ALLIED WORLD NATIONAL ASSURANCE COMPANY
199 Water Street, New York, NY 10038 · Tel. (646) 794-0500 · Fax (646) 794-0611

HEALTHCARE EXCESS AND UMBRELLA LIABILITY INSURANCE POLICY

POLICY NUMBER: 0312-5071 **RENEWAL OF:** 0312-5071

THIS POLICY MAY CONTAIN BOTH CLAIMS MADE AND OCCURRENCE COVERAGE PARTS. UNLESS OTHERWISE SPECIFIED, THE COVERAGE PROVIDED BY THIS POLICY SHALL ONLY APPLY IN EXCESS OF SCHEDULED UNDERLYING INSURANCE OR SELF-INSURANCE. THE APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

PLEASE READ THIS POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE BROKER.

DECLARATIONS

Item 1. Name and Mailing Address of Named Insured:
TBH Psychiatry of California, PC, dba Traditions Behavioral Health

1580 First Street
Napa, CA 94559

Item 2. Policy Period:

(a) Inception Date: September 15, 2021
(b) Expiration Date: September 15, 2022
At 12:01 a.m. Standard Time at the Mailing Address Shown Above

Item 3. Limits of Liability:

(a) $2,000,000 Specific Loss Limit for Insuring Agreement I.A. Medical Professional Liability

(b) $2,000,000 Aggregate Limit of Liability for Insuring Agreement I.A.

(c) $2,000,000 Specific Loss Limit for Insuring Agreement I.B. General Liability, and all other coverages

(d) $2,000,000 Aggregate Limit of Liability for Insuring Agreement I.B. and all other coverages

(e) $2,000,000 Policy Aggregate Limit of Liability for all Insuring Agreements and all other coverages

Item 4. Retained Amount:

(a) N/A for Insuring Agreement I.A.

(b) N/A for Insuring Agreement I.B. and all other coverages

Item 5. Address of Insurer For Notices Under This Policy:

Claim-Related Notices:
Noticeofloss@awac.com

All Other Notices:
1690 New Britain Avenue, Suite 101
Farmington, CT 06032

Item 6. Policy Premium: $46,250.00

Item 7. Minimum Earned Premium: 25% of the Policy Premium set forth above

Item 8. Retroactive Dates:

(a) September 15, 2020 for Insuring Agreement I.A. (Claims-Made Professional Liability)

(b) N/A for Insuring Agreement I.B. (Only if Claims-Made General Liability coverage is purchased.)

Item 9. Applicable Insuring Agreements:

Insuring Agreement A. Professional Liability: ☒
Insuring Agreement B.1. Occurrence-Based General Liability: ☒
Insuring Agreement B.2. Claims-Made General Liability: ☐
Insuring Agreement C. Excess Follow Form Liability: ☐

Item 10. Endorsements Attached at Issuance:

1. SVC 00012 00 (11/2012) Service of Suit
2. MED 00121 00 (10/2014) Schedule B - Schedule of Physicians, Separate Limits and Deductibles
3. MED 00015 00 (0/15) Exclusion of Certified Acts of Terrorism and Non-Certified Acts of Terrorism
4. MED 000198 37 (REVISED 08/18) Pennsylvania MCare Endorsement

In Witness Whereof, the **Insurer** has caused this Policy to be executed and attested. This Policy shall not be valid unless countersigned by a duly authorized representative of the **Insurer**.

President

Secretary

AUTHORIZED REPRESENTATIVE

CALIFORNIA – SUITS INVOLVING A SURPLUS LINES BROKER - REMEDIES

A. A surplus lines insurer may be sued upon any cause of action arising in this state under any surplus lines insurance contract made by it, or any evidence of insurance issued or delivered by the surplus lines broker, pursuant to the procedure set forth in Sections 1610 to 1620, inclusive. Any policy or evidence of insurance issued by the surplus lines insurer or the surplus lines broker shall contain a provision stating the substance of this section, and designating the person to whom the Commissioner shall mail process.

B. Every surplus lines insurer assuming a surplus lines insurance shall be deemed thereby to have subjected itself to this chapter.

C. The remedies provided by this section shall be in addition to any other methods provided by law for service of process.

ENDORSEMENT NO. 1

SERVICE OF SUIT

This Endorsement, effective at 12:01AM on September 15, 2021, forms parts of

Policy No.	0312-5071
Issued to	TBH Psychiatry of California, PC, dba Traditions Behavioral Health.
Issued by	Allied World National Assurance Company

Pursuant to any statute of any state, territory or district of the United States which makes provision therefore, the Company hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the Statute, or his successors in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the insured(s) or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the below named as the person whom the said officer is authorized to mail process or a true copy thereof.

It is further agreed that service of process in such suit may be made upon Counsel, Legal Department, Allied World National Assurance Company, 199 Water Street, New York, NY 10038, or his or her representative, and that in any suit instituted against any one of them upon this policy, the Company will abide by the final decision of such Court or any Appellate Court in the event of an appeal.

NOTHING HEREIN SHALL VARY, ALTER, WAIVE, OR EXTEND ANY OF THE TERMS, PROVISIONS, REPRESENTATIONS, CONDITIONS OR AGREEMENTS OF THE POLICY OTHER THAN AS STATED ABOVE.

ENDORSEMENT NO. 2

SCHEDULE B
SPECIFIC INSUREDS, SEPARATE LIMITS AND DEDUCTIBLES

This Endorsement, effective at 12:01 a.m. on September 15, 2021, forms part of

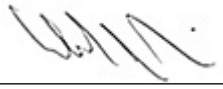
Policy No.	0312-5071
Issued to	TBH Psychiatry of California, PC, dba Traditions Behavioral Health
Issued by	Allied World National Assurance Company

In consideration of the premium charged, the individuals listed in the attached Schedule B shall be **Insureds** under this Policy, solely with respect to **Claims** made under Insuring Agreement A of the Policy, provided that the respective separate Limits of Liability and Deductibles shall apply as indicated in Schedule B.

The Limits of Liability indicated in the attached Schedule B for each **Insured** shall be in addition to the existing Limits of Liability under Insuring Agreement A of the Policy, but shall be a part of and not in addition to the Aggregate Limit of Liability for all **Claims** under all Insuring Agreements if shown in ITEM 3(e) of the Declarations.

Coverage will only be provided for **Claims** arising out of acts, errors or omissions otherwise covered which occur on or after the respective Retroactive Date(s) and before the Termination Date(s) for each **Insured**, as set forth in the attached Schedule B. No coverage will be available under the Policy for **Claims** arising out of acts, errors or omissions which occur after the applicable Termination Date for each **Insured**, as set forth in the attached Schedule B.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

Account Name: TBH Psychiatry of California PC dba Traditions Behavioral Health

Last Name	First Name	Retro Dates	Separate Limit of Liability (if applicable)	Separate Deductible (if applicable)	Medical Specialty	Effective Date	Termination Date
Adam	Tarek	9/15/2020	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Elmore II	Hudson	1/16/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Gerbasi	Joan	1/8/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Green	Marcel	9/15/2020	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	8/26/2021
Harris	Maryjane	4/19/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	6/5/2021
Jacob	Naduvathusery	7/12/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Kane	Joshua	9/15/2020	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Loo	Dyani	8/2/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Mosier	Jessica	9/15/2020	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	6/25/2021
Onwuanibe	Angela	4/5/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	7/2/2021
Richmond	Kacy	1/8/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	9/4/2021
Squires III	Kenneth	8/2/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Taylor	Anne	8/1/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Vahabzadeh	Arshya	9/15/2020	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Vanden Hoek	Matthew	7/1/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Walsh	Jeffrey	12/15/2020	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	3/16/2021
Williams	Nolan	8/16/2021	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	
Wright	Matthew	9/15/2020	$500k/$1.5M	$2,500	Psychiatry	9/15/2021	

ENDORSEMENT NO. 3

EXCLUSION OF CERTIFIED ACTS OF TERRORISM AND NON-CERTIFIED ACTS OF TERRORISM

This Endorsement, effective at 12:01 a.m. on September 15, 2021, forms part of

Policy No.	0312-5071
Issued to	TBH Psychiatry of California, PC, dba Traditions Behavioral Health
Issued by	Allied World National Assurance Company

A. It is understood and agreed that this policy does not apply to loss arising out of "injury or damage" caused directly or indirectly by, contributed to by, resulting from, or arising out of or in connection with:

1. A "non-certified act of terrorism", including action in hindering, controlling, preventing, suppressing, retaliating against, responding to or defending against an actual or expected "non-certified act of terrorism". "Injury or damage" is excluded regardless of any other cause or event that contributed concurrently or in any sequence to the "injury or damage";

2. A "certified act of terrorism". "Injury or damage" is excluded regardless of any other cause or event that contributed concurrently or in any sequence to the "injury or damage".

This exclusion also applies to a "certified act of terrorism":

1. That involves the use, release, or escape of nuclear materials, or that directly or indirectly results in nuclear reaction or radiation or radioactive contamination;

2. That is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or

3. In which pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

In the event a "non-certified act of terrorism" or a "certified act of terrorism" involves nuclear reaction or radiation, or radioactive contamination, this exclusion supersedes any Nuclear Hazard Exclusion.

B. However, with respect to a "non-certified act of terrorism", this exclusion applies only when one or more of the following are attributable to such act:

1. The total of insured damage to all types of property exceeds $25,000,000. In determining whether the $25,000,000 threshold is exceeded, the Insurer will include all insured damage sustained by the property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that would be covered by any insurance but for the application of any terrorism exclusions;

2. Fifty (50) or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:

a. Physical injury that involves a substantial risk of death;

b. Protracted and obvious physical disfigurement; or

c. Protracted loss of or impairment of the function of a bodily member or organ;

3. The terrorism involves the use, release, or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination;

4. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or

5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

Multiple incidents of terrorism which occur within a seventy-two (72) hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident for the purpose of determining whether the thresholds in paragraphs 1. and 2. above are exceeded.

With respect to this exclusion, paragraphs 1. and 2. describe the thresholds used to measure the magnitude of an incident of an "act of terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

C. The following definitions are added:

1. "Injury or damage" means any "injury or damage" covered under this policy or any underlying insurance to which this endorsement is applicable, and includes but is not limited to bodily injury, property damage, personal and advertising injury, injury or environmental damage as may be defined in this policy or any applicable underlying insurance.

