Medical Practitioners Professional Liability
And Legal Defense Reimbursement Policy

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THIS IS A CLAIMS MADE POLICY. 
PLEASE READ THE ENTIRE POLICY CAREFULLY.

EXECUTIVE RISK INDEMNITY INC.

MEDICAL PRACTITIONERS PROFESSIONAL LIABILITY 
AND LEGAL DEFENSE REIMBURSEMENT POLICY

Executive Risk Indemnity Inc. (the "Underwriter") and the Insureds, in reliance on the information provided in the Application, which is incorporated herein, and subject to all of the terms, conditions and limitations of this Policy and any endorsements hereto, agree as follows:

I. INSURING AGREEMENTS

(A) Medical Practitioners Professional Liability

The Underwriter will pay up to the Limit of Liability on behalf of the Insured any Loss which the Insured is legally obligated to pay as a result of any covered Claim first made against the Insured during the Policy Period for a Wrongful Act committed or allegedly committed on or after the retroactive date listed in ITEM 6 of the Declarations.

In addition to the Limit of Liability, the Underwriter will pay Defense Expenses. The Underwriter has the right and duty to defend any Claim covered by this Policy and will:

(1) do so even if any of the allegations of the Claim are groundless, false, or fraudulent;

(2) investigate any Claim as the Underwriter considers appropriate; and

(3) provide a legal defense and pay Defense Expenses for any arbitration, mediation, or other alternative dispute resolution proceeding if:

(a) the dispute at issue is a Claim covered by this Policy; and

(b) the Underwriter has an opportunity to participate in the proceeding;
(4) the premium on any bond to release an attachment for an amount not in excess of the Limit of Liability for INSURING AGREEMENT (A) of this Policy and the premium on appeal bond required in any defended suit, provided, that the Underwriter will not be obligated to apply for or furnish any such bond;

(5) all costs taxed against the Insured in any such suit; and

(6) reasonable expenses, plus loss of earnings due to time off work, incurred by an Insured as a result of being a defendant or co-defendant in a Claim or at the Underwriter’s request, not to exceed:

(a) $500 per day per Insured; and

(b) $12,500 per Claim.

The Underwriter’s payment of the applicable Limit of Liability in respect of any Claim ends its duty to provide any further defense or settlement of such Claim on behalf of such Insured.

(B) Legal Defense Reimbursement

The Underwriter also will provide reimbursement to an Insured Person for reasonable Defense Expenses incurred by the Insured Person in a Covered Proceeding covered under this Policy. The Underwriter’s obligation under this INSURING AGREEMENT (B) is limited to reimbursement of Defense Expenses up to the Limit of Liability for this INSURING AGREEMENT (B) as listed in ITEM 3 of the Declarations. The Underwriter will not undertake the defense of the Insured in any Covered Proceeding.

II. DEFINITIONS

Whenever used in this Policy:

(A) "Claim" means any written demand received by an Insured for monetary damages resulting from a Wrongful Act.

(B) "Covered Proceeding" means:

(1) a State Administrative Proceeding;

(2) criminal charges against an Insured Person arising out of the rendering of or failure to render Medical Services; or
(3) a suit against an Insured seeking injunctive or other non-monetary relief with respect to the provision of Professional Services.

(C) “Defense Expenses” means reasonable legal fees, including attorney, expert and consulting fees, costs, and expenses incurred in the investigation, adjustment, defense or appeal of a Claim or Covered Proceeding with the approval of or at the direction of the Underwriter; however, Defense Expenses shall not include:

(1) remuneration, salaries, overhead, fees, loss-of-earnings reimbursement, or benefit expenses of any Insured;

(2) any pre- or post-judgment interest paid on behalf of the Insured; or

(3) any amounts incurred in defense of a Claim or Covered Proceeding for which any other insurer has a duty to defend, regardless whether such other insurer undertakes such duty.

(D) “Employment Practices” means any of the following: breach of any employment contract; failure or refusal to hire or employ; dismissal, discharge, reduction in force, downsizing or termination of employment, whether actual or constructive; demotion, reassignment, failure or refusal to promote or deprivation of career opportunity; discipline of employees; evaluation of employees; discrimination or harassment of any kind or on any basis including, but not limited to, discrimination based on race, sex, marital status, ancestry, physical or mental handicaps, age, sexual preference, pregnancy, or religion affecting any present or former employee or applicant for employment; humiliation or defamation of any present or former employee or applicant for employment; retaliatory treatment against an employee arising out of the employee’s attempted or actual exercise of the employee’s rights under the law; employment-related misrepresentations; or failure to implement appropriate workplace or employment policies or procedures.

