

**ARCHITECTS, ENGINEERS AND CONSTRUCTION MANAGERS PROFESSIONAL LIABILITY
ARCHITECTS, ENGINEERS AND CONSTRUCTION MANAGERS POLLUTION LIABILITY
TECHNOLOGY SERVICES PROFESSIONAL LIABILITY
EMPLOYMENT PRACTICES LIABILITY (only applicable if the certificate is endorsed)
INSURANCE**

DECLARATIONS

THIS IS A “CLAIMS MADE” CERTIFICATE – PLEASE READ CAREFULLY

CERTIFICATE NUMBER:

RENEWAL OF:

ITEM 1. NAMED INSURED:

ITEM 2. ADDRESS:

ITEM 3. CERTIFICATE PERIOD: FROM: TO:
(12:01 A.M. standard time at the Named Insured’s address as indicated herein)

ITEM 4. NAMED INSURED’S PROFESSIONAL SERVICES:

ITEM 5. NAMED INSURED IS:

Partnership Corporation Sole Proprietorship

ITEM 6. LIMIT OF LIABILITY:

A. INSURING AGREEMENT I. A., B., AND C. EACH CLAIM LIMIT OF LIABILITY \$
B. INSURING AGREEMENT I. D. EACH CLAIM AND AGGREGATE LIMIT OF LIABILITY \$
(ONLY APPLICABLE IF THE CERTIFICATE IS ENDORSED)
C. TOTAL AGGREGATE LIMIT OF LIABILITY FOR ALL INSURING AGREEMENTS \$

ITEM 7. DEDUCTIBLE:

A. INSURING AGREEMENT I. A., B., AND C. EACH CLAIM DEDUCTIBLE \$
B. INSURING AGREEMENT I. D. EACH CLAIM DEDUCTIBLE \$
(ONLY APPLICABLE IF THE CERTIFICATE IS ENDORSED)

ITEM 8. TOTAL PREMIUM \$

ITEM 9. RETROACTIVE DATE:

ITEM 10. ENDORSEMENTS:

ITEM 11: INSURERS: Coverage is 100% effective with Underwriters at Lloyd's, London, England – Agreement No. and individual subscribing syndicates are as follows:

INSURERS

Underwriters At Lloyd's, London

<u>Syndicate #</u>	<u>Pseudonym</u>	<u>% of Liability</u>
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	TOTAL:	100.000%
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PLEASE SEE SECTION XXV. SEPARATE AND SEVERAL LIABILITY OF INSURERS OF THE CERTIFICATE WORDING

CORRESPONDENT/AUTHORIZED REPRESENTATIVE
Professional Underwriters Agency, Inc.

**ARCHITECTS, ENGINEERS AND CONSTRUCTION MANAGERS PROFESSIONAL LIABILITY
ARCHITECTS, ENGINEERS AND CONSTRUCTION MANAGERS POLLUTION LIABILITY
TECHNOLOGY SERVICES PROFESSIONAL LIABILITY
INSURANCE
(Claims Made Basis)
The Insurers designated on the Declarations Page**

In consideration of the payment of the premium, the undertaking of the Insured to pay the deductible as described herein, and in reliance upon the statements in the application attached hereto and made part hereof, and subject to the Limits of Liability of this insurance as set forth in the Declarations, Exclusions, Conditions, and other terms of this Certificate; the Insurers agree with **the Named Insured** as follows: (Throughout this Certificate, words and phrases that appear in bold have special meaning. Refer to Section III. Definitions)

I. INSURING AGREEMENTS

A. ARCHITECTS, ENGINEERS AND CONSTRUCTION MANAGERS PROFESSIONAL LIABILITY

To pay on behalf of the **Insured** all sums in excess of the deductible which the **Insured** shall become legally obligated to pay as **Damages** and **Costs, Charges, and Expenses** by reason of any Claim first made against the **Insured** during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) arising out of a **Wrongful Act**, whether committed or alleged to have been committed by the **Insured** or any person employed by the **Insured** or by others for whom the **Insured** is legally responsible; except as excluded or limited by the terms, conditions, and exclusions of this Certificate.

B. ARCHITECTS, ENGINEERS AND CONSTRUCTION MANAGERS POLLUTION LIABILITY

To pay on behalf of the **Insured** all sums in excess of the deductible which the **Insured** shall become legally obligated to pay as **Damages, Cleanup Costs,** and **Costs, Charges, and Expenses** by reason of any **Claim** first made against the **Insured** during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) for a **Pollution Condition** arising out a **Wrongful Act**, whether committed or alleged to have been committed by the **Insured** or any person employed by the **Insured** or by others for whom the **Insured** is legally responsible; except as excluded or limited by the terms, conditions, and exclusions of this Certificate.

C. TECHNOLOGY SERVICES PROFESSIONAL LIABILITY

To pay on behalf of the **Insured** all sums in excess of the deductible which the **Insured** shall become legally obligated to pay as **Damages** and **Costs, Charges, and Expenses** by reason of any **Claim** first made against the **Insured** during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) arising out of a **Wrongful Technology Act**, whether committed or alleged to have been committed by the **Insured** or any person employed by the **Insured** or by others for whom the Insured is legally responsible;

except as excluded or limited by the terms, conditions, and exclusions of this Certificate.

II. TERRITORY, CERTIFICATE PERIOD, AND CLAIMS MADE PROVISIONS

This insurance applies only to **Wrongful Acts, Pollution Conditions, or Wrongful Technology Acts** which are committed or alleged to have been committed and result in **Damages** or alleged to have resulted in **Damages** anywhere in the world, provided always that the **Wrongful Act, Pollution Condition, or Wrongful Technology Act**:

- (a) Was committed or alleged to have been committed during the **Certificate Period** and a **Claim** is first made during the **Certificate Period**;
- (b) Was committed or alleged to have been committed prior to the inception date of the Certificate but after any Retroactive Date shown in Item 9. of the Declarations, and such **Claim** is first made during the **Certificate Period**, but always provided that:
 - (i) The **Insured** had no knowledge of any such actual or alleged **Wrongful Act, Pollution Condition, or Wrongful Technology Act** on the effective date of this insurance; and
 - (ii) No other valid and collectible insurance is available to the **Insured** for any such actual or alleged **Wrongful Act, Pollution Condition, or Wrongful Technology Act**.

