Liability** for such **Claim** shall not exceed the highest applicable Limit of Liability – Per Claim as shown in each policy's respective Declarations Page, and only the policy with the highest applicable Limit of Liability – Per Claim shall apply.

F. Exhaustion of Limits of Liability

The **Company** shall not be obligated to pay **Damages** or **Claim Expenses** or defend or continue to defend any **Claim**, or **Claims**, after the applicable **Limit of Liability** as stated on the Declarations Page has been exhausted by payment of **Damages** or **Claim Expenses** or a combination of both.

G. Liability Coverages Policy Aggregate Limit

The **Limit of Liability** of the **Company** for **Damages** or **Claim Expenses** for all liability coverages afforded under this Policy, shall not exceed the amount as shown on the Declarations Page as the **Liability Coverages Policy Aggregate Limit**.

The **Company** shall not be obligated to pay **Damages** or **Claim Expenses** or defend or continue to defend any **Claim**, or **Claims**, after the **Liability Coverages Policy Aggregate Limit** as shown on the Declarations Page has been exhausted by payment of **Damages** or **Claim Expenses** or a combination of both.

SECTION IV – EXCLUSIONS

This insurance does not apply to any **Claim**, loss, costs, **Damages**, or **Claim Expenses** based upon, arising out of, directly or indirectly resulting from, or in any way connected with any of the following, whether actual or alleged:

A. Known or Reported Wrongful Acts

Any **Wrongful Act** occurring prior to the **Policy Period** if, prior to the effective date of the first Miscellaneous Professional Liability Insurance Policy issued by the **Company** to the **Named Insured** which has been continuously renewed and maintained in effect to the Effective Date of this Policy:

1. An **Insured** knew or should have known that such **Wrongful Act** might reasonably be expected to result in a **Claim**; or
2. An **Insured** gave notice of such **Wrongful Act** to a prior insurer.

B. Expected or Intended

Any acts or omissions that any **Insured** expected or intended to cause injury or damage.

C. Dishonesty or Fraud

Any dishonest, fraudulent, criminal, or malicious act, error or omission committed by or at the direction of any **Insured** or which is ratified by any **Insured**; provided, however, that:

1. The **Company** shall provide a defense for such **Claim** unless and until the dishonest, fraudulent, criminal, or malicious act, error or omission has been determined by a trial verdict, court ruling, regulatory ruling, or legal admission, whether appealed or not, or there has been an admission by an **Insured** establishing such dishonest, fraudulent, criminal or malicious act, error or omission; and
2. Such defense will not waive any of the **Company's** other rights under this Policy.

INNOCENT INSURED PROVISION. This exclusion shall not apply to any **Insured** who did not personally participate in, acquiesce in, or ratify the dishonest, fraudulent, criminal, or malicious act, error, or omission; provided, however, that this INNOCENT INSURED PROVISION does not apply to, or inure to the benefit of, the **Named Insured**.

Criminal proceedings are not covered under this Policy regardless of the allegations made against any **Insured** and the **Company** shall have no duty to defend or indemnify any **Insured** in connection with such proceedings.

D. Bodily Injury or Property Damage

Any **Bodily Injury** or **Property Damage**, except this exclusion does not apply to **Bodily Injury** or **Property Damage** resulting from the **Insured's** negligent act, error or omission which arises out of the rendering or failing to render **Professional Services**.

E. Breach of Warranty or Guaranty

Any actual or alleged breach of express warranties or guarantees, except any warranty or guarantee to perform your **Professional Services** consistent with applicable industry standards or with reasonable skill or care. This exclusion will not apply to any liability you would have in the absence of the warranties or guarantees.

F. Fines and Penalties

Fines, penalties, taxes, sanctions, punitive damages, exemplary damages, treble damages, the multiplication of compensatory damages in whatever form assessed, or matters which may be deemed uninsurable under applicable laws.

G. Improper Billings

Any actual or alleged inaccurate, improper, or fraudulent billings or invoices, including but not limited to a qui tam action or any action under the False Claims Act, as may be amended, or any similar provisions of any foreign, federal, state, or local statutory or common law; however, this exclusion will not apply to a **Claim** resulting from your performance of billing services for others if such services are a part of your **Professional Services**.