(E) "Extended Reporting Period" means the time after the Policy Period for reporting Claims for a Wrongful Act that happened after the retroactive date and before the original expiration or termination date of the Policy.

(F) "Insured" means the Named Insured, any Insured Entity, and any Insured Person.

(G) "Insured Entity" means the Named Insured and any other organization or entity designated on SCHEDULE A attached hereto.
(H) "Insured Medical Practitioner" means any clinical professional, including, without limitation, any physician, surgeon, intern, extern, resident, certified registered nurse anesthetist, osteopathic physician or surgeon, podiatrist or dentist, provided such clinical professional is:

(1) independently professionally licensed by the State in which the Named Insured is domiciled; or

(2) designated on SCHEDULE B attached hereto.

(I) "Insured Person" means:

(1) any Insured Medical Practitioner;

(2) any past, present or future non-physician employee, director, officer, trustee, governor, medical director, member of any formal duly constituted professional review board or committee or volunteer of an Insured Entity, but only while acting within the scope of that person's duties or capacity as such; and, in the event of the death, incapacity, or bankruptcy of any such person, the estate, heirs, legal representatives, or assigns of such person;

(3) any physician or surgeon who becomes a partner, an officer, a stockholder or an employee of an Insured Entity during the Policy Period; provided, that within thirty (30) days after becoming a partner, an officer, a stockholder, or an employee:

(a) the Named Insured notifies the Underwriter of such appointment, election, ownership or employment; and

(b) such physician or surgeon submits a completed application to the Underwriter, unless this requirement is waived by the Underwriter; and

(4) any approved locum tenens employed by an Insured while acting within the scope of his/her duties as such. Approved locum tenens means a physician or surgeon:

(a) who is temporarily serving as a relief or substitute physician or surgeon for any Insured Medical Provider;

(b) for whom the Named Insured has submitted a completed application to the Underwriter, and with respect to whom coverage has been extended by endorsement to this Policy.
"Loss" means any monetary amount in excess of the applicable Retention, if any, stated in ITEM 4 of the Declarations and not exceeding the applicable Limit of Liability stated in ITEM 3 of the Declarations which an Insured is legally obligated to pay as a result of a Claim, including, but not limited to, accrued pre- and post-judgment interest; however, Loss shall not include:

1. punitive or exemplary damages;
2. the multiple portion of any multiplied damage award;
3. fines, penalties, sanctions, fees, government payments, or taxes;
4. restitution, return or disgorgement of fees, profits, charges for products or services rendered, capitation payments, premium or any other funds allegedly wrongfully held or obtained;
5. relief or redress in any form other than monetary compensation or monetary damages including, without limitation, the cost of complying with any injunctive, declaratory or administrative relief;
6. matters or amounts which are uninsurable under applicable law; or

"Managed Care Organization Business Activities" means services or activities performed in the administration or management of health care plans; Utilization Review; advertising, marketing or selling health care plans or health care products; handling, investigating or adjusting claims for benefits or coverages under health care plans; establishing health care provider networks; or acting as a member of any committee, panel or board that provides underwriting or claims advice or recommendations.

"Medical Services" means health care, medical care or treatment provided to any individual including, without limitation, any of the following: medical, surgical, dental, psychiatric, mental health, chiropractic, osteopathic, nursing or other professional health care, including all the foregoing in a sudden and unforeseen emergency situation for which no remuneration is demanded, expected or received; the furnishing or dispensing of medications, drugs, blood, blood products, or medical, surgical, dental, or psychiatric supplies, equipment or appliances in connection with such care; the furnishing of food or beverages in connection with such care; the providing of counseling or other social services in connection with such care; and the handling of, or the performance of post-mortem examinations on human bodies; however, Medical Services does not include Managed Care Organization Business Activities.
**M** "Named Insured" means the entity designated in ITEM 1 of the Declarations.

**N** "Peer Review" means the process of evaluating, by members of a formal, duly constituted professional review board or committee of an Insured Entity, any individual or entity for purposes of selecting, employing, contracting with, or credentialing current or prospective providers of Medical Services.

**O** "Policy Period" means the period from the Inception Date of this Policy stated in ITEM 2(a) of the Declarations to the Expiration Date of this Policy stated in ITEM 2(b) of the Declarations or to any earlier cancelation date of this Policy.

**P** "Professional Services" means:

1. Medical Services;
2. services as a member of a formal accreditation, standards review or similar professional board or committee, including executing the directives of such board or committee;
3. Peer Review; or
4. reviewing the quality of Medical Services or providing quality assurance on behalf of an Insured Entity.

