

Filing at a Glance

Company: Companion Property & Casualty Insurance Company
Product Name: Employment Related Practices Liability
TOI: 05.2 Commercial Multi-Peril - Liability Portion Only
Sub-TOI: 05.2007 Other CMP
Filing Type: Form

SERFF Tr Num: SPIN-1Q1DRG484/00-00/00-00/00
SERFF Status: Closed
Co Tr Num: EP AR0602101F01
Co Status:
Author: SPI CompanionPCGroup
Date Submitted: 05-05-2006

State: Arkansas
State Tr Num: AR-PC-06-019548
State Status:
Reviewer(s): Edith Roberts
Disposition Date: 07-12-2007
Disposition Status: Withdrawn
Effective Date (New):
Effective Date (Renewal):

Effective Date Requested (New): 07-01-2006
Effective Date Requested (Renewal):

General Information

Project Name: MU EP INITIAL FILINGS
Project Number:
Reference Organization:
Reference Title:
Filing Status Changed: 07-12-2007
State Status Changed: 08-31-2006
Corresponding Filing Tracking Number:
Filing Description:
MU EP INITIAL FILINGS

Status of Filing in Domicile:
Domicile Status Comments:
Reference Number:
Advisory Org. Circular:
Deemer Date:

Company and Contact

Filing Contact Information

Susan Crews, Product Development Analyst
51 CLEMSON ROAD
COLUMBIA, SC 29229
(803) 264-5655 [Phone]
(803) 865-3163[FAX]

Filing Company Information

Companion Property & Casualty Insurance Company
P.O. BOX 100165
COLUMBIA, SC 29202
(800) 845-2724 ext. [Phone]

CoCode: 12157
Group Code: 661
Group Name:
FEIN Number: 57-0768836

State of Domicile: South Carolina
Company Type:
State ID Number:

Filing Fees

Fee Required?	Yes
Fee Amount:	\$50.00
Retaliatory?	No
Fee Explanation:	N
Per Company:	No

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Withdrawn	Edith Roberts	07-12-2007	07-12-2007

Objection Letters and Response Letters

Objection Letters

Status	Created By	Created On	Date Submitted
Pending	Edith Roberts	08-31-2006	08-31-2006

Industry

Response

Filing Notes

Response Letters

Responded By	Created On	Date Submitted
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Subject	Note Type	Created By	Created On	Date Submitted
Open Filing	Note To Reviewer	SPI CompanionPCGr oup	05-10-2007	05-10-2007

Disposition

Disposition Date: 07-12-2007

Effective Date (New):

Effective Date (Renewal):

Status: Withdrawn

Comment:

Rate data does NOT apply to filing.

Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document	Withdrawn	Yes

Objection Letter

Objection Letter Status Pending Industry Response
Objection Letter Date 08-31-2006
Submitted Date 08-31-2006

Dear Susan Crews,

Form ER 03 29 06 06, Provision B. must be amended to comply with AR Code Anno 23-79-306 (3) which states that the limits of the supplemental (optional) extended reporting period must be the great of the limits remaining in the expiring policy or reinstated to 50%.

Forms ERP 001 06 06 and ERP 002 06 06 Section VI, 3, must also amend the limits as stated above.

Provision 5 on pages 11 and 10 of the respective policy forms mentioned above must allow 60 days to request and pay for the supplemental extended reporting period.

Sincerely,

UNKNOWN UNKNOWN

Note To Reviewer

Created By:

SPI CompanionPCGroup on 05-10-2007 02:18 PM

Subject:

Open Filing

Comments:

Shortly after I received your Report of 8/31/06, a decision was made not to pursue this program. I should have withdrawn the form filing at that time. I apologize for letting this go for so long. Please mark this form filing as withdrawn. If interest in this program arises again, we will make the required changes before re-submitting the form.

Susan Crews

Rate Information

Rate data does NOT apply to filing.

Supporting Document Schedules

Review Status:

Satisfied -Name: Uniform Transmittal Document

Withdrawn

07-12-2007

Comments:

Attachments:

1_Cover Letter.PDF

2_AR - FORM FILING ABSTRACT F-1.PDF

3_AR - NAIC P&C TRANSMITTAL DOCUMENT.PDF

4_AR - NAIC FORM FILING SCHEDULE.PDF

5_ER 03 29.PDF

6_ER 24 04.PDF

7_ER 30 00.PDF

8_ER 21 01.PDF

9_ER 21 02.PDF

10_ER 21 03.PDF

11_ER 24 02.PDF

12_ER 24 03.PDF

13_ER 24 06.PDF

14_ERP 001.PDF

15_EPL 002.PDF



Companion Property & Casualty Group

Companion Property & Casualty
Insurance Company

Companion Commercial
Insurance Company

May 5, 2006

Commissioner Julie Benafield Bowman
Arkansas Department of Insurance
1200 West Third Street
Little Rock, AR 72201-1904

Attn: Property & Casualty Division

RE: Form Filing - MU EP INITIAL FILINGS
Employment Related Practices Liability
Company Filing#: EP AR0602101F01
Companion Property & Casualty Insurance Company NAIC#: 661-12157
Proposed effective 7/1/06 FEIN#: 57-0768836

Dear Commissioner Benafield Bowman:

Companion wishes to file a new program, Employment Practices Liability. We are affiliated with ISO for Division Eleven, and have given ISO filing authorization for rules and forms. We are filing independently developed rules and forms in lieu of using the ISO products. We want our independently filed rules and forms to prevail over future changes to rules and to coverage forms and endorsements filed by ISO.

Our program has two parts - one for small accounts up to 50 employees, and the other for accounts with 51 to 250 employees. The larger accounts require more intensive underwriting, with the application becoming a part of the policy.

If you have questions or need additional information, please contact me.

Yours truly,

A handwritten signature in cursive script that reads "Susan E. Crews".

Susan E. Crews
Product Development Analyst

Phone: 803-264-5655
Fax: 803-865-3163
Email: susan.crews@companiongroup.com

ARKANSAS INSURANCE DEPARTMENT
FORM FILING ABSTRACT

ALL QUESTIONS MUST BE ANSWERED

Page 1 of 2

Companies filing for a group may use a consolidated abstract if all forms are identical.

1. Date Filed 5/5/06
2. Company Name(s) Companion Property & Casualty Insurance Company
Group Name _____ NAIC No. 12157 Group No. 661
3. (a) Annual Statement Line of Business Number (Page 14) 5.2
(b) Class of Business LIABILITY
(c) Coverages Affected EMPLOYMENT PRACTICES LIABILITY
4. (a) Name of Advisory Organization, if any INSURANCE SERVICES OFFICE
(b) Affiliations with Advisory Organization: Member () Subscriber ()
5. Is this a reference filing? Yes () No () If yes, please provide the following:
(a) Name of Advisory Organization (or Affiliated Company) _____
(b) Date of Filing _____
(c) Filing Designation Number or Description 06021 Employment Practices Liability

PROVIDE THE INFORMATION REQUESTED ON PAGE 2 OF THIS FORM

7. Has the form(s) been approved for use in your domiciliary state and/or other states?
Pending
8. Is the form filed in response to or due to legislation? If so, specify legislation.
No
9. Is the form in response to or due to recent court decisions? If so, give citation.
No

THIS INFORMATION IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Susan E. Crews

Signature

Susan E. Crews

Title

803-264-5655

Telephone Number

Page 2 of 2

Old Form No.	Proposed Effective Date of New Form	New Form No.	Title of the Form(s); also Indicate Withdrawals: Provide Synopsis of Coverage
	7/1/06	ER 03 29 06/06	SUPPLEMENTAL EXTENDED REPORTING PERIOD ENDORSEMENT
	7/1/06	ER 24 04 06/06	AMENDMENT: DUTIES IN EVENT OF EMPLOYMENT PRACTICES OR CLAIMS
	7/1/06	ER 30 00 06/06	EMPLOYMENT PRACTICES LIABILITY INSURANCE POLICY DECLARATIONS
	7/1/06	ER 21 01 06/06	EXCLUSION - CLASS ACTION SUITS
	7/1/06	ER 21 02 06/06	EXCLUSION - REORGANIZATION, DOWNSIZING AND PLANT CLOSINGS
	7/1/06	ER 21 03 06/06	EXCLUSION - SPECIFIC ORGANIZATIONS
	7/1/06	ER 24 02 06/06	AMENDMENT OF COVERAGE - INJURY TO INDEPENDENT CONTRACTORS
	7/1/06	ER 24 03 06/06	AMENDMENT OF COVERAGE - FAILURE TO GRANT TENURE
	7/1/06	ER 24 06 06/06	AMENDMENT OF COVERAGE - FAILURE TO GRANT PARTNERSHIP
	7/1/06	ERP 001 06/06	EMPLOYMENT PRACTICES LIABILITY INSURANCE POLICY
	7/1/06	EPL 002 06/06	EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE

Property & Casualty Transmittal Document (Revised 1/1/06)

1. Reserved for Insurance Dept. Use Only

2. Insurance Department Use only	
a. Date the filing is received:	
b. Analyst:	
c. Disposition:	
d. Date of disposition of the filing:	
e. Effective date of filing:	
New Business	
Renewal Business	
f. State Filing #:	
g. SERFF Filing #:	
h. Subject Codes	

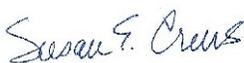
3. Group Name	Group NAIC #
	661

4. Company Name(s)	Domicile	NAIC #	FEIN #
Companion Property & Casualty Insurance Company	SC	12157	57-0768836

5. Company Tracking Number	EP AR0602101F01
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Contact Info of Filer(s) or Corporate Officer(s) [include toll-free number]

6.	Name and address	Title	Telephone #s	FAX #	e-mail
	Susan E. Crews 51 Clemson Road Columbia SC 29229	Product Development Analyst	800-845-2724	803-865-3163	susan.crews@companiongroup.com

7.	Signature of authorized filer	
8.	Please print name of authorized filer	Susan E. Crews

Filing Information (see General Instructions for descriptions of these fields)

9.	Type of Insurance (TOI)	05.2 Commercial Multi-Peril - Liability Portion Only
10.	Sub-Type of Insurance (Sub-TOI)	05.2007 Other CMP
11.	State Specific Product code(s) (if applicable) [See State Specific Requirements]	
12.	Company Program Title (Marketing Title)	Employment Practices Liability
13.	Filing Type	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input checked="" type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)
14.	Effective Date(s) Requested	New: 7/1/06 Renewal:
15.	Reference Filing?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
16.	Reference Organization (if applicable)	
17.	Reference Organization # & Title	
18.	Company's Date of Filing	
19.	Status of filing in domicile	<input type="checkbox"/> Not Filed <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved

Property & Casualty Transmittal Document

20.	This filing transmittal is part of Company Tracking #	EP AR0602101F01
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21.	Filing Description [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]
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We want our independently filed rules and forms to prevail over future changes to rules and to coverage forms and endorsements filed by ISO.

22.	Filing Fees (Filer must provide check # and fee amount if applicable.) [If a state requires you to show how you calculated your filing fees, place that calculation below]
	Check #: 000145166 Amount: \$50.00
	Refer to each state's checklist for additional state specific requirements or instructions on calculating fees.

***Refer to each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)

FORM FILING SCHEDULE

(This form must be provided **ONLY** when making a filing that includes forms)
 (Do **not** refer to the body of the filing for the forms listing, unless allowed by state.)

1.	This filing transmittal is part of Company Tracking #	EP AR0602101F01
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2.	This filing corresponds to rate/rule filing number (Company tracking number of rate/rule filing, if applicable)	06021
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3.	Form Name /Description/Synopsis	Form # Include edition date	Replacement Or Withdrawn?	If replacement, give form # it replaces	Previous state filing number, if required by state
01	SUPPLEMENTAL EXTENDED REPORTING PERIOD ENDORSEMENT	ER 03 29 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
02	AMENDMENT: DUTIES IN EVENT OF EMPLOYMENT PRACTICES OR CLAIMS	ER 24 04 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
03	EMPLOYMENT PRACTICES LIABILITY INSURANCE POLICY DECLARATIONS	ER 30 00 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
04	EXCLUSION - CLASS ACTION SUITS	ER 21 01 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
05	EXCLUSION - REORGANIZATION, DOWNSIZING AND PLANT CLOSINGS	ER 21 02 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
06	EXCLUSION - SPECIFIC ORGANIZATIONS	ER 21 03 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
07	AMENDMENT OF COVERAGE - INJURY TO INDEPENDENT CONTRACTORS	ER 24 02 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
08	AMENDMENT OF COVERAGE - FAILURE TO GRANT TENURE	ER 24 03 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
09	AMENDMENT OF COVERAGE - FAILURE TO GRANT PARTNERSHIP	ER 24 06 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
10	EMPLOYMENT PRACTICES LIABILITY INSURANCE POLICY	ERP 001 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		

FORM FILING SCHEDULE *(cont.)*

State: Arkansas **Company Tracking #** EP AR0602101F01 **Page** 2 **of** 2

3.	Form Name /Description/Synopsis	Form # Include edition date	Replacement Or Withdrawn?	If replacement, give form # it replaces	Previous state filing number, if required by state
11	EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE	EPL 002 06/06	<input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SUPPLEMENTAL EXTENDED REPORTING PERIOD ENDORSEMENT

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE

SCHEDULE

Premium \$ _____
Term _____ Months

- A. A Supplemental Extended Reporting Period endorsement is provided, as described in **SECTION VI - EXTENDED REPORTING PERIODS**.
- B. The remaining Limits of Insurance, as described in **SECTION III -- LIMITS OF INSURANCE** of this **Policy**, apply to the **Supplemental Extended Reporting Period**. These limits are not reinstated or increased for the **Supplemental Extended Reporting Period**.
- C. The **Other Insurance Condition** in Paragraph 8., **SECTION V – CONDITIONS**, is deleted and replaced by the following:

If other valid and collectible insurance is available to the insured for “damages” or “defense expense” we cover under this **Policy**, our obligations are limited as follows:

1. As this insurance is primary insurance, other than when **2.** below applies, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **3.** below.
2. Insurance provided under any **Supplemental Extended Reporting Period Endorsement** is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, whose policy period begins or continues after the **Supplemental Extended Reporting Period** begins.
3. If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

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

4. This endorsement will not take effect unless the additional premium for it, as set forth in **SECTION VI**, is paid when due. If that premium is paid when due, this endorsement may not be canceled.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT: DUTIES IN EVENT OF
“EMPLOYMENT PRACTICES” OR “CLAIMS”**

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE

Under **Section V – CONDITIONS** condition **4. Duties in Event of “Employment Practices” or “Claims”** is amended by adding paragraph **d.** below:

- d.** Your obligation to notify us as required in **a.** and **b.** above will be deemed to have been satisfied when any person named below receives knowledge of such “employment practice” or “claim” and written notice is sent to us as soon as practicable thereafter.

Person(s) Responsible For Notifying Us of “Employment Practices” or “Claims”:
NAME **TITLE**

_____	_____
_____	_____
_____	_____
_____	_____

EMPLOYMENT PRACTICES LIABILITY INSURANCE POLICY DECLARATIONS

THIS INSURANCE PROVIDES CLAIMS MADE AND REPORTED COVERAGE.

DEFENSE COSTS APPLY AGAINST THE LIMITS OF INSURANCE AND ARE SUBJECT TO THE DEDUCTIBLE.

THIS INSURANCE CONSISTS OF THIS DECLARATIONS PAGE, THE EMPLOYMENT PRACTICES LIABILITY COVERAGE FORM , AND ANY ENDORSEMENTS LISTED BELOW.

COMPANION PROPERTY & CASUALTY GROUP

- Companion Property & Casualty Insurance Company
 Companion Commercial Insurance Company

Policy Number: _____

Transaction Type: Renewal

INSURED'S COPY

Policy Period _____ to _____ 12:01 A.M. Standard Time at "your" mailing address above.

Named Insured and Address

Agency

Customer #

Agency Number:

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE APPLICABLE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE COVERAGE STATED IN THIS POLICY.

LIMITS OF INSURANCE:

AGGREGATE LIMIT \$ _____
EACH "CLAIM" LIMIT \$ _____

DEDUCTIBLE:

Each "Claim" \$ _____

RETROACTIVE DATE

Retroactive Date: _____

If no retroactive date is entered, the entry will be deemed the same as the policy effective date shown above.

FORM OF BUSINESS:

- Individual Limited Liability Company Partnership Joint Venture
 Organization (Other than Limited Liability Company, Partnership or Joint Venture)

PREMIUM: \$ _____

ENDORSEMENTS ATTACHED TO THIS POLICY:

EP 00 01 05 05

COUNTERSIGNED BY:

_____ (Date) _____
(Authorized Representative)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CLASS ACTION SUIT(S)

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE

This insurance does not apply to “claims” filed or amended to be filed as a class action suit.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION REORGANIZATION, DOWNSIZING AND PLANT CLOSINGS

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE

SCHEDULE

_____ Percent of your "employees", "leased workers" and "temporary workers" combined at one plant or business location.

_____ Days.

This insurance does not apply to "claims" arising directly or indirectly from "employment practices" committed when or after you reorganize, downsize your operations, or close one or more of your plants or places of business operations. This exclusion will be deemed to apply when you terminate or lay off more than the percentage of your "employees", "leased workers" and "temporary workers" combined shown in the Schedule above at any plant or place of business operations within the period of days shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - SPECIFIC ORGANIZATION (S)

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE

SCHEDULE

Organization(s):

When attached to the Policy at issuance, the above organization(s) will not be insured under this insurance.

