

Berkley Insurance Company

Architects, Engineers & Consultants

Professional Liability Contractor's Pollution Liability Cyber Liability Media and Personal Injury Liability

NOTICE: THIS IS A CLAIMS MADE AND REPORTED IN WRITING POLICY. SUBJECT TO ITS PROVISIONS, COVERAGE APPLIES ONLY TO CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING A POLICY YEAR AND FIRST REPORTED TO US IN WRITING WITHIN THAT SAME POLICY YEAR, OR WITHIN ONE HUNDRED AND TWENTY (120) DAYS AFTER THE END OF SUCH POLICY YEAR, UNLESS AN OPTIONAL EXTENDED REPORTING PERIOD APPLIES. THIS POLICY CONTAINS PROVISIONS THAT LIMIT THE AMOUNT OF CLAIM EXPENSES THE COMPANY IS RESPONSIBLE TO PAY IN CONNECTION WITH CLAIMS. THE PAYMENT OF CLAIM EXPENSES WILL REDUCE THE LIMITS OF LIABILITY STATED IN ITEM 3 OF THE DECLARATIONS.

PLEASE READ THE POLICY CAREFULLY.

The words "we," "us" and "our" mean the Insurance Company listed in the Declarations Page of this Policy. The words "you" and "your" mean any person or entity described in the definition of **Insured**. Words in bold print have special meanings defined in Section VI. Definitions.

In consideration of the payment of the Policy premium stated in Item 5 of the Declarations, and subject to all the terms, and in reliance upon the statements made in the application, which either is attached to this Policy or shall be deemed attached to this Policy by this provision, we agree with you as follows:

I. Insuring Agreements

We will pay up to the Limits of Liability and subject to the Deductible stated in the Declarations all sums that the **Insured** becomes legally obligated to pay as **Damages** and **Claim Expenses** resulting from a **Claim** first made against the **Insured** during the **Policy Year** and first reported to us in writing during the same **Policy Year**, or within 120 days after the end of such **Policy Year**, provided that:

- A. Architects and Engineers Professional Liability
 1. The **Claim** arises out of a **Wrongful Act** in, or **Pollution Incident** from, the performance of your **Professional Services**;
 2. The **Wrongful Act** or **Pollution Incident** took place on or after the Retroactive Date stated in the Declarations and before the end of the same **Policy Year** the **Claim** was first made; and
 3. Prior to the **Knowledge Date** stated in the Declarations, none of the **Principal Insureds** knew or could have reasonably expected that any subject **Professional Services** might give rise to a **Claim**.
- B. Contractor's Pollution Liability
 1. The **Claim** arises out of a **Pollution Incident** from the performance of your **Contractor Services**;
 2. The **Contractor Services** took place on or after the Retroactive Date stated in the Declarations and before the end of the same **Policy Year** the **Claim** was first made; and
 3. Prior to the **Knowledge Date** stated in the Declarations, none of the **Principal Insureds** knew or could have reasonably expected that any subject **Contractor Services** might give rise to a **Claim**.
- C. Cyber Liability
 1. The **Claim** arises out of a **Wrongful Act** in the performance of your **Professional Services** and that:
 - a. is specifically related to **Information Technology Services**; or
 - b. results in the failure of **Information Technology Products** to perform the function or serve the purpose intended; or
 - c. results in a **Cyber Security Breach**; and

2. The **Wrongful Act** was committed on or after the Retroactive Date stated in the Declarations and before the end of the same **Policy Year** the **Claim** was first made; and
 3. Prior to the **Knowledge Date** stated in the Declarations, none of the **Principal Insureds** knew or could have reasonably expected that any subject **Professional Services** might give rise to a **Claim**.
- D. Media and Personal Injury Liability
1. The **Claim** arises out of a **Wrongful Act** in the performance of your **Professional Services, Media Activities** or **Information Technology Services** that result in:
 - a. infringement of copyright, piracy, plagiarism or misappropriation or unauthorized use of the intellectual property of others that is obtained by you under **Contract**;
 - b. infringement of trade dress, domain name, title or slogan, or the dilution or infringement of trademark or servicemark;
 - c. negligence regarding the **Content** of any **Media Communication** including harm caused through any reliance or failure to rely upon such **Content**;
 - d. misappropriation of trade secret;
 - e. defamation, libel, slander, product disparagement, trade libel, or other tort related to disparagement or harm to the reputation or character of any person or organization; but not including slander of title or any other **Claim** related to real or other tangible personal property;
 - f. invasion or interference with the right to privacy or of publicity;
 - g. misappropriation of any name or likeness for commercial advantage;
 - h. false arrest, detention or imprisonment or malicious prosecution; or
 - i. invasion of or interference with any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping;
 2. The **Wrongful Act** was committed on or after the Retroactive Date stated in the Declarations and before the end of the same **Policy Year** the **Claim** was first made; and
 3. Prior to the **Knowledge Date** stated in the Declarations of this Policy, none of the **Principal Insureds** knew or could have reasonably expected that any subject **Professional Services** might give rise to a **Claim**.

