



INSURANCE COMPANY ERRORS AND OMISSIONS POLICY

In consideration of the payment of the premium, in reliance upon the statements in the Application attached hereto and made a part hereof, subject to the Declarations made a part hereof and subject to all the terms of this Policy, the Company and the Named Insured agree as follows:

I. COVERAGE

The Company will reimburse the Insured for Loss and Claims Expenses in excess of the Self-Insured retention resulting from any Claim first made during the Policy Period (or the Extended Reporting Period, if purchased) for a Wrongful Act in the performance of Professional Services, provided such Claim is reported in writing to the Company as soon as practicable but in no event later than sixty (60) days after the Policy Period.

II. DEFINITIONS

The following terms whenever used in this Policy shall have the meanings indicated:

- A. "Claim" means any notice received by the Insured from a person or entity advising that it is the intention of such person or entity to hold the Insured responsible for a Wrongful Act covered under this Policy. The term "Claim" includes any demand received by an Insured for money or services, the service of suit or institution of an arbitration proceeding, or a request received by the Insured for a tolling agreement with respect to statutes of limitations or other bars against the filing or maintenance of Claims against the Insured. Except as otherwise provided in Section VII. Awareness Provision a "Claim" shall be deemed to have been first made on the date that a complaint or similar document is served, or on the date an Insured receives a demand or notice, as described in the preceding paragraph, whichever date first occurs.
- B. "Claims Expenses" means reasonable and necessary legal fees and expenses incurred by the Insured (or by the Company if the Company exercises its option to defend pursuant to Clause IV.B.), in the defense of any Claim, including all other fees, pre-judgment interest, post-judgment interest, costs and expenses resulting from the investigation, adjustment, defense and appeal of any Claim. Provided, however, Claims Expenses shall not include:
- (1) salaries, wages, overhead or benefit expenses associated with officers or employees of the Insured; or
 - (2) any amounts incurred in defense of any Claim for which any other insurer has a duty to defend, regardless of whether or not such other insurer undertakes such duty; or
 - (3) premiums on appeal bonds or bonds to release attachments for any amount in excess of the available Limit of Liability.

The determination of the Company as to the reasonableness of any Claims Expenses shall be conclusive.

- C. "Insured" means:
- (1) the Named Insured designated in Item 1 of the Declarations;
 - (2) any entity which as of the inception date of this Policy is named in the Application attached hereto and whose voting stock is more than fifty percent (50%) owned directly or indirectly by the Named Insured;

- (3) all persons who were, now are, or shall be directors, officers or employees of the entities set forth in (1) and (2) above solely while acting within their duties as such, including their estates, heirs, legal representatives or assigns in the event of their death, incapacity or bankruptcy.
- (4) any entity, including its directors, officers and employees, acquired or created subsequent to the inception date of this Policy by any entity defined as an Insured under (1) or (2) above and whose voting stock is more than fifty percent (50%) owned directly or indirectly by the Named Insured, provided:
- (a) written notice together with full information thereof shall be given to the Company within sixty (60) days of such acquisition or creation; and
 - (b) no coverage shall be afforded under this Policy for any such acquired or created entity or its directors, officers or employees for any Claim based upon, arising out of, directly or indirectly resulting from or in consequence of any Wrongful Act occurring prior to the date of acquisition or creation of such entity.
- D. "Loss" means compensatory damages; punitive, exemplary or multiplied damages (except as otherwise provided in D (3), below); and settlements, provided, however, that Loss shall not include:
- (1) criminal or civil fines or penalties imposed by law;
 - (2) taxes; or
 - (3) matters including punitive, exemplary or multiplied damages, that may be deemed uninsurable under the law pursuant to which this Policy shall be construed.
- E. "Policy Period" means the period from the effective date and hour of this Policy as set forth in Item 2. of the Declarations, to the Policy expiration date set forth in Item 2. of the Declarations, or its earlier cancellation date, if any. The Policy Period specifically excludes any Extended Reporting Period hereunder.
- F. "Professional Services" means claim handling and adjusting, safety inspections, loss control, safety engineering, premium financing, insurance consulting, actuarial consulting, risk management, personal injury rehabilitation operations, and subrogation and salvage operations.
- G. "Wrongful Act" means any actual or alleged act, error or omission by or on behalf of the Insured in the performance of Professional Services.

III. EXCLUSIONS

The Company shall not be liable to make any payment for Loss in connection with any Claim:

- A. based upon or attributable to any Insured gaining in fact any profit or advantage to which the Insured was not legally entitled;
- B. arising out of any criminal act;
- C. arising out of any dishonest or fraudulent act or omission, provided, however, this exclusion shall not apply to any Claim seeking both compensatory and punitive damages based upon or arising out of allegations of both fraud and bad faith in rendering or failing to render Professional Services;
- D. based upon, arising out of, directly or indirectly resulting from or in consequence of the bankruptcy, insolvency, receivership or liquidation of any Insured, or seizure by any insurance department or other regulatory body.
- E. by any pool or association (including any officer, employee or director thereof) in which any Insureds are participants or by any participant (including any officer, employee or director thereof) in any such pool or association involving the business or operations of such pool or association;

- F. for liability assumed under any contract or agreement, except for liability which would have attached to the Insured even in the absence of such contract or agreement;
- G. based upon, arising out of, directly or indirectly resulting from or in consequence of or in any way involving, the adequacy or redundancy of claim reserves;
- H. arising out of express warranties or guarantees made in connection with Professional Services;
- I. for any obligation assumed by the Insured as an insurer or reinsurer under any policy or contract or treaty of insurance, reinsurance, suretyship, annuity, or endowment;
- J. made against any Insured which is brought by or on behalf of or in the right of any other Insured under this Policy.
- K. for which the Insured is entitled to indemnity and/or payment by reason of having given notice under any prior policy or policies of any Claim or any fact, circumstance or situation which might give rise to a Claim being made against them, regardless of whether the insurer on any such policy or policies actually indemnifies or makes payment.
- L. which is wholly or partly insured by any other valid policy or policies, whether or not collectible, except in respect of any excess beyond any deductible amount or amounts, and the amount or amounts of limits of liability under such other policy or policies;
- M. based upon, arising out of, directly or indirectly resulting from or in consequence of or in any way involving the Employee Retirement Income Security Act of 1974 (or amendments thereto or any regulations promulgated thereunder), or similar provisions of any Federal, State or Local statutory law or common law; or any breach of responsibility, obligations or duties in connection with any pension plan, profit sharing plan, health and welfare plan or any other benefit plan;
- N. arising out of the failure to purchase or maintain adequate reinsurance and/or retrocession arrangements;
- O. for any actual or alleged libel, slander, defamation, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, assault, battery, bodily injury, sickness, disease or death of any person, mental anguish, emotional distress, loss of consortium, discrimination in underwriting, or damage to or destruction of any tangible property including loss of use thereof;
- P. for premiums, return premiums, commissions or tax monies;
- Q. based upon underwriting results;
- R. based upon, or arising out of, the termination or administration of any agency contract or agreement;
- S. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving, actual or alleged seepage, pollution or contamination of any kind, including but not limited to any position taken by the Insured with respect to any insurance provided for any actual or alleged seepage, pollution or contamination.

Any fact pertaining to any person or entity insured under this Policy shall not be imputed to any other person or entity insured under this Policy for the purpose of determining the applicability of Exclusions A. and B. and C. hereinabove.

IV. SETTLEMENTS AND DEFENSE

- A. The Insured shall have the sole duty to defend Claims made against them, provided, however, that no Claims Expenses shall be incurred without the Company's consent, such consent not to be unreasonably withheld.
- B. The Company at any time shall have the option but not the duty to assume defense of any Claims made against the Insured. The Company may also elect at its own expense to participate with the Insured in the investigation, settlement, and defense of any Claim made against the Insured.
- C. The Company shall not be obligated to pay any Loss or Claims Expense or defend or continue to defend any Claim made against the Insured after the applicable Limit of Liability has been exhausted by payment of Loss or Claims Expenses.
- D. The Company shall reimburse Claims Expense only upon the final disposition of any Claim.
- E. Claims Expenses shall be part of and not in addition to the Limit of Liability as shown under Item 3. of the Declarations, and such Claims Expenses shall reduce the Limit of Liability as shown under Item 3. of the Declarations.
- F. The Company shall have at all times the right to recommend a settlement of any Claim whether or not it exercised the Option to Defend. If the Insured shall refuse to settle such Claim pursuant to the Company's recommendation, then the Company's liability in regard to such Claim shall not exceed the amount for which the Claim could have been settled, and any Claims Expenses up to the date of the Insured's refusal to settle the Claim. If the Company has exercised its Option to Defend, the Company's liability for Claims Expenses shall not exceed the amount incurred by the Company up to the date of the Insured's refusal to settle the Claim.
- G. Subject to paragraph H. below, the Insured shall not settle any Claim or incur any Claims Expense without the Company's consent, such consent not to be unreasonably withheld.
- H. The Insured may settle without the Company's consent any Claim for any amount within the applicable Retention amount set forth in the Declarations provided, however, that the settlement amount and the Claims Expense do not exceed the amount of the applicable Retention set forth in the Declarations.

