

PUBLIC OFFICIALS ERRORS AND OMISSIONS COVERAGE PART**THIS FORM PROVIDES CLAIMS-MADE COVERAGE.****PLEASE READ THE ENTIRE POLICY CAREFULLY.**

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

Throughout this Policy, the words “you” and “your” refer to the “First Named Insured” shown in the Common Policy Declarations and any other person or organization qualifying as a Named Insured under this policy. The words “we”, “us” and “our” refer to the company providing this insurance. The word “insured” means any person or organization qualifying as such under **SECTION II – WHO IS AN INSURED**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION VI – DEFINITIONS**.

SECTION I – COVERAGES**1. Insuring Agreement**

- a. We will pay those sums the insured becomes legally obligated to pay as “damages” resulting from your “public officials wrongful act” to which this insurance applies. We will have the right and duty to defend the insured against any “suit” seeking those “damages”. We will have no duty to defend the insured against any “suit” seeking “damages” to which this insurance does not apply. We may, at our discretion, investigate and settle any “public officials wrongful act”, “claim” or “suit”. However:

(1) The amount we will pay for “damages” is limited as described in **SECTION III – LIMITS OF INSURANCE**; and

(2) Our right and duty to investigate, defend, pay or settle end when we have used up the applicable Limits of Insurance in the payment of judgments or settlements.

We will have no obligation or liability to pay sums or perform acts or services unless explicitly provided for under this insurance.

- b. This insurance applies to “damages” resulting from “public officials wrongful acts” that:

(1) Take place in the “coverage territory”;

(2) Arise out of or are caused while in the performance of duties by you or your insured board members;

(3) Did not commence before the Retroactive Date, if any, shown in the Supplemental Declarations, or after the end of the “policy period”; and

(4) A “claim” or “suit” against any insured for “damages” is first made or brought during the “policy period” or the **SECTION V – EXTENDED REPORTING PERIODS**, if applicable, in accordance with paragraphs d. and e. below.

- c. A “claim” or “suit” will be deemed to have been made or brought against any insured at the earlier of the following times:

(1) When we or the “First Named Insured” first receives written notice of such “claim” or “suit”; or

(2) When we first receive written notice from an insured of a “public officials wrongful act” which may result in such “claim” or “suit”.

All “claims” or “suits” resulting from a “public officials wrongful act” or a series of “related public officials wrongful acts” will be deemed to have been first made or brought against any insured at the time the first of those “claims” or “suits” is made or brought against any insured.

- d. If during the “policy period” or any applicable Extended Reporting Period you become aware of conduct that occurred before the end of the “policy period” that could reasonably give rise to a “claim” against any insured, you must provide notice to us in accordance with the provisions of **SECTION IV – CONDITIONS** and **SECTION V – EXTENDED REPORTING PERIODS**. If such notice is provided, then any “claim” subsequently made against any insured arising out of that conduct shall be deemed under this Policy to be a “claim” made during the “policy period” in which we were first notified of the conduct.

- e. All “related public officials wrongful acts” shall be considered a single “public officials wrongful act” and all “related public officials wrongful acts” will be deemed to have been committed at the time the first “related public officials wrongful act” was committed. All “claims” or “suits” arising out of the same “public officials wrongful act” or “related public officials wrongful acts” shall be considered a single “claim”. Such single “claim” will be deemed to have been made at the time:

(1) Any such “claim” or “suit” arising out of such “public officials wrongful act” or “related public officials wrongful acts” was first made, regardless of the number of “claims” subsequently made; and

- (2) Notice of such conduct, “public officials wrongful act” or “related public officials wrongful acts” was first provided pursuant to paragraph **G.** of **COMMON POLICY CONDITIONS**.

2. Exclusions

This insurance does not apply to any “claim” or “suit”:

a. “Bodily Injury”, “Property Damage”, “Personal and Advertising Injury”

For “bodily injury”, “property damage” or “personal and advertising injury”.

This exclusion does not apply to loss of use or value of tangible property that is not physically impaired as a result of a land use approval process or permitting process associated with land use or building.

b. Contractual Liability

Arising out of:

- (1) Liability for which any insured is obligated to pay “damages” by reason of the assumption of liability in an oral or written contract or agreement. This exclusion does not apply to liability for “damages” that an insured would have in the absence of such oral or written contract or agreement;
- (2) Procurement of goods or services;
- (3) Construction contracts;
- (4) Architectural or engineering contracts;
- (5) The process of bidding or awarding contracts; or
- (6) Collective bargaining agreements.

c. Criminal, Dishonest, Fraudulent Or Malicious Acts

Arising out of any actual or alleged criminal, fraudulent, malicious, or dishonest act, error or omission by any insured, or willful violation of any federal, state, or local statute, rule or regulation committed by or with the consent or knowledge of an insured.