II. Territory

- A. The coverage afforded by this Policy applies worldwide.
- B. We shall not be required to provide any coverage, pay any **Claim** or provide any other benefit hereunder to the extent that provision of such coverage, payment of such **Claim** or provision of such other benefit would be in violation of any trade or economic sanctions, laws or regulations of the United States including, but not limited to, those administered by the U.S. Treasury Office of Foreign Assets Control, or of any other jurisdiction with which we are legally obligated to comply.

III. Additional Coverages

All payments made under this section are not subject to the Deductible and are in addition to the Limits of Liability shown in the Declarations. All other Policy Terms and Conditions shall be applicable to these Additional Coverages.

- A. **Free Claim Prevention Assistance**
If during the **Policy Year**, you report a **Circumstance** in accordance with Conditions A., until a **Claim** related to that **Circumstance** is made, we will pay all costs or expenses that we incur, or that you incur, with our prior written consent, for purposes of investigating, mitigating or avoiding a **Claim**.
- B. **Disciplinary, Regulatory or Administrative Expense Reimbursement**
We shall reimburse you, upon written request, for reasonable legal fees and expenses you incur in responding to any:
 1. Disciplinary Proceeding, both commenced against you and reported to us during the **Policy Year**, by a regulatory or disciplinary official, board or agency, to investigate charges of professional misconduct in the performance of **Professional Services**, or
 2. Regulatory or Administrative Action, including, but not limited to, one concerning the Americans with Disabilities Act of 1990, The Federal Fair Housing Act or the Occupational Safety and Health Act, both commenced against you and reported to us during the **Policy Year**, provided that the action arises out of a **Wrongful Act**, in the performance of **Professional Services**, committed or alleged to have been committed by you on or after the Retroactive Date(s) stated in Item 6 of the Declarations.
 3. Regulatory or Administrative actions brought against you by a government agency under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, both commenced against you and reported to us during the **Policy Year**, provided that the regulatory or administrative actions:
 - a. arise out of the performance of **Professional Services**, committed or alleged to have been committed by you on or after the Retroactive Date(s) stated in Item 6 of the Declarations, and
 - b. do not arise out of services performed as a Municipal Advisor as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

The maximum we will pay pursuant to this Additional Coverage provision is \$50,000 for all such actions commenced against you and reported to us during the **Policy Year**. We will not pay any other amounts under this provision for such actions, including but not limited to **Damages**, fines, taxes and penalties.

C. **Defendants' Reimbursements**

Upon your written request, we will reimburse you up to \$400 a day for all **Insureds** combined, subject to a maximum of \$15,000 per **Claim**, for your actual loss of earnings for your attendance, at our written request, at a trial, hearing, deposition, **Mediation** or arbitration involving a **Claim**.

D. **Fee Dispute Mitigation Reimbursements**

If you attempt to recover a **Withheld Fee** from a client and:

1. as a result of such collection attempts, the client first makes a **Claim** during the **Policy Period** against you for an amount greater than the **Withheld Fee**, and
2. you provide us with written confirmation from your client, acceptable to us, that they will withdraw their **Claim** against you, in exchange for your not pursuing your **Withheld Fee**,

then we will pay 50% of your **Withheld Fee**, up to a maximum policy aggregate amount of \$25,000. You must provide such written confirmation from your client prior to our payment of your **Withheld Fee**.

E. **Peer Review Reimbursement**

Upon your written request during the **Policy Period**, we will reimburse half the cost of a peer review, conducted by a qualified national professional society such as the American Institute of Architects, the American Council of Engineering Companies or a pre-approved Provider designated by us, subject to a maximum of \$5,000 per **Policy Period** for all such programs.

F. **Cyber Security Breach Response Reimbursement**

Upon your written notification to us during the **Policy Period** of a **Cyber Security Breach**, we will engage a qualified firm on your behalf to:

1. investigate the breach;
2. notify any parties affected by the breach;
3. perform credit monitoring service for your clients' individual personal data or your clients' corporate data lost because of the breach; and
4. restore or recreate, if possible, any of your clients lost **Content** caused by the breach.