**Q** "Related Claims" means all Claims for Wrongful Acts based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions, or events or the same or related series of facts, circumstances, situations, transactions, or events, whether related logically, causally, or in any other way, in any combination, whether or not involving more than one policy, practice, procedure or product, including any course of treatment, whether or not deemed a continuous tort.

**R** "Sexual Misconduct" means any welcome or unwelcome conduct, physical acts, gestures, or spoken or written words of a sexual nature, including, without limitation, sexual intimacy (even if consensual), sexual molestation, sexual assault, sexual battery, sexual abuse, sexual harassment, sexual exploitation, and any sexual act.

**S** "State Administrative Proceeding" means an inquiry, an investigation or a request for information by any professional licensing or regulatory entity or a disciplinary proceeding instituted by any U.S. governmental regulatory authority arising out of the rendering, of or failure to render Professional Services by any Insured Medical Practitioner, but does not include any proceeding instituted with respect to:

1. payments for services rendered to patients or the refund thereof;
(2) approval of admissions to health care facilities;
(3) any of the Insured's Employment Practices;
(4) any of the Insured's Managed Care Organization Business Activities;
(5) any criminal proceedings;
(6) any investigation of fraud;
(7) any Department of Justice investigation; or
(8) any suits against an Insured seeking injunctive relief.

(T) "Utilization Review" means the process of evaluating the appropriateness, necessity, or cost of Medical Services for purposes of determining whether such Medical Services or costs will be authorized or paid for under any health care plan. Utilization Review shall include prospective review of proposed Medical Services or costs, concurrent review of ongoing Medical Services or costs, and retrospective review of already rendered Medical Services or already incurred costs.

(U) "Wrongful Act" means any actual or alleged act, error or omission by any Insured in the rendering of, or failure to render, Professional Services.

III. EXCLUSIONS

This Policy does not apply to, and the Underwriter will not pay any Loss or Defense Expenses for, any Claim or Covered Proceeding based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged:

(A) damage to or destruction of any tangible property, including loss of use thereof, whether or not resulting from damage or destruction;

(B) ownership, operation, use, maintenance, loading, unloading, leasing, renting, or entrusting to others of any motor vehicle, trailer, mobile equipment, watercraft, aircraft, semi-trailer or helipad;

(C) libel, slander or defamation of any individual or entity; disparagement of any individual's or entity's goods, products or services; invasion of any individual's right to privacy; piracy, idea misappropriation, or unauthorized taking of advertising ideas or style of business; or infringement of patent, copyright, title, trademark, service mark, or slogan; however, this EXCLUSION (C) shall not apply to Peer Review activities otherwise covered by this Policy;
(D) dishonest, fraudulent, criminal, intentional, or malicious act, error, or omission by an Insured; willful violation of any law, statute, ordinance, rule, or regulation by any Insured; or the gaining of any profit, remuneration, or advantage by any Insured to which the Insured was not legally entitled; provided, however, that for purposes of determining the applicability of this EXCLUSION (D), no act of any Insured Person shall be imputed to any other Insured Person; and provided further that this EXCLUSION (D) will not apply to the limited reimbursement for Defense Expenses incurred in defending criminal charges against an Insured Person arising out of the rendering of or failure to render Medical Services as provided in INSURING AGREEMENT (B) of this Policy;

(E) discrimination of any kind on any basis, including, but not limited to, discrimination based on race, sex, marital status, ancestry, physical or mental handicaps, age, sexual preference, pregnancy, religion, or pricing;

(F) Sexual Misconduct; except the Underwriter will defend and pay Defense Expenses for an Insured in a civil proceeding seeking amounts which would otherwise be covered if this EXCLUSION (F) did not apply;

(G) bodily injury to or death of any employee of any Insured arising out of and in the course of employment by the Insured, or any obligation for which the Insured and/or its insurer may be held liable under any workers’ compensation, unemployment compensation, disability benefits law or any similar law;

(H) Employment Practices; however this EXCLUSION (H) shall not apply to Peer Review activities otherwise covered by this Policy;

(I) violation of the Employee Retirement Income Security Act of 1974, as amended, similar provisions of any federal, state, or local law, or any amendments thereto, or any rules and regulations promulgated thereunder;

(J) violation of any federal, state, or local antitrust, restraint of trade, unfair competition or price-fixing law, or any rules or regulations promulgated thereunder, or involvement in any agreement or conspiracy to restrain trade;

(K) liability arising from any action or a proceeding brought by or on behalf of any federal, state, or local governmental, regulatory or administrative agency, whether such action or proceeding is brought in the name of such agency or by or on behalf of such agency in the name of any other individual entity, except as provided in INSURING AGREEMENT (B) of this Policy;