However, we shall provide an insured with reasonable and necessary “defense expenses” arising out of such “suit” until it has been admitted or determined in a legal proceeding that such act, error or omission or knowing violation was committed by that insured or with the knowledge or consent of such insured.

d. Debt Financing

Arising out of, or in any way related to debt financing issued by or for you.

e. Declaratory And Injunctive Relief

For any part of any “claim” or “suit” for injunctive, declaratory or other equitable relief of any kind.

f. Eminent Domain or Condemnation

Arising out of direct condemnation of property, exercise of the power of eminent domain, inverse condemnation or any taking of property by you or on your behalf, by whatever name called, including but not limited to any impairment, deprivation or destruction of property, or loss of use or diminution in value of such property.

g. Employee Benefits

Arising out of any actual or alleged violation or failure to comply with the responsibilities, obligations, or duties imposed by any federal, state or local statutory or common law, including regulations promulgated under any such law that governs any employee benefit arrangement, program, plan policy or scheme of any type, including but not limited to, the Employee Retirement Income Security Act of 1974 and the Consolidated Omnibus Budget Reconciliation Act of 1985 as amended whether operated by you or on your behalf for the benefit of any current, former or prospective “employee”.

h. Employer’s Liability

For “bodily injury” to:

- (1) An “employee” of an insured arising out of and in the course of:
 - (a) Employment by an insured; or
 - (b) Performing duties related to the conduct of an insured’s business; or
- (2) The spouse, civil union partner, child, parent, brother or sister of that “employee” as a consequence of “bodily injury” described in (1) above.

This exclusion applies:

- (3) Whether an insured may be liable as an employer or in any other capacity; or
- (4) Whether an insured may have any obligation to share “damages” with or repay someone else who must pay “damages” because of the injury.

i. Employment Practices

- (1) Arising out of any insured’s actual or alleged:
 - (a) Refusal to employ any person;
 - (b) Termination of any person’s employment; or

- (c) Other employment practices including but not limited to wrongful demotion, failure to promote, negative evaluation, reassignment, discipline, termination of employment, denial of training, deprivation of career opportunity or breach of employment contract, negligent hiring or supervision which results in any employment practice, retaliatory action, coercion, harassment, "sexual harassment", libel, slander, invasion of privacy, defamation, humiliation, or verbal, physical, mental or emotional abuse arising from discrimination or malicious prosecution directed at that person; or
- (2) Asserted by the spouse, civil union partner, child, parent, or sibling, of any person as a consequence of "damages" to that person at whom any of the employment practices described in paragraph (1) above is directed.
- This exclusion applies:
- (3) Whether the employment practice described in paragraph (1) above occurs before employment, during employment, or after employment of that person;
- (4) Whether the insured may be held liable as an employer or in any other capacity; and
- (5) Whether the insured may have any obligation to share "damages" with or repay someone else who must pay "damages" because of the "claim" or "suit".
- j. Failure To Maintain Insurance**
Arising out of the failure to maintain insurance of any kind, including failure to maintain adequate limits, coverage forms or provisions of insurance; including surety bonds, self-insurance methods or programs, or any similar risk transfer or risk management method.
- k. Insured Versus Insured**
Brought by or on behalf of any current or former insured against any current or former insured.
- l. Known Prior Public Officials Wrongful Acts**
- (1) Arising out of any "public officials wrongful act", including any part of any "related public officials wrongful acts" which take place prior to:
- (a) The retroactive date of this Coverage Part indicated in the Supplemental Declarations; or
- (b) The inception date of this Coverage Part, if no retroactive date is indicated in the Supplemental Declarations; or
- (c) Any continuous Coverage Part issued by us or any affiliated insurance company, if any of your officers, your legal department or an "employee" you designate to give or receive notice of a "public officials wrongful act", knew or reasonably should have foreseen that such "public officials wrongful act" would give rise to a "claim" or "suit".
- (2) A "public officials wrongful act" will be considered known to have taken place at the earliest time when any of your officers, your legal department or an "employee" you designate to give or receive notice of a "public officials wrongful act" or "claim" or "suit" :
- (a) Reports all, or any part, of the "public officials wrongful act", to us or any other insurer;
- (b) Receives a written or verbal demand or "claim" or "suit" for "damages" resulting from such "public officials wrongful act"; or
- (c) Becomes aware by any other means that a "public officials wrongful act" in the "coverage territory" has taken place or has begun to take place.
- m. Law Enforcement**
Arising out of any "law enforcement activities" including the operation of adult or juvenile detention facilities.
- n. Occupational Safety**
For any violation or failure to comply with the responsibilities, obligations, or duties imposed by any federal, state or local statutory or common law including regulations promulgated under any such law that governs workplace safety and health, including but not limited to, the Occupational Safety and Health Act, as amended.
- o. Prior Notice or Proceedings**
Arising out of any "claim", "suit", "public officials wrongful act" investigation, proceeding, conduct, event, transaction, decision, fact, circumstance or situation which has been the subject of any:
- (1) Notice accepted by any other insurer, under any similar Policy of which this Policy is a renewal or replacement; or
- (2) Litigation, mediation, administration or arbitration proceeding, written demand, order, decree or judgment against any insured made, initiated or entered prior to the effective date of this Coverage Part as shown in the Supplemental Declarations.
- p. Professional Services**
- (1) Arising out of the providing of or failure to provide any professional service, advice or instruction:
- (a) By any insured;