2. A "non-certified act of terrorism" means activities against persons, organizations or property of any nature:

a. That involve the following or preparation for the following:

i. Use or threat of force or violence;

ii. Commission or threat of a dangerous act; or

iii. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

b. When one or both of the following applies:

i. The effect is to intimidate or coerce a government, de jure or de facto of any nation or any political division thereof, or the civilian population or any segment thereof, or to disrupt any segment of the economy; or

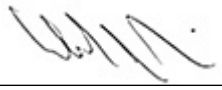
ii. It appears that the intent is to intimidate or coerce a government, de jure or de facto of any nation or any political division thereof, or to further political, ideological, religious, social, economic or similar objectives or to express (or express opposition to) a philosophy or ideology, regardless of the amount of damages or losses.

3. A "certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

   a. The act resulted in insured losses in excess of $5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and

   b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.



Authorized Representative

ENDORSEMENT NO. 4

PENNSYLVANIA MCARE ENDORSEMENT

This Endorsement, effective at 12:01 a.m. on September 15, 2021, forms part of

Policy No.	0312-5071
Issued to	TBH Psychiatry of California, PC, dba Traditions Behavioral Health
Issued by	Allied World National Assurance Company

In consideration of the premium charged, it is hereby agreed that:

1. Solely with respect to the coverage provided under Insuring Agreement I.A. CLAIMS MADE PROFESSIONAL LIABILITY, the Limits of Liability in Items 3(a) and 3(b) of the Declarations, and the Deductible stated in Item 4(a) of the Declarations, shall only apply to **Claims** which:

   a. are payable by the Medical Care Availability and Reduction of Error Fund (MCARE Fund) established in the State of Pennsylvania by Act 13 of 2002 ("Act 13"), or any regulations promulgated thereto; or
   b. would have been payable by the MCARE Fund except for depletion of monies in The MCARE Fund or the failure of the **Insured** to timely pay the surcharge required by Act 13, or any regulations promulgated thereto.

2. With respect to **Claims** covered by the MCARE Fund described above, coverage provided under Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY, the Limits of Liability in ITEM 3(a) of the Declarations, will be amended to read as follows:

   "**Item 3. Limits of Liability:**

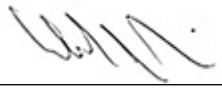
INSURING AGREEMENTS	**LIMITS OF LIABILITY**	
(a) I.A. PROFESSIONAL LIABILITY	$500,000	each Claim;
	$1,500,000	in the Aggregate for all Claims."

3. With respect to **Claims** not covered by the MCARE Fund described above, but otherwise within the scope of coverage provided under Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY, the Limits of Liability in ITEM 3(a) of the Declarations, will be amended to read as follows:

   "**Item 3. Limits of Liability:**

INSURING AGREEMENTS	**LIMITS OF LIABILITY**	
(a) I.A. PROFESSIONAL LIABILITY	$500,000	each Claim;
	$1,500,000	in the Aggregate for all Claims."

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

POLICYHOLDER DISCLOSURE STATEMENT
UNDER THE TERRORISM RISK INSURANCE ACT

The Insured is hereby notified that under the federal Terrorism Risk Insurance Act, as amended, (the "Act"), the Insured has a right to purchase insurance coverage for losses arising out of an Act of Terrorism, as defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury in consultation with the Secretary of Homeland Security and the Attorney General of the United States to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside of the United States in case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. The Insured should read the Act for a complete description of its coverage. The decision to certify or not to certify an event as an Act of Terrorism covered by this law is final and not subject to review.

The Insured should know that where coverage is provided by this policy for losses caused by a Certified Act of Terrorism may be partially reimbursed by the United States Government under a formula established by federal law. However, the insured's policy may contain other exclusions that might affect coverage, such as an exclusion for nuclear events. Under the formula, the United States generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019; and 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible that must be met by the Insurer, and which deductible is based on a percentage of the Insurer's direct earned premiums for the year preceding the Act of Terrorism

Be advised that the Terrorism Risk Insurance Act, as amended, contains a $100 billion cap on all losses resulting from Certified Acts of Terrorism. If aggregate insured losses attributable to Certified Acts of Terrorism exceed $100 billion in a calendar year the United States Government shall not make any payment for any portion of the amount of such loss that exceeds $100 billion. If aggregate insured losses attributable to Acts of Terrorism exceed $100 billion in a Program Year and the Insurer has met its deductible under the Act, the Insurer shall not be liable for payment of any portion of the losses that exceeds $100 billion, and in such case, insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

Coverage for "insured losses" as defined in the Act is subject to the coverage terms, conditions, amounts and limits in this policy applicable to losses arising from events other than Acts of Terrorism.
Please see the options available to the Insured below.

- The portion of your annual premium that is attributable to coverage for acts of terrorism is $46.00. If you, the Insured, **elect to purchase coverage** in accordance with the Act, **no further action or response is needed by you**.

- If you, the Insured, reject coverage in accordance with the Act, you must check below and sign and return this form to the Insurer.

☐ I HEREBY REJECT THIS COVERAGE.

_____

Signature of Insured

_____

Print/Title

_____

Date

TBH Psychiatry of California, PC, dba Traditions Behavioral Health

0312-5071

HEALTHCARE ORGANIZATION UMBRELLA LIABILITY INSURANCE POLICY SCHEDULE OF UNDERLYING INSURANCE

☐ **Darwin National Assurance Company** **Policy Number: 0312-5071**

☒ **Allied World Assurance Company (U.S.), Inc.**

ITEM NUMBER	TYPE OF COVERAGE	INSURER, POLICY NUMBER, POLICY PERIOD	LIMITS OF LIABILITY
1	Professional Liability	Insurer: Allied World Surplus Lines Insurance Company Policy Number: 0312-5070 Policy Period: 09/15/2021 – 09/15/2022	Per Claim or Medical Professional Incident Limit: $500,000 Aggregate Limit: $1,500,000
	Professional Liability MCare eligible entity	Insurer: MCare* Policy Number: N/A Policy Period: 09/15/2021 – 09/15/2022	Per Claim or Medical Professional Incident Limit: $500,000 Aggregate Limit: $1,500,000
	Professional Liability MCare eligible physician	Insurer: MCare* Policy Number: N/A Policy Period: 09/15/2021 – 09/15/2022	Per Claim or Medical Professional Incident Limit: $500,000 Aggregate Limit: $1,500,000 *excess of the primary Allied World Surplus Lines Ins Co limits
2	Commercial General Liability	Insurer: Allied World Surplus Lines Insurance Company Policy Number: 0312-5070 Policy Period: 09/15/2021 – 09/15/2022	Per Occurrence Limit: $500,000 Aggregate Limit: $1,500,000

ALLIED WORLD NATIONAL ASSURANCE COMPANY (U.S.) INC.
199 Water Street, New York, NY 10038 · Tel. (646) 794-0500 · Fax (646) 794-0611

HEALTHCARE EXCESS AND UMBRELLA LIABILITY INSURANCE POLICY

THIS POLICY MAY CONTAIN BOTH CLAIMS MADE AND OCCURRENCE COVERAGE PARTS. UNLESS OTHERWISE SPECIFIED, THE COVERAGE PROVIDED BY THIS POLICY SHALL ONLY APPLY IN EXCESS OF SCHEDULED UNDERLYING INSURANCE OR SELF-INSURANCE. THE APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES. PLEASE READ THE ENTIRE POLICY CAREFULLY.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the **Insurer**, including the statements made in the **Application**, the **Insurer** and the **Insured**, subject to all the terms, conditions and limitations of this Policy and any endorsements thereto, agree as follows:

I. INSURING AGREEMENTS

A. UMBRELLA CLAIMS MADE PROFESSIONAL LIABILITY

The **Insurer** will pay on behalf of the **Insured,** subject to the Limits of Liability set forth in the Declarations, **Loss** and **Defense Expenses** in excess of the **Applicable Underlying Limit** for the coverage identified in Item 1 of the Schedule of Underlying Insurance or Self- Insurance which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging a **Medical Professional Incident,** provided always that:

1. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
2. notice of such **Claim** is given to the **Insurer** in accordance with Section IV.D. of this Policy.

This Insuring Agreement is only applicable if so indicated in Item 9. of the Declarations.

B. UMBRELLA GENERAL LIABILITY

1. Occurrence Based General Liability

The **Insurer** will pay on behalf of the **Insured,** subject to the Limits of Liability set forth in the Declarations, **Loss** and **Defense Expenses** in excess of the **Applicable Underlying Limit** for the coverage identified in Item 2 of the Schedule of Underlying Insurance or Self-Insurance which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage,** or **Personal or Advertising Injury** caused by an **Occurrence;** provided always that:

a. such **Bodily Injury, Property Damage** or **Personal or Advertising Injury** occurs during the Policy Period; and

b. notice of such **Claim** is given to the **Insurer** in accordance with Section IV.D. of this Policy.

This Insuring Agreement is only applicable if so indicated in Item 9. of the Declarations.

2. **Claims Made General Liability**

The **Insurer** will pay on behalf of the **Insured,** subject to the Limits of Liability set forth in the Declarations, **Loss** and **Defense Expenses** in excess of the **Applicable Underlying Limit** for the coverage identified in Item 2 of the Schedule of Underlying Insurance or Self-Insurance which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage,** or **Personal or Advertising Injury** caused by an **Occurrence;** provided always that:

a. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and

b. notice of such **Claim** is given to the **Insurer** in accordance with Section IV.D. of this Policy.

This Insuring Agreement is only applicable if so indicated in Item 9. of the Declarations.

C. **EXCESS FOLLOW FORM LIABILITY**

The **Insurer** will pay on behalf of the **Insured,** subject to the Limits of Liability set forth in the Declarations, **Loss** and **Defense Expenses** in excess of the **Applicable Underlying Limit** for the insurance identified in the Schedule of Underlying Insurance or Self-Insurance which the **Insured** becomes legally obligated to pay as a result of a **Claim** covered by such Scheduled Underlying Insurance or Self-Insurance. The terms and conditions of such Scheduled Underlying Insurance are, with respect to this Insuring Agreement C., made a part of this Policy, except with respect to:

1. any contrary provision contained in this Policy; or

2. any provision in this Policy for which a similar provision is not contained in the Scheduled Underlying Insurance;

in which case the provisions of this Policy will apply. In no event will the coverage provided under this Policy be broader than the coverage provided under the Scheduled Underlying Insurance.

Notwithstanding anything to the contrary contained above, if the Scheduled Underlying Insurance does not provide coverage, for reasons other than exhaustion of the **Applicable Underlying Limit** due to the payment of **Claims**, then this Insuring Agreement C. similarly will not provide coverage.

This Insuring Agreement is only applicable if so indicated in Item 9. of the Declarations.

In the event that coverage under this policy applies in excess of a **Self-Insured Retention**, the terms and conditions of this Policy shall apply. Any **Self-Insured Retention** amount within the **Applicable Underlying Limit** shall be considered eroded or exhausted only by actual payments made by or on behalf of the **Insured** in connection with **Claims** that would be insured by the provisions of this policy, including **Defense Expenses** incurred in defending those **Claims**.

II. DEFINITIONS

A. **"Advertisement"** means a notice that is broadcast or published to the general public or specific market segments about the **Insured's** goods, products or services, for the purpose of attracting customers or supporters. For the purposes of this Definition:

1. Notice that is broadcast or published includes material placed on the Internet or similar means of electronic communication; and

2. With regard to websites, only that part of a website that is about the **Insured's** goods, products or services, for the purposes of attracting customers or supporters, will be considered an **Advertisement**.

B. **"Applicable Underlying Limit"** means the greater of:

1. the total of all available limits of liability for the applicable **Underlying Insurance** listed in the Schedule of Underlying Insurance or Self-Insurance, plus any **Other Insurance** ; or
2. the **Self-Insured Retention**, if listed in the Schedule of Underlying Insurance or Self-Insurance; or
3. the **Retained Amount**.

If the **Underlying Insurance** does not apply, the **Applicable Underlying Limit** shall be the **Retained Amount**.

For purposes of determining the **Applicable Underlying Limit**, the limits of liability for any **Underlying Insurance** or **Other Insurance** will apply even if the insurer providing the **Underlying Insurance** or **Other Insurance** contends the **Insured** failed to comply with any condition of such policy(ies), or that insurer becomes bankrupt or insolvent.

Any aggregate limit of liability provided by an insurance policy within the **Applicable Underlying Limit** shall be considered eroded or exhausted only by actual payments in connection with **Claims** that would be insured by the provisions of this Policy.

Any **Self-Insured Retention** amount within the **Applicable Underlying Limit** shall be considered eroded or exhausted only by actual payments made by or on behalf of the **Insured** in connection with **Claims** that would be insured by the provisions of this policy, including **Defense Expenses** incurred in defending those **Claims**.

C. **"Application"** means: (1) the application submitted to the **Insurer** for this Policy or any prior policy issued by the **Insurer** to the **Insured**; or (2) the application submitted to any competitor of the **Insurer**, which is provided to the **Insurer** for the purposes of procuring coverage hereunder, and which shall be treated as if it were submitted directly to the **Insurer**; and any and all materials and information submitted to or obtained by the **Insurer** in connection with such applications, including all financial statements of the **Insureds** and any press releases or other materials disseminated publicly (including information contained on any Internet websites maintained by or on behalf of any **Insured**), all of which are deemed to be on file with the **Insurer** and are deemed to be attached to, and form a part of this Policy, as if physically attached. If the **Application** uses terms or phrases that differ from terms defined in this Policy, no inconsistency between any term or phrase used in the **Application** and any term defined in this Policy will serve to waive or change any of the terms, conditions and limitations of this Policy.

D. **"Auto"** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment; however, **Auto** does not include **Mobile Equipment**.

E. **"Bodily Injury"** means physical injury, sickness or disease sustained by a person other than a **Patient**, including mental anguish, emotional distress or death resulting therefrom.

F. **"Claim"** means:
1. with respect to Insuring Agreement A., a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for a **Medical Professional Incident**;
2. with respect to Insuring Agreement B., a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for an **Occurrence**;
3. with respect to Insuring Agreement C., a written notice received by any **Insured** which results in a claim or suit for which coverage is provided under the **Applicable Underlying Insurance**.

G. **"Defense Expenses"** means reasonable fees, costs and expenses incurred by or on behalf of the **Insured** in connection with the defense of a **Claim**; however, **Defense Expenses** shall not include:
1. salaries, remuneration, overhead, fees, or benefit expenses of the **Insured**; or
2. fines, penalties, or taxes levied against the **Insured**.

H. **"Employee"** means a person who has been hired by the **Insured** to perform services, and who has an assigned work schedule and appears on the regular payroll of the **Insured**, with applicable federal, state and local taxes withheld. **Employee** does not include an independent contractor or a **Volunteer**. An **Employee's** status as an **Insured** with respect to any covered **Claim** under this Policy shall be determined as of the date of the **Occurrence**, **Medical Professional Incident** or other act, error or omission upon which the **Claim** involving the **Employee** is based.

I. "**Employment Practices**" means any actual or alleged breach of employment contract; failure or refusal to hire, employ or promote a person; demotion or discharge of a person; employment-related defamation or humiliation; discipline or evaluation of an **Employee** or prospective **Employee**; discrimination, harassment, segregation, limitation or classification of persons in any way that tends to deprive any person of employment opportunities or otherwise adversely affect his/her status as an **Employee** or prospective **Employee**, because of his/her race, age, sex, national origin, marital status, physical or mental handicap, pregnancy, religion, sexual orientation or preference, military status, or any other status that is protected under any applicable federal, state or local statute or ordinance; retaliation; or employment-related misrepresentation.

J. "**Good Samaritan Acts**" means acts or services provided by or failed to be provided by the **Insured** in rendering emergency treatment, without remuneration, at the scene of an accident, medical crisis or disaster.

K. **"Hostile Fire"** means a fire which becomes uncontrollable or breaks out from where it was intended to be.

L. **"Impaired Property"** means tangible property, other than the **Insured's Products** or the **Insured's Work**, that cannot be used or is less useful because it incorporates the **Insured's Products** or the **Insured's Work** that is known or thought to be defective, deficient, inadequate or dangerous, or because the **Insured** has failed to fulfill the terms of a contract or agreement, if

such property can be restored to use by:

1. the repair, replacement, adjustment or removal of the **Insured's Products** or the **Insured's Work**; or
2. the **Insured's** fulfilling the terms of the contract or agreement.

M. **"Insured"** means any of the following:

1. the **Named Insured**;
2. any **Insured Entity;**
3. any **Employee** other than a physician, but only while acting within the scope of his/her duties as such;
4. employed physicians, but only while acting within the scope of his/her duties as such, and only if listed in Schedule B;
5. any student or **Volunteer**, but only while acting within the scope of his/her duties as such;
6. any **Locum Tenens**, engaged to provide **Medical Professional Services** on behalf of an **Insured**, but only if the **Locum Tenens** is substituting for a physician listed in Schedule B. and only while acting within the scope of his or her duties as such;
7. any member of a duly authorized board or committee of the **Named Insured**, any person communicating information to such board or committee, or any person charged with the duty of acting as a hearing officer or agent of such committee or executing directives of any such board or committee; provided, however, that any such person shall only be an **Insured** while acting within the scope of his/her duties as such;
8. any of the **Insured's** medical directors, administrators, department heads or chiefs of staff, who are not **Employees**, while acting within the scope of their duties as such; provided, however, that such person shall not be an **Insured** for **Claims** arising out of direct patient care rendered or allegedly failed to be rendered by him/her; or
9. any member or partner of a joint venture or partnership specifically designated in Schedule A., but only with respect to such member or partner's liability arising out of such designated joint venture or partnership;

and solely with regard to Insuring Agreement I.A., UMBRELLA CLAIMS MADE PROFESSIONAL LIABILITY, **Insured** shall also mean, in the event of the death, incapacity, or bankruptcy of an **Insured**, the estates, heirs, legal representatives and/or assigns of such **Insured**.

N. **"Insured Contract"** means:

1. a contract for a lease of premises. However, that portion of the contract that indemnifies any person or organization for damage by fire to premises while rented to the **Insured** or temporarily occupied by the **Insured** with permission of the owner is not an **Insured Contract**;
2. a sidetrack agreement;
3. any easement or license agreement, except in connection with construction or demolition operations on or within fifty (50) feet of a railroad;
4. an obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. an elevator maintenance agreement;

6. that part of any other contract or agreement pertaining to the **Insured's** business under which the **Insured** assumes the tort liability of another party to pay for **Bodily Injury** or **Property Damage** to a third person or organization. Tort liability means liability that would be imposed by law in the absence of any contract or agreement.

Insured Contract does not include that part of any contract or agreement:

1. that indemnifies a railroad for **Bodily Injury** or **Property Damage** arising out of construction or demolition operations, within fifty (50) feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
2. that indemnifies an architect, engineer or surveyor for injury or damage arising out of:
   a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specification; or
   b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
3. under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the **Insured's** rendering or failure to render professional services, including those listed in 2 above and supervisory, inspection, architectural or engineering activities.

O. "**Insured Entity**" means the organization(s) listed in Schedule A.

P. "**Insured's Products**" means:
1. goods or products manufactured, sold, handled or distributed by:
   a. the **Insured**;
   b. others trading under the name of the **Insured**; or
   c. a person or organization whose assets the **Insured** has acquired in accordance with Condition IV.P.; and
2. containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Insured's Products does not mean vending machines, or other property rented to or located for the use of others but not sold.

Q. "**Insured's Work"** means:

1. work or operations performed by an **Insured** or on an **Insured's** behalf; and
2. materials, parts or equipment furnished in connection with such work or operations.

Insured's Work includes warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of the **Insured's Work,** and the providing of or failure to provide warnings or instructions.

R. **"Insurer"** means the Company identified in the Declarations.

S. **"Loading or Unloading"** means the handling of property:

1. after it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or **Auto**;
2. while it is in or on an aircraft, watercraft or **Auto**; or
3. while it is being moved from an aircraft, watercraft or **Auto** to the place where it is finally delivered;

but **Loading or Unloading** does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or **Auto**. **Loading or Unloading** does not include the movement of **Patients**.

T. **"Loss"** means any monetary amount paid on account of an award, judgment or settlement which the **Insured** is legally obligated to pay as a result of a **Claim**.

However, **Loss** shall not include:

1. salaries, remuneration, overhead, fees or benefit expenses of the **Insured**;
2. fines, penalties, sanctions or taxes levied against the **Insured**;
3. non-monetary relief or redress in any form other than monetary compensation or damages, including but not limited to, the costs to comply with an order granting injunctive, declaratory or administrative relief;
4. the return, restitution, refund or disgorgement of fees, profits or amounts allegedly wrongfully held and/or retained by an **Insured**;
5. matters or amounts which are uninsurable under applicable law;
6. the payment, satisfaction or writing off of any medical bills or charges by an **Insured**; or
7. **Defense Expenses**.

U. **"Locum Tenens"** means a physician, surgeon, midwife, nurse anesthetist, nurse practitioner, physician assistant or surgical assistant who is temporarily serving as a substitute physician, surgeon, midwife, nurse anesthetist, nurse practitioner, physician assistant or surgical assistant for any **Insured**, while such **Insured** is temporarily absent from professional practice. Coverage for a **Locum Tenens** under this Policy shall only extend for up to sixty (60) days per **Insured** during any one **Policy Period**.

V. **"Managed Care Activities"** means any of the following activities performed for any person or entity other than an **Insured**: advertising, marketing, selling, or enrollment for health care or workers' compensation plans; administering claims for health benefits; establishing health care provider networks; reviewing the quality of **Medical Professional Services** or providing quality assurance; design and/or implementation of financial incentive plans; wellness or health promotion education; development or implementation of clinical guidelines, practice parameters or protocols; triage for payment of **Medical Professional Services**; and services or activities performed in the administration or management of health care or workers' compensation plans.

W. **"Medical Professional Incident"** means:

1. an actual or alleged act, error or omission by the **Insured** in the rendering of or failure to render **Medical Professional Services**;

2. an actual or alleged act, error or omission by the **Insured** in connection with activities as a member of a duly authorized board or committee of the **Insured**, or as a member of any committee of the medical or professional staff of the **Insured** when engaged in **Peer**

Review;

3. an actual or alleged act, error or omission by the **Insured** in connection with the **Insured's** activities as a member of an accreditation, standards review or similar board or committee of the **Insured**;

4. any actual or alleged act, error or omission by the **Insured** in connection with the **Insured's** performance of quality assurance activities for the **Insured**; or

5. any actual or alleged act, error or omission by the **Insured** in connection with **Good Samaritan Acts**.

Provided that any **Claim** for a **Medical Professional Incident** arising out of an act, error or omission described in paragraphs 1. through 4. immediately above must be brought by or on behalf of a **Patient** in connection with **Medical Professional Services** provided to such **Patient**.

X. **"Medical Professional Services"** means services performed by an **Insured**, on behalf of the **Named Insured** or an **Insured Entity**, in the treatment or care of any person, including: medical, surgical, dental, nursing, psychiatric, mental health, osteopathic, chiropractic, or other professional healthcare or healthcare-related services; the use, prescription, furnishing or dispensing of medications, drugs, blood, blood products, or medical, surgical, dental or psychiatric supplies, equipment or appliances in connection with such treatment or care; the furnishing of food or beverages in connection with such treatment or care; the providing of counseling or social services in connection with such treatment or care; and the handling of or performance of post-mortem examinations on human bodies; but **Medical Professional Services** shall not include **Managed Care Activities**.

Y. **"Mobile Equipment"** means any of the following types of land vehicles, including any attached machinery or equipment:

1. bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. vehicles maintained for use solely on or next to premises the **Insured** owns or rents;
3. vehicles that travel on crawler treads;
4. vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
   a. power cranes, shovels, loaders, diggers or drills; or
   b. road construction or resurfacing equipment such as graders, scrapers or rollers;
5. vehicles not described in 1-4 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
   a. air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
   b. cherry pickers and similar devices used to raise or lower workers;
6. vehicles not described in 1-4 above that are maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not **Mobile Equipment** but will be considered **Autos**:
   a. equipment designed primarily for:
      i. snow removal;
      ii. road maintenance, but not construction or resurfacing; or
      iii. street cleaning;
   b. cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

c. air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

Z. **"Named Insured"** means the entity identified in Item 1 of the Declarations.

AA. **"Occurrence"** means:

1. with respect to **Bodily Injury** or **Property Damage**, an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results in injury neither expected nor intended by the **Insured;**

2. with respect to **Personal and Advertising Injury**, a covered offense as set forth in Definition EE. below.

BB. **"Other Insurance"** means a policy of insurance providing coverage that this Policy also provides. **Other Insurance** includes any type of self-insurance or other mechanism by which an **Insured** arranges for funding of legal liability. **Other Insurance** does not include **Underlying Insurance** or a policy of insurance specifically purchased to be excess of this Policy.

CC. **"Patient"** means any persons or human bodies admitted or registered to receive **Medical Professional Services** from an **Insured**, whether on an inpatient, outpatient or emergency basis.

DD. **"Peer Review"** means the process of evaluating any individual or entity for purposes of selecting, employing, contracting with or credentialing current or prospective providers of **Medical Professional Services**; provided however, that such evaluation must be performed by members of a duly authorized professional review board or committee of the **Insured**.

EE. **"Personal and Advertising Injury"** means injury, other than **Bodily Injury**, arising out of one or more of the following offenses:

1. False arrest, detention or imprisonment;
2. Malicious prosecution;
3. The wrongful eviction from, wrongful entry into or invasion of the right of private occupation of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
4. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, product or services;
5. Oral or written publication, in any manner, of material that violates a person's right of privacy;
6. The **Insured's** use of another's advertising idea in its **Advertisement**;
7. The **Insured's** use of another's copyright, trade dress or slogan in its **Advertisement**; or
8. The **Insured's** infringement upon another's copyright, trade dress or slogan in its **Advertisement**.

The term "material" as used in this definition, shall not include information from which an individual may be uniquely and reliably identified, including, both personal or financial, or personal information as defined in any U.S. federal or state privacy protection law governing the control and use of an individual's personal and confidential information, including "protected

health information" as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), or other data or information stored, processed or transmitted on the **Insured's** or any third party's computer systems or devices.

FF. **"Policy Period"** means the period from the Inception Date shown in Item 2(a) of the Declarations to the earlier of the Expiration Date shown in Item 2(b) of the Declarations or the cancellation date.

GG. **"Pollutant"** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned, reclaimed or disposed of.

HH. **"Property Damage"** means:

1. physical injury to or destruction of tangible property, including all loss of use thereof as a result of such physical injury or destruction; or
2. loss of use of tangible property that is not physically injured.

II. **"Related Claims"** means all **Claims** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events, whether related logically, causally or in any other way.

JJ. **"Retained Amount"** means the amount stated in Item 4. of the Declarations. This is the minimum amount for which the **Insured** is liable with regard to each and every **Claim** or **Occurrence**, consistent with the **Applicable Underlying Limit** provision of this Policy (Definition B).

KK. **"Retroactive Date"** means the applicable date stated in Item 8(a) or 8(b) of the Declarations, or the respective date for each **Insured** shown in Schedule A or Schedule B, as applicable.

LL. **"Self-Insured Retention"** means the amount identified in the Schedule of Underlying Insurance or Self-Insurance. This is the amount for which the **Insured** is liable in the aggregate, or with regard to each **Claim** or **Occurrence**, as indicated in the Schedule of Underlying Insurance or Self-Insurance, consistent with the **Applicable Underlying Limit** provision of this Policy (Definition B).

MM. **"Underlying Insurance"** means the insurance policies identified in the Schedule of Underlying Insurance or Self Insurance, and any **Self-Insured Retention** identified in the Schedule of Underlying Insurance or Self-Insurance.

NN. **"Utilization Review"** means the process of evaluating the appropriateness or necessity of **Medical Professional Services** provided or to be provided by an **Insured**. **Utilization Review** includes prospective, concurrent and retrospective review of such **Medical Professional Services**; however, **Utilization Review** does not include services or activities performed in administering benefits or managing health care plans for others.

OO. **"Volunteer"** means a person providing services and/or labor to the **Insured,** without being paid by the **Insured** for providing such services and/or labor and under the supervision or direction of the **Insured. Volunteer** shall not include any **Employee** or independent contractor.

III. EXCLUSIONS

A. Exclusions Applicable To Insuring Agreement I.A., UMBRELLA CLAIMS MADE PROFESSIONAL LIABILITY

As respects Insuring Agreement I.A., UMBRELLA CLAIMS MADE PROFESSIONAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. **Bodily Injury**, **Property Damage, or Personal or Advertising Injury,** unless such **Claim** is for injury and is brought by a **Patient** and arises out of an **Insured's** alleged rendering of or failure to render **Medical Professional Services** to such **Patient**;

2. the rendering of or failure to render **Medical Professional Services** by any person other than an **Insured**. However, this exclusion shall not apply to the **Insured's** vicarious liability with regard to such **Medical Professional Services**; or

3. any **Medical Professional Incident** taking place prior to the **Retroactive Date**.

B. Exclusions Applicable to Insuring Agreement I.B.2, CLAIMS MADE GENERAL LIABILITY

As respects Insuring Agreement I.B.2, CLAIMS MADE GENERAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. **Bodily Injury, Property Damage,** or **Personal or Advertising Injury** arising out of an **Occurrence** taking place prior to the **Retroactive Date**.

C. Exclusions Applicable to Insuring Agreements I.B.1, OCCURRENCE-BASED GENERAL LIABILITY, and I.B.2, CLAIMS MADE GENERAL LIABILITY

As respects Insuring Agreements I.B.1, OCCURRENCE-BASED GENERAL LIABILITY, and I.B.2, CLAIMS MADE GENERAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. injury to a **Patient;**

   provided however, that this Exclusion C.1. shall not apply to any **Claim** based on or arising out of: **Hostile Fire** or lightning; explosion; smoke; elevator malfunction; or structural collapse of a building;

2. **Bodily Injury, Property Damage,** or **Personal or Advertising Injury** expected or intended from the standpoint of the **Insured**; provided, however, that this exclusion shall not apply to **Bodily Injury** resulting from the use of reasonable force to protect any person or property from injury or damage;

3. **Personal or Advertising Injury** arising out of the written or oral publication of material:

   a. if done by or at the direction of an **Insured** with knowledge of its falsity; or

   b. which was first published prior to the Inception Date stated in Item 2(a) of the Declarations. For purposes of this subsection, if such material was first published prior to the Inception Date of this Policy, it shall be immaterial whether such material was re-published or allegedly caused injury during the **Policy Period**;

4. **Property Damage** to:

   a. any property the **Insured** owns or rents;

   b. any premises sold, given away, or abandoned by the **Named Insured**;

   c. any property loaned to the **Insured**;

   d. any personal property in the care, custody or control of the **Insured**; or

   e. the **Insured's Products**, arising out of such products or any part thereof;

5. **Property Damage** to property that has not been physically injured, arising out of:

   a. a delay or failure by or on behalf of the **Insured** in performing any contract or agreement; or

   b. the failure of the **Insured's Products** to meet the level of performance, quality, fitness or durability promised or warranted by the **Insured**; provided, however, that this exclusion shall not apply to loss of use of other tangible property resulting from the sudden or accidental physical damage to or destruction of the **Insured's Products** or work performed by or on behalf of the **Insured** after such products or work have been put to use by any person or organization other than the **Insured**;

6. the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

   a. the **Insured's Products**;
   b. the **Insured's Work**; or
   c. **Impaired Property**;

   if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it;

7. any actual or alleged infringement of right of patent, trademark, service mark, trade name, copyright, title or slogan;

8. any **Bodily Injury** or **Property Damage** for which any **Insured** may be held liable by reason of:

   a. causing or contributing to the intoxication of any person;
   b. the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
   c. any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

   however, this exclusion applies only if the **Insured** is in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages; or

9. any injury or damage arising in whole or in part, directly or indirectly, out of fungi, including mold or mildew, any mycotoxins, toxins, allergens, spores, scents, vapors, gases or by-products released by fungi, regardless of whether:

   a. airborne;
   b. contained in a product; or

c. contained in or a part of any building, structure, building material, or any component part of any of the foregoing.