H. Insured vs. Insured

Any **Claim**, loss, damage, or injury asserted by or on behalf of the **Named Insured**, any of its successors in interest, any **Insured** under this Policy, or any corporation or other entity in which the **Named Insured** has an ownership interest, against any other current or former **Insured**.

I. Employment Practices

Any employment-related practices, policies, acts, or omissions committed by an **Insured**, including but not limited to, refusal to hire, termination, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, or discrimination.

This exclusion applies regardless of whether the **Insured** may be liable as an employer or in any other capacity or may be obligated to share **Damages** with or repay someone else who must pay **Damages** because of the loss, damage, or injury.

J. Sexual Misconduct or Sexual Molestation

Any actual or alleged **Sexual Misconduct or Sexual Molestation**, including but not limited to physical acts or oral statements of a sexually suggestive nature or unwelcome physical contact.

This exclusion applies even if the **Claim** alleges negligence or other wrongdoing in respect of hiring, training, or supervising any person; failing to provide a safe environment; investigating or failing to investigate any incident; or reporting or failing to report any person or matter to the proper authorities.

K. Beneficiary of Trust or Estate

Any act whatsoever of an **Insured** in connection with a trust or estate when an **Insured** is a beneficiary or distributee of such trust or estate.

L. Capacities and Directorships

Liability of, or loss sustained by, any **Insured** arising out of his or her services, activities, or capacity as:

1. A former, existing, or prospective officer, director, shareholder, member, partner, manager, employee, or trustee of any legal or business entity other than the **Named Insured** except when appointed to serve as a trustee, receiver, or other similar fiduciary pursuant to a court order;
2. A fiduciary under the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto or any other similar state or local law; or
3. An elected public official or as an employee of a governmental body, or any subdivision or agency of a governmental body, unless the **Insured** is deemed an employee solely by virtue of performing **Professional Services** for such governmental body, sub-division or agency, and the remuneration for such services inures to the benefit of the **Named Insured**.

This exclusion does not apply if the **Insured's** activities or capacity involve the rendering of **Professional Services**.

M. Prior Subsidiaries

Any entity that ceases to be a **Subsidiary** after the Effective Date. However, coverage of the entity will continue as if it were still a **Subsidiary** during the **Policy Period**, but only in respect of an act, error, omission, or event occurring prior to the date that it ceased to be a **Subsidiary**.

N. License Suspension or Revocation

Professional Services rendered or to be rendered by an **Insured** while that **Insured's** professional license or certification is suspended, surrendered, revoked, or otherwise terminated.

O. Breach of Contract

The breach of any contract or agreement by an **Insured**, including any amounts owed by or to any provider of **Professional Services** under such contract or agreement, except to the extent that the **Insured** would have been liable in the absence of such contract or agreement.

P. Contractual Liability

Liability assumed by an **Insured** under any contract or agreement, whether oral, written or otherwise, except to the extent that the **Insured** would have been liable in the absence of such contract or agreement.

Q. Interference with Contracts or Trade Infringement

The interference with contracts or prospective business advantage, misappropriation of trade secrets, or the infringement of any patent, copyright, trademark, or any other intellectual property right by an **Insured**.

R. Conversion or Embezzlement

The conversion, defalcation, embezzlement, misappropriation, commingling or other intentional or illegal use of funds, money, or property by an **Insured**, including but not limited to client funds held by an **Insured**.

S. Antitrust or Deceptive Practices

Any violation by an **Insured** of any statute relating to antitrust, consumer fraud, unfair competition, deceptive business practices, or the failure of the **Insured's** services to conform to any statement of quality or performance made in any advertisement.

T. Data and Privacy

1. Any loss or theft of, disclosure of, or unauthorized access to or use of, any person's or entity's private or confidential information, no matter the cause;
2. Any unauthorized access to a **Computer System**, no matter the cause;
3. Any use of authorized access to cause intentional harm to a **Computer System**;
4. Any actual or threatened ransomware or denial-of-service attack against a **Computer System**;
5. Any introduction of malicious code into a **Computer System**;
6. Failure to provide an authorized user with access to a **Computer System**;
7. Any release of data or information, or provision of access to data or information, caused by fraud or trickery;
8. Any violation of law regarding the protection, use, collection, destruction, disclosure of, loss of, access to, or storage of any person's or entity's private or confidential information;
9. The failure to provide notification required by law in connection with 1. Through 8.; or

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10. Any action taken or not taken in controlling, preventing, suppressing, or remediating any of the above.

U. Pollution or Nuclear Material

1. Any discharge, dispersal, seepage, migration, release or escape of **Pollutants** or **Nuclear Material** at any time. Any request, demand, order or statutory or regulatory requirement that any insured 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** or **Nuclear Material**; 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** or **Nuclear Material**.

V. Products Liability

Any actual or alleged malfunction of any good or product manufactured, sold or supplied by any **Insured** or supplied by others under license to the **Insured**; the failure of any such good or product to perform in any manner as a result of any defect, deficiency, inadequacy, or dangerous condition in such good or product; the improper or negligent design or manufacture of any such good or product; or the cost of any recall or removal from the marketplace of, or any repair, replacement, upgrading or supplementing of, any such good or product.

W. Regulatory Action

Any administrative, disciplinary, or regulatory action asserted by or on behalf of any regulatory or governmental entity, including any demands, suits or actions seeking restitution under any federal, state, or local statute, rule, or regulation.

X. RICO

Any violation by an **Insured** of the Racketeer Influenced and Corrupt Organizations Act, 18 USC Sections 1961, et seq. or any comparable state law, or any amendment to that Act, or any rules or regulations made under it.

Y. Securities Violations

Any actual or alleged violation of: the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Advisors Act of 1940 or any state Blue-Sky law; the Racketeering Influenced and Corrupt Organizations Act of 1970; the Employee Retirement Income Security Act of 1974; any statute protecting any patent, copyright, trademark, trade name, service mark, trade dress, trade secret, confidential information or similar interest; the Federal Trade Commission Act, the Sherman Anti-Trust Act or the Clayton Act; or Title VIII of the Civil Rights Act of 1968, the Fair Housing Amendment Act of 1988 or the Fair Credit Reporting Act, 15 USC Section 1681

et seq.; any amendments to or rules or regulations promulgated under such statutes; or any other similar provisions of any international, federal, state, or local statutory or common law.

Z. Internet Media Public Postings

Any participation by an **Insured** in public postings on an electronic chat room, blog, bulletin board, social network site or other similar internet media.

AA. Financial or Investment Advice

1. Any financial or investment advice; or
2. Any prediction of future performance, representation, warranty or guarantee regarding a specific or identifiable investment.

BB. Misappropriation of Assets

Any actual or alleged theft, misappropriation, commingling, or conversion of any funds, monies, assets, or property.

CC. Notarization of Signature

The notarization of a signature without the physical appearance of the signatory before the **Insured**.

SECTION V - NOTICE AND CONDITIONS

A. Notice of Circumstances

If during the **Policy Period** the **Insured** first becomes aware of any **Wrongful Act** that may reasonably be expected to give rise to a **Claim**, and if the **Insured** gives written notice to the **Company** during the **Policy Period** of such **Wrongful Act**, with full particulars acceptable to the **Company**, including but not limited to:

1. The specific act, error, or omission;
2. The loss, injury or damage which may result or has resulted from the **Wrongful Act**;
3. The circumstances by which the **Insured** first became aware of the **Wrongful Act**, and the reasons for anticipating a **Claim**;
4. The dates and persons involved;

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5. The nature and scope of the **Professional Services** provided; and
 6. The identity of likely claimants;

then any such **Claim** that arises out of such reported **Wrongful Act** that is subsequently made against the **Insured** and reported to the **Company** shall be deemed to have been made at the time such written notice was originally given to the **Company**.

B. Notice of Claim

An **Insured** shall give immediate written notice of any and all **Claims** to the **Company** during the **Policy Period** or **Automatic Extended Reporting Period**.

Any **Claim** first reported to the **Company** beyond the **Policy Period** or **Automatic Extended Reporting Period** shall not be covered under this Policy unless the **Claim** is reported pursuant to an applicable **Optional Extended Reporting Period**, if any. In addition, any **Claim** first made against an **Insured** during the **Policy Period** but first reported to the **Company** under a renewal policy issued by the **Company** shall be deemed first made and reported under such renewal policy and this Policy shall not apply.

C. Notice to Third Party Administrator

Any **Claim** or Notice of Circumstances reported to the third-party claim administrator, if any, as shown on the Declarations Page shall be deemed notice given to the **Company**.

D. Duties in the Event of a Claim

As a condition precedent to an **Insured's** rights under this Policy, an **Insured** shall:

1. Cooperate fully with the **Company** in the investigation, defense, and settlement of any **Claim**, including but not limited to attending hearings, depositions, and trials, preserving, and obtaining evidence, and giving written statements;
2. Immediately send the **Company** copies of any demand, notices, summonses, and other legal papers received in connection with the **Claim**;
3. Submit to examination and interrogation under oath;
4. Authorize the **Company** to obtain records and other information; and
5. Assist in enforcing any right of contribution or indemnity against any person or organization that may be liable to the **Insured**.

Under no circumstances shall an **Insured** assume any obligation or incur any **Claim Expenses**, admit liability for any **Claim**, enter into any settlement agreement, stipulate to any judgment, or agree to any arbitration without the prior written consent of the **Company**. Any settlement, **Damages** or **Claim**

Expenses incurred or agreed to prior to the **Company** giving its written consent shall not be covered under this Policy.

E. Right to Investigate and Appoint Counsel

The **Company** shall have the right but not the duty to investigate any **Claim** or Notice of Circumstance as it deems necessary, or to undertake any investigation with respect to the **Application** as respects coverage. The **Insured** shall submit for examination under oath, by a representative of the **Company**, if requested, in connection with all matters relating to this Policy.

The **Company** shall also have the right but not the duty to appoint legal counsel on behalf of the **Insured** in connection with the defense or handling of any **Claim** or Notice of Circumstance as it deems necessary.

F. Consent to Settle

The **Company** shall not settle any **Claim** without the **Named Insured's** written consent, provided such consent shall not be unreasonably withheld. If however, the **Named Insured** shall refuse to consent to any settlement recommended by the **Company** which is acceptable to the claimant, and shall elect to contest the **Claim**, or continue any legal, administrative, or arbitration proceedings in connection with such **Claim**, then the **Company's** liability for **Damages** or **Claim Expenses** relating to such **Claim** shall not exceed the total amount of **Damages** and **Claim Expenses** the **Company** would have paid up to the date of the **Named Insured's** refusal.

If, prior to institution of arbitration proceedings or service of suit or within sixty (60) days of the institution of such proceedings or service of suit, the **Company** and the **Named Insured** agree to use a process of non-binding intervention by a neutral third party to resolve any **Claim** reported to the **Company**, and if such **Claim** is resolved through such process, the **Company** will reduce the retention applicable to such **Claim** by fifty percent (50%) or ten thousand dollars (\$10,000.00), whichever is less.

G. Rights of Subrogation

In the event of any payment under this Coverage Part, the **Company** shall be subrogated to all of the **Insured's** rights of recovery thereof against any person or entity. The **Insured** must execute and deliver instruments and papers and do whatever else is necessary to secure such rights and must do nothing to prejudice such rights.

Any amount recovered pursuant to subrogation shall be applied as follows: first, to the repayment of expenses incurred in connection with the subrogation; second to **Damages** or **Claim Expenses** paid by an **Insured** in excess of the **Limits of Liability**; third, to **Damages** or **Claim Expenses** paid by the **Company**; fourth, to **Damages** or **Claim Expenses** paid by the **Insured** in excess of the Deductible; and last, to the repayment of the Deductible.

H. Other Insurance

This insurance shall be primary as respects any other valid and collectible insurance. If there is other valid and collectible insurance that applies to a **Claim**, then the **Insured** shall, as a condition precedent

to coverage under this Policy, immediately tender the defense and indemnity of that **Claim** to the insurance carrier providing coverage. This Policy will not be subject to the terms of any other insurance.

I. **Sale, Merger, Dissolution or Cessation of the Named Insured's Business**

If, during the **Policy Period**, any of the following transactions occur:

1. The **Named Insured** is dissolved, sold, acquired by, merged into, or consolidated with another entity such that the **Named Insured** is not the surviving entity; or
2. A person, entity or affiliated group of persons or entities obtains **a.** ownership or possession of fifty percent (50%) or more of the issued and outstanding capital stock, equity, member units, or any other applicable form of ownership of the **Named Insured**, or **b.** the right to elect or appoint more than fifty percent (50%) of the **Named Insured's** directors, officers or trustees; or
3. The **Named Insured** ceases to do business for any reason;

then coverage under this Policy shall continue in full force and effect until the end of the **Policy Period**, but only as respects to **Wrongful Acts** which occurred prior to the effective date of the transaction.

It is further understood and agreed that no coverage will be available for any **Disciplinary Proceeding** that is commenced against any **Insured** after the effective date of the transaction.

J. **Acquisition of Subsidiary**

If, during the **Policy Period**, any **Named Insured** or **Subsidiary** creates a **Subsidiary** for which entity there is no other similar insurance available, then during a period of sixty (60) days after the effective date of the transaction or until the end of the **Policy Period**, whichever is earlier, the new **Subsidiary** will be an **Insured**, but only with respect to a **Wrongful Act** committed by an **Insured** after the effective date of the transaction.

There will be no coverage under this Coverage Part for any **Wrongful Act** committed by the new **Subsidiary**, or for any **Claim** first made after the sixty (60) day period has expired, unless the **Named Insured** has provided the **Company** with written notice of the transaction, containing full details thereof, and the **Company** has agreed to add coverage for the new entity upon such terms, conditions, and limitations of coverage and such additional premium as the **Company**, in its sole discretion, may require.

K. **Action Against the Company**

No person or organization has a right under this Coverage Part:

1. To join us as a party or otherwise bring us into a **Suit** asking for damages from an insured; or
2. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured, but we will not be liable for damages that are not payable under the terms of this Coverage

Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

L. Bankruptcy or Insolvency

Bankruptcy or insolvency of an **Insured** or an **Insured's** estate shall not relieve the **Company** of any obligations under this Policy.

M. Territory

This Policy applies to an act or omission taking place anywhere in the world, provided that the **Claim** is made, and suit is brought against the **Insured** within any of the fifty (50) states of United States of America or the District of Columbia.

SECTION VI - EXTENDED REPORTING PERIOD

A. Automatic Extended Reporting Period

Subject to Paragraphs **D.** and **E.** of this **SECTION VI – EXTENDED REPORTING PERIOD**, if this Coverage Part or the Policy is cancelled or is not renewed, an **Automatic Extended Reporting Period** applies without additional premium beginning on the date this Coverage Part or the Policy is cancelled or expires, whichever applies.

The **Automatic Extended Reporting Period** applies to **Claims** reported to the **Company** in writing during the **Automatic Extended Reporting Period**, but only for **Wrongful Acts** committed wholly prior to the effective date this Coverage Part or the Policy is cancelled or expires, whichever applies, and which otherwise would be covered.

The **Automatic Extended Reporting Period** shall not apply if the **Named Insured** has purchased similar insurance from the **Company** or any other insurer covering such **Claim**.

B. Optional Extended Reporting Period

Subject to Paragraphs **D.** and **E.** of this **SECTION VI – EXTENDED REPORTING PERIOD**, if this Coverage Part or the Policy is cancelled or is not renewed, the **Named Insured** may give the **Company** written notice that it desires to purchase an **Optional Extended Reporting Period** for one of the periods shown in the ERP Schedule in Paragraph **C.** below, subject to the following:

1. Written notice of such election must be provided to and received by the **Company** within sixty (60) days of the effective date such Coverage Part or the Policy is cancelled or expires, whichever applies. Such notice must indicate the total extension period desired and must include payment

of premium for such **Optional Extended Reporting Period**. If such notice is not timely given to the **Company**, the **Named Insured** will not be able to elect such right at a later date.