(L) liability arising from any action or a proceeding made by, on behalf of, or in the name or right of, or for the benefit of any present or former Insured against any other present or former Insured;
(M) obligation of any **Insured** under any contract or agreement; however this EXCLUSION (M) shall not apply to the extent that liability would have attached to the **Insured** and would have been insured by this Policy in the absence of such contract or agreement;

(N) **Wrongful Act** that happened before the retroactive date or after the retroactive date if, on the Inception Date of this Policy, the **Insured** knew, had been told, should have known or had notified a prior professional liability insurer or administrator of any other risk transfer instrument, of any **Wrongful Act** that could or would result in a **Claim** or **Covered Proceeding**;

(O) liability of any subsidiary or its **Insured Persons** acting in their capacity as such for any **Claim** or **Covered Proceeding**, fact, circumstance, situation, transaction, event or **Wrongful Act** or series of facts, circumstances, situations, transactions, events or **Wrongful Acts** happening before the date such entity became a subsidiary. For purposes of this EXCLUSION (O), "subsidiary" means any entity of which an **Insured Entity**:

1. owns or possesses fifty percent (50%) of the issued and outstanding capital stock; or
2. has or controls the right to elect or appoint more than fifty percent (50%) of the directors or trustees;

(P) service by any **Insured Person** as an employee, a director, an officer, a trustee, a governor, a medical director, a member of any duly constituted review board or committee or a volunteer of any entity other than an **Insured Entity**, even if directed or requested by an **Insured Entity** to serve in such capacity for such other entity;

(Q) liability of any **Insured** for **Managed Care Organization Business Activities**;

(R) liability resulting from the rendering of or failure to render **Medical Services** by any **Insured** while the **Insured's** license to practice is or was not active;

(S) **Wrongful Act** by any medical practitioner who is not an **Insured Person**;

(T) liability of the **Insured** as a proprietor, a superintendent, a medical director, an administrative or executive officer of any:

1. hospital, nursing home, or sanitarium;
2. clinic with bed and board facilities; or
3. laboratory or business; however, this EXCLUSION (T)(3) does not apply to any **Insured's** professional liability arising out of laboratory facilities:
(a) maintained for testing of the Insured's own patients; or

(b) necessary to the practice of any Insured's specialty; or

(U) use or release of confidential, private or proprietary information with knowledge that such action is unauthorized or illegal.

IV. LIMIT OF LIABILITY

(A) Each Claim:

(1) The amount stated in ITEM 3 of the Declarations shall be the Underwriter's maximum Limit of Liability under this Policy for all Loss resulting from each Claim or Related Claim for which this Policy provides coverage, regardless whether such Claim or Related Claim is made during the Policy Period or during the Extended Reporting Period and regardless of the time of payment by the Underwriter.

(2) The Limit of Liability shall apply:

(a) separately to each Insured Medical Practitioner; and

(b) on a shared basis for all Insured Persons other than Insured Medical Practitioners, and the Named Insured.

(3) Payment of the Limit of Liability with respect to a Claim or Related Claim terminates the Underwriter's duty to:

(a) provide any future defense or settlement of such Claim; or

(b) reimburse an Insured for any Defense Expenses under INSURING AGREEMENT (B) of this Policy that arise out of such Claim or Related Claim.

(B) Aggregate:

(1) The amount stated in ITEM 3 of the Declarations as the Aggregate Limit of Liability shall be the Underwriter's maximum aggregate Limit of Liability under this Policy for all Loss from all Claims and Related Claims for which this Policy provides coverage, subject to clauses (2) and (3) below.

(2) The Aggregate Limit of Liability applies:

(a) separately to each Insured Medical Practitioner; and
(b) on a shared basis all **Insured Persons** other than **Insured Medical Practitioner** and the **Named Insured**.

(3) After the Underwriter's applicable Aggregate Limit of Liability has been exhausted by payment of **Loss**, all of the Underwriter's obligations under this Policy with respect to the **Insured** whose Aggregate Limit of Liability is exhausted shall be completely fulfilled and the Underwriter will have no further obligation to pay any **Loss** or **Defense Expenses** or to undertake or continue the investigation or defense of any **Claim** or **Related Claim** on behalf of that **Insured**.

(C) **Defense Expenses**:

(1) **Defense Expenses** incurred in connection with a **Claim** under INSURING AGREEMENT (A) of this Policy are in addition to the Limit of Liability; **Defense Expenses** reimbursed pursuant to INSURING AGREEMENT (B) of this Policy are limited to the Limit of Liability for INSURING AGREEMENT (B) listed in ITEM 3 of the Declarations.

(2) In the event an **Insured** is involved in more than one **Claim**, suit or **Covered Proceeding** arising out of or related to the same **Wrongful Act** such that both INSURING AGREEMENT (A) and INSURING AGREEMENT (B) apply, the **Insured** and the Underwriter agree to use their best efforts to determine a fair and proper allocation of **Defense Expenses**, taking into account the relative legal and financial exposures and the relative benefits obtained by the **Insured** as a result of the defense. In the event that a determination of the amount of **Defense Expenses** properly allotted to INSURING AGREEMENT (A) or to INSURING AGREEMENT (B) cannot be agreed upon, the Underwriter will advance such **Defense Expenses** under INSURING AGREEMENT (A), INSURING AGREEMENT (B) or both, as the Underwriter determines to be fair and proper until a different amount shall be agreed upon or determined pursuant to the provisions of this Policy and applicable law.

V. **CONDITIONS**

(A) **Reporting of Claims, Circumstances and Requests for Legal Defense Reimbursement**:

(1) If during the **Policy Period** or any applicable **Extended Reporting Period** any **Claim** is first made against any **Insured**, as a condition precedent to its right to any coverage under this Policy, each such **Insured** shall give the Underwriter written notice of such **Claim** as soon as practicable thereafter, but in no event later than:
(a) sixty (60) days after the Expiration Date or earlier cancelation date of this Policy; or

(b) the expiration of any **Extended Reporting Period**.

Timely and sufficient notice by one **Insured** of a **Claim** or Related Claims shall be deemed timely and sufficient notice for all **Insureds** involved in the **Claim** or Related Claims. Such notice shall give full particulars of the **Claim**, including, but not limited to, a description of the **Claim, Wrongful Act** or Occurrence; the identity of the patient, all potential claimants and the health care provider(s) and/or any **Insureds** involved; a description of the injury or damages that may result from such **Wrongful Act** or Occurrence; information on the time, place and nature of the **Wrongful Act** or Occurrence, the manner in which the **Insured** first became aware of such **Wrongful Act** or Occurrence, and the reasons the **Insured** believes the **Wrongful Act** or Occurrence is likely to result in a **Claim**.

(2) If during the **Policy Period** the **Insured** first becomes aware of any **Wrongful Act** that may subsequently give rise to a **Claim** and:

(a) gives the Underwriter written notice of such **Wrongful Act** with full particulars as soon as practicable thereafter, but in any event before the Expiration Date or earlier cancelation date of this Policy; and

(b) requests coverage under this Policy for any **Claim** subsequently arising from such **Wrongful Act** as soon as practicable after such **Claim** is made;

then any **Claim** not otherwise excluded by this Policy subsequently made against the **Insured** arising out of such **Wrongful Act** or Occurrence shall be treated as if it had been first made during the **Policy Period**. Full particulars of the **Claim** shall include, but not be limited to, a description of the **Claim, Wrongful Act** or Occurrence, the identity of the patient, all potential claimants and the health care provider(s) and **Insureds** involved, a description of the injury or damages that may result from such **Wrongful Act** or Occurrence, the manner in which the **Insured** first became aware of such **Wrongful Act** or Occurrence, and the reasons why the **Insured** believes the **Wrongful Act** or Occurrence is likely to result in a **Claim** being made.

(3) If during the **Policy Period** any **Insured Person** first receives notice of a **Covered Proceeding**, as a condition precedent to its right to any coverage under INSURING AGREEMENT (B) of this Policy, the **Insured** shall give the Underwriter written notice of such proceeding within thirty (30) days after the **Insured** received notice of it. The Underwriter will have no obligation to reimburse any **Defense Expenses** incurred by an **Insured Person** prior to such notification.
(B) The Named Insured:

(1) The **Named Insured** is authorized to:

   (a) make changes to the terms of this Policy with the Underwriter's consent;

   (b) act on behalf of all **Insureds** with respect to any notices from the Underwriter; and

   (c) accept any premium refunded by the Underwriter.

(2) The **Named Insured** is responsible for:

   (a) the payment of all premium due;

   (b) keeping and providing accurate records and information the Underwriter requests for premium computation; and

   (c) notifying the Underwriter that the **Insured** wishes to cancel this Policy.

