



**INVESTMENT ADVISER AND INVESTMENT COMPANY
PROFESSIONAL LIABILITY AND DIRECTORS AND OFFICERS LIABILITY INSURANCE**

DECLARATIONS

POLICY NUMBER

RENEWAL OF

NOTICE: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THE COVERAGE OF THIS POLICY IS LIMITED GENERALLY TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSUREDS AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE THEREUNDER WITH YOUR INSURANCE AGENT OR BROKER.

NOTICE: THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED FOR LEGAL DEFENSE. AMOUNTS INCURRED FOR LEGAL DEFENSE SHALL BE APPLIED AGAINST THE RETENTION AMOUNT.

NOTICE: THE COMPANY DOES NOT ASSUME ANY DUTY TO DEFEND. THE COMPANY IS NOT REQUIRED TO ADVANCE DEFENSE COSTS PRIOR TO THE FINAL DISPOSITION OF THE CLAIM.

ITEM 1. NAMED INSURED:

Broker Code, Name, and Address

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ITEM 2. POLICY PERIOD:

INCEPTION DATE: _____ EXPIRATION DATE: _____
(12:01 A.M. Standard Time at the address stated in ITEM 1.)

RETROACTIVE DATE (if any): _____

ITEM 3. LIMIT OF LIABILITY:

\$ _____ in the aggregate each **POLICY PERIOD**, and for all **INSURING AGREEMENTS** including **DEFENSE COSTS**

ITEM 4. RETENTION:

A. \$ _____ each **CLAIM**, including **DEFENSE COSTS**, for each unindemnifiable **DIRECTOR** and/or **OFFICER** or employee subject to 4.B. below. (**INSURING AGREEMENT I. A.**)

B. \$ _____ in the aggregate each **CLAIM**, including **DEFENSE COSTS**, for all unindemnifiable **DIRECTORS** and/or **OFFICERS**. (**INSURING AGREEMENT I. A.**)

C. \$ _____ each **CLAIM**, including **DEFENSE COSTS**, with respect to **NAMED INSURED REIMBURSEMENT**. (**INSURING AGREEMENT I. B.**)

D. \$ _____ each **CLAIM**, including **DEFENSE COSTS**, with respect to the **NAMED INSURED(S)** listed in ITEM 1. of the **DECLARATIONS**. (**INSURING AGREEMENT I. C.**)

ITEM 5. PREMIUM: \$ _____

ITEM 6. ENDORSEMENT(S) EFFECTIVE AS OF THE POLICY INCEPTION DATE:

This Declarations page, together with the completed and signed application and the Investment Adviser and Investment Company Professional Liability Insurance Policy, shall constitute the contract between (1) the **NAMED INSURED(S)** and (2) the **DIRECTORS AND OFFICERS** and the Company.

COUNTERSIGNED BY: _____

EO 00 R017 00 0694

Authorized Representative

Date

INVESTMENT ADVISER AND INVESTMENT COMPANY PROFESSIONAL LIABILITY AND DIRECTORS AND OFFICERS LIABILITY POLICY

In consideration of the payment of the premium as set forth in Item 5. of the Declarations and the Retention as set forth in Item 4. of the Declarations, in reliance upon the statements in the Application and any materials attached therewith, and the Declarations attached hereto and made a part hereof, and subject to the Limit of Liability stated in Item 3. of the Declarations and to the terms and conditions contained herein, the Company issuing this policy, (hereinafter the "Company") agrees as follows:

I. INSURING AGREEMENTS

A. DIRECTORS AND OFFICERS LIABILITY

The Company shall pay on behalf of **DIRECTORS** and/or **OFFICERS** all **LOSS** resulting from a **CLAIM** first made against said **DIRECTORS** and/or **OFFICERS** individually or collectively, during the **POLICY PERIOD** and reported in writing to the Company as soon as practicable, but no later than sixty (60) days after said **CLAIM** is first made, provided always that said **CLAIM** arises from a **WRONGFUL ACT** committed or alleged to have been committed by said **DIRECTORS** and/or **OFFICERS** during or prior to the **POLICY PERIOD**, and after the Retroactive Date, if any, indicated in Item 2. of the Declarations.