D. **Exclusions Applicable to all Insuring Agreements**

This Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any willful misconduct or dishonest, fraudulent, or malicious act, error or omission by any **Insured**; any willful violation by any **Insured** of any law, statute, ordinance, rule or regulation; or any **Insured** gaining any profit, remuneration or advantage to which such **Insured** was not legally entitled; or any alleged criminal conduct by an **Insured**.

   For purposes of this Exclusion, no act, error or omission of any **Insured** shall be imputed to any other **Insured**; This exclusion will not apply to any natural person who did not personally participate in or assent to such act, error, or omission;

2. any **Occurrence**, claim, suit or **Medical Professional Incident** (hereinafter a "matter") taking place prior to the earlier of, (a) the Inception Date of this Policy, or (b) the Inception Date of the first policy issued by the **Insurer** to the **Insured** of which this Policy is a renewal, if a member of the **Insured Entity's** Risk Management Department, Legal Department, Executive or Management Teams or any individual charged with the responsibility of receiving incident reports for the **Insured Entity**, on or before such date, knew of such matter.

3. liability arising out of the ownership, maintenance, operation, use, **Loading or Unloading** or entrustment to others of any:

   a. Aircraft owned by an **Insured** or any aircraft rented, loaned or chartered by or on behalf of an **Insured** without crew;
   b. Helipad or heliport;
   c. **Auto**;
   d. **Mobile Equipment**; or
   e. Watercraft owned by an **Insured,** except while such watercraft are ashore on premises the **Insured** owns or rents.

   However, this Exclusion will not apply if such liability is covered by valid and collectible insurance identified in the Schedule of Underlying Insurance or Self-Insurance, and in such event coverage shall only be afforded hereunder as set forth in Insuring Agreement C.;

4. any actual or alleged price fixing; restraint of trade; monopolization; unfair trade practices; or violation of the Federal Trade Commission Act, the Sherman Act, the Clayton Act, or any other federal statute involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities, or of any rules or regulations promulgated under or in connection with any of the foregoing statutes, or of any similar provision of any federal, state or local statute, rule or regulation or common law;

5. any injury or damage arising in whole or in part, directly or indirectly, out of asbestos or silica, regardless of whether such asbestos or silica is:
   a. airborne, as a fiber or particle;

b. contained in a product;
c. carried or transmitted by clothing or any other means; or
d. contained in or a part of any building, structure, building material, insulation product, or any component part of any of the foregoing;

6. any **Bodily Injury, Property Damage, Personal or Advertising Injury** or a **Medical Professional Incident** for which the **Insured** is legally obligated to pay damages by reason of the assumption of liability of another in any Express Contract or Agreement. This Exclusion does not apply to liability for damages:

   a. that the **Insured** would have in the absence of the contract or agreement; or
   b. assumed in a contract or agreement that is an **Insured Contract**, provided the **Bodily Injury** or **Property Damage** occurs subsequent to the execution of such contract or agreement.

   For purposes of this Exclusion, an "Express Contract or Agreement" is an actual agreement by contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making;

7. any Wrongful Act of any director or officer of an **Insured** in connection with the discharge of his/her duties in such capacity. For purposes of this Exclusion, "Wrongful Act" means any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by any director or officer of the **Insured** in the discharge of his/her/their duties, individually or collectively, or any matter claimed against a director or officer of an **Insured** solely by reason of him/her being a director or officer of an **Insured**;

   Provided however, that this exclusion shall not apply to a **Claim** under Insuring Agreement A. of this Policy against any director or officer of the **Insured** for a **Medical Professional Incident** brought by or on behalf of a **Patient** in connection with **Medical Professional Services** provided to such **Patient**.

8. liability arising out of the administration of an **Insured's** Employee Benefit Program. For purposes of this Exclusion, "Employee Benefit Program" means any group life insurance, group accident and health insurance, profit sharing plan, pension plan, employee stock subscription plan, workers' compensation, unemployment insurance, social security and disability benefits insurance, or any other similar program administered by or on behalf of the **Insured** for the benefit of its **Employees**.

   This Exclusion will not apply if such liability is covered by valid and collectible insurance identified in the Schedule of Underlying Insurance or Self-Insurance, and in such event coverage shall only be afforded hereunder as set forth in Insuring Agreement C.;

9. any actual or alleged injury:

   a. to an **Employee** resulting from and in the course of employment by the **Insured**, or resulting from and in the course of performing duties related to the conduct of the **Insured's** business; or
   b. to the spouse, child, parent, brother or sister of a person, as a consequence of injury as described in Subsection 9.a. immediately above.

This Exclusion applies whether the **Insured** may be liable as an employer or in any other capacity, and applies to any obligation to share damages with or repay someone else who must pay damages because of such injury. However, this Exclusion will not apply if such liability is covered by valid and collectible insurance identified in the Schedule of Underlying Insurance or Self-Insurance, and in such event coverage shall only be afforded hereunder as set forth in Insuring Agreement C.;

10. any **Employment Practices**;

    This Exclusion applies whether the **Insured** may be liable as an employer or in any other capacity;

11. any actual or alleged violation of the Employee Retirement Income Security Act of 1974 (ERISA) or any amendment or addition thereto, or similar provisions of any federal, state or local law;

12. any **Claim** initiated, alleged, or caused to be brought about by any **Insured** covered by this Policy against any other **Insured** covered by this Policy.

13. **Managed Care Activities**;

14. any injury, sickness, disease, death or destruction:

    a. with respect to which the **Insured** is also insured under a nuclear energy liability policy, or would be an **Insured** under any such policy but for the termination of such policy due to exhaustion of its limit of liability;

    b. resulting from the hazardous properties of nuclear material and with respect to which:

        i. any **Insured** is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any amendments thereto; or
        ii. any **Insured** is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any contract entered into with the United States of America, or any agency thereof, and any **Insured**;

    c. resulting from the hazardous properties of nuclear material, if:

        i. the nuclear material is at, or has been dispersed or discharged from, any nuclear facility owned by or operated by or on behalf of any **Insured**;
        ii. the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of any **Insured**; or
        iii. the injury, sickness, disease, death or destruction arises out of the furnishing by an **Insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility;

    provided, however, that this Exclusion will not apply to a **Claim** resulting from the **Insured's** rendering of or failure to render **Medical Professional Services**, including, but not limited to, nuclear medicine or radiation therapy.

For purposes of the foregoing, the term "hazardous properties" means radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or by-product material; "source material", "special nuclear material" and "by-product material" have the meanings ascribed to them under the Atomic Energy Act of 1954 and any amendments thereto; "spent fuel" means any fuel element or fuel component, solid or liquid which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material containing by-product material and resulting from the operation of a nuclear facility; "nuclear facility" means any:

i. nuclear reactor;
ii. equipment or device designed or used for: separating the isotopes of uranium or plutonium; processing or utilizing spent fuel; or handling, processing or packaging waste;
iii. equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the **Insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
iv. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; and "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the terms "injury" and "destruction" include all forms of radioactive contamination of property;

15. any liability or obligation:

a. arising out of the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**; provided, however, that this Exclusion shall not apply to **Bodily Injury** to a **Patient**, visitor or invitee, or to **Bodily Injury** or **Property Damage** arising out of heat, smoke or fumes from a **Hostile Fire**; or

b. to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, whether or not any of the foregoing are to be performed by or on behalf of the **Insured**;

16. any facts, matters, events, suits or demands, acts, errors or omissions, incidents, **Occurrences** or **Medical Professional Incidents** notified or reported to, deemed notified or reported to, or which should have been notified or reported to, any policy of insurance or policy or program of self-insurance in effect prior to the Inception Date of this Policy;

17. any administrative, disciplinary, licensing or regulatory proceeding, investigation or inquiry, suit, subpoena, demand or notice, brought by or on behalf of, or in the name or right of, any governmental entity or regulatory agency, department or authority;

18. any actual or alleged act, error or omission in violation of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or any other state or federal law associated with the confidentiality, security, protection, control and use of private

information, and any rules or regulations promulgated in connection with such laws, including but not limited to The Privacy Rule and The Security Rule; or any actual or alleged misuse or improper release of confidential, private or proprietary information, including but not limited to protected health information;

19. any actual or alleged sexual misconduct or sexual abuse, including, but not limited to, any physical acts or oral statements of a sexually suggestive manner, or any unwelcome physical contact or touching;

20. any obligation of the **Insured** under a workers' compensation, disability benefits or unemployment compensation law or any similar law;

21. any direct or indirect consequence of war, invasion, act or foreign enemy, hostilities (whether or not war is declared), civil war, rebellion, revolution, civil insurrection, strike, riot, terrorism or cyber-terrorism;

    provided however, that this exclusion shall not apply to "acts of terrorism" as that term is defined in the Terrorism Risk Insurance Act of 2002 (TRIA), as amended, but only to the extent that coverage is required under TRIA;

22. any **Insured's** failure to maintain licensure status; or

23. the treatment of any **Patient** with, or use of, any drug, medical device, procedure, or biologic or radiation-emitting product that is experimental in nature or not approved for use by the general public by the U.S. Food and Drug Administration, the U.S. Department of Health and Human Services, or any institutional review board, or any other similar committee of the **Named Insured**.

IV. CONDITIONS

A. Limits of Liability

Subject to all of the applicable Insuring Agreements and the Limits of Liability shown in the Declarations, the provisions below establish the most the **Insurer** will pay for **Loss** and **Defense Expenses**, regardless of the number of **Insureds**, the number of **Claims** made, the number of Insuring Agreements implicated, or the number of persons or organizations making **Claims**.

1. The Specific Loss Limit shown in Item 3(a) of the Declarations is the most the **Insurer** will pay for all **Loss** and **Defense Expenses** because of any one **Claim** for a **Medical Professional Incident** for which coverage is provided under Insuring Agreement I.A. of this Policy, subject to the Aggregate Limit of Liability shown in Item 3(b) of the Declarations.

2. The Aggregate Limit shown in Item 3(b) of the Declarations is the most the **Insurer** will pay for the sum of all **Loss** and **Defense Expenses** because of all **Claims** for **Medical Professional Incidents** for which coverage is provided under Insuring Agreement I.A. of this Policy.

3. The Specific Loss Limit shown in Item 3(c) of the Declarations is the most the **Insurer** will pay for all **Loss** and **Defense Expenses** because of any one **Claim** or **Occurrence**, as

applicable, for which coverage is provided under Insuring Agreement I.B. of this Policy, General Liability, or because of any one **Claim**, occurrence, event or wrongful act, as applicable, for which coverage is provided under Insuring Agreement C. of this Policy, subject to the Aggregate Limit of Liability shown in Item 3(d) of the Declarations.

4. The Aggregate Limit shown in Item 3(d) of the Declarations is the most the **Insurer** will pay for the sum of all **Loss** and **Defense Expenses** because of all **Claims** or **Occurrences**, as applicable, for which coverage is provided under Insuring Agreement B. of this Policy, General Liability, or because of all **Claims**, occurrences, events or wrongful acts, as applicable, for which coverage is provided under Insuring Agreement C. of this Policy.

5. If a single **Occurrence** or **Medical Professional Incident** results in a **Claim** to which multiple Insuring Agreements apply, the **Insurer's** total liability for such single **Occurrence** or **Medical Professional Incident** shall not exceed the highest applicable amount stated as the Specific Loss Limit.

6. The Policy Aggregate Limit shown in Item 3(e) of the Declarations, if completed, is the most the **Insurer** will pay for the sum of all **Loss** and **Defense Expenses** because of all **Claims** or **Occurrences** for which coverage is provided under all Insuring Agreements of this policy, and is the most the **Insurer** shall pay under this Policy.

7. In the event that either of the Aggregate Limits of Liability set forth in Items 3(b) or 3(d) of the Declarations are reduced and exhausted by the payment of **Loss** and **Defense Expenses**, the **Insurer** will have no further obligation to pay **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under the respective Insuring Agreements to which these Limits of Liability apply.

8. In the event that the Policy Aggregate Limit of Liability set forth in Item 3(e) of the Declarations is reduced and exhausted by the payment of **Loss** and **Defense Expenses**, the **Insurer** will have no further obligation to pay **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under this policy, and the premium shall be deemed fully earned.

9. If any limit of liability provided by **Underlying Insurance** is reduced or exhausted due to the payment of covered **Claims** that would have been payable if subject to this Policy's terms and conditions, then subject to this Policy's terms, conditions, exclusions and limitations, this Policy's Limits of Liability will apply:

   a. excess of the reduced limit of liability provided by **Underlying Insurance**; or
   b. in place of the exhausted limit of liability provided by **Underlying Insurance**.

10. If any **Underlying Insurance** does not apply to any **Claim** otherwise covered by this Policy's terms and conditions, this Policy's Limits of Liability will apply excess of the **Retained Amount** shown in Item 4. of the Declarations.

11. Any limit of liability provided under a **Self-Insured Retention** listed in the Schedule of Underlying Insurance or Self-Insurance, whether or not such insurance is provided according to the terms of a written trust agreement or otherwise, will apply separately to each and every **Claim**. Any aggregate limit of liability for such **Self-Insured Retention** will be considered eroded or exhausted only by actual payment of **Claims** that would

otherwise be covered by this Policy's terms and conditions. Any **Defense Expenses** incurred by any **Insured** will be considered part of the limit of liability under such **Self-Insured Retention,** and such **Defense Expenses** will erode or exhaust the aggregate limit of liability of the **Self-Insured Retention**.

12. Any amount paid for **Loss** or **Defense Expenses** arising out of an **Occurrence** or **Claim** for which coverage is provided under this Policy will reduce the amount of the applicable Aggregate Limit. If the Aggregate Limit has been reduced by the payment of **Loss** or **Defense Expenses** to an amount that is less than the Specific Loss Limit stated in Item 3(a) or 3(c) of the Declarations, then the remaining Aggregate Limit is the most that will be available for payment of **Loss** and **Defense Expenses** for any other **Claims**.

B. **Defense and Settlement of Claims**

1. When there is Scheduled Underlying Insurance or **Other Insurance** that applies to a **Claim**, the **Insurer** shall have the right, but not the obligation, to associate with the **Insured** in the defense of any such **Claim** against an **Insured.**

   When there is Scheduled Underlying Self-Insurance for a **Claim**, the **Insurer** shall have the right, but not the obligation, to defend or associate with the **Insured** in the defense of any such **Claim** against an **Insured**.

2. The **Insurer** may, at its discretion, investigate any **Occurrence** or **Medical Professional Incident** and shall assume the defense and/or settlement of any **Claims** arising out of that **Occurrence** or **Medical Professional Incident** where:

   a. any **Underlying Insurance** or **Other Insurance** has been exhausted by the payment of **Claims** to which this Policy applies; or

   b. damages are sought for an **Occurrence**, **Medical Professional Incident** or **Claim** which is covered by this Policy and for which no **Underlying Insurance** or **Other Insurance** applies.

   The **Insurer** shall have the right to settle such **Claims**, consistent with the terms, conditions and Limits of Liability of this Policy. The first **Named Insured** will promptly reimburse the **Insurer** for any amount within the **Retained Limit** paid by the **Insurer** on behalf of any **Insured** as a result of the investigation, defense or settlement of such **Claims**.

3. Where the **Insurer** defends or chooses to associate in the defense of a **Claim**, the **Insurer** will pay **Defense Expenses** incurred in the investigation or defense of such **Claim**. The payment of such **Defense Expenses** shall reduce the Limits of Liability provided under this Policy, and the **Insurer's** obligation will end when the **Insurer** has exhausted the applicable Limit of Liability in the payment of **Loss** or **Defense Expenses**.

4. The **Insurer** will not be obligated to investigate, defend, or pay any **Claim** or **Defense Expenses** after the applicable Limit of Liability for this Policy has been exhausted by the payment of **Loss** or **Defense Expenses**.

5. If the **Insurer** is prevented by law or otherwise from carrying out these defense provisions, the **Insurer** will, with the **Insured's** written consent, indemnify the **Insured**

for **Defense Expenses**.

6. If the **Insurer** defends, or chooses to associate in the defense of a **Claim**, or pays **Loss** or **Defense Expenses**, and it is ultimately determined that the **Insurer** has no obligation to defend or provide coverage for such **Claim**, in whole or in part, then the **Insurer** will be entitled to reimbursement from the **Insured** of any **Loss** or **Defense Expenses** paid in connection with such **Claim** or any portion thereof for which coverage is not provided

C. **Maintenance of Underlying Insurance**

1. As long as this Policy is in effect, the policies listed in the Schedule of Underlying Insurance or Self-Insurance must continuously:

   a. provide no less coverage than is listed in the Schedule of Underlying Insurance or Self-Insurance as of the Inception Date of this Policy; and
   b. provide no lower limits of insurance than those listed in the Schedule of Underlying Insurance or Self-Insurance, except to the extent such limits are reduced or exhausted due to the payment of covered **Claims**.

2. If the **Underlying Insurance** or any renewals or replacements thereof:

   a. are not kept in full force and effect;
   b. contain provisions with substantive changes from the provisions originally applicable to the policies listed in the Schedule of Insurance or Self-Insurance;
   c. have limits of insurance of a lesser amount than those listed in the Schedule of Underlying Insurance or Self-Insurance;
   d. are unavailable or uncollectible due to the bankruptcy, insolvency, liquidation of any **Insured** or insurer; or
   e. are unavailable or uncollectible due to the **Insured's** failure to comply with provisions of such policies;

   then this Policy will still apply in the same manner as if the **Underlying Insurance** contained the original, less restrictive provisions, was still in full force and effect, and was fully collectible.

D. **Reporting and Notice of Claims and Circumstances**

The **Insured** must, as a condition precedent to any right to coverage under this Policy, comply with the notice and reporting provisions set forth below.

1. The **Insured** must provide the **Insurer** with immediate notice of any **Claim** first made against the **Insured** during the **Policy Period**, or any act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident** that takes place during the **Policy Period** and that could give rise to a **Claim** against the **Insured** (hereinafter, a "circumstance"), involving any of the following:

   a. unexpected deaths;
   b. unanticipated neurological, sensory and/or systemic deficits; brain damage; permanent paralysis, including, but not limited to, paraplegia and quadriplegia; partial or complete loss of sight or hearing; kidney failure; or sepsis;
   c. birth related injuries, including, but not limited to, maternal or fetal death;

anesthesia related injuries; infant resuscitation; shoulder dystocia; or cerebral palsy;

d. severe burns, including, but not limited to, thermal, chemical, radiological or electrical burns;

e. severe internal injuries, including, but not limited to, lacerations of organs; infectious process; foreign body retention; sensory organ injury; or reproductive organ injury;

f. failure to diagnose cancer;

g. any sentinel event;

h. class action suits; or

i. any matter reserved in excess of 25% of the per accident, per claim or per occurrence limit of liability of the **Applicable Underlying Insurance**.

With regard to any **Claim** first made during the **Policy Period** as describe above, such notice must be provided to the **Insurer** in writing no later than the Expiration Date of the **Policy Period** (or within thirty (30) days after the Expiration Date of the **Policy Period** if the **Claim** is first made against the **Insured** in the last thirty days (30) of the Policy Period).

With regard to any circumstance as described above, such notice must be provided to the **Insurer** in writing no later than the Expiration Date of the **Policy Period**.

Any such notice of **Claim** or circumstance shall include, as applicable:

(a) the time, date and place of the circumstance, or the incident resulting in the **Claim**;
(b) a description of the circumstance, or the incident that resulted in the **Claim**;
(c) a description of the injury or damage which has allegedly resulted from or may result from the circumstance, or the incident that resulted in the **Claim**;
(d) how and when the **Insured** first became aware of the circumstance, or the incident that resulted in the **Claim**;
(e) the names, addresses and ages of the injured parties;
(f) the names and addresses of any witnesses; and
(g) when and how notice of any **Claim** was received by the **Insured**, and to whom it was sent.

2. All **Claims**, and all circumstances, **Occurrences** and **Medical Professional Incidents** which may give rise to a **Claim** against the **Insured**, including but not limited to those described in Subsection D.1. above, must be summarized in a Quarterly Loss Run Report to the **Insurer**.

The Quarterly Loss Run Report shall include, at minimum:

(a) a description of the nature of the **Claim** or circumstance;
(b) the date the **Claim** was first made against the Insured, or the date the **Insured** first became aware of the circumstance;
(c) the date of loss;
(d) the claimant's name, the names of any involved parties;
(e) the status of the **Claim** or circumstance; and
(f) the reserved amounts for **Loss** and **Defense Expenses** for each **Claim** or circumstance;
(g) the paid and incurred amounts **Loss** and **Defense Expenses** for each **Claim** or circumstance.

The Quarterly Loss Run Report will serve as notice to the **Insurer** for those **Claims** not subject to the above reporting criteria, and must be received by the **Insurer**, in writing, no later than ten (10) days after the end of each calendar quarter with a final Loss Run Report to be received no later than the Expiration Date of the **Policy Period**. Such Quarterly Loss Run Reports must be sent to the **Insurer** electronically, or in writing by certified mail, express overnight mail, or prepaid courier, at the address specified in Item 5. of the Declarations.