The Insurers' obligation as set forth above applies only to **Claims** first made within the United States of America, its Territories or Possessions, or Canada. The Insurers, however, may elect at any time to investigate, settle, or defend such **Claims** that are brought anywhere other than in the United States of America, its Territories or Possessions, or Canada. If the Insurers do not make such an election, then the **Insured** agrees with the written consent of the Insurers, to make or cause to be made such investigation and defense as is reasonably necessary, and subject to written authorization by the Insurers, the **Insured** may effect settlement. The Insurers in such event shall also reimburse the **Insured** for reasonable costs of such investigation or defense and settlement as previously authorized by the Insurers as the Insurers in its sole discretion deems appropriate.

III. DEFINITIONS

- A. Named Insured** shall mean the person or entity specified in Item 1 of the Declarations;
- B. Insured** shall mean:
 - (i) If the **Named Insured** is designated in the Declarations as a partnership, the partnership so designated and any past or present partner or member thereof, but only while acting within the scope of his/her duties as a partner or member of the **Named Insured** and only with respect to his/her liability as such;
 - (ii) If the **Named Insured** is designated in the Declarations as a Corporation, the Corporation so designated, and any past or present officer or director, but only while acting within the scope of his/her duties as an officer or director of the **Named Insured**;
 - (iii) Any employee of the **Named Insured**, but only while acting within the scope of his/her

- duties as an employee of the **Named Insured**;
- (iv) The estate, heirs, executors, administrators, assigns and legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Insurance Certificate.
 - (v) Any joint venture in which the **Named Insured** participates in, but solely for the **Named Insured's** liability that arises out of a **Wrongful Act, Pollution Condition, or Wrongful Technology Act**.
 - (vi) Any entity that the **Named Insured** purchases or acquires after the inception date of this Certificate, provided the revenues of such entity do not exceed 10% of the **Named Insured's** annual revenues as set forth in the most recent application for this insurance. If the **Named Insured** acquires an entity whose revenues exceed 10% of the **Named Insured's** revenues as set forth in the most recent application for this insurance, the provisions of Section IV. Mergers and Acquisitions A. of this Certificate must be fulfilled. No coverage is provided under this Certificate for any **Claim** that arises out of any **Wrongful Act, Pollution Condition, or Wrongful Technology Act** committed or alleged to have been committed at any time when such entity was not owned and controlled by the **Named Insured**.
- C. **Bodily Injury** shall mean physical injury, sickness, disease, or death of any person, including any mental anguish or emotional distress resulting therefrom.
- D. **Certificate Period** shall mean the period from the effective date of this Certificate to the expiration date or earlier termination date, if any, of this Certificate.
- E. **Circumstance** shall mean any fact, event, or situation that could reasonably be the basis for a **Claim**.
- F. **Claim** shall mean a written demand received by the **Insured** for money or services, and alleging a **Wrongful Act, Pollution Condition, or Wrongful Technology Act**, including the service of suit or institution of arbitration proceedings against the **Insured**. Multiple **Claims** arising from the same or a series of related or repeated **Wrongful Acts, Pollution Conditions, or Wrongful Technology Acts** shall be considered a single **Claim** for the purposes of this Certificate, irrespective of the number of Claimants or **Insureds** involved in the **Claim** and all such **Claims** shall be deemed to have been made at the time of the first such **Claim**.
- G. **Cleanup Costs** shall mean the reasonable and necessary costs, charges, and expenses incurred with the prior written consent of the Insurers in the investigation, removal, or neutralization of a **Pollution Condition**.
- H. **Computer System** shall mean computers and associated input and output devices, data storage devices, networking equipment, and back up facilities operated by and either owned by or leased to the **Insured**; or operated by a third party service provider and used for the purpose of providing

hosted computer application services to the **Insured**; or for processing, maintaining, hosting, or storing the **Insured's** electronic data pursuant to a written contract with the **Insured** for such services.

- I. **Computer Virus** shall mean computer instructions placed on a **Computer System** without the owner's or user's knowledge or consent that are designed to harm, impede, corrupt, erase, remove, disrupt, or destroy the **Computer System**, electronic data or software, or any part of it. **Computer Virus** shall include, but is not limited to, malicious codes, Trojan horses, worms, and time or logic bombs.
- J. **Costs, Charges, and Expenses** shall mean fees and disbursements charged by an attorney designated by the Insurers; all reasonable and necessary fees, costs and expenses resulting from the adjustment, defense, and appeal of a **Claim**, if incurred by the designated attorney, by the Insurers, or by the **Insured** with the written consent of the Insurers; and premiums on appeal bonds, attachment bonds, or any similar bonds, however, the Insurers shall not be obligated to apply for or furnish any such bonds. **Costs, Charges, and Expenses** shall not include the cost of investigation and adjustment of **Claims** by salaried employees of the Insurers.
- K. **Damages** shall mean a monetary loss, a monetary judgment, or a monetary settlement, and **Cleanup Costs** and **Costs, Charges, and Expenses** for which the **Insured** is legally obligated to pay as a result of a **Wrongful Act, Pollution Condition, or Wrongful Technology Act**; provided always that **Damages** shall not include fines, penalties, exemplary damages, criminal assessments, or the return, withdrawal, or reduction of professional fees. **Damages** shall include punitive damages, but only if insurable by law under the law under which the Certificate is construed.
- L. **Denial of Service** shall mean the inability of a third party to gain access to the **Insured's Computer System** due to unauthorized attacks or deliberate overloading of bandwidth connections and/or web servers.
- M. **Discovery Coverage Extension** shall mean the period of time after the end of the **Certificate Period** for reporting **Claims** as provided in Section XIII. of this Certificate.
- N. **Hacker Attack** shall mean unauthorized use of or gaining access to **Computer Systems** by a person not authorized to do so, or in an unauthorized manner.
- O. **Hostile Fire** shall mean one which becomes uncontrollable or breaks out from where it was intended to be.
- P. **Media Content** shall mean data, digital code, images, graphics, sounds, text, or any other similar material.
- Q. **Personal Injury** shall mean **Bodily Injury**, false arrest, detention or imprisonment; wrongful entry or eviction or other invasion of private occupancy; malicious prosecution; humiliation; and libel, slander, or other disparaging comments or materials in violation of an individual's right of privacy.

