



Governmental Billing Errors and Omissions Insurance Policy

**SPECIMEN
SPECIMEN
00000**

Coverage Placed By
**SPECIMEN
SPECIMEN
00000**

Broker of Record
**SPECIMEN
SPECIMEN
XX**

CERTIFICATE PROVISIONS

1. Signature Required - This Certificate shall not be valid unless signed by the Correspondent on the attached Declaration page.
2. Correspondent Not Insurers - The Correspondent is not an Insurer hereunder and neither is nor shall be liable for any loss or claim whatsoever. The Insurers hereunder are as detailed in the Schedule of Insurers.
3. Cancellation - If this Certificate provides for cancellation and this Certificate is canceled after the Inception date, earned premium must be paid for the time the insurance has been in force.
4. Assignment - This Certificate shall not be assigned either in whole or in part without the written consent of the Correspondent endorsed hereon.
5. Attached Conditions Incorporated - This Certificate is made and accepted subject to all the provisions, conditions and warranties set forth herein, attached or endorsed, all of which are to be considered as incorporated herein.
6. Several Liability Notice (LSW 1001) - 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.

DECLARATIONS

**PHYSICIANS BILLING
ERRORS AND OMISSIONS AND REGULATORY LIABILITY POLICY**

POLICY NUMBER SPECIMEN

NOTICE: THIS IS A CLAIMS MADE AND REPORTED POLICY WHICH APPLIES ONLY TO "CLAIMS" THAT ARE FIRST MADE AGAINST THE "INSURED" DURING THE "POLICY PERIOD" AND ARE REPORTED TO UNDERWRITERS IN WRITING DURING THE "POLICY PERIOD" OR, IF PURCHASED, THE EXTENDED REPORTING PERIOD, OR WITHIN 21 DAYS AFTER THE EXPIRATION DATE OF THE "POLICY PERIOD." THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS, OR JUDGMENTS SHALL BE REDUCED BY PAYMENT OF "DEFENSE EXPENSES" AND SHALL BE EXCESS OF THE APPLICABLE RETENTIONS. THIS POLICY MAY HAVE A CO-INSURANCE FEATURE WHICH MUST BE BORNE BY THE INSURED AS PART OF THE LIMIT OF LIABILITY. THE COVERAGE AFFORDED BY THIS POLICY DIFFERS IN SOME RESPECTS FROM THAT AFFORDED BY MOST OTHER POLICIES. PLEASE READ THE ENTIRE POLICY CAREFULLY.

ITEM 1. NAMED INSURED: SPECIMEN SPECIMEN 00000	ITEM 2. POLICY PERIOD: (a) Inception Date: November 22, 1933 (b) Expiration Date: : November 22, 1933 Both dates at 12:01 a.m. at the Principal Address stated in ITEM 1.								
ITEM 3. (a) CONTINUITY DATE: Sections I(A), I(B) November 22, 1933 (b) RETROACTIVE DATE: Sections I(A), I(B) November 22, 1933 (c) RETROACTIVE DATE: Section I(C) November 22, 1933									
ITEM 4. LIMITS OF LIABILITY - Sections I(A), I(B) (a) \$0.00 Each Claim Limit of Liability (b) Aggregate Limit of Liability for all Claims Subject to the attached Group Aggregate Endorsement Section I(C)- As set forth on the Additional Declarations following.									
ITEM 5. INSURED PERSONS - See Attached Schedule									
ITEM 6. RETENTION – Sections I(A), I(B) \$0.00 Each Claim (borne solely by the Insured) Section I(C)- As set forth on the Additional Declarations following									
ITEM 7. PREMIUM for the Policy Period. <table style="width: 100%;"><tr><td>Billing Regulatory premium</td><td style="text-align: right;">\$0.00</td></tr><tr><td>ERisks & Privacy premium</td><td style="text-align: right;">\$0.00</td></tr><tr><td>Total Premium</td><td style="text-align: right;">\$0.00</td></tr><tr><td>Policy Issuance fee</td><td style="text-align: right;">\$0.00</td></tr></table>		Billing Regulatory premium	\$0.00	ERisks & Privacy premium	\$0.00	Total Premium	\$0.00	Policy Issuance fee	\$0.00
Billing Regulatory premium	\$0.00								
ERisks & Privacy premium	\$0.00								
Total Premium	\$0.00								
Policy Issuance fee	\$0.00								

ITEM 8. **NOTICE** required to be given to **Underwriters** must be addressed to:

**Ray Trismen
Mendes and Mount LLP
750 Seventh Avenue,
New York
New York 10019 - 6829
United States of America**

**WHITBOY INC. T/A BOYNTON &
BOYNTON
21 Cedar Avenue
Fair Haven, NJ 07704**

ITEM 9. **EXTENDED REPORTING PERIOD**

(a) Additional Period: **One Year**

(b) Additional Premium: **150% of expiring**

ITEM 10. **ENDORSEMENTS ATTACHED AT ISSUANCE**

**FF01 FF02 NMA2918 NMA2962 NMA1191 NMA1256 NMA1933 LMA5020 NMA45
LSW1001 LSW1135b FF09 FF07 LMA3100**

These Declarations, the completed signed Application with attachments, and the Policy with any endorsements shall constitute the entire agreement between **Underwriters** and the **Insureds**.

Dated: Wednesday, November 22, 1933

At: 21 Cedar Avenue
Fair Haven, NJ 07704 by:



Whitboy Inc. T/A Boynton & Boynton (Correspondent)

Countersigned :

at: XX

By: SPECIMEN
Lic # SPECIMEN

authorized representative

date

Schedule of Insurers

SPECIMEN SPECIMEN

Several Liability Notice (LSW 1001) - 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.

Insurance is effective with certain **Underwriters at Lloyds** as more particularly set forth below:

Sections I(A), I(B)

Company Name	Pseudonym	Syndicate Number	Signed Line	Unique Market Reference Number
Catlin Underwriting Agencies Ltd	SJC	2003	42.25%	B0180C100923
Faraday Underwriting Ltd	FDY	0435	22.75%	B0180C100923
Amlin Underwriting Limited	AML	2001	12.00%	B0180C100923
Hiscox Syndicates Limited	HIS	0033	8.75%	B0180C100923
ACE Underwriting Agencies LTD	AGM	2488	8.75%	B0180C100923
Barbican	BAR	1955	5.50%	B0180C100923
Total Placement			100.00%	

Section I(C)

Company Name	Pseudonym	Syndicate Number	Signed Line	Unique Market Reference Number
Barbican	BAR	1955	100.00%	B0180C100923
Total Placement			100.00%	

SPECIMEN
Policy # SPECIMEN

Schedule Of Insured Persons

SPECIMEN

ADDITIONAL DECLARATIONS

**ERISKS & PRIVACY LIABILITY PROTECTION ENDORSEMENT - Section I(C)
ATTACHING TO AND FORMING PART OF PHYSICIANS & HEALTHCARE ORGANIZATION
BILLING ERRORS AND OMISSIONS AND REGULATORY LIABILITY POLICY**

The limits stated below are separate sub limits inclusive of costs and expenses but subject to a total aggregate limit of liability as specified. This limit is in addition to the limits of liability stated in Item 4 (a) of the declarations

Item I: Total Aggregate Limit: \$0.00

Item II: Sub Limits

A: SECURITY AND PRIVACY LIABILITY:
1,000,000 Each claim and in the aggregate - including claims expenses Retention: \$0.00
B: PRIVACY REGULATORY DEFENSE AND PENALTIES:
1,000,000 Each claim and in the aggregate - including claims expenses Retention: \$0.00
C: CRISIS MANAGEMENT, PATIENT NOTIFICATION COSTS, AND PATIENT SUPPORT AND CREDIT MONITORING EXPENSES
250,000 Each claim and in the aggregate - including claims expenses Retention: \$0.00
D: MULTIMEDIA LIABILITY:
100,000 Each claim and in the aggregate - including claims expenses Retention: \$0.00
E: DATA RECOVERY
250,000 Each claim and in the aggregate - including claims expenses Retention: \$0.00
F: CYBER EXTORTION
50,000 Each claim and in the aggregate - including claims expenses Retention: \$0.00

Notwithstanding the aggregate Limit of Liability under each Insuring Agreement as set forth in item II as above, all payments made under this endorsement regardless of the number of Sections that apply, will reduce the total Limit of Liability as set forth in item I above. In no event will Underwriters pay more than the total Limit of Liability as set forth in item I above.

If a claim attaches to more than one Insuring agreement as set out above then only one Retention applies.

Dated: Wednesday, November 22, 1933

Countersigned :



authorized representative

Whitboy Inc t/a Boynton & Boynton (Correspondent)

FF09 Additional Declarations

DISCIPLINARY PROCEEDING ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This Endorsement modifies the policy set forth above as follows:

ADDITIONAL DECLARATIONS

1. Limits of Liability

\$25,000 Each **Disciplinary Proceeding**

\$25,000 Aggregate Limit of Liability for all **Disciplinary Proceedings**

2. Retention

\$2,500 Each **Disciplinary Proceeding**

3. Retroactive Date: As set forth in the policy declarations Item 3 (b).

In consideration of the premium charged and notwithstanding anything contained herein to the contrary, it is understood and agreed that this policy will indemnify the **Insured** for any **Defense Expenses** incurred by the **Insured** arising out of a **Disciplinary Proceeding** instituted against the **Insured** during the **Policy Period**.

Subject to the Limits of Liability and Retention specified in the Additional Declarations of this Endorsement, Underwriters agree to pay those sums the **Insured** becomes obligated to pay as **Defense Expenses** on account of any **Disciplinary Proceeding** first initiated against the **Insured** during the **Policy Period** (or any applicable extended reporting period) and reported to Underwriters as soon as practicable (but not more than 30 days after the expiration of the **Policy Period** or after the expiration of any applicable extended reporting period).

This Endorsement shall only apply if the **Disciplinary Proceeding** relates to activities of the **Insured** on or after the retroactive date specified in this Endorsement and prior to the expiration of the **Policy Period**.

Limit of Liability

The Each Disciplinary Proceeding Limit of Liability stated in the Additional Declarations is the total limit applicable for all **Defense Expenses** arising out of any one Disciplinary Proceeding regardless of the number of **Insureds** or persons or organizations bringing the Disciplinary Proceeding. The Aggregate Limit of Liability for all Disciplinary Proceedings stated in the Additional Declarations is the total limit applicable for all **Defense Expenses** arising out of all Disciplinary Proceedings initiated during the **Policy Period** (including any applicable extended reporting period) regardless of the number of **Insureds** or persons or organizations bringing the Disciplinary Proceeding.

Definition of **Disciplinary Proceeding**

1. Any disciplinary proceeding or administrative proceeding such as a state medical licensing board review.

Disciplinary Proceeding must meet the following requirements to qualify for coverage under this endorsement:

1. **Insured** notifies us within 30 days from the date a Disciplinary Proceeding was instituted
2. On the initial effective date of this endorsement, you had no knowledge of any event or circumstance of which the **Insured** knew or would reasonably have believed might result in **Defense Expenses** covered by this endorsement.

Appeals

Appeals are considered to be a part of the original Disciplinary Proceeding. All related Disciplinary Proceedings and all consolidated proceedings and proceedings arising out of the same events are considered as one Disciplinary Proceeding.

Exclusions

1. This Endorsement shall not apply to any **Loss** (including civil fines and penalties); the return, disgorgement or restitution of fees, profits, charges or benefit payments; damages deemed uninsurable by law; punitive or exemplary damages; or, criminal fines or penalties.

All other terms of your policy remain unchanged.

Dated: Wednesday, November 22, 1933

Countersigned :



authorized representative

Whitboy Inc t/a Boynton & Boynton (Correspondent)

FF07 3/11/12

PHYSICIANS BILLING ERRORS AND OMISSIONS AND REGULATORY LIABILITY INSURANCE POLICY

NOTICE: THIS IS A CLAIMS MADE AND REPORTED POLICY WHICH APPLIES ONLY TO “CLAIMS” THAT ARE FIRST MADE AGAINST THE “INSURED” DURING THE “POLICY PERIOD” AND ARE REPORTED TO UNDERWRITERS IN WRITING DURING THE “POLICY PERIOD” OR, IF PURCHASED, THE EXTENDED REPORTING PERIOD, OR WITHIN 21 DAYS AFTER THE EXPIRATION DATE OF THE “POLICY PERIOD”. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS, OR JUDGMENTS SHALL BE REDUCED BY PAYMENT OF “DEFENSE EXPENSES”. THE COVERAGE AFFORDED BY THIS POLICY DIFFERS IN SOME RESPECTS FROM THAT AFFORDED BY OTHER POLICIