

Carolina Casualty Insurance Company

A Stock Insurance Company

NonProfit  **ExecShield®**

Management Liability Insurance Policy

Policy Jacket

This Policy consists of:

- Declarations Page
- Policy Form
- Endorsements

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



President



Secretary

Service Office

Berkley Select, on behalf of Carolina Casualty Insurance Company
550 W. Jackson Boulevard, Suite 500
Chicago, IL 60661
Toll Free: (844) 465-6256 Fax: (312) 207-1933
Email: newclaim@berkleyselect.com



Administrative Office

Carolina Casualty Insurance Company

5011 Gate Parkway, Building 200, Suite 200,
Jacksonville FL 32256

NonProfit ExecShield®

Management Liability Insurance Policy

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS SUBJECT TO ITS TERMS. THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

IF INDICATED IN ITEM 4. A. BELOW, THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS SHALL BE REDUCED AND MAY BE COMPLETELY EXHAUSTED BY AMOUNTS INCURRED AS LEGAL DEFENSE COSTS. THE INSURER SHALL NOT BE LIABLE FOR LEGAL COSTS OF DEFENSE OR FOR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT AFTER EXHAUSTION OF THE LIMIT OF LIABILITY.

Whenever printed in this Declarations Page, the boldface type terms shall have the same meanings as indicated in the **Policy**.

Item 1. Name and Address of Named Insured:

Policy Number: DDP-1473195-P9

Gardens of Owings Mills I
Suite 105
3706 Crondall Lane
Garrison, MD 21117

Item 2. Policy Period: From February 1, 2024 (inception date) to February 1, 2025 (expiration date)

*(Both dates at 12:01 a.m. Standard Time at the address of the **Named Insured**)*

Item 3. Purchased Coverage Sections:

- | | | |
|---|---|--|
| i. Directors, Officers and Organization Liability Insurance Coverage Section: | ☒ Yes | ☐ No |
| ii. Employment Practices Liability Insurance Coverage Section: | ☐ Yes | ☒ No |
| Third Party Wrongful Act Liability Coverage included: | ☐ Yes | ☒ No |
| iii. Fiduciary Liability Insurance Coverage Section: | ☐ Yes | ☒ No |

Item 4. Cost of Defense for the Policy Period:

- ☒ A. **Costs of Defense** Reduce the Limit of Liability in Item 5. below
- ☐ B. **Costs of Defense** in Addition the Limit of Liability in Item 5. below

Item 5. Limits of Liability for the Policy Period:

- A. Shared Policy Aggregate Limit of Liability for all **Coverage Sections** purchased as indicated above. Not Applicable

OR

- B. Separate Aggregate Limit of Liability for each **Coverage Sections**:

- | | |
|---|----------------|
| 1. Directors, Officers and Organization Liability Insurance Coverage Section: | \$1,000,000 |
| 2. Employment Practices Liability Insurance Coverage Section: | Not Applicable |
| 3. Fiduciary Liability Insurance Coverage Section: | Not Applicable |

Item 6.	Applicable Deductibles:		
i.	Directors, Officers and Organization Liability Insurance Coverage Section:		
A.	Insured Person Non-Indemnifiable:		\$0
B.	Insured Person Indemnifiable:		\$0
C.	Insured Entity Liability:		\$2,500
ii.	Employment Practices Liability Insurance Coverage Section:		Not Applicable
iii.	Fiduciary Liability Insurance Coverage Section:		Not Applicable
Item 7.	Premium:		\$892
	Terrorism coverage is included for \$0		
Item 8.	Prior Acts Dates:		
i.	Directors, Officers and Organization Liability Insurance Coverage Section Prior Acts Date:		Not Applicable
ii.	Employment Practices Liability Insurance Coverage Section Prior Acts Date:		Not Purchased
iii.	Fiduciary Liability Insurance Coverage Section Prior Acts Date:		Not Purchased
Item 9.	Forms and Endorsements attached at inception:		
	Policy Form: NP 23300- rev0417 / CT 22330- rev0417		
1	265-	0220	Policyholder Disclosure – Notice of Terrorism Insurance Coverage
2	266-	(02/20)	Cap on Losses from Certified Acts of Terrorism
3	701-CR-	0419	CLAIM REPORTING PROCEDURES
4	CT 234503-	rev0619	Construction, Development and Homeowners Association Exclusions
5	MD-AA-	1119	Maryland Important Notice to Policyholders
6	NP-MD-	rev0418	Maryland Amendatory Endorsement

The Nonprofit Management Liability Insurance **Policy** shall constitute the contract between the **Insureds** and the **Insurer**.

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE

Coverage for acts of terrorism, as defined in the Terrorism Risk Insurance Act, as amended, (the “Act”), is included in your policy. As defined in Section 102(1) of the Act: The term “act of terrorism” means any act that is certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Act. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Act contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers’ liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism as defined in the Act is \$0, and does not include any charges for the portion of losses covered by the United States government under the Act.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Gardens of Owings Mills I		Policy Number DDP-1473195-P9
Effective Date of This Endorsement 02/01/2024	Authorized Representative	

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

DIRECTORS, OFFICERS AND CORPORATE LIABILITY INSURANCE COVERAGE SECTION

DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY INSURANCE COVERAGE SECTION

FIDUCIARY LIABILITY INSURANCE COVERAGE SECTION

EXCESS INSURANCE POLICY

GENERAL LIABILITY COVERAGE PART

COMMUNITY ASSOCIATION LEADERS PROFESSIONAL LIABILITY INSURANCE POLICY – DIRECTORS AND OFFICERS LIABILITY COVERAGE

EMERGENCY MEDICAL SERVICES GENERAL LIABILITY COVERAGE PART

In consideration of the premium paid for this Policy, it is amended as follows:

If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and the insurer has met its insurer deductible under the Terrorism Risk Insurance Act, the Insurer shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss that is otherwise excluded under this Policy.

Includes copyrighted material of Insurance Services Office, Inc., with its permission.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Gardens of Owings Mills I	Policy Number DDP-1473195-P9
Effective Date of This Endorsement 02/01/2024	Authorized Representative

BERKLEY SELECT

CLAIM REPORTING PROCEDURES

In the event of an incident which may result in a claim, an actual claim or your receipt of suit papers, please follow the procedures outlined below:

NOTICE OF EACH INCIDENT, CLAIM OR SUIT SHOULD IMMEDIATELY BE REPORTED TO:

BERKLEY SELECT CLAIMS DEPARTMENT
on behalf of Carolina Casualty Insurance Company
550 W. Jackson Blvd., Suite 500
Chicago, IL 60661
Fax: (312) 207-1933
E-mail: newclaim@berkleyselect.com
Online: www.berkleyselect.com/claims/report-claim

TO ENABLE US TO RESPOND MORE QUICKLY AND EFFICIENTLY, please fax or email any pertinent details of the claim directly to our attention.

PLEASE BE SURE TO INCLUDE:

- Your Name, Address and Phone Number;
- Your Policy Number and the Policy Period;
- A written narrative of the circumstances surrounding the claim or potential claim;
- Names and addresses of the claimant;
- Details of the any underlying claim, including current status and the amount in controversy or relief demanded.
- If you are submitting the report by mail or fax, please also include any letters of demand or any legal papers which you have received regarding the claim.

Please provide your professional liability insurance agent a copy of all claim notices and correspondence sent to Berkley Select.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Gardens of Owings Mills I		Policy Number DDP-1473195-P9
Effective Date of This Endorsement 02/01/2024	Authorized Representative	

Construction, Development and Homeowners Association Exclusions

In consideration of the premium paid for this **Policy**, it is amended as follows:

Failure to Effect and Maintain Insurance Exclusion

1. Section IV. Exclusions of the Common Policy Terms and Conditions Section of the **Policy** is amended by the addition of the following:
 - IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving the failure or omission on the part of any of the **Insureds** to effect and maintain insurance and/or adequate insurance.

Asbestos Exclusion

Directors, Officers and Organization Liability Insurance Coverage Section

2. Section IV. Exclusions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving:
 1. asbestos or any asbestos related injury or damage, or
 2. any actual or alleged act, error, omission or duty involving asbestos, its use, exposure, presence, existence, detection, removal, elimination or avoidance, or
 3. the use, exposure, presence, existence, detection, removal, elimination or avoidance of asbestos in any environment, building, or structure.

Builder / Developer Exclusion

Directors, Officers and Organization Liability Insurance Coverage Section

3. Section IV. Exclusions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any:
 1. operations performed, completed or being conducted by or on behalf of any builder and/or developer, in their capacity as such; and/or
 2. builder or developer of any property, real or otherwise, governed, managed or administered by any **Insured**.

Construction Defect Exclusion

Directors, Officers and Organization Liability Insurance Coverage Section

4. Section IV. Exclusions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:
 - IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any:
 1. **Construction Defect**, or
 2. **Specified Peril**.

5. Solely for purpose of this Construction Defect Exclusion, section III. Definitions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

Construction Defect means any actual or alleged defective, faulty or delayed construction or any other matter recognized as a construction defect under applicable common or statutory law, whether or not as a result of (i) faulty or incorrect design or architectural plans, (ii) improper soil testing, (iii) inadequate or insufficient protection from subsoil or earth movement or subsidence, (iv) the construction, manufacture or assembly of any tangible property, (v) the failure to provide construction-related goods or services as represented or to pay for such goods or services, or (vi) the supervision of such activities.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Gardens of Owings Mills I	Policy Number DDP-1473195-P9
Effective Date of This Endorsement 02/01/2024	Authorized Representative

Specified Peril means aircraft or self-propelled missiles; explosion; fire or lightning; flood, surface water, waves, tidal water, overflow of a body of water or spray from any of these, even if driven by wind; hail; leakage from fire equipment; mechanical breakdown; smoke; soil, subsoil or earth movement or subsidence, whether by earthquake, landslide, mudslide, volcanic eruption or other natural or man-made causes; or wind.

Organic Pathogen, Fungi (including Mold) and Spores Exclusion
Directors, Officers and Organization Liability Insurance Coverage Section

6. Section IV. Exclusions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, presence of, discharge, dispersal, seepage, migration, growth, release or escape of any **Organic Pathogen, Fungi, Spores** or rot, at any time, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any damage or injury.

IV. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any:

1. request, demand, order or statutory or regulatory requirement that any entity or person abate, test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, remediate, or dispose of, or in any way respond to, or assess the effects of any **Organic Pathogen, Fungi, Spores** or rot, at any time.
2. abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, or disposing of, or in any way responding to, or assessing the effects of, any **Organic Pathogen, Fungi, Spores** or rot, at any time.

7. Solely for purpose of this Organic Pathogen, Fungi (including Mold) and Spores Exclusion, section III. Definitions of the Directors, Officers and Organization Liability Insurance Coverage Section of this **Policy** is amended by the addition of the following:

Organic Pathogen means any bacteria, virus, mold (including but not limited to any superficial growth produced on damp or decaying organic matter or on living organisms or microorganisms), mildew or mycotoxins, or their spores, scents, or by-products, produced or released by **Fungi**.

Fungi means any of the plants or organisms belonging to the major group **Fungi**, lacking chlorophyll, and including molds, rusts, mycotoxins, mildews, smuts, and mushrooms.

Spores means any dormant or reproductive body produced by or arising or emanating out of any **Fungi**, mold, mildew, plants, organisms or microorganisms.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Gardens of Owings Mills I	Policy Number DDP-1473195-P9
Effective Date of This Endorsement 02/01/2024	Authorized Representative

Maryland IMPORTANT POLICYHOLDER NOTICE

In accordance with §12-106 of the Maryland Insurance Code, a binder or policy, other than a renewal policy, is subject to a 45-day underwriting period beginning on the effective date of coverage. If the Insurer discovers a "material risk factor" during the underwriting period, the Insurer has the right to:

- (1) cancel a binder or policy during the underwriting period if the risk does not meet the underwriting standards of the Insurer; or
- (2) recalculate the premium for the binder or policy based on the "material risk factor" as long as the risk continues to meet the underwriting standards filed with by the Insurer. The insurer shall provide written notice to the Insured of the recalculated premium amount, the reason for recalculation and the Insured's right to terminate the policy.

"Material risk factor" means a risk factor that:

1. was incorrectly recorded or not disclosed by the Insured in an application for insurance;
2. was in existence on the date of the application; and
3. modifies the premium charged on the policy or binder in accordance with the rates and supplementary rating information filed by the Insurer under Title 11, Subtitle 3 of this article.

"Material risk factor" does not include:

1. information that constitutes a material misrepresentation; or
2. a change initiated by an insured, including any request by the insured that results in a change in coverage, change in deductible, or other change to a policy.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Gardens of Owings Mills I		Policy Number DDP-1473195-P9
Effective Date of This Endorsement 02/01/2024	Authorized Representative	

Maryland Amendatory Endorsement

In consideration of the premium paid for this **Policy**, the Common Policy Terms and Conditions Section of this **Policy** is amended to the extent necessary and supersedes anything to the contrary:

1. Section VIII. A. 1. Cancellation or Non-Renewal of Policy sub-paragraph d. is amended by the addition of the following:
 VIII. A. 1. d. Short rate premium shall mean the pro rata proportion of the premium plus an additional 10 percent for such early cancellation.
2. Section VIII. A. 1. Cancellation or Non-Renewal of Policy is amended by the addition of the following:
 VIII. A. 1. e. When an insurance contract is canceled, whether by a premium finance company, the **Insurer**, or the **Named Insured**, the **Insurer** shall return any gross unearned premiums that are due under the insurance contract, computed pro rata to the premium finance company for the account of the **Named Insured** within a reasonable time not exceeding 45 days.
3. Section VIII. D. Change in Control of the Named Insured sub-paragraph 3. is amended by deleting the phrase "and the entire premium for this **Policy** shall be deemed fully earned as of the effective date of the Transaction".

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Gardens of Owings Mills I		Policy Number DDP-1473195-P9	
Effective Date of This Endorsement 02/01/2024		Authorized Representative	

NonProfit ExecShield®

Common Policy Terms and Conditions Section

CLAIMS MADE NOTICE FOR POLICY

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, in reliance on all statements in the **Application** and all other information provided to the **Insurer**, and subject to all provisions of this **Policy**, the **Insurer** and **Insureds** agree as follows:

I. Common Policy Terms and Conditions Section

The Common Policy Terms and Conditions Section of this **Policy** shall apply to all **Coverage Sections** and endorsements. Unless stated to the contrary in any **Coverage Section** or endorsement, the terms and conditions of each **Coverage Section** of this **Policy** shall apply only to that **Coverage Section** and shall not apply to any other **Coverage Section** of this **Policy**. If any provision in the Common Policy Terms and Conditions Section is inconsistent or in conflict with the terms and conditions of any **Coverage Section** or endorsement, the terms and conditions of such **Coverage Section** or endorsement shall control for the purposes of that **Coverage Section** or endorsement. Any defined term referenced in this Common Policy Terms and Conditions Section and also defined in a **Coverage Section** or endorsement shall, for the purposes of coverage under that **Coverage Section** or endorsement, have the meaning set forth in that **Coverage Section** or endorsement.

II. Extended Reporting Periods

A. Optional Extended Reporting Period

1. If this **Policy** is cancelled or non-renewed by the **Insurer** for reason other than non-payment of premium, or if the **Named Insured** elects to cancel or non-renew this **Policy**, then the **Named Insured** shall have the right, upon payment of the additional premium described in sub-paragraph 5. below, to purchase an extension of the reporting period of this **Policy** for any **Claim** that is first made against the **Insured** during such period but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and which is otherwise covered by this **Policy**. Such period of time shall be referred to as the Optional Extended Reporting Period.
2. The right to purchase the Optional Extended Reporting Period must be exercised by the **Named Insured** within thirty (30) days of the end of the **Policy Period** by providing written notice to the **Insurer** along with the additional premium.
3. If purchased, the Optional Extended Reporting Period shall begin on the date the **Policy Period** ends.
4. As a condition precedent to the right to purchase the Optional Extended Reporting Period, the total premium for the **Policy** must have been paid and any deductible obligations met by the **Insureds**.
5. The additional premium for the Optional Extended Reporting Period shall be based upon the annual premium for the **Policy** in effect on the date this **Policy** was issued or last renewed and shall be: fifty percent (50%) of such annual premium for one (1) year; seventy five percent (75%) of such annual premium for two (2) years; or one hundred percent (100%) of such annual premium for three (3) years.
6. In the event of a Transaction described in Section VIII. D. of the Common Policy Terms and Conditions Section, the **Named Insured** has the right to purchase a Run-off Period pursuant to the terms of Section II. C. below.
7. The entire premium for the Optional Extended Reporting Period shall be deemed fully earned at its commencement.
8. The Limit of Liability for the Optional Extended Reporting Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

B. Automatic Extended Reporting Period

1. If the **Named Insured** cancels or if the **Insurer** or the **Named Insured** refuses to renew this **Policy** and the **Named Insured** has not purchased any similar insurance policy(ies) there shall be a sixty (60) day automatic extension of the reporting period of this **Policy** for any **Claim** first made against an **Insured** and reported during such sixty (60) day period after the date upon which the **Policy Period** ends, but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and otherwise covered by this **Policy**. This sixty (60) day period shall be referred to as the Automatic Extended Reporting Period. There shall be no additional premium for the Automatic Extended Reporting Period.
2. The Limit of Liability for the Automatic Extended Reporting Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

C. Run-Off Period in the Event of a Transaction

1. In the event of a Transaction described in section VIII. D. of the Common Policy Terms and Conditions Section, the **Named Insured** shall have the right, upon payment of the additional premium described in sub-paragraph 5. below, to purchase an extension of the reporting period of this **Policy** for any **Claim** that is first made against the **Insured** during such period but only with respect to any **Wrongful Act** fully occurring prior to the end of the **Policy Period** and which is otherwise covered by this **Policy**. Such period of time shall be referred to as the Run-off Period.
2. The right to purchase the Run-Off Period must be exercised by the **Named Insured** within sixty (60) days of the end of the **Policy Period** by providing written notice to the **Insurer** along with the additional premium.
3. If purchased, the Run-Off Period shall begin on the date the **Policy Period** ends.
4. As a condition precedent to the right to purchase the Run-Off Period, the total premium for the **Policy** must have been paid and any deductible obligations met by the **Insureds**.
5. The additional premium for the Run-Off Period shall be based upon the annual rates for the **Policy** in effect on the date this **Policy** was issued or last renewed and shall be: seventy five percent (75%) of such annual premium for one (1) year; one hundred percent (100%) of such annual premium for two (2) years; one hundred twenty five percent (125%) of such annual premium for three (3) years; or two hundred twenty five percent (225%) of such annual premium for six (6) years.
6. The entire premium for the Run-Off Period shall be deemed fully earned at its commencement.
7. The Limit of Liability for the Run-off Period shall be part of, and not in addition to, the Limits of Liability stated in Item 5. of the Declarations for this **Policy**.

III. Definitions

Whenever printed in boldface type and whether in the singular or plural form in this **Policy**, the following terms shall have the meanings indicated below.

Application means the Application Form(s) and any material submitted therewith.

Claim shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Costs of Defense shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Coverage Section means, individually or collectively, the purchased **Coverage Sections** listed in Item 3. of the Declarations and attached to this **Policy**.

Damages shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Where insurable, **Damages** also means: liquidated, punitive, or exemplary damages, or any multiplied damages award in excess of the amount so multiplied. Such coverage for liquidated, punitive, exemplary or multiplied damages is part of and not in addition to the Limit of Liability, and any payment of such **Damages** shall serve to reduce the Limit of Liability. Only for the purpose of resolving any dispute between the **Insurer** and the **Insured** regarding whether such liquidated, punitive, exemplary or multiplied damages are insurable under this **Policy**, the law of the jurisdiction most favorable to the insurability of those damages shall control, provided that such jurisdiction is where:

1. those damages were awarded or imposed; or
2. any **Wrongful Act** occurred for which such damages were awarded or imposed; or
3. the **Insured** resides, is incorporated or has its principal place of business; or
4. the **Insurer** is incorporated or has its principal place of business.

Domestic Partner means any person who qualifies as a **Domestic Partner** under the provisions of any federal, state or local statute or regulation (whether such status is derived by reason of statutory law, common law or otherwise, of any applicable jurisdiction in the world), or under the terms and provisions of any employee benefit or other program established by the **Named Insured**.

Insured means:

1. any duly elected or appointed director, trustee or officer of an **Insured Entity**, or
2. any **Insured Entity**;

unless modified by an applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

Insured Entity means the **Named Insured** and any **Subsidiary**.

Insured Person shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

This **Policy** shall cover **Costs of Defense** and **Damages** arising from a **Claim** made against:

1. the heirs, executors, administrators, and legal representatives of an **Insured Person** in the event of death, incapacity or bankruptcy, but solely with respect to the liability of an **Insured Person** as otherwise covered by this **Policy**; or
2. the lawful spouse or **Domestic Partner** of an **Insured Person** for a **Claim** arising solely out of his or her status as the spouse or **Domestic Partner** of an **Insured Person**, including a **Claim** that seeks damages recoverable from marital community property, property jointly held by the **Insured Person** and the spouse or **Domestic Partner**, or property transferred from the **Insured Person** to the spouse or **Domestic Partner**. As used herein, spouse shall include a person that is party to a civil union with the **Insured Person** if they establish such civil union under the licensing process established by the applicable jurisdiction. However, this extension shall not afford coverage for any **Claim** for any **Wrongful Act** of the spouse or **Domestic Partner**, but shall apply only to **Claims** arising out of any **Wrongful Act** of an **Insured Person**.

Insurer means the entity issuing this **Policy** as listed on the Declarations Page.

Loss means **Damages** and **Costs of Defense**.

Named Insured means the entity designated in Item 1. of the Declarations.

Policy means, collectively, the Declarations, the Common Policy Terms and Conditions Section, the **Coverage Sections**, and the **Application**.

Policy Period means the period of time from the inception date shown in Item 2. of the Declarations to the earlier of the expiration date shown in Item 2. of the Declarations or the effective date of cancellation of this **Policy**.

Related Wrongful Acts means **Wrongful Acts** which are the same as, related or continuous or that are logically or causally connected by reason of any common fact, circumstance, situation, transaction, casualty, event or decision.

Subsidiary means an entity which qualifies as a nonprofit organization under Section 501(c)(3), (c)(4), (c)(6), (c)(7), (c)(8), (c)(10), or (c)(13) of the Internal Revenue Code of 1986, including amendments thereto and which the **Named Insured** has or controls the right to elect or appoint more than 50 percent of the Board of Directors (or other governing body) on or before the inception of the **Policy Period**.

The term **Subsidiary** shall not mean any political committee organized pursuant to Section 432 of the Federal Election Campaign Act of 1971, including amendments thereto.

In all events, coverage as is afforded with respect to a **Claim** made against a **Subsidiary** shall only apply for **Wrongful Acts** committed or allegedly committed after the effective time that such **Subsidiary** became a **Subsidiary** and prior to the time that such **Subsidiary** ceased to be a **Subsidiary**.

An entity ceases to be a **Subsidiary** when the **Named Insured** ceases to control the right to elect or appoint more than 50 percent of the Board of Directors (or other governing body), or ceases to continue as an ongoing entity.

If during the **Policy Period** the **Insured Entity** forms or acquires a **Subsidiary**, this **Policy** shall apply:

1. Automatically for a **Subsidiary**, whose assets are less than thirty five percent (35%) of the total consolidated assets of the **Insured Entity** as of the **Policy** inception date; or
2. If the assets of such **Subsidiary** are equal to or greater than thirty five percent (35%) of the total consolidated assets of the **Insured Entity** as of the **Policy** inception date, then only upon the condition that within ninety (90) days of it becoming a **Subsidiary**, the **Named Insured** provides the **Insurer** in writing with full particulars of the new **Subsidiary** and agrees to any additional premium and/or amendment of the provisions of this **Policy** required by the **Insurer** related to such new **Subsidiary**. Further, coverage as shall be afforded to the new **Subsidiary** is conditioned upon the **Named Insured** paying when due any additional premium required by the **Insurer** relating to such new **Subsidiary**.

Wrongful Act shall have the meaning set forth in each applicable **Coverage Section** or any applicable endorsement attached to this **Policy**.

IV. Exclusions

The **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against any **Insured**:

- A. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged nuclear reaction, radiation or contamination, regardless of cause;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged seepage, pollution or contamination of any kind;
- C. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving:
 1. any **Wrongful Act** alleged in any claim which has been reported, or in any circumstance of which notice has been given, prior to the **Policy Period** under any other policy; or
 2. any other **Wrongful Act** whenever occurring, which together with a **Wrongful Act** which has been the subject of such claim or notice, would constitute **Related Wrongful Acts**.

V. Limits of Liability and Deductibles

A. Limits of Liability

1. Costs of Defense Reduce the Limit of Liability

If **Costs of Defense** Reduce the Limit of Liability is purchased, as stated in Item 4. A. of the Declarations, then **Costs of Defense** are part of **Loss** and payment thereof will reduce the Limit of Liability available to pay **Damages**. **Costs of Defense** are not payable by the **Insurer** in addition to any applicable Limit of Liability stated in Item 5. of the Declarations. The **Insurer's** liability for all **Loss** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. Notice of Claims of this **Policy** shall not exceed the amount(s) stated in Item 5. of the Declarations for the purchased **Coverage Section(s)**.

2. Costs of Defense in Addition to the Limit of Liability

If **Costs of Defense** in Addition to the Limit of Liability is purchased, as stated in Item 4. B. of the Declarations, **Costs of Defense** shall be separate and in addition to the applicable Limits of Liability stated in Item 5. of the Declarations. Payment of **Costs of Defense** shall not reduce the applicable Limits of Liability stated in Item 5. of the Declarations.

The **Insurer's** liability for all **Damages** arising out of all **Claims** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. Notice of Claims of this **Policy** shall not exceed the amount(s) stated in Item 5. of the Declarations for the purchased **Coverage Section(s)**.

In the event the applicable Limit(s) of Liability stated in Item 5. of the Declarations is exhausted by payment of **Damages**, or has been tendered to or on behalf of the **Insured**, then any and all obligations of the **Insurer** hereunder shall be deemed to be completely fulfilled and extinguished.

3. Shared Policy Limit of Liability

If Shared Policy Limit of Liability for all **Coverage Sections** is purchased, as stated in Item 5. A. of the Declarations, then the **Insurer's** liability for all **Claims** covered by the **Coverage Sections** purchased shall not exceed the Aggregate Limit of Liability stated in Item 5. A. of the Declarations.

4. Separate Limit of Liability

If Separate Limit of Liability for each **Coverage Section** is purchased, as stated in Item 5. B. of the Declarations, then the **Insurer's** liability for all **Claims** covered by each **Coverage Section** purchased shall not exceed the Separate Aggregate Limit of Liability stated in Item 5. B. of the Declarations.

B. Exhaustion of Limit of Liability

1. In the event the applicable Limit of Liability stated in Item 5. of the Declarations, or any applicable sub-limit stated in this **Policy**, is exhausted by payment of **Costs of Defense** and/or **Damages**, or has been offered or tendered to, or on behalf of, the **Insured**, or to a court of competent jurisdiction, then any and all obligations of the **Insurer** hereunder shall be deemed to be completely fulfilled and extinguished.
2. Unless otherwise stated, all Limits of Liability for this **Policy**, including any sub-limit(s), will apply in the aggregate to all covered **Claims**. In no event shall the **Insurer** be liable to make any payment for **Costs of Defense** and/or **Damages** in excess of the Limit(s) of Liability stated in Item 5. of the Declarations or any applicable sub-limit stated in this **Policy**.
3. The **Insurer** is not obligated to investigate, defend, pay or settle, or continue to investigate, defend, pay or settle a **Claim** after the applicable limit of the **Insurer's** liability has been exhausted by payment of **Damages** or **Costs of Defense** or by any combination thereof or after the **Insurer** has deposited the remaining available Limit of Liability into a court of competent jurisdiction. In such case, the **Insurer** shall have the right to withdraw from the further investigation, defense, payment or settlement of such **Claim** by tendering control of said investigation, defense or settlement of the **Claim** to the **Insured**.

C. Multiple Coverage Sections or Endorsements

In the event a **Claim** is covered under more than one **Coverage Section** or endorsement and such **Coverage Sections** or endorsements are not subject to a Shared Policy Limit of Liability, the **Insurer** shall pay covered **Damages** based on the terms of each applicable **Coverage Section** or endorsement and allocated to each applicable **Coverage Section** or endorsement on the basis of the relative legal and financial exposures of the parties pursuant to the applicable **Coverage Sections** or endorsements, as determined by the **Insurer**. The **Insurer** shall pay covered **Costs of Defense** based on the terms of each applicable **Coverage Section** or endorsement, to be distributed equally against all applicable **Coverage Sections** or endorsements. Any **Costs of Defense** and/or **Damages** paid shall reduce the applicable sub-limit or Limit of Liability of such **Coverage Sections** or endorsements. In no event shall the **Insurer** be liable to pay **Costs of Defense** and/or **Damages** for such **Claim** in excess of the largest Limit of Liability available under the **Coverage Sections** or endorsements applicable to such **Claim**.

D. Deductibles

1. The **Insurer** shall only be liable for the amount of **Loss** arising from a **Claim** which is in excess of the applicable Deductible amount stated in Item 6. of the Declarations. Such Deductible amount shall be borne by the **Named Insured** and shall apply to each and every **Claim**. In the event a **Claim** is covered under more than one **Coverage Section** or endorsement, the largest applicable Deductible shall apply. If the **Named Insured** fails to pay the Deductible, then all **Insureds** shall be jointly and severally obligated to pay the Deductible.
2. If the **Insurer** advances any **Loss** within the applicable Deductible, the **Named Insured** shall, upon written demand, reimburse the **Insurer** for such amounts within thirty (30) days. Any funds so advanced by the **Insurer** at its option, shall serve to reduce the Limit of Liability to the extent that they are not repaid to the **Insurer**. If the **Insurer** brings suit to collect the Deductible, then the **Insured** responsible to pay the applicable Deductible also shall pay the legal fees, costs and expenses incurred by the **Insurer** to collect the Deductible.

VI. Defense, Cooperation and Settlements

A. Consent

No **Insured** shall admit or assume liability, enter into any settlement agreement, make any offer of settlement or compromise, stipulate to any judgment, agree to arbitration, or incur **Costs of Defense** without the **Insurer's** prior written consent. The **Insurer's** consent shall not be unreasonably withheld, provided that the **Insurer** shall be entitled to full information and all particulars it may request in order to reach a decision regarding such consent. Any **Costs of Defense** and/or **Damages** incurred and settlements agreed to prior to the **Insurer** giving its consent shall not be covered hereunder.

B. Defense of Claims

1. The **Insurer** shall have the right and the duty to defend any **Claims** which are covered by this **Policy**. The **Insurer** shall have the right to select defense counsel. The **Insurer** has no obligation to provide **Costs of Defense** for any **Claim** not covered by this **Policy**.
2. The **Insurer** has no obligation to pay any amounts incurred by any **Insured** in any way involving the interpretation or applicability of the terms and conditions of this **Policy**.

C. Cooperation

Each **Insured** shall cooperate with the **Insurer** in the defense and settlement of any **Claim**, and in enforcing any right of contribution or indemnity against any person or organization that may be liable to the **Insured**, at no cost to the **Insurer**. Upon the request of the **Insurer**, the **Insured** shall submit to examination and interrogation, under oath if required by a representative of the **Insurer**, and shall attend hearings, depositions and trials, assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, as well as giving written statements to the **Insurer's** representatives, and meeting with such representatives for purposes of investigation or defense, all without charge to the **Insurer**.

D. Settlements

The **Insurer** shall not settle any **Claim** without the **Named Insured's** consent. If, however, the **Named Insured** shall refuse to consent to any settlement recommended by the **Insurer**, which is acceptable to the claimant, and shall elect to contest the **Claim**, or continue any civil, criminal, administrative, or arbitration proceedings in connection with such **Claim**, then the **Insurer's** liability for the **Claim** shall be the amount for which the **Claim** could have been settled, including **Costs of Defense** incurred up to the date of such refusal, and eighty percent (80%) of such **Loss** excess of the amount for which the **Claim** could have been settled. It is a condition of this insurance that the remaining twenty percent (20%) of such **Loss** shall be borne by the **Insureds** at their own risk. Such amounts are subject to the provisions of section V. of the Common Policy Terms and Conditions Section of this **Policy**.

E. Allocation

If a **Claim** made against an **Insured** pursuant to any **Coverage Sections** contains both covered and uncovered matters, then the **Named Insured** and the **Insurer** will allocate any amount incurred with respect to such **Claim** as follows:

1. one hundred percent (100%) of **Costs of Defense** incurred will constitute covered **Loss**; and
2. **Damages** will be allocated on the basis of the relative legal and financial exposures of the parties as to covered and uncovered matters pursuant to the applicable **Coverage Sections**.

If a **Claim** made against an **Insured** pursuant to any **Coverage Sections** contains both covered and uncovered parties, then the **Named Insured** and the **Insurer** will allocate any amounts incurred on behalf of any uncovered parties with respect to such **Claim** on the basis of the relative legal and financial exposures of the parties of such covered and uncovered parties pursuant to the applicable **Coverage Sections**.

The **Insurer** shall not be liable under this **Policy** for the portion of such amount allocated to non-covered **Loss**. In the event that the parties cannot reach a mutually agreeable allocation, the **Insurer** will determine the appropriate allocation at its discretion.

VII. Notice of Claims

A. Notice of Claim

As a condition precedent to their rights under this **Policy**, an **Insured** shall give the **Insurer** written notice of any **Claim** first made against the **Insureds** during the **Policy Period**, as soon as practicable, but in no event later than sixty (60) days after such **Claim** is first made.

B. Notice of Circumstance

If during the **Policy Period** or any Extended Reporting Period or Run-off Period that may apply, the **Insureds** become aware of any fact, circumstance or situation which may reasonably be expected to give rise to a **Claim** being made against any **Insured** and the **Insured** gives written notice to the **Insurer**, as soon as practicable (but prior to the expiration of or cancellation of the **Policy**), of:

1. the specific fact, circumstance or situation, with full details as to dates, persons, and entities involved; and
2. the injury or damages which may result therefrom; and
3. the circumstances by which the **Insured** first became aware thereof;

then any **Claim** subsequently made arising out of such fact, circumstance or situation shall be deemed to have been made when notice was first given to the **Insurer**.

C. Related Wrongful Acts

All **Claims** based upon or arising out of the same **Wrongful Act** or any **Related Wrongful Acts**, or one or more in a series of any similar, repeated or continuous **Wrongful Acts** or **Related Wrongful Acts**, shall be considered a single **Claim**. Each **Claim** shall be deemed to be first made at the earliest of the following times:

1. when the earliest **Claim** arising out of such **Wrongful Act** or **Related Wrongful Acts** is first made, or
2. when notice pursuant to section VII. B. above of a fact, circumstance or situation giving rise to such **Claim** is given.

D. Information and Cooperation

In addition to furnishing the notice as provided in sections VII. A. and VII. B. above, the **Insureds** shall give the **Insurer** such information and cooperation as it may reasonably require and shall, as soon as practicable, furnish the **Insurer** with copies of reports, investigations, pleadings and other papers in connection therewith.

VIII. General Conditions

A. Cancellation or Non-Renewal of Policy

1. Cancellation

- a. The **Named Insured** may cancel this **Policy** at any time by sending written notice to the **Insurer**.
- b. The **Insurer** may not cancel this **Policy** except for non-payment of any premium when due.
- c. The **Insurer** shall provide at least twenty (20) days written notice to the **Named Insured** prior to any cancellation for non-payment of any premium and such cancellation shall not be effective less than twenty (20) days after such notice is mailed.
- d. If this **Policy** is cancelled by the **Named Insured**, the **Insurer** shall retain the customary short rate proportion of the premium herein. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

2. Nonrenewal

If the **Insurer** decides not to renew this **Policy**, the **Insurer** shall provide written notice to the **Named Insured** at least sixty (60) days prior to the end of the **Policy Period**. The notice shall include the reason for such non-renewal.

3. Notice

The **Insurer** shall send all notices required under this Section VIII.A. by first-class mail to the **Named Insured** at the address last known to the **Insurer**. Proof of mailing of such notice by the United States Postal Service certificate of mailing shall be sufficient proof of notice.

B. Application

The **Application** is the basis of this **Policy** and is incorporated in and constitutes a part of this **Policy**. Any material submitted with the **Application(s)** shall be maintained on file with the **Insurer** and shall be deemed to be attached hereto as if physically attached. It is agreed by the **Insureds** that the statements in the **Application** are their representations, that they are material and that this **Policy** is issued in reliance upon the truth of such representations. With respect to such statements and representations, no knowledge or information possessed by any **Insureds** shall be imputed to any other **Insureds**.

If any person or persons knew as of the **Policy** inception date that such declarations and statements contained in the **Application(s)** were untrue, inaccurate or incomplete, then this **Policy** shall not apply to that person or persons.

However, if the signer of the **Application** knew as of the **Policy** inception date that such representations and statements contained in the **Application(s)** were untrue, inaccurate or incomplete, then this **Policy** shall not apply to that person or persons and the **Insured Entity**.

C. Action Against the Insurer

No action shall lie against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this **Policy**, and the amount of the **Insureds'** obligation to pay shall have been finally determined either by judgment against the **Insureds** after actual trial or by written agreement of the **Insureds**, the claimant and the **Insurer**.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this **Policy** to the extent of the insurance afforded by this **Policy**. No person or organization shall have any right under this **Policy** to join the **Insurer** as party to any action against the **Insureds** to determine the **Insureds'** liability, nor shall the **Insurer** be impleaded by the **Insureds** or their legal representatives.