2. The **Optional Extended Reporting Period** applies to **Claims** reported to the **Company** in writing during the **Optional Extended Reporting Period**, but only for **Wrongful Acts** committed wholly prior to the effective date such Coverage Part or the Policy is cancelled or expires, whichever applies, and which otherwise would be covered.
3. The first sixty (60) days of the **Optional Extended Reporting Period**, if purchased, shall run concurrently with the **Automatic Extended Reporting Period**.

C. Premium Due - Optional Extended Reporting Period

The premium due for the **Optional Extended Reporting Period** equals the percentage amount shown in the ERP Schedule below in relation to the annualized premium for this Coverage Part or the Policy, whichever applies.

<u>ERP Schedule</u>	
<u>ERP</u>	<u>Additional Premium</u>
12 months	100%
24 months	150%
36 months	190%
48 months	225%
60 months	250%
Unlimited	Underwriter Approval

The entire premium for the **Optional Extended Reporting Period** must be received by the **Company** within sixty (60) days of the effective date the Coverage Part or the Policy is cancelled or expires, whichever applies, and will be deemed fully earned (even if cancelled upon request of the **Insured**) at the commencement of the **Optional Extended Reporting Period**.

The **Optional Extended Reporting Period** will not take effect unless the **Named Insured** has fulfilled all other duties, and complied with all other terms and conditions, of this Policy, and has fully repaid any Deductible owed to the **Company** within sixty (60) days of the effective date such Coverage Part or the Policy is cancelled or expires.

D. Elimination of Right to Extended Reporting Period

There is no right to any **Extended Reporting Period** set forth in this **SECTION VI – EXTENDED REPORTING PERIOD** if:

1. The **Company** cancels or refuses to renew this Coverage Part or the Policy due to the non-payment of premium or to misrepresentations or omissions in any **Application** used by the **Company** as a basis for issuing this Policy; or

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2. The **Named Insured** has not complied with the terms and conditions of this Policy, including but not limited to the prior refusal or inability of the **Named Insured** to pay any outstanding Deductible amounts owed under this Policy.

E. No Additional Limit of Liability for Extended Reporting Period

The **Extended Reporting Period** does not reinstate or increase the **Limits of Liability**. The Deductible shown on the Declarations Page will apply separately to each **Claim** reported under the **Extended Reporting Period**.

SPECIMEN

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Communicable Disease Exclusion

This endorsement modifies insurance provided under the following:

ERRORS & OMISSIONS PROFESSIONAL LIABILITY INSURANCE COVERAGE FORM

The following exclusion is added to **SECTION IV – EXCLUSIONS**:

Communicable Disease

This insurance does not apply to any **Claim**, loss, costs, **Damages** or **Claim Expenses** based upon, arising out of, directly or indirectly resulting from, or in any way connected with any of the following, whether actual or alleged transmission of any **Communicable Disease** or which is any way related to the transmission of any **Communicable Disease** or any fear or threat of any **Communicable Disease**.

This exclusion applies even if the **Claims** against any **Insured** allege negligence or wrongdoing in any:

1. Employing, hiring, supervising, training, or monitoring of any person including, but not limited to, any **Employee**, contractor or others who are working under contract for or on behalf of any **Insured** that may be infected with and transmit any **Communicable Disease**;
2. Testing for any **Communicable Disease**;
3. Failure to perform services which were either recommended to, intended to, or assumed to prevent any communicable disease or the transmission to others;
Procedures, or lack thereof, to manage any **Communicable Disease**;
4. Failure to prevent, contain, eradicate, or avert any **Communicable Disease**; or
5. Failure to report any communicable disease to authorities.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to any injury or damage or any other loss, cost, or expense.

Named Insured:

Policy Number:

Effective Date:

For purposes of this endorsement, and for greater clarity, **Communicable Disease** means any disease, virus or contagion, any derivative, mutation or variation of the disease, virus, or contagion, which includes, but is not limited to:

1. Coronavirus disease (COVID-19)
2. Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)
3. Ebola
4. Avian Influenza (Avian Bird Flu); and
5. Legionella

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED

Named Insured:

Policy Number:

Effective Date:
