

EMPLOYMENT LIABILITY PROTECTOR®

EMPLOYMENT PRACTICES LIABILITY INSURANCE POLICY

In consideration of the premium paid and in reliance upon the statements made to the **insurer** by application forming a part hereof and its attachments and the material incorporated therein, the **insurer** agrees to this Policy as a contract with **you**.

Throughout the Policy, the words **you** and **your** refer to the **named insured(s)** shown in the Declarations and any other person(s) or organization(s) qualifying as a **named insured** under this Policy. The words **we**, **us** and **our** refer to the company providing this insurance.

The word **insured** means any person or organization qualifying as such under SECTION III. WHO IS AN INSURED.

Other words and phrases that appear in boldface have special meaning. Refer to SECTION IX. DEFINITIONS.

SECTION I. WHAT IS COVERED

A. Insuring Agreement

1. **We** shall pay those **losses** arising out of **your wrongful employment act** against your **employees**, to which this insurance applies. The **wrongful employment act** must commence or take place after the **original inception date**, but before the end of the **policy period**. A **claim** or **suit** for a **wrongful employment act** must be first made against **you** during the **policy period** or any Extended Reporting Period (if applicable) and reported to the **insurer** pursuant to the terms of this policy.
2. A **claim** or **suit** by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:
 - a. When written notice of such **claim** or **suit** is received and recorded by any **insured** or by **us**, whichever comes first; or
 - b. When **we** make settlement in accordance with the terms of this Policy.

B. Defense

1. **We** have the right and duty to defend and appoint an attorney to defend any **claim** or

- suit** brought against any **insured** for a **wrongful employment act** to which this insurance applies, even if the **claim** or **suit** is groundless or fraudulent.
2. **We** have the right to investigate and settle any **claim** or **suit** that **we** believe is proper.
3. **We** shall pay all reasonable costs **we** ask the **insured** to incur while helping **us** investigate or defend a **claim** or **suit**. **We**, however, will not pay more than \$100 per day for earnings lost by the **insured** because of time taken off from work.
4. **We** shall pay premiums for appeal bonds, or bonds to release property being used to secure a legal obligation, for a covered **suit**. **We** shall only pay, however, for bonds valued up to **our** applicable Limit of Liability. **We** shall have no obligation to appeal or to obtain these bonds.
5. **We** shall pay the costs taxed against an **insured** in a **suit** **we** defend.
6. Payments for **defense costs** are included within the Limit of Liability. They are not in addition to the Limit of Liability. **Our** duty to defend or to make payment of any **claim** or **suit** pursuant to paragraphs 1-5 above, ends after the applicable Limit of

Liability has been exhausted by payment of **loss**, including **defense costs**.

7. We shall pay all interest on that amount of any judgment within the Limit of Liability:
 - a. which accrues after entry of judgment; and
 - b. before we pay, offer to pay, or deposit in court that part of the judgment within the applicable Limit of Liability.

These interest payments are included within **our** Limit of Liability.

C. Transfer of Control

1. You may take over control of any outstanding **claim** or **suit** previously reported to us, but only if we, in our sole discretion, decide that you should, or if a court orders you to do so.
2. Notwithstanding subsection 1 of this Clause C, in all events, if the Limit of Liability is exhausted, we will notify you of all outstanding **claims** or **suits** and you will take over control of the defense. We will help transfer control of the **claims** and **suits** to you.
3. We shall take whatever steps are necessary to continue the defense of any outstanding **claim** or **suit** and avoid a default judgment during the transfer of control to you. If we do so, we shall not waive or give up any of our rights. You shall pay all reasonable expenses we incur for taking such steps after the Limit of Liability is exhausted.