- (b) By any person or organization on your behalf; or
- (c) For which any insured assumed liability by reason of an oral or written contract or agreement.
- (2) Paragraph (1) of this exclusion applies to but is not limited to services, advice or instruction by any member of the medical profession or by any lawyer, architect, engineer or accountant.
- q. Profit, Advantage or Remuneration**
Arising out of any insured gaining any profit, advantage or remuneration to which that insured is not legally entitled.
- r. Sexual Abuse Or Sexual Harassment**
Arising out of "sexual abuse" or "sexual harassment" of any person; or the negligent:
 - (1) Employment;
 - (2) Investigation;
 - (3) Supervision;
 - (4) Reporting to the proper authorities, or failing to so report; or
 - (5) Retention;
 of any person who actually or allegedly committed or attempted to commit "sexual abuse" or "sexual harassment" for whom any insured is or ever was legally responsible.
- s. Strike, Riot, Civil Commotion Or Mob Action**
Arising out of any lockout, strike, picket line, replacement or other similar actions resulting from labor disputes or labor negotiations or any act or omission in connection with the prevention or suppression of a riot, civil commotion, protest, demonstration or mob action.
- t. Taxes**
Arising out of any tax assessments or adjustments, or the collection, refund, disbursement, use or application of any taxes.
- u. War**
Arising out of:
 - (1) War, including undeclared or civil war;
 - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
- v. Workers' Compensation And Similar Laws**
Arising out of any obligation of an insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

SUPPLEMENTARY PAYMENTS

We will pay, with respect to any "claim" we investigate or settle, or any "suit" against an insured that we defend:

1. All expenses we incur.
2. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limits of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
3. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limits of Insurance. If we do not pay part of the judgment for any reason other than it is more than the applicable Limits of Insurance, we will not pay any interest that accrues on that portion of the judgment.
4. All reasonable and necessary "defense expenses" incurred at our request by an insured, to assist us in the investigation or defense of the "claim" or "suit". This includes actual loss of earnings up to \$500 per day because of time off from work when that insured attends a hearing, deposition or trial at our request in the course of defending an otherwise covered "claim" or "suit".
5. All court costs taxed against the insured in the "suit". However, these court costs do not include attorneys' fees or attorneys' expenses taxed against the insured. Such attorneys' fees or expenses, if awarded or paid in a settlement for a covered "claim", will be subject to **SECTION III – LIMITS OF INSURANCE**.
6. The costs of any required appeal bond for any judgment that we appeal, but only for bond amounts for that portion of any judgment that is for "damages" that we are obligated to pay and which are within the applicable Limits of Insurance. We will pay or reimburse you for the cost of higher appeal bond amounts if we are required to do so. We do not have to furnish these bonds nor will we be a principal under these bonds.

These payments will not reduce the Limits of Insurance.

Our duty to make such payments ends when we have used up the applicable Limits of Insurance in the payment of judgments or settlements.

SECTION II – WHO IS AN INSURED

If you are designated in the Common Policy Declarations, you are an insured while acting in your capacity as a public entity or public official. The following are also insureds:

1. Your current or previously elected, employed or appointed officials, but only with respect to their duties as your elected, employed or appointed officials;
2. Members of commissions, boards or other units operated by you and under your jurisdiction and within apportionment of the total operating budget indicated in the “application” form, provided that the insurance afforded will not extend to any of the following boards, commissions or units unless specifically endorsed hereon: schools, airports, transit authorities, hospitals, municipally owned gas or electric utilities, housing authorities or port authorities;
3. Your “employees” and “volunteer workers” but only for acts within the course and scope of their employment or volunteer activities by or for you and under your direction and control;
4. Any persons or organizations providing services to you under any mutual aid or similar agreement, but only within the scope of the mutual aid or agreement; and
5. The estates, heirs, executors, trustees, administrators and legal representatives of any insured in the event of the insured's death, incapacity, insolvency or bankruptcy, but only to the extent that the insured would otherwise be provided coverage under this Policy.