The maximum we will pay pursuant to this Additional Coverage provision is \$50,000 per **Policy Period**.

G. **Crisis Management/Public Relations Event**

Upon your written request, we shall reimburse you for reasonable costs you incur during the **Policy Year** for consultation with a public relations firm to respond to or avert negative publicity, or a potential threat to your reputation, arising from a Crisis Management/Public Relations event. A Crisis Management/Public Relations event means the death or departure of a **Principal Insured**, the arrest or threatened arrest of a **Principal Insured** arising from your **Wrongful Acts**, a publication or broadcast identifying an **Insured** and asserting or suggesting criminal conduct of an **Insured**, or any other event we agree may have a material adverse effect on the reputation of an **Insured**.

The maximum we will pay pursuant to this Additional Coverage provision is \$30,000 per **Policy Period**.

IV. Exclusions Applicable to All Insuring Agreements

This Policy does not apply to and we shall not be liable for **Damages** or **Claim Expenses** resulting from any **Claim** or **Circumstance** that is for, based upon or arising out of:

- A. your dishonest, criminal, malicious or fraudulent act or omission; however, this Exclusion shall not apply to our duty to defend any **Claim** unless or until a final adjudication adverse to you establishes that you committed such dishonest, criminal, malicious or fraudulent, act or omission. This exclusion shall not apply to any **Insured** that did not commit, participate in, or have knowledge of any dishonest, fraudulent, criminal or malicious act or omission.
- B. or brought by or on behalf of or with the assistance of, or actual or potential liability to:
 1. any **Insured**; or
 2. any person or entity (or its subrogees or assignees):
 - a. that wholly or partly owns, operates, manages or controls any **Insured**;
 - b. that any **Insured** operates, manages, or controls; or
 - c. in which any **Insured** has an ownership interest of greater than 49%.
- C. liability assumed under any **Contract**. This exclusion does not apply to:
 1. any liability that you would have in the absence of that **Contract**, or
 2. your contractually assumed obligation to reimburse any person or entity for their reasonable costs of defense pursuant to an indemnity or hold harmless provision in your **Contract** for **Professional Services**, as long as such obligation is limited in the **Contract** to the portion of such costs equal to the percentage of your liability as ultimately determined after adjudication in a court of competent jurisdiction to be caused by your **Wrongful Act** or **Pollution Incident** using principles of comparative fault. This exception to exclusion C shall not apply to any obligation to provide a defense prior to the ultimate determination of fault.

- D. actual construction performed by any **Insured**, its agent, or subcontractor, including, but not limited to, performing construction, erection, fabrication, installation, assembly, manufacture, demolition, dismantling, drilling, excavation, dredging, remediation, or supplying any materials, parts, or equipment, except for supplying furnishings as a part of interior design services.
This exclusion does not apply to drilling, excavation or other sampling or testing procedures necessary to perform your **Professional Services**. Furthermore, this exclusion does not apply to Insuring Agreement B, Contractor's Pollution Liability.
- E. your ownership, rental, lease, maintenance, operation, use, repair, voluntary or involuntary sale, transfer, exchange, gift, abandonment or condemnation of, or **Bodily Injury** or **Property Damage** caused by, any real or tangible personal property including without limitation, automobiles, aircraft, **Drone**, watercraft and other kinds of conveyances.
This exclusion does not apply to your **Professional Services** that incorporate information obtained from the use of a **Drone**.
- F. the design or manufacture of any goods or products for multiple sale or mass distribution that are sold or supplied by you or by others under license from you.
- G. the actual, alleged, or threatened exposure to nuclear source material, nuclear by-product materials, nuclear waste activities, nuclear incident, or extraordinary nuclear occurrence, as defined in the Atomic Energy Act of 1954 or as amended.
- H. any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds, trusts and other type of employee benefit; any employment obligations, decisions, practices or policies as an employer, including but not limited to, any **Claim** under workers compensation, unemployment compensation, employee benefits, or disability benefits; or any violation of the Employee Retirement Income Security Act of 1974 or the Patient Protection and Affordable Care Act of 2010 or any amendment to these Acts or any similar local, state, federal or foreign equivalent law or regulation.
- I. actual or alleged discrimination, humiliation, harassment or misconduct, including but not limited to any conduct based on an individual's race, religion, color, gender, sexual preference or orientation, national origin, age, disability or marital status. This exclusion does not apply to an otherwise covered **Claim** brought under Title II of the Americans with Disabilities Act or the Fair Housing Act, or any similar state or local law or ordinance.

V. Exclusions – Applicable to Insuring Agreements C & D Only

In addition to the Exclusions Applicable to All Insuring Agreements (Section IV), Insuring Agreements C and D also do not apply to and we shall not be liable for **Damages** or **Claim Expenses** resulting from any **Claim** or **Circumstance** that is for, based upon or arising out of:

- A. **Bodily Injury** or **Property Damage**.
- B. inaccurate, inadequate or incomplete description of the price of goods, products or services; cost guarantees, cost representations or **Contract** price estimates of probable costs or cost estimates actually or allegedly being exceeded; the failure of goods, products or services to conform with any represented quality or performance contained in any **Advertising**; or any actual or alleged gambling, contest, lottery, promotional game or other game of chance.
- C. any actual or alleged obligation to make licensing fee or royalty payments, including but not limited to the amount or timeliness of such payments.
- D. any costs or expenses incurred or to be incurred for:
 - 1. the reprinting, recall, removal or disposal of any **Media Material**, including any media or products containing such **Media Material**; or
 - 2. the withdrawal, recall, inspection, repair, replacement, reproduction, removal or disposal of:
 - a. **Information Technology Products**, including any products or other property of others that incorporate **Information Technology Products**;
 - b. work product resulting from or incorporating the result of **Information Technology Products**; or
 - c. any products or other property on which **Information Technology Services** are performed;
 provided that this exclusion shall not apply to **Claims** for the resulting loss of use for the **Media Material** or **Information Technology Products**, or loss of use of the work product resulting from such **Information Technology Services**.
- E. any spike in, surge of, decrease in, disruption of, fluctuation in or failure of any infrastructure service or utility provided by a third party, including but limited to power, water, gas, communications or connectivity; or fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical or force majeure event.
- F. any actual or alleged antitrust violation, restraint of trade, unfair competition, violation of the Sherman Antitrust Act, the Clayton Act, the Robinson-Patman Act, as amended or any similar law or legislation or any state, province or other jurisdiction, false, deceptive or unfair trade practices, violation of consumer protection laws or false, deceptive or misleading **Advertising**.
- G. any action brought by or on behalf of the Federal Trade Commission, the Federal Communications Commission or any similar government entity, in such entity's regulatory or official capacity.
- H. any actual or alleged infringement or copyright or misappropriations of trade secret arising out of or related to **Information Technology Products** or **Information Technology Services**.

- I. the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, or condition of use of any property.
- J. the delay in delivery or performance, or failure to deliver or perform, at or within an agreed upon period of time.
- K. invasion of or interference with any right to private occupancy or privacy, including without limitation, trespassing or eavesdropping, arising from the use of a **Drone**.

VI. Definitions

- A. **Advertising** means material that promotes your products, services or business.
- B. **Bodily Injury** means physical injury, disease, sickness or death of any person, including any mental anguish, mental injury, emotional distress, pain and suffering or shock resulting therefrom.
- C. **Circumstance** means an event that reasonably would be expected to result in a **Claim** being made.
- D. **Claim** means any notification received by you demanding compensatory money **Damages** or compensatory, corrective or remedial services. Two or more **Claims** for or arising out of the same or related **Wrongful Act(s)** shall be considered a single **Claim** for all purposes under this Policy.
- E. **Claim Expenses** mean:
 - 1. Reasonable and necessary fees charged by an attorney(s) designated by us, or designated by you with our prior written consent, to defend a **Claim**; and
 - 2. All other fees, costs and charges, resulting from the investigation, adjustment, defense and appeal of a **Claim**, if incurred by us, or by you with our prior written consent, including premiums on appeal bonds, provided that we shall not be obligated to apply for or furnish such appeal bonds.Our determination of **Claim Expenses** shall be conclusive. **Claim Expenses** do not include your or our salary charges, wages or expenses of partners, principals, officers, directors, members or employees.
- F. **Clean-Up Costs** means costs, charges and expenses incurred in the investigation, removal or neutralization of a **Pollution Incident**, provided that such **Pollution Incident** arises out of the performance of **Professional Services** by you or on your behalf.
- G. **Content** means data, digital code, images, drawings, scents, sounds, tastes, texts or textures.
- H. **Contract** means any agreement, whether express or implied, in fact or in law, written or oral, including without limitation, hold harmless or indemnity clauses, warranties, guarantees, certifications or penalty clauses.
- I. **Contractor Services** means drilling, excavation, or other sampling or testing procedures or construction, remediation or operational activities performed by you, your agent, or your subcontractor, necessary to perform your **Professional Services**.
- J. **Cyber Security Breach** means your computer network security activities that result in:
 - 1. the failure to prevent the introduction or transmission of a computer virus or any other malicious code, but only if such computer virus or malicious code affects the data, software, firmware, systems or networks of your clients;
 - 2. the failure to provide your clients with access to your website, or your computer or communications network, when your clients have authorized use of your website, or your computer or communications network;
 - 3. failure to prevent unauthorized access to, or use of, data, software, firmware, systems or networks containing private or confidential information of your client;
 - 4. the destruction, deletion or corruption of your client's electronic data; or
 - 5. failure to prevent the theft, unauthorized or illegal disclosure or loss of your client's information listed below:
 - a. an individual, natural person's private **Content**, or
 - b. commercial confidential information that resides in or on your hardware devices or data systems.
- K. **Damages** means compensatory monetary amounts for a covered **Claim** that you become legally liable including judgments (inclusive of any pre- or post-judgment interest), awards, or settlements agreed with our prior approval. **Damages** include fines, sanctions, taxes, penalties, punitive or exemplary damages and the multiple portion of any multiplied damage award unless any are uninsurable pursuant to applicable law. For purposes of Insuring Agreement B, **Damages** include **Emergency Expense** and **Clean-Up Costs**. **Damages** do not include any return, withdrawal or reduction of professional fees, profits or other charges.
- L. **Drone** means an Unmanned Aircraft System as defined by the Federal Aviation Administration.
- M. **Emergency Expense** means reasonable and necessary expense, incurred by you, on an emergency basis, within five days of a **Pollution Incident**, to contain, control, mitigate or rectify such **Pollution Incident** resulting from your **Contractor Services** that is an imminent and substantial endangerment to public health, safety or welfare, or the environment, where the absence of such emergency action being undertaken without delay, further harm to third parties or the environment is imminent.
- N. **Information Technology Products** means a computer or telecommunication hardware or software product or other electronic product that is created, developed or manufactured by you for others including software updates, service packs and other maintenance releases for such products.
- O. **Information Technology Services** means:

1. consulting on, design of, development of, analysis of, integration of, interface of, modification of and programming of software, hardware, networks, telecommunication systems and electronic or digital devices performed by you for your clients;
 2. installation of, training in the use of, support of, servicing of, maintenance of, repair of your **Information Technology Products**;
 3. marketing of, selling of, licensing of and distribution of your **Information Technology Products**;
 4. storage of, warehousing of, mining of and processing of data by you for your clients;
 5. managing, operating, administering and hosting your **Information Technology Products** for your clients; or
 6. activities performed on your website(s);
- but shall not mean **Information Technology Products**.

P. **Insured** means the following:

1. The Named **Insured** designated in Item 1 of the Declarations, or by Endorsement to this Policy;
2. Any Named **Insured** with respect to your participation in a legal entity, including a joint venture, but solely for your legal liability for the performance of **Professional Services** by that legal entity. **Insured** does not include the legal entity or any other entity that is part of the legal entity;
3. Any person who is, was, or hereafter becomes a partner, principal, officer, director, member, or employee of the Named **Insured**, but only for **Professional Services** performed in such capacity on behalf of the Named **Insured**;
4. A retired partner, principal, officer, director, member or employee of the Named **Insured**, while acting within the scope of their duties as a consultant for the Named **Insured**;
5. Any temporary or leased personnel, but only for **Professional Services** performed while acting under the direct supervision of and on behalf of the Named **Insured**;
6. Your estate, heirs, executors, administrators, and legal representatives, in the event of your death, disability, incapacity, insolvency, or bankruptcy, but only to the extent you would have otherwise been provided coverage under this Policy;
7. Your lawful spouse or legally recognized domestic partner solely by reason of their legal status, or their ownership interest in property or assets that are sought as recovery. This shall not apply to the extent a **Claim** alleges any **Wrongful Act** by such spouse or legally recognized domestic partner;
8. With respect to Insuring Agreement B – Contractor’s Pollution Liability, any person or organization that you are required in a written agreement, executed prior to the **Claim**, to include as an **Insured** under this Policy but solely to the extent that such person’s or organization’s liability arises out of your performance of **Contractors Services**;
9. Your newly formed or acquired entities, other than a partnership, joint venture or limited liability company, in which you maintain majority interest, provided there is no other similar insurance available to that entity; however:
 - a. Coverage is only afforded for ninety (90) days after you form or acquire the entity or the end of the **Policy Year**, whichever is earlier; and
 - b. Coverage does not apply to **Professional Services** provided prior to the date the firm was formed or acquired.