SECTION II. EXCLUSIONS - WHAT IS NOT COVERED

This insurance does not apply to:

A. Profit or Advantage

Any liability arising out of the gaining of any profit or advantage to which an **insured** was not legally entitled. However, to the extent that a **claim** or **suit** is otherwise covered under the policy, we will defend a **claim** or **suit** asserting that an **insured** gained a profit or advantage to

which the **insured** was not legally entitled, until such time as the **insured** is determined to have gained a profit or advantage to which the **insured** was not legally entitled;

B. Criminal Acts

Any liability arising out of any dishonest, fraudulent, criminal, or malicious act by or at the direction of any **insured**. However, to the extent that a **claim** or **suit** is otherwise covered under the policy, we will defend a **claim** or **suit** asserting a dishonest, fraudulent, criminal or malicious act until such time as the **insured** is determined to have committed such dishonest, fraudulent, criminal or malicious act;

The **wrongful employment act(s)** of an **insured** shall not be imputed to any other **insured** for the purpose of determining the applicability of the foregoing exclusions A and B.

C. Property Damage

Any liability arising out of **property damage**;

D. Bodily Injury

Any liability arising out of **bodily injury**;

E. Worker's Compensation, Social Security and Unemployment, Disability and Retirement Benefits

Any liability arising out of any obligation pursuant to any worker's compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law. This exclusion, however, shall not apply to **loss** arising from a **claim** or **suit** for **retaliation**;

F. Contractual Liability

Any liability arising out of any actual or alleged contractual liability of any **insured** under any express contract or agreement. This exclusion, however, shall not apply to the extent any liability does not arise under such express contract or agreement;

G. ERISA, COBRA, WARN, OSHA and NLRA

Any liability arising out of the **insured's** failure to fulfill any responsibility, duty or obligation imposed by the Employment Retirement Income Security Act of 1974 (ERISA), Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Workers' Adjustment and Retraining Notification Act, Public Law 100-379 (1988) (WARN), Occupational Safety and Health Act (OSHA), National Labor Relations Act of 1947 (NLRA), any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar provisions of any federal, state, or local statutory or common law. This exclusion, however, shall not apply to **loss** arising from a **claim** or **suit** for **retaliation**;

H. FLSA

Any liability arising out of any obligation under the Fair Labor Standards Act, any rules or regulations promulgated thereunder and amendments thereto or any similar provisions of any federal, state, or local statutory or common law (except the Equal Pay Act). This exclusion, however, shall not apply to **loss** arising from a **claim** or **suit** for **retaliation**;

I. Non-Monetary Relief

That part of any **claim** or **suit** seeking any non-monetary relief, including but not limited to: (1) injunctive relief; (2) declaratory relief; (3) disgorgement; (4) job reinstatement; (5) costs or expenses incurred in accommodating any disabled person, pursuant to the Americans with Disabilities Act or 1990 (ADA), including amendments to that law or similar federal, state or local statutory or common law; (6) any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar relating to a **claim** or **suit** alleging discrimination or other **wrongful employment act**; or (7) other equitable remedies, including as to all of the above, the cost of compliance therewith; provided, however, if such request for non-monetary relief is part of an otherwise covered **claim** or **suit**, **we** will not seek to allocate **defense costs** for the portion of the **claim** or **suit** seeking non-monetary relief;

J. Certain Insureds

Any **claim** or **suit** brought by any **insured**. This exclusion, however, shall not apply to a **claim** or **suit** brought by an **employee** of the **insured**, other than an **employee** who is or was a director of the **insured**;

K. Prior Knowledge

Any liability arising out of incidents, circumstances or **wrongful employment acts**, which an **insured**, prior to the **original inception date** as shown in the Declarations, had knowledge or which an **insured** could have reasonably foreseen might result in a **claim** or **suit**;

L. Prior Notice

Any liability arising out of the facts alleged, or to the same or **related wrongful employment acts** alleged or contained in any **claim** or **suit** which has been reported, or in any circumstances of which notice has been given, under any policy of which this policy is a renewal or replacement or which it may succeed in time;

M. Securities Holder

Any **claim** or **suit** brought by a securities holder of the **insured** in their capacity as such, whether directly, derivatively on behalf of the **insured**, or by class action;

N. Outside Boards

Any liability arising out of any **insureds** serving in a capacity as a director, officer, trustee or governor of an entity, other than an **insured** entity.