When issued during the policy period, Paragraph 4. of **WHO IS AN INSURED (SECTION III)** shall not apply to the organization(s) shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERAGE FOR INJURY TO INDEPENDENT CONTRACTORS

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE

1. Under **SECTION VII - DEFINITIONS** – In definition 2. “**Claim**”, Paragraph a. is deleted and replaced by the following:
 - a. Any "employee", "leased worker", "temporary worker", former "employee", applicant for employment by you, independent contractor of yours or employee of an independent contractor of yours while acting within the scope of such employment; or
2. Under **SECTION VII - DEFINITIONS** - the first clause of definition 7. “**Employment Practices**” - is deleted and replaced by the following:

"Employment Practices" means any of the following actual or alleged practices (i) which are directed against any of your "employees", "leased workers", "temporary workers", former "employees", applicants for employment by you, independent contractors of yours or employees of independent contractors of yours while acting within the scope of such employment and (ii) for which remedy is sought under any civil employment law, whether such law is common law or a federal, state or local statute:
3. Under **SECTION I - COVERAGE: EMPLOYMENT PRACTICES LIABILITY COVERAGE** – subparagraph b. (1) of paragraph 1. **Insuring Agreement** is deleted and replaced by the following:
 - (1) The “damages” result from "claims" made by "employees", "leased workers", "temporary workers", former "employees", and applicants for employment with you, independent contractors of yours or employees of an independent contractor of yours while acting within the scope of such employment;

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERAGE FOR INJURY ARISING OUT OF FAILURE TO GRANT TENURE

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE

Under **SECTION VII – DEFINITIONS** item 7. “**Employment practices**” - subparagraph **b.** is deleted and replaced by the following:

- b.** Wrongful failure to promote, wrongful deprivation of career opportunity or wrongful failure to grant tenure.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERAGE FOR FAILURE TO GRANT PARTNERSHIP

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE

Under **SECTION VII – DEFINITIONS** item 7. “**employment practices**” is amended to include the following:

- h. Wrongful failure to grant partnership status to a qualified “employee”.

EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE FORM

THIS INSURANCE PROVIDES CLAIMS MADE AND REPORTED COVERAGE. DEFENSE COSTS APPLY AGAINST THE LIMITS OF INSURANCE AND ARE SUBJECT TO THE DEDUCTIBLE.

PLEASE READ THIS POLICY CAREFULLY TO DETERMINE RIGHTS, DUTIES, COVERAGE AND COVERAGE RESTRICTIONS.

WE HAVE NO DUTY TO PROVIDE COVERAGE UNLESS THERE HAS BEEN FULL COMPLIANCE WITH ALL THE CONDITIONS - SECTION V AND ANY OTHER APPLICABLE POLICY CONDITIONS.

We have issued this Policy based upon your application for this insurance, which is attached to and becomes a part of this policy. That application is a representation of the correctness of the information based upon which we have issued this Policy.

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

All words and phrases that appear in quotation marks have special meaning. Refer to **SECTION VII - DEFINITIONS.**

SECTION I - EMPLOYMENT PRACTICES LIABILITY INSURANCE

In consideration of the payment of premium and subject to the Limits of Insurance shown in the Declarations and all the definitions, exclusions, terms and conditions of this insurance, we agree with you as follows:

1. Insuring Agreement

- a. We will pay on behalf of the insured for "damages" in excess of the Deductible arising out of any "employment practices" to which this insurance applies.

We have no obligation under this insurance to make payments or perform acts or services except as provided for in this paragraph and in Item 2. below.

- b. This insurance applies to such "damages" only if:

- (1) The "damages" result from "claims" made by "employees", "leased workers", "temporary workers", former "employees" or applicants for employment by you;
- (2) The "employment practices" take place in the "coverage territory";
- (3) Such "employment practices" occurred after the Retroactive Date, if any, shown in the Declarations and before the end of the policy period; and
- (4) A "claim" is both:
 - (a) First made against any insured, in accordance with paragraph c. below, during the policy period or any Extended Reporting Period we provide under **SECTION VI - EXTENDED REPORTING PERIODS**; and
 - (b) Reported to us either (i) during the policy period or within thirty (30) days thereafter, or (ii) with respect to any "claim" first made during any Extended Reporting Period we

provide under **SECTION VI - EXTENDED REPORTING PERIODS**, during such Extended Reporting Period.

- c. A "claim" will be deemed to have been made at the earlier of the following times:
- (1) When notice of such "claim" is received and recorded by you or by us, whichever comes first; or
 - (2) When we make settlement in accordance with paragraph 2.a. (2) below.

- d. All "claims" for "damages" based on or arising out of:

- (1) One "employment practice"; or
- (2) An "interrelated" series of "employment practices" by one or more insureds

shall be deemed to be one "claim" and to have been made at the time the first of those "claims" is made against any insured.

Each payment we make for "damages" or "defense expense" reduces the Amount of Insurance available, as provided under **SECTION III - LIMITS OF INSURANCE**.

2. DEFENSE OF CLAIMS. ADMINISTRATIVE HEARINGS & SETTLEMENT AUTHORITY

Subject to the limits of insurance, deductible, conditions, exclusions, definitions, and other terms of this Policy:

- a. We have the right and duty to defend "claims" against the insured seeking "damages" to which this insurance applies and to pay for related, "defense expense". However, we have no duty to (i) defend "claims" against the insured seeking "damages", or (ii) pay for related "defense expense", when this insurance does not apply. We may:

- (1) At our sole discretion, investigate any "employment practice" that may result in "damages"; and
- (2) Settle any "claim" which may result, provided:
 - (a) We have the insured's written consent to settle; and
 - (b) The settlement is within the applicable Limit of Insurance available.

Our liability will be limited as described below if:

- (i) The insured refuses to consent to any settlement we recommend, and
- (ii) Such recommended settlement is also acceptable to the claimant.

After such refusal, our liability under this Policy for such "claim" shall not exceed the amount we would have paid for "damages" and "defense expense" if the insured had consented to our settlement recommendation. The insured shall thereafter be responsible for the negotiation and defense of that "claim" at their own cost and without our involvement.

- b. Our right and duty to defend such "claims" ends when we have used up the Limit of Insurance available, as provided under **SECTION III - LIMITS OF INSURANCE**. This applies both to "claims" pending at that time and any that may be filed thereafter.
- c. (1) When we control defense of a "claim", we will pay associated "defense expense" and choose a counsel of our choice from the panel of attorneys we have selected to deal with "employment practices" "claims".

If you give us a specific written request at the time a "claim" is first made:

- (a) You or any involved insured may select one of our panel of employment law attorneys; or

- (b) You or such insured may ask us to consider the approval of a defense attorney of your or that insured's choice who is not on our panel.

We will then use the panel attorney selected in (a) above, or consider such request in (b) above, if we deem it appropriate to engage counsel for such "claim".

- (2) If by mutual agreement or court order the insured assumes control of such defense before the applicable Limit of Insurance is used up, the insured will be allowed to select defense counsel and we will reimburse the insured for reasonable "defense expense". You and any involved insured must continue to comply with **SECTION V - CONDITIONS, 4. Duties in Event of "Employment Practices" or "Claims."** Additionally, you or such insured must direct defense counsel to:

- (a) Furnish us with the additional information we request to evaluate the "employment practices" or "claim"; and
 (b) Cooperate with any counsel we may select to monitor or associate in the defense of the "employment practices" or "claim".

If we defend any insured under a reservation of rights, both such insured's counsel and our counsel will be required to maintain records pertinent to "defense expenses". These records will be used to determine the allocation of any "defense expenses" for which you or any insured may be solely responsible, including defense of an allegation not covered by this insurance.

We will notify you in writing when the applicable limit of insurance has actually been used-up by the payment of judgments, settlements, or "defense expense". We will also initiate and cooperate in the transfer of defense of any "claim" to an appropriate insured for which the duty to defend has ended by reason of **SECTION 2.b.** above.

- d. Upon prior notice to us and with our prior approval, the first Named Insured is authorized to act on behalf of all insureds with respect to the payment of "damages" in settlement of any Administrative Hearing or other non-judicial proceeding before the Federal Equal Employment Opportunity Commission, or any similar Federal, state or local body or commission. This authorization is limited to (i) "damages" covered by this Policy, together with (ii) "defense expenses" under part d. of the Definition of "defense expenses" in a total amount not to exceed two times the amount of the Deductible stated in the Declarations.

3. EXCLUSIONS

This insurance does not apply to "claims" based on, arising out of, or in any way involving:

- a. (1) "Employment practices" which were the subject of any demand, suit or other proceeding which was initiated against any insured; or
 (2) Facts and circumstances which would cause a reasonable person to believe a "claim" would be made and which were known to any insured,

prior to the effective date of the earlier of (i) the first Policy of this type that we issued to you of which this Policy was an uninterrupted renewal of this type of coverage, or (ii) this Policy.

- b. Loss of any benefit conferred or loss of any obligation imposed under an express contract of employment.
 c. Obligation to pay "damages" by reason of the assumption of liability in any contract or agreement. This exclusion does not apply to liability for "damages" that the insured would have in the absence of the contract or agreement.

d. Liability arising under any of the following laws:

- (1) Any workers compensation, disability benefits or unemployment compensation law, or any similar law, provided however, this exclusion shall not apply to any "claim" based upon, arising from or in consequence of any actual or alleged retaliatory treatment of the claimant by the Insured on account of the claimant's exercise of rights pursuant to any such law;
- (2) Employees' Retirement Income Security Act of 1974, Public Law 93-406, (E.R.I.S.A.) as now or hereafter amended, or any similar state or other governmental law. This includes fiduciary liability, liability arising out of the administration of any employee benefit plan and any other liability under any such laws;
- (3) The Fair Labor Standards Act, or any state or common law wage or hour law, including, but not limited to laws governing minimum wages, hours worked, overtime compensation, and including any recordkeeping and reporting related thereto. This exclusion includes actions or claims brought by or on behalf of individuals or agencies seeking wages, fines, penalties, taxes, disgorgement, or other affirmative relief or compensation, but does not include claims based on the Equal Pay Act, or retaliation; or.
- (4) The National Labor Relations Act of 1938, the Worker Adjustment and Retraining Notification Act (Public Law 100-37991988), the Consolidated Omnibus Budget Reconciliation Act of 1985, or the Occupational Safety and Health Act.

This exclusion **d. (1) - (4)** also applies to any rules or regulations promulgated under any of the foregoing and amendments thereto or any similar provisions of any federal, state or local law, and to that part of any "damages" awarded for the cost or replacement of any insurance benefits due or alleged to be due to any current or former "employee".

e. Oral or written publication of material, if such material:

- (1) Was published by or at the direction of the insured with knowledge of the material's falsity;
or
- (2) Was first published before the Retroactive Date, if any, shown in the Declarations.

f. Dishonest, criminal or fraudulent acts of the insured or the willful failure by the insured or with the insured's consent to comply with any law or any governmental or administrative order or regulation relating to "employment practices".

Willful, as used in this exclusion **f.**, means acting with intentional or reckless disregard for such employment related laws, orders or regulations.

The enforcement of this exclusion against any insured shall not be imputed to any other insured.

g. "Bodily injury".**h.** "Employment practices" which occur when or after:

- (1) You file for or are placed in any bankruptcy, receivership, liquidation or reorganization proceeding; or
- (2) Any other business entity acquires an ownership interest in you, which is greater than fifty percent.

i. Costs of complying with physical modifications to your premises or any changes to your usual business operations as mandated by the Americans with Disabilities Act of 1990 including any amendment thereto, or any similar federal, state or local law.

- j. Lockout, strike, picket line, related worker replacements or other similar actions resulting from labor disputes or labor negotiations.

SECTION II - WHO IS AN INSURED

1. For purposes of this insurance, if you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your current or former members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your current or former members are also insureds, but only with respect to the conduct of your business. Your current or former managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership or joint venture, you are an insured. Your current or former directors are insureds, but only with respect to their duties as your directors.
2. Each of the following is also an insured:
 - a. Your current or former "employees" but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
 - b. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Policy.
3. Any heirs, executors, administrators, assignees or legal representatives of any individual insured in subparagraphs **a.** and **b.** of **1.** and **2.** above, in the event of the death, bankruptcy or incapacity of such insured, shall be insureds, but only to the extent this insurance would have been available to such insured but for their death, bankruptcy or incapacity.
4. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. You must provide us notice of such acquisition or formation within 30 days of the effective date of your acquisition or formation;
 - b. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - c. Coverage does not apply to any "employment practices" that occurred before you acquired or formed the organization; and
 - d. You must pay us any additional premium due as a condition precedent to the enforceability of this additional extension of coverage.

This part **4.** does not apply to any organization after it is shown in the Declarations or added to this Policy by endorsement.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Amount of Insurance stated as Aggregate Limit on the Policy Declarations is the most we will pay for the sum of:

- a. All "damages" for all "claims" arising out of any actual or alleged "employment practices" covered by this insurance; and
- b. All "defense expense" for all "claims" seeking "damages" payable under paragraph **a.** above.

Each payment we make for such "damages" or defense expenses" reduces the Aggregate Limit by the amount of the payment.

This reduced limit will then be the Amount of Insurance available for further "damages" and "defense expenses" under this Policy.

- 2. Subject to **1.** above, the Amount of Insurance stated as the Each "Claim" Limit of Insurance is the most we will pay in excess of the Deductible as further described in **SECTION IV - DEDUCTIBLE** for the sum of:
 - a. All "damages" for injury arising from "employment practices" covered by this insurance arising out of one "claim" whether such "claim" is brought by one or more claimants; and
 - b. All "defense expense" associated with that specific "claim" in item **2. a.** immediately preceding.
- 3. In addition to the payments for "damages" and "defense expense" in paragraphs **1.** and **2.** above, we will also pay all interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the amount available for the judgment under the provisions of paragraphs **1.** and **2.** above.

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

SECTION IV - DEDUCTIBLE

- 1. A deductible applies to all "damages" for injury arising from "employment practices" and any "defense expense" however caused.
- 2. Our obligation under this Employment Practices Liability Insurance to pay "damages" and "defense expense" on behalf of any insured applies only to the sum of the amount of "damages" and "defense expense" for each "claim" which are in excess of the deductible amount stated in the Declarations.
- 3. Your obligation is to pay the deductible applicable to each "claim" made against this insurance. That deductible applies to the sum of all "damages" because of injury arising from "employment practices" paid for each "claim" and applicable "defense expense" associated therewith. If there should be no "damages" paid for a "claim", you are still obligated to pay the applicable deductible for any "defense expense" incurred by us in connection with that "claim".
- 4. The terms of this insurance apply irrespective of the application of the deductible, including those with respect to:
 - a. Our right and duty to defend any "claims" seeking those "damages"; and
 - b. Your and any involved insured's duties in the event of a "claim".
- 5. We may pay any part or all of the deductible to effect settlement of any "claim" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible as we may have paid for "damages" or "defense expense".
- 6. The application of the deductible does not erode the Limits of Insurance provided.

SECTION V - CONDITIONS

1. Bankruptcy

Subject to exclusion **h.**, the bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this insurance.

2. Cancellation

The policy shall terminate at the earliest of the following:

- a. If the policy is cancelled for failure to pay a premium when due, the effective date of cancellation stated in a written notice of cancellation from us to you, provided such notice is mailed to you at least ten (10) days prior to the effective date of cancellation. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the "policy period". Any earned premium shall be computed in accordance with the customary short rate table and procedure;
- b. If the policy is cancelled for any reason other than nonpayment of premium, the effective date of cancellation stated in a written notice of termination from us to you, provided such notice is mailed to you at least sixty (60) days prior to the effective date of cancellation. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the "policy period". Any earned premium shall be computed pro rata;
- c. Upon the receipt by us of the policy surrendered by you. Any earned premium shall be computed in accordance with the customary short rate table and procedure;
- d. Upon the transmittal to us of written notice of termination from you stating when thereafter such termination shall be effective. Any earned premium shall be computed in accordance with the customary short rate table and procedure; or
- e. Upon expiration of the policy "period" as set forth in the Declarations.

3. Changes

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

4. Duties in Event of "Employment Practices" or "Claims"

- a. You must see to it that we are notified as soon as practicable of any specific "employment practices" which you believe may result in an actual "claim". Your belief must be reasonably certain as the result of specific allegations made by a potential claimant or such potential claimant's representative, or as the result of specifically identifiable injury sustained by a potential claimant. Notices of "employment practices" should include the following detailed information:

- (1) How, when and where such "employment practices" took place;
- (2) The names and addresses of any potential claimants and witnesses; and
- (3) The nature of any injury arising out of such "employment practices".

Notice of such "employment practices" is not notice of a "claim", but preserves any insured's rights to future coverage for subsequent "claims" arising out of such "employment practices" as described in the Basic Extended Reporting Period of **SECTION VI - EXTENDED REPORTING PERIODS**.

- b. If a "claim" is received by any insured:
- (1) You must immediately record the specifics of the "claim" and the date received;
 - (2) You and any other involved insured must see to it that we receive written notice of the "claim", as soon as practicable, but in any event we must receive notice either:
 - (a) During the policy period or within thirty (30) days thereafter; or
 - (b) With respect to any "claim" first made during any Extended Reporting Period we provide under **SECTION VI -EXTENDED REPORTING PERIODS**, during such Extended Reporting Period,

As a condition precedent for coverage under this insurance, notices of "claims" must include the detailed information required in item 4. a. (1), (2) and (3) and

- (3) You and any other involved insured must:
- (a) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
 - (b) Authorize us to obtain records and other information;
 - (c) Cooperate with us in the investigation, settlement or defense of the "claim"; and
 - (d) Assist us, upon our request, in the enforcement of any right against any person or organization, which may be liable to the insured because of injury or damage to which this insurance may also apply.
- c. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent, other than those specific payments authorized under **SECTION I - COVERAGE** in item d. of paragraph 2. **DEFENSE OF CLAIMS, ADMINISTRATIVE HEARINGS & SETTLEMENT AUTHORITY**.

5. Examination of Your Books and Records

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

6. Inspections and Surveys

We have the right but are not obligated to:

- a. Make inspections and surveys at any time;
- b. Give you reports on the employment conditions we find; and
- c. Recommend procedures, guidelines and changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not undertake to perform the duty of any person or organization to provide for the health or safety of, or lawful practices with, your workers or the public. We do not warrant that conditions:

- (i) Are safe or healthful; or
- (ii) Comply with laws, regulations, codes or standards as they relate to the purpose of this or any other insurance.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization, which makes insurance inspections, surveys, reports or recommendations on our behalf.

7. Legal Action Against Us

No person or organization has a right under this Policy:

- a. To join us as a party or otherwise bring us into a "claim" seeking "damages" from any insured; or
- b. To sue us on this Policy unless all of its terms have been fully complied with.

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

8. Other Insurance

If other valid and collectible insurance is available to the insured for "damages" or "defense expense" we cover under this Policy, our obligations are limited as follows:

- a. As this insurance is primary insurance, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.** below.
- b. If all of the other insurance permits contribution by equal shares, we will follow this method also.

Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits.

Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

9. Payment of Premiums, Deductibles and Coinsurance Amounts

- a. We will compute all premiums for this insurance in accordance with our rules and rates; and
- b. The first Named Insured shown in the Declarations is responsible for the payment of all premiums, and deductibles due and will be the payee for any return premiums we pay.

10. Representations

By accepting this Policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us in your application for this insurance. That application is attached to and incorporated into this Policy and forms the basis of our obligations under this insurance; and
- c. Since we have issued this Policy in reliance upon your representations, this insurance is voidable if any material fact or circumstance relating to the subject of this insurance is omitted or misrepresented in your application.

11. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom "claim" is made.

12. Sole Agent

The first Named Insured is authorized to act on behalf of all insureds as respects the giving or receiving of notice of cancellation or nonrenewal, receiving premium refunds, requesting any Supplemental Extended Reporting Period and agreeing to any changes in this Policy.

13. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will sue those responsible or transfer those rights to us and help us enforce them.

14. Transfer of Your Rights and Duties Under This Policy

Your rights and duties under this Policy may not be transferred without our written consent.

15. When We Do Not Renew

If we decide not to renew this insurance, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION VI - EXTENDED REPORTING PERIODS

1. We will provide Extended Reporting Periods, as described below, if:
 - a. This Policy is cancelled or not renewed; or
 - b. We renew or replace this Policy with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Declarations; or
 - (2) Does not apply on a claims-made basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to "claims" as the result of "employment practices" which occurred after the Retroactive Date, if any, shown in the Declarations and before the end of the policy period. Once in effect, Extended Reporting Periods may not be cancelled.
3. Extended Reporting Periods do not reinstate or increase the Limits of Insurance.
4. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for:
 - a. Five years with respect to "claims" arising out of "employment practices" which had been properly reported to us during the policy period in accordance with paragraph 4.a. of **Duties in the Event of "Employment Practices" or "Claims"**, in **SECTION V - CONDITIONS**; and

- b. Sixty days with respect to "claims" arising from "employment practices" not previously reported to us.

The Basic Extended Reporting Period does not apply to "claims" that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.

- 5. A Supplemental Extended Reporting Period of either twelve (12) months or thirty-six (36) months duration is available, but only by endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period set forth in paragraph **4.b.** above ends. You must give us a written request for the endorsement, and its length, within 30 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium when due. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. Limits of Insurance available under this Policy for future payment of "damages" or "defense expense"; and
 - d. Other related factors.

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

- 6. The Supplemental Extended Reporting Period Endorsement we issue shall set forth the terms, not inconsistent with this **SECTION VI Extended Reporting Periods**, including a provision to the effect that the insurance afforded for "claims" first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period begins.

SECTION VII - DEFINITIONS

- 1. **"Bodily injury"** means physical injury to the body, sickness or disease sustained by a person as the result of direct physical injury to the body, including death resulting from any of these at any time. "Bodily injury" does not include mental anguish that results from an "employment practice".
- 2. **"Claim"** means written or oral notice presented by:
 - a. Any "employee", "leased worker", "temporary worker", former "employee" or applicant for employment by you; or
 - b. The EEOC or any other Federal, state or local administrative or regulatory agency on behalf of such person in item **a.** immediately preceding alleging that the insured is responsible for "damages" as a result of injury arising out of any "employment practices." "Claim" includes any civil proceeding in which either "damages" are alleged or fact finding will take place, when either is the result of any "employment practice" to which this insurance applies. This includes:
 - (i) An arbitration proceeding in which such "damages" are claimed and to which the insured submits with our consent;
 - (ii) Any other alternative dispute resolution proceeding in which such "damages" are claimed and to which the insured submits with our consent; or
 - (iii) Any administrative proceedings established under federal, state or local laws applicable to "employment practices" covered under this insurance.
- 3. **"Coverage territory"** means:
 - a. The United States of America (including its territories and possessions) and Puerto Rico; or

- b. Anywhere in the world with respect to the activities of a person whose place of employment is in the territory described in **a.** above, while he or she is away for a short time on your business, provided that the insured's responsibility to pay "damages" is determined in a suit on the merits (or in any other type of civil proceeding described under the definition of "claim") in and under the substantive law of the United States of America (including its territories and possessions) or Puerto Rico.

4. **"Damages"** means monetary amounts to which this insurance applies and which the insured is legally obligated to pay as judgments or awards, or as settlements to which we have agreed in writing.

"Damages" include (i) "pre-judgment interest" awarded against the insured on that part of the judgment we pay, (ii) any portion of a judgment or award, to the extent allowed by law, that represents a multiple of the compensatory amounts, punitive or exemplary damages, and (iii) statutory attorney fees.

"Damages" do not include:

- a. Civil, criminal, administrative or other fines or penalties;
- b. Equitable relief, injunctive relief, declarative relief or any other relief or recovery other than money; or
- c. Judgments or awards because of acts deemed uninsurable by law.

5. **"Defense expense"** means payments allocated to a specific "claim" for its investigation, settlement, or defense, including:

- a. Attorney fees and all other litigation expenses.
- b. The cost of bonds to appeal a judgment or award in any "claim" we defend. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the Amount of Insurance available. We do not have to furnish these bonds.
- d. Reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of any "claim", including actual loss of earnings up to \$250 a day because of time off from work.
- e. Costs taxed against the insured in the "claim".

"Defense expense" does not include:

- (i) Salaries and expenses of our employees or your "employees", other than:
 - (a) That portion of our employed attorneys' fees, salaries and expenses allocated to a specific "claim" for the defense of the insured; and
 - (b) The expenses described in **d.** above; and
- (ii) Interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the amount available for the judgment under the provisions of **SECTION III - LIMITS OF INSURANCE.**

6. **"Employee"** means a person (i) employed by you for wages or salary or (ii) who is a current or former member of your board of directors. But "employee" does not include any independent contractor, any employees of any independent contractor while acting within the scope of their employment, any "leased worker" or any "temporary worker".

7. **"Employment Practices"** means any of the following actual or alleged practices (i) which are directed against any of your "employees", "leased workers", "temporary workers", former

"employees" or any applicant for employment by you and (ii) for which remedy is sought under any federal, state or local statutory or common civil employment law:

- a. Wrongful refusal to employ a qualified applicant for employment;
 - b. Wrongful failure to promote, or wrongful deprivation of career opportunity;
 - c. Wrongful demotion, negligent evaluation, negligent reassignment or wrongful discipline;
 - d. Wrongful termination of employment, including retaliatory or constructive discharge;
 - e. Employment related misrepresentation;
 - f. Harassment, coercion, discrimination or humiliation as a consequence of race, color, creed, national origin, marital status, medical condition, gender, age, physical appearance, physical and/or mental impairments, pregnancy, sexual orientation or sexual preference or any other protected class or characteristic established by any applicable federal, state, or local statute; or
 - g. Oral or written publication of material that slanders, defames or libels, or violates or invades a right of privacy.
8. **"Interrelated"** means having as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes."
9. **"Leased worker"** means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
10. **"Pre-judgment interest"** means interest added to a settlement, verdict, award or judgment based on the amount of time prior to the settlement, verdict, award or judgment, whether or not made part of the settlement, verdict, award or judgment.
11. **"Temporary worker"** means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE FORM

THIS INSURANCE PROVIDES CLAIMS MADE AND REPORTED COVERAGE. DEFENSE COSTS APPLY AGAINST THE LIMITS OF INSURANCE AND ARE SUBJECT TO THE DEDUCTIBLE.

PLEASE READ THIS COVERAGE CAREFULLY TO DETERMINE RIGHTS, DUTIES, COVERAGE AND COVERAGE RESTRICTIONS.

WE HAVE NO DUTY TO PROVIDE COVERAGE UNLESS THERE HAS BEEN FULL COMPLIANCE WITH ALL THE CONDITIONS - SECTION V AND ANY OTHER APPLICABLE COVERAGE CONDITIONS.

Throughout this Coverage the words "you" and "your" refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this Coverage. The words "we", "us" and "our" refer to the Company providing this insurance. The word "insured" means any person or organization qualifying as such under **SECTION II - WHO IS AN INSURED.**

All words and phrases that appear in quotation marks have special meaning. Refer to **SECTION VII - DEFINITIONS.**

SECTION I - EMPLOYMENT PRACTICES LIABILITY INSURANCE

In consideration of the payment of premium and subject to the Limits of Insurance shown in the Declarations and all the definitions, exclusions, terms and conditions of this insurance, we agree with you as follows:

1. Insuring Agreement

- a. We will pay on behalf of the insured for "damages" in excess of the Deductible arising out of any "employment practices" to which this insurance applies.

We have no obligation under this insurance to make payments or perform acts or services except as provided for in this paragraph and in Item 2. below.

- b. This insurance applies to such "damages" only if:
- (1) The "damages" result from "claims" made by "employees", "leased workers", "temporary workers", former "employees" or applicants for employment by you;
 - (2) The "**employment** practices" take place in the "coverage territory";
 - (3) Such "employment practices" occurred after the Retroactive Date, if any, shown in the Declarations and before the end of the policy period; and
 - (4) A "claim" is both:
 - (a) First made against any insured, in accordance with paragraph c. below, during the policy period or any Extended Reporting Period we provide under **SECTION VI - EXTENDED REPORTING PERIODS**; and
 - (b) Reported to us either (i) during the policy period or within thirty (30) days thereafter, or (ii) with respect to any "claim" first made during any Extended Reporting Period we provide under **SECTION VI - EXTENDED REPORTING PERIODS**, during such Extended Reporting Period.
- c. A "claim" will be deemed to have been made at the earlier of the following times:
- (1) When **notice** of such "claim" is received and recorded by you or by us, whichever comes first; or

(2) When we make settlement in accordance with paragraph 2.a. (2) below.

d. All "claims" for "damages" based on or arising out of:

- (1) One "employment practice"; or
- (2) An "interrelated" series of "employment practices" by one or more insureds shall be deemed to be one "claim" and to have been made at the time the first of those "claims" is made against any insured.

Each payment we make for "damages" or "defense expense" reduces the Amount of Insurance available, as provided under **SECTION III - LIMITS OF INSURANCE**.

2. DEFENSE OF CLAIMS, ADMINISTRATIVE HEARINGS & SETTLEMENT AUTHORITY

Subject to the limits of insurance, deductible, conditions, exclusions, definitions, and other terms of this Coverage:

a. We have the right and duty to defend "claims" against the insured seeking "damages" to which this insurance applies and to pay for related, "defense expense". However, we have no duty to (i) defend "claims" against the insured seeking "damages", or (ii) pay for related "defense expense", when this insurance does not apply. We may:

- (1) At our sole **discretion**, investigate any "employment practice" that may result in "damages"; and
- (2) Settle any "claim" which may result, provided:
 - (a) We have the insured's written consent to settle; and
 - (b) The settlement is within the applicable Limit of Insurance available.

Our liability will be limited as described below if:

- (i) The insured refuses to consent to any settlement we recommend, and
- (ii) Such recommended settlement is also acceptable to the claimant.

After such refusal, our liability under this Coverage for such "claim" shall not exceed the amount we would have paid for "damages" and "defense expense" if the insured had consented to our settlement recommendation. The insured shall thereafter be responsible for the negotiation and defense of that "claim" at their own cost and without our involvement.

b. Our right and duty to defend such "claims" ends when we have used up the Limit of Insurance available, as provided under **SECTION III - LIMITS OF INSURANCE**. This applies both to "claims" pending at that time and any that may be filed thereafter.

c. (1) When we control defense of a "claim", we will pay associated "defense expense" and choose a counsel of our choice from the panel of attorneys we have selected to deal with "employment practices" "claims."

If you give us a specific written request at the time a "claim" is first made:

- (a) You or any involved insured may select one of our panel of employment law attorneys; or
- (b) You or such insured may ask us to consider the approval of a defense attorney of your or that insured's choice who is not on our panel.

We will then use the panel attorney selected in (a) above, or consider such request in (b) above, if we deem it appropriate to engage counsel for such "claim."

(2) If by mutual agreement or court order the insured assumes control of such defense before the applicable Limit of Insurance is used up, the insured will be allowed to select defense counsel and we will reimburse

the insured for reasonable "defense expense". You and any involved insured must continue to comply with **SECTION V - CONDITIONS, 4. Duties in Event of "Employment Practices" or "Claims"**. Additionally, you or such insured must direct defense counsel to:

- (a) Furnish us with the additional information we request to evaluate the "employment practices" or "claim"; and
- (b) Cooperate with any counsel we may select to monitor or associate in the defense of the "employment practices" or "claim".

If we defend any insured under a reservation of rights, both such insured's counsel and our counsel will be required to maintain records pertinent to "defense expenses". These records will be used to determine the allocation of any "defense expenses" for which you or any insured may be solely responsible, including defense of an allegation not covered by this insurance.

We will notify you in writing when the applicable limit of insurance has actually been used-up by the payment of judgments, settlements, or "defense expense". We will also initiate and cooperate in the transfer of defense of any "claim" to an appropriate insured for which the duty to defend has ended by reason of **SECTION 2.b.** above.

- d. Upon prior notice to us and with our prior approval, the first Named Insured is authorized to act on behalf of all insureds with respect to the payment of "damages" in settlement of any Administrative Hearing or other non-judicial proceeding before the Federal Equal Employment Opportunity Commission, or any similar Federal, state or local body or commission. This authorization is limited to (i) "damages" covered by this Coverage, together with (ii) "defense expenses" under part **d.** of the Definition of "defense expenses" in a total amount not to exceed two times the amount of the Deductible stated in the Declarations.

3. EXCLUSIONS

This insurance does not apply to "claims" based on, arising out of, or in any way involving:

- a. (1) "Employment practices" which were the subject of any demand, suit or other proceeding which was initiated against any insured; or
- (2) Facts and circumstances which would cause a reasonable person to believe a "claim" would be made and which were known to any insured, prior to the effective date of the earlier of (i) the first Coverage of this type that we issued to you of which this Coverage was an uninterrupted renewal of this type of coverage, or (ii) this Coverage.
- b. Loss of any benefit conferred or loss of any obligation imposed under an express contract of employment.
- c. Obligation to pay "damages" by reason of the assumption of liability in any contract or agreement. This exclusion does not apply to liability for "damages" that the insured would have in the absence of the contract or agreement.
- d. Liability arising under any of the following laws:
 - (1) Any workers compensation, disability benefits or unemployment compensation law, or any similar law, provided however, this exclusion **shall** not apply to any "claim" based upon, arising from or in consequence of any actual or alleged retaliatory treatment of the claimant by the Insured on account of the claimant's exercise of rights pursuant to any such law;
 - (2) Employees' Retirement Income Security Act of 1974, Public Law 93-406, (E.R.I.S.A.) as now or hereafter amended, or any similar state or **other** governmental law. This includes fiduciary liability, liability arising out of the administration of any employee benefit plan and any other liability under any such laws;
 - (3) The Fair Labor Standards Act, or any state or common law wage or hour law, including, but not limited to laws governing minimum wages, hours worked, overtime compensation, and including any recordkeeping

and reporting related thereto. This exclusion includes actions or claims brought by or on behalf of individuals or agencies seeking wages, fines, penalties, taxes, disgorgement, or other affirmative relief or compensation, but does not include claims based on the Equal Pay Act, or retaliation; or.

- (4) The National Labor Relations Act of 1938, the Worker Adjustment and Retraining Notification Act (Public Law 100-37991988), the Consolidated Omnibus Budget Reconciliation Act of 1985, or the Occupational Safety and Health Act.

This exclusion **d. (1) - (4)** also applies to any rules or regulations promulgated under any of the foregoing and amendments thereto or any similar provisions of any federal, state or local law, and to that part of any "damages" awarded for the cost or replacement of any insurance benefits due or alleged to be due to any current or former "employee".

- e. Oral or written publication of material, if such material:

- (1) Was published by or **at** the direction of the insured with knowledge of the material's falsity; or
(2) Was first published **before** the Retroactive Date, if any, shown in the Declarations.

- f. Dishonest, criminal or fraudulent acts of the insured or the willful failure by the insured or with the insured's consent to comply with any law or any governmental or administrative order or regulation relating to "employment practices".

Willful, as used in this exclusion **f.**, means acting with intentional or reckless disregard for such employment related laws, orders or regulations.

The enforcement of this exclusion against any insured shall not be imputed to any other insured.

- g. "Bodily injury."

- h. "Employment practices" which occur when or after:

- (1) You file for or are placed in any bankruptcy, receivership, liquidation or reorganization proceeding; or
(2) Any other business entity **acquires** an ownership interest in you, which is greater than fifty percent.

- i. Costs of complying with physical modifications to your premises or any changes to your usual business operations as mandated by the Americans with Disabilities Act of 1990 including any amendment thereto, or any similar federal, state or local law.

- j. Lockout, strike, picket line, related worker replacements or other similar actions resulting from labor disputes or labor negotiations.

SECTION II - WHO IS AN INSURED

1. For purposes of this insurance, if you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
b. A partnership or joint venture, you are an insured. Your current or former members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
c. A limited liability company, you are an insured. Your current or former members are also insureds, but only with respect to the conduct of your business. Your current or former managers are insureds, but only with respect to their duties as your managers.
d. An organization other than a partnership or joint venture, you are an insured. Your current or former directors are insureds, but only with respect to their duties as your directors.

2. Each of the following is also an insured:
 - a. Your current or former "employees" but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
 - b. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage.
3. Any heirs, executors, administrators, assignees or legal representatives of any individual insured in subparagraphs **a.** and **b.** of **1.** and **2.** above, in the event of the death, bankruptcy or incapacity of such insured, shall be insureds, but only to the extent this insurance would have been available to such insured but for their death, bankruptcy or incapacity.
4. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. You must provide us notice of such acquisition or formation within 30 days of the effective date of your acquisition or formation;
 - b. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - c. Coverage does not apply to any "employment practices" that occurred before you acquired or formed the organization; and
 - d. You must pay us any additional premium due as a condition precedent to the enforceability of this additional extension of coverage.

This part **4.** does not apply to any organization after it is shown in the Declarations or added to this Coverage by endorsement.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Amount of Insurance stated as Aggregate Limit on the Coverage Declarations is the most we will pay for the sum of:
 - a. All "damages" for all "claims" arising out of any actual or alleged "employment practices" covered by this insurance; and
 - b. All "defense expense" for all "claims" seeking "damages" payable under paragraph **a.** above.

Each payment we make for such "damages" or defense expenses" reduces the Aggregate Limit by the amount of the payment.

This reduced limit will then be the Amount of Insurance available for further "damages" and "defense expenses" under this Coverage.

2. Subject to **1.** above, the Amount of Insurance stated as the Each "Claim" Limit of Insurance is the most we will pay in excess of the Deductible as further described in **SECTION IV - DEDUCTIBLE** for the sum of:
 - a. All "damages" for injury arising from "employment practices" covered by this insurance arising out of one "claim" whether such "claim" is brought by one or more claimants; and
 - b. All "defense expense" associated with that specific "claim" in item **2. a.** immediately preceding.

3. In addition to the payments for "damages" and "defense expense" in paragraphs 1. and 2. above, we will also pay all interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the amount available for the judgment under the provisions of paragraphs 1. and 2. above.

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

SECTION IV - DEDUCTIBLE

1. A deductible applies to all "damages" for injury arising from "employment practices" and any "defense expense" however caused.
2. Our obligation under this Employment Practices Liability Insurance to pay "damages" and "defense expense" on behalf of any insured applies only to the sum of the amount of "damages" and "defense expense" for each "claim" which are in excess of the deductible amount stated the Declarations.
3. Your obligation is to pay the deductible applicable to each "claim" made against this insurance. That deductible applies to the sum of all "damages" because of injury arising from "employment practices" paid for each "claim" and applicable "defense expense" associated therewith. If there should be no "damages" paid for a "claim", you are still obligated to pay the applicable deductible for any "defense expense" incurred by us in connection with that "claim".
4. The terms of this insurance apply irrespective of the application of the deductible, including those with respect to:
 - a. Our right and duty to defend any "claims" seeking those "damages"; and
 - b. Your and any involved insured's duties in the event of a "claim".
5. We may pay any part or all of the deductible to effect settlement of any "claim" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible as we may have paid for "damages" or "defense expense".
6. The application of the deductible does not erode the Limits of Insurance provided.

SECTION V - CONDITIONS

1. Bankruptcy

Subject to exclusion h., the bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this insurance.

2. Cancellation

The policy shall terminate at the earliest of the following:

- a. If the policy is cancelled for failure to pay a premium when due, the effective date of cancellation stated in a written notice of cancellation from us to you, provided such notice is mailed to you at least ten (10) days prior to the effective date of cancellation. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the "policy period". Any earned premium shall be computed in accordance with the customary short rate table and procedure;

- b. If the policy is cancelled for any reason other than nonpayment of premium, the effective date of cancellation stated in a written notice of termination from us to you, provided such notice is mailed to you at least sixty (60) days prior to the effective date of cancellation. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the "policy period". Any earned premium shall be computed pro rata;
- c. Upon the receipt by us of the policy surrendered by you. Any earned premium shall be computed in accordance with the customary short rate table and procedure;
- d. Upon the transmittal to us of written notice of termination from you stating when thereafter such termination shall be effective. Any earned premium shall be computed in accordance with the customary short rate table and procedure; or
- e. Upon expiration of the policy "period" as set forth in the Declarations.

3. Changes

This Coverage contains all agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this Coverage with our consent. This Coverage's terms can be amended or waived only by endorsement issued by us and made a part of this Coverage.

4. Duties in Event of "Employment Practices" or "Claims"

- a. You must see to it that we are notified as soon as practicable of any specific "employment practices" which you believe may result in an actual "claim". Your belief must be reasonably certain as the result of specific allegations made by a potential claimant or such potential claimant's representative, or as the result of specifically identifiable injury sustained by a potential claimant. Notices of "employment practices" should include the following detailed information:

- (1) How, when and where such "employment practices" took place;
- (2) The names and addresses of any potential claimants and witnesses; and
- (3) The nature of any injury arising out of such "employment practices".

Notice of such "employment practices" is not notice of a "claim", but preserves any insured's rights to future coverage for subsequent "claims" arising out of such "employment practices" as described in the Basic Extended Reporting Period of **SECTION VI - EXTENDED REPORTING PERIODS**.

- b. If a "claim" is received by any insured:
 - (1) You must **immediately** record the specifics of the "claim" and the date received;
 - (2) You and any other involved insured must see to it that we receive written notice of the "claim", as soon as practicable, but in any event we must receive notice either:
 - (a) During the policy period or within thirty (30) days thereafter; or
 - (b) With respect to any "claim" first made during any Extended Reporting Period we provide under **SECTION VI -EXTENDED REPORTING PERIODS**, during such Extended Reporting Period,

As a condition precedent for coverage under this insurance, notices of "claims" must include the detailed information required in item 4. a. (1), (2) and (3) and

- (3) You and any other involved insured must:

- (a) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
 - (b) Authorize us to obtain records and other information;
 - (c) Cooperate with us in the investigation, settlement or defense of the "claim"; and
 - (d) Assist us, upon our request, in the enforcement of any right against any person or organization, which may be liable to the insured because of injury or damage to which this insurance may also apply.
- c. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent, other than those specific payments authorized under **SECTION I - COVERAGE** in item **d.** of paragraph **2. DEFENSE OF CLAIMS, ADMINISTRATIVE HEARINGS & SETTLEMENT AUTHORITY.**

5. Examination of Your Books and Records

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

6. Inspections and Surveys

We have the right but are not obligated to:

- a. Make inspections and surveys at any time;
- b. Give you reports on the employment conditions we find; and
- c. Recommend procedures, guidelines and changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not undertake to perform the duty of any person or organization to provide for the health or safety of, or lawful practices with, your workers or the public. We do not warrant that conditions:

- (i) Are safe or healthful; or
- (ii) Comply with laws, regulations, codes or standards as they relate to the purpose of this or any other insurance.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization, which makes insurance inspections, surveys, reports or recommendations on our behalf.