- R. Pollution Condition** shall mean the actual or alleged discharge, dispersal, release or escape of any solid, liquid, gaseous, thermal irritant or contaminant including smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gasses, waste materials, or other irritants, contaminants, or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in **Bodily Injury, Property Damage, or Cleanup Costs**. **Pollution Condition** does not mean heat, vapor, soot, or fumes from a **Hostile Fire** or explosion.
- S. Professional Services** shall mean only those services provided by the **Insured** acting in the capacity of an architect, engineer, landscape architect, interior designer, land surveyor, construction manager, environmental consultant, or as specifically listed in the Declarations.
- T. Property Damage** shall mean physical injury to or destruction of any tangible property, including the loss of use thereof; or loss of use of tangible property that has not been physically injured or destroyed.
- U. Technology Services** shall mean electronic media activities, digital services, internet services, data processing services, information services and/or other electronic activities, including computer systems analysis, technology consulting and training, custom software programming for a specific client of the **Named Insured**, computer and software systems installation and integration, computer and software support, and network management services which are performed in the rendering of **Professional Services**. **Technology Services** shall not include computer or telecommunications hardware or software, or related electronic product that is created, manufactured or developed by the **Named Insured** for others, or distributed, licensed, leased or sold by the **Named Insured** to others for compensation, including software updates, service packs, and other maintenance releases provided for such products.
- V. Theft of Electronic Data** shall mean the unauthorized taking, misappropriation, or misuse of information by a third party that exists in electronic form, or which is in the course of transmission to or from a mobile or wireless device which is intended to interact with a **Computer System**, including account information, confidential information, proprietary information, and personal information while stored in a **Computer System** maintained to appropriate standards in respect of security and backup procedures.
- W. Trade Secret** shall mean information, including a formula, pattern, compilation, program, device, method, technique or process that derives independent economic value, actual or potential, from not being generally known to, or readily ascertainable by, another person or entity who would obtain value from its disclosure for use, so long as reasonable efforts have been made to maintain its secrecy and which a business uses, which gives it an opportunity to obtain an advantage over competitors who do not know or use it.
- X. Wrongful Act** shall mean any actual or alleged negligent act, error, mistake, or omission in rendering or failure to render **Professional Services** for others, whether committed or alleged to have been committed by the **Insured** or any person employed by the **Insured** or by others for

whom the **Insured** is legally responsible. **Wrongful Act** shall not include an act that is dishonest, fraudulent, malicious, or criminal.

Y. **Wrongful Technology Act** shall mean any actual or alleged negligent act, error, mistake or omission alleged to have been committed by the **Insured** or any person employed by the **Insured** or by others for whom the **Insured** is legally responsible, solely while performing **Technology Services** that results in the:

- i. failure to prevent a third party from unauthorized access to, use of, or tampering with including:
 - a. **Hacker Attacks**, or
 - b. **Computer Virus** attacks, or
 - c. **Theft of Electronic Data**; or
- ii. inability of an authorized third party to gain access to the **Insured's** services including **Denial of Service** unless such inability is caused by a mechanical, telecommunications or electrical interruption or failure; or
- iii. defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization; or
- iv. invasion, or interference with the right to privacy or publicity; or
- v. false arrest, detention or imprisonment or malicious prosecution; or
- vi. infringement of any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping; or
- vii. infringement of copyright, domain name, trade dress title or slogan or the dilution or infringement of trademark, service name or trade name; or
- viii. plagiarism, piracy or misappropriation of ideas; or
- ix. liability regarding any **Media Content** for which the **Insured** is responsible; or
- x. negligent and/or inadvertent transmission by the **Insured** to a third party of any **Computer Virus**.

IV. **MERGERS AND ACQUISITIONS**

- A. If during the **Certificate Period**, the **Named Insured** purchases or acquires another entity whose annual revenues are more than ten percent (10%) of the **Named Insured's** total annual revenues as set forth in the most recent application for this insurance, then no **Insured** shall have coverage under this Certificate for any **Claim** that arises out of any **Wrongful Act**, **Pollution Condition**, or **Wrongful Technology Act** whether committed or arising either before or after such purchase or acquisition:
 - i. By the acquired entity or any person employed by the acquired entity; or
 - ii. Involving or relating to the assets, liabilities, or **Computer Systems** of the acquired entity.

The foregoing provision shall not apply if the **Named Insured** gives the Insurers written notice within thirty (30) days after the effective date of the acquisition; obtains the Insurers' written consent to extend coverage to such additional entities, assets, or exposures; agrees to pay any additional premium required by the Insurers; and the Certificate is endorsed to reflect the acquired entity. Further, no coverage is provided under this Certificate for any **Claim** that arises out of any **Wrongful Act, Pollution Condition, or Wrongful Technology Act** committed or alleged to have been committed at any time when such entity was not owned and controlled by the **Named Insured**.