D. Change in Control of the Named Insured

1. If during this **Policy Period** the **Named Insured**:
 - a. ceases to continue as an ongoing entity; or
 - b. sells all or substantially all of its assets, or consolidates, or merges with or into any other person, group, entity or organization; who then controls the right to elect or appoint more than 50 percent of the Board of Directors or other governing body of the **Named Insured**;
(either of the above events herein referred to as "Transaction")then, this **Policy** shall continue in full force and effect as to any **Wrongful Acts** fully occurring prior to the Transaction, but there shall be no coverage afforded by any provision of this **Policy** for any actual or alleged **Wrongful Acts** occurring after the Transaction.
2. This **Policy** may not be cancelled following a Transaction and the entire premium for this **Policy** shall be deemed fully earned as of the effective date of the Transaction.
3. The **Named Insured** shall give the **Insurer** written notice of the Transaction as soon as practicable but not later than sixty (60) days after the Transaction and prior to the expiration of the **Policy Period**. In the event of a Transaction, the **Named Insured** shall have the right to purchase the Run-Off Period described in section II. C. of this Common Policy Terms and Conditions Section.

E. Subrogation

In the event of any payment under this **Policy**, the **Insurer** shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery thereof, and the **Insureds** shall execute all papers required and shall do everything that may be necessary to secure such rights including the execution of such documents necessary to enable the **Insurer** to effectively bring suit in the name of the **Insureds**. In no event, however, shall the **Insurer** exercise its rights of subrogation against an **Insured** under this **Policy** unless such **Insured** has been convicted of a criminal act, or been judicially determined to have committed a deliberate fraudulent act, or obtained any profit or advantage to which such **Insured** was not legally entitled.

F. Assignment

This **Policy** and any and all rights hereunder are not assignable without the written consent of the **Insurer**.

G. Entire Agreement

By acceptance of this **Policy**, the **Insureds** and the **Insurer** agree that this **Policy** and any written endorsements attached hereto constitute the entire agreement between the parties.

H. Representation by Named Insured

It is agreed that the **Named Insured** shall act on behalf of its **Subsidiaries** and all **Insureds** with respect to the giving and receiving of notices, the payment of premiums and the receiving of any return premiums that may become due under this **Policy**, the receipt and acceptance of any endorsements issued to form a part of this **Policy** and the exercising or declining to exercise any right to an Extended Reporting Period or Run-off Period.

I. Coverage Territory

This **Policy** applies to any **Wrongful Act** taking place anywhere in the world. In the event that the **Insured Entity** operates outside the United States, then the term **Insured Person** also means those titles, positions or capacities in such foreign **Insured Entity** which is equivalent to the position of **Insured Person** in an entity incorporated and/or formed within the United States.

J. Bankruptcy

Bankruptcy or insolvency of the **Insureds** or of their estates shall not relieve the **Insurer** of any of its obligations hereunder. In the event a liquidation or reorganization proceeding is commenced by or against the **Insured Entity** pursuant to the United States Bankruptcy Code, including amendments thereto, or any similar state or local law. The **Insured Entity** and the **Insured Persons** hereby: (1) agree to waive and release any automatic stay or injunction which may apply in such proceeding to this **Policy** or its proceeds under such Bankruptcy Code or law; and (2) agree not to oppose or object to any efforts by the **Insurer**, the **Insured Entity** or any **Insured Persons** to obtain relief from any such stay or injunction.

K. Trade and Economic Sanctions

This **Policy** does not provide coverage for **Insureds**, transactions or that part of **Damages** or **Costs of Defense** that is uninsurable under the laws or regulations of the United States concerning trade or economic sanctions.

NonProfit ExecShield®

Directors, Officers and Organization Liability Insurance Coverage Section

CLAIMS MADE NOTICE FOR POLICY

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO ANY CLAIM FIRST MADE AGAINST THE INSURED AND REPORTED TO THE INSURER DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD THAT MAY APPLY.

PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, in reliance on all statements in the **Application** and all other information provided to the **Insurer**, and subject to all provisions of this **Policy**, the **Insurer** and **Insureds** agree as follows:

I. Insuring Agreements

Directors, Officers and Organization Liability Coverage

- A. This **Policy** shall pay on behalf of the **Insureds** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** first made against the **Insureds** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**; except and to the extent that the **Insured Entity** has indemnified the **Insured Persons**.
- B. This **Policy** shall pay on behalf of the **Insured Entity** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** that is first made against the **Insured Persons** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**; but only to the extent that the **Insured Entity** has indemnified the **Insured Persons** for such **Costs of Defense** and/or **Damages** as permitted by law.
- C. This **Policy** shall pay on behalf of the **Insured Entity** all **Costs of Defense** and/or **Damages** up to the Limit of Liability applicable to this coverage section arising from any **Claim** that is first made against the **Insured Entity** during the **Policy Period** and reported to the **Insurer** in accordance with section VII. of the Common Policy Terms and Conditions Section of this **Policy**, for any actual or alleged **Wrongful Act** committed subsequent to the **Prior Acts Date**.

II. Priority of Payments

In the event of **Costs of Defense** and/or **Damages** arising from any **Claim** for which payment is due under the provisions of this coverage section, then the **Insurer** shall:

- 1. first, pay such non-indemnifiable **Costs of Defense** and/or **Damages** for which coverage is provided under Insuring Agreement I. A. of this coverage section; and
- 2. then, with respect to whatever remaining amount of the applicable Limit of Liability stated in Item 5. of the Declarations is available after payment of such non-indemnifiable **Costs of Defense** and/or **Damages**, at the written request of the Chief Executive Officer of the **Named Insured**, either pay or withhold payment of such other **Costs of Defense** and/or **Damages** for which coverage is provided under this coverage section.

In the event the **Insurer** withholds payment pursuant to sub-paragraph 2. above, then the **Insurer** shall at such time and in such manner as shall be set forth in written instructions of the Chief Executive Officer of the **Named Insured**, remit such payment to the **Named Insured** or directly to the **Insured Persons**.

III. Definitions

In addition to the Definitions listed in section III. of the Common Policy Terms and Conditions Section, whenever printed in boldface type, and whether in the singular or plural form, in this coverage section the following terms shall have the meanings indicated below.

Claim means:

- 1. a written demand for monetary or non-monetary relief including, but not limited to, a civil, criminal, administrative, or arbitration proceeding arising from a **Wrongful Act**;
- 2. a civil, criminal, administrative, or arbitration proceeding for monetary or non-monetary relief filed against an **Insured** arising from a **Wrongful Act** which is commenced by: (a) service of a complaint or similar pleading; (b) return of an indictment, information or similar document; or (c) receipt or filing of a notice of charges; or

3. a written request made by a claimant to the **Named Insured** to toll or waive the statute of limitations for any **Wrongful Act**;

provided, however, the term **Claim** shall not include any grievance or arbitration subject to a collective bargaining agreement with respect to Insuring Agreement I. C. of this coverage section. A **Claim** shall be deemed to have been first made at the time notice of the **Claim** is first received by any **Insured**.

Costs of Defense means reasonable and necessary fees, costs and expenses (including premiums for any appeal bond, attachment bond or similar bond, but without any obligation to apply for or furnish any such bond) resulting solely from the investigation, adjustment, defense and appeal of a covered **Claim** against the **Insureds**, but excluding salaries, wages, overhead or benefit expenses associated with any **Insured**, or any amount covered by the duty to defend obligation of any other insurer.

Damages means:

1. a monetary judgment, award or settlement; or
2. pre-judgment interest and post-judgment interest;

provided, however, **Damages** shall not include:

- a. taxes, civil or criminal fines, sanctions or penalties imposed by law; or
- b. costs incurred by any **Insured** to make any building or property more accessible or accommodating to any disabled person; or
- c. commissions, bonuses, deferred compensation, profit sharing or severance payments; or
- d. disgorgement or restitution payment by or on behalf of any **Insured**, including disgorgement or restitution of amounts retained, obtained, or acquired by an **Insured** and any settlement payment arising from any actual or alleged amount that an **Insured** improperly retained, obtained, or acquired; or
- e. any matter deemed uninsurable under the law pursuant to which this **Policy** shall be construed.

Insured Person means any past, present or future duly elected or appointed directors, trustees, officers, employees (including part time, seasonal and temporary individuals), volunteers, or committee or staff members of the **Insured Entity**. An independent contractor is not an **Insured Person** under this coverage section.

Insured means any **Insured Person** or any **Insured Entity**.

Loss means **Damages** and **Costs of Defense**.

Outside Entity means:

1. a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, including amendments thereto; or
2. any other entity organized for a religious or charitable purpose under any nonprofit organization act or statute; or
3. any other entity, partnership, joint venture or other organization listed by endorsement to this **Policy**.

Personal Injury means any actual or alleged defamation, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, infringement of copyright or trademark, unauthorized use of title, plagiarism, or misappropriation of ideas.

Prior Acts Date means the date stated in Item 8. i. of the Declarations.

Wrongful Act means any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act, including **Personal Injury**, by:

1. any **Insured Person** in their respective capacities as such, or any matter claimed against them by reason of their status as **Insured Persons** with the **Insured Entity**;
2. any **Insured Person** arising out of their serving as a director, officer, trustee, or governor of an **Outside Entity** in such capacity, but only if such service is at the specific request or direction of the **Insured Entity**; or
3. the **Insured Entity**.

IV. Exclusions

In addition to the Exclusions listed in section IV. of the Common Policy Terms and Conditions Section, the **Insurer** shall not be liable to make any payment for **Loss** in connection with a **Claim** made against any **Insured**:

- A. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving the actual or alleged gaining of any profit or advantage to which an **Insured** was not legally entitled; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** gained such profit or advantage to which an **Insured** was not legally entitled;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged criminal or deliberate fraudulent act; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** committed such criminal or deliberate fraudulent act;

- C. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged payments to an **Insured** of any remuneration without the previous approval of the governing bodies of the **Insured Entity**, which payment without such previous approval shall be held to have been illegal; provided, however, this exclusion shall not apply unless a judgment or other final adjudication adverse to any of the **Insureds** in such **Claim** shall establish that such **Insureds** received such payments;

Solely with respect to Exclusions A., B., and C. of this coverage section, the **Insurer** will provide a defense for any such **Claims**, without any liability by the **Insurer** to pay such sums that any **Insured** shall become legally obligated to pay as **Damages**.

- D. for:
1. physical damage to or destruction of any tangible property, including the loss of use thereof; or
 2. bodily injury, sickness, disease, death, assault or battery of any person;
- E. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974, including amendments thereto;
- F. by, on behalf of, or in the right of any **Insured** in any capacity; provided, however, this exclusion does not apply to:
1. any **Claim** that is a derivative action brought or maintained on behalf of the **Insured Entity**, and only if such **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or participation of, or intervention of any **Insured**; or
 2. any **Claim** by any **Insured Person** pursuant to any federal or state whistleblower protection statute or any regulation promulgated thereunder; provided, however, this exception does not apply to any **Claim** arising from any actual or potential employment relationship with the **Insured Entity**;
- G. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any **Wrongful Act** of an **Insured Person** serving in the capacity as a director, officers, trustee, employee, member or governor of any other entity other than an **Insured Entity** or an **Outside Entity**, or by reason of their status as a director, officer, trustee, employee, member or governor of such other entity;
- H. for any **Wrongful Act** arising out of an **Insured** serving as a director, officer, trustee, employee, member or governor of an **Outside Entity**:
1. if such **Claim** is brought by the **Outside Entity** or any of its directors or officers, or by any security holder of the **Outside Entity**, whether directly or derivatively, unless such security holder's **Claim** is instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or participation of, or intervention of the **Outside Entity**, any of its directors or officers, or any **Insured**; or
 2. if such **Wrongful Act** occurred prior to the inception date of the first Nonprofit Directors, Officers and Organization Liability Insurance Policy issued by the **Insurer** to the **Named Insured**, which has been continuously renewed and maintained in effect prior to the inception of this **Policy Period**; or
 3. to the extent such **Insured** is indemnified for such **Costs of Defense** and **Damages** by the **Outside Entity**, and/or to the extent that there is coverage in whole or in part under any policy issued to or for the benefit of any **Outside Entity** or its directors or officers, then this **Policy** shall apply only to **Loss** excess over such indemnification and insurance(if applicable);
- I. based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged employment-related torts, including but not limited to: failure to hire; wrongful dismissal; wrongful discharge; wrongful termination; retaliation; harassment; discrimination; violation of civil rights; or violation of any federal, state, local or foreign laws, whether statutory or common law, concerning discrimination or harassment;
- J. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any federal, state, local or foreign wage and hour laws, whether statutory or common law, including, without limitation, the Fair Labor Standards Act;
- K. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged breach of any oral or written contract or agreement; provided, however, this exclusion shall not apply to the extent that an **Insured Entity** would have been liable in the absence of the contract or agreement.

The **Wrongful Act** of an **Insured** shall not be imputed to any other **Insured** for the purpose of determining the applicability of the Exclusions.

V. Other Insurance

Unless specifically stated otherwise, the coverage afforded under this coverage section shall apply only as excess over any other valid and collectible insurance, unless such other insurance is specifically written as excess insurance over the Separate Limit of Liability or Shared Limit of Liability applicable to this coverage section. This coverage section shall be excess of any other valid and collectible insurance pursuant to which any other insurer has a duty to defend a **Claim** for which this coverage section may be obligated to pay **Costs of Defense** and/or **Damages**.