V. LIMITS OF LIABILITY

- A. **Limit of Liability - Each Claim:**
The Company shall be liable to pay Loss and Claims Expenses in excess of the amount of the applicable Retention set forth in Item 4. of the Declarations, up to the applicable Limit of Liability set forth in Item 3A. of the Declarations resulting from each Claim made against the Insured.
- B. **Limit of Liability - Policy Aggregate:**
The total liability of the Company for all Loss and Claims Expense shall not exceed the applicable amount set forth in Item 3B. of the Declarations as "Policy Aggregate" as a result of all Claims first made against the Insured during the Policy Period.
- C. **Retention:**
The applicable Retention amount set forth in Item 4. of the Declarations shall be paid by the Insured before any obligation of the Company to make reimbursement under this policy attaches and shall be applicable to each Claim and shall include all Loss and Claims Expenses.
- D. **Claims and Claimants:**
The inclusion herein of more than one Insured or the making of Claims by more than one person or organization shall not operate to increase the Company's Limit of Liability. Furthermore, two or more Claims arising out of the same act, error, omission, misstatement, misleading statement, neglect or breach of duty or breach of responsibility, obligation or duty or a series of related acts, errors, omissions,

misstatements, misleading statements, neglects or breaches of duty, or breaches of responsibility, obligation or duty, shall be treated as a single Claim. All such Claims, whenever made, shall be considered first made within the Policy Period or the Extended Reporting Period, if purchased, in which the earliest Claim arising out of such act, error, omission, misstatement, misleading statement, neglect or breach of duty, breach of responsibility, obligation or duty was first made, and all such Claims shall be subject to the same Limit of Liability.

VI. NOTICES

A. Notice of Claim:

As a condition precedent to their right to the protection afforded by this insurance, the Named Insured shall give to the Company written notice of any Claim as soon as practicable but in no event later than sixty (60) days after the Policy Period. Notice shall be directed to THE HARTFORD, Claims Department, Hartford Financial Products, 2 Park Avenue, 5th floor, New York, New York 10016.

VII. AWARENESS PROVISION

If during the Policy Period, the Named Insured first becomes aware of a specific act, error, omission, misstatement, misleading statement, neglect or breach of duty, breach of responsibility, obligation or duty for which insurance is provided under this Policy, and if the Insured shall during the Policy Period, give written notice to the Company of:

1. the specific act, error, omission, misstatement, misleading statement, neglect or breach of duty, breach of responsibility, obligation or duty; and
2. the injury or damage which has or may result therefrom; and
3. the circumstances by which the Insured first became aware thereof; then any Claim subsequently made against the Insured arising out of such act, error, omission, misstatement, misleading statement, neglect or breach of duty, breach of responsibility, obligation or duty shall be deemed for the purposes of this insurance to have been made during the Policy Period.

VIII. EXTENDED REPORTING PERIOD

- A. If this Policy is cancelled pursuant to Clause IX.E.2. or if the Company refuses to renew this Policy, for reasons other than the Insured's non-payment of premium or non-compliance with the terms and conditions of this Policy, then the Insured shall have the right, upon payment of an additional premium calculated at that percentage shown in Item 6. of the Declarations of the total premium of this Policy to an extension of the coverage granted by this Policy with respect to any Claim first made against the Insured during the period of twelve (12) months after the effective date of such cancellation or, in the event of such refusal to renew, after the date upon which the Policy Period ends, but only with respect to any Wrongful Act committed before such date and otherwise covered by this Policy. This twelve (12) month period shall be referred to in this Policy as the "Extended Reporting Period".
- B. The quotation of a different premium, retention, limit of liability and/or terms and conditions for renewal does not constitute a cancellation or refusal to renew for the purposes of this provision.
- C. As a condition precedent to the right to purchase the Extended Reporting Period, the total premium of this Policy must have been paid. The right to purchase the Extended Reporting Period shall terminate unless written notice is given to the Company within ten (10) days after the effective date of cancellation, or, in the event of a refusal to renew within ten (10) days after the Policy Period ends, together with full payment of the premium for the Extended Reporting Period. If such notice and premium payment is not so given to the Company, the Insured shall not at a later date be able to exercise the right to purchase the Extended Reporting Period.
- D. In the event the Extended Reporting Period is purchased, the entire premium therefor shall be deemed earned at its commencement and in the event the Insured terminates the Extended Reporting Period before its term for any reasons other than that set forth in paragraph E. hereinbelow, the Insurer shall not be liable to return any portion of the premium paid for the Extended Reporting Period.