However, none of the following are insureds under this Coverage Part:

6. Any persons or entities, including you, with respect to the operation of boards, commissions or other units, the members of which are not afforded coverage under paragraph 2. above; and
7. Any persons or entities who are on retainer, are a consultant or are under contract for services, for or by any insured.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Supplemental Declarations of this Coverage Part and the rules shown below fix the most we will pay for the sum of all “damages” resulting from any one “public officials wrongful act” or “related public officials wrongful acts” regardless of the number of:
 - a. Covered insureds;
 - b. “Claims” made or “suits” brought; or
 - c. Persons or organizations making “claims” or bringing “suits”.

The Limits of Insurance will not be reduced by the payment of any applicable deductible amount or self-insured retention amount shown in the Supplemental Declarations and applicable to this Coverage Part.

2. The Aggregate Limit is the most we will pay for the sum of all “damages” for the combined total of all “claims” or “suits”.
3. Subject to paragraph 2. above, regardless of the number of “claims”, the Each Public Officials Wrongful Act Limit as shown in the Supplemental Declarations is the most we will pay for the sum of all “damages” for all “claims” or “suits” arising out of the same “public officials wrongful act” or “related public officials wrongful acts”.
4. All “claims” or “suits” arising out of the same “public officials wrongful act” or “related public officials wrongful acts” will be considered to be based on a single “public officials wrongful act” and only one Public Officials Wrongful Act Limit of Insurance as shown in the Supplemental Declarations will apply.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the “policy period” shown in the Common Policy Declarations, unless the “policy period” is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – CONDITIONS - Refer to Common Policy Conditions which are incorporated by reference.

SECTION V – EXTENDED REPORTING PERIODS

1. This Policy provides a Basic Extended Reporting Period without an additional charge which starts with the end of the “policy period” and lasts for sixty (60) days provided when:
 - a. This Policy is cancelled or not renewed; or
 - b. We renew or replace this Policy with insurance that does not apply to “public officials wrongful acts” on a claims-made basis.
2. An Additional Extended Reporting Period is available from us if:
 - a. This Policy is cancelled or not renewed; or

- b. We renew or replace this Policy with insurance that does not apply to “public officials wrongful acts” on a claims-made basis.
- 3. This Additional Extended Reporting Period is available as a one-time option, for a period up to thirty-six (36) months or longer if required by law, and is only provided by endorsement and for an additional premium. This Additional Extended Reporting Period starts when the Basic Extended Reporting Period ends.
- 4. This Additional Extended Reporting Period additional premium will be determined in accordance with our rules and rates. In doing so, we may take into account the following:
 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. The Limits of Insurance available under this Policy for future payment of “damages”; and
 - d. Other related factors.

The additional premium will not exceed **200%** of the annual premium for this Policy.

- 5. In order to obtain the Additional Extended Reporting Period, you must give us a written request for the Additional Extended Reporting Period endorsement together with the full payment of the additional premium and any premium or deductible you owe us for coverage provided under this Policy within 60 days after the end of the “policy period”. Once in effect, the Additional Extended Reporting Period may not be cancelled and the applicable premium is fully earned.
- 6. The Basic Extended Reporting Period and Additional Extended Reporting Period do not:
 - a. Extend the “policy period” or change the scope of coverage provided. They apply only to “claims” or “suits”:
 - (1) First made during the Basic or Additional Extended Reporting Period;
 - (2) In which the “public officials wrongful act” occurs before the end of the “policy period”; and
 - (3) In which the “public officials wrongful act” did not commence before the Retroactive Date, if any.
 - b. Reinstate or increase the Limits of Insurance. The Limits of Insurance available for the Basic or Additional Extended Reporting Periods shall be the remaining amount, if any, of the Limits of Insurance available at the time this Policy was cancelled or nonrenewed.
 - c. Apply to “claims” that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the Limits of Insurance applicable to such “claims” or “suits”.
 - d. Afford primary coverage. This Extended Reporting Period is excess over any other available insurance after the Extended Reporting Period begins.