(C) Related Claims Deemed Single Claim; Date Claim Made:

All **Related Claims**, whenever made, shall be deemed to be a single **Claim** and shall be deemed to have been first made at the earliest of the following times:

(1) the time the earliest notice of a **Related Claim** was received by the **Insured**; or

(2) the time at which written notice was given to the Underwriter of the **Wrongful Act** that subsequently gave rise to any of the **Related Claims**, regardless of the number and identify of claimants, the number and identity of **Insureds** involved or against whom **Related Claims** have been or could be made, the number and timing of the **Related Claims**, whether the **Related Claims** are asserted in a class action or otherwise and even if the **Related Claims** comprising such single **Claim** were made in more than one **Policy Period**.

(D) Defense and Settlement:

(1) **INSURING AGREEMENT (A) - Medical Practitioners Professional Liability**
No Insured shall, except at its own cost, incur any expense, make any payment, admit liability for, assume any obligation for or settle any Claim without the Underwriter’s written consent. The Underwriter will have the right to investigate, direct the defense and conduct settlement negotiations with respect to any Claim as it deems appropriate. The Underwriter may make any settlement of any Claim which it deems appropriate, subject to the involved Insured’s consent. If, however, the Insured refuses to consent to a settlement recommended by the Underwriter, the Insured thereafter must defend such Claim at its own expense independently of the Underwriter and the Underwriter’s liability for all Loss in respect of such Claim shall not exceed the amount for which the Claim could have been settled by the Underwriter plus Defense Expenses incurred up to the date the Insured refused to consent to settlement.

(2) INSURING AGREEMENT (B) - Legal Defense Reimbursement

The Underwriter will have no right or duty to defend an Insured Person in a Covered Proceeding. The Insured Person shall have the sole duty to defend such proceedings and the sole right to select legal counsel. Insured Persons hereby agree to:

(a) consult with the Underwriter prior to selecting such counsel;

(b) employ counsel only under reasonable fee arrangements;

(c) authorize such counsel to furnish status reports to the Underwriter, at the Underwriter’s request, with respect to the defense of such proceedings; and

(d) furnish the Underwriter with reasonable documentation of all Defense Expenses.

The Underwriter will reimburse Defense Expenses upon satisfactory proof of payment by an Insured Person.

(E) Assistance and Cooperation:

In the event of a Claim, the Insured shall provide the Underwriter with all information, assistance and cooperation that the Underwriter reasonably requests. At the Underwriter’s request, the Insured shall assist in investigating, defending and settling Claims; enforcing any right of contribution or indemnity against another who may be liable to any Insured; and conduct, actions, suits, appeals or other proceedings including, but not limited to, attending trials, hearings and depositions, securing and giving evidence, and obtaining the attendance of witnesses.
(F) **Subrogation:**

In the event of any payment thereunder, the Underwriter shall be subjugated to the extent of any payment to all of the rights of recovery of the **insured**. The **insured** shall execute all papers and do everything necessary to secure such rights, including the execution of any documents necessary to enable the Underwriter effectively to bring suit in its name. The **insured** shall do nothing that may prejudice the Underwriter's position or potential or actual rights of recovery. The obligations of the **insured** under this CONDITION (F) shall survive the Policy.

(G) **Other Insurance and Risk Transfer Arrangements:**

Any **Loss** or **Defense Expenses** resulting from any **Claim** or **Covered Proceeding** insured under any other insurance policy or risk transfer instrument including, but not limited to, self-insured retentions, deductibles, fronting arrangements or other alternative arrangements which apply to the **Loss** or **Defense Expenses** shall be paid first by those instruments, policies or other arrangements. It is the intent of this Policy to apply only to **Loss** or **Defense Expenses** that are more than the total limit of all retentions, deductibles, limits of liability, self-insured amounts or other insurance or risk transfer arrangements, whether primary, contributory, excess, contingent, fronting or otherwise and whether or not collectible. These provisions do not apply to other insurance policies or risk transfer arrangements written as specific umbrella or excess insurance over the applicable Limits of Liability of this Policy. This Policy shall not be subject to the terms of any other policy of insurance or plan or program of self-insurance and in no event will the Underwriter have any obligation to pay more than the applicable Limit of Liability set forth in Section IV of this Policy and ITEM 3 of the Declarations.

(H) **Insurance under More than One Policy:**

If this Policy and any other policy issued by the Underwriter, its predecessor or any of the Underwriters' affiliated companies or their predecessors apply to the same **Claim**, the limits of liability which will apply to such **Claim** will be a single Limit of Liability, being the single highest Limit of Liability available under all such policies.