- B. If during the **Certificate Period** the **Named Insured** consolidates or merges with another entity such that the **Named Insured** is not the surviving entity; is acquired by another entity; or sells substantially all of its assets to another entity, then coverage under this Certificate shall not apply to any **Wrongful Act, Pollution Condition, or Wrongful Technology Act** committed or arising subsequent to such consolidation, merger, or acquisition. The total premium shall be deemed fully earned at the date of such consolidation, merger, or acquisition and the **Named Insured** shall provide written notice of such consolidation, merger, or acquisition to the Insurers as soon as practicable, together with such information as the Insurers may require.
- C. All notices and premium payments made under this section shall be directed to the Insurers c/o Professional Underwriters Agency, Inc., 2803 Butterfield Road, Suite 260, Oak Brook, IL 60523.

V. **LIMITS OF LIABILITY**

The liability of the Insurers for **Damages, Cleanup Costs, and Costs, Charges, and Expenses** resulting from each **Claim** which is first made during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) as a result of a **Wrongful Act, Pollution Condition, or Wrongful Technology Act** shall not exceed the amount stated in Item 6A. of the Declarations for each **Claim**.

The total limit of the Insurer's liability under this Certificate for **Damages, Cleanup Costs, and Costs, Charges, and Expenses** resulting from all **Claims** which are first made during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) as a result of **Wrongful Acts, Pollution Conditions, or Wrongful Technology Acts** shall not exceed the amount stated in Item 6C. of the Declarations as "aggregate"; regardless of the number of **Insureds**, the number of **claims** made or suits brought, the entities or persons making such claims or bringing such suits, the number of **Wrongful Acts, Pollution Conditions or Wrongful Technology Acts**, or the number of Insuring Agreements triggered by a **claim**.

The Insurers' liability for each **Claim** which is first made during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) and the total of the Insurers' liability for all **Claims** first made during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) in the "aggregate" as set forth in the Declarations will apply to any sum or sums paid by the Insurers as **Damages**, inclusive of **Cleanup**

Costs and **Costs, Charges, and Expenses**, whether or not loss payment is made. The Insurers shall not be obligated to pay any **Claim** or judgment or defend any suit or **Claim** after the applicable limit of liability has been exhausted by payment of **Damages, Cleanup Costs, or Costs, Charges, and Expenses. Cleanup Costs** and **Costs, Charges, and Expenses** are subject to and included within the applicable limit of liability.

All **Claims** constituting a single **Claim**, whenever made, will be considered first made during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) in which the earliest **Claim** or reported **circumstance** was made to the Insurers in writing in accordance with the provisions of Sections XI. and XII. of this Certificate. All such **Claims** or reported **Circumstances** will be subject to the Limit of Liability for the **Certificate Period** in which the earliest **Claim** or **Circumstance** was made to the Insurers in writing.

VI. DEDUCTIBLE

The deductible amount stated in Item 7A. of the Declarations is applicable separately to each **Claim** which is first made during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) as a result of a **Wrongful Act, Pollution Condition, or Wrongful Technology Act** and will apply to any sum or sums paid by the Insurers as **Damages** inclusive of **Cleanup Costs** and **Costs, Charges, and Expenses**, whether or not loss payment is made.

The **Insured** agrees to pay to the Insurers that portion of the deductible which shall have been expended by the Insurers for payment of **Damages** within 10 business days upon receipt of written notice of such sums being due. The determination by the Insurers as to the reasonableness of the **Cleanup Costs** and **Costs, Charges, and Expenses** shall be conclusive on the **Named Insured**.

VII. AWARENESS PROVISION

If during the **Certificate Period** or **Discovery Coverage Extension** (if purchased), the **Insured** shall become aware of any **Circumstances** which may subsequently give rise to a **Claim** against the **Insured** by reason of any alleged or actual **Wrongful Act, Pollution Condition, or Wrongful Technology Act** for which coverage would be afforded hereunder and if the **Insured** shall during the **Certificate Period** herein give written notice to the Insurers of such **Circumstances**, any **Claim** which is made against the **Insured** arising out of such alleged or actual **Wrongful Act, Pollution Condition, or Wrongful Technology Act** shall be deemed for the purpose of this insurance to have been first made during the **Certificate Period** stated in the Declarations. The **Insured** shall cooperate fully with the Insurers as provided in Sections XI. and XII. of this Certificate, and any investigation conducted by the Insurers or its representatives shall be subject to the terms set forth in this Certificate.

VIII. DEFENSE, SETTLEMENT, COOPERATION

- A. The Insurers shall defend any **Claim** against the **Insured** seeking **Damages** to which this insurance applies, even if any of the allegations of suit are groundless, false or fraudulent. It is agreed that the Insurers may make such investigation and settlement of any **Claim** or suit as it deems expedient; but the Insurers shall not be obligated to pay any **Damages** or **Costs, Charges, and Expenses** resulting from a **Claim** or to defend any **Claim** or suit after the applicable limit of liability has been exhausted by payment of **Damages, Cleanup Costs, or Costs, Charges, and Expenses**.
- B. The Insurers shall not settle any **Claim** without the consent of the **Named Insured**. If, however, the **Named Insured** shall refuse to consent to any settlement recommended by the Insurers and shall elect to contest the **Claim** or continue any legal proceedings in connection with such **Claim**, then the Insurers' liability for the **Claim** shall not exceed the amount for which the **Claim** could have settled plus **Cleanup Costs** and **Costs, Charges, and Expenses** incurred up to the date of such refusal. Such amounts are subject to the provisions of Sections V. and VI. of this Certificate.
- C. The **Insured** will not, except at the **Insured's** own cost, make any payment, assume any liability or incur any **Cleanup Costs** or **Costs, Charges, and Expenses**, or any other expenses without the Insurers' written consent.
- D. The insurers have the absolute right to select and appoint counsel to represent any **Insured**. However, the Insurers, at their sole discretion, may agree to appoint counsel suggested by the Insured upon receipt of full information on such counsel; and no such appointment may be made without the prior written consent of the Insurers.

IX. EXCLUSIONS APPLICABLE TO ALL INSURING AGREEMENTS

The Insuring Agreements and all other provisions of this insurance shall not apply to **Claims, Damages, Cleanup Costs, and Cost, Charges, and Expenses** for or arising out of or in any way involving:

- A. Any dishonest, fraudulent, criminal, or malicious act or omission committed by, or at, the direction of the **Insured**;
- B. Any loss caused intentionally by or at the direction of any **Insured**;
- C. Liability of others assumed by the **Insured** by agreement under any contract whether oral or in writing unless such liability would have attached to the **Insured** in the absence of such agreement. This exclusion shall not apply to the liability of others assumed by the **Insured** under a written contract but only to the extent such liability is enforceable under the laws of the governing jurisdiction and provided such liability of others results from a **Wrongful Act, Pollution Condition, or Wrongful Technology Act**;
- D. Bodily injury, personal injury, sickness, disease or death to any employee of the **Insured** arising out of and in the course of employment by the **Insured**; or any obligation for which the **Insured**, or

- any carrier as his/her Insurer, may be liable under any Workers' Compensation, Unemployment Compensation, Employers' Liability, Disability Benefits Law, or under any similar law;
- E.** The insolvency or bankruptcy of any **Insured**, or any other person, firm or organization;
- F.** The advising or requiring of, or failure to advise or require, or failure to maintain, procure or otherwise provide any form of insurance, suretyship, or bond, either with respect to the **Insured** or any other person or entity;
- G.** The ownership, rental, leasing, operation, maintenance, use or repair of any real or personal property, including property damage to property owned by, occupied by, rented or leased to the **Insured**;
- H.** The ownership, maintenance, operation or use, including loading and unloading, by or on behalf of the **Insured**, or at the direction of the **Insured**, of watercraft, automobiles, motor vehicles, aircraft or mobile vehicles of any kind;
- I.** Any express warranties or guarantees;
- J.** Any **Claim** made by any entity, arising out of any **Wrongful Act, Pollution Condition, or Wrongful Technology Act** performed for such entity:
- i.** which is operated, managed or controlled by an **Insured** or in which any **Insured** has an ownership interest in excess of 25%; or
 - ii.** in which any **Insured** is an officer or director; or
 - iii.** which operates, controls, or manages the **Named Insured**, or has an ownership interest of more than 15% in the **Named Insured**;
- K.** Any **Insured's** activities as a trustee, partner, officer, director, or employee of any employee trust, charitable organization, corporation, company, or business other than that of the **Named Insured**;
- L.** Any fact or **Circumstance** known to the **Insured** prior to the inception of the **Certificate Period** which would cause a reasonable person to believe that a **Claim** alleging a **Wrongful Act, Pollution Condition, or Wrongful Technology Act** might be made;
- M.** Any fact, **Circumstance**, or situation which has been the subject of any written or oral notice given under any preceding valid and collectible policy issued to the **Insured**;
- N.** Actual or alleged infringement or misuse of a patent or patent rights;
- O.** Actual or alleged discrimination, humiliation, harassment, or misconduct including but not limited to that which is based upon sex, creed, race, religion, color, gender, sexual preference or orientation, national origin, age, disability, pregnancy, or marital status, failure to hire or promote. This exclusion shall not apply to any **Claim** based upon the Americans with Disabilities Act of 1990 (ADA), as amended, or the Fair Housing Act (FHA), or any state or local versions of those acts and arising out of the **Insured's** rendering or failure to render **Professional Services**;
- P.** Any projects where project specific professional liability insurance has been purchased and is in force, unless specifically endorsed hereon;

- Q.** The design or manufacture of any goods or products which are sold or supplied by the **Insured** or by others under license from the **Insured**;
- R.** Any actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal, state or local law similar to the foregoing, whether such law is statutory, regulatory or common law;
- S.** Any **Insured's** activities and/or capacity as a Fiduciary under the Employee Retirement Income Security Act of 1974 and its amendment or any regulation or order issued pursuant thereto;
- T.** Either in whole or in part, directly or indirectly, arising out of or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity;
- U.** Directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:
- i.** war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
 - ii.** any act of terrorism; or
 - iii.** any action taken in controlling, preventing, suppressing or in any way relating i. or ii. above.
- For the purpose of this exclusion, an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear. If Insurers allege that by reason of this exclusion, any **Damages, Cleanup Costs, or Costs, Charges and Expenses** are not covered by this insurance, the burden of proving the contrary shall be upon the **Insured**. In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect;
- V.** Any **claim** brought by one or more **Insureds** against another **Insured** or **Insureds**;
- W.** Any waste or any products or materials transported, shipped or delivered via watercraft, aircraft, motor vehicle, mobile equipment or rolling stock to a location beyond the boundaries of a site at which the **Professional Services** are being rendered; and
- X.** The actual, alleged or threatened discharge, dispersal, release or escape of pollutants, such as solid, liquid, gaseous, or thermal irritants or contaminants, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste (waste includes materials to be recycled, reconditioned or reclaimed); or any governmental or regulatory directive or request that the **Insured**, or anyone acting under its direction or control, test for, monitor, cleanup, remove, contain, treat, detoxify or neutralize said pollutants, unless such **Damages, Cleanup Costs, and Cost, Charges, and Expenses** are covered under Insuring Agreement I. B. (Architects, Engineers, and Construction

Managers Pollution Liability).