SECTION VI – DEFINITIONS

- 1. “Application” means all signed applications for this Policy, including any attachments, addenda and other materials submitted in conjunction with the signed application.
- 2. “Bodily injury” means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. “Bodily injury” also includes mental injury, mental anguish, mental tension, emotional distress, pain or suffering or shock sustained by any person.
- 3. “Claim” means:
 - a. A written demand for “damages”; or
 - b. A regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document against any insured arising out of a “public officials wrongful act”, including any associated appeal.
- 4. “Coverage territory” means:
 - a. The United States of America (including its territories or possessions), Puerto Rico and Canada; or
 - b. All parts of the world if the insured's responsibility to pay “damages” is determined in a “suit” on the merits brought in the territory described in paragraph a. above or in a settlement we agree to.
- 5. “Damages” means monetary amounts the insured is legally obligated to pay as judgments, arbitration awards, or settlements, provided any settlements are negotiated with our knowledge and approval. “Damages” does not include:
 - a. Any amount awarded as a multiple portion of any multiplied “damage” award;
 - b. Liquidated “damages” pursuant to any federal, state or local statutes, rules or regulations;
 - c. Punitive or exemplary “damages”, equitable, injunctive or declarative relief, or any other relief or any other relief or recovery other than monetary amounts;
 - d. Judgments or awards because of acts deemed uninsurable by law;
 - e. Civil, criminal, administrative or other fines or penalties;
 - f. Taxes, fines, penalties, costs or expenses imposed by law or arising out of any complaint or enforcement action of any federal, state or local governmental regulatory agency.
- 6. “Defense expenses” means the reasonable and necessary fees, costs or expenses which can be directly allocated to a particular “claim” or “suit” including:

- a. Fees of attorneys, or other authorized representatives where permitted, for legal services, whether by outside or staff representatives; or
- b. Court, alternative dispute resolution and other specific items of expense, whether incurred by an outside vendor or by one of our employees, including:
 - (1) Expert testimony;
 - (2) Witnesses and summonses;
 - (3) Copies of documents such as birth and death certificates and medical treatment records;
 - (4) Arbitration fees;
 - (5) Fees or costs for surveillance or other professional investigations which are conducted as part of handling of a “claim” or “suit”; and
 - (6) Fees or costs for loss prevention and engineering personnel for services which are conducted as part of handling of a “claim” or “suit”.“Defense expenses” does not include:
 - (7) Our expenses, including salaries, overhead and traveling expenses of our “employees”, except for those fees, costs or expenses described in paragraphs **a.** and **b.** above incurred while handling a “claim” or “suit”; or
 - (8) Fees paid to independent claims professionals hired to perform the function of claim investigation normally performed by claim adjusters, for developing and investigating a “claim” so that a determination can be made of the cause or extent of, or responsibility for, the loss, including evaluation and settlement of covered “claims”.
- 7. “Employee” includes a “leased worker” and a “temporary worker” but does not include an independent contractor. For the purposes of this definition:
 - a. “Leased worker” means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. “Leased worker” does not include a “temporary worker”.
 - b. “Temporary worker” means a person who is furnished to you to substitute for a permanent “employee” on leave or to meet seasonal or short-term workload conditions.
 - c. “Volunteer worker” means a person who:
 - (1) Is not an “employee”;
 - (2) Donates his or her work; and
 - (3) Is not paid a fee, salary or other compensation for that work.
- 8. “First Named Insured” means an entity or person listed first on the Common Declarations Page as a Named Insured.
- 9. “Law enforcement activities” means:
 - a. Any of the official activities or operations of your police department, sheriff agency or other public safety organization, other than a fire district or fire department, that enforces the law. Any off-duty activity officially sanctioned by you conducted in the course of law enforcement operations; and
 - b. Includes:
 - (1) Ownership, maintenance or use of a premises that you own, rent or borrow in order to conduct such activities or operations;
 - (2) Ownership or operation of any of your jails, penal institutions or similar facilities;
 - (3) Providing first aid at the time of an accident, crime or medical emergency; or
 - (4) Any criminal prosecution activity by judicial officers, prosecution attorneys, and staff other than public defenders or criminal defense attorneys.
- 10. “Personal and advertising injury” means injury, including consequential “bodily injury”, arising out of one or more of the following offenses:
 - a. Assault or battery;
 - b. False arrest, detention or imprisonment;
 - c. Malicious prosecution;
 - d. Service of process;
 - e. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
 - f. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person’s or organization’s products or services;
 - g. Oral or written publication, in any manner, of material that violates a person’s right of privacy;
 - h. The use of another’s advertising idea in your advertisement; or
 - i. Infringing upon another’s copyright, trade dress or slogan in your advertisement.

