

SERFF Tracking Number: PERR-125792765 State: Arkansas
Filing Company: U.S. Specialty Insurance Company State Tracking Number: #103823 \$50
Company Tracking Number: USS-OL-EPL-AR-08-01-F
TOI: 17.1 Other Liability - Claims Made Only Sub-TOI: 17.1010 Employment Practices Liability
Product Name: Employment Practice Liability
Project Name/Number: USS-OL-EPL-AR-08-01-F/USS-OL-EPL-AR-08-01-F

Filing at a Glance

Company: U.S. Specialty Insurance Company
Product Name: Employment Practice Liability SERFF Tr Num: PERR-125792765 State: Arkansas
TOI: 17.1 Other Liability - Claims Made Only SERFF Status: Closed State Tr Num: #103823 \$50
Sub-TOI: 17.1010 Employment Practices Co Tr Num: USS-OL-EPL-AR-08- State Status: Fees verified and
Liability 01-F received
Filing Type: Form Co Status: Reviewer(s): Betty Montesi, Edith Roberts
Authors: Neresia Torres, Olga E. Garcia Disposition Date: 10/21/2008
Date Submitted: 09/04/2008 Disposition Status: Approved
Effective Date Requested (New): 10/04/2008 Effective Date (New):
Effective Date Requested (Renewal): On Approval Effective Date (Renewal):
State Filing Description:

General Information

Project Name: USS-OL-EPL-AR-08-01-F Status of Filing in Domicile: Pending
Project Number: USS-OL-EPL-AR-08-01-F Domicile Status Comments:
Reference Organization: N/A Reference Number: N/A
Reference Title: N/A Advisory Org. Circular: N/A
Filing Status Changed: 10/21/2008
State Status Changed: 09/18/2008 Deemer Date:
Corresponding Filing Tracking Number: N/A
Filing Description:

On behalf of U.S. Specialty Insurance Company (the "Company"), we are submitting this filing to introduce new forms to their Employment Practices Liability program filed in your state. In addition to the forms, the Company is also revising their EPLI Policy form. A side-by-side comparison is enclosed for your review.

The Company respectfully requests that the proposed forms be implemented for all policies effective on and after October 4, 2008 or upon earliest possible date of acknowledgment or approval.

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Enclosed is authorization for Perr&Knight to submit this filing on behalf of the Company. All correspondence related to this filing should be directed to Perr&Knight. If there are any requests for additional information related to items prepared in this filing, we will forward the request immediately to the Company. We will submit the Company's response to your attention as soon as we receive it.

Please do not hesitate to contact us with any questions or comments.

Company and Contact

Filing Contact Information

(This filing was made by a third party - perrandknightactuaryconsultants)

Olga E. Garcia, Filing Analyst doi@perrknight.com
 881 Alma Real Dr Suite 205 (310) 230-9339 [Phone]
 Pacific Palisades, CA 90272

Filing Company Information

U.S. Specialty Insurance Company CoCode: 29599 State of Domicile: Texas
 13403 Northwset Freeway Group Code: 984 Company Type:
 Houston, TX 77040 Group Name: HCC Ins. Holdings State ID Number:
 Group
 (713) 996-1115 ext. [Phone] FEIN Number: 52-1504975

Filing Fees

Fee Required? Yes
 Fee Amount: \$50.00
 Retaliatory? No
 Fee Explanation: AR filing fee is \$50 for form filings.
 Per Company: No

COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
U.S. Specialty Insurance Company	\$0.00	09/04/2008	

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CHECK NUMBER	CHECK AMOUNT	CHECK DATE
103823	\$50.00	08/28/2008

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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	10/21/2008	10/21/2008

Objection Letters and Response Letters

Objection Letters				Response Letters		
Status	Created By	Created On	Date Submitted	Responded By	Created On	Date Submitted
Pending	Edith Roberts	09/19/2008	09/19/2008	Neresa Torres	10/01/2008	10/01/2008

Industry Response

Filing Notes

Subject	Note Type	Created By	Created On	Date Submitted
RE: Status	Note To Reviewer	Olga E. Garcia	10/20/2008	10/20/2008

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Disposition

Disposition Date: 10/21/2008

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

SERFF Tracking Number: PERR-125792765 State: Arkansas
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Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document	Letter of Authorization and Policy Comparison	Approved	Yes
Form (revised)	EPLI Policy Form	Approved	Yes
Form	EPLI Policy Form	Approved	Yes
Form	Third Party Publishing Exclusion Endorsement	Approved	Yes
Form	Law Firm Retention Modification Endorsement (25,10,5)	Approved	Yes
Form	Law Firm Retention Modification Endorsement (25,15,10)	Approved	Yes
Form	Terminated Employee/Claimant Retention Modification Endorsement	Approved	Yes
Form	Address Modification Endorsement	Approved	Yes
Form	Deleted Location Endorsement	Approved	Yes
Form	Additional Locations Endorsement	Approved	Yes
Form	Specific Employees Increased Retention Endorsement	Approved	Yes
Form	Wage & Hour Laws Legal Defense Costs Endorsement	Approved	Yes
Form	Anti-Harassment & Anti-Discrimination Policy Statements Requirement Endorsement	Approved	Yes
Form	Messenger Courier Services "Independent Contractor" Coverage Endorsement	Approved	Yes
Form	Specific Location Coverage Endorsement	Approved	Yes
Form	Specific Location Limitation-Third Party Endorsement	Approved	Yes
Form	Americans With Disabilities Act Increased Retention Endorsement	Approved	Yes
Form	Auto Dealership Professional Services Exclusionary Endorsement	Approved	Yes
Form	Consent to Settle Modification Endorsement	Approved	Yes

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Form	Contract Producer Increased Retention Endorsement	Approved	Yes
Form	Specific Defense Counsel Endorsement	Approved	Yes
Form	Mid-Policy Period Increase of Limits Endorsement	Approved	Yes
Form	Laid Off "Employees"/Claimant Retention Endorsement	Approved	Yes
Form	"Defense Costs" Outside Limit Endorsement	Approved	Yes
Form	ARKANSAS AMENDATORY ENDORSEMENT	Approved	Yes

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Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 09/19/2008

Submitted Date 09/19/2008

Respond By Date

Dear Olga E. Garcia,

This will acknowledge receipt of the captioned filing.

Please refer to Page 6 of Form EP 0001 (Revised 03/08), Provision 4. How the Limits of Insurance Apply to an Extension of the Policy Period, which states, "If the Policy Period is extended after issuance for an additional period, the additional period will be deemed part of the past preceding period for purposes of determining the Limits of Liability. Accordingly, the extension of the Policy Period will in no way increase the Limits of Liability.

This may apply to the automatic 60 day basic Extended Reporting Period, but the limits must be reinstated to comply with AR Code Anno 23-79-306 (1-6) regarding the supplemental Extended Reporting Period

Please refer to Page 8, #3. Action By You Against Us, a. Any dispute between you and us based upon, arising from or in connection with this Policy, including but not limited to any dispute sounding in contract or tort, shall be submitted to binding arbitration.

The appraisal/arbitration clause is in violation of Ark. Code Ann. § 23-79-203 and Arkansas Bulletin No. 19-89. The clause(s) must specifically state it is non-binding and voluntary.

Please refer to Page 11, Provision 3 Limited Reporting Period, third paragraph, which states, "The Limited Reporting Period will only apply if this Policy is cancelled or not renewed by us or the "Named Insured" for any reason other than nonpayment of premium.

The Extended Reporting Period provisions must be in compliance with Ark. Code Ann. §23-79-306 (2-6). The policy must indicate that the insurer must provide at no additional charge an automatic sixty (60) day "basic" Extended Reporting Period upon cancellation or termination for any reason including non-payment of premium, deductibles, retentions or excess payments over the limit of liability reimbursements still owed.

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Please also under Provision 4, same page, refer to paragraph 2: "The Extended Reporting Period Endorsement will not be issued unless we receive a written request for it within thirty (30) days after this Policy ends.

You must advise the insured of the importance of purchasing the supplemental extended reporting period endorsement and allow the insured sixty (60) days rather than 30 days, after termination for any reason, to request and pay for the optional extended reporting period endorsement pursuant to AR Code Ann. 23-79-306 (3). This coverage must be put into effect if premium is received in payment of the optional extended reporting period endorsement.

Also with reference to Provision 5, "The LIMITS OF INSURANCE (SECTION IV) also apply to the Limited and Extended Reporting Periods. The LIMITS OF INSURANCE that apply at the end of the Policy Period are not renewed or increased and the total limits shown in the Declarations Page of this Policy shall not be increased by the addition of either the Limited or Extended Reporting Periods.

This form contains language that the limit for the supplemental Extended Reporting Period is not increased or reinstated. This form does not comply with Ark. Code. Ann. §23-79-306 (f) which states that the limit of liability must be no less than the greater of the amount of coverage remaining in the expiring policy aggregate or fifty percent (50%) of the aggregate limit at policy inception.

Please feel free to contact me if you have questions.

Sincerely,
Edith Roberts

Response Letter

Response Letter Status	Submitted to State
Response Letter Date	10/01/2008
Submitted Date	10/01/2008

Dear Edith Roberts,

SERFF Tracking Number: PERR-125792765 State: Arkansas
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Comments:

Response 1

Comments: Thank you for your continued review of our filing. We would like to offer the following in response to your concerns dated September 19, 2008. For convenience, we restated your original questions, as well as our reply.

Question #1: Please refer to Page 6 of Form EP 0001 (Revised 03/08), Provision 4. How the Limits of Insurance Apply to an Extension of the Policy Period, which states, "If the Policy Period is extended after issuance for an additional period, the additional period will be deemed part of the past preceding period for purposes of determining the Limits of Liability. Accordingly, the extension of the Policy Period will in no way increase the Limits of Liability." This may apply to the automatic 60 day basic Extended Reporting Period, but the limits must be reinstated to comply with AR Code Anno 23-79-306 (1-6) regarding the supplemental Extended Reporting Period

Response #1: Please find the revised version of the Arkansas Amendatory Endorsement EP 0102 (10/08). We modified this section to include the following language, "This applies to the 60 day Limited Reporting Period but not to the supplemental Extended Reporting Period as required by Arkansas statutes." We believe this should address the Department's concerns.

Question #2: Please refer to Page 8, #3. Action By You Against Us, a. Any dispute between you and us based upon, arising from or in connection with this Policy, including but not limited to any dispute sounding in contract or tort, shall be submitted to binding arbitration. The appraisal/arbitration clause is in violation of Ark. Code Ann. § 23-79-203 and Arkansas Bulletin No. 19-89. The clause(s) must specifically state it is non-binding and voluntary.

Response #2: Please find the revised version of the Arkansas Amendatory Endorsement EP 0102 (10/08). We modified Section VI, subsection 3 to indicate the arbitration is non-binding and voluntary.

Finally, we would like to offer the attached revised EPLI Policy Form 0001. We updated the third paragraph of Section VII, subsection 3 to remove the phrase, "... for any reason other than nonpayment of premium." No other changes are being made to this form. Also, we apologize for not correcting this earlier.

Changed Items:

No Supporting Documents changed.

Form Schedule Item Changes

Form Name	Form	Edition	Form Type	Action	Action	Readability Attach
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	Number	Date			Specific Data	Score	Document
EPLI Policy Form	EP 0001	(03/08)	Policy/Coverage Form	Replaced		0	EPLI Policy Form (03 08).pdf
Previous Version							
EPLI Policy Form	EP 0001	(03/08)	Policy/Coverage Form	Replaced		0	EP 0001 (03.08) EPLI Policy Form.pdf
ARKANSAS AMENDATORY ENDORSEMENT	EP 0102	(10/08)	Endorsement/Amendment/Conditions	Replaced			EP0102 1008.pdf

SERFF Tracking Number: *PERR-125792765* *State:* *Arkansas*
Filing Company: *U.S. Specialty Insurance Company* *State Tracking Number:* *#103823 \$50*
Company Tracking Number: *USS-OL-EPL-AR-08-01-F*
TOI: *17.1 Other Liability - Claims Made Only* *Sub-TOI:* *17.1010 Employment Practices Liability*
Product Name: *Employment Practice Liability*
Project Name/Number: *USS-OL-EPL-AR-08-01-F/USS-OL-EPL-AR-08-01-F*

No Rate/Rule Schedule items changed.

Sincerely,
Neresa Torres, Olga E. Garcia

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Note To Reviewer

Created By:

Olga E. Garcia on 10/20/2008 05:44 PM

Subject:

RE: Status

Comments:

Thank you for your ongoing review of our filing. At this time, we would like to request the status of this filing. Please advise if you need any additional information to complete your review.

We thank you for your time and assistance with this matter.

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Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	EPLI Policy Form	EP 0001	(03/08)	Policy/Coverage Form	Replaced Form #: EP 0001 (12/01) Previous Filing #:	0.00	EPLI Policy Form (03 08).pdf
Approved	Third Party Publishing Exclusion Endorsement	EP 0067	(03/08)	Endorsement/Amendment/Conditions		0.00	EP 0067 (03.08) Third Party Publishing Exclusion End.pdf
Approved	Law Firm Retention Modification Endorsement (25,10,5)	EP 0077A	(03/08)	Endorsement/Amendment/Conditions		0.00	EP 0077A (03.08) Law Firm Program Retention Modification End.pdf
Approved	Law Firm Retention Modification Endorsement (25,15,10)	EP 0077B	(03/08)	Endorsement/Amendment/Conditions		0.00	EP 0077B (03.08) Law Firm Program Retention Modification (II).pdf
Approved	Terminated Employee/Claimant Retention Modification Endorsement	EP 0078	(03/08)	Endorsement/Amendment/Conditions		0.00	EP 0078 (03.08) Terminated Employee Retention Modification End.pdf
Approved	Address Modification Endorsement	EP 0079	(03/08)	Endorsement/Amendment/Conditions		0.00	EP 0079 (03.08) Address

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Approval	Description	EP	Effective Date	Endorsement/Condition	Amount	Attachment
Approved	Deleted Location Endorsement	EP 0080	(03/08)	Endorsement/Conditions	0.00	Correction Modification End.pdf
Approved	Additional Locations Endorsement	EP 0200	(03/08)	Endorsement/Conditions	0.00	EP 0080 (03.08) Deleted Locations.pdf
Approved	Specific Employees Increased Retention Endorsement	EP 0201	(03/08)	Endorsement/Conditions	0.00	EP 0200 (03.08) Additional Location Coverage End.pdf
Approved	Wage & Hour Laws Legal Defense Costs Endorsement	EP 0202	(03/08)	Endorsement/Conditions	0.00	EP 0201 (03.08) Specific Employee Retention Increase End.pdf
Approved	Anti-Harassment & Anti-Discrimination Policy Statements Requirement Endorsement	EP 0203	(03/08)	Endorsement/Conditions	0.00	EP 0202 (03.08) Wage and Hour End.pdf
Approved	Messenger Courier Services "Independent Contractor" Coverage	EP 0204	(03/08)	Endorsement/Conditions	0.00	EP 0203 (03.08) Anti-Harassment & Anti-Discrimination Policy End.pdf

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Endorsement

Approved	Specific Location Coverage Endorsement	EP 0205	(03/08)	Endorsement/Amendment/Conditions	0.00	EP 0205 (03.08) Specific Location Limitation end.pdf
Approved	Specific Location Limitation-Third Party Endorsement	EP 0206	(03/08)	Endorsement/Amendment/Conditions	0.00	EP 0206 (03.08) Specific Location Limitation - Third Party End.pdf
Approved	Americans With Disabilities Act Increased Retention Endorsement	EP 0207	(03/08)	Endorsement/Amendment/Conditions	0.00	EP 0207 (03.08) Americans with Disabilities Act Increased Retention End.pdf
Approved	Auto Dealership Professional Services Exclusionary Endorsement	EP 0208	(03/08)	Endorsement/Amendment/Conditions	0.00	EP 0208 (03.08) Auto Dealership Professional Services Exclusionary End.pdf
Approved	Consent to Settle Modification Endorsement	EP 0210	(03/08)	Endorsement/Amendment/Conditions	0.00	EP 0210 (03.08) Consent to Settle Modification. pdf
Approved	Contract Producer	EP 0211	(03/08)	Endorsement/Amendment	0.00	EP 0211 (03.08)

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	Increased Retention Endorsement		ent/Condi ons		Contract Producer Increased Retention.pdf
Approved	Specific Defense Counsel Endorsement	EP 0212 (03/08)	Endorsement/Amendment/Conditions	New	0.00 EP 0212 (03.08) Specified Defense Counsel.pdf
Approved	Mid-Policy Period Increase of Limits Endorsement	EP 0213 (03/08)	Endorsement/Amendment/Conditions	New	0.00 EP 0213 (03.08) Mid Policy Increase of Limits End.pdf
Approved	Laid Off "Employees"/Claimant Retention Endorsement	EP 0214 (03/08)	Endorsement/Amendment/Conditions	New	0.00 EP 0214 (03.08) Laid Off Employees-Claimant Retention End.pdf
Approved	"Defense Costs" Outside Limit Endorsement	EP 0218 (03/08)	Endorsement/Amendment/Conditions	New	0.00 EP 0218 (03.08) Defense Costs Outside the Limit.pdf
Approved	ARKANSAS AMENDATORY ENDORSEMENT	EP 0102 (10/08)	Endorsement/Amendment/Conditions	Replaced	Replaced Form #: EP 0102 Previous Filing #: EP0102 1008.pdf

EMPLOYMENT PRACTICES LIABILITY INSURANCE

THIS IS A "CLAIMS-MADE" POLICY. EXCEPT AS MAY BE OTHERWISE PROVIDED HEREIN, COVERAGE UNDER THIS POLICY IS LIMITED TO LIABILITY FOR "INSURED EVENTS" FOR WHICH "CLAIMS" ARE FIRST MADE AGAINST THE "INSURED" WHILE THIS POLICY IS IN EFFECT, OR ANY EXTENDED REPORTING PERIOD (IF APPLICABLE).

"DEFENSE COSTS" ARE INCLUDED WITHIN THE POLICY LIMITS OF LIABILITY AND ARE INCLUDED WITHIN THE RETENTION. THIS POLICY IS SUBJECT TO A TOTAL POLICY AGGREGATE LIMIT FOR ALL "INSURED EVENTS".

VARIOUS PROVISIONS IN THIS POLICY RESTRICT COVERAGE. PLEASE READ THE ENTIRE POLICY CAREFULLY TO DETERMINE YOUR RIGHTS, DUTIES AND WHAT IS, AND IS NOT, COVERED.

Throughout this Policy the words "we", "us" and "our" refer to the insurance company shown in the Declarations Page of this Policy. The words "you" and "your" refer to the "Named Insured" indicated in the Declarations Page of this Policy.

The special meaning of other words and phrases that appear in quotation marks ("") are defined in **DEFINITIONS (SECTION X)** of this Policy. To assist in finding major sections of this Policy, headings and subheadings appear in capital bold letters. The descriptions in these headings and subheadings are solely for convenience, and form no part of the terms, conditions, limitations and exclusions of this Policy.

In consideration of the payment of premium, and in reliance upon the statements in the Declarations Page of this Policy and "Application" and subject to all the terms and conditions of this Policy, we agree with the "insured" as follows:

SECTION I - COVERAGE

1. Insuring Agreement

We have the duty to pay any "loss" in excess of the **RETENTION (SECTION V)** that the "insured" becomes legally obligated to pay as a result of a "claim" first made during the Policy Period (or any Extended Reporting Period, if applicable) that is based upon an "insured event" to which this Policy applies. Our duty to pay ends when the available **LIMITS OF INSURANCE (SECTION IV)** have been exhausted. We will not pay more than the applicable **LIMITS OF INSURANCE (SECTION IV)**.

2. Defense

We have the right and duty to defend any "claim" for an "insured event" made against any "insured" to which this Policy applies.

If one or more of the applicable **LIMITS OF INSURANCE (SECTION IV)** shown in the Declarations Page of this Policy is/are exhausted, our duty to defend ends and you will promptly take over control of the defense of any "claim" we are defending and will reimburse us for all amounts we reasonably incur to defend any "claim" after the applicable **LIMITS OF INSURANCE (SECTION IV)** is/are exhausted.

3. Optional Defense of Criminal Proceedings

At your request we shall have the option, but not the duty, to defend any criminal proceedings brought against any "insured". Should we, at our sole discretion, exercise the option to defend any criminal proceeding, any "defense costs" incurred therein shall reduce and may exhaust the applicable **LIMITS OF INSURANCE (SECTION IV)**. The exercise of the option to defend any criminal proceeding shall not serve to render us liable for any other "loss" incurred in connection with any criminal proceedings, and we shall retain the right to withdraw from the defense upon giving you notice.

4. Defense Counsel (Attorney) Selection

- a. We have the right to appoint an attorney to defend you against any "claim" other than for criminal proceedings. This attorney will be the "Panel Defense Counsel" selected by you when you applied for this Policy or by mutual agreement another attorney listed on our current "Panel Defense Counsel" list.
- b. If you do not desire to accept the services of our appointed attorney or another mutually agreed attorney from our current "Panel Defense Counsel" list, you may retain another attorney, subject to our prior approval and the following modifications in the conditions of this Policy:

If you elect to use an attorney other than one selected from our current "Panel Defense Counsel" list, then the Policy **RETENTION (SECTION V)** indicated in the Declarations Page of this Policy for this coverage will double in amount (i.e., a \$5,000 retention will be \$10,000) and a 20% co-payment will apply to the "defense costs" in excess of the **RETENTION (SECTION V)** (i.e., we will pay 80% of the "defense costs" and you will be responsible for 20% of the "defense costs").

5. Consent to Settle

We have the right to investigate and settle any "claim" in the manner and to the extent that we believe proper, however, we will not settle any "claim" without your consent. If you refuse to consent to any settlement recommended by us or our representatives and you elect to contest or continue any legal proceedings, then our liability shall not exceed the amount for which the "claim" could have been settled including "defense costs" approved by us, up to the date of such refusal.

However, in the event "Panel Defense Counsel" is defending, then our liability for all "loss" on account of such "claim" shall not exceed:

- a. the amount for which we could have settled such "claim" plus "defense costs" incurred as of the date such settlement was proposed in writing by us, ("Total Settlement Amount"); plus
- b. Fifty percent (50%) of covered "loss" in excess of such Total Settlement Amount, it being a condition of this Policy that the remaining 50% of such "loss" excess of the Total Settlement Amount shall be carried by you at your own risk and be uninsured.

SECTION II - EXCLUSIONS

1. Workers' Compensation

This Policy does not cover any "loss" arising out of any obligation under any workers' compensation, social security, disability benefits or unemployment compensation law, or any similar law.

This exclusion does not apply, however, to any claim for "retaliation", "discrimination" or "inappropriate employment conduct" arising from the filing of a workers compensation claim or a claim for disability benefits.

2. Contractual Liability

This Policy does not cover any "loss" arising out of the assumption of another's liability in a contract or agreement.

This exclusion does not apply to any "loss" an "insured" would have without the contract or agreement.

3. Employee Retirement Income Security Act (ERISA)

This Policy does not cover any "loss" arising out of the Employee Retirement Income Security Act of 1974, or any amendment thereto. This includes fiduciary liability, liability arising out of the administration of any employee benefit plan and any other liability under any such law.

This exclusion does not apply, however, to that portion of any "claim" for "retaliation" under section 510 of ERISA.

4. Strikes and Lockouts

This Policy does not cover any "loss" arising out of a strike, lockout, picket line, replacement or other similar action resulting from labor disputes or labor negotiations, or any protections contained within the National Labor Relations Act.

This exclusion does not apply to that portion of any "claim" for "retaliation" or "discrimination".

5. Consequential Loss

This Policy does not cover any direct, indirect or derivative "loss" to any claimant's spouse, child, parent, brother, sister, step-parent, step-brother, step-sister or "domestic partner" as a consequence of an "insured event."

6. Workers' Adjustment and Retraining Notification Act

This Policy does not cover any "loss" arising out of the Workers' Adjustment and Retraining Notification Act, Public Law 100-379 (1988) or any amendment thereto, or any similar Federal, State or local law.

This exclusion shall not apply if the "insured" consulted with legal counsel and made a good faith attempt to comply with the law.

7. Major Stockholders

If the "Named Insured" is a corporation, this Policy does not cover any "loss" arising out of a "claim" made by any "employee" who owns or controls twenty-five percent (25%) or more of the voting stock of the "Named Insured".

8. Family Members

If the "Named Insured" is an individual, a partnership with less than ten (10) partners or a corporation with less than ten (10) stockholders, this Policy does not cover any "loss" arising out of a "claim" made by any "employee" who is a spouse, child, parent, brother, sister, step-parent, step-brother, step-sister or "domestic partner" of:

- a. the "Named Insured" listed in the Declarations Page of this Policy;
- b. any individual who owns or controls, directly or indirectly, more than fifty percent (50%) of the voting stock of the "Named Insured";
- c. the trustees or beneficiaries of any trust created by the "Named Insured"; or

- d. any relative or representative of an individual described in paragraph b.

This exclusion shall apply, but is not limited to, any estate and matrimonial proceedings.

9. Bodily Injury and Property Damage

This Policy does not cover any “loss” arising out of bodily injury, sickness, disease or death of any person, damage or injury to any property, or loss of use or economic benefits resulting therefrom. This exclusion, however, does not apply to emotional distress, humiliation, mental injury or mental anguish resulting from an “insured event”.

10. Comprehensive Omnibus Budget Reconciliation Act (COBRA)

This Policy does not cover any “loss” arising out of or under the Comprehensive Omnibus Budget Reconciliation Act of 1985, or any amendments thereto.

This exclusion does not apply, however, to that portion of any “claim” for “retaliation”, “discrimination” or “inappropriate employment conduct” on account of the filing of a “claim” for benefits under COBRA.

11. Wage and Hour Laws

This Policy does not cover any “loss” arising out of any private, governmental or administrative “claim” alleging violations of Federal, State or local wage and hour laws or regulations, including, but not limited to, any laws or regulations concerning monetary or non-monetary compensation or “benefits” that may be owed to a past or present “employee” based upon a misclassification of their job status, title or duties.

This exclusion shall not apply, however, to that portion of any “claim” seeking to recover “loss” for alleged “discrimination” or “retaliation” by an “insured”.

SECTION III – DEFINITION OF “INSURED”

1. The “Named Insured” is any of the following when designated in the Declarations Page of this Policy as:

- a. an individual, you and your spouse or “domestic partner” 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 members, your partners, and their spouses or “domestic partners” are also “insureds”, but only with respect to the conduct of your business.
- c. a limited liability company, you are an “insured”. Your members are also “insureds”, but only with respect to the conduct of your business.
- d. an organization other than a partnership, joint venture or limited liability company, you are an “insured”. Your stockholders are also “insureds”, but only with respect to their liability as stockholders for the conduct of your business.

2. Each of the following is also an “insured”:

- a. your “management and supervisors” and “employees,” are “insureds”, but only for the conduct of your business within the scope of their employment. Your “management and supervisors” and “employee’s” status as an “insured” will be determined as of the date of the “discrimination”, “harassment”, “retaliation” or “inappropriate employment conduct” which caused the “insured event.”

- b. any organization that you newly acquire or merge with while this Policy is in effect is an “insured” if the “Named Insured” owns at least fifty percent (50%) of it, but no newly acquired or merged organization is covered for:
 - (1) more than sixty (60) days or the remainder of the Policy Period, whichever is less, from the date that you acquire or merge with the organization;
 - (2) for “loss” that results from an “insured event” that happened or commenced before you acquired or merged with the organization; or
 - (3) for “loss” covered under any other insurance unless agreed by us in writing within such sixty (60) day period. We may require an additional premium for any individuals who become “employees” as a result of such acquisition or merger.

This paragraph does not apply to a partnership, joint venture, or to any organization once it is shown in the Declarations Page of this Policy.

- c. If a “claim” against an individual “insured” under this Policy includes a “claim” against the lawful spouse or lawful “domestic partner” of such “insured” solely by reason of:
 - (1) status as a spouse or “domestic partner”; or
 - (2) such spouse or “domestic partner’s” ownership interest in property or assets that are sought as recovery for an “insured event”;

any “loss” for which such spouse or “domestic partner” becomes legally obligated to pay on account of such “claim” shall be deemed a “loss” which such “insured” of the spouse or “domestic partner” becomes legally obligated to pay as a result of such “claim”.

All terms, conditions, limitations and exclusions of this Policy applicable to “loss” sustained by such individual “insured” in the “claim” shall also apply to such spouse or “domestic partner’s” “loss”.

This extension of coverage shall not apply to the extent the “claim” alleges any wrongful act or omission by such spouse or “domestic partner”.

SECTION IV - LIMITS OF INSURANCE

1. Limits of Insurance

The Limits of Insurance shown in the Declarations Page of this Policy and the provisions contained in this section establish the most we will pay regardless of the number of:

- a. “Insureds”;
- b. “Claims” made; or
- c. Persons or organizations making “claims.”

2. Each “Claim” Limit

This is the most we will pay for all “claims” arising out of “one insured event” regardless of the number of “claims.”

If any “claim” gives rise to coverage under this Policy and under any other policy or policies issued by us, our maximum aggregate Limit of Insurance with respect to all such policies, including this Policy, for

all "loss", including "defense costs", in respect of such "claim" shall not exceed the largest single available Limit of Insurance under any such policies.

3. Total Policy Limit for All "Claims" (Policy Aggregate Limit)

This is the most we will pay under this Policy regardless of anything, including but not limited to, the number of "claims", number of "insureds", number of claimants, the length or extension of the Policy Period or any Extended Reporting Period, if applicable.

4. How the Limits of Insurance Apply to an Extension of the Policy Period.

If the Policy Period is extended after issuance for an additional period, the additional period will be deemed part of the past preceding period for purposes of determining the Limits of Liability. Accordingly, the extension of the Policy Period will in no way increase the Limits of Liability.

5. Allocation of "Defense Costs"

If both "loss" covered by this Policy and "loss" not covered by this Policy are incurred in connection with any "claim", we will use all reasonable efforts to agree, with you, upon a fair and proper allocation of "defense costs" attributable to the covered "loss" and the uncovered "loss."

If there can be an agreement on the allocation of "defense costs", we will pay, on a current basis, "defense costs" allocated to the covered "loss" in accordance with our obligations under this Policy.

If there can be no agreement on an allocation of "loss"

- a. then no presumption as to allocation shall exist in any arbitration, "suit" or other proceeding;
- b. we will pay, on a current basis, "defense costs" that we believe are reasonable related to the covered "loss" under the Policy until a different allocation is negotiated or arbitrated; and,
- c. we, if requested by you, shall submit such dispute to "mediation" or binding arbitration, based on **CONDITIONS (SECTION VI), Action By You Against Us (Item 3)**

SECTION V - RETENTION

1. Our obligation to pay under this Policy applies only to the amount of "loss" in excess of the Retention amount shown in the Declarations Page of this Policy and the **LIMITS OF INSURANCE (SECTION IV)** shown in the Declarations Page of this Policy will not be reduced by the amount of such Retention.
2. **"Mediation" of "Claims" Provision**

The applicable Retention will be decreased by fifty percent (50%) (i.e., a \$5,000 Retention will be \$2,500) if a "claim" is fully and finally resolved to the satisfaction of all parties, including us, through "mediation," provided that such "mediation" is initiated and concluded and/or abandoned before and not subsequent to commencement of any "suit". In the event such "mediation" does not fully and finally resolve the "claim," there shall be no reduction of the Retention obligation, and all "defense costs" incurred in the "mediation" shall be included in the total "defense costs" for the "claim."
3. You are responsible for the payment of "loss" within the Retention, including the payment of "defense costs" directly to any law firm(s) that we have retained on your behalf to defend a "claim." At the time a "claim" is reported we will advise you of the name of any law firm(s) we have retained on your behalf and advise them that they are to bill you directly for the Retention amount.
4. The Retention amount applies separately to each "claim" made. However, the Retention amount will only apply once to all "claims" arising out of any "one insured event" regardless of the number of claimants who allege damages.

5. We have no obligation whatsoever, either to you or to any other person or entity, to pay all or any portion of "loss" within the Retention amount. We have, however, at our sole discretion, the right and option to do so, in which event you must repay us any such amount promptly upon demand.

SECTION VI - CONDITIONS

We have no duty to provide coverage under this Policy unless there has been full compliance with all the conditions contained in this Policy.

1. Cancellation

- a. The first "Named Insured" shown in the Declarations Page of this Policy may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
- b. We may not cancel this Policy except for failure to pay the premium when due, in which case we will mail or deliver our notice to the first "Named Insured's" last mailing address known to us stating the effective date of cancellation. The Policy Period will end on that date.
- c. If this Policy is cancelled, we will send the first "Named Insured" any premium refund due. If the first "Named Insured" cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- d. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. Duties in the Event of a "Claim" or "Suit"

- a. You must report a "claim" to us or our authorized representative as soon as practicable, but in no event later than sixty (60) days, after the policy period or the Extended Reporting Period, if applicable. Notice shall include all of the following:
 - (1) the identity of the person(s) alleging "discrimination", "harassment" or "inappropriate employment conduct";
 - (2) the identity of the "insured(s)" who allegedly committed the "discrimination", "harassment" or "inappropriate employment conduct";
 - (3) the identity of any witness to the alleged "discrimination", "harassment" or "inappropriate employment conduct";
 - (4) the date the "insured event" took place; and,
 - (5) the written charge, complaint or demand as applicable.
- b. If a "suit" is brought against any "insured", you must:
 - (1) record the specifics of the "suit" and the date received; and,
 - (2) immediately see to it that we receive written notice of the "suit".
- c. You and any other "insured" must:
 - (1) send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
 - (2) authorize us to obtain records and other information;
 - (3) cooperate with us in the investigation or defense of the "claim"; and,

(4) 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 Policy may also apply.

d. No “insured” will, except at their own cost, voluntarily make a payment, settle a “claim” or “suit”, assume any obligation, admit any liability, or incur any expenses without our prior written consent. Any voluntary payment made or expense incurred without our consent will be your sole responsibility. Similarly, any monetary payments resulting from or related to your assumption of any obligation or your admission of liability without our prior written consent will be your sole responsibility.

3. Action By You Against Us

a. Any dispute between you and us based upon, arising from or in connection with this Policy, including but not limited to any dispute sounding in contract or tort, shall be submitted to binding arbitration.

b. You, however, shall first have the option to resolve the dispute by “mediation”;

c. If the parties cannot resolve the dispute by “mediation”, the parties shall submit the dispute to binding arbitration pursuant to the rules of the American Arbitration Association, except the arbitration panel shall consist of one arbitrator selected by you, one arbitrator selected by us, and a third arbitrator selected by the first two arbitrators. Unless you and we otherwise agree, within thirty (30) days of our submitting the case and related documentation, the arbitration panel will issue a written decision resolving the controversy and stating the facts reviewed, conclusions reached, and the reasons for reaching those conclusions. The arbitration panel may make an award of compensatory loss, but may not award extra contractual, punitive or exemplary loss. The decision of the arbitration panel will be final and binding on both of us in any court. You will bear the expense of the arbitrator chosen by you. We will bear the expense of the arbitrator chosen by us. You and we will share equally the expense of the other arbitrator. You and we will each bear our own fees and costs. The arbitration panel will allocate any remaining costs of the arbitration proceeding.

4. Other Insurance

If other valid and collectible insurance is available to you for a “loss” we cover under this Policy, our obligations are limited as follows:

a. Primary Insurance

This Policy is primary insurance except when b. below applies. If this Policy is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with that other insurance by the method described in c. below.

b. Excess Insurance

This Policy is excess over any other insurance, whether primary, excess, contingent, or any other basis, that is:

(1) effective prior to the beginning of the Policy Period shown in the Declarations Page of this Policy;

(2) applies on other than a claims-made basis;

(3) issued to or insures any “leased worker”, “temporary employee” or “independent contractor”;

(4) available and under which you are an additional “insured”.

When this Policy is excess, we shall have no duty to defend any "claim" that any other insurer defends. If no other insurer defends, we shall undertake to do so, but we shall be entitled to your rights against all those other insurers.

When this Insurance is excess over other insurance, we shall pay only our share of the amount of the "loss," if any, that exceeds the sum of:

- (a) the total amount that all such other insurance would pay for the "loss" in the absence of this Insurance;
- (b) the total of all deductible and self-insured amounts under all other insurance; and,
- (c) your **RETENTION (SECTION V)** amount.

We shall share the remaining "loss", if any, with any other insurance that is not described in this Provision and was not bought specifically to apply in excess of the **LIMITS OF INSURANCE (SECTION IV)** shown in the Declarations Page of this Policy.

c. Method of Sharing

- (1) If all of such 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 Liability or none of the "loss" remains, whichever comes first.
- (2) If any of such 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 appropriate limits to the Limits of Liability of all other insurers.

6. Premiums

The first "Named Insured" shown in the Declarations Page of this Policy is:

- a. responsible for the payment of all premiums; and,
- b. the payee for any return premiums we pay.

7. Representations

By accepting this Policy, you agree:

- a. the statements in the "Application" and Declarations Page of this Policy are accurate and complete;
- b. those statements are based upon representations you made to us; and,
- c. We have issued this Policy in reliance upon your representations.

8. Changes

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

9. Separation of "Insureds"

With respect to any "claim" reported under this Policy, knowledge possessed by any one "insured" shall not be imputed to any other "insured".

10. Subrogation

If an "insured" has rights to recover all or part of any payments we have made under this Policy those rights are transferred to us; no "insured" may do anything after a "loss" to impair them. At our request, such "insured" will bring "suit" or transfer those rights to us and help enforce them.

11. Death, Incapacity or Bankruptcy

We will not be relieved of our obligations under this Policy because of:

- a. the death or incapacity of an "insured"; or
- b. bankruptcy or insolvency of any "insured" or of any "insured's" estate.

12. False or Fraudulent "Claims"

If any "insured" shall proffer any "claim" knowing the same to be false or fraudulent as regards amount or otherwise, this Policy shall become void and all "claims" hereunder shall be forfeited as respects that particular "insured"; however, the Policy shall not be voided as to any other "insured" who was not party to such false and fraudulent "claim" submission.

13. Transfer of Your Rights and Duties Under This Policy

Your rights and duties under this Policy may not be transferred or assigned in any way without our written consent.

SECTION VII - NOTICE OF "CLAIM"

1. Claims Made Coverage

This Policy applies only to "claims" first made during the Policy Period or during the Extended Reporting Period, if applicable.

A "claim" will be considered first made on the date we or any "insured" receives a written "claim", whichever comes first.

All "claims" because of "one insured event" will be considered to have been first made on the date that the first of those "claims" was first made.

2. Notice of Potential "Claim"

If during the Policy Period, any "insured" becomes aware of an "insured event" which they reasonably believe may result in a future "claim" and they or the "Named Insured" or any insured entity provide(s) notice in writing to us of such "insured event" prior to the end of the Policy Period, then any "claim" subsequently arising from such "insured event" shall be deemed to have been made on the date notice of such "insured event" was given to us. Such notice must describe the "insured event" in reasonable detail and provide the name or names of the potential claimant(s).

Any "claim" arising out of an "insured event" reported to us pursuant to this paragraph 2 will be deemed first made on the date notice of the "insured event" was given to us.

This Policy provides coverage for potential "claims" reported under this paragraph only if and to the extent the actual "claims" are made within five (5) years after the end of the Policy Period.

3. **Limited Reporting Period**

The Limited Reporting Period is the sixty (60) day period starting with the end of the Policy Period. Coverage under the Limited Reporting Period applies to "claims" which are first made during such 60-day period based upon "insured events" which happen prior to the expiration or cancellation of coverage and are otherwise covered by the Policy.

The Limited Reporting Period does not extend the Policy Period nor change the scope of coverage provided. We will consider any "claim" first made during the Limited Reporting Period to have been made on the last date on which this Policy is in effect.

The Limited Reporting Period will only apply if this Policy is cancelled or not renewed by us or cancelled by the "Named Insured". Coverage under the Limited Reporting Period may not be cancelled.

The Limited Reporting Period will not apply if other insurance you buy covers the "claim" or would cover it if its limits of coverage had not been exhausted.

4. **How to Add an Extended Reporting Period**

An Extended Reporting Period can be added by means of an Extended Reporting Period Endorsement and the payment of an additional premium. The endorsement sets forth the terms of coverage during the Extended Reporting Period. Coverage under an Extended Reporting Period is limited to a "claim" first made during the Extended Reporting Period based upon an "insured event" which happened or commenced during the Policy Period and is otherwise covered by the Policy.

The Extended Reporting Period Endorsement will not be issued unless we receive a written request for it within thirty (30) days after this Policy ends. Once the premium is paid, the endorsement may not be canceled and the premium will be fully earned.

5. The **LIMITS OF INSURANCE (SECTION IV) also apply to the Limited and Extended Reporting Periods.** The **LIMITS OF INSURANCE** that apply at the end of the Policy Period are not renewed or increased and the total limits shown in the Declarations Page of this Policy shall not be increased by the addition of either the Limited or Extended Reporting Periods.

SECTION VIII – COVERAGE TERRITORY

We will pay "loss" for "insured events" committed anywhere in the world that are otherwise covered under this Policy.

SECTION IX – CURRENCY VALUATION

The Policy premiums, **LIMITS OF INSURANCE (SECTION IV), RETENTIONS (SECTION V)**, "loss" and other amounts are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of "loss" under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is reached, the amount of the settlement is agreed upon or the other element of "loss" is due, respectively.

SECTION X - DEFINITIONS

1. "Application" means:
 - a. the "Application" and any Supplemental "Application" for this Policy, including any material submitted therewith; and,
 - b. the "Application(s)", including any material submitted therewith, for all previous policies issued by us of which this Policy is a direct or indirect renewal or replacement;

all of which shall be deemed a part of this Policy as if physically attached hereto.

2. "Benefits" means perquisites, fringe benefits, deferred compensation or payment (including insurance premiums) in connection with an "employee" benefit plan and any other payment. "Benefits" shall not include salary, wages or non-deferred cash incentive compensation.
3. "Claim(s)" means:
 - a. a written demand for monetary or non-monetary relief received by you alleging damages or the filing of a "suit"; or
 - b. any administrative proceeding including but not limited to the Equal Employment Opportunity Commission, or any other State or Federal agency or authority with jurisdiction over you.

However, "claim" does not include "c" or "d" below:

- c. labor or grievance arbitration subject to a collective bargaining agreement; or
 - d. criminal proceedings.
4. "Defense Costs" means those reasonable fees, costs and expenses that result from the investigation, defense or appeal of a "claim", including attorney fees and expenses, the cost of legal proceedings, the cost of covered "mediation", the cost of appeal bonds, the cost of bonds to release property being used to secure a legal obligation (but only for bond amounts within the **LIMITS OF INSURANCE (SECTION IV)** that apply; we have no obligation to furnish such bonds), all reasonable expenses that any "insured" incurs in court at our request while helping us investigate, defend or appeal a "claim" (we will not pay more than \$100 per day for earnings lost by the "insured" because of time taken off work), and all costs taxed against any "insured" in a "suit".

However, "defense costs" do not include salaries and expenses of you or your "employees", including employed attorneys, fees and expenses of independent adjusters we hire, and interest that accumulates on the amount of a judgment.

5. "Discrimination" means termination of the employment relationship, a demotion, failure or refusal to hire or promote, a denial of an employment benefit or the taking of any adverse or differential employment action because of race, color, religion, creed, age, sex, pregnancy, sexual orientation or preference, national origin, or disability including a disability resulting from human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS), marital status, Vietnam Era Veteran status or other protected military status or any other basis prohibited by Federal, State or local law.
6. "Domestic Partner" means any natural person qualifying as a "domestic partner" pursuant to the provisions of any Federal, State or local law.
7. "Employee" means:
 - a. an individual whose labor or service is engaged by and directed by an "insured". This includes "part-time employees", "seasonal employees", "temporary employees", "temporary workers", "interns", "volunteer workers" and "management and supervisors";

The term "employee" also includes a former "employee". As respects coverage for former "employees" also refer to **SECTION III – DEFINITION OF "INSURED"**, item **2.a.**
 - b. an individual who is a "leased worker", provided such individual shall be deemed an "employee" only if, and to the extent that, you provide indemnification to such individual for services rendered as if they were rendered by an actual "employee" of yours, and the labor leasing firm(s) with whom you have such agreement(s) is (are) scheduled by written endorsement to this Policy; and,

c. an individual who is an “independent contractor” contracted to perform services for you; provided that such individual shall be deemed an “employee” only if, and to the extent that you provide indemnification to such individual for services rendered as if they were rendered by an actual “employee” of yours, and provided further that such individual is scheduled by written endorsement to this Policy. This Policy does not cover any “loss” which any “insured” is obligated to pay to an “independent contractor” for overtime pay, vacation pay, or any “employee” “benefit”.

8. “Harassment” means unwelcome sexual or non-sexual advances, requests for sexual or non-sexual favors or other verbal, visual or physical conduct of a sexual or non-sexual nature that:

- a. is explicitly or implicitly made a condition of employment;
- b. are used as a basis for employment decisions; or
- c. create an intimidating, hostile or offensive work environment;

“Harassment” includes allegations of assault and battery, but only if they are related to a charge of sexual harassment.

9. “Inappropriate Employment Conduct” means actual or constructive termination of an employment relationship in a manner which is against the law, wrongful or in breach of an implied agreement to continue employment, including allegations of breach of an implied employment contract and breach of the covenant of good faith and fair dealings in the employment contract, or an employment related incident resulting in one or more of the following offenses:

- a. wrongful demotion or wrongful failure to employ or promote;
- b. wrongful discipline;
- c. wrongful denial of tenure or deprivation of career opportunity;
- d. negligent retention, supervision, hiring, training or evaluation;
- e. misrepresentation or defamation;
- f. infliction of emotional distress, humiliation, mental injury or mental anguish;
- g. false arrest, detention or imprisonment; or
- h. libel, slander, defamation of character or any invasion of right of privacy.
- i. employment terminations, disciplinary actions, demotions or other employment decisions which violate public policy or the Family Medical Leave Act or similar State law;
- j. improper disclosure of confidential “employee” information resulting in identity theft; or
- k. violations of the Uniformed Services Employment and Reemployment Rights Act;

“Inappropriate Employment Conduct” does not include severance payments or amounts determined to be owing under a written contract of employment for a definite period of time; However, “defense costs” for “claims” of breach of a written or express contract of employment for a definite period of time are covered.

10. “Independent Contractor” means any natural person working for you in the capacity of an “independent contractor” pursuant to any express contract or agreement between you and the “independent contractor” governing the nature of your engagement of such “independent contractor”.

11. "Insured" means any individual, corporation or entity described in **SECTION III – DEFINITION OF "INSURED"** of this Policy.
12. "Insured Event" means actual or alleged acts of "discrimination", "harassment", "retaliation" and/or "inappropriate employment conduct" by an "insured" against an "employee", former "employee" or an applicant seeking employment with the "Named Insured".
13. "Intern" means a person who is an advanced student or recent graduate in a professional field who provides services to the "Named Insured" or is receiving practical experience from the "Named Insured" without any express or implied promise of remuneration. Coverage is only extended to "interns" while they are acting at the direction of and within the scope of duties for you.
14. "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".
15. "Loss" means damages, judgments, settlements, statutory attorney fees and "defense costs", including:
 - a. pre-judgment and post judgment interest awarded against an "insured" on that part of any judgment paid by us; and,
 - b. back pay awards and front pay awards.However, "loss" does not include "c", "d", "e", "f", "g", "h", "i" and "j" below:
 - c. civil, criminal or administrative fines or penalties imposed by law that are not otherwise insurable;
 - d. punitive or exemplary damages where such damages are not insurable because of State or Federal law. Regarding the insurability of such damages, the insurer shall not contend for any reason, unless appropriate to do so as a matter of law or public policy, that such damages are uninsurable. The insurability of such damages shall be governed by the laws of any applicable jurisdiction that permits the coverage of such damages;
 - e. any amounts other than "defense costs", which you are obligated to pay as a result of a "claim" seeking to redress in any form other than monetary damages, such as a non-monetary settlement or judgment of a "claim" which awards non-monetary relief including, but not limited to, injunctive relief, declaratory relief, disgorgement, employment related education or training, job reinstatement or other equitable remedies;
 - f. payment of insurance or trust plan benefits by or on behalf of retired "employees", or that to which a claimant would have been entitled as an "employee" had the "insured" provided the claimant with a continuation of insurance;
 - g. costs associated with any accommodation pursuant to the Americans with Disabilities Act or the Civil Rights Act of 1964 or any amendments thereof or any rules or regulations promulgated thereunder, or any similar provisions of any Federal, State, or local statutory law or common law;
 - h. matters which may be deemed uninsurable according to the law under which this Policy is construed;
 - i. amounts owed under Federal, State or local wage and hour laws; or
 - j. amounts owed based upon or attributable to obligations or payments owed under:
 - (1) an express written contract of employment;

- (2) an agreement to make payments in the event of the termination of employment; or
- (3) an agreement to assume another's liability;

such as employment-related "benefits", "stock benefits", or any other type of compensation earned by the claimant in the course of employment or the equivalent value thereof; however, this exclusion shall not apply to front pay or back pay.

- 16. "Management and Supervisors" means a director, owner, partner, principal, officer or in-house attorney, who is involved with employment issues, or a shareholder of the "insured", a personnel or human resources director or risk management director.
- 17. "Mediation" means a non-binding process in which a neutral panel or individual assists the parties in reaching their own settlement. To be considered "mediation" under this Policy, the process must be of the kind set forth in the Commercial Mediation Rules of the American Arbitration Association. We may, however, at our sole option, recognize any "mediation" process presented by you to us for approval.

"Mediation" under this Policy does not include any "mediation", conciliation or any other alternative dispute resolution mechanism that is part of a proceeding before the Equal Employment Opportunity Commission or a similar State agency.
- 18. "Named Insured" means the individual(s), corporations or entity specified in the Declarations Page of this Policy.
- 19. "One Insured Event" means:
 - a. "insured events" which are (1) related by an unbroken chain of events or (2) made by the same claimant; or
 - b. class action or multiple plaintiffs "suits" arising out of related "insured events."
- 20. "Panel Defense Counsel" means an attorney previously selected by us and who is listed on our current published listing of approved defense attorneys.
- 21. "Part Time Employee" means an "employee" whose labor or service is engaged on the basis that the "employee" will not work more than twenty (20) hours per week.
- 22. "Retaliation" means retaliatory treatment against an "employee" of the "insured" on account of such "employee":
 - a. exercising his or her rights under law, including but not limited to rights under any workers compensation laws, the Family and Medical Leave Act or the Americans with Disabilities Act;
 - b. refusing to violate any law;
 - c. having assisted, testified in or cooperated with a proceeding or investigation regarding alleged violations of law by the "Insured";
 - d. disclosing in writing to a superior or to any governmental agency any alleged violations of law; or
 - e. filing any "claim" against the "Insured" under the Federal False Claims Act or any other similar Federal, State or local whistle blower law.
- 23. "Seasonal employee" means an "employee" whose labor or service is engaged on the basis that the "employee" will not work more than one thousand (1,000) hours per year.

- 24.** “Stock Benefits” means any offering, plan or agreement between you and any “employee” which grants stock, stock options or stock appreciation rights as to you organization to such individual, including but not limited to, stock options, restricted stock or any other stock grant, but not including stock ownership plans or “employee” stock purchase plans.
- 25.** “Suit” means a civil proceeding in which damages because of a covered “insured event” to which this Policy applies are alleged. “Suit” includes:
- a.** An arbitration proceeding in which such damages are claimed and to which the “insured” must submit or does submit with our consent; or
 - b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the “insured” submits with our consent.
- 26.** “Temporary employee” means an “employee” or “part time employee” whose labor or service is engaged for a specific time period or project. “Temporary employee” does not include a “temporary worker”.
- 27.** “Temporary worker” means a person who is furnished to you through an outside temporary employment agency to substitute for a permanent “employee” on leave or to meet seasonal or short-term workload conditions.
- 28.** “Volunteer worker” means a person who provides services to the “Named Insured” without any express or implied promise of remuneration. Coverage is only extended to a “volunteer worker” while acting at the direction of and within the scope of duties for you.

EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

THIRD PARTY PUBLISHING EXCLUSION
ENDORSEMENT

This Endorsement modifies your Policy as follows:

The Third Party “Discrimination” and “Harassment” Coverage Endorsement to this Policy does not apply to third party “discrimination” and “harassment” “claims” arising out of or in any way involving the written publication, dissemination or release of material by you in your business as a publisher.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

**LAW FIRM PROGRAM RETENTION MODIFICATION
ENDORSEMENT**

This Endorsement modifies the Policy as follows:

The Retention indicated in Item 5 on the Declarations Page of this Policy is modified to read as follows:

Retention

\$25,000	for Equity Partners
\$10,000	for Non-Equity Partners
\$ 5,000	for Associates and All Other "Employees"

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

EP 0077A (03/08)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

**LAW FIRM PROGRAM RETENTION MODIFICATION
ENDORSEMENT**

This Endorsement modifies the Policy **Retention** as follows:

The **Retention** indicated on the Declarations Page of this Policy is modified to read as follows:

5.	Retention
	\$25,000 for Equity Partners
	\$15,000 for Non-Equity Partners
	\$10,000 for Associates and All Other "Employees"

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged. **(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)**

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

**TERMINATED "EMPLOYEE"/CLAIMANT RETENTION MODIFICATION
ENDORSEMENT**

This Endorsement modifies the Policy as follows:

In the event of a "claim" arising from an "insured event" involving "employees" terminated by the "Named Insured" between the dates indicated below, the following Policy provisions are modified:

TERMINATION PERIOD:

Item 5 of the Declarations Page of this Policy is deleted and replaced with the following:

5. Retention: \$ Each claimant

SECTION V – RETENTION, subsection 4. is deleted and replaced by:

4. The Retention amount applies separately for each claimant.

SECTION IX – DEFINITIONS, subsection 19. "One Insured Event" is deleted in its entirety.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

ADDRESS MODIFICATION ENDORSEMENT

This Endorsement modifies your Policy as follows:

The ADDRESS indicated in the Declarations Page of this Policy is modified to read as follows:

Address:

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

EP 0079 (03.08)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

DELETED LOCATION ENDORSEMENT

This Endorsement modifies your Policy as follows:

The LOCATION(S) listed below is deleted from the Policy as follows:

Return Premium: \$ _____

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL LOCATION ENDORSEMENT

This Endorsement modifies your Policy as follows:

In consideration of the additional Premium charged and indicated below, it is hereby understood and agreed that the locations listed below will be considered "insured" locations under the terms and conditions of this Policy:

Additional Premium: \$ _____

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

EP 0200 (03/08)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

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

SPECIFIC “EMPLOYEE(S)” INCREASED RETENTION ENDORSEMENT

This Endorsement modifies your Policy as follows:

The Retention amount indicated in Item 5. on the Declarations Page of this Policy is increased to the amount indicated below solely with respect to any “claim” directly or indirectly involving in any way any of the “employees” listed below:

Retention: _____

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

**WAGE AND HOUR LAWS LEGAL “DEFENSE COSTS”
ENDORSEMENT**

This Endorsement modifies your Policy as follows:

SECTION II-EXCLUSIONS, subsection 11 is deleted in its entirety and replaced by the following:

11. Wage and Hour Laws

- a.** This Policy does not cover any “loss” arising out of any private, governmental or administrative “claim” alleging violations of Federal, State or local wage and hour laws or regulations, including, but not limited to, any laws or regulations concerning monetary or non-monetary compensation or “benefits” that may be owed to a past or present “employee” based upon misclassification of their job status, title or duties.
- b.** However, we will pay “defense costs” up to, but in no event greater than \$100,000 for any “claim” excluded by **a.** above without any liability by us to pay such monetary portion that you shall become legally obligated to pay because of a judgment, award or settlement, including punitive damages. The “defense costs” we pay shall be part of and not in addition to the Limit of Liability stated in the Declarations Page of this Policy.
- c.** Exclusion **a.** above shall not apply to that portion of any “claim” seeking to recover “loss” for alleged “discrimination” or “retaliation” by an “insured”.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

EP 0202 (03/08)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

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

**ANTI-HARASSMENT AND ANTI-DISCRIMINATION
POLICY STATEMENTS REQUIREMENT ENDORSEMENT**

This Endorsement modifies your Policy as follows:

SECTION V-RETENTION is amended by the addition of the following:

Increased Retention and Application of Co-Insurance Percentage

The Retention indicated on the Declarations Page of this Policy is doubled in amount (i.e., a \$5,000 retention will be \$10,000) and a co-insurance obligation of ten percent (10%) will apply to "loss" arising from any covered "claim". We will pay ninety percent (90%) of "loss" in excess of the Retention up to the applicable Limit of Liability, it being a condition of this Insurance that the remaining ten percent (10%) of "loss" shall be paid entirely by you. Co-insurance payments by us are included within the Limit of Liability.

Anti-Harassment and Anti-Discrimination Policy Statements Requirement

You will have the "Panel Defense Counsel" selected by you from our current "Panel Defense Counsel" list when you applied for this Policy, or by mutual agreement, another attorney listed on our current "Panel Defense Counsel" list, prepare Anti-Harassment and Anti-Discrimination Policy Statements or review Anti-Harassment and Anti-Discrimination Policy Statements prepared by you to be distributed to all of your "employees".

Once the "Panel Defense Counsel" has confirmed to us that the Anti-Harassment and Anti-Discrimination Policy Statements have been distributed to your "employees" the provisions of this Endorsement will no longer apply.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

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

**MESSENGER COURIER SERVICES
"INDEPENDENT CONTRACTOR" COVERAGE ENDORSEMENT**

This Endorsement modifies your Policy as follows:

SECTION III-DEFINITION OF "INSURED", subsection 1. is amended by the addition of the following:

- e. "Independent contractor(s)" are "insureds", but only for those "independent contractors" who are contracted to perform delivery/messenger services for the "Named Insured" and only with respect to the conduct of the "Named Insured's" business.

SECTION II-EXCLUSIONS is amended by the addition of the following:

12. Class Actions

This Policy does not cover any "claim" or "loss"/"defense costs" resulting from a class action lawsuit or administrative proceeding brought on behalf of a class of claimants against any industry group, industry association or other employers in the same business as the "Named Insured".

SECTION V - RETENTION

Solely with respect to class action "claims" brought by "independent contractors" that provide delivery/messenger services, the Retention stated in Item 5 of the Declarations Page of this Policy is deleted and replaced by the amount of **\$25,000** unless a higher Retention is indicated in the Declarations Page of this Policy. If a higher Retention is indicated, then that Retention will apply.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____
(Date)

By _____
(Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

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

SPECIFIC LOCATION COVERAGE ENDORSEMENT

This Endorsement modifies your Policy as follows:

This Policy applies, pursuant to all of its terms and conditions, only to “insured events” that involve “employees” specifically hired for and working at the location indicated below:

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____
(Date)

By _____
(Authorized Representative)

EP 0205 (03/08)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

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

**THIRD PARTY
SPECIFIC COVERAGE LOCATION ENDORSEMENT**

This Endorsement modifies your Policy as follows:

Solely with respect to third party "Discrimination" and third party "Harassment" coverage that may be provided by Endorsement to this Policy, such coverage will apply only to "claims(s)" made by a third party which allege third party "Discrimination" or third party "Harassment" that took place at and involved individuals at the location indicated below:

Covered Operation:

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____
(Date)

By _____
(Authorized Representative)

EP 0206 (03/08)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

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

**AMERICANS WITH DISABILITIES ACT
INCREASED RETENTION ENDORSEMENT**

This Endorsement modifies your Policy as follows:

Solely with respect to the additional coverage provided by the Third Party "Discrimination" and "Harassment" Coverage Endorsement attached to this Policy, the Retention stated at Item 5 of the Declarations Page of this Policy is increased to \$15,000 with respect to each "claim" by a client, customer, patient or any other third-party alleging failure to comply with the provisions of the Americans with Disabilities Act, or any other similar State or local laws concerning "discrimination" on the basis of a disability.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____
(Date)

By _____
(Authorized Representative)

EP 0207 (03/08)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

**AUTO DEALERSHIP
PROFESSIONAL SERVICES EXCLUSIONARY
ENDORSEMENT**

In consideration of the Premium charged, it is understood and agreed that this Policy does not apply to "claims" alleging third party "discrimination" and/or "harassment" arising out of or in any way involving professional services performed by an "insured" in that "insured's" capacity as a financial/ financing agent, loan officer/originator, or any other similar or equivalent position; or any act which allegedly or actually violates any anti-trust or unfair trade practices law.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the Policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

CONSENT TO SETTLE MODIFICATION ENDORSEMENT

This Endorsement modifies your Policy as follows:

SECTION I- COVERAGE, subsection **5. Consent to Settle** is deleted and replaced by the following:

5. Consent to Settle

1. The Company shall not settle or satisfy any "claim" without the consent of the "Named Insured". If the "Named Insured" elects not to settle or satisfy a "claim" as recommended by the Company and acceptable to the claimant, then subject to the Limit of Liability of this Policy, the Company's liability for all "loss", and "defense costs" shall not exceed:
 - a. the amount of the recommended settlement plus "defense costs" incurred up to the date of the "Named Insureds" refusal to consent to the recommended settlement of such "claim"; plus
 - b. _____ percent (____%) of any "loss", in excess of the amount referenced in paragraph a., above, incurred in connection with such "claim"; subject in all events to the applicable Retention and the available Limit of Liability for such "claim". The remaining _____ percent (____%) of any "loss" in excess of the amount referenced in paragraph a. above will be borne by the "Named Insured" as uninsured and at its own risk.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

**INSURANCE AGENTS & BROKERS CONTRACT PRODUCER
INCREASED RETENTION ENDORSEMENT**

This Endorsement modifies your Policy as follows:

With respect to Item 5. of the Declarations Page of this Policy, the Retention amount shall be increased to \$25,000 as respects to each "claim" brought by a "Contract Producer" against the Named Insured, which alleges or arises from "inappropriate employment conduct".

Contract Producer Definition

"Contract Producer" means an "employee" or exclusive "independent contractor" who has a written or oral agreement with the "Named Insured" insurance agency or broker to produce insurance business for the agency or brokerage and receives compensation in the form of a percentage of the commission or in the form of a bonus based on production. This does not include inside Customer Service Representative's or support staff that are paid some form of incentive to expand coverage on existing accounts.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged. **(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)**

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____
(Date)

By _____
(Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

SPECIFIED DEFENSE COUNSEL ENDORSEMENT

This Endorsement modifies your Policy as follows:

1. For the purposes of this Policy, **SECTION I - COVERAGE**, subsection **4. Defense Counsel (Attorney) Selection**, items **a.** and **b.** applies and your selected "Panel Defense Counsel" is: _____.

2. The maximum "Panel Defense Counsel" billing rate we will pay for defense of a "claim" to _____ is \$_____ per hour for a Partner, \$_____ per hour for an Associate and \$_____ per hour for a Paralegal. In the event their billing rate exceeds these amounts you are responsible for the excess billing rate amount.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged. **(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)**

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

MID-POLICY PERIOD INCREASE OF LIMITS ENDORSEMENT

This Endorsement modifies your Policy as follows:

The "Named Insured", _____, represents, warrants and covenants that as of the effective date set forth below, neither the "Named Insured" nor any of its "Management or Supervisors" are aware of:

- (1) any facts, incidents or circumstances which may result in a "claim" against "insureds"; or
- (2) any "claims" alleging or concerning "insured events" of "discrimination", "harassment" or "inappropriate employment conduct".

It is understood and agreed that this is a unitary representation, warranty and covenant, and if the "Named Insured" or any of its "Management or Supervisors" are aware as of the effective date set forth below of any matters as described in (1) or (2) above, this Endorsement shall be void *ab initio* as to all "insureds" under the Policy.

Item **4.** of the Declarations Page of this Policy, entitled "**Limits of Insurance**", is amended by the addition of the following at the end thereof:

Solely with respect to any "Claim" first made against any "Insured" on or after the effective date set forth below:

\$ _____ Each "claim" (including "defense costs")

\$ _____ Total Policy Limit, for all "claims" (including "defense costs")

It is understood and agreed that the maximum aggregate **Limits of Insurance** with respect to all "claims" whether made prior to or after the effective date set forth below shall not exceed the Total Policy Limit set forth above.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms, conditions and limitations of this Policy shall remain unchanged. **(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)**

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative of Named Insured)

Signed _____ By _____
(Date) (Authorized Representative of the Insurer)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

LAI D OFF/T ERMINATED “EMPLOYEE” RETENTION ENDORSEMENT

This Endorsement modifies your Policy as follows:

In the event of a “claim” arising from an “insured event” involving “employees” laid off and/or terminated off by the “Named Insured” between the period of _____ to _____ . The applicable Retention shall be _____ each Claimant.

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

EP 00214 (03/08)

**EMPLOYMENT PRACTICES LIABILITY INSURANCE
ENDORSEMENT**

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

**“DEFENSE COSTS” OUTSIDE LIMITS
ENDORSEMENT**

This Endorsement modifies your Policy as follows:

“Defense Costs” Outside Limits Provision

In consideration of the Premium charged, it is hereby understood and agreed that there shall be a separate coverage limit for “defense costs” for the amount indicated below. “Defense costs” within such separate limit will not erode either the Each Claim Limit or the Total Policy Limit as indicated in the Declarations Page of this Policy. Notwithstanding the foregoing, if either the Each Claim Limit or the Total Policy Limit is exhausted by payment of “loss,” or tendered to the “Named Insured”, the limit indicated below for “defense costs” shall also be deemed exhausted and no further “defense costs” will be paid.

Defense Costs Limits of Insurance:

\$ _____ Each “claim” and Total Policy Limit for all “claims”

This Endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged.

(The following is required only when this Endorsement is issued subsequent to preparation of the policy.)

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

EP 00218 (03/08)

EMPLOYMENT PRACTICES LIABILITY INSURANCE ENDORSEMENT

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

ARKANSAS AMENDATORY ENDORSEMENT

This endorsement modifies your Policy as follows:

Section IV - Limits of Liability, paragraph 4, is deleted and replaced with the following:

4. How the limits of Insurance Apply to an Extension of the Policy Period.

If the Policy Period is extended after issuance for an additional period, the additional period will be deemed part of the past preceding period for purposes of determining the Limits of Liability. Accordingly, the extension of the Policy Period will in no way increase the Limits of Liability. This applies to the 60 day Limited Reporting Period but not to the supplemental Extended Reporting Period as required by Arkansas statutes.

Section VI - Conditions, paragraph 1 is deleted and replaced by the following:

1. Cancellation

- a.** The first Named Insured shown in the Declarations may cancel this Policy at any time by delivering to us advance written notice of cancellation.
- b.** We may cancel this Policy by delivering or mailing written notice to the first Named Insured at the address last known to us. We will provide written notice at least thirty (30) days (ten (10) days in the event of nonpayment of premium), before the cancellation shall be effective.
- c.** If this Policy has been in effect for more than sixty (60) days, or if this Policy is a renewal, we may not cancel this Policy unless cancellation is based upon one or more of the following:
 - (1)** Nonpayment of premium;
 - (2)** Fraud or material misrepresentation made by or with your knowledge in obtaining the Policy, continuing the Policy, or in presenting a "claim" under the Policy;
 - (3)** The occurrence of a material change in the risk which substantially increases any hazard insured against after the Policy has been issued;
 - (4)** A material violation of a material provision of the Policy.
- d.** Notice of cancellation will state the effective date of cancellation. The Policy Period will end on that date.
- e.** If this Policy is cancelled, we will send the first Named Insured any premium refund due. If we

cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

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

Section VI - Conditions, paragraph 3, is replaced with the following:

3. Actions By You Against Us

- a. Any dispute between you and us based upon, arising from or in connection with this Policy, including but not limited to any dispute sounding in contract or tort, may be submitted to nonbinding and voluntary arbitration.
- b. You, however, shall first have the option to resolve the dispute by "mediation".
- c. If the parties cannot resolve the dispute by "mediation", the parties may submit the dispute to arbitration pursuant to the rules of the American Arbitration Association, except the arbitration panel shall consist of one arbitrator selected by you, one arbitrator selected by us and a third arbitrator selected by the first two arbitrators. Unless you and we otherwise agree, within thirty (30) days of our submitting the case and related documentation, the arbitration panel will issue a written decision resolving the controversy and stating the facts reviewed, conclusions reached, and the reasons for reaching those conclusions. The arbitration panel may make an award of compensatory loss, but may not award extra contractual, punitive or exemplary loss. You will bear the expense of the arbitrator chosen by you. We will bear the expense of the arbitrator chosen by us. You and we will share equally the expense of the other arbitrator. You and we will each bear our own fees and costs. The arbitration panel will allocate any remaining costs of the arbitration proceeding.

Section VII - Notice of "Claim", paragraph 4, is replaced by the following:

4. How to Add an Extended Reporting Period

An Extended Reporting Period can be added by means of an Extended Reporting Endorsement and the payment of an additional premium. The endorsement set forth the terms of coverage during the Extended Reporting Period. Coverage under an Extended Reporting Period is limited to a "claim" first made during the Extended Reporting Period based upon and "insured event" which happened or commenced during the Policy Period and is otherwise covered by the policy.

The Extended Reporting Period Endorsement will not be issued unless we receive a written request for it within sixty (60) days after this policy ends. Once the premium is paid, the endorsement may not be cancelled and premium will be fully earned.

Section VII - Notice of "Claim", paragraph 5, is replaced with the following:

- 5. The Limits of Insurance (Section IV) also apply to the Limited and Extended Reporting Periods.

The Limits of Insurance that apply at the end of the policy period are not renewed or increased and the total limits shown in the Declarations Page of this policy shall not be increased by the addition and the premium will be fully earned. However, in compliance with Arkansas statutes, the limit of liability will be no less than the greater of the amount of coverage remaining in the expiring policy aggregate or fifty percent (50%) of the of the aggregate limit at policy inception.

This endorsement changes the Policy to which it is attached effective on the inception date of the Policy unless a different date is indicated below. All other terms and conditions of this Policy remain unchanged. **(The following is required only when this endorsement is issued subsequent to preparation of the policy.)**

NAMED INSURED:

POLICY NUMBER:

ENDORSEMENT NUMBER:

ENDORSEMENT EFFECTIVE:

Signed _____ By _____
(Date) (Authorized Representative)

SERFF Tracking Number: PERR-125792765 *State:* Arkansas
Filing Company: U.S. Specialty Insurance Company *State Tracking Number:* #103823 \$50
Company Tracking Number: USS-OL-EPL-AR-08-01-F
TOI: 17.1 Other Liability - Claims Made Only *Sub-TOI:* 17.1010 Employment Practices Liability
Product Name: Employment Practice Liability
Project Name/Number: USS-OL-EPL-AR-08-01-F/USS-OL-EPL-AR-08-01-F

Rate Information

Rate data does NOT apply to filing.

SERFF Tracking Number: PERR-125792765 State: Arkansas
Filing Company: U.S. Specialty Insurance Company State Tracking Number: #103823 \$50
Company Tracking Number: USS-OL-EPL-AR-08-01-F
TOI: 17.1 Other Liability - Claims Made Only Sub-TOI: 17.1010 Employment Practices Liability
Product Name: Employment Practice Liability
Project Name/Number: USS-OL-EPL-AR-08-01-F/USS-OL-EPL-AR-08-01-F

Supporting Document Schedules

Satisfied -Name: Uniform Transmittal Document-
Property & Casualty **Review Status:** Approved 10/21/2008

Comments:

Attachment:

2007 NAIC FFS.pdf

Satisfied -Name: Letter of Authorization and Policy
Comparison **Review Status:** Approved 10/21/2008

Comments:

Attachments:

PKAuth.pdf

EP 0001 (12.01) EPLI Policy - Comparisons.pdf

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 #	USS-OL-EPL-AR-08-01-F			
2.	This filing corresponds to rate/rule filing number (Company tracking number of rate/rule filing, if applicable)	N/A			
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	EPLI Policy Form	EP 0001 (03/08)	<input checked="" type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither	Form EP 0001 (12/01)	
02	Third Party Publishing Exclusion Endorsement	EP 0067 (03/08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
03	Law Firm Retention Modification Endorsement (25,10,5)	EP 0077A (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
04	Law Firm Retention Modification Endorsement (25,15,10)	EP 0077B (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
05	Terminated Employee/Claimant Retention Modification Endorsement	EP 0078 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
06	Address Modification Endorsement	EP 0079 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
07	Deleted Location Endorsement	EP 0080 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
08	Additional Locations Endorsement	EP 0200 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
09	Specific Employees Increased Retention Endorsement	EP 0201 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
10	Wage & Hour Laws Legal Defense Costs Endorsement	EP 00202 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
11	Anti-Harassment & Anti-Discrimination Policy Statements Requirement Endorsement	EP 0203 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
12	Messenger Courier Services "Independent Contractor" Coverage Endorsement	EP 0204 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		

FORM FILING SCHEDULE (Continued)

(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 #		USS-OL-EPL-AR-08-01-F		
2.	This filing corresponds to rate/rule filing number (Company tracking number of rate/rule filing, if applicable)		N/A		
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
13	Specific Location Coverage Endorsement	EP 0205 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
14	Specific Location Limitation-Third Party Endorsement	EP 0206 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
15	Americans With Disabilities Act Increased Retention Endorsement	EP 0207 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
16	Auto Dealership Professional Services Exclusionary Endorsement	EP 0208 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
17	Consent to Settle Modification Endorsement	EP 0210 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
18	Contract Producer Increased Retention Endorsement	EP 0211 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
19	Specific Defense Counsel Endorsement	EP 0212 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
20	Mid-Policy Period Increase of Limits Endorsement	EP 0213 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
21	Laid Off "Employees"/Claimant Retention Endorsement	EP 0214 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
22	"Defense Costs" Outside Limit Endorsement	EP 0218 (03.08)	<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		



U.S. SPECIALTY INSURANCE COMPANY

13403 Northwest Freeway, Houston, Texas 77040 Telephone: (713) 744-3700 Facsimile: (713) 744-3727

June 4, 2008

To Whom It May Concern:

Dear Sir or Madam:

Perr & Knight, Inc. is hereby authorized to submit rate, rule, and form filings on behalf of U.S. Specialty Insurance Company. This authorization includes providing additional information and responding to questions regarding the filings on our behalf as necessary. This authorization is effective from the date of this notice and expires on October 4, 2008.

Please direct all correspondences and inquiries related to this filing to Perr & Knight, Inc. at the following address:

State Filings Department
Perr & Knight, Inc.
881 Alma Real Dr, Suite 205
Pacific Palisades, CA 90272
Tel: (888) 201-5123
Fax: (310) 230-1061

Please contact me at 713-996-1115 if you have any questions regarding this authorization.

Sincerely,

Charles McDaniel, CPCU
Assistant Vice President
cmcdaniel@hcc.com

**Employment Practices Liability Insurance
Policy Form Comparison
between**

Form EP 0001 (12/01)

And

Form EP 0001 (03/08)

Major differences between the 2001 and 2008 forms indicated in the caption above are as follows:

1. The **provision concerning the insured's selection of defense attorney** has been modified in the new policy so that the co-payment provision that applies when panel defense counsel is not used is increased from 10% to 20% to reflect the higher billing rates the claims department has experienced from outside law firms. Also, the definition of co-payment has been moved from the Definition Section to this section as a co-payment only applies when panel defense counsel is not used. **(Page 2)**

2. The **Strikes and Lockouts Exclusion** has been modified to include coverage for "retaliation" and "discrimination".
Added Language – This exclusion does not apply to any "claim" for "retaliation" or "discrimination". **(Page 3)**

3. The **Workers' Adjustment and Retraining Notification Act Exclusion** has been modified in the new policy so that the exclusion does not apply if the policyholder consulted with legal counsel and made a good faith effort to comply with their advice.
Added Language – This exclusion shall not apply if the insured consulted with legal counsel and made a good faith attempt to comply with the law. **(Page 3)**

4. The **Bodily Injury Exclusion** has been expanded in the new policy to include a **Property Damage Exclusion**.
New Language – This Policy does not cover any "loss" arising out of bodily injury, sickness, disease or death of any person, damage or injury to any property, or loss of use or economic benefits resulting there from. This exclusion, however, does not apply to emotional distress, humiliation, mental injury or mental anguish resulting from an insured event. **(Page 4)**

5. The **any organization that you newly acquire** provision has been modified so that the insured need have only a 50% ownership of the new organization instead of 51%. **(Page 5)**

6. **Stacking of limits has been eliminated** in the new policy by adding the following paragraph following the **Limits of Insurance, Each Claim Limit** section of the policy.
Added Paragraph – If any "claim" gives rise to coverage under this Policy and under any other policy or policies issued by us, our maximum aggregate Limit of Insurance with respect to all such policies, including this Policy, for all "loss", including "defense costs", in respect of such "claim" shall not exceed the largest single available Limit of Insurance under any such policies. **(Page 6)**

7. The **Allocation of “Defense Costs”** provision has been changed so that any allocation of defense costs are no longer based on “number of counts”, but rather they are based on “all reasonable efforts to agree”.

New Language -

If both “loss” covered by this Policy and “loss” not covered by this Policy are incurred in connection with any “claim”, we will use all reasonable efforts to agree, with you, upon a fair and proper allocation of “defense costs” attributable to the covered “loss” and the uncovered “loss.”

If there can be an agreement on the allocation of “defense costs”, we will pay, on a current basis, “defense costs” allocated to the covered “loss” in accordance with our obligations under this Policy.

If there can be no agreement on an allocation of “loss”

- a. then no presumption as to allocation shall exist in any arbitration, suit or other proceeding;
 - b. we will pay, on a current basis, “defense costs” that we believe are reasonable related to the covered “loss” under the Policy until a different allocation is negotiated or arbitrated, and
 - c. we, if requested by you, shall submit such dispute to “mediation” or binding arbitration, based on **CONDITIONS (SECTION VI), Action By You Against Us.(Item 3) (Page 6)**
8. The **Retention** provision which reduced the policy retention by 50% if a policyholder contacted panel counsel prior to a termination or demotion has been deleted. This provision is available to selected accounts by endorsement. **(Page 6)**
 9. The **Cancellation** provision has been modified in the new policy so that the insurer cannot cancel the policy once issued, except for non-payment of premium. **(Page 7)**
 10. The **Legal Action Against Us** has been deleted and replaced in the new policy by an **Action By You Against Us** section. The new provision requires the use of “mediation” and “arbitration” for disputes between the policyholder and the insurer instead of the filing of a lawsuit. **(Page 8)**
 11. The **Other Insurance** section has been modified so that the policy is excess (does not contribute with any primary insurance) over any insurance purchased by an employee leasing company who leases employees to the insured or any insurance purchased by an independent contractor.

New Language - This Policy is excess over any “claim” made against any leased or temporary “employee” or “independent contractor” “loss”, including “defense cost”, payable on behalf of such leased or temporary “employee” or “independent contractor”. **(Page 9)**

12. The **How to add an Extended Reporting Period** provision which specifies that an Extended Reporting Period of twelve (12) months can be added for an additional premium not to exceed one hundred percent (100%) of the annual premium has been deleted. The new policy provides that the Extended Reporting time period and cost will be set forth in the Declarations. **(Page 11)**

13. The **Coverage Territory** in the new policy has been expanded to provide that the insurer will defend “claims,” or pay judgments or settlements, for “insured events” committed **anywhere in the world. (Page 11)**
14. A **Currency Valuation** section has been added to the new policy because of the expansion of coverage territory to anywhere in the world.

Added Language - The Policy premiums, **LIMITS OF INSURANCE (SECTION IV), RETENTIONS (SECTION V)**, “loss” and other amounts are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of “loss” under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is reached, the amount of the settlement is agreed upon or the other element of “loss” is due, respectively. **(Page 11)**

Note that all of the following changes involve changes in the policy Definitions –

15. **Benefits** – In the new policy a definition of “benefits” has been added to clarify the types of employment-related benefits excluded from coverage. This definition ties into the revised definition of “Loss”.

Added Definition - “Benefits” means perquisites, fringe benefits, deferred compensation or payment (including insurance premiums) in connection with an employee benefit plan and any other payment. “Benefits” shall not include salary or wages or non-deferred cash incentive compensation. **(Page 12)**

16. **Claim** – In the new policy the definition of “claim” has been revised to include non-monetary relief in addition to monetary relief.

Revised Definition –

“Claim” means

- a. a written demand for monetary or non-monetary relief received by you alleging damages or the filing of a “suit”, or
- b. any administrative proceeding including but not limited to the Equal Employment Opportunity Commission, or any other state or federal agency or authority with jurisdiction over you.

However, “claim” does not include

- a. labor or grievance arbitration subject to a collective bargaining agreement, or
- b. criminal proceedings. **(Page 12)**

17. **Co-Payment** – In the new policy this definition has been deleted. **(Page 12)**
18. **Discrimination** – In the new policy this definition has been modified to include coverage for Vietnam Era Veteran status or other protected military status. **(Page 12)**

19. **Domestic Partner** coverage is provided. Wherever, the term spouse appears in the new policy the term domestic partner has been added. Domestic Partner is defined in the new policy as follows –
- Added Definition** - “Domestic Partner” means any natural person qualifying as a “domestic partner” pursuant to the provisions of any Federal, State or local law. **(Page 12)**
20. **Harassment** has been modified in the new policy as respects **Item c.** which has been changed from “create a work environment that interferes with performance” to “create an intimidating, hostile or offensive work environment.” **(Page 13)**
21. **Inappropriate Employment Conduct** – this definition has been modified in the new policy to clarify that negligent retention, hiring and training are covered and “retaliation” has been removed from this section as it is now included in the Insured Event definition. Identity theft has been added to the definition. **(Page 13)**
22. **Independent Contractor** has been added in the new policy for clarification purposes.
23. **Added Definition** - “Independent Contractor” means any natural person working for you in the capacity of an “independent contractor” pursuant to any express contract or agreement between you and the “independent contractor” governing the nature of your engagement of such “independent contractor”. **(Page 14)**
22. **Loss** – This definition has been modified in the new policy to so that **non-monetary relief** is a covered loss.
24. **Loss** – This definition has been modified in the new policy to include **most favorable venue wording** as respects the punitive damage loss provision.
- New Language** - punitive or exemplary damages where such damages are not insurable because of state or federal law. Regarding the insurability of such damages, the insurer shall not contend for any reason, unless appropriate to do so as a matter of law or public policy, that such damages are uninsurable. The insurability of such damages shall be governed by the laws of any applicable jurisdiction that permits the coverage of such damages. **(Page 14)**
23. **Loss** – This definition has been modified in the new policy because of **the addition of non-monetary relief coverage** to clarify that the costs of employment related education or training and job reinstatement are not covered.
- Added Language** - any amounts other than “defense costs”, which you are obligated to pay as a result of a “claim” seeking or redress in any form other than monetary damages, such as a non-monetary settlement or judgment of a “claim” which awards non-monetary relief including, but not limited to, injunctive relief, declaratory relief, disgorgement, employment related education or training, job reinstatement or other equitable remedies. **(Page 14)**
25. **Loss** – This definition as been modified in the new policy to clarify that **costs associated with modification of buildings or property** for accommodation of employees are not covered.
- Revised Language** - costs associated with any accommodation pursuant to the Americans with Disabilities Act or the Civil Rights Act of 1964 or any amendments thereof or any rules or regulations promulgated hereunder, or any similar provisions of any federal, state, or local statutory law or common law, or **(Page 14)**
26. **Loss** – This definition has been modified to clarify what loss is not covered as

respects **stock options, profit sharing and benefit plans.**

Revised Language -

amounts owed under federal, state or local wage and hour laws, or

amounts owed based upon or attributable to obligations or payments owed under

1. an express written contract or employment,
2. an agreement to make payments in the event of the termination of employment,
3. an agreement to assume another's liability,

such as employment-related "benefits", "stock benefits", or any other type of compensation earned by the claimant in the course of employment or the equivalent value thereof; however, this exclusion shall not apply to front pay or back pay. **(Page 15)**

27. **Management and Supervisors** – This definition has been modified in the new policy so that the entire risk management department of an insured is not included in the definition, but rather only the head of the risk management department. **(Page 15)**

28. **Retaliation** – This definition has been clarified in the new policy.

Revised Definition - "Retaliation" means, retaliatory treatment against an "employee" of the insured on account of such "employee":

- a. exercising his or her rights under law, including but not limited to rights under any workers compensation laws, the Family and Medical Leave Act, or the Americans with Disabilities Act;
- b. refusing to violate any law;
- c. having assisted or testified in or cooperated with a proceeding or investigation regarding alleged violations of law by the "Insured";
- d. disclosing in writing to a superior or to any governmental agency any alleged violations of law;
- e. filing any claim against the "Insured" under the Federal False Claims Act or any other similar federal, state or local whistle blower law. **(Page 15 & 16)**

29. **Stock Benefits** – This definition has been added to the new policy for clarification purposes.

New Definition - "Stock Benefits" means any offering, plan or agreement between you and any "employee" which grants stock or stock options or stock appreciation rights as to you organization to such individual, including but not limited to stock options, restricted stock or any other stock grant, but not including stock ownership plans or employee stock purchase plans. **(Page 16)**

SERFF Tracking Number: PERR-125792765 *State:* Arkansas
Filing Company: U.S. Specialty Insurance Company *State Tracking Number:* #103823 \$50
Company Tracking Number: USS-OL-EPL-AR-08-01-F
TOI: 17.1 Other Liability - Claims Made Only *Sub-TOI:* 17.1010 Employment Practices Liability
Product Name: Employment Practice Liability
Project Name/Number: USS-OL-EPL-AR-08-01-F/USS-OL-EPL-AR-08-01-F

Superseded Attachments

Please note that all items on the following pages are items, which have been replaced by a newer version. The newest version is located with the appropriate schedule on previous pages. These items are in date order with most recent first.

Original Date:	Schedule	Document Name	Replaced Date	Attach Document
No original date	Form	EPLI Policy Form	08/27/2008	EP 0001 (03.08) EPLI Policy Form.pdf

EMPLOYMENT PRACTICES LIABILITY INSURANCE

THIS IS A "CLAIMS-MADE" POLICY. EXCEPT AS MAY BE OTHERWISE PROVIDED HEREIN, COVERAGE UNDER THIS POLICY IS LIMITED TO LIABILITY FOR "INSURED EVENTS" FOR WHICH "CLAIMS" ARE FIRST MADE AGAINST THE "INSURED" WHILE THIS POLICY IS IN EFFECT, OR ANY EXTENDED REPORTING PERIOD (IF APPLICABLE).

"DEFENSE COSTS" ARE INCLUDED WITHIN THE POLICY LIMITS OF LIABILITY AND ARE INCLUDED WITHIN THE RETENTION. THIS POLICY IS SUBJECT TO A TOTAL POLICY AGGREGATE LIMIT FOR ALL "INSURED EVENTS".

VARIOUS PROVISIONS IN THIS POLICY RESTRICT COVERAGE. PLEASE READ THE ENTIRE POLICY CAREFULLY TO DETERMINE YOUR RIGHTS, DUTIES AND WHAT IS, AND IS NOT, COVERED.

Throughout this Policy the words "we", "us" and "our" refer to the insurance company shown in the Declarations Page of this Policy. The words "you" and "your" refer to the "Named Insured" indicated in the Declarations Page of this Policy.

The special meaning of other words and phrases that appear in quotation marks ("") are defined in **DEFINITIONS (SECTION X)** of this Policy. To assist in finding major sections of this Policy, headings and subheadings appear in capital bold letters. The descriptions in these headings and subheadings are solely for convenience, and form no part of the terms, conditions, limitations and exclusions of this Policy.

In consideration of the payment of premium, and in reliance upon the statements in the Declarations Page of this Policy and "Application" and subject to all the terms and conditions of this Policy, we agree with the "insured" as follows:

SECTION I - COVERAGE

1. Insuring Agreement

We have the duty to pay any "loss" in excess of the **RETENTION (SECTION V)** that the "insured" becomes legally obligated to pay as a result of a "claim" first made during the Policy Period (or any Extended Reporting Period, if applicable) that is based upon an "insured event" to which this Policy applies. Our duty to pay ends when the available **LIMITS OF INSURANCE (SECTION IV)** have been exhausted. We will not pay more than the applicable **LIMITS OF INSURANCE (SECTION IV)**.

2. Defense

We have the right and duty to defend any "claim" for an "insured event" made against any "insured" to which this Policy applies.

If one or more of the applicable **LIMITS OF INSURANCE (SECTION IV)** shown in the Declarations Page of this Policy is/are exhausted, our duty to defend ends and you will promptly take over control of the defense of any "claim" we are defending and will reimburse us for all amounts we reasonably incur to defend any "claim" after the applicable **LIMITS OF INSURANCE (SECTION IV)** is/are exhausted.

3. Optional Defense of Criminal Proceedings

At your request we shall have the option, but not the duty, to defend any criminal proceedings brought against any "insured". Should we, at our sole discretion, exercise the option to defend any criminal proceeding, any "defense costs" incurred therein shall reduce and may exhaust the applicable **LIMITS OF INSURANCE (SECTION IV)**. The exercise of the option to defend any criminal proceeding shall not serve to render us liable for any other "loss" incurred in connection with any criminal proceedings, and we shall retain the right to withdraw from the defense upon giving you notice.

4. **Defense Counsel (Attorney) Selection**

- a. We have the right to appoint an attorney to defend you against any “claim” other than for criminal proceedings. This attorney will be the “Panel Defense Counsel” selected by you when you applied for this Policy or by mutual agreement another attorney listed on our current “Panel Defense Counsel” list.
- b. If you do not desire to accept the services of our appointed attorney or another mutually agreed attorney from our current “Panel Defense Counsel” list, you may retain another attorney, subject to our prior approval and the following modifications in the conditions of this Policy:

If you elect to use an attorney other than one selected from our current “Panel Defense Counsel” list, then the Policy **RETENTION (SECTION V)** indicated in the Declarations Page of this Policy for this coverage will double in amount (i.e., a \$5,000 retention will be \$10,000) and a 20% co-payment will apply to the “defense costs” in excess of the **RETENTION (SECTION V)** (i.e., we will pay 80% of the “defense costs” and you will be responsible for 20% of the “defense costs”).

5. **Consent to Settle**

We have the right to investigate and settle any “claim” in the manner and to the extent that we believe proper, however, we will not settle any “claim” without your consent. If you refuse to consent to any settlement recommended by us or our representatives and you elect to contest or continue any legal proceedings, then our liability shall not exceed the amount for which the “claim” could have been settled including “defense costs” approved by us, up to the date of such refusal.

However, in the event “Panel Defense Counsel” is defending, then our liability for all “loss” on account of such “claim” shall not exceed:

- a. the amount for which we could have settled such “claim” plus “defense costs” incurred as of the date such settlement was proposed in writing by us, (“Total Settlement Amount”); plus
- b. Fifty percent (50%) of covered “loss” in excess of such Total Settlement Amount, it being a condition of this Policy that the remaining 50% of such “loss” excess of the Total Settlement Amount shall be carried by you at your own risk and be uninsured.

SECTION II - EXCLUSIONS

1. **Workers' Compensation**

This Policy does not cover any “loss” arising out of any obligation under any workers' compensation, social security, disability benefits or unemployment compensation law, or any similar law.

This exclusion does not apply, however, to any claim for “retaliation”, “discrimination” or “inappropriate employment conduct” arising from the filing of a workers compensation claim or a claim for disability benefits.

2. Contractual Liability

This Policy does not cover any “loss” arising out of the assumption of another's liability in a contract or agreement.

This exclusion does not apply to any “loss” an “insured” would have without the contract or agreement.

3. Employee Retirement Income Security Act (ERISA)

This Policy does not cover any “loss” arising out of the Employee Retirement Income Security Act of 1974, or any amendment thereto. This includes fiduciary liability, liability arising out of the administration of any employee benefit plan and any other liability under any such law.

This exclusion does not apply, however, to that portion of any “claim” for “retaliation” under section 510 of ERISA.

4. Strikes and Lockouts

This Policy does not cover any “loss” arising out of a strike, lockout, picket line, replacement or other similar action resulting from labor disputes or labor negotiations, or any protections contained within the National Labor Relations Act.

This exclusion does not apply to that portion of any “claim” for “retaliation” or “discrimination”.

5. Consequential Loss

This Policy does not cover any direct, indirect or derivative “loss” to any claimant's spouse, child, parent, brother, sister, step-parent, step-brother, step-sister or “domestic partner” as a consequence of an “insured event.”

6. Workers' Adjustment and Retraining Notification Act

This Policy does not cover any “loss” arising out of the Workers' Adjustment and Retraining Notification Act, Public Law 100-379 (1988) or any amendment thereto, or any similar Federal, State or local law.

This exclusion shall not apply if the “insured” consulted with legal counsel and made a good faith attempt to comply with the law.

7. Major Stockholders

If the “Named Insured” is a corporation, this Policy does not cover any “loss” arising out of a “claim” made by any “employee” who owns or controls twenty-five percent (25%) or more of the voting stock of the “Named Insured”.

8. Family Members

If the “Named Insured” is an individual, a partnership with less than ten (10) partners or a corporation with less than ten (10) stockholders, this Policy does not cover any “loss” arising out of a “claim” made by any “employee” who is a spouse, child, parent, brother, sister, step-parent, step-brother, step-sister or “domestic partner” of:

- a. the “Named Insured” listed in the Declarations Page of this Policy;
- b. any individual who owns or controls, directly or indirectly, more than fifty percent (50%) of the voting stock of the “Named Insured”;
- c. the trustees or beneficiaries of any trust created by the “Named Insured”; or

- d. any relative or representative of an individual described in paragraph b.

This exclusion shall apply, but is not limited to, any estate and matrimonial proceedings.

9. Bodily Injury and Property Damage

This Policy does not cover any “loss” arising out of bodily injury, sickness, disease or death of any person, damage or injury to any property, or loss of use or economic benefits resulting therefrom. This exclusion, however, does not apply to emotional distress, humiliation, mental injury or mental anguish resulting from an “insured event”.

10. Comprehensive Omnibus Budget Reconciliation Act (COBRA)

This Policy does not cover any “loss” arising out of or under the Comprehensive Omnibus Budget Reconciliation Act of 1985, or any amendments thereto.

This exclusion does not apply, however, to that portion of any “claim” for “retaliation”, “discrimination” or “inappropriate employment conduct” on account of the filing of a “claim” for benefits under COBRA.

11. Wage and Hour Laws

This Policy does not cover any “loss” arising out of any private, governmental or administrative “claim” alleging violations of Federal, State or local wage and hour laws or regulations, including, but not limited to, any laws or regulations concerning monetary or non-monetary compensation or “benefits” that may be owed to a past or present “employee” based upon a misclassification of their job status, title or duties.

This exclusion shall not apply, however, to that portion of any “claim” seeking to recover “loss” for alleged “discrimination” or “retaliation” by an “insured”.

SECTION III – DEFINITION OF “INSURED”

1. The “Named Insured” is any of the following when designated in the Declarations Page of this Policy as:

- a. an individual, you and your spouse or “domestic partner” 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 members, your partners, and their spouses or “domestic partners” are also “insureds”, but only with respect to the conduct of your business.
- c. a limited liability company, you are an “insured”. Your members are also “insureds”, but only with respect to the conduct of your business.
- d. an organization other than a partnership, joint venture or limited liability company, you are an “insured”. Your stockholders are also “insureds”, but only with respect to their liability as stockholders for the conduct of your business.

2. Each of the following is also an “insured”:

- a. your “management and supervisors” and “employees,” are “insureds”, but only for the conduct of your business within the scope of their employment. Your “management and supervisors” and “employee's” status as an “insured” will be determined as of the date of the “discrimination”, “harassment”, “retaliation” or “inappropriate employment conduct” which caused the “insured event.”

- b. any organization that you newly acquire or merge with while this Policy is in effect is an "insured" if the "Named Insured" owns at least fifty percent (50%) of it, but no newly acquired or merged organization is covered for:
- (1) more than sixty (60) days or the remainder of the Policy Period, whichever is less, from the date that you acquire or merge with the organization;
 - (2) for "loss" that results from an "insured event" that happened or commenced before you acquired or merged with the organization; or
 - (3) for "loss" covered under any other insurance unless agreed by us in writing within such sixty (60) day period. We may require an additional premium for any individuals who become "employees" as a result of such acquisition or merger.

This paragraph does not apply to a partnership, joint venture, or to any organization once it is shown in the Declarations Page of this Policy.

- c. If a "claim" against an individual "insured" under this Policy includes a "claim" against the lawful spouse or lawful "domestic partner" of such "insured" solely by reason of:
- (1) status as a spouse or "domestic partner"; or
 - (2) such spouse or "domestic partner's" ownership interest in property or assets that are sought as recovery for an "insured event";

any "loss" for which such spouse or "domestic partner" becomes legally obligated to pay on account of such "claim" shall be deemed a "loss" which such "insured" of the spouse or "domestic partner" becomes legally obligated to pay as a result of such "claim".

All terms, conditions, limitations and exclusions of this Policy applicable to "loss" sustained by such individual "insured" in the "claim" shall also apply to such spouse or "domestic partner's" "loss".

This extension of coverage shall not apply to the extent the "claim" alleges any wrongful act or omission by such spouse or "domestic partner".

SECTION IV - LIMITS OF INSURANCE

1. Limits of Insurance

The Limits of Insurance shown in the Declarations Page of this Policy and the provisions contained in this section establish the most we will pay regardless of the number of:

- a. "Insureds";
- b. "Claims" made; or
- c. Persons or organizations making "claims."

2. Each "Claim" Limit

This is the most we will pay for all "claims" arising out of "one insured event" regardless of the number of "claims."

If any "claim" gives rise to coverage under this Policy and under any other policy or policies issued by us, our maximum aggregate Limit of Insurance with respect to all such policies, including this Policy, for

all "loss", including "defense costs", in respect of such "claim" shall not exceed the largest single available Limit of Insurance under any such policies.

3. Total Policy Limit for All "Claims" (Policy Aggregate Limit)

This is the most we will pay under this Policy regardless of anything, including but not limited to, the number of "claims", number of "insureds", number of claimants, the length or extension of the Policy Period or any Extended Reporting Period, if applicable.

4. How the Limits of Insurance Apply to an Extension of the Policy Period.

If the Policy Period is extended after issuance for an additional period, the additional period will be deemed part of the past preceding period for purposes of determining the Limits of Liability. Accordingly, the extension of the Policy Period will in no way increase the Limits of Liability.

5. Allocation of "Defense Costs"

If both "loss" covered by this Policy and "loss" not covered by this Policy are incurred in connection with any "claim", we will use all reasonable efforts to agree, with you, upon a fair and proper allocation of "defense costs" attributable to the covered "loss" and the uncovered "loss."

If there can be an agreement on the allocation of "defense costs", we will pay, on a current basis, "defense costs" allocated to the covered "loss" in accordance with our obligations under this Policy.

If there can be no agreement on an allocation of "loss"

- a. then no presumption as to allocation shall exist in any arbitration, "suit" or other proceeding;
- b. we will pay, on a current basis, "defense costs" that we believe are reasonable related to the covered "loss" under the Policy until a different allocation is negotiated or arbitrated; and,
- c. we, if requested by you, shall submit such dispute to "mediation" or binding arbitration, based on **CONDITIONS (SECTION VI), Action By You Against Us (Item 3)**

SECTION V - RETENTION

1. Our obligation to pay under this Policy applies only to the amount of "loss" in excess of the Retention amount shown in the Declarations Page of this Policy and the **LIMITS OF INSURANCE (SECTION IV)** shown in the Declarations Page of this Policy will not be reduced by the amount of such Retention.

2. "Mediation" of "Claims" Provision

The applicable Retention will be decreased by fifty percent (50%) (i.e., a \$5,000 Retention will be \$2,500) if a "claim" is fully and finally resolved to the satisfaction of all parties, including us, through "mediation," provided that such "mediation" is initiated and concluded and/or abandoned before and not subsequent to commencement of any "suit". In the event such "mediation" does not fully and finally resolve the "claim," there shall be no reduction of the Retention obligation, and all "defense costs" incurred in the "mediation" shall be included in the total "defense costs" for the "claim."

3. You are responsible for the payment of "loss" within the Retention, including the payment of "defense costs" directly to any law firm(s) that we have retained on your behalf to defend a "claim." At the time a "claim" is reported we will advise you of the name of any law firm(s) we have retained on your behalf and advise them that they are to bill you directly for the Retention amount.

4. The Retention amount applies separately to each "claim" made. However, the Retention amount will only apply once to all "claims" arising out of any "one insured event" regardless of the number of claimants who allege damages.

5. We have no obligation whatsoever, either to you or to any other person or entity, to pay all or any portion of "loss" within the Retention amount. We have, however, at our sole discretion, the right and option to do so, in which event you must repay us any such amount promptly upon demand.

SECTION VI - CONDITIONS

We have no duty to provide coverage under this Policy unless there has been full compliance with all the conditions contained in this Policy.

1. Cancellation

- a. The first "Named Insured" shown in the Declarations Page of this Policy may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
- b. We may not cancel this Policy except for failure to pay the premium when due, in which case we will mail or deliver our notice to the first "Named Insured's" last mailing address known to us stating the effective date of cancellation. The Policy Period will end on that date.
- c. If this Policy is cancelled, we will send the first "Named Insured" any premium refund due. If the first "Named Insured" cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- d. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. Duties in the Event of a "Claim" or "Suit"

- a. You must report a "claim" to us or our authorized representative as soon as practicable, but in no event later than sixty (60) days, after the policy period or the Extended Reporting Period, if applicable. Notice shall include all of the following:
 - (1) the identity of the person(s) alleging "discrimination", "harassment" or "inappropriate employment conduct";
 - (2) the identity of the "insured(s)" who allegedly committed the "discrimination", "harassment" or "inappropriate employment conduct";
 - (3) the identity of any witness to the alleged "discrimination", "harassment" or "inappropriate employment conduct";
 - (4) the date the "insured event" took place; and,
 - (5) the written charge, complaint or demand as applicable.
- b. If a "suit" is brought against any "insured", you must:
 - (1) record the specifics of the "suit" and the date received; and,
 - (2) immediately see to it that we receive written notice of the "suit".
- c. You and any other "insured" must:
 - (1) send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
 - (2) authorize us to obtain records and other information;
 - (3) cooperate with us in the investigation or defense of the "claim"; and,

(4) 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 Policy may also apply.

d. No “insured” will, except at their own cost, voluntarily make a payment, settle a “claim” or “suit”, assume any obligation, admit any liability, or incur any expenses without our prior written consent. Any voluntary payment made or expense incurred without our consent will be your sole responsibility. Similarly, any monetary payments resulting from or related to your assumption of any obligation or your admission of liability without our prior written consent will be your sole responsibility.

3. Action By You Against Us

a. Any dispute between you and us based upon, arising from or in connection with this Policy, including but not limited to any dispute sounding in contract or tort, shall be submitted to binding arbitration.

b. You, however, shall first have the option to resolve the dispute by “mediation”;

c. If the parties cannot resolve the dispute by “mediation”, the parties shall submit the dispute to binding arbitration pursuant to the rules of the American Arbitration Association, except the arbitration panel shall consist of one arbitrator selected by you, one arbitrator selected by us, and a third arbitrator selected by the first two arbitrators. Unless you and we otherwise agree, within thirty (30) days of our submitting the case and related documentation, the arbitration panel will issue a written decision resolving the controversy and stating the facts reviewed, conclusions reached, and the reasons for reaching those conclusions. The arbitration panel may make an award of compensatory loss, but may not award extra contractual, punitive or exemplary loss. The decision of the arbitration panel will be final and binding on both of us in any court. You will bear the expense of the arbitrator chosen by you. We will bear the expense of the arbitrator chosen by us. You and we will share equally the expense of the other arbitrator. You and we will each bear our own fees and costs. The arbitration panel will allocate any remaining costs of the arbitration proceeding.

4. Other Insurance

If other valid and collectible insurance is available to you for a “loss” we cover under this Policy, our obligations are limited as follows:

a. Primary Insurance

This Policy is primary insurance except when b. below applies. If this Policy is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with that other insurance by the method described in c. below.

b. Excess Insurance

This Policy is excess over any other insurance, whether primary, excess, contingent, or any other basis, that is:

(1) effective prior to the beginning of the Policy Period shown in the Declarations Page of this Policy;

(2) applies on other than a claims-made basis;

(3) issued to or insures any “leased worker”, “temporary employee” or “independent contractor”; or

(4) available and under which you are an additional “insured”.

When this Policy is excess, we shall have no duty to defend any "claim" that any other insurer defends. If no other insurer defends, we shall undertake to do so, but we shall be entitled to your rights against all those other insurers.

When this Insurance is excess over other insurance, we shall pay only our share of the amount of the "loss," if any, that exceeds the sum of:

- (a) the total amount that all such other insurance would pay for the "loss" in the absence of this Insurance;
- (b) the total of all deductible and self-insured amounts under all other insurance; and,
- (c) your **RETENTION (SECTION V)** amount.

We shall share the remaining "loss", if any, with any other insurance that is not described in this Provision and was not bought specifically to apply in excess of the **LIMITS OF INSURANCE (SECTION IV)** shown in the Declarations Page of this Policy.

c. Method of Sharing

- (1) If all of such 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 Liability or none of the "loss" remains, whichever comes first.
- (2) If any of such 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 appropriate limits to the Limits of Liability of all other insurers.

6. Premiums

The first "Named Insured" shown in the Declarations Page of this Policy is:

- a. responsible for the payment of all premiums; and,
- b. the payee for any return premiums we pay.

7. Representations

By accepting this Policy, you agree:

- a. the statements in the "Application" and Declarations Page of this Policy are accurate and complete;
- b. those statements are based upon representations you made to us; and,
- c. We have issued this Policy in reliance upon your representations.

8. Changes

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

9. Separation of "Insureds"

With respect to any "claim" reported under this Policy, knowledge possessed by any one "insured" shall not be imputed to any other "insured".

10. Subrogation

If an "insured" has rights to recover all or part of any payments we have made under this Policy those rights are transferred to us; no "insured" may do anything after a "loss" to impair them. At our request, such "insured" will bring "suit" or transfer those rights to us and help enforce them.

11. Death, Incapacity or Bankruptcy

We will not be relieved of our obligations under this Policy because of:

- a. the death or incapacity of an "insured"; or
- b. bankruptcy or insolvency of any "insured" or of any "insured's" estate.

12. False or Fraudulent "Claims"

If any "insured" shall proffer any "claim" knowing the same to be false or fraudulent as regards amount or otherwise, this Policy shall become void and all "claims" hereunder shall be forfeited as respects that particular "insured"; however, the Policy shall not be voided as to any other "insured" who was not party to such false and fraudulent "claim" submission.

13. Transfer of Your Rights and Duties Under This Policy

Your rights and duties under this Policy may not be transferred or assigned in any way without our written consent.

SECTION VII - NOTICE OF "CLAIM"

1. Claims Made Coverage

This Policy applies only to "claims" first made during the Policy Period or during the Extended Reporting Period, if applicable.

A "claim" will be considered first made on the date we or any "insured" receives a written "claim", whichever comes first.

All "claims" because of "one insured event" will be considered to have been first made on the date that the first of those "claims" was first made.

2. Notice of Potential "Claim"

If during the Policy Period, any "insured" becomes aware of an "insured event" which they reasonably believe may result in a future "claim" and they or the "Named Insured" or any insured entity provide(s) notice in writing to us of such "insured event" prior to the end of the Policy Period, then any "claim" subsequently arising from such "insured event" shall be deemed to have been made on the date notice of such "insured event" was given to us. Such notice must describe the "insured event" in reasonable detail and provide the name or names of the potential claimant(s).

Any "claim" arising out of an "insured event" reported to us pursuant to this paragraph 2 will be deemed first made on the date notice of the "insured event" was given to us.

This Policy provides coverage for potential "claims" reported under this paragraph only if and to the extent the actual "claims" are made within five (5) years after the end of the Policy Period.

3. Limited Reporting Period

The Limited Reporting Period is the sixty (60) day period starting with the end of the Policy Period. Coverage under the Limited Reporting Period applies to "claims" which are first made during such 60-day period based upon "insured events" which happen prior to the expiration or cancellation of coverage and are otherwise covered by the Policy.

The Limited Reporting Period does not extend the Policy Period nor change the scope of coverage provided. We will consider any "claim" first made during the Limited Reporting Period to have been made on the last date on which this Policy is in effect.

The Limited Reporting Period will only apply if this Policy is cancelled or not renewed by us or the "Named Insured" for any reason other than nonpayment of premium. Coverage under the Limited Reporting Period may not be cancelled.

The Limited Reporting Period will not apply if other insurance you buy covers the "claim" or would cover it if its limits of coverage had not been exhausted.

4. How to Add an Extended Reporting Period

An Extended Reporting Period can be added by means of an Extended Reporting Period Endorsement and the payment of an additional premium. The endorsement sets forth the terms of coverage during the Extended Reporting Period. Coverage under an Extended Reporting Period is limited to a "claim" first made during the Extended Reporting Period based upon an "insured event" which happened or commenced during the Policy Period and is otherwise covered by the Policy.

The Extended Reporting Period Endorsement will not be issued unless we receive a written request for it within thirty (30) days after this Policy ends. Once the premium is paid, the endorsement may not be canceled and the premium will be fully earned.

5. The **LIMITS OF INSURANCE (SECTION IV)** also apply to the Limited and Extended Reporting Periods. The **LIMITS OF INSURANCE** that apply at the end of the Policy Period are not renewed or increased and the total limits shown in the Declarations Page of this Policy shall not be increased by the addition of either the Limited or Extended Reporting Periods.

SECTION VIII – COVERAGE TERRITORY

We will pay "loss" for "insured events" committed anywhere in the world that are otherwise covered under this Policy.

SECTION IX – CURRENCY VALUATION

The Policy premiums, **LIMITS OF INSURANCE (SECTION IV)**, **RETENTIONS (SECTION V)**, "loss" and other amounts are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of "loss" under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is reached, the amount of the settlement is agreed upon or the other element of "loss" is due, respectively.

SECTION X - DEFINITIONS

1. "Application" means:
 - a. the "Application" and any Supplemental "Application" for this Policy, including any material submitted therewith; and,
 - b. the "Application(s)", including any material submitted therewith, for all previous policies issued

by us of which this Policy is a direct or indirect renewal or replacement;

all of which shall be deemed a part of this Policy as if physically attached hereto.

2. "Benefits" means perquisites, fringe benefits, deferred compensation or payment (including insurance premiums) in connection with an "employee" benefit plan and any other payment. "Benefits" shall not include salary, wages or non-deferred cash incentive compensation.
3. "Claim(s)" means:
 - a. a written demand for monetary or non-monetary relief received by you alleging damages or the filing of a "suit"; or
 - b. any administrative proceeding including but not limited to the Equal Employment Opportunity Commission, or any other State or Federal agency or authority with jurisdiction over you.

However, "claim" does not include "c" or "d" below:

- c. labor or grievance arbitration subject to a collective bargaining agreement; or
 - d. criminal proceedings.
4. "Defense Costs" means those reasonable fees, costs and expenses that result from the investigation, defense or appeal of a "claim", including attorney fees and expenses, the cost of legal proceedings, the cost of covered "mediation", the cost of appeal bonds, the cost of bonds to release property being used to secure a legal obligation (but only for bond amounts within the **LIMITS OF INSURANCE (SECTION IV)** that apply; we have no obligation to furnish such bonds), all reasonable expenses that any "insured" incurs in court at our request while helping us investigate, defend or appeal a "claim" (we will not pay more than \$100 per day for earnings lost by the "insured" because of time taken off work), and all costs taxed against any "insured" in a "suit".

However, "defense costs" do not include salaries and expenses of you or your "employees", including employed attorneys, fees and expenses of independent adjusters we hire, and interest that accumulates on the amount of a judgment.

5. "Discrimination" means termination of the employment relationship, a demotion, failure or refusal to hire or promote, a denial of an employment benefit or the taking of any adverse or differential employment action because of race, color, religion, creed, age, sex, pregnancy, sexual orientation or preference, national origin, or disability including a disability resulting from human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS), marital status, Vietnam Era Veteran status or other protected military status or any other basis prohibited by Federal, State or local law.
6. "Domestic Partner" means any natural person qualifying as a "domestic partner" pursuant to the provisions of any Federal, State or local law.
7. "Employee" means:
 - a. an individual whose labor or service is engaged by and directed by an "insured". This includes "part-time employees", "seasonal employees", "temporary employees", "temporary workers", "interns", "volunteer workers" and "management and supervisors";

The term "employee" also includes a former "employee". As respects coverage for former "employees" also refer to **SECTION III – DEFINITION OF "INSURED"**, item **2.a.**
 - b. an individual who is a "leased worker", provided such individual shall be deemed an "employee" only if, and to the extent that, you provide indemnification to such individual for services rendered as if they were rendered by an actual "employee" of yours, and the labor leasing firm(s) with whom you have such agreement(s) is (are) scheduled by written endorsement to

this Policy; and,

- c. an individual who is an “independent contractor” contracted to perform services for you; provided that such individual shall be deemed an “employee” only if, and to the extent that you provide indemnification to such individual for services rendered as if they were rendered by an actual “employee” of yours, and provided further that such individual is scheduled by written endorsement to this Policy. This Policy does not cover any “loss” which any “insured” is obligated to pay to an “independent contractor” for overtime pay, vacation pay, or any “employee” “benefit”.

8. “Harassment” means unwelcome sexual or non-sexual advances, requests for sexual or non-sexual favors or other verbal, visual or physical conduct of a sexual or non-sexual nature that:

- a. is explicitly or implicitly made a condition of employment;
- b. are used as a basis for employment decisions; or
- c. create an intimidating, hostile or offensive work environment;

“Harassment” includes allegations of assault and battery, but only if they are related to a charge of sexual harassment.

9. “Inappropriate Employment Conduct” means actual or constructive termination of an employment relationship in a manner which is against the law, wrongful or in breach of an implied agreement to continue employment, including allegations of breach of an implied employment contract and breach of the covenant of good faith and fair dealings in the employment contract, or an employment related incident resulting in one or more of the following offenses:

- a. wrongful demotion or wrongful failure to employ or promote;
- b. wrongful discipline;
- c. wrongful denial of tenure or deprivation of career opportunity;
- d. negligent retention, supervision, hiring, training or evaluation;
- e. misrepresentation or defamation;
- f. infliction of emotional distress, humiliation, mental injury or mental anguish;
- g. false arrest, detention or imprisonment; or
- h. libel, slander, defamation of character or any invasion of right of privacy.
- i. employment terminations, disciplinary actions, demotions or other employment decisions which violate public policy or the Family Medical Leave Act or similar State law;
- j. improper disclosure of confidential “employee” information resulting in identity theft; or
- k. violations of the Uniformed Services Employment and Reemployment Rights Act;

“Inappropriate Employment Conduct” does not include severance payments or amounts determined to be owing under a written contract of employment for a definite period of time; However, “defense costs” for “claims” of breach of a written or express contract of employment for a definite period of time are covered.

10. “Independent Contractor” means any natural person working for you in the capacity of an “independent contractor” pursuant to any express contract or agreement between you and the “independent

contractor” governing the nature of your engagement of such “independent contractor”.

11. “Insured” means any individual, corporation or entity described in **SECTION III – DEFINITION OF “INSURED”** of this Policy.
12. “Insured Event” means actual or alleged acts of “discrimination”, “harassment”, “retaliation” and/or “inappropriate employment conduct” by an “insured” against an “employee”, former “employee” or an applicant seeking employment with the “Named Insured”.
13. “Intern” means a person who is an advanced student or recent graduate in a professional field who provides services to the “Named Insured” or is receiving practical experience from the “Named Insured” without any express or implied promise of remuneration. Coverage is only extended to “interns” while they are acting at the direction of and within the scope of duties for you.
14. “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”.
15. “Loss” means damages, judgments, settlements, statutory attorney fees and “defense costs”, including:
 - a. prejudgment and post judgment interest awarded against an “insured” on that part of any judgment paid by us; and,
 - b. back pay awards and front pay awards.

However, “loss” does not include "c", "d", “e”, “f”, “g”, “h”, “i” and “j” below:

- c. civil, criminal or administrative fines or penalties imposed by law that are not otherwise insurable;
- d. punitive or exemplary damages where such damages are not insurable because of State or Federal law. Regarding the insurability of such damages, the insurer shall not contend for any reason, unless appropriate to do so as a matter of law or public policy, that such damages are uninsurable. The insurability of such damages shall be governed by the laws of any applicable jurisdiction that permits the coverage of such damages;
- e. any amounts other than “defense costs”, which you are obligated to pay as a result of a “claim” seeking to redress in any form other than monetary damages, such as a non-monetary settlement or judgment of a “claim” which awards non-monetary relief including, but not limited to, injunctive relief, declaratory relief, disgorgement, employment related education or training, job reinstatement or other equitable remedies;
- f. payment of insurance or trust plan benefits by or on behalf of retired “employees”, or that to which a claimant would have been entitled as an “employee” had the “insured” provided the claimant with a continuation of insurance;
- g. costs associated with any accommodation pursuant to the Americans with Disabilities Act or the Civil Rights Act of 1964 or any amendments thereof or any rules or regulations promulgated thereunder, or any similar provisions of any Federal, State, or local statutory law or common law;
- h. matters which may be deemed uninsurable according to the law under which this Policy is construed;
- i. amounts owed under Federal, State or local wage and hour laws; or
- j. amounts owed based upon or attributable to obligations or payments owed under:

- (1) an express written contract of employment;
- (2) an agreement to make payments in the event of the termination of employment; or
- (3) an agreement to assume another's liability;

such as employment-related "benefits", "stock benefits", or any other type of compensation earned by the claimant in the course of employment or the equivalent value thereof; however, this exclusion shall not apply to front pay or back pay.

16. "Management and Supervisors" means a director, owner, partner, principal, officer or in-house attorney, who is involved with employment issues, or a shareholder of the "insured", a personnel or human resources director or risk management director.
17. "Mediation" means a non-binding process in which a neutral panel or individual assists the parties in reaching their own settlement. To be considered "mediation" under this Policy, the process must be of the kind set forth in the Commercial Mediation Rules of the American Arbitration Association. We may, however, at our sole option, recognize any "mediation" process presented by you to us for approval.

"Mediation" under this Policy does not include any "mediation", conciliation or any other alternative dispute resolution mechanism that is part of a proceeding before the Equal Employment Opportunity Commission or a similar State agency.
18. "Named Insured" means the individual(s), corporations or entity specified in the Declarations Page of this Policy.
19. "One Insured Event" means:
 - a. "insured events" which are (1) related by an unbroken chain of events or (2) made by the same claimant; or
 - b. class action or multiple plaintiffs "suits" arising out of related "insured events."
20. "Panel Defense Counsel" means an attorney previously selected by us and who is listed on our current published listing of approved defense attorneys.
21. "Part Time Employee" means an "employee" whose labor or service is engaged on the basis that the "employee" will not work more than twenty (20) hours per week.
22. "Retaliation" means retaliatory treatment against an "employee" of the "insured" on account of such "employee":
 - a. exercising his or her rights under law, including but not limited to rights under any workers compensation laws, the Family and Medical Leave Act or the Americans with Disabilities Act;
 - b. refusing to violate any law;
 - c. having assisted, testified in or cooperated with a proceeding or investigation regarding alleged violations of law by the "Insured";
 - d. disclosing in writing to a superior or to any governmental agency any alleged violations of law; or
 - e. filing any "claim" against the "Insured" under the Federal False Claims Act or any other similar Federal, State or local whistle blower law.
23. "Seasonal employee" means an "employee" whose labor or service is engaged on the basis that the "employee" will not work more than one thousand (1,000) hours per year.

- 24.** “Stock Benefits” means any offering, plan or agreement between you and any “employee” which grants stock, stock options or stock appreciation rights as to you organization to such individual, including but not limited to, stock options, restricted stock or any other stock grant, but not including stock ownership plans or “employee” stock purchase plans.
- 25.** “Suit” means a civil proceeding in which damages because of a covered “insured event” to which this Policy applies are alleged. “Suit” includes:
- a.** An arbitration proceeding in which such damages are claimed and to which the “insured” must submit or does submit with our consent; or
 - b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the “insured” submits with our consent.
- 26.** “Temporary employee” means an “employee” or “part time employee” whose labor or service is engaged for a specific time period or project. “Temporary employee” does not include a “temporary worker”.
- 27.** “Temporary worker” means a person who is furnished to you through an outside temporary employment agency to substitute for a permanent “employee” on leave or to meet seasonal or short-term workload conditions.
- 28.** “Volunteer worker” means a person who provides services to the “Named Insured” without any express or implied promise of remuneration. Coverage is only extended to a “volunteer worker” while acting at the direction of and within the scope of duties for you.