Q. **Knowledge Date** means effective date of the first Architects, Engineers & Consultants Policy issued by us to you and continuously renewed and maintained in effect to the inception of this **Policy Period**.

R. **Media Activities** means **Media Communications** and/or the gathering, collection or recording of **Media Material** for inclusion in any **Media Communication** in the ordinary course of your business.

S. **Media Communications** means the display, broadcast, dissemination, distribution or release of **Media Material** to the public by you.

T. **Media Material** means information in the form of words, sounds, numbers, images or graphics in electronic, print or broadcast form, including **Advertising**, but does not mean computer software or **Content**.

U. **Mediation** means a non-binding process in which a neutral panel or individual assists the parties in reaching their own settlement.

V. **Policy Period** means the period specified in Item 2 of the Declarations or any shorter period that may occur as a result of a cancellation or termination of this Policy.

W. **Policy Year** means each consecutive twelve (12) months beginning on the effective date of the **Policy Period** shown in the Declarations. However, if a **Policy Year** within a **Policy Period** is modified by Endorsement, then any period fewer than twelve (12) months will be deemed a separate **Policy Year**.

X. **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. **Pollutants** does not mean heat, smoke, vapor, soot or fumes from a hostile fire or explosion.

Y. **Pollution Incident** means the actual or alleged discharge, dispersal, seepage, migration, release or escape of **Pollutants** into or upon land, the atmosphere or any watercourse or body of water, that results in **Bodily Injury** or **Property Damage**. It does not include the transportation, shipment, delivery, storage or disposal of **Pollutants**, contaminants, waste, products or materials.

Z. **Principal Insureds** means your directors, officers, principals, partners or insurance managers.

- AA. **Professional Services** means those services that you or others on your behalf perform for others in your practice as an architect, engineer, land surveyor, interior designer, landscape architect, construction manager, scientist, environmental or technical consultant or as otherwise defined by endorsement to this Policy. **Professional Services** do not include those services provided in the capacity of a Municipal Advisor, as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, including without limitation financial advice specific to the procurement of any financing or monies for payment of any project.
- BB. **Property Damage** means physical injury to or destruction of tangible property or loss of use thereof.
- CC. **Withheld Fee** means any contractually due fee that your client refuses to pay you for more than 6 months.
- DD. **Wrongful Act** means any actual or alleged act, error or omission by you or by any entity or person for whom you are legally liable. Related **Wrongful Act(s)** are those that arise out of, are based on, logically or causally relate to or are in consequence of the same or related **Professional Services** or **Contractor Services**.

VII. Conditions

- A. **Reporting of Circumstances That May Give Rise to a Claim**
If, during the **Policy Year**, you become aware of a **Circumstance**, and, during the same **Policy Year**, provide us with written notice of the **Circumstance**, containing:
1. When and how you first became aware of the **Circumstance**;
 2. The reasons for anticipating such a **Claim**;
 3. The nature and dates of the alleged **Circumstance**;
 4. Any alleged injuries or **Damages** sustained; and
 5. The names of potential claimants, if available,
- then any **Claim** subsequently made shall be deemed to have been made and reported on the date we received the written report of the **Circumstance**.
However, this section shall not apply to Section III. F. **Cyber Security Breach** Response Reimbursement.
- B. **Reporting a Claim**
In the event of a **Claim**, you shall:
1. Promptly report the **Claim** to us in writing at the address stated in the Declarations;
 2. Provide sufficient information to identify the claimant;
 3. Immediately forward to us every demand, notice, summons or other process including institution of alternative dispute resolution proceedings received; and
 4. Provide reasonably attainable information with respect to the time, place and **Circumstances** of the **Claim** and the names and addresses of available witnesses.
- C. **Defense, Cooperation and Settlement**
1. We have the right and duty to defend any **Claim** made against you to which this insurance applies. We will pay **Claim Expenses** when we have such a duty. When a **Claim** made against you is a civil proceeding, defense counsel may be designated by us, or, at our option, designated by you with our prior written consent and subject to our guidelines. All **Insureds** shall cooperate with us or our designee in the defense or investigation of a **Circumstance** or **Claim**, including but not limited to assisting us in the conduct of suits or other proceedings, settlement negotiations, and the enforcement of any right of contribution or indemnity against another who may be liable to you. You shall attend hearings, depositions and trials and assist in securing evidence and obtaining the attendance of witnesses.
 2. You shall not, except at your own cost, make any payment, admit any liability, settle any **Claim**, assume any obligation or incur any expense without our prior written consent.
 3. You shall obtain our written consent before exercising any right, assuming any obligation, or making any agreement, with respect to any dispute resolution mechanism or process, including but not limited to rejecting or demanding arbitration.
 4. We shall not settle any **Claim** without your written consent. If, however, consent to settlement recommended by us is withheld, and you elect to continue to contest the **Claim**, then our liability for **Damages** shall not exceed the amount for which the **Claim** could have been settled. We shall only be liable for 50% of **Claim Expenses** in excess of the Deductible incurred after the date the consent was withheld. You shall be liable for the remaining 50% of **Claim Expenses** in excess of the Deductible incurred after that date.
- D. **When a Claim is First Made**
A **Claim** shall be considered to have been first made at the earliest time that you are aware of it. Two or more **Claims** for or arising out of the same or related **Wrongful Act(s)** shall be considered first made within the **Policy Year** in which the earliest of such **Claims** were first made, or deemed to be made pursuant to CONDITIONS A of this Policy.
- E. **Limits of Liability**
1. The Limits of Liability shown in Item 3 of the Declarations and described below, are the most we will pay regardless of the number of **Insureds, Claims**, individuals or entities making **Claims**.