11. "Policy period" means the period of time from the inception date of this Policy shown in the Common Policy Declarations to the expiration date shown in the Common Policy Declarations, or its earlier cancellation or termination date.
12. "Property damage" means:
 - a. Physical injury to tangible property, including all resulting loss of use of that property; or
 - b. Loss of use of tangible property that is not physically injured.
13. "Public officials wrongful act" means:
 - a. Any actual or alleged act, error, omission, neglect or breach of duty; or
 - b. Violation of civil rights protected under any federal or state civil rights law committed or allegedly committed by an insured.
14. "Related public officials wrongful act" means all "public officials wrongful acts" which are logically or causally connected by reason of any common fact, circumstance, situation, transaction, casualty, event, result, injury or decision.
15. "Sexual abuse" means any actual, attempted or alleged sexual conduct by a person, or by persons acting in concert, which causes injury. "Sexual abuse" includes sexual molestation, sexual assault, sexual exploitation or sexual injury or other conduct of a sexual nature by a person, or by persons acting in concert, which causes injury.
16. "Sexual harassment" means any actual, attempted or alleged unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature by a person, or by persons acting in concert, which causes injury. "Sexual harassment" includes:
 - a. The above conduct when submission to or rejection of such conduct is made either explicitly or implicitly a condition of a person's employment, or a basis for employment decisions affecting a person; or
 - b. The above conduct when such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive work environment.
17. "Suit" means a civil proceeding in which "damages" because of a "public officials wrongful act" to which this insurance applies are alleged and also includes:
 - a. An arbitration proceeding in which such "damages" are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other proceeding in which such "damages" are claimed and to which the insured submits with our consent.

COMMON POLICY CONDITIONS

In consideration of the premium paid, in reliance upon the statements in the “application” and subject to the Common Declarations and Supplemental Declarations, limitations, conditions, definitions and other provisions of this Policy, including endorsements hereto, we and the insureds agree as follows:

COMMON TERMS AND CONDITIONS

The COMMON POLICY CONDITIONS of this Policy shall apply to all Coverage Parts. Unless stated to the contrary in any Coverage Part, the terms and conditions of each Coverage Part of this Policy shall apply only to that Coverage Part and shall not apply to any other Coverage Part of this Policy. If any provision in this COMMON POLICY CONDITIONS is inconsistent or in conflict with the terms and conditions of any Coverage Part, the terms and conditions of such Coverage Part shall control for purposes of that Coverage Part. Any defined term referenced in this Common Policy Conditions and also defined in a Coverage Part shall, for purposes of coverage under that Coverage Part, have the meaning set forth in that Coverage Part, unless otherwise stated.

In the event there is an inconsistency between a state amendatory endorsement attached to this Policy and any term or condition of this Policy, if permitted by law and the public policy of the state of domicile of the Named Insured, we shall apply those terms and conditions which are more favorable to the Insured.

A. Assignment

No change in, modification of, or assignment of interest under this Policy will be effective without our written consent.

B. Bankruptcy

Bankruptcy or insolvency of the insured will not relieve us of our obligations under this Policy.

C. Calculation of Premium

The premium shown in the Common Policy Declarations was computed based on rates in effect at the time the Policy was issued. On each renewal, continuation or anniversary of the effective date of this Policy, we will compute the premium in accordance with our rates and rules then in effect.

D. Cancellation

1. The “First Named Insured” shown in the Common Policy Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this Policy by mailing or delivering to the “First Named Insured” written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the “First Named Insured’s” last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this Policy is cancelled, we will send the “First Named Insured” any premium refund due. If we cancel, the refund will be pro rata. If the “First Named Insured” cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

E. Changes

This Policy and application contain all the agreements between you and us concerning the insurance afforded. The “First Named Insured” shown in the Common Policy Declarations is authorized to make changes in the terms of this Policy with our consent. This Policy’s terms can be amended or waived only by endorsement issued by us and made a part of this Policy.

F. Conflicting Statutes

Terms of this Policy which are in conflict with the statutes of the state wherein this Policy is issued are hereby amended to conform to such statutes.

G. Consent to Settle

If we recommend a settlement amount to the "First Named Insured", on behalf of all insureds, for any "claim" or "suit", to which the "First Named Insured" does not consent, the amount we will pay as "damages" or "defense expenses" in the event of any later settlement or judgment is limited to:

1. The amount we would have contributed to the settlement if the "First Named Insured" had consented to the settlement, and "defense expenses" incurred up to the date of such refusal; and
2. Seventy percent (70%) of the amount of the settlement or judgment above that amount; and
3. Seventy percent (70%) of all "defense expenses" incurred after the date of your refusal to consent to a settlement offer; and

is subject to the Limits of Insurance and any applicable Deductible or Self-Insured Retention as shown in the Supplemental Declarations. You will be responsible for the remaining percentage of the settlement or judgment amount.

