



## Specimen Policy

In addition to the following forms, state amendatory endorsements will apply.



DECLARATIONS

POLICY NO.

**Travelers Casualty and Surety Company of America**  
Hartford, Connecticut 06183  
(Herein, the "Insurer")

**THIS IS A CLAIMS MADE POLICY WITH DEFENSE COSTS INCLUDED IN THE LIMIT OF LIABILITY.  
PLEASE READ THE ENTIRE POLICY CAREFULLY.**

NOTICE: THIS IS A CLAIMS-MADE POLICY. IF THE POLICY CONTAINS A RETROACTIVE DATE, THEN THE POLICY PROVIDES NO COVERAGE FOR CLAIMS FOR ANY "WRONGFUL ACT" COMMITTED PRIOR TO THE INCEPTION DATE OR THE RETRO ACTIVE DATE. THIS POLICY APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE "INSUREDS" DURING THE "POLICY PERIOD" OR ANY APPLICABLE "DISCOVERY PERIOD" AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED AS "DEFENSE COSTS." ANY "DEFENSE COSTS" THAT ARE INCURRED SHALL BE APPLIED AGAINST THE APPLICABLE RETENTION. THE INSURER SHALL HAVE THE RIGHT AND DUTY TO DEFEND ANY CLAIM AGAINST THE INSUREDS UNDER THIS POLICY.

COVERAGE FOR THE POLICY CEASES UPON THE POLICY TERMINATION DATE EXCEPT FOR THE AUTOMATIC DISCOVERY PERIOD, UNLESS AN OPTIONAL DISCOVERY PERIOD IS PURCHASED. THE OPTIONAL DISCOVERY PERIOD, INCLUDING THE AUTOMATIC DISCOVERY PERIOD, IS LIMITED TO THREE YEARS FROM THE POLICY TERMINATION DATE. POTENTIAL COVERAGE GAPS MAY ARISE UPON EXPIRATION OF THE OPTIONAL DISCOVERY PERIOD. IN GENERAL, THE NATURE OF CLAIMS-MADE COVERAGE IS SUCH THAT, DURING THE FIRST SEVERAL YEARS OF THE CLAIMS-MADE RELATIONSHIP, CLAIMS-MADE RATES ARE GENERALLY LOWER THAN OCCURRENCE RATES (ASSUMING THAT COVERAGE ON AN OCCURRENCE BASIS IS AVAILABLE FOR THE INSURANCE IN QUESTION), AND THE INSURED COMPANY MAY EXPECT SUBSTANTIAL ANNUAL PREMIUM INCREASES, INDEPENDENT OF OVERALL RATE LEVEL INCREASES, UNTIL THE CLAIMS-MADE RELATIONSHIP REACHES MATURITY.

**ITEM 1. PARENT ORGANIZATION'S NAME and PRINCIPAL ADDRESS:**

**ITEM 2. POLICY PERIOD:**

(a) From \_\_\_\_\_ (b) To \_\_\_\_\_ at 12:01 a.m. Local Time both dates at the Principal Address stated in ITEM 1.

**ITEM 3. LIMIT OF LIABILITY (Inclusive of Defense Costs):**

\$ \_\_\_\_\_ maximum aggregate Limit of Liability for all Claims first made in the Policy Period.

**ITEM 4. RETENTION:**

- (a) \$100 each of the Insured Person, each Claim for Non-Indemnified Loss; not to exceed
- (b) \$1,000 in the aggregate, each Claim for Non-Indemnified Loss.
- (c) \$ \_\_\_\_\_ each Claim for all Indemnified Loss.

**ITEM 5. INSURED PERCENTAGE:**

(a) 99.90% of Non-Indemnified and Indemnified Loss; the remaining .10 % of Non-Indemnified and Indemnified Loss shall be uninsured.

**ITEM 6. PREMIUM:**

\_\_\_\_\_ prepaid premium for the Policy Period.

**ITEM 7. PREMIUM FOR DISCOVERY PERIOD: \_\_\_\_\_**

**ITEM 8. LENGTH OF DISCOVERY PERIOD:** \_\_\_\_\_ years.

**ITEM 9. NOTICE REQUIRED TO BE GIVEN TO THE INSURER SHALL BE ADDRESSED To:**

***Notice of Claim or Wrongful Acts:***

Travelers Casualty and Surety Company of America  
Bond Claim Department  
One Tower Square, 3PB  
Hartford, CT 06183

***All Other Notices:***

Travelers Casualty and Surety Company of America  
Commercial Risk  
One Tower Square, 3PB  
Hartford, CT 06183

**ITEM 10. PENDING AND PRIOR LITIGATION DATE:** \_\_\_\_\_

**ITEM 11. ENDORSEMENTS ATTACHED AT ISSUANCE:**

These Declarations, the completed signed Application and their attachments and any materials submitted therewith, and Policy form 72001 NY (06/98) with Endorsements shall constitute the contract among the Insurer and the Insureds ("Policy").

\_\_\_\_\_  
Countersigned By (if required)

\_\_\_\_\_  
Authorized Company Representative

Specimen Policy

**Travelers Casualty and Surety Company of America**  
Hartford, Connecticut 06183  
(Herein, the "Insurer")

**THIS IS A CLAIMS MADE POLICY WITH DEFENSE COSTS INCLUDED IN THE LIMIT OF LIABILITY. ANY "DEFENSE COSTS" THAT ARE INCURRED SHALL BE APPLIED AGAINST THE APPLICABLE RETENTION. PLEASE READ THE ENTIRE POLICY CAREFULLY.**

In consideration of the payment of the premium and in reliance on all statements made and information furnished to the Insurer, including the statements made in the Application and its attachments and any materials submitted therewith, all of which are made a part hereof, the Insurer and the Insureds agree as follows:

**I. INSURING AGREEMENTS**

**Liability Coverage**

A. The Insurer will pay on behalf of the Insureds Loss up to the available maximum aggregate Limit of Liability set forth in Item 3 of the Declarations which is incurred by the Insureds as the result of any Claim first made against the Insureds during the Policy Period or any applicable Discovery Period for a Wrongful Act.

**Defense Coverage**

B. The Insurer shall have the right and duty to defend any Claim covered by this Policy, even if any of the allegations are groundless, false or fraudulent. The Insured shall have the option to select the defense attorney, or to consent to the Insurer's choices of defense attorney, which consent shall not be unreasonably withheld. The Insurer's duty to defend shall cease upon exhaustion of the Limit of Liability set forth in Item 3 of the Declarations.

The Insureds agree to provide the Insurer with all information, assistance and cooperation which the Insurer reasonably requests and agree that in the event of a Claim the Insureds will do nothing that may prejudice the Insurer's position or its potential or actual rights of recovery.

The Insureds agree not to settle any Claim, incur any Defense Costs or otherwise assume any contractual obligation or admit any liability with respect to any Claim without the Insurer's written consent, which shall not be unreasonably withheld. The Insurer shall not be liable for any settlement, Defense Costs, assumed obligation or admission to which it has not consented.

The Insurer may, with the written consent of the Insureds, which consent shall not be unreasonably withheld, make any settlement of a Claim it deems expedient. If the Insureds unreasonably withhold consent to such settlement, the Insurer's liability for all Loss on account of such Claim shall not exceed the

amount for which the Insurer could have settled such Claim plus Defense Costs accrued as of the date such settlement was proposed in writing by the Insurer.

**1. Transfer of Duties When A Limit of Insurance Is Used Up**

1. If the Insurer concludes that, based on Claims or suits which have been reported to the Insurer and to which this insurance may apply, the Non-Profit Management and Organization Liability Insurance Policy limit is likely to be used up in the payment of judgments, settlements or Defense Costs (if applicable), the Insurer will notify the first Named Insured, in writing, to that effect.

2. When a limit of insurance described in paragraph 1 above has actually been used up in the payment of judgments, settlements or defense expenses (if applicable):

(a) The Insurer will notify the first Named Insured, in writing, as soon as practicable, that:

- i. Such a limit has actually been used up; and
- ii. The Insurer's duty to defend suits seeking damages subject to that limit has also ended.

(b) The Insurer will initiate, and cooperate in, the transfer of control, to any appropriate Insured, of all Claims and suits seeking damages

which are subject to that limit and which are reported to the Insurer before that limit is used up. That Insured must cooperate in the transfer of control of said Claims and suits.

The Insurer agrees to take such steps, as the Insurer deems appropriate, to avoid a default in, or continue the defense of, such suits until such transfer is completed, provided the appropriate Insured is cooperating in completing such transfer.

The Insurer will take no action what so-ever with respect to any Claim or suit seeking damages that would have been subject to that limit, had it not been used up, if the Claim or suit is reported to the Insurer after that limit of insurance has been used up.

(c) The first Named Insured, and any other Insured involved in a suit seeking damages subject to that limit, must arrange for the defense of such suits within such time period as agreed to between the appropriate Insured and the Insurer. Absent any such agreement, arrangements for the defense of such suit must be made as soon as practicable.

3. The first Named Insured will reimburse the Insurer for expenses the Insurer incurs in taking those steps the Insurer deems appropriate in accordance with 2(b) above.

The duty of the first Named Insured to reimburse the Insurer will begin on:

(a) The date on which the applicable limit of insurance is used up, if the Insurer sent notice in accordance with paragraph 1 above; or

(b) The date on which the Insurer sent notice in accordance with paragraph 2(a) above, if the Insurer did not send notice in accordance with paragraph 1 above.

4. The exhaustion of any limit of insurance by the payments of judgments, settlements or Defense Costs (if applicable), and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this condition.

## II. DEFINITIONS

A. Application means all signed, written applications including any attachments thereto and materials submitted therewith, for this Policy and for any Policy in an uninterrupted series of policies issued by the Insurer of which this Policy is a renewal or replacement, all of which shall be deemed attached hereto and incorporated herein.

B. Claim means:

1) a written demand for monetary damages;

2) a civil proceeding commenced by the service of complaint or similar pleading.

C. Defense Costs means that part of Loss consisting of reasonable costs, charges and expenses (including but not limited to attorney fees) incurred in defending or investigating Claims, including appeals therefrom. Defense Costs does not include salaries, wages, overhead or benefit expenses of any Insured Person.

D. Discovery Period means that period described in Section III(C)(1) of this Policy and Item 8 of the Declarations.

E. Financial Insolvency means the status of the Insured Organization as a result of the appointment of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the Insured Organization, or the Insured Organization becoming a debtor in possession.

F. Indemnified Loss means (1) Loss which the Insured Organization becomes legally obligated to pay as the result of Claims made against the Insured Organization, and (2) Loss for which the Insured Organization grants indemnification to any Insured Person.

G. Insured(s) means the Insured Organization and the Insured Persons.

H. Insured Organization means the Parent Organization and its Subsidiaries.

I. Insured Persons means any persons who were, now are, or shall become: (1) duly elected or appointed directors, trustees or officers of any Insured Organization; or (2) employees, members of duly constituted committees or volunteers of any Insured Organization that is a non-profit entity.

J. Loss means the total amount excess of the applicable retention which any Insured becomes legally obligated to pay as the result of all Claims first made against any Insured during the Policy Period for Wrongful Acts including, but not

limited to, damages, judgments, settlements and Defense Costs. Loss does not include (1) punitive or exemplary damages, (2) the multiple portion of any multiple damage award, (3) criminal or civil fines or penalties imposed by law, (4) taxes, (5) any amount not indemnified by the Insured Organization for which the Insured is absolved from payment by reason of any covenant, agreement or court order, and (6) matters uninsurable under the law pursuant to which this Policy is construed.

- K. Non-Indemnified Loss means all Loss other than Indemnified Loss.
- L. Parent Organization means the organization designated in Item 1 of the Declarations.
- M. Policy Inception Date means the date stated in Item 2(a) of the Declarations.
- N. Policy Termination Date means the date stated in Item 2(b) of the Declarations or the date of any cancellation or non-renewal of this Policy, whichever is earlier.
- O. Policy Period means the period between the Policy Inception Date and the Policy Termination Date.
- P. Pollutants means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or a state, county, municipality or locality counterpart thereof. Such substances shall include, but not be limited to, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials. Pollutants shall also mean any other air emissions, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, electric or magnetic or electromagnetic fields and any noise.
- Q. Public Entity shall mean a Public Entity as defined in Section 107(a)(51) of the New York Insurance Law.
- R. Related Wrongful Acts means Wrongful Acts that arise out of, are based on, relate to or are in consequence of, the same facts, circumstances or situations.
- S. Subsidiary means:
  - 1) any non-profit entity with respect to which the Insured Organizations, directly or indirectly, in any combination, had on or prior to the Policy Inception Date the ability to control or direct its managerial decisions or to select a majority of its trustees or directors, whether through operation of law or by reason of membership, securities ownership, agreement, charter, certificate of incorporation, or by-laws;

- 2) any non-profit entity with respect to which the Insured Organizations, directly or indirectly, in any combination, acquires by purchase, creation or otherwise during the Policy Period the ability to control or direct its managerial decisions, or to select a majority of its trustees or directors, whether through operation of law or by reason of membership, securities ownership, agreement, charter, certificate of incorporation, or by-laws.

If the annual revenues for the most recent fiscal year of any non-profit entity described in paragraph (2) above exceed 20% of the consolidated revenues for the most recent fiscal year of the Parent Organization and its Subsidiaries, the Parent Organization shall give written notice of such acquisition to the Insurer as soon as practicable, but in no event later than ninety (90) days after the effective date of such acquisition, together with such information as the Insurer may require. This Policy shall not afford any coverage with respect to such non-profit entity and its Insured Persons following such ninety (90) day period unless (a) the Insurer in its sole discretion agrees by endorsement to this Policy to afford such coverage, and (b) the Insureds pay any additional premium and accept any special Policy terms and conditions required by the Insurer.

- T. Wrongful Act means any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed or attempted, or allegedly committed or attempted, by the Insured Organization or by one or more Insured Persons, individually or collectively, in their respective capacities as such, including but not limited to any Wrongful Employment Practices.
- U. Wrongful Employment Practices means any actual or alleged: (1) wrongful dismissal, discharge or termination of employment; (2) employment related misrepresentation; (3) violation of employment laws; (4) sexual or workplace harassment of any kind; (5) failure to provide adequate workplace or employment policies and

procedures; (6) wrongful failure to employ or promote; (7) wrongful discipline; (8) wrongful deprivation of career opportunity including a wrongful failure to hire or promote; (9) failure to grant tenure; (10) negligent employment evaluation; and/or (11) employment discrimination, however, employment discrimination shall include only such acts or allegations based upon disparate impact or vicarious liability. Employment discrimination does not include disparate treatment discrimination of any kind or intentional sexual or other harassment in the work place that is alleged or committed in fact.

### III. EXTENSIONS

#### A. ESTATES, HEIRS, LEGAL REPRESENTATIVES, ETC.

In the event of the death, incapacity or bankruptcy of any Insured Person, any Claim against his or her estate, heirs, legal representatives or assigns based on actual or alleged Wrongful Acts of such Insured Person shall be deemed to be a Claim against such Insured Person for the purposes of this Policy.

#### B. MARITAL ESTATE

Subject otherwise to the terms hereof, this Policy shall cover Loss arising from any Claim made against the lawful spouse (whether such status is derived by reason of statutory, common or other law of any applicable jurisdiction in the world) of an Insured Person for Claims arising solely out of his or her capacity as the spouse of an Insured Person, including such Claims that seek damages recoverable from marital community property, property jointly held by the Insured Person and the spouse, or property transferred from the Insured Person to the spouse; provided, however, that this extension shall not afford coverage for any Claim for any actual or alleged Wrongful Act of the spouse. All terms, conditions and other provisions of this Policy, inclusive of any provision relative to the applicable retention, which would be applicable to Loss incurred by the Insured Person in such Claim shall also apply to Loss incurred by the spouse in such Claim.

#### C. DISCOVERY PERIOD

1. If (a) the Insurer or the Parent Organization cancels this Policy pursuant to Section V (F) of this Policy, or (b) the Insurer refuses to renew this Policy, or (c) the Insurer offers to renew this Policy on terms that involve a decrease in the Limits of Liability, reduction of coverage, increase in the retention amount, new exclusion, or any other change in coverage less favorable to the Parent Organization (hereafter "Reduction of Coverage Renewal"), then the Insureds shall have the right to an Automatic Discovery Period or an Optional Discovery Period as follows:

#### a. Automatic Discovery Period

i. There shall be an extension of the coverage granted by this Policy for any Claim first made against any Insureds during the period of sixty (60) days, ninety (90) days if the Parent Organization is a Public Entity after the effective date of such cancellation, non-renewal or "Reduction of Coverage" Renewal, herein called the Automatic Discovery Period, but only with respect to any actual or alleged Wrongful Act committed or allegedly committed before the effective date of such cancellation, non-renewal or "Reduction of Coverage" Renewal and otherwise covered by this Policy.

ii. The Insurer must advise the Parent Organization in writing of the Automatic Discovery Period, the availability of, the premium for and the importance of purchasing the Optional Discovery Period. This notice must be sent within thirty (30) days after such cancellation, non-renewal or "Reduction of Coverage" Renewal.

#### b. Optional Discovery Period

The Parent Organization shall have the right, upon payment of the required additional premium shown in Item 7 of the Declarations, to an extension of the coverage granted by this Policy in respect of any Claim which is first made against the Insureds during the period of three (3) years after the effective date of such cancellation, non-renewal or "Reduction of Coverage" Renewal, herein called the Optional Discovery Period, but only in respect of any Wrongful Act committed or allegedly committed before the effective date of such cancellation, non-renewal or "Reduction of Coverage" Renewal and otherwise covered by this Policy.

This right shall terminate, however, unless written notice of such election together with payment of the required additional premium due is received by the Insurer not

later than sixty (60) days after the effective date of cancellation, non-renewal or "Reduction of Coverage" Renewal, or thirty (30) days from the date of mailing or delivery of the advice required by (a)(ii) of this section.

Upon such cancellation, non-renewal or "Reduction of Coverage" Renewal, any return premium due the Parent Organization shall be applied to the premium for the Optional Discovery Period if the Parent Organization elects to purchase such coverage. Where premium is due to the Insurer, any payment received by the Insurer from the Parent Organization as payment for the Optional Discovery Period shall be first applied to any premium due for the Policy.

If the Policy is cancelled by the Insurer due to non-payment of premium on the part of the Insureds, the Insurer shall not be required to provide a premium quotation unless requested by the Insureds.

In the event the Parent Organization is placed in liquidation or bankruptcy or permanently ceases operations and the Parent Organization or its designated trustee does not purchase the Optional Discovery Period then the Insured Person(s) have the right, upon payment of the required additional premium, to request in writing the election of the Optional Discovery Period within one hundred twenty (120) days of the Policy Termination Date. The Insurer shall have no obligation to provide any notice to any Insured Person(s) of the availability of the Optional Discovery Period.

If this Policy is cancelled by the Insurer because of non-payment of premium, and at the effective date of such cancellation the Insurer has provided this insurance to the Parent Organization on a Claims-made basis continuously without interruption for less than one year, there shall be no right to elect and purchase an Optional Discovery Period.

The first sixty (60) days (ninety (90) days if the Parent Organization is a Public Entity) of the Optional Discovery Period, if it becomes effective, shall run concurrently with the Automatic Discovery Period.

2. The Discovery Period shall not be cancelable, and the additional required premium for the Optional Discovery Period shall be fully earned at its inception.

3. The Limit of Liability during the extended reporting period, including both the automatic sixty (60) day extension and the three (3) year extended reporting period, if purchased by the Insureds, shall be either:

(A) 100 percent of the Limit of Liability as set forth in Item 3 of the DECLARATIONS, if the Insurer has provided coverage to the Insured substantially similar to the coverage provided by this Policy for at least three (3) consecutive years immediately preceding the inception date of this Policy; or

(B) If the Insurer has provided to the Insured coverage substantially similar to the coverage provided by this Policy for less than three (3) consecutive years immediately preceding the inception date of this Policy, the greater of: (1) to the extent there is any limit remaining, the amount remaining under the Limit of Liability as set forth in Item 3 of the DECLARATIONS, or (2) fifty (50%) percent of the aggregate Limit of Liability as set forth in Item 3 of the DECLARATIONS

4. If the Insured does not purchase the Optional Discovery Period, the Limit of Liability for the Automatic Discovery Period shall be equal to the amount of coverage remaining in the Policy's aggregate Limit.

#### IV. EXCLUSIONS

The Insurer shall not be liable to make any payment for Loss in connection with any Claim made against any of the Insureds:

1) for:

(a) bodily injury, sickness, disease or death of any person, or any damage to or destruction of any tangible property including loss of use thereof; or

(b) mental anguish or emotional distress, however this subpart (b) shall not apply with respect to any Claim for Wrongful Employment Practices;



- 2) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any fact, circumstance or situation which has been the subject of any notice given under any other Policy of which this Policy is a renewal or replacement;
- 3) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving (a) the actual, alleged or threatened discharge, release, escape or disposal of Pollutants into or on real or personal property, water or the atmosphere; or (b) any direction or request that the Insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants, or any voluntary decision to do so; including but not limited to any Claim for financial loss to the Insured Organization, its members or security holders or its creditors based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the matters described in (a) or (b) of this exclusion;
- 4) for an actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 and amendments thereto or similar provisions of any federal, state or local statutory law or common law upon fiduciaries of any pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing benefits to employees of the Insured Organization;
- 5) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any litigation against any Insured on or prior to the Pending and Prior Litigation Date set forth in Item 10 of the Declarations, or any fact, circumstance or situation underlying or alleged therein;
- 6) brought or maintained by or on behalf of the Insured Organization, except a Claim that is brought and maintained totally independently of, and totally without the solicitation, assistance, participation, or intervention of any officer, director or trustee of the Insured Organization;
- 7) for Wrongful Acts by any Insured Person as a director, officer or employee of any entity other than the Insured Organization, even if such service is directed or requested by the Insured Organization;
- 8) for any Wrongful Act committed or allegedly committed by any Insured Organization or its Insured Persons while such Insured Organization was not a Subsidiary; however, if before or during the Policy Period an organization ceases to be a Subsidiary, coverage with respect to such Subsidiary and its Insured Persons shall continue until termination of this Policy but only with respect to Claims for Wrongful Acts taking place while such organization was a Subsidiary;
- 9) for liability under or breach of any oral, written or implied contract or agreement, or for liability of others assumed by the Insured under any such contract or agreement; however, this exclusion shall not apply to the extent (a) the Insured would have been liable in the absence of such contract or agreement; or (b) the Claim is a Claim for Wrongful Employment Practices;
- 10) brought about or contributed to by any deliberately fraudulent or dishonest act or omission or any willful violation of any statute or regulation by such Insured;
- 11) for such Insured gaining in fact any profit, remuneration or advantage to which such Insured was not legally entitled; or
- 12) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the ownership, control, management or operations of any for-profit Subsidiary of the Insured Organization; however, this exclusion shall not apply with respect to any for-profit Subsidiary that is an Insured Organization pursuant to an endorsement to this Policy.
- No fact pertaining to or knowledge or information possessed by any Insured Person shall be imputed to any other Insured Person for purposes of applying any Exclusion in Section IV. Only facts pertaining to or knowledge or information possessed by an officer, director or trustee of the Insured Organization shall be imputed to the Insured Organization for purposes of applying any Exclusion in Section IV.

## V. GENERAL CONDITIONS AND LIMITATIONS

### A. LIMIT OF LIABILITY, RETENTION AND COINSURANCE

- 1) The Insurer shall pay Loss in excess of the applicable Retention set forth in Item 4 of the Declarations up to the maximum aggregate Limit of Liability set forth in Item 3 of the Declarations for the Policy Period set forth in Item 2 of the Declarations.
- 2) With respect to all Claims for which this Policy provides coverage, the Insured shall share 0.10% of the first \$1,000,000 of all Loss, in excess of the retention. The Company's obligation to pay its percentage of Loss is subject to this Section V. A. The Insured's percentage shall be deemed uninsured and at its own risk.
- 3) Losses based upon or arising out of the same Wrongful Act or Related Wrongful Acts of one or more of the Insureds shall be considered a single Loss incurred as a result of a single Claim, which Claim shall be deemed to have been made on the date the first Claim for such Wrongful Act or for one or more of such Related Wrongful Acts is made against any of the Insureds, whether such date is before or after the Policy Inception Date. The applicable Retention shall apply only once to each such single Claim.
- 4) If the Insured Organization is permitted or required by common or statutory law to ultimately indemnify the Insured Persons for any Loss, or to advance Defense Costs on their behalf, and does not in fact do so other than for reasons of Financial Insolvency, then any payment of such Loss or any advancement of such Defense Costs by the Insurer shall not be subject to any Retention amount. In that event, the Insured Organization shall reimburse and hold harmless the Insurer for such Loss up to the Retention amount set forth in Item 4(c) of the Declarations. For purposes of this Section V(A), the resolutions of the Insured Organization shall be deemed to provide indemnification for Loss to the fullest extent permitted by common or statutory law.
- 5) If Loss resulting from a Claim is subject in part to no Retention and in part to the Retention for Indemnified Loss, the Retention set forth in Item 4(c) of the Declarations shall be applied only to that part of the Loss which is Indemnified Loss.
- 6) Defense Costs shall be part of and not in addition to the maximum aggregate Limit of Liability set forth in Item 3 of the Declarations, and Defense

Costs shall reduce the maximum aggregate Limit of Liability.

- 7) The amount set forth in Item 3 of the Declarations shall be the maximum aggregate Limit of Liability of the Insurer under the Policy for the Policy Period for all Loss resulting from all Claims, regardless of the time of payment by the Insurer.

### B. NOTICE

- 1) If during the Policy Period or Discovery Period, if purchased, any Claim is first made against any Insured, the Insureds shall give to the Insurer written notice of any such Claim as soon as practicable. The Insured shall give the Insurer such information and cooperation as it may reasonably require.
- 2) If during the Policy Period or Discovery Period, if purchased, the Insureds shall become aware of any Wrongful Act which may subsequently give rise to a Claim and shall give written notice to the Insurer as soon as practicable during the Policy Period or Discovery Period, if purchased, then any Claim subsequently made against the Insureds arising out of such Wrongful Act shall be deemed to have been made during the Policy Period. Such notice must articulate the full particulars as to the nature of the potential Claim, the date of the Wrongful Act, the persons involved and the reasons for anticipating a Claim.
- 3) All notice under this subsection V.B. given to any agent of the Company in New York State, with particulars sufficient to identify the Insured, shall be considered to be notice to the Company.
- 4) The failure to give the Company prompt written notice of the particulars of such Claim or suit or to send the Company copies of any demand, notice, summons or other legal papers received will not invalidate any Claim made by the Insured or free the Company from any responsibility in any suit if it can be shown not to have been reasonably possible to give the

notice or forward the documents promptly, and that notice was given or the documents were sent as soon as reasonably practicable.

**C. ACQUISITION OF PARENT ORGANIZATION**

If during the Policy Period (1) the Parent Organization is acquired by merger into or consolidation with another entity, or (2) another entity, or person or group of entities and/or persons acting in concert acquires securities or voting rights which result in ownership or voting control by the other entity(ies) or person(s) of more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of directors of the Parent Organization, then coverage under this Policy shall terminate pursuant to Section V.F, and the provisions of Section III.C. shall apply.

As soon as the Parent Organization becomes aware of a pending merger, consolidation or acquisition, it shall give written notice thereof to the Insurer.

**D. SUBROGATION**

If any payment is made under this Policy, the Insurer shall be subrogated to the extent of such payment to all of the Insureds' rights of recovery, including without limitation the Insured Persons' rights to indemnification or advancement from the Insured Organization. The Insureds shall execute all papers required and do everything necessary to secure such rights and to enable the Insurer to bring suit in their name.

**E. AUTHORIZATION AND NOTICES**

By acceptance of this Policy, the Insureds agree that the Parent Organization will act on behalf of the Insureds with respect to:

- 1) the giving of all notices to the Insurer as provided herein,
- 2) the receiving of all notices from the Insurer,
- 3) the payment of premiums,
- 4) the receiving of any return premiums that may become due under this Policy,
- 5) the cancellation of this Policy, and
- 6) the negotiation, agreement to and acceptance of any endorsements or additional terms and conditions to this Policy.

**F. CANCELLATION**

1. This Policy may be cancelled by the Insurer for non-payment of a premium when due, provided the Insurer gives written notice by certified mail to the Parent Organization stating when, not less than fifteen (15) days thereafter, such cancellation shall be effective.

2. In the event of a change in the risk Insured as provided in Section V. C, this Policy may be cancelled by the Insurer, provided the Insurer gives written notice by certified mail to the Parent Organization stating when, not less than twenty (20) days thereafter, such cancellation shall be effective.

3. By acceptance of this Policy, the Insureds grant the exclusive power and authority to cancel this Policy on their behalf to the Parent Organization, which may cancel this Policy by mailing to the Insurer written notice stating when thereafter such cancellation shall be effective. The mailing of such notice shall be sufficient notice, and the effective date of cancellation stated in the notice shall become the Policy Termination Date.

4. If this Policy is cancelled pursuant to Section V(F)(3), the earned premium shall be computed in accordance with the customary short rate table and procedure. If this Policy is cancelled pursuant to V(F)(1 or 2), the earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

5. Copies of the cancellation notice shall also be mailed to the insurance agent or broker of record on this Policy.

**G. NON-RENEWAL; RENEWAL CHANGES**

1. The Insurer may (a) non-renew this Policy, or (b) offer a Conditional Renewal of this Policy, by mailing to the Parent Organization at least sixty (60) days but not more than one hundred twenty (120) days in advance of the Policy Termination Date, a notice containing the specific reason or reasons for

non-renewal or Conditional Renewal setting forth the amount of any premium increase and the nature of any other proposed changes.

2. Copies of notices as required in Section V(G)(1) of this Policy shall also be mailed to the insurance agent or broker of record on this Policy.
3. Section V(G)(1) of this Policy shall not apply when the Parent Organization or another agent of the Parent Organization has mailed written notice that this Policy has been replaced or is no longer desired.
4. If prior to the Policy Termination Date an incomplete or late Conditional Renewal notice or a late non-renewal notice is provided by the Insurer, coverage shall remain in effect at the same terms and conditions as expiring and at the lower of the current rates or the rates for the prior period until sixty (60) days after such notice is mailed unless the Parent Organization elects to accept terms, conditions, and rates of the Conditional Renewal notice and renewal of this Policy on that basis, then such terms, conditions and rates shall govern this Policy upon expiration of such sixty (60) day period.
5. If the Insurer does not provide timely and substantially complete notice of non-renewal or Conditional Renewal prior to the Policy Termination Date, coverage shall remain in effect on the same terms and conditions as this Policy for another Policy Period at the lower of the current or prior Policy Period Premium rates.
6. The Limit of Liability shown under Item 3 of the Declarations shall not be increased by any non-renewal or Conditional Renewal notification requirements except that it shall be increased in proportion to the extension of this Policy.
7. A notice of non-renewal shall advise the Parent Organization of any rights to coverage and the duration thereof.
8. If the Insurer provides notice of non-renewal and subsequently extends the Policy Period for ninety (90) days or less, an additional notice of non-renewal is not required under Section V(G)(4) of this Policy.
9. Delivery of written notice shall be equivalent to mailing.
10. "Conditional Renewal" shall mean renewal of this Policy by the Insurer conditioned upon change of limits, change in type of coverage, reduction of coverage, increased retention, addition of exclusion, or an increase in premium

in excess of 10% exclusive of any increase as a result of increased exposure or due to and commensurate with Insured value added or as a result of experience rating, retrospective rating or audit.

#### H. ACTION AGAINST INSURER

No action shall lie against the Insurer unless, as a condition precedent thereto, there shall have been full compliance by the Insureds with all of the terms of this Policy; nor shall any such action lie until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against an Insured or by written agreement of the Insured, the Claimant and the Insurer. No person or organization shall have any right under this Policy to join the Insurer as a party to any action against the Insureds to determine the Insurer's liability, nor shall the Insurer be impleaded by the Insureds or their legal representatives.

#### I. ACCEPTANCE

By acceptance of this Policy, the Insureds agree that this Policy constitutes the entire agreement existing between them and the Insurer relating to this insurance.

#### J. ALTERATION & ASSIGNMENT

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy signed by an authorized employee or representative of the Insurer.

#### K. OTHER INSURANCE

If any Loss otherwise covered under this Policy is Insured under any other valid and collectible Policy or policies, then this Policy shall apply only in excess of the amount of any deductibles, retentions and limits of liability under such other

insurance, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other Policy to the Policy Number of this Policy.

## VI. WARRANTIES AND COVENANTS

The Insureds warrant and agree as a condition to the Insurer's obligations hereunder, as follows:

- 1) The statements and representations made in the Application are the Insureds' statements and representations and are true. This Policy is issued in reliance upon the truth of such statements and representations.
- 2) No misrepresentation shall be deemed material unless knowledge by the Insurer of the facts misrepresented would have led to a refusal by

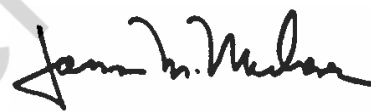
the Insurer to make such contract. In the event of a material misrepresentation, this Policy shall be void and of no effect whatsoever, but only with respect to:

- (a) any Insured Person who had knowledge or information as of the Policy Inception Date of the facts that were not truthfully disclosed, and;
- (b) the Insured Organization if the person who signs the Application had knowledge or information as of the Policy Inception Date of the facts that were not truthfully disclosed.

Whether an Insured Person had such knowledge or information shall be determined without regard to whether the Insured Person actually knew the Application contained such untrue statement or representation.

IN WITNESS WHEREOF, the Insurer has caused this Policy to be signed by its President and Secretary and countersigned on the Declarations Page by a duly authorized agent of the Insurer.

  
Executive Vice President

  
Corporate Secretary

**ISSUED BY:**  
**ISSUED TO:**

**POLICY NO:**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ENDORSEMENT AMENDING INSURING AGREEMENTS, DEFINITIONS, AND EXCLUSIONS**

In consideration of the payment of the premium,

1. Section **I. INSURING AGREEMENTS, Liability Coverage A.** is deleted and replaced with the following:
  - A. The Insurer will pay on behalf of the Insureds Loss up to the available maximum aggregate Limit of Liability set forth in **ITEM 3** of the Declarations which is incurred by the Insureds as the result of any Claim first made against the Insureds during the Policy Period or the Discovery period, if purchased, for a Wrongful Act.
2. Section **II. DEFINITIONS, B. Claim,** is deleted and replaced with the following:
  - B. Claim means:
    - 1) a written demand for monetary or non-monetary relief; or
    - 2) a civil proceeding commenced by the service of a complaint or similar proceeding, against an Insured for a Wrongful Act, including an appeal therefrom.
1. Section **IV. EXCLUSIONS 6)** is deleted.
2. Section **IV. EXCLUSIONS 9)** is deleted and replaced with the following:
  - 9) for liability under or breach of any oral, written or implied contract or agreement, or for liability of others assumed by the Insured under any such contract or agreement; provided, however, this Exclusion shall not apply to (a) the Insurer's duty to defend and to pay Defense Costs regarding such Claim; (b) the extent the Insured would have been liable in the absence of such contract or agreement; or, (c) the extent the Claim is a Claim for Wrongful Employment Practices;

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, exclusions or limitations of the above-mentioned policy, except as expressly stated herein. This endorsement is part of such policy and incorporated therein.

This endorsement is effective at the Inception Date stated in **ITEM 2** of the Declarations or effective at 12:01 A.M. on \_\_\_\_\_, if indicated herein. Complete the following only when this endorsement is not prepared with the policy or is to be effective on a date other than the Inception Date of the policy.

Accepted by: \_\_\_\_\_  
On behalf of the entity named in  
**ITEM 1** of the Declarations.

\_\_\_\_\_  
Authorized Company Representative

ISSUED BY: \_\_\_\_\_

ISSUED TO: \_\_\_\_\_

POLICY NO: \_\_\_\_\_

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**AMENDED BI/PD EXCLUSION**

In consideration of the payment of the premium:

1. Section IV. **EXCLUSIONS** 1) is deleted and replaced by the following:

- 1) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving bodily injury, sickness, mental anguish, emotional distress, disease or death of any person, provided, that this exclusion shall not apply to allegations of mental anguish or emotional distress if and only to the extent that such allegations are made as part of a **Claim for Wrongful Employment Practices**;

2. Section **IV. EXCLUSIONS** is amended by adding the following exclusion:

for or arising out of any damage, destruction, loss of use or deterioration of any tangible property including without limitation, construction defects, whether or not as a result of faulty or incorrect design or architectural plans, improper soil testing, inadequate or insufficient protection from soil and/or ground water movement, soil subsidence, mold, toxic mold, spores, mildew, fungus, or wet or dry rot, or the supervision of actual construction, manufacturing or assembly of any tangible property;

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, exclusions or limitations of the above-mentioned policy, except as expressly stated herein. This endorsement is part of such policy and incorporated therein.

This endorsement is effective at the Inception Date stated in ITEM 2 of the Declarations or effective at 12:01 A.M. on \_\_\_\_\_, if indicated herein. Complete the following only when this endorsement is not prepared with the policy or is to be effective on a date other than the Inception Date of the policy.

Accepted by: \_\_\_\_\_  
On behalf of the entity named in  
ITEM 1 of the Declarations.

\_\_\_\_\_  
Authorized Company Representative

ISSUED BY:  
ISSUED TO:

POLICY NO:

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CLAIMS AGAINST BUILDER/DEVELOPER**

This endorsement modifies insurance provided under the following:  
**Non-Profit Management and Organization Liability Insurance Policy**

In consideration of the premium charged,

1. For purposes of this endorsement, the following terms have the following meanings:
  - a. "Builder/Developer Board Member" means any person appointed or elected to serve on the board of directors of the **Parent Organization** by the builder, developer or sponsor of the **Parent Organization**, and who was both a director or officer of the **Parent Organization** and a director, officer, employee or agent of such builder, developer, or sponsor of the **Parent Organization**;
  - b. "Policy Year" means each year of the **Policy Period** beginning with the **Policy Inception Date** and ending one year thereafter and each successive year until canceled or non-renewed.
2. The Insurer shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any Builder/Developer Board Member after the end of the Policy Year in which such Builder/Developer Board Member ceases to serve on the board of directors of the **Parent Organization**.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, exclusions or limitations of the above-mentioned policy, except as expressly stated herein. This endorsement is part of such policy and incorporated therein.

This endorsement is effective at the inception date stated in Item 2 of the Declarations or effective at 12:01 A.M. on \_\_\_\_\_, if indicated herein. Complete the following only when this endorsement is not prepared with the policy or is to be effective on a date other than the inception of the policy.

Accepted by: \_\_\_\_\_  
On behalf of the entity named in  
ITEM 1 of the Declarations.  
  