7. Legal Action Against Us

No person or organization has a right under this Coverage:

- a. To join us as a party or otherwise bring us into a "claim" seeking "damages" from any insured; or
- b. To sue us on this Coverage unless all of its terms have been fully complied with.

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

8. Other Insurance

If other valid and collectible insurance is available to the insured for "damages" or "defense expense" we cover under this Coverage, our obligations are limited as follows:

- a. As this insurance is primary insurance, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.** below.

- b.** If all of the other insurance permits contribution by equal shares, we will follow this method also.

Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits.

Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

9. Payment of Premiums, Deductibles and Coinsurance Amounts

- a.** We will compute all premiums for this insurance in accordance with our rules and rates; and
- b.** The first Named Insured shown in the Declarations is responsible for the payment of all premiums, and deductibles due and will be the payee for any return premiums we pay.

10. Representations

By accepting this Coverage, you agree:

- a.** The statements in the Declarations are accurate and complete;
- b.** Those statements are based upon representations you made to us in your application for this insurance. That application is attached to and incorporated into this Coverage and forms the basis of our obligations under this insurance; and
- c.** Since we have issued this Coverage in reliance upon your representations, this insurance is voidable if any material fact or circumstance relating to the subject of this insurance is omitted or misrepresented in your application.

11. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage to the first Named Insured, this insurance applies:

- a.** As if each Named Insured were the only Named Insured; and
- b.** Separately to each insured against whom "claim" is made.

12. Sole Agent

The first Named Insured is authorized to act on behalf of all insureds as respects the giving or receiving of notice of cancellation or nonrenewal, receiving premium refunds, requesting any Supplemental Extended Reporting Period and agreeing to any changes in this Coverage.

13. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will sue those responsible or transfer those rights to us and help us enforce them.

14. Transfer of Your Rights and Duties Under This Coverage

Your rights and duties under this Coverage may not be transferred without our written consent.

15. When We Do Not Renew

If we decide not to renew this insurance, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION VI - EXTENDED REPORTING PERIODS

1. We will provide Extended Reporting Periods, as described below, if:
 - a. This Coverage is cancelled or not renewed; or
 - b. We renew or replace this Coverage with insurance that:
 - (1) Has a **Retroactive** Date later than the date shown in the Declarations; or
 - (2) Does not **apply** on a claims-made basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to "claims" as the result of "employment practices" which occurred after the Retroactive Date, if any, shown in the Declarations and before the end of the policy period. Once in effect, Extended Reporting Periods may not be cancelled.
3. Extended Reporting Periods do not reinstate or increase the Limits of Insurance.
4. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for:
 - a. Five years with respect to "claims" arising out of "employment practices" which had been properly reported to us during the policy period in accordance with paragraph 4.a. of **Duties in the Event of "Employment Practices" or "Claims"**, in **SECTION V - CONDITIONS**; and
 - b. Sixty days with respect to "claims" arising from "employment practices" not previously reported to us.

The Basic Extended Reporting Period does not apply to "claims" that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.

5. A Supplemental Extended Reporting Period of either twelve (12) months or thirty-six (36) months duration is available, but only by endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period set forth in paragraph 4.b. above ends. You must give us a written request for the endorsement, and its length, within 30 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium when due. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. Limits of Insurance available under this Coverage for future payment of "damages" or "defense expense"; and
 - d. Other related factors.

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

6. The Supplemental Extended Reporting Period Endorsement we issue shall set forth the terms, not inconsistent with this **SECTION VI Extended Reporting Periods**, including a provision to the effect that the insurance afforded for "claims" first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period begins.

SECTION VII - DEFINITIONS

1. **"Bodily injury"** means physical injury to the body, sickness or disease sustained by a person as the result of direct physical injury to the body, including death resulting from any of these at any time. "Bodily injury" does not include mental anguish that results from an "employment practice".
2. **"Claim"** means written or oral notice presented by:
 - a. Any "employee," "leased worker," "temporary worker," former "employee" or applicant for employment by you; or
 - b. The EEOC or any other Federal, state or local administrative or regulatory agency on behalf of a person in item a. above,

alleging that the insured is responsible for "damages" as a result of injury arising out of any "employment practices."

"Claim" includes any civil proceeding in which either "damages" are alleged or fact finding will take place, when either is the result of any "employment practice" to which this insurance applies. This includes:

- (i) An arbitration proceeding in which such "damages" are claimed and to which the insured submits with our consent;
- (ii) Any other alternative dispute resolution proceeding in which such "damages" are claimed and to which the insured submits with our consent; or
- (iii) Any administrative proceedings established under federal, state or local laws applicable to "employment practices" covered under this insurance.

3. **"Coverage territory"** means:
 - a. The United States of America (including its territories and possessions) and Puerto Rico; or
 - b. Anywhere in the world with respect to the activities of a person whose place of employment is in the territory described in a. above, while he or she is away for a short time on your business, provided that the insured's responsibility to pay "damages" is determined in a suit on the merits (or in any other type of civil proceeding described under the definition of "claim") in and under the substantive law of the United States of America (including its territories and possessions) or Puerto Rico.
4. **"Damages"** means monetary amounts to which this insurance applies and which the insured is legally obligated to pay as judgments or awards, or as settlements to which we have agreed in writing.

"Damages" include (i) "pre-judgment interest" awarded against the insured on that part of the judgment we pay, (ii) any portion of a judgment or award, to the extent allowed by law, that represents a multiple of the compensatory amounts, punitive or exemplary damages, and (iii) statutory attorney fees.

"Damages" do not include:

- a. Civil, criminal, administrative or other fines or penalties;
 - b. Equitable relief, injunctive relief, declarative relief or any other relief or recovery other than money; or
 - c. Judgments or awards because of acts deemed uninsurable by law.
5. **"Defense expense"** means payments allocated to a specific "claim" for its investigation, settlement, or defense, including:
 - a. Attorney fees and all other litigation expenses.
 - b. The cost of bonds to appeal a judgment or award in any "claim" we defend. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the Amount of Insurance available. We do not have to furnish these bonds.

- d. Reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of any "claim", including actual loss of earnings up to \$250 a day because of time off from work.
- e. Costs taxed against the insured in the "claim".

"Defense expense" does not include:

- (i) Salaries and expenses of our employees or your "employees", other than:
 - (a) That portion of our employed attorneys' fees, salaries and expenses allocated to a specific "claim" for the defense of the insured; and
 - (b) The expenses described in d. above; and
- (ii) Interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the amount available for the judgment under the provisions of **SECTION III - LIMITS OF INSURANCE**.

- 6. **"Employee"** means a person (i) employed by you for wages or salary or (ii) who is a current or former member of your board of directors. But "employee" does not include any independent contractor, any employees of any independent contractor while acting within the scope of their employment, any "leased worker" or any "temporary worker".
- 7. **"Employment Practices"** means any of the following actual or alleged practices (i) which are directed against any of your "employees", "leased workers", "temporary workers", former "employees" or any applicant for employment by you and (ii) for which remedy is sought under any federal, state or local statutory or common civil employment law:
 - a. Wrongful refusal to employ a qualified applicant for employment;
 - b. Wrongful failure to promote, or wrongful deprivation of career opportunity;
 - c. Wrongful demotion, negligent evaluation, negligent reassignment or wrongful discipline;
 - d. Wrongful termination of employment, including retaliatory or constructive discharge;
 - e. Employment related misrepresentation;
 - f. Harassment, coercion, discrimination or humiliation as a consequence of race, color, creed, national origin, marital status, medical condition, gender, age, physical appearance, physical and/or mental impairments, pregnancy, sexual orientation or sexual preference or any other protected class or characteristic established by any applicable federal, state, or local statute; or
 - g. Oral or written publication of material that slanders, defames or libels, or violates or invades a right of privacy.
- 8. **"Interrelated"** means having as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes."
- 9. **"Leased worker"** means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- 10. **"Pre-judgment interest"** means interest added to a settlement, verdict, award or judgment based on the amount of time prior to the settlement, verdict, award or judgment, whether or not made part of the settlement, verdict, award or judgment.
- 11. **"Temporary worker"** means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.