- E. In the event the Extended Reporting Period is purchased, it shall terminate forthwith on the effective date of any contract of insurance or indemnity which replaces the coverage afforded by this Policy through the Extended Reporting Period either in whole or in part, and in the event the Extended Reporting Period is so terminated by reason of the issuance of a replacement contract of insurance or indemnity, the Company shall refund pro rata any unearned premium for the unexpired period of such extension.
- F. The fact that this Policy may be extended by virtue of the exercise of the Extended Reporting Period shall not in any way increase the applicable Limit of Liability set forth in the Declarations.

IX. GENERAL CONDITIONS

- A. **Assistance and Cooperation of the Insured:**
The Insured shall cooperate with the Company in providing information requested by the Company with regard to any Claim, facts or circumstances reported under this Policy or any notice provided pursuant to Clause VII. The Insured shall immediately provide to the Company every demand, notice, summons or other process received by them or their representatives. The Insured shall, on request of the Company, permit counsel designated by the Company to participate in the investigation and/or defense of any Claim. The Insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
- B. **Subrogation:**
In the event of any payment under the Policy, the Company shall be subrogated to the extent of such payment to all the Insured's rights of recovery therefore against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after the Claim to prejudice such rights.
- C. **Action Against the Company:**
No action shall lie against the Company unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this Policy, nor until the amount of the Insured's obligation to pay shall have been fully and finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Company.
Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy.
Nothing contained in this Policy shall give any person or organization any right to join the Company as a co-defendant in any Claim against the Insured to determine the Insured's liability.
- D. **False or Fraudulent Claims:**
If any Insured commits fraud in proffering any Claim as regards amount or otherwise, this insurance shall become void as to such Insured from the date such fraudulent Claim is proffered.
- E. **Cancellation:**
 - 1. The Named Insured may cancel this Policy by surrender thereof to the Company, or by mailing to the Company written notice stating when thereafter such cancellation shall be effective. The mailing of such notice shall be sufficient notice and the effective date of cancellation shall be the date of mailing of such notice or the date stated in the notice, whichever is later. The effective date of cancellation shall become the end of the Policy Period. Delivery of such written notice shall be equivalent to mailing.
 - 2. The Company may cancel this policy by mailing to the Insured written notice stating when, not less than thirty (30) days thereafter, such cancellation shall be effective. The mailing of such notice

shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the Policy Period. Delivery of such written notice by the Company shall be equivalent to mailing. If the foregoing notice period is in conflict with any governing law or regulation, then such period shall be amended to afford the minimum notice period permitted thereunder.

3. If this Policy is cancelled pursuant to 1. hereinabove, the Company shall retain the customary short rate portion of the premium thereon. If this Policy is cancelled pursuant to 2. hereinabove, the Company shall retain the pro rata portion of the premium thereon. Payment or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of cancellation, but payment shall be made as soon as practicable.
- F. **Application:**
By acceptance of this Policy, the Insureds agree that the statements in the Application(s) are their representations, that they shall be deemed material and that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between themselves and the Company, or any of its agents, relating to this insurance.
 - G. **Changes:**
Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Company shall not effect a waiver or a change in this Policy or estop the Company from asserting any right under the terms of the Policy, nor shall the terms of this Policy be waived or changed, except by written endorsement or rider issued to form a part of this Policy.
 - H. **Assignment of Interest:**
Assignment of interest under this Policy shall not bind the Company unless its consent is endorsed hereon.
 - I. **Authorization:**
Except as respects the giving of notice to exercise the Extended Reporting Period, by acceptance of this Policy, the Named Insured agrees to act on behalf of all Insureds with respect to, the giving of all notice to the Company as provided herein, the receiving of notice of Claim, the cancellation of this Policy, the payment of premiums, and the receiving of any returned premiums that may become due under this Policy; and the Insureds agree that such entity shall act on their behalf.
 - J. **Bankruptcy or Insolvency:**
Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.
 - K. **Territory:**
The coverage afforded by this Policy applies to acts, errors or omissions occurring anywhere in the world provided that Claim is first made against the Insured within the United States of America, its territories or possessions or Canada and during the Policy Period or Extended Reporting Period purchased in accordance with Condition VIII. The Company may elect at any time to investigate, settle or defend Claims or suits brought anywhere other than in the United States of America, its territories or possessions or Canada.