X. EXCLUSIONS ONLY APPLICABLE TO INSURING AGREEMENT I. C.

Insuring Agreement I. C. (Technology Service) shall not apply to **Claims, Damages, Cost, Charges, and Expenses** for or arising out of or in any way involving:

- Y. Bodily Injury, Property Damage**, sickness, disease, or death of any person, including mental anguish arising therefrom, or to injury or destruction of any tangible property, including loss of use thereof; however, this exclusion shall not apply to data, information, or software if the tangible property on which it resides is not physically damaged, lost, or destroyed;
- Z.** The **Insured's** future royalties or future profits, restitution, disgorgement of profits, or the costs of complying with orders granting injunctive or equitable relief;
- AA.** Production costs, or the cost of reprinting, recalling, recovering, shipping, correcting, reprocessing, restoring, repairing, replacing or reproducing erroneous, damaged or lost tangible property;
- BB.** Any actual or alleged infringement of a **Trade Secret**;
- CC.** Any actual or alleged inaccurate, inadequate, or incomplete description of the price of goods, products or services; or as a result of cost guarantees, cost representations, contract price, or estimates of probable costs or cost estimates being exceeded;
- DD.** The existence, emissions or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property;
- EE.** Any action brought by or on behalf of the Federal Trade Commission (FTC), Federal Communications Commission (FCC) or any other federal, state or local government agency;
- FF.** Any actual or alleged electrical or mechanical failures and/or interruption, including an electrical disturbance, surge, spike, brownout or blackout;
- GG.** Any wear or tear, latent or time delayed **Damages** arising from services provided prior to the Retroactive Date or gradual deterioration or the **Insured's** failure to maintain any computer, **Computer System**, or network, computer software or any other equipment;
- HH.** Any actual or alleged obligation to make licensing or royalty payments; and
- II.** Any withdrawal or recall of electronic products or systems or work compiled by the **Insured** or on their behalf or any property of which such products forms a part provided; however, this exclusion shall not apply to **Claims** by third parties caused solely by loss of use caused by **Wrongful Technology Act**. Loss of use means the inability to use or access such electronic products, systems, work or property resulting from withdrawal or recall of such products, systems, work or property.

XI. INSURED'S DUTIES IN THE EVENT OF A CLAIM

It is a condition precedent to the application of all insurance afforded herein that the **Insured** shall:

- A. Give written notice as soon as practicable to the Insurers, or to any of its authorized representatives, containing particulars sufficient to identify the **Insured** and claimant and full information with respect to the time, place, and circumstances of any **Claim** or any event complained of, and the names and addresses of the claimants and of available witnesses,
- B. Immediately forward to the Insurers every document, demand, notice, summons or other process received by the **Insured** or the **Insured's** representative;
- C. Cooperate with the Insurers and upon the Insurers' request, shall submit to examination and interrogation by a representative of the Insurers, under oath if required, and shall attend hearings, depositions and trials and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits, as well as in the giving of a written statement or statements to the Insurers' representatives and meetings with such representatives for the purpose of investigation and/or defense and all without charge to the Insurers;
- D. Obtain the Insurers' written consent to exercising any right the **Insured** may have under a professional services contract to reject or demand arbitration or other alternative dispute resolution process.

XII. INSURED'S DUTIES IN THE EVENT OF A CIRCUMSTANCE

If during the **Certificate Period** or **Discovery Coverage Extension** (if purchased), the **Insured** becomes aware of a **Circumstance** that may reasonably be expected to be the basis of a **Claim**, and if the **Insured** during the **Certificate Period** or **Discovery Coverage Extension** (if purchased) provides the Insurers with written notice containing: (a) the nature of any possible **Damage** and **Claim**; (b) the **Professional Services** or **Technology Services** the **Insured** provided; (c) and when and how the **Insured** became aware of the **Circumstance**, then any **Claim** that is subsequently made against the **Insured** arising out of such **Circumstance** will be deemed to have been made on the date the Insurers received the written notice of the **Circumstance**.

XIII. DISCOVERY COVERAGE EXTENSION OPTION

- A. If the Insurers shall cancel or refuse to renew this Certificate, the **Named Insured** shall have the right, upon payment of an additional premium of 100% of the premium shown in Item 8. of the Declarations to an extension of the coverage granted by this Certificate in respect of any **Claim** or **Claims** first made against the **Insureds** during the period of 365 days after the date of such cancellation or non-renewal, but only in respect of any **Wrongful Act**, **Pollution Condition**, or **Wrongful Technology Act** the **Insured** committed before the date of such cancellation or non-renewal. This right of **Discovery Coverage Extension** shall terminate unless written notice with full payment of the additional premium is given to the Insurers within thirty (30) days after the effective date of cancellation or non-renewal.
- B. The limit of liability under this Certificate shall not be increased and shall remain as stated in Item 6. of

the Declarations applying to each **Claim** and in the aggregate for all **Claims** covered hereunder and first made against the **Insured** during both the **Certificate Period** and the **Discovery Coverage Extension** exercised hereunder.

- C. The quotation by Insurers of a different premium or deductible or limit of liability or changes in policy language for the purpose of renewal shall not constitute a refusal to renew by the Insurers.
- D. The right to the **Discovery Coverage Extension** shall not be available to the **Named Insured** where cancellation or non-renewal by the Insurers is due to non-payment of premium or failure of an **Insured** to pay such amounts in excess of the limit of liability or within the amount of the deductible.
- E. All notices and premium payments with respect to the **Discovery Coverage Extension** shall be given to the Insurers c/o Professional Underwriters Agency, Inc., 2803 Butterfield Road, Suite 260, Oak Brook, IL 60523.
- F. At the commencement of the **Discovery Coverage Extension**, the entire premium shall be deemed earned and in the event the **Named Insured** terminates the **Discovery Coverage Extension** for any reason prior to its natural expiration, the Insurers will not be liable to return any premium.

XIV. CANCELLATION

- A. This Certificate may be cancelled by the **Named Insured** by surrender thereof to the Insurers or any of its authorized representatives, or by mailing to the Insurers written notice stating when thereafter the cancellation shall become effective. This Certificate may be cancelled by the Insurers by mailing to the **Named Insured** at the address shown in the Declarations a written notice stating when, not less than thirty (30) days thereafter, such cancellation shall become effective. However, if the Insurers cancel this Certificate because the **Named Insured** has failed to pay a premium when due, this certificate may be cancelled by the Insurers mailing to the **Named Insured** at the address shown in the Declarations a written notice stating, when, not less than ten (10) days thereafter, such cancellation shall become effective.
- B. The time of the surrender or the effective date and hour of cancellation stated in the notice shall terminate the **Certificate Period**. The mailing of such notice as aforesaid, by certified mail, shall be sufficient proof of such notice. Delivery of such written notice, whether by the **Named Insured**, or by the Insurers, shall be equivalent to mailing
- C. If the **Named Insured** cancels, earned premium shall be computed as specified in Section XXVIII. Minimum Earned Premium and Short Rate Cancellation Table. If the Insurers cancel, earned premium shall be computed pro-rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable thereafter, but payment or tender of unearned premium is not a condition of cancellation by the Insurers.
- D. A renewal quotation by the Insurers incorporating a different premium or limit of liability or deductible amount with respect to the coverage afforded by the Certificate shall not be deemed to

constitute a cancellation or refusal to renew by the Insurers.

XV. SUBROGATION

In the event of any **Claim** under this Certificate, the Insurers shall be subrogated to all of the **Insured's** rights of recovery thereof against any person or organization and the **Insured** shall execute and deliver instruments and papers and do whatever else necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights.

XVI. AUDIT

The Insurers may examine and audit the **Insured's** books and records at any time during the **Certificate Period** and extensions thereof and within three years after the final termination of this Certificate, or, until all claims reported under the Certificate have settled, as far as they relate to the subject matter of this insurance.

XVII. ACTION AGAINST THE INSURERS

No action shall be maintained against the Insurers by the **Insured** to recover for any loss under this insurance Certificate, unless, as a condition precedent thereto, the **Insured** shall have fully complied with all the terms and conditions of this insurance Certificate, nor until the amount of such loss has been fixed or rendered certain either by final judgment against the **Insured** after trial of the issues and the time to appeal therefrom has expired without an appeal having been taken, or, if an appeal has been taken, then until after the appeal has been determined or by agreement between the two parties with the written consent of the Insurers. In no event shall any action be maintained against the Insurers by the **Insured** or any other persons unless brought within twelve months after the right of action accrues hereon. Nothing contained in the Certificate shall give any person or organization any right to join the Insurers as a defendant, or co-defendant or other party in any action against the **Insured** to determine the **Insured's** liability.

XVIII. OTHER INSURANCE

This insurance shall be excess over any other valid and collectible insurance (including without limitation any Policy in which the **Insured** is an Additional **Insured**), self-insurance, or indemnification agreement available to the **Insured**. Nothing contained in the Certificate shall give any person or organization any right to join the Insurers as a defendant, co-defendant, or other party in any action against the **Insured** to determine the **Insured's** liability.

XIX. ASSIGNMENT

This Certificate shall be void if assigned or transferred without the written consent of the Insurers.

However, if the **Insured** shall die or be judged incompetent, this Certificate shall cover the **Insured's** legal representatives as the **Insured** with respect to liability previously incurred and covered under this Certificate.

XX. APPLICATION

By acceptance of this Certificate, all **Insureds** agree that the statements in the application are their agreements, representations, and warranties; and that this Certificate embodies all agreements existing between themselves and the Insurers, or any of its representatives relating to this insurance.

XXI. NOTICE OF CLAIM

The **Insured**, upon notice of any **Claim** or of an incident or **Circumstance** likely to give rise to a **Claim** hereunder, shall give immediate written notice thereof to the Insurers c/o Professional Underwriters Agency, Inc., 2803 Butterfield Road, Suite 260, Oak Brook, IL 60523-2520.

XXII. WARRANTED NO HIGHER LIMITS PURCHASED

The **Insured** hereby warrants that they will not purchase any higher Limit of Liability than that afforded by this insurance without the prior agreement of the Insurers. In the event that the Insurers give such agreement they reserve the right to amend the terms and conditions of this insurance, including but not limited, to the premium and retention.

XXIII. SERVICE OF SUIT CLAUSE

Pursuant to any statute of any state, territory or district of the United States which makes provision therefor, the Insurers hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the Statute, or their successor or successors in office, as Insurers' 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** or any beneficiary hereunder arising out of this contract of insurance. It is further agreed that service of process in such suit may be made upon:

Mendes Mount
750 Seventh Ave,
New York, N.Y. 10019 6829

XXIV. CURRENCY

It is agreed that all monetary references used herein are in the United States currency and that all premiums, **Damages, Cleanup Costs, and Costs, Charges and Expenses** shall be paid in the United States currency.

XXV. SEPARATE AND SEVERAL LIABILITY OF INSURERS

The Insurers whose names and the percentages underwritten are shown in Item 11. of the Declarations are herein referred to as the “Insurers”. The subscribing Insurers’ obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual

subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

XXVI. VALIDITY OF THIS CERTIFICATE

This Certificate shall not be valid unless signed by the said Insurers’ representative or correspondent.

XXVII. NUCLEAR ENERGY LIABILITY RESTRICTION

This Certificate shall not apply:

- A.** Under any Liability Coverage, to injury, sickness disease, death or destruction:
 - i.** with respect to which an **Insured** under the Certificate is also an **Insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be an **Insured** under any such policy but for its termination upon exhaustion of its limit of liability; or
 - ii.** resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **Insured** is, or had this Certificate not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America or any agency thereof, with any person or organization.
- B.** Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:
 - i.** the nuclear material (1) is at any nuclear facility owned by or operated by, or on behalf of, an **Insured**, or (2) has been discharged or dispersed therefrom;
 - 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 an **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, but if such facility is located within the United States of America, its territories, or possessions, or Canada, this exclusion (c) applies only to injury or destruction of property at such nuclear facility.
- C.** As used in this Certificate:

- i. **Hazardous Properties** include radioactive, toxic or explosive properties;
- ii. **Nuclear Materials** means source material, special nuclear material or by-product material;
- iii. **Source Material, Special Nuclear Material, and By-Product Material** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;
- iv. **Spent Fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;
- v. **Waste** means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;
- vi. **Nuclear Facility** means:
 - a. any nuclear reactor,
 - b. any equipment or device designed or used by (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
 - c. any 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.
 - d. 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.
- vii. **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.
- viii. With respect to injury to or destruction of property, the word **injury** or **destruction** includes all forms of radioactive contamination of property.

XXVIII. MINIMUM EARNED PREMIUM AND SHORT RATE CANCELLATION TABLE

- A. It is agreed that if the **Insured** cancel this insurance Certificate prior to reporting any **Claim** under this Certificate, thirty percent (30%) of the Annual Premium shall be deemed earned upon inception of the Certificate, and the remaining earned premium (if applicable) shall be computed in accordance with the Short Rate Cancellation Table Endorsement for any return premium that may be due to the **Insured**.
- B. It is further agreed that the Certificate premium shall be deemed fully earned if a **Claim** is reported

to the Insurers under the Certificate on or before such date of cancellation.

- C. Notwithstanding anything to the contrary contained herein and in consideration of the premium for which this Insurance is written it is agreed that in the event of cancellation thereof by the Assured the Earned Premium shall be computed as follows:-

i. For insurances written for one year:-

Days Insurance in Force		Per cent. of One Year Premium	Days Insurance in Force		Per cent. of One Year Premium
1 - 73	.....	30	206 - 209	.....	66
74 - 76	.....	31	210 - 214	(7 months)	67
77 - 80	.....	32	215 - 218	.....	68
81 - 83	.....	33	219 - 223	.....	69
84 - 87	.....	34	224 - 228	.....	70
88 - 91	(3 months).....(3 months)	35	229 - 232	.....	71
92 - 94	.....	36	233 - 237	.....	72
95 - 98	.....	37	238 - 241	.....	73
99 - 102	.....	38	242 - 246	(8 months)	74
103 - 105	.....	39	247 - 250	.....	75
106 - 109	.....	40	251 - 255	.....	76
110 - 113	.....	41	256 - 260	.....	77
114 - 116	.....	42	261 - 264	.....	78
117 - 120	.....	43	265 - 269	.....	79
121 - 124	(4 months)	44	270 - 273	(9 months)	80
125 - 127	.....	45	274 - 278	.....	81
128 - 131	.....	46	279 - 282	.....	82
132 - 135	.....	47	283 - 287	.....	83
136 - 138	.....	48	288 - 291	.....	84
139 - 142	.....	49	292 - 296	.....	85
143 - 146	.....	50	297 - 301	.....	86
147 - 149	.....	51	302 - 305	(10 months)	87
150 - 153	(5 months) .....(5 months)	52	306 - 310	.....	88
154 - 156	.....	53	311 - 314	.....	89
157 - 160	.....	54	315 - 319	.....	90

				
161 – 164	.....	55	320 - 323	.....	91
165 – 167	.....	56	324 - 328	.....	92
168 – 171	.....	57	329 - 332	.....	93
172 – 175	.....	58	333 - 337	(11 months)	94
176 – 178	.....	59	338 - 342	.....	95
179 – 182	(6 months)	60	343 - 346	.....	96
183 – 187	.....	61	347 - 351	.....	97
188 – 191	.....	62	352 - 355	.....	98
192 – 196	.....	63	356 - 360	.....	99
197 – 200	.....	64	361 - 365	(12 months)	100
201 – 205	.....	65			

ii. For Insurances written for more or less than one year:-

- a.** If insurance has been in force for 12 months or less, apply the standard short rate table for annual insurances to the full annual premium determined as for an insurance written for a term of one year.
- b.** If insurance has been in force for more than 12 months:
 - 1. Determine full annual premium as for an insurance written for a term of one year.
 - 2. Deduct such premium from the full insurance premium, and on the remainder calculate the pro rata Earned Premium on the basis of the ratio of the length of time beyond one year the insurance has been in force to the length of time beyond one year for which the insurance was originally written.
 - 3. Add premium produced in accordance with items 1. and 2. to obtain Earned Premium during full period insurance has been in force.

XXIX. ARBITRATION

Should the Insurers and the **Insured** disagree as to the rights and obligations owed under this Certificate, including the effect of any applicable statutes or common law upon the contractual obligations otherwise owed, either party may make a written demand that the dispute be subjected to binding arbitration.

When such a request is made, The American Arbitration Association shall be used, with each party selecting an arbitrator from the list of qualified arbitrators for insurance coverage disputes provided by that Association. The two chosen arbitrators shall select a third arbitrator from the same list; if they cannot agree to a selection, The American Arbitration Association shall make the selection for them. Each party

shall bear the costs of its arbitrator and shall share equally the costs of the third arbitrator and of the arbitration process. A decision agreed to by two of the arbitrators will be binding.

In the event the **Insured** prevails in the arbitration and the insurer promptly offers to the **Insured** arbitration costs and reasonable attorney fees incurred in connection therewith, in addition to the disputed contract benefit, the **Insured** shall have no right to sue the insurers for breach of implied covenants or unreasonable withholding of contract benefits.

To the extent that the insurers prevail in the arbitration, the arbitrators may award the insurers any expenses and/or damages incurred or paid under reservation of rights in excess of the insurers' contract obligations as determined by the arbitrators.