SECTION III. WHO IS AN INSURED

A. Individual

If **you** are shown in the Declarations as an individual, **you** and **your** spouse are **insureds**, only for the conduct of a business of which **you** are the sole owner.

B. Corporation

If **you** are shown in the Declarations as a corporation or organization other than a partnership or joint venture, **you** and **your subsidiaries** are **insureds**.

C. Partnership or Joint Venture

If **you** are shown in the Declarations as a partnership or joint venture, **you** are an **insured**. **Your** partners or co-venturers and their spouses are also **insureds**, but only for the conduct of **your** business.

D. Employees

Your employees, executive officers and directors are **insureds**, only for the conduct of **your** business within the scope of their employment or their duties as executive officers or directors.

E. Extensions

1. Subject otherwise to the terms hereof, this policy shall cover **loss** arising from any **claims** or **suits** made against the estates, heirs, or legal representative of deceased individual **insureds**, and the legal representatives of individual **insureds**, in the event of incompetency, who were individual **insureds** at the time the **wrongful employment acts**, upon which such **claims** or **suits** are based, were committed.
2. Subject otherwise to the terms hereof, this policy shall cover **loss** arising from all **claims** and **suits** made against the lawful spouse (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) of an individual **insured**, including a **claim** or **suit** that seeks damages recoverable from marital community property, property jointly held by the individual **insured** and the spouse, or property transferred from the individual **insured** to the spouse; provided, however, that this extension shall not afford coverage for a **claim** or **suit** arising out of any **wrongful employment act** of the spouse, but shall apply only to **claims** or **suits** arising out of any **wrongful employment acts** of an individual **insured**, subject to the policy's terms, conditions and exclusions.

SECTION IV. COINSURANCE

It is an express condition of this insurance that on each and every **loss**, **you** are responsible to pay the percentage of coinsurance shown in the Declarations page, if any. Such coinsurance shall be carried at **your** own risk and remain uninsured. Coinsurance payments are included within the Limit of Liability. **We** will pay the remaining percentage of **loss** excess of the coinsurance and the deductible amount described in Section VI up to the Limit of Liability described in Section V.

SECTION V. LIMIT OF LIABILITY (including defense costs)

- A. The Aggregate Limit of Liability shown in the Declarations to this Policy and the information contained in this section limits the most **we** shall pay for all **loss** arising out of **claims** and **suits** first made against **insureds** during the **policy period** or Extended Reporting Period (if applicable), regardless of:
 1. the number of persons or organizations covered by this Policy; or
 2. the number of **claims** made or **suits** brought; or
 3. the length of the **policy period**.
- B. The Aggregate Limit of Liability is the most **we** shall pay for all **losses** covered under this Policy, including amounts incurred for **defense costs**.
- C. The Aggregate Limit of Liability for the Extended Reporting Period shall be part of, and not in addition to the Aggregate Limit of Liability for the **policy period**.
- D. Subject to the Aggregate Limit of Liability, each Wrongful Employment Act Limit is the most **we** shall pay for all **loss** that results from a single **wrongful employment act**.
- E. All **claims** and **suits** arising from the same or **related wrongful employment acts** shall be treated as arising out of a single **wrongful employment act**.

F. All **claims** or **suits** arising out of one **wrongful employment act** shall be deemed to be made on the date that the first such **claim** is made or **suit** is brought. All **claims** asserted in a **class action suit** will be treated as arising out of a single **wrongful employment act**.

G. Any **claim** or **suit** which is made subsequent to the **policy period** or Extended Reporting Period (if applicable) which, pursuant to Section VII, Clause E(3) and (4) is considered made during the **policy period** or Extended Reporting Period shall also be subject to the one Aggregate Limit of Liability stated in the Declarations.

SECTION VI. DEDUCTIBLE

You shall be responsible for the deductible amount shown in the Declarations with respect to each **claim** and **suit** and **you** may not insure against it. A single deductible amount shall apply to **loss** arising from all **claims** and **suits** alleging the same **wrongful employment act** or **related wrongful employment acts**. Expenses **we** incur in investigating, defending and settling **claims** and **suits** are included in the deductible. The deductible is not included within the Limit of Liability.