2. The each **Claim** limit shown in Item 3A of the Declarations is the most we will pay for the sum of all **Damages** and **Claim Expenses** arising out of any single **Claim**. Two or more **Claims** considered a single **Claim** shall collectively be subject to the each **Claim** limit of liability shown in Item 3A of the Declarations.
3. The each **Claim** limit is the most we will pay for the sum of all **Damages** and **Claim Expenses** arising out of any single **Claim** regardless of how many Insuring Agreements may apply to such **Claim**.
4. The **Policy Year** Aggregate limit shown in Item 3B of the Declarations is the most we will pay for the sum of all **Damages** and **Claim Expenses** for all **Claims** made and reported during each **Policy Year**.
5. The payment of **Damages** and **Claim Expenses** will reduce the each **Claim** limit.

F. Deductible

You must pay the Deductible for **Claim Expenses** and **Damages** covered by this Policy before we are obligated to make any payment under the each **Claim** limit. The Deductible must be paid from your own account, and payments by other parties or insurers on your behalf shall not satisfy the Deductible. We have the right to determine the reasonableness of **Claim Expenses** that qualify to satisfy the Deductible. The Deductible for each **Claim** is set forth in Item 4A of the Declarations. The **Policy Year** Aggregate Deductible shown in Item 4B of the Declarations is the most the Named **Insured** must pay as a Deductible for the sum of all **Claims** made and reported during each **Policy Year**.

G. Deductible Credits

1. **Mediation Credit**: Your Deductible obligation may be reduced by 50%, subject to a maximum reduction of \$15,000 if you agree with our decision to use **Mediation** and the **Claim** is fully and finally resolved by such **Mediation**.
2. **Risk Management Credit**: Your Deductible obligation may be reduced by 50%, subject to a maximum reduction of \$25,000 if prior to the report date of a **Claim**, there is a signed, written and enforceable agreement for the **Professional Services** involved in the **Claim**, and it includes a clause limiting your liability to \$250,000 or less.
3. **First Claim Deductible Credit**: If the first **Claim** you ever report to us is made against you:
 - a. Greater than 24 months after the **Knowledge Date** shown on the Policy Declarations, then your Deductible obligation for that **Claim** may be reduced by 25%, subject to a maximum reduction of \$40,000; or
 - b. Greater than 36 months after the **Knowledge Date** shown on the Policy Declarations, then your Deductible obligation for that **Claim** may be reduced by 50%, subject to a maximum reduction of \$40,000.

If more than one Deductible Credit applies, your Deductible obligation will be reduced by 50%, subject to a maximum reduction of \$50,000.

H. Notice of Cancellation and Nonrenewal

This Policy may be canceled by the Named **Insured** identified in the Declarations, by surrender of the Policy to us or our authorized representative or by giving us written notice stating when, thereafter, such cancellation shall be effective. We will not cancel this Policy except for nonpayment of premium, fraud or material misrepresentation in procuring this insurance or in relation to any **Claim**, or changes in law affecting this Policy. If we cancel this Policy, we will mail or deliver to the first Named **Insured**, on behalf of all **Insureds**, written notice of cancellation. We will provide you at least ten (10) days-notice before the effective date of cancellation if we cancel for nonpayment of premium. If we cancel for any other reason, we will provide at least sixty (60) days-notice before the effective date of cancellation.

If this Policy is canceled, we will send the first Named **Insured** any premium refund due. The refund will be pro rata. The cancellation will be effective even if we have not made or offered a refund.