The **Insured's** obligations under this Subsection D.2. will continue after this Policy expires, and will continue until the **Insurer** directs otherwise in writing.

3. If the **Insured** provides notice of circumstances to the **Insurer** during the **Policy Period**, then the **Insurer** shall treat any subsequently resulting **Claim** against the **Insured** as if it had been first made against the **Insured** during this **Policy Period**.

4. As a condition precedent to the **Insurer's** obligations under this Policy, the **Insured** will provide the **Insurer** with prompt notice of:

   a. any settlement offer that the **Insured** intends to make, or any settlement demand made by any claimant, involving any of the matters listed above under D.1 or any offer or demand that may implicate coverage under this Policy;
   b. the payment of any **Claims** under any **Underlying Insurance**;
   c. the cancellation or non-renewal of any **Underlying Insurance**;
   d. the modification of any **Underlying Insurance** by endorsement or otherwise; or
   e. any additional or returned premiums charged or allowed in connection with any **Underlying Insurance**.

5. Notice to any underlying insurers of any **Claim** or circumstance will not be deemed sufficient to establish reporting or notice to the **Insurer**. Notice of a matter listed in subsection D.1 must be sent to the **Insurer** electronically or in writing by certified mail, express overnight mail, or prepaid courier, at the address specified in Item 5. of the Declarations.

6. Reports made by the **Insured** to the **Insurer** as part of engineering, risk management or loss control services shall not be considered notice of an **Occurrence**, **Medical Professional Incident** or **Claim**.

7. Any inspection or audit by the **Insurer** or its representative of any **Occurrences, Medical Professional Incidents** or **Claims** shall not be considered notice of an **Occurrence**, **Medical Professional Incident** or **Claim**.

E. **Assistance and Cooperation**

As a condition precedent to coverage, all **Insureds** shall assist and cooperate with the **Insurer** in the investigation, defense and settlement of all **Claims**. All **Insureds** are additionally required to:

1. cooperate with all underlying insurers;
2. comply with the provisions of all **Underlying Insurance**;
3. not make any admission of liability;
4. pursue any and all rights of subrogation, contribution or indemnification against any person or organization who may be liable to any **Insured** because of any injury or

damage with respect to which coverage is provided under this Policy or any **Underlying Insurance;** and

5. allow the **Insurer** to conduct claims audits of the **Insured's** files at its discretion.

No **Insured** shall do anything to prejudice the **Insurer's** rights under this policy, nor shall any **Insured** settle any **Claim** for an amount in excess of the **Applicable Underlying Limit** without the **Insurer's** prior written consent.

F. **Related Claims Deemed Single Claim; Date Claim Made**

All **Related Claims**, whenever made, shall be deemed to be a single **Claim** and shall be deemed to have been first made on the earliest of the following dates:

1. the date on which the earliest **Claim** within such **Related Claims** was received by an **Insured**; or

2. the date on which written notice was first given to any **Insurer** of a circumstance which subsequently gave rise to any of the **Related Claims**;

regardless of the number and identity of claimants, the number and identity of **Insureds** involved, or the number and timing of the **Related Claims**, and even if the **Related Claims** comprising such single **Claim** were made in more than one **Policy Period**.

G. Related Acts Deemed Single Act

1. With regard to Insuring Agreement 1.A., UMBRELLA CLAIMS MADE PROFESSIONAL LIABILITY, all damages arising from the same or related acts, errors, omissions, facts, situation or circumstances are considered to arise out of a single **Medical Professional Incident**. Such **Medical Professional Incident** will be deemed to have first taken place at the time of the first act, error or omission.

2. With regard to Insuring Agreement I.B.1, OCCURRENCE-BASED GENERAL LIABILITY, all damages arising from the same or related accidents, acts, offenses, publications or general conditions are considered to arise out of a single **Occurrence**, regardless of the frequency or repetition thereof, the type of damage at issue, or the number of claimants. Such **Occurrence** will be deemed to have first taken place at the time the first such accident, act, offense, publication or general condition occurs.

3. With regard to Insuring Agreement I.B.2, CLAIMS MADE GENERAL LIABILITY, all damages arising from the same or related accidents, acts, offenses, publications or general conditions are considered to arise out of a single **Occurrence**, regardless of the frequency or repetition thereof, the type of damage at issue, or the number of claimants. Such **Occurrence** will be deemed to have first taken place at the time of the first accident, act, offense, publication or general condition.

H. **Other Insurance**

1. If any **Other Insurance** is available to any **Insured** with respect to a matter covered by this Policy, and such insurance is afforded under a policy or Extended Reporting Period issued by a past, present or future affiliate, subsidiary, parent company, sister company or member company of the **Insurer**, then the maximum limits of liability under all policies shall not exceed the highest remaining applicable limit of liability under any one policy.

2. If any **Other Insurance** is available to any **Insured** with respect to a matter covered by

this Policy, and such insurance is not afforded under a policy or Extended Reporting Period issued by a past, present or future affiliate, subsidiary, parent company, sister company or member company of the **Insurer** then this insurance will be excess over such insurance even if such **Other Insurance** is stated to be primary, excess, contingent, or otherwise.

The **Insurer** will pay only its share of **Loss** and **Defense Expenses**, if any, that exceeds the sum of:

a. the **Applicable Underlying Limit** or **Retained Amount**;
b. the total amount that all **Other Insurance** would pay in the absence of this Policy; and
c. the total of all deductibles, retentions and self-insured amounts under all **Applicable Underlying Limits** and all **Other Insurance**.

However, this Condition shall not apply if such **Other Insurance** is specifically written to be excess of this Policy.

I. **The Insurer's Right to Recover Payment**

If the **Insurer** makes a payment under this Policy, any and all **Insureds** will assist the **Insurer** in recovering any amounts paid by the **Insurer**, by using any and all of the **Insured's** rights of recovery, including any rights of subrogation, contribution or indemnification. Any such rights of subrogation, contribution or indemnification shall be transferred to the **Insurer**, and the **Insured** must do nothing to impair such rights. At the **Insurer's** request, the **Insured** will bring suit or transfer those rights to the **Insurer** and help the **Insurer** enforce such rights. In the event any such amounts are recovered, reimbursement will be made in the following order:

1. first, to any parties (including any **Insured**) who have paid any amount in excess of the Limit of Liability;
2. next, to the **Insurer**; and
3. then to any parties (including any **Insured** or underlying insurer) who are entitled to claim the remainder, if any.

A different order may apply if agreed upon by all interested parties. Expenses incurred in the process of recovery will be divided among all interested parties according to the ratio of their respective recoveries.

J. **Payment of Loss**

The **Insurer** is obligated to pay **Loss** under this Policy only after:

1. the underlying insurers have paid their limits of liability, or the **Named Insured** has paid the **Retained Amount** or **Self-Insured Retention**, as applicable;
2. the underlying insurers and all **Insureds** have complied with their obligations to defend and pay **Defense Expenses**; and
3. a judgment is rendered against any **Insured** after trial, or a written settlement is agreed upon by the **Insured**, the claimants, any underlying insurers and the **Insurer**.

The **Insurer** will then promptly pay on behalf of the **Insured** the amount of **Loss** covered under

the provisions of this Policy.

K. **Self-Insured Retention – the Insured's Failure to Respond**

In the event the **Insured** refuses to respond to its obligations for the payment of any **Self-Insured Retention** for any reason, the **Insurer** shall not be responsible to make payments for or on behalf of the **Insured**, nor in any event shall the **Insurer** be required to substitute for the **Insured** as respects the **Insured's** responsibility for payment of any **Self-Insured Retention**.

L. **Appeals**

The **Insurer** will have the right, but not the duty, to appeal any judgment brought against any **Insured** if:

1. the judgment is in excess of the **Applicable Underlying Limit**; and
2. neither any **Insured** nor any underlying insurer elects to appeal.

If the **Insurer** so appeals, the **Insurer** will pay the costs of the appeal plus any incidental interest, but in no event will the **Insurer** pay more than the applicable Limit of Liability plus the costs and interest of the appeal.

M. **Cancellation**

1. The **Named Insured** shown in Item 1 of the Declarations may cancel this Policy by mailing or delivering to the **Insurer** advance written notice of cancellation.

2. The **Insurer** may cancel this Policy by mailing or delivering to the first **Named Insured** written notice of cancellation at least:

   a. Ten (10) days before the effective date of cancellation if the **Insurer** cancels for nonpayment of premium; or

   b. Thirty (30) days before the effective date of cancellation if the **Insurer** cancels for any other reason.

   The **Insurer** will mail or deliver any such notice to the first **Named Insured**'s last mailing address known to the **Insurer**. Such notice of cancellation will state the effective date of cancellation, and the **Policy Period** will end on that date. If notice is mailed, proof of mailing will be sufficient proof of notice.

3. If this Policy is cancelled, the **Insurer** will send the first **Named Insured** any premium refund due. If the **Insurer** cancels, the refund will be calculated on a pro rata basis. If the first **Named Insured** cancels, the refund will be the lesser of (a) the amount calculated in accordance with the customary short-rate table, or (b) the amount calculated in accordance with the Minimum Earned Premium percentage stated in the Declarations. The cancellation will be effective even if the **Insurer** has not made or offered a refund.

4. In the event of a midterm cancellation of this Policy, any **Applicable Underlying Limit** aggregate amount listed in the Schedule of Underlying Insurance or Self-Insurance is not subject to any pro rata reduction. Any **Applicable Underlying Limit** aggregate amount will apply as if the policy term had not been shortened.

N. **Non-Renewal by the Insurer**

If the **Insurer** decides not to renew this Policy, the **Insurer** will mail or deliver to the first **Named Insured**, at the address shown in the Declarations, written notice of the non-renewal not less than thirty (30) days before the expiration date or as required by law. If notice is mailed, proof of mailing will be sufficient proof of notice.

O. **Extended Reporting Period**

1. As respects any Claims Made Insuring Agreement of this Policy, the **Insured** will have the right to purchase an Extended Reporting Period as described below, if:

   a. the Claims Made coverage is cancelled or non-renewed for any reason other than fraud or nonpayment of premium. The **Insurer's** offer to renew any Claims Made coverage with terms, conditions or premiums that differ from the expiring coverage shall not constitute a non-renewal of such coverage; or

   b. the **Insurer** renews or replaces the Claims Made coverage with insurance that:

      i. has a Retroactive Date later than the date shown on the Declarations; or
      ii. does not apply on a Claims Made basis.