SECTION VII. 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.

A. Arbitration

Any controversy arising out of or relating to this Policy or its breach shall be settled by binding arbitration in accordance with the rules of the American Arbitration Association. The arbitration panel will consist of three (3) arbitrators. **You** will choose one of the arbitrators and one arbitrator will be chosen by **us**. Those two (2) arbitrators will then choose the third arbitrator. The arbitration will be held in either New York, New York or in the state indicated in the Declarations as the mailing address for the **named insured**. The **named insured** may elect either location.

The arbitrators shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. The arbitrators shall also give due consideration to the general principles of

the law of the state where the **named insured** is incorporated or formed in the construction or interpretation of the provisions of this policy; provided, however, that the terms, conditions, provisions and exclusions of this policy are to be construed in an even-handed fashion in the manner most consistent with the relevant terms, conditions, provisions or exclusions of the policy. The decision of the arbitrators shall be final and binding and provided to both parties. The arbitrators' award may make an award of compensatory damages, but may not award punitive, multiple or exemplary damages or attorneys fees or other costs.

You will bear the expense of the arbitrator chosen by **you**. **We** will bear the expense of the arbitrator chosen by **us**. The parties will share equally the expense of the arbitrator chosen jointly by the parties. The arbitration panel will allocate any remaining costs of the arbitration proceeding.

B. Assignment

The interest of any **insured** is not assignable. **You** cannot assign or transfer **your** interest in this Policy without **our** written consent attached to the Policy.

C. Bankruptcy or Insolvency

Your bankruptcy, insolvency or inability to pay, will not relieve **us** from the payment of any **claim** or **suit** covered by this Policy.

Under no circumstances will **your** bankruptcy, insolvency, or inability to pay require **us** to drop down, in any way replace, or assume any of **your** obligations with respect to the Deductible or Coinsurance provisions of this Policy.

D. Coverage Territory

We cover **wrongful employment acts** in the United States of America, its territories and possessions, Puerto Rico, or Canada, but only if the **claim** is made and the **suit** is brought for such **wrongful employment act** in the United States of America, its territories and possessions, Puerto Rico, or Canada.

E. Duties in the Event of an Incident, Claim or Suit

1. If, during the **policy period**, incidents or events occur which **you** reasonably believe may give rise to a **claim** or **suit** for which coverage may be provided hereunder, such belief being based

upon either written notice from the potential claimant or the potential claimant's representative; or notice of a complaint filed with EEOC, DOL or OFCCP (or similar federal, state or local agency); or upon a contemporaneously made memorandum of an oral **claim**, allegation or threat, **you** shall give written notice to **us** as soon as practicable and either:

- a. anytime during the **policy period** or the Extended Reporting Period (if applicable); or
 - b. within thirty (30) days after the end of the **policy period** or Extended Reporting Period (if applicable), as long as such **claim** or **suit** is reported no later than thirty (30) days after the date such **claim** or **suit** was first made against an **insured**.
2. If a **claim** is made or a **suit** is brought against any **insured**, **you** must:
- a. Immediately record the specifics of the **claim** or **suit** and the date received; and
 - b. Provide **us** with written notice, as described in subsection 3 below, as soon as practicable.
3. Such written notice of **claim** or **suit** shall contain:
- a. The identity of the person(s) alleging a **wrongful employment act**;
 - b. The identity of the **insured**(s) who allegedly were involved in the incidents or events;
 - c. The date the alleged incidents or events took place; and
 - d. The written notice or contemporaneously prepared memorandum referred to above.

If written notice is given to **us** during the **policy period** or Extended Reporting Period (if applicable), pursuant to the above requirements, then any **claim** or **suit** which is subsequently made against any **insureds** and reported to **us** alleging, arising out of, based upon or attributable to such circumstances or alleging any **related wrongful employment act** to such

circumstances, shall be considered made at the time such notice of such circumstances was first given.

4. If **you** submit written notice of a **claim** or **suit**, pursuant to this Clause E, then any **claim** or **suit** that may subsequently be made against an **insured** and reported to **us** alleging the same or a **related wrongful employment act** to the **claim** or **suit** for which such notice has been given shall be deemed, for the purpose of this insurance, to have been first made during the **policy period** in effect at the time such written notice was first submitted to **us**.
 5. **You** and any other **insured** must:
 - a. Immediately send **us** copies of any demands, notices, summonses or legal papers received in connection with any **claim** or **suit**;
 - b. Authorize **us** to obtain records and other information;
 - c. Cooperate with **us** in the investigation, settlement or defense of the **claim** or **suit**;
 - d. Assist **us**, upon **our** request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of injury or damage to which this insurance may also apply;
 - e. Take no action, or fail to take any required action, that prejudices the rights of the **insureds** or **us** with respect to such **claim** or **suit**.
 6. No **insureds** will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without **our** prior written consent.
- F. **Transfer of Rights of Recovery Against Others to Us**

You may be able to recover all or part of a **loss** from someone other than **us**. **You**, therefore, shall do all that is possible after a **loss** to preserve any such right of recovery. If **we** make a payment under this Policy, that right of recovery shall belong to **us**. **You** shall do whatever is necessary, including signing documents, to help **us** obtain that recovery.

G. Extended Reporting Period

1. Except as indicated below, if **you** shall cancel or **you** or **we** shall refuse to renew this Policy, **you** shall have the right to buy an Extended Reporting Period Endorsement, providing an Extended Reporting Period of one, two or three (1, 2 or 3) years, following the effective date of the cancellation or nonrenewal upon payment of the respective Additional Premium Amount described below, in which to give **us** written notice of **claims** first made or **suits** first brought against the **insureds** during said Extended Reporting Period for **any wrongful employment acts** which take place after the **original inception date** and before the end of the **policy period** and are otherwise covered by this Policy.

To obtain an Extended Reporting Period Endorsement, **you** must request it in writing and pay the additional premium due, within thirty (30) days of the effective date of cancellation or nonrenewal.

The Additional Premium Amount for: (1) one year shall be 75% of the full annual premium; (2) two years shall be 150% of the full annual premium; (3) three years shall be 200% of the full annual premium.

2. Notwithstanding Clause C of Section V and except as indicated below, if either **we** or **you** shall give notice of an intention to cancel or nonrenew this Policy, then **you** shall also have the right, within thirty (30) days before the end of the **policy period**, to request an offer from **us** of an Extended Reporting Period Endorsement (with respect to **wrongful employment acts** which take place after the **original inception date** and before the end of the **policy period**) for a period of one, two or three (1, 2 or 3) years with an aggregate limit of liability applicable to **claims** and **suits** made against **you** during such Extended Reporting Period, which is in addition to, and not part of, the applicable Aggregate Limit of Liability set forth in the Declarations. **We** shall quote such an Extended Reporting Period, pursuant to such terms, conditions, exclusions and additional premium, as we deem appropriate in our sole and absolute discretion.
3. The Extended Reporting Period Endorsement cannot be canceled, except for nonpayment of

premium. The additional premium for the Extended Reporting Period shall be fully earned at the inception of the Extended Reporting Period. If **we** do not receive the written request as required, **you** may not exercise this right at a later date.

4. This insurance, provided during the Extended Reporting Period, is excess over any other valid and collectible insurance that begins or continues in effect after the Extended Reporting Period Endorsement becomes effective, whether the other insurance applies on a primary, excess, contingent, or any other basis.
5. This Clause G and the rights contained herein shall not apply to any cancellation resulting from non-payment of premium.
6. In the event of a Transaction, as defined in Clause H below, the **named insured** shall have the right, within thirty (30) days before the end of the **policy period**, to request an offer from **us** of an Extended Reporting Period (with respect to **wrongful employment acts** which take place after the **original inception date** and prior to the end of the **policy period**) for a period of no less than three years or for such longer or shorter period as the **named insured** may request. We shall offer such Extended Reporting Period pursuant to such terms, conditions, and premium as we may reasonably decide. In the event of a Transaction, the right to an Extended Reporting Period shall not otherwise exist except as indicated in this paragraph.

H. Change in Control of Named Insured

If during the **policy period**:

- a. the **named insured** shall consolidate with or merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or
- b. any person or entity or group of persons or entities acting in concert shall acquire an amount of the outstanding securities representing more than 50% of the voting power for the election of

directors or General Partners of the **named insured** (in the event the **named insured** is a Partnership), or acquires the voting rights of such an amount of such securities; or

- c. a General Partner of the **named insured** (in the event the **named insured** is a partnership) withdraws, resigns or is terminated;

(any of the above events herein referred to as the "Transaction"),

then this policy shall continue in full force and effect as to **wrongful employment acts** occurring after the **original inception date** and prior to the effective time of the Transaction, but there shall be no coverage afforded by any provision of this policy for any actual or alleged **wrongful employment acts** occurring after the effective time of the Transaction. This policy may not be canceled after the effective time of the Transaction and the entire premium for this policy shall be deemed earned as of such time. **You** shall also have the right to an offer by **us** of an Extended Reporting Period described in Clause G of the policy.

You shall give **us** written notice of the Transaction as soon as practicable, but not later than 30 days after the effective date of the Transaction.

I. Legal Action Against Us

No person or organization has the right to join **us** as a party or otherwise bring **us** into a **suit** asking for damages from an **insured**.

J. Multiple Policies

- 1. Two or more policies may be issued by **us** or any other member company of American International Group, Inc. (AIG). These policies may provide coverage for:
 - a. **Claims** or **suits** arising from the same or **related wrongful employment acts**; or

- b. Persons or organizations covered in those policies that are jointly and severally liable.
- 2. In such a case, **we** shall not be liable under this Policy for an amount greater than the proportion of the **loss** that this Policy's applicable Limit of Liability bears to the total applicable Limits of Liability under all such policies.

In addition, the total amount payable under all such policies, in connection with a **claim** or **suit** covered, in part or in whole, by this Policy and such other AIG insurance policy(ies) is the highest applicable Limit of Liability among all such policies.

K. 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:

1. Primary Insurance

If this insurance is primary, **our** obligations are not affected unless any of the other insurance is also primary. Then, **we** will be excess over that other insurance.

2. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent, or on any other basis, that is:

- a. Effective prior to the beginning of the **policy period** shown in the Declarations of this insurance;
- b. Applies on other than a claims-made basis; and
- c. Has a **policy period**, which commences or continues after the **original inception date**, shown in the Declarations of this Policy.

3. Leased Employee

In the event of a **claim** or a **suit** against a leased **employee** as described in definition E, coverage as is afforded by this policy shall be specifically excess of indemnification provided by such leasing company and any insurance provided to such leasing company.

When this insurance is excess, **we** shall have no duty under this Policy to defend any **claim** or **suit** that any other insurer has a duty to defend. If no other insurer defends, **we** shall undertake to do so, subject to the terms, conditions and exclusions of this policy, 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; and
- b. The total of all deductible and self-insured amounts under all other insurance.

We shall share the remaining **loss**, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Liability shown in the Declarations.

L. Policy Changes

This Policy contains all the agreements between **you** and **us** concerning this insurance. The first **named insured** in the Declarations is authorized to request changes in this Policy. This Policy can only be changed by a written endorsement **we** issue and make part of this Policy.

M. Representations

1. By accepting this Policy, **you** agree that the statements in the Application and Declarations are true, and that they are **your** agreements and representations.
2. Each **insured** agrees that this Policy is issued in reliance upon the truth of those representations.
3. Any and all relevant provisions may be voidable by **us** in any case of fraud, intentional concealment, or misrepresentation of material fact by any **insured**.

N. Special Rights and Duties of the Named Insured

You agree that when there is more than one person and/or entity covered under this Policy, the **named**

insured in the Declarations shall act on behalf of all **insureds** as to:

1. Giving of notice of a **claim** or **suit**;
2. Giving and receiving notice of cancellation or nonrenewal;
3. Payment of premiums and receipt of return premiums;
4. Acceptance of any endorsements issued to form a part of this Policy; or
5. Purchasing or deciding not to purchase the Extended Reporting Period Endorsement.

O. Headings

The descriptions in the headings of this policy are solely for convenience, and form no part of the terms and conditions of coverage.

SECTION VIII. CANCELLATION/NONRENEWAL

- A. The first **named insured** shown in the Declarations may cancel this Policy by mailing or delivering to **us** advance written notice of cancellation.
- B. **We** may cancel this Policy by mailing or delivering to the first **named insured** written notice of cancellation at least:
 1. Ten (10) days before the effective date of cancellation if **we** cancel for nonpayment of premium; or
 2. Thirty (30) days before the effective date of cancellation if **we** cancel for any other reason.
- C. **We** will mail or deliver **our** notice to the first **named insured's** address shown in the Declarations.
- D. Notice of cancellation will state the effective date of cancellation. The **policy period** will end on that date.
- E. If this Policy is canceled, **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, **we** shall retain the customary short rate proportion of the premium

herein. The cancellation will be effective even if **we** have not made or offered a refund.

- F. The Policy cannot be canceled by either party after the premium for an Extended Reporting Period is paid.
- G. If notice is mailed, proof of mailing will be sufficient proof of notice.
- H. If the period of limitations relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitations permitted by such law.

SECTION IX. DEFINITIONS

- A. **Bodily injury** means physical injury, sickness, or disease, including death resulting therefrom.
- B. **Claim** means a written demand for money. The term **claim** shall also mean an Equal Employment Opportunity Commission ("EEOC"), Department of Labor ("DOL") or Office of Federal Contract Compliance Program ("OFCCP") (or similar federal, state or local agency) proceeding or investigation commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to **you**. However, in no event, shall the term **claim** include any labor or grievance proceeding, which is subject to a collective bargaining agreement.
- C. **Class Action Suit** means any suit seeking certification or certified as a class action by a federal or state court.
- D. **Defense Costs** means reasonable and necessary fees, costs and expenses consented to by **us** resulting solely from the investigation, adjustment, defense and appeal of a **claim** or **suit** against **you**.
- E. **Employee** means an individual whose labor or service is engaged by and directed by **you** for remuneration, whether such individual is in a supervisory, co-worker or subordinate position or otherwise, including any part-time, seasonal, and temporary **employees**. Independent contractors and individuals who are leased to the **insured** are not **employees**; however, **insureds** are covered for

liability arising from **wrongful employment acts** of independent contractors and such leased individuals.

- F. **Loss(es)** means damages (including front pay and back pay), judgments, settlements, pre- and post-judgment interest on that part of any judgment paid by **us**, statutory attorney fees, and **defense costs**; however, **loss** shall not include: (1) civil or criminal fines or penalties imposed by law; (2) punitive or exemplary damages; (3) the multiplied portion of multiplied damages; (4) taxes; (5) any amount for which the **insureds** are not financially liable or which are without legal recourse to the **insureds**; (6) employment related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation; or (7) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.
- G. **Named Insured** means the person or organization designated in the Declarations page.
- H. **Original inception date** refers to the date specified in the Declarations. It is normally the date of your first Employment Practices Insurance Policy issued by **us**.
- I. **Policy Period** means the period commencing on the effective date shown in the Declarations. This period ends on the earlier of the expiration date or the effective date of cancellation of this Policy. If **you** became an **insured** under this Policy after the effective date, the **policy period** begins on the date **you** became an **insured**.
- J. **Property Damage** means physical injury to, or destruction of, tangible property including the loss of use of thereof, or loss of use of tangible property, which has not been physically injured or destroyed.
- K. **Related Wrongful Employment Act(s)** means **wrongful employment acts** which are the same, related or continuous, or **wrongful employment acts** which arise from a common nucleus of facts. **Claims** or **suits** can allege **related wrongful employment acts**, regardless of whether such **claims** or **suits** involve the same or different claimants, **insureds** or legal causes of actions.
- L. **Retaliation** means a **wrongful employment act** of an **insured** alleged to be in response to, the actual or attempted exercise by an **employee** of any right that

such **employee** has under the law. Provided, however, **retaliation** shall not include the **wrongful employment act** of an **insured** alleged to be in response to the threat of or the actual filing of any claim or suit under the Federal False Claims Act or any other federal state, local or foreign **whistleblower law**.

In all events, coverage as is afforded under this policy with respect to a **claim** made or **suit** brought against any **subsidiary** or an **insured** of any **subsidiary**, shall only apply to **wrongful employment act(s)** commenced or allegedly commenced after the effective time that such **subsidiary** became a **subsidiary**, and prior to the time that such **subsidiary** ceased to be a **subsidiary**.

M. Subsidiary means:

1. any for-profit organization which, on or before the inception of the **policy period**, is more than 50% owned by the **named insured**, either directly or indirectly through one or more of its **subsidiaries**;
2. automatically any for-profit organization whose assets total less than 10% of the total consolidated assets of the **named insured** and its **subsidiaries**, as of the inception date of this policy, and which becomes a **subsidiary** during the **policy period**, provided that the **named insured** provides the **insurer** with full particulars of the new **subsidiary** before the end of the **policy period**; or
3. a for-profit organization which becomes a **subsidiary** during the **policy period** (other than a for-profit organization described in paragraph (2) above), but only upon the condition that within 90 days of its becoming a **subsidiary**, the **named insured** shall have provided the **insurer** with full particulars of the new **subsidiary** and agreed to any additional premium or amendment of the provisions of this policy required by the **insurer** relating to such new **subsidiary**. Further, coverage as shall be afforded to the new **subsidiary** is conditioned upon the **named insured** paying when due any additional premium required by the **insurer** relating to such new **subsidiary**.

An organization becomes a **subsidiary** when the **named insured** owns more than 50% ownership interest in such **subsidiary**, either directly, or indirectly through one or more of its **subsidiaries**. An organization ceases to be a **subsidiary** when the **named insured** ceases to own more than a 50% ownership in such **subsidiary**, either directly, or indirectly through one or more of its **subsidiaries**.

N. Suit means a civil proceeding or an administrative proceeding seeking money damages, and includes an arbitration, mediation or any other alternative dispute resolution procedure seeking such damages, to which the **insured** must submit or may submit with **our** consent. **Suit** shall not include any civil proceeding or administrative proceeding arising from any labor or grievance dispute which is subject to a collective bargaining agreement.

O. Whistleblower law means: a statute, rule or regulation, which protects an employee against discrimination from his or her employer, if the employee discloses or threatens to disclose to a superior or any governmental agency; or who gives testimony relating to, any action with respect to the employer's operations, which may be a violation of public policy as reflected in legislation, administrative rules, regulations or decisions, judicial decisions, and professional codes of ethics.

P. Wrongful Employment Act(s) means any actual or alleged:

1. wrongful dismissal, discharge or termination (either actual or constructive), including breach of an implied contract;
2. harassment (including sexual harassment, whether "quid pro quo", hostile work environment or otherwise);
3. discrimination (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability);
4. **retaliation** (including lockouts);
5. employment-related misrepresentation(s) to **your employee** or applicant for employment with **you**;

- 6. employment-related libel, slander, humiliation, mental anguish, infliction of emotional distress, defamation, or invasion of privacy;
- 7. wrongful failure to employ or promote;
- 8. wrongful deprivation of career opportunity, wrongful demotion or negligent **employee** evaluation, including the giving of negative or defamatory statements in connection with an **employee** reference;
- 9. wrongful discipline;
- 10. failure to grant tenure;
- 11. failure to provide or enforce adequate or consistent corporate policies and procedures relating to any **wrongful employment act**;
- 12. negligent supervision or hiring by an **insured**, relating to any of the above;
- 13. violation of an individual's civil rights relating to any of the above.

IN WITNESS WHEREOF, the Insurer has caused this policy to be signed by its President and a Secretary on the Declarations page and signed by a duly authorized representative of the Insurer.

PRESIDENT

SECRETARY

AUTHORIZED REPRESENTATIVE

COUNTERSIGNATURE DATE

COUNTERSIGNATURE AT