H. Duties In The Event Of A Claim Or A Wrongful Act That May Result In A Claim

1. The "First Named Insured" shown in the Common Policy Declarations agrees to act on behalf of all insureds for all matters related to cancellation, notice of any actual or potential, wrongful act as defined in the applicable coverage part, "claim" or "suit", payment or return of any premium, or consent to a "claim" or "suit" settlement that we recommend.
2. Each insured by accepting this insurance, agrees to:
 - a. Have the "First Named Insured" act for them in such matters; and
 - b. Promptly notify the "First Named Insured", in writing, of any incident or wrongful act as defined in the applicable coverage part, which may result in a "claim" or "suit", or of any "claim" or "suit" brought against them.
3. The "First Named Insured" and any insured must see to it that we are notified in writing as soon as practicable of a wrongful act as defined in the applicable coverage part, which may result in a "claim" or "suit". To the extent possible, notice should include:
 - a. How, when and where the wrongful act as defined in the applicable coverage part, was committed;
 - b. The names and addresses of any injured persons and witnesses;
 - c. The nature and location of any injury or "damages" arising out of or caused by the wrongful act as defined in the applicable coverage part; and
 - d. The manner in which each insured first became aware of the circumstances involved.
 - e. Notice of a wrongful act as defined in the applicable coverage part, is not notice of a "claim".
4. If a "claim" or "suit" is made or brought against any insured, such insured and the "First Named Insured" must:
 - a. Immediately record the specifics of the "claim" or "suit" and the date received; and
 - b. Notify us in writing as soon as practicable.
5. The "First Named Insured" and any other involved insured must:
 - a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "suit";
 - b. Authorize us to obtain records and other information;
 - c. Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and
 - d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "damages" to which this insurance may also apply.
6. No insured will, except at that insured's own cost, admit liability, voluntarily make a payment, assume any obligation, or incur any expense without our written consent.

I. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this Policy at any time during the policy period and up to three years afterward.

J. Governmental Immunity

You may be entitled to governmental immunity if the insured is designated in the Common Policy Declarations as a public or governmental entity. This Policy does not establish a waiver of any governmental immunity to which you may be entitled.

K. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

L. Legal Action Against Us

No person or organization has a right under this Policy:

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

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured, but we will not be liable for "damages" that are not payable under the terms of this Policy or that are in excess of the applicable Limits of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

M. Other Insurance

1. If other valid and collectible insurance is available to any insured for a "claim" or "suit" we cover under this Coverage Part, our obligations are limited as described in Paragraphs 2. and 3. below.

As used anywhere in this Coverage Part, other insurance means insurance, or the funding of losses, that is provided by, through or on behalf of:

- a. Another insurance company;
- b. Us or any of our affiliated insurance companies;
- c. Any risk retention group;
- d. Any self-insurance method or program; or
- e. Any similar risk transfer or risk management method or program other than those funded by you.

2. Primary Insurance

This insurance is primary except when Paragraph 3. below applies. If any other insurance is also primary, we will share with all that other insurance by the method described in Paragraph 4. below.

3. Excess Insurance

- a. This insurance is excess over:
 - (1) Any other insurance, whether primary, excess, contingent or on any other basis, that is available for "damages" caused by or arising out of a wrongful act as defined in the applicable coverage part.
 - (2) This insurance is excess over any other insurance that is available during any applicable Extended Reporting Period, whether on a primary, excess, contingent or other basis.
- b. When this insurance is excess, we will have no duty to defend the insured against any "claim" or "suit" if any provider of other insurance has a duty to defend the insured against that "claim" or "suit". If no provider of other insurance defends, we will undertake to do so, but we will be entitled to the insured's rights against all those providers of other insurance.
- c. When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
 - (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
 - (2) The total of all deductible and self-insured retention amounts under all such other insurance.
- d. We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision, and was not bought specifically to apply in excess of the Limits of Insurance shown in the Supplemental Declarations.

4. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each provider of insurance contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, the share of each provider of insurance is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all providers of insurance.

N. Premium Audit

If any Declarations states that this Policy is subject to audit:

1. The premium shown in the Supplemental Declarations is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the "First Named Insured".
2. The due date for audit premiums is the date shown as the due date on the bill.
3. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the "First Named Insured".
4. The "First Named Insured" must keep records of the information we need for premium computation, and send us copies at such times as we may request.