We will give you written notice sixty (60) days prior to the expiration of this Policy if we do not intend to renew this insurance subject to any state requirements. The notice will include our reason for nonrenewal. Proof of mailing will be sufficient proof of notice.

I. Other Insurance

If there is other collectible insurance, including but not limited to other professional liability insurance or project specific insurance, that applies to a **Claim** covered by this Policy, the other insurance shall be primary and this Policy shall be excess over the other insurance, unless the other insurance is written specifically excess of this Policy. This Policy will then apply to the amount of the **Claim** that exceeds the available limits of liability and any deductibles or retention amounts of the other insurance, as well as the Deductible under this Policy. If such other insurance has a duty to defend a **Claim** or assumes the defense of a **Claim**, this Policy shall not be obligated to defend that **Claim**.

J. Subrogation

In the event of any payment under this Policy, we shall be subrogated to all of your rights of recovery against any person or organization. You must do everything reasonably necessary to secure such rights and must do nothing after a **Claim** is made to jeopardize them. We hereby waive our subrogation rights against a client of yours to the extent that you had, prior to a **Claim** or **Circumstance**, entered into a written agreement to waive such rights. Any recovery shall first be paid to us up to the extent of any **Damages** or **Claim Expenses** paid by us and the balance shall be paid to you.

K. First Named **Insured** as Sole Agent

The first Named **Insured** in Item 1 of the Declarations will be the sole agent and will act on behalf of all **Insureds** for the payment or return of premium, receipt and acceptance of any endorsements, notices or provisions of this Policy, giving or receiving notice of cancellation or nonrenewal, the payment of any Deductibles, and to exercise the rights provided in Section Q Extended Reporting Period Option.

L. Alteration and Assignment

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by written Endorsement or signed by our authorized representative.

M. Change in Controlling Interest

If, during the **Policy Period**:

1. a Named **Insured** merges into or consolidates with another entity such that the Named **Insured** is not the surviving entity;
 2. another person or entity acquires the Named **Insured**;
 3. another person or entity acquires a controlling interest in the Named **Insured**; or
 4. there is a divestiture or sale of more than fifty percent of a Named **Insured's** assets and/or liabilities;
- then the coverage under this Policy will continue for the Named **Insured**, but only for **Wrongful Acts** that happen before the date of such event described above. This will apply unless you notify us within thirty (30) days of such event and we issue an endorsement stating otherwise.

N. Bankruptcy or Insolvency

You or your estate's bankruptcy or insolvency will not relieve us of our obligations under this Policy.

O. Legal Action Against Us

No individual or entity has a right under this Policy to join us as a party to any action seeking **Damages** from you. No action may be brought against us unless you have fully complied with all the terms of this Policy.

P. Liberalization

If we file with the appropriate regulator, general revisions to the terms and conditions of the Policy form to provide more coverage without an additional premium charge, then your policy will automatically provide this additional coverage as of the date the filed revision is effective in the state shown in the mailing address of the Declarations.

Q. Extended Reporting Period

At expiration or termination of your policy, you have an automatic one hundred and twenty (120) day period to report all **Claims** first made against you during the **Policy Year**. Policy termination includes cancellation, non-renewal, expiration, or reduction in coverage.

You may elect one Optional Extended Reporting Period subject to the following provisions:

1. You must elect an Optional Extended Reporting Period in writing within thirty (30) days of the termination of this Policy and pay the additional premium at that time. Upon electing this option, the premium is fully earned by us and the Optional Extended Reporting Period cannot be cancelled. You are not eligible for this option if you have obtained other insurance to cover the **Claims** that would otherwise be covered by an Optional Extended Reporting Period.
2. Coverage afforded under an Optional Extended Reporting Period will apply to **Claims** resulting from a **Wrongful Act** committed on or after the Retroactive Date stated in the Declarations and before the expiration or termination of the Policy, provided the **Claim** is made against you and reported to us in writing during the Optional Extended Reporting Period.
3. The aggregate limit applicable to an Optional Extended Reporting Period shall be the remaining aggregate limit of the terminated Policy.
4. The additional premium for an Optional Extended Reporting Period will be 100% of the expiring annual premium for a one (1) year period, 150% of the expiring annual premium for a two (2) year period and 185% of the expiring annual premium for a three (3) year period.
5. An Endorsement will be issued showing the term of the Optional Extended Reporting Period and the amount of premium.

In witness whereof, the Insurance Company has caused this Policy to be executed and attested by signatures of its President and Secretary.



President



Secretary