B. NAMED INSURED REIMBURSEMENT OF DIRECTORS AND OFFICERS LIABILITY

The Company shall pay on behalf of a **NAMED INSURED** all **LOSS** which the **NAMED INSURED**, to the extent permitted or required by law, has indemnified **DIRECTORS** and/or **OFFICERS** for their liability as a result of a **CLAIM** first made against said **DIRECTORS** and/or **OFFICERS** during the **POLICY PERIOD** and reported in writing to the Company as soon as practicable, but no later than sixty (60) days after said **CLAIM** is first made, provided always that said **CLAIM** arises from a **WRONGFUL ACT** committed or alleged to have been committed by said **DIRECTORS** and/or **OFFICERS** during or prior to the **POLICY PERIOD**, and after the Retroactive Date, if any, indicated in Item 2. of the Declarations.

C. INVESTMENT ADVISER AND INVESTMENT COMPANY PROFESSIONAL LIABILITY

The Company shall pay on behalf of an **INSURED** all **LOSS** resulting from a **CLAIM** first made against an **INSURED** during the **POLICY PERIOD** and reported in writing to the Company as soon as practicable, but no later than sixty (60) days after said **CLAIM** is first made, provided always that said **CLAIM** arises from the actual or alleged rendering of or failure to render **PROFESSIONAL SERVICES** by an **INSURED** or by any other person for whose actions a **NAMED INSURED** is legally liable, provided further that said **PROFESSIONAL SERVICES** occur or are alleged to occur during or prior to the **POLICY PERIOD**, and after the Retroactive Date, if any, indicated in Item 2. of the Declarations.

D. RETENTION AND LIMIT OF LIABILITY

Any **LOSS** payable under this policy shall be in excess of the applicable Retention set forth in Item 4. of the Declarations and subject to the available aggregate **LIMIT OF LIABILITY** set forth in Item 3. of the Declarations.

II. DEFINITIONS

- A. **CLAIM** means 1) any judicial or administrative proceeding that is filed against an **INSURED** and/or **DIRECTORS** and/or **OFFICERS** in any state or federal court or administrative agency and in which such **INSURED** and/or **DIRECTORS** and/or **OFFICERS** could be subject to a binding adjudication of liability for **LOSS** arising from a **WRONGFUL ACT** and/or the rendering of or failure to render **PROFESSIONAL SERVICES**, or 2) a written demand from one (1) or more parties alleging that an **INSURED** and/or **DIRECTORS** and/or **OFFICERS** should have liability to such parties for **LOSS** arising from a **WRONGFUL ACT** and/or the rendering of or failure to render **PROFESSIONAL SERVICES**.

A **CLAIM** shall be deemed to have been first made on the date that a summons or similar document is first served upon any **INSURED** and/or **DIRECTORS** and/or **OFFICERS** or on the date that any **INSURED** and/or **DIRECTORS** and/or **OFFICERS** first received a written demand as outlined above, whichever date first occurs.

- B. **DEFENSE COSTS** means that part of **LOSS** consisting of all reasonable and necessary fees, costs, post-judgment and pre-judgment interest, expenses, and attorney fees incurred in the investigation, adjustment, and/or defense of a **CLAIM** made against an **INSURED** and/or **DIRECTORS** and/or **OFFICERS** or appeals therefrom including the cost of attachment or similar bonds without any obligation upon the Company to apply for or furnish such bonds.

- C. **DIRECTORS** and/or **OFFICERS** means any person who was, now is, or becomes a duly elected **DIRECTOR** or duly elected or appointed **OFFICER** of a **NAMED INSURED**, holding any of the officer positions created by the charter or bylaws of a **NAMED INSURED**.

- D. **INSURED** means the **NAMED INSURED** and any past, present, or future employees of the **NAMED INSURED**. **INSURED** shall also include **DIRECTORS**, **OFFICERS**, partners or trustees of the **NAMED INSURED**, but only to the extent a **CLAIM** is made against them arising from the actual or alleged rendering or a failure to render **PROFESSIONAL SERVICES**.

- E. **INSURED INDIVIDUAL** shall mean any natural person who is an **INSURED** as defined in this policy.

- F. **INVESTMENT ADVISER** means an **INSURED** who is a registered Investment Adviser as defined in the Investment Advisers Act of 1940 and for compensation, engages in the business of rendering financial, economic, and/or investment advice and/or investment management services pursuant to a written contract defining the scope of such advice and/or services and the compensation to be paid therefor.

- G. **INVESTMENT COMPANY** means a **NAMED INSURED** engaged in the operations of an **INVESTMENT COMPANY** as defined in the Investment Company Act of 1940.

- H. **LOSS** shall mean the amount which the **DIRECTORS** and/or **OFFICERS**, and/or an **INSURED** becomes legally obligated to pay, or which the **NAMED INSURED** indemnifies the **DIRECTORS** and/or **OFFICERS** as a result of their legal obligation to pay and to the extent required or permitted by law, and which results from a **CLAIM** for a **WRONGFUL ACT** and/or the rendering of or failure to render **PROFESSIONAL SERVICES**.

LOSS shall include compensatory damages, awards, judgments, settlements, and **DEFENSE COSTS**. However, **LOSS** shall not include salaries, wages, overhead, fees, or benefit expenses associated with any **DIRECTOR** and/or **OFFICER** or **INSURED INDIVIDUAL**. **LOSS** also shall not include punitive, exemplary, trebled, or other multiplied damages, fines, taxes or penalties, or any matter deemed uninsurable under the law pursuant to which this **POLICY** shall be construed.

- I. **NAMED INSURED** means an entity identified in Item 1. of the Declarations.

- J. **POLICY PERIOD** means the period of time from the Inception date of this policy as set forth in Item 2. of the Declarations to the earlier of 1) the Expiration date as set forth in Item 2. of the Declarations, or 2) the effective date of cancellation or termination of the policy.
- K. **PROFESSIONAL SERVICES** means the rendering of financial, economic and/or investment advice and/or investment management services in the capacity of an **INVESTMENT ADVISER** and/or services rendered in connection with the operation of an **INVESTMENT COMPANY**.
- L. **WRONGFUL ACT** shall mean any actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty by the **DIRECTORS** and/or **OFFICERS** in the discharge of their duties, individually or collectively, or any matter claimed against them solely by reason of their being **DIRECTORS** and/or **OFFICERS** of a **NAMED INSURED**.

III. EXCLUSIONS

The Company shall not be liable to make any payment for **LOSS** in connection with any **CLAIM** made against an **INSURED** and/or **DIRECTOR** and/or **OFFICER** for, based upon, arising from, attributable to, in connection with, or in any way related to:

- A. any fraud, dishonesty, criminal or malicious acts or omissions on the part of an **INSURED** and/or **DIRECTOR** and/or **OFFICER**, if established in fact.
- B. any actual or alleged libel, slander, bodily injury, sickness, disease, mental anguish, emotional distress, or death of any person; or damage to or destruction of any property including loss of use thereof.
- C. the inability by any bank or banking firm or broker and/or dealer in securities or commodities to make any payment or settle or effect any transaction of any kind.
- D. any **WRONGFUL ACT** and/or the rendering of or failure to render **PROFESSIONAL SERVICES** arising prior to the policy inception date as indicated in Item 2. of the Declarations or the inception date of any prior policy of which this policy is a renewal or subsequent renewal of such policy, if on or before such date an **INSURED** and/or **DIRECTOR** and/or **OFFICER** knew or could have reasonably foreseen that such **WRONGFUL ACT** and/or the rendering of or failure to render **PROFESSIONAL SERVICES** could lead to a **CLAIM**.
- E. any pension or employee benefit plan or trust sponsored or established by a **NAMED INSURED** for the benefit of the **DIRECTORS**, **OFFICERS**, partners, trustees, and/or employees of such **NAMED INSURED**.
- F. disputes as to fees and other compensation including but not limited to brokerage fees, or commissions, or investment management fees.
- G. any actual conflict of interest or the gaining in fact of any profit or advantage to which an **INSURED** and/or **DIRECTOR** and/or **OFFICER** is not legally entitled.
- H. any such **CLAIM** brought by or on behalf of an **INSURED** and/or **DIRECTOR** and/or **OFFICER** under this policy against another **INSURED** and/or **DIRECTOR** and/or **OFFICER**. However, this exclusion shall not apply to any **CLAIM** brought derivatively by a shareholder of a **NAMED INSURED** against another **INSURED** and/or **DIRECTOR** and/or **OFFICER**, provided always such shareholder is not a **DIRECTOR**, **OFFICER**, partner, trustee, and/or employee of any **NAMED INSURED**. Furthermore, this exclusion shall not apply to a **CLAIM** brought by a **NAMED INSURED** against another **INSURED** and/or **DIRECTOR** and/or **OFFICER** where, in the opinion of independent counsel selected by and at the expense of the **NAMED INSURED** making such **CLAIM**, failure to make such **CLAIM** would result in direct liability upon

the **NAMED INSURED** making the **CLAIM**. Selection of the aforementioned independent counsel shall be subject to approval by the Company which approval shall not be unreasonably withheld by the Company.

Additionally this exclusion shall not apply to any **CLAIM** brought by an **INSURED** and/or **DIRECTOR** and/or **OFFICER** alleging wrongful termination of employment.

- I. an **INSURED** and/or **DIRECTOR** and/or **OFFICER** acting in the capacity as a **DIRECTOR, OFFICER, partner, trustee, and/or employee** of any entity other than a **NAMED INSURED**, even if such action is at the direction or request of an **INSURED** and/or **DIRECTOR** and/or **OFFICER** unless this policy has been specifically endorsed to provide such coverage.
- J. the rendering of financial, economic, or investment advice and/or investment management services to any entity involved in any aspect of corporate mergers, acquisitions, restructurings, divestitures, issuance of securities, investment banking, underwriting, broker and/or dealer, and/or syndication activities.
- K. the purchase or sale of securities for which the **INSURED** and/or **DIRECTOR** and/or **OFFICER** received commission or other remuneration or where the **INSURED** and/or **DIRECTOR** and/or **OFFICER** had an equity interest in the issuer of such securities.

NOTE: For the purposes of determining the applicability of EXCLUSIONS A and C enumerated above, the acts of any one (1) **INSURED** and/or **DIRECTOR** and/or **OFFICER** shall not be imputed to any other **INSURED** and/or **DIRECTOR** and/or **OFFICER**.

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IV. LIMIT OF LIABILITY

- A. The **LIMIT OF LIABILITY** stated in Item 3. of the Declarations shall be the total aggregate limit of the Company's liability for all amounts payable under this policy under any or all Insuring Agreements stated in Section I. of this Policy as **LOSS** regardless of the number of **CLAIMS**, claimants, **WRONGFUL ACTS** and/or **PROFESSIONAL SERVICES, INSURED** and/or **DIRECTORS** and/or **OFFICERS**, and/or **INSURING AGREEMENTS** at issue.
- B. Any **CLAIMS** based upon, arising out of, attributable to, in connection with, or in any manner relating to interrelated and/or related **WRONGFUL ACTS** and/or the rendering of or failure to render **PROFESSIONAL SERVICES** shall be considered a single **CLAIM**. All such related **CLAIMS** shall be deemed first made within the **POLICY PERIOD** or the **EXTENDED REPORTING PERIOD** in which the earliest of such **CLAIMS** was first made and reported to the Company, and the aggregate Limit of Liability then in effect shall be applicable to all such related **CLAIMS**.