(I) **Territory:**

This policy applies to **Wrongful Acts** taking place anywhere in the world. **Claim**, suit and **Covered Proceeding** must be made against an **insured**, however, in the United States of America, including its territories or possessions, Puerto Rico, or Canada.
(J) **Mergers, Acquisitions or Newly Created Entities:**

If during the **Policy Period** the **Named Insured** or any **Insured Entity** acquires or creates another entity or subsidiary or becomes a member of a joint venture or partner in a partnership that is not designated on SCHEDULE A, or if the **Named Insured** or any **Insured Entity** merges or consolidates with another entity that is not designated on SCHEDULE A such that the **Insured Entity** is the surviving entity (any of which events is referred to as a “Transaction” in this Condition (J)), the Underwriter will have the option, in its sole discretion of providing coverage in respect of such entity or subsidiary, and no coverage shall be afforded under this Policy for any **Claim** in any way involving the entity or subsidiary that is acquired, created, merged or consolidated with, unless:

1. the **Named Insured** gives the Underwriter notice of such Transaction as soon as possible but in no event later than sixty (60) days after the effective date of the Transaction;

2. the **Named Insured** gives the Underwriter such information regarding the Transaction as the Underwriter requests; and

3. the **Named Insured** accepts any terms, conditions, exclusions, limitations and additional premium as the Underwriter, in its sole discretion, imposes. If the Underwriter, in its sole discretion, elects to provide coverage in respect of such entity or subsidiary, this Policy shall not apply to, and the Underwriter will not pay any **Loss** or **Defense Expenses** for, any **Claim** or **Covered Proceeding** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving, any **Wrongful Act** happening before:

   a. the effective date of the Transaction; or

   b. the effective date of coverage under this Policy for such entity or subsidiary as set forth in an endorsement to be issued to extend coverage to such entity or subsidiary, whichever is later.

(K) **Sales or Dissolution of Insured Entities; Cessation of Business:**

If during the **Policy Period** the **Named Insured** or any **Insured Entity** is dissolved, sold, acquired by, merged into, or consolidated with another entity such that the **Insured Entity** is not the surviving entity, or if any person, entity, or affiliated group of persons or entities obtains:

1. ownership or possession of fifty percent (50%) of the issued and outstanding capital stock of the **Named Insured** or any **Insured Entity**;
(2) the right to elect or appoint more than fifty percent (50%) of the Named Insured's or any Insured Entity's directors or trustees; or

(3) if the Named Insured or any Insured Entity ceases to do business for any reason;

any of which events is referred to as a "Transaction" in this CONDITION (K), coverage under this Policy shall continue in full force and effect until the Expiration Date or any earlier cancelation date, but this Policy shall apply only to Wrongful Acts happening before the effective date of such Transaction. This Policy shall not apply to, and the Underwriter shall not pay any Loss or Defense Expenses for any Claim based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any Wrongful Act happening on or after the effective date of such Transaction.

(L) Cancelation; Non-Renewal:

(1) The Underwriter may cancel this Policy by mailing written notice to the Named Insured at the last known address shown on the Declarations stating when, not less than sixty (60) days thereafter or such longer period of time as required by applicable law, such cancelation shall be effective; except that, in the event of cancelation for non-payment of premium, the Underwriter may make the cancelation effective upon notice of only ten (10) days or such longer period of time as required by applicable law.

(2) The Named Insured may cancel this Policy only by mailing the Underwriter written notice stating when such cancelation shall be effective.

(3) The Underwriter will not be required to renew this Policy upon its expiration.

(M) Conformance:

Any terms of this Policy that are in conflict with the laws or regulations of the state in which this Policy is issued shall be deemed amended as necessary to conform with such laws or regulations. All other terms shall remain in full force and effect and unchanged.

(N) Extended Reporting Period:

(1) Termination

If this Policy is terminated by any party for any reason other than misrepresentation, fraud or nonpayment of premium, the Insured shall have the right to an Extended Reporting Period as follows:
(a) beginning on the termination date, if the **Named Insured** has not obtained insurance to replace the insurance provided by this Policy, the period of time allowed by the Policy for the reporting of **Claims** shall be extended for a period of sixty (60) days, at no additional premium;

(b) if the **Named Insured**, by Certified Mail, writes to the Underwriter within sixty (60) days of the termination date written notice requesting a further extension and paying the premium to the Underwriter promptly when due, together with any earned but unpaid premium which may be due under the terminated policy, the period of time allowed by the policy for the reporting of **Claims** to the Underwriter will be further extended in accordance with the rules, rates and rating plans in effect for the Underwriter;

(c) any extension for the reporting of **Claims** for **Wrongful Acts** shall be subject to, all the terms, conditions, limitations, and exclusions of the Policy, and shall not apply to any **Wrongful Act** committed or allegedly committed on or after the expiration date of the Policy;

(d) the Limit of Liability for the **Extended Reporting Period** will be the Limit of Liability stated in Section IV and ITEM 3 of the Declarations, notwithstanding any prior payments of **Loss** by the Underwriter. This limit will cover, collectively, the initial sixty (60) day free period and any further **Extended Reporting Period**, if purchased. The **Extended Reporting Period** does not extend the **Policy Period** or change the scope of coverage provided by this Policy.