2. If the **Insured** wishes to purchase an Extended Reporting Period, the **Insured** must:

   a. obtain all available Extended Reporting Periods for all applicable **Underlying Insurance**;

   b. provide the **Insurer** written notice of the **Insured's** election to purchase an Extended Reporting Period within thirty (30) days of the end of the **Policy Period** or the date of the termination of the Claims Made coverage, whichever comes first; and

   c. pay to the **Insurer** within thirty (30) days all such premiums as may be required.

   If the **Insured** fails to comply with any of the three (3) provisions stated immediately above, the **Insured** will not be entitled to purchase an Extended Reporting Period under this Policy at a later date.

3. An Extended Reporting Period extends the period of time during which a **Claim** can be first made against an **Insured**. Such **Claim** must arise out of a **Medical Professional Incident** or **Occurrence** that took place on or after the **Retroactive Date** but before the end of the **Policy Period**. Any such **Claim** first made during an Extended Reporting Period will be deemed to have been made on the last day of the **Policy Period**. The Extended Reporting Period does not extend the **Policy Period**, change the scope of coverage provided under any Claims Made Insuring Agreement, or reinstate or increase the Limits of Liability available under this Policy. The term of, and the additional premium for, the Extended Reporting Period, shall be determined by the **Insurer** at the time of the **Insured's** notification that it has elected to purchase the Extended Reporting Period. The Extended Reporting Period will take effect only after the **Insured** has paid any additional premium required by the **Insurer**.

4. Once an Extended Reporting Period is effective, it cannot be cancelled and the **Insurer** shall not return any part of any premium paid to the **Insurer** for such Extended Reporting Period for any reason whatsoever. However, the **Insurer** will return all premium paid for any Extending Period that has not become effective because all available Extending Reporting Periods for all applicable **Underlying Insurance** were not obtained by the **Insured**.

5. The coverage provided under an Extended Reporting Period will be excess over any **Other Insurance**, whether primary, excess, contingent or on any other basis, whenever such other valid and collectible insurance is in effect subsequent to the effective date of any such Extended Reporting Period.

P. **Mergers, Acquisitions and Newly Created Entities**

1. If, during the Policy Period, any of the following events occurs:

   a. any **Insured Entity** acquires any assets, acquires or creates a Subsidiary, or acquires any entity by merger or acquisition, and, at the time of such transaction, the assets so acquired or the assets of the entity so acquired exceed fifteen percent (15%) of the total assets of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements.

      For purposes of this Condition P, "Subsidiary" means any entity during any time in which the **Named Insured** owns or controls, directly or indirectly, more than fifty percent (50%) of the outstanding securities representing the right to vote for the election of such entity's directors or members of the board of managers.

   b. any **Insured Entity** assumes any liabilities and, at the time of such assumption, the liabilities so assumed exceed fifteen percent (15%) of the total liabilities of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements; or

   c. any insurance identified in the Schedule of Underlying Insurance or Self Insurance provides coverage, or is amended to provide coverage, as a result of an **Insured Entity** acquiring any assets, acquiring or creating any Subsidiary, or acquiring any entity by merger or acquisition;

   then, for a period of thirty (30) days after the effective date of such event, the coverage granted by this Policy shall extend to any **Claims** arising out of covered acts, errors, omissions or **Occurrences** that take place after the effective date of such event and arise out of or relate to the entity, assets or liabilities acquired, assumed or merged with. After the expiration of such thirty (30) day period, there shall be no coverage under this Policy for such **Claims** unless: (a) within such thirty (30) day period, the **Insurer** receives from the **Insured** such information regarding details of the transaction as the **Insurer** requests and; (b) the **Insurer** specifically agrees by written endorsement to this Policy to provide such coverage upon such terms, conditions and limitations, including payment of additional premium, as the **Insurer**, at its sole discretion, may require.

2. If, during the Policy Period:

   a. any **Insured Entity** acquires any assets, acquires or creates a Subsidiary, or acquires any entity by merger or acquisition, and, at the time of such transaction, the assets so acquired or the assets of the entity so acquired are less than fifteen percent (15%) of the total assets of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements; or

   b. any **Insured Entity** assumes any liabilities and, at the time of such assumption, the liabilities so assumed are less than fifteen percent (15%) of the total liabilities of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements;

   then, the coverage granted by this Policy shall extend to any **Claims** arising out of covered acts, errors, omissions or **Occurrences** that take place after the effective date of such event and arise out of or relate to the entity, assets or liabilities acquired, assumed or merged with, subject to all coverage terms, conditions and exclusions.

Q. **Sales or Dissolution of Insured Entities; Cessation of Business**

1. If, during the **Policy Period**, the **Named Insured**:

   a. Is dissolved, sold, acquired by, merged into or consolidated with another entity, such that the **Named Insured** is not the surviving entity, or such that any person, entity or affiliated group of persons or entities obtains:
      i. the right to elect or appoint more than fifty percent (50%) of the **Named Insured's** directors, trustees or member managers, as applicable; or
      ii. more than fifty percent (50%) of the **Named Insured's** equity or assets;

   b. Ceases to do business for any reason; or

   c. Has a receiver, liquidator, conservator, trustee, rehabilitator or similar administrator appointed;

   then in any such event (any of which events is referred to in this Condition Q. as a "Material Event"), coverage under this Policy for all **Insureds** shall continue in full force and effect until the Expiration Date or any earlier cancellation date, but this Policy shall apply only to covered acts, errors or omissions committed or allegedly committed before such Material Event. There will be no coverage under this Policy with respect to any **Claim** against any **Insured** based upon, arising out of, directly or indirectly resulting from, in consequence or, or in any way involving any covered acts, errors or omissions committed or allegedly committed on or after the date of such Material Event.

   If such a Material Event occurs, the policy premium shall be deemed fully earned by the **Insurer**.

2. If, during the **Policy Period**, any **Insured Entity** other than the **Named Insured** is involved in a Material Event, coverage under this Policy for covered acts, errors or omissions committed or allegedly committed before such Material Event by such **Insured Entity** shall continue in full force and effect until the Expiration Date or any earlier cancellation date. There will be no coverage under this Policy with respect to any

Claim against such **Insured Entity** or individual **Insureds** employed by or associated therewith based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any covered acts, errors or omissions committed or allegedly committed on or after the date of such Material Event. Coverage under this Policy shall continue in full force and effect for all other **Insureds**.

If such a Material Event occurs, the policy premium allocated to such **Insured Entity** and individual **Insureds** employed by or associated therewith, shall be deemed fully earned by the **Insurer**.

R. **Territory**

This Policy applies to **Medical Professional Incidents, Occurrences** or other covered acts, error or omissions taking place anywhere in the world; provided however, that any **Claim** for which coverage is sought under this Policy must be brought and maintained against an **Insured** in the United States of America, its territories or possessions or Canada.

This Policy shall not cover any **Loss** in connection with any **Claim** in the event that such coverage would not be in compliance with any United States of America economic or trade sanctions, laws or regulations, including but not limited to the U.S. Treasury Department's Office of Foreign Assets Control, or any similar foreign, federal, state or statutory law or common law.

S. **Sole Agent**

If there is more than one **Insured** named in this Policy, the first **Named Insured** shall act on behalf of all **Insureds** for all purposes, including but not limited to:

1. reporting and/or giving of notice consistent with Section IV.D.;
2. the payment or return of premium;
3. receipt and acceptance of any endorsement issued to form a part of this Policy;
4. giving and receiving notice of cancellation or non-renewal;
5. reimbursement to the **Insurer** of any **Retained Amount** or **Self-Insured Retention** amount advanced by the **Insurer**; and
6. election to purchase an Extended Reporting Period.

T. **Premium**

1. The first **Named Insured** is responsible for payment of all premiums and will be the payee of any return premium.
2. The **Insurer** reserves the right to adjust the premium charged for this Policy if any of the provisions of this Policy are changed.

U. **Representations**

By acceptance of this Policy, the **Named Insured** agrees:

1. That the information shown in the Declarations and Schedule of Underlying Insurance or Self-Insurance is accurate and complete; and

2. That the statements and representations in the **Application** are true, accurate and complete, that each shall be deemed material, and that this Policy is issued in reliance

upon the truth of such statements and representations.

In the event of any material untruth, misrepresentation or omission in connection with any of the particulars or statements in the **Application**, no coverage shall be provided under this Policy with respect to the **Insured Entity** or the signor of the **Application**, or with respect to any **Insured** who knew of such untruth, misrepresentation or omission. The knowledge of the Risk Manager, Chief Financial Officer and Chief Executive Officer of the **Insured Entity** shall be imputed to the signor of the **Application**.

V. **Transfer of the Insured's Rights and Duties Under this Policy**

The **Insured's** rights and duties under this Policy may not be transferred without the **Insurer's** prior written consent, except in the case of death of an individual **Named Insured,** in which case the **Named Insured's** rights and duties will be transferred to such **Insured's** legal representative but only while acting within the scope of duties as such. Until the **Named Insured's** legal representative is appointed, anyone having proper temporary custody of such **Insured's** property will have the **Insured's** rights and duties, but only with respect to that property.

W. **Bankruptcy**

Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate will not relieve the **Insurer** of its obligations under this Policy.

X. **Changes**

This Policy embodies all agreements existing between the **Insured** and the **Insurer**, or any of the **Insurer's** employees or representatives, in connection with this Policy. The first **Named Insured** shown in the Declarations is authorized to make changes in the terms of this Policy only with the **Insurer's** written consent. This Policy's terms can be amended or waived only by a written endorsement to this Policy issued by the **Insurer**.

Y. **Inspections and Audits**

The **Insurer** will be permitted, but not obligated, to inspect the **Insured's** property and operations at any time, upon reasonable notice. Neither the **Insurer's** right to make inspections nor the making of any such inspections shall constitute an undertaking, on behalf of or for the benefit of the **Insured** or others, to determine or warrant that such property and operations are safe. The **Insurer** may examine and audit the **Insured's** books and records at any time, upon reasonable notice, as far as such books and records relate to the subject matter of this Policy.

Z. **Legal Action Against the Insurer**

1. No action shall lie against the **Insurer** unless, as conditions precedent thereto, the **Insureds** have fully complied with all of the terms of this Policy and the amount of the **Insureds'** obligation to pay has been finally determined either by judgment against the **Insureds** after adjudicatory proceedings, or by written agreement of the **Insureds**, the claimant and the **Insurer**.
2. No individual or entity shall have any right under this Policy to join the **Insurer** as a party to any **Claim** to determine the liability of any **Insured**; nor shall the **Insurer** be impleaded by an **Insured** or his, her or its legal representative in connection with any such **Claim**.

AA. **Headings**

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

IN WITNESS WHEREOF, the Insurer has caused this Policy to be executed on the Declarations Page.