\_\_\_\_\_  
Authorized Company Representative



ISSUED BY:  
ISSUED TO:

POLICY NO:

**AMENDED DEFINITION OF INSURED TO INCLUDE PROPERTY MANAGER**

This endorsement modifies insurance provided under the following:  
**Non-Profit Management and Organization Liability Insurance Policy**

In consideration of the payment of premium:

1. Section II. **DEFINITIONS**, sub-paragraph **G. Insured** is amended to include:
  - a. any independent management organization under a written contractual agreement solely with the **Insured Organization** (a "Property Manager") and
  - b. any director, officer or employee of a Property Managerbut only while performing property management services for the **Insured Organization** which are enumerated in such written contractual agreement.
2. Section **IV. EXCLUSIONS** is amended by adding the following:

brought or maintained by or on behalf of the **Insured Organization** against any **Insured** added pursuant to paragraph 1 of this endorsement;

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, exclusions or limitations of the above-mentioned policy, except as expressly stated herein. This endorsement is part of such policy and incorporated therein.

This endorsement is effective at the inception date stated in Item 2 of the Declarations or effective at 12:01 A.M. on \_\_\_\_\_, if indicated herein. Complete the following only when this endorsement is not prepared with the policy or is to be effective on a date other than the inception of the policy.

Accepted by: \_\_\_\_\_  
On behalf of the entity named in  
ITEM 1 of the Declarations.  
\_\_\_\_\_  
Authorized Company Representative

CIRI 70064 NY (10-00)

ISSUED BY:  
ISSUED TO:

POLICY NO:

## **NUCLEAR BROAD FORM EXCLUSION**

This endorsement modifies insurance provided under the following:

### **Non-Profit Management and Organization Liability Insurance Policy**

- A. This Policy does not apply:
1. To **Loss**
    - a. with respect to which an Insured under this Policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada or any of their successors, or would be an **Insured** under any such policy but for its termination upon exhaustion of its limit of liability; or
    - b. resulting from the Hazardous Properties of Nuclear Material and with respect to which (i) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (ii) the Insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any Agency thereof with any person organization; or
  2. To **Loss** resulting from the Hazardous Properties of Nuclear Material, if
    - a. the Nuclear Material (i) is at any Nuclear Facility owned by, or operated by or on behalf of an **Insured** (ii) has been discharged or dispersed therefrom;
    - b. the Nuclear Material is contained in Spent Fuel or Waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **Insured**; or
    - c. the **Loss** arises out of the furnishing by an **Insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any Nuclear Facility, but if such Nuclear Facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to **Loss** to such Nuclear Facility and any property thereat.
- B. As used in this Endorsement:
1. "Hazardous Properties" include radioactive, toxic or explosive properties.
  2. "Nuclear Material" means Source Material, Special Nuclear Material or Byproduct Material.
  3. "Source Material," "Special Nuclear Material" and "Byproduct Material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

4. "Spent Fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a Nuclear Reactor.
5. "Waste" means any waste material (a) containing Byproduct Material other than the tailing or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its Source Material content and (b) resulting from the operation by any person or organization of any Nuclear Facility included within the definition of Nuclear Facility under paragraph (a) or (b) thereof.
6. "Nuclear Facility" means
  - a. any Nuclear Reactor;
  - b. any equipment or device designed or used for (i) separating the isotopes of uranium or plutonium, (ii) processing or utilizing Spent Fuel, or (iii) handling, processing or packaging Waste;
  - c. any equipment or device used for the processing, fabricating or alloying of Special Nuclear Material if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
  - d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of Waste and includes the site on which any of the foregoing is located, all operation conducted on such site and all premises used for such operations.
7. "Nuclear Reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
8. "**Insured**" means the **Insured Organization** and shall also mean the **Insured Persons**.
9. "**Loss**" includes all forms of radioactive contamination of property.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, exclusions or limitations of the above mentioned policy, except as expressly stated herein. This endorsement is part of such policy and incorporated therein.

This endorsement is effective at the inception date stated in Item 2 of the Declarations or effective at 12:01 A.M. on \_\_\_\_\_, if indicated herein. Complete the following only when this endorsement is not prepared with the policy or is to be effective on a date other than the inception of the policy.

\_\_\_\_\_  
Authorized Representative



**Notice for New York**  
***Applicants and Insureds***

**This notice contains important information about the Policy.**  
**This Notice will be physically attached to all applications and Policy declarations.**  
**This is a Claims Made Policy.**  
**Please read it carefully.**

1. This Policy, subject to its terms applies only to any **Claim** first made against the **Insured** during the **Policy Period** or any applicable Discovery Period.
2. The Policy provides no coverage for **Claims** arising out of incidents, occurrences or alleged **Wrongful Acts** which took place prior to any retroactive date stated in the Policy.
3. The premium charge for the optional Discovery Period, if purchased, will be as stated in Item 7 of the Declarations. The cost for the optional Discovery Period is based on rates in effect as of the inception date of the Policy.
4. During the first several years of a claims-made relationship, claims-made rates are comparatively lower than occurrence rates. The **Insured** can expect substantial annual premium increases, independent of overall rate level increases, until the claims-made relationship reaches maturity.
5. All coverage for the Policy ceases upon the Policy termination date, except for the sixty (60) day automatic Discovery Period (ninety (90) day automatic Extended Reporting Period for a public entity), unless an additional Discovery Period is purchased; such Discovery Period, including the automatic Extended Reporting Period, is limited to three years from the Policy termination date. Potential coverage gaps may arise upon expiration of the Discovery Period.
6. The **Insured** acknowledges that the aggregate limit of liability contained in this Policy shall be reduced and may be completely exhausted, by **Defense Costs**. The Company shall not be liable for **Defense Costs** plus the amount of any judgment or settlement exceeding the aggregate limit of liability of this Policy. **Defense Costs**, however, will be applied against the retention amount.
7. The **Insured** shall have the option to: (1) select the defense attorney or to consent to the Company's choice of defense attorney, which consent shall not be unreasonably withheld; (2) participate in, and assist in the direction of, the defense of any **Claim**; (3) consent to a settlement, which consent shall not be unreasonably withheld.
8. The **Insured** has the right to obtain, upon written request, an accounting of legal defense costs actually expended in the event of **Claim**.