(2) **Death, Disability or Retirement:**

The Underwriter will grant this **Extended Reporting Period** for certain **Insureds** at no additional premium if, during the **Policy Period**:

(a) an **Insured** retires and is fifty-five (55) years of age or older and has been continuously insured by the Underwriter under a Physicians Professional Liability Policy for at least five (5) years of claims made coverage ("retire" means to permanently cease providing **Professional Services**); or

(b) an **Insured Medical Practitioner** dies or becomes totally and permanently disabled. "Totally and permanently disabled" means that an **Insured Medical Practitioner** has become so disabled, as a result of injury or disease, as to be wholly prevented from rendering **Medical Services**. Such a condition must have existed continuously for not less than six months and must be expected to be continuous and permanent. For instances of death or disability, the **Insured's**
estate must, within sixty (60) days after the end of this Policy, write by Certified Mail to the Underwriter to request the **Extended Reporting Period** and must provide:

(i) written proof of the Insured's death; or

(ii) written proof of the Insured's total and permanent disability, including the date it happened, certified by the Insured's attending physician. The Insured agrees to submit to medical examination(s) by any physician(s) the Underwriter designates if requested.

(O) **Representation; Incorporation of Application; Entire Agreement:**

The Insureds represent that the particulars and statements contained in the Application attached to this Policy are true, accurate and complete and agree that:

(1) this Policy is issued and continued in force by the Underwriter in reliance upon the truth of such representations;

(2) those particulars and statements are the basis of this Policy; and

(3) the Application and those particulars and statements are incorporated in and form a part of this Policy.

No knowledge or information possessed by any Insured shall be imputed to any other Insured, except for material facts or information known to the person or persons who signed the Application. In the event of any material untruth, misrepresentation or omission in connection with any of the particulars or statements in the Application, this Policy shall be void with respect to any Insured who knew of such untruth, misrepresentation or omission, or to whom such knowledge is imputed. The Insured agrees that this Policy, including the Application, Declarations, and any endorsements, constitutes the entire agreement between them and the Underwriter or any of the Underwriter’s agents relating to this insurance.

(P) **Action against Underwriter:**

(1) No action shall be taken against the Underwriter by any Insured unless, as conditions precedent thereto, the Insured has fully complied with all of the terms of this Policy and the amount of the Insured's obligation to pay has been finally determined either by judgment against the Insured after adjudicatory proceedings, or by written agreement of the Insured, the claimant and the Underwriter.
(2) No individual or entity shall have any right under this Policy to join the Underwriter as a party to any Claim or Covered Proceeding to determine the liability of any Insured, nor shall the Underwriter be impleaded by an Insured or his, her, or its legal representative in any such Claim or Covered Proceeding.

(Q) Insolvency of Insured:

The Underwriter will not be relieved of any of its obligations under this Policy by the bankruptcy or insolvency of any Insured or his/her/its estate.

(R) Notice:

(1) Notice to any Insured shall be sent to the Named Insured at the address designated in ITEM 1 of the Declarations.

(2) Notice to the Underwriter shall be sent to the address designated in ITEM 7 of the Declarations.

(S) Inspections and Surveys:

(1) The Underwriter or its duly authorized agent has the right but is not obliged to:

   (a) make inspections and surveys at any time;

   (b) provide the Insured with reports on the conditions found;

   (c) recommend changes; or

   (d) conduct loss control and prevention activity.

(2) Any inspections, surveys, reports, or recommendations relate only to insurability and the premium to be charged. The Underwriter does not:

   (a) make safety inspections;

   (b) undertake to perform the duty of any entity to provide for the health or safety of workers or the public; nor

   (c) warrant that conditions:

      (i) are safe or healthful; or

      (ii) comply with laws, regulations or codes.
(T) **Examination of Books and Records:**

The Underwriter may examine and audit the books and records of the **Insured** as they relate to this Policy at any time during the **Policy Period** and up to three (3) years after expiration of this Policy.

(U) **Assignment:**

No assignment of interest under this Policy shall bind the Underwriter without its written consent issued as an endorsement to form a part of this Policy.

(V) **Headings:**

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

In witness whereof, the Underwriter has caused this Policy to be executed on the Declarations Page.

[Signatures]

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Secretary

President

SPECIMEN