O. Premiums

The "First Named Insured" shown in the Common Policy Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

P. Representations

By accepting this Policy, of which the "application" is incorporated by reference, you agree that:

1. The statements in the Common Policy Declarations, Supplemental Declarations and "application" are accurate and complete;
2. Those statements are based upon representations you made to us;
3. We have issued this Policy in reliance upon your representations; and
4. Such representations are incorporated into and constitute part of this Coverage Part.

Q. Separation Of Insureds

Except with respect to the Limits of Insurance, the Self-Insured Retention or Deductible if applicable, and any rights or duties specifically assigned in this Policy to the "First Named Insured", this insurance applies:

1. As if each insured were the only Named Insured; and
2. Separately to each insured against whom a "claim" or "suit" is made.

R. Subrogation

With respect to any payments made under this Policy on behalf of any insured, we shall be subrogated to the insured's rights of recovery to the extent of those payments. The insured shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable us to bring suit in the insured's name.

S. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this Policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

T. Two Or More Coverage Parts, Endorsements Or Policies Issued By Us

It is our stated intent that the various coverage parts, endorsements or policies issued to you by us, or any company affiliated with us,

1. Do not provide any overlap or duplication of coverage for the same "claim" or "suit" and
2. The maximum limit shall not exceed the highest applicable Limit of Insurance when there are two or more coverage parts, endorsements or policies issued by us.

This condition does not apply to any Excess or Umbrella policy issued by us.

U. When We Do Not Renew

If we decide not to renew this Policy, we will mail or deliver to the "First Named Insured" shown in the Common Policy Declarations written notice of the nonrenewal at least 30 days before the end of the policy period, or earlier if required by the state law or regulation controlling the application of this Policy.

If notice is mailed, proof of mailing will be sufficient proof of notice.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY
DEDUCTIBLE ENDORSEMENT
LIMITS OF INSURANCE APPLY EXCESS OF DEDUCTIBLE**

This endorsement modifies insurance provided under the following:

PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART (CLAIMS MADE)

Our obligation under paragraph 1. of **SECTION I – COVERAGES** to pay “damages” on your behalf applies only to the amount of “damages” and “defense expenses” in excess of any deductible amount shown in the Supplemental Declarations as applicable to such coverages.

- a. The Each Public Officials Wrongful Act Deductible shown in the Supplemental Declarations and the rules below fix the amount that any insured will be responsible for paying as a result of “damages” and “defense expenses” incurred by, or on behalf of, you or any insured, regardless of the number of:
 - (1) Covered Insureds;
 - (2) “Claims” made, or “suits” brought; or
 - (3) Persons or organizations making “claims” or bringing “suits”.The Each Public Officials Wrongful Act Deductible does not apply to payments we make under Supplementary Payments, other than “defense expenses”.
- b. The Each Public Officials Wrongful Act Deductible applies to all “damages” and “defense expenses” for all “claims” or “suits” for loss caused by the same “public officials wrongful act” or “related public officials wrongful acts” as defined in the applicable Coverage Part.
- c. The Limits of Insurance will not be reduced by the amount of any “damages” or “defense expenses” within the deductible amount.
- d. The terms of this policy, including those with respect to:
 - (1) Our right and duty with respect to the defense of “claims” or “suits”; and
 - (2) Your duties in the event of a “public officials wrongful act”, “claim” or “suit”apply irrespective of the application of the deductible amount.
- e. If we settle a “claim” or “suit” for “damages” or pay a judgement for “damages” awarded in a “suit” which is subject to a deductible, we may pay any part or all of the deductible amount. You will promptly reimburse us for the deductible amount that we have paid, but no later than thirty (30) days after you receive written notice from us.
- f. If we pay “defense expenses” that are subject to a deductible, you will promptly reimburse us for the deductible amount that we have paid, but no later than thirty (30) days after you receive written notice from us.
- g. If you do not reimburse us for a deductible amount that applies to “damages” or “defense expenses”, and we are awarded the deductible amount we sought, or any part of that amount, in any proceeding against you, you agree to pay us the amount of the award and the following:
 - (1) “Our deductible recovery expenses”; and
 - (2) Interest, from the date of our notice of payment to you, on the deductible amount awarded to us.

For the purposes of this endorsement, “our deductible recovery expenses” means all fees, costs and expenses incurred by us and our attorneys to recover a deductible amount in a legal proceeding or arbitration proceeding brought by us against you. But if the deductible amount awarded to us is less than the full amount of the deductible payment we sought, “our deductible recovery expenses” will be determined on a pro-rata basis based on the deductible amount awarded to the full amount of the deductible payment we sought.

All other terms and conditions of the policy remain unchanged.