The term interrelated and/or related **WRONGFUL ACTS** and/or the rendering of or failure to render **PROFESSIONAL SERVICES**, shall mean those **WRONGFUL ACTS** and/or the rendering of or failure to render **PROFESSIONAL SERVICES** which have as a common nexus any fact, circumstance, situation, event, transaction, or series of facts, circumstances, situations, events, and/or transactions. Such interrelated and/or related **WRONGFUL ACTS** and/or the rendering of or failure to render **PROFESSIONAL SERVICES** whenever occurring shall be considered as one (1) **WRONGFUL ACT** and/or the rendering of or failure to render **PROFESSIONAL SERVICES**.

- C. The aggregate **LIMIT OF LIABILITY** for the **EXTENDED REPORTING PERIOD** (if applicable) shall be part of and not in addition to the aggregate **LIMIT OF LIABILITY** for the **POLICY PERIOD**.
- D. **DEFENSE COSTS** as well as all other amounts payable hereunder as **LOSS** are subject to the applicable **LIMIT OF LIABILITY**. In the event that the Company assumes the defense of a **CLAIM**

pursuant to Section VI. of this policy, any **DEFENSE COSTS** incurred, regardless of whether incurred prior or subsequent to the Company assuming the defense, shall be included in and not in addition to the **LIMIT OF LIABILITY**. Subject to all of the terms, conditions, and provisions of this policy, **LOSS** payments shall be first allocated to **DEFENSE COSTS** and the remainder of the **LIMIT OF LIABILITY**, if any, shall then be available for the payment of any other items of **LOSS**.

V. RETENTION

- A. The Company shall only be liable for those amounts payable hereunder as **LOSS** which are in excess of the applicable Retention stated in Item 4. of the Declarations. The Retention amount(s) shall apply to each **CLAIM** and shall be borne by the **INSURED** and/or **DIRECTORS** and/or **OFFICERS** and remain uninsured.
- B. In no event shall the total amount of Retention applicable to a single **CLAIM** exceed the Retention amount shown in Item 4.D of the Declarations.
- C. If a **NAMED INSURED** is permitted or required by law to ultimately indemnify a **DIRECTOR** and/or **OFFICER** or to advance **DEFENSE COSTS** on his or her behalf and does not in fact do so, then the Company shall pay all **LOSS** on behalf of such **DIRECTOR** and/or **OFFICER** subject to the Retention amount set forth in Item 4.C. of the Declarations and all provisions, terms, and conditions of this policy.

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VI. DEFENSE COSTS

- A. The duty to defend a **CLAIM** made against an **INSURED** and/or **DIRECTORS** and/or **OFFICERS** shall rest solely with and be the responsibility of the **INSURED** and/or **DIRECTORS** and/or **OFFICERS**. The Company shall have the right, but not the duty, to associate with an **INSURED** and/or **DIRECTORS** and/or **OFFICERS** or to assume entirely the investigation, defense, and/or settlement of a **CLAIM**.
- B. The **INSURED** and/or **DIRECTORS** and/or **OFFICERS** shall not incur any **DEFENSE COSTS**, settle, and/or admit any liability for a **CLAIM** without the prior written consent of the Company. Such consent by the Company shall not be unreasonably withheld. The Company shall not be held liable for payment of any **LOSS** to which the Company has not consented.

VII. SETTLEMENT AND REFUSAL TO CONSENT

- A. The Company shall have the right, at any time and in its sole discretion, to communicate with any claimant with regard to a **CLAIM** under the policy in order to elicit and to negotiate a settlement proposal.
- B. If an **INSURED** and/or **DIRECTOR** and/or **OFFICER** refuses to consent to any settlement recommended by the Company and acceptable to the claimant, the Company shall cease to associate in or assume any defense of the **INSURED** and/or **DIRECTOR** and/or **OFFICER** and the **INSURED** and/or **DIRECTOR** and/or **OFFICER** shall thereafter at its own expense negotiate or defend the **CLAIM** independently of the Company. In the event of such refusal, the Company's liability shall not exceed the amount of **LOSS** for which the **CLAIM** could have been settled if the Company's recommendation had been consented to by the **INSURED** and/or **DIRECTOR** and/or **OFFICER**.

VIII. NOTICE OF CLAIM

- A. Notice of **CLAIM** hereunder shall be given in writing to the Company at *77 Water Street, New York, New York 10005, Attn: Financial Products Claims Department.*

The date of receipt of such notice shall constitute the date such notice was reported to the Company, and proof of receipt shall be sufficient proof of notice.

- B. If during the **POLICY PERIOD** or the **EXTENDED REPORTING PERIOD** (if applicable) written notice of a **CLAIM** has been given to the Company pursuant to the terms and conditions of this policy, then any subsequent **CLAIMS** made against an **INSURED** and/or **DIRECTOR** and/or **OFFICER** and reported to the Company alleging, based upon, arising out of, attributable to, or in any manner relating to the facts and/or circumstances alleged in such noticed initial **CLAIM**, shall be considered all one (1) **CLAIM** reported at the time the initial **CLAIM** was reported to the Company. The **LIMIT OF LIABILITY** available at the time such initial **CLAIM** was reported shall be the **LIMIT OF LIABILITY** applicable to any such subsequent **CLAIMS**.
- C. If during the **POLICY PERIOD** an **INSURED** and/or **DIRECTOR** and/or **OFFICER** shall become aware of any fact and/or circumstance which may reasonably be expected to give rise to a **CLAIM**, and provided the **INSURED** and/or **DIRECTOR** and/or **OFFICER** has given written notice to the Company of the reasons for anticipating such **CLAIM**, with full particulars as to dates and persons involved and the nature of the **WRONGFUL ACTS** and/or rendering of or failure to render **PROFESSIONAL SERVICES** that may be alleged, then any **CLAIM** subsequently made against the **INSURED** and/or **DIRECTOR** and/or **OFFICER** based upon, arising out of, or attributable to such noticed fact or circumstance shall be deemed to be a **CLAIM** made during the **POLICY PERIOD**.

IX. EXTENDED REPORTING PERIOD

- A. If the Company cancels or refuses to renew this policy, the **NAMED INSURED** first named in Item 1. of the Declarations shall have the right to elect, upon payment of an additional premium equal to not more than a seventy five percent (75%) of the total annual premium shown in Item 5. of the Declarations, an **EXTENDED REPORTING PERIOD**. Such **EXTENDED REPORTING PERIOD** shall be a period of twelve (12) months commencing on the effective date of such cancellation or nonrenewal. During such **EXTENDED REPORTING PERIOD**, an **INSURED** and/or **DIRECTOR** and/or **OFFICER** may give written notice to the Company of any **CLAIM** first made against an **INSURED** and/or **DIRECTOR** and/or **OFFICER** during such **EXTENDED REPORTING PERIOD** provided such **CLAIM** arises from a **WRONGFUL ACT** and/or the rendering of or failure to render **PROFESSIONAL SERVICES** committed or allegedly committed by an **INSURED** and/or **DIRECTOR** and/or **OFFICER** prior to the termination of the **POLICY PERIOD**, and after the Retroactive Date, if any, indicated in item 2. of the Declarations, and provided such **CLAIM** is otherwise covered by this policy.
- B. The rights contained in this Section IX. shall terminate, however, unless written notice of such election together with the additional premium due is received by the Company within ten (10) days after the effective date of the cancellation or non-renewal. The offer by the Company of renewal terms, conditions, **LIMITS OF LIABILITY**, and/or premiums different from those of the expiring policy shall not constitute refusal to renew.
- C. The rights contained in this Section IX. shall not apply to any cancellation resulting from the nonpayment of premium.

X. CANCELLATION

- A. The **NAMED INSURED** may cancel this policy by surrendering this policy to the Company or by giving written notice to the Company stating when thereafter such cancellation shall be effective. The Company may cancel this policy by mailing to the **NAMED INSURED** via registered or certified mail, at the **NAMED INSURED'S** address shown in Item 1. of the Declarations, written notice stating when, not less than thirty (30) days thereafter, such cancellation shall be effective. However, if the **NAMED INSURED** has failed to pay the premium when due, the Company may cancel this policy by mailing to the **NAMED INSURED** via registered or certified mail at the address shown in Item 1. of the Declarations, written notice stating when, not less than ten (10) days thereafter, such cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice, and this policy shall terminate at the date and hour specified in such notice.
- B. If this policy is canceled by the **NAMED INSURED**, the Company shall retain the customary short rate proportion of the total annual premium.
- C. If this policy is canceled by the Company, the Company shall retain the pro rata proportion of the total annual premium.
- D. Payment or tender of any unearned premium by the Company shall not be a condition of cancellation, but such payment shall be made as soon as practicable.

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XI. GENERAL CONDITIONS

A. Territory

The insurance afforded under this policy applies worldwide.

B. Assistance and Cooperation

The **INSURED** and/or **DIRECTORS** and/or **OFFICERS** shall cooperate with the Company and, upon the Company's request, assist in making settlements, in conducting suits or proceedings, and in enforcing any right of contribution or indemnity against any person and/or organization who may be liable to the **INSURED** and/or **DIRECTORS** and/or **OFFICERS**. The **INSURED** and/or **DIRECTORS** and/or **OFFICERS** shall attend hearings, trials, and depositions and shall assist in securing and giving evidence and obtaining the attendance of witnesses.

C. Action Against The Company

No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all the terms and conditions of this policy. Nor shall any such action lie against the Company until the amount of the **INSURED'S** and/or **DIRECTORS'** and/or **OFFICERS'** obligation to pay shall have been finally determined either by judgment against the **INSURED** and/or **DIRECTORS** and/or **OFFICERS** after actual trial or by written agreement between the **INSURED** and/or **DIRECTORS** and/or **OFFICERS**, the claimant, and the Company. No person or organization shall have any right under this policy to join the Company as a party to any action against the **INSURED** to determine the **INSURED'S** and/or **DIRECTORS'** and/or **OFFICERS'** liability; nor shall the Company be impleaded by the **INSURED** and/or **DIRECTORS** and/or **OFFICERS** or any legal representative thereof.

Bankruptcy or insolvency of a **NAMED INSURED** and/or **DIRECTORS** and/or **OFFICERS** shall not relieve the Company of any obligation hereunder.

D. Subrogation

In the event of any payment of **LOSS** under this policy, the Company shall be subrogated to the extent of such payment of **LOSS** to all of the **INSURED'S** and/or **DIRECTORS'** and/or **OFFICERS'** rights of recovery thereof, and the **INSURED** and/or **DIRECTORS** and/or **OFFICERS** shall execute and deliver instruments and papers and do whatever else may be necessary to secure such rights. The **INSURED** and/or **DIRECTORS** and/or **OFFICERS** shall do nothing to prejudice such rights. Any amount recovered in excess of the Company's total payment of **LOSS** shall be restored to the **INSURED** and/or **DIRECTORS** and/or **OFFICERS**, less the Company's cost of recovery.

E. Merger or Consolidation

If during the **POLICY PERIOD** any **NAMED INSURED** merges into, consolidates into, is acquired by, or otherwise combines with or into another entity, resulting in the **NAMED INSURED** not becoming the surviving entity, coverage hereunder shall not apply to any **WRONGFUL ACT** and/or the rendering of or failure to render **PROFESSIONAL SERVICES** committed by such **INSURED** and/or **DIRECTORS** and/or **OFFICERS** subsequent to the date of such merger, consolidation, acquisition, or other combination unless and until:

1. the **NAMED INSURED** provides written notice of such merger, consolidation, acquisition, or other combination to the Company at least ten (10) days prior to the effective date of such transaction;
2. the **NAMED INSURED** provides the Company with whatever underwriting information and materials the Company requests;
3. the **NAMED INSURED** accepts any additional terms and/or conditions and pays any additional premium required by the Company; and
4. the Company in its sole discretion specifically agrees to provide coverage to the surviving entity of the merger, consolidation, acquisition, or other combination in writing by endorsement to this policy.

If during the **POLICY PERIOD** any **NAMED INSURED** acquires, creates or merges with another entity, resulting in such **NAMED INSURED** becoming the surviving entity, coverage hereunder shall apply to such newly acquired, merged or created entities solely for **WRONGFUL ACTS** and/or the rendering of or failure to render **PROFESSIONAL SERVICES** committed on or after such respective acquisition, merger or creation date and the **NAMED INSURED** shall provide written notice to the Company of such acquisition, merger or creation at least ten (10) days subsequent to the effective date of such transaction.

F. Other Insurance

If any **CLAIM** made against an **INSURED** and/or **DIRECTOR** and/or **OFFICER** is insured under any other policy or policies covering such **INSURED** and/or **DIRECTOR** and/or **OFFICER**, then this policy shall apply to such **CLAIMS** only in excess of the **LIMIT OF LIABILITY** stated in such other policy or policies unless such other policy is or policies are written solely as specific excess insurance over the **LIMIT OF LIABILITY** of this policy.

G. Assignment and Extensions

No assignment of interest under this policy shall bind the Company until written consent is endorsed hereon; however, subject otherwise to the terms hereof, this policy shall cover the estate, heirs, legal representatives, or assigns of an **INSURED INDIVIDUAL** in the event of such **INSURED INDIVIDUAL'S** death, bankruptcy, insolvency, or incompetency.

H. Waiver or Change

Notice to any agent of knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or stop the Company from asserting any right under the terms of this policy. The terms of this policy shall not be waived or changed except by endorsement issued to form a part of this policy and signed by an authorized representative of the Company.

I. Notification and Authority

The **NAMED INSURED** first named in Item 1. of the Declarations shall be the sole agent of all **INSUREDS** and/or **DIRECTORS** and/or **OFFICERS** hereunder for the purpose of effecting or accepting any amendments to or cancellation of this policy, for the payment of premium and the receipt of any return premiums that may become due under this policy, and for the exercising or declining to exercise any right to the **EXTENDED REPORTING PERIOD**.

J. Situs

This policy, to the extent permitted by applicable law, shall be construed in accordance with the law of the jurisdiction of incorporation of the **NAMED INSURED** first named in Item 1. of the Declarations.

K. Warranties and Representations

The **INSURED** and/or **DIRECTORS** and/or **OFFICERS** represents and warrants that the particulars and statements contained in the application for this policy and any materials attached therewith are true and are the basis of this policy and are to be considered as incorporated in and constituting part of this policy. However, this policy shall not be voided or rescinded as to any **INSURED** and/or **DIRECTORS** and/or **OFFICERS** on account of the untruth of any particulars and statements contained in the application and any materials attaching therewith for the policy unless:

1. the person making such statement(s) in the application and/or the materials attached therewith knew of the untruth of such statement(s), in which event this policy shall be deemed null and void from its inception as to all **INSUREDS** and/or **DIRECTORS** and/or **OFFICERS**; or
2. an **INSURED** and/or **DIRECTOR** and/or **OFFICER** knew of the untruth of such statement(s) in the application and/or the materials attached therewith, in which event this policy shall be null and void from its inception as to such **INSURED** and/or **DIRECTOR** and/or **OFFICER**.

These provisions shall be in addition to all other rights and remedies that the Company may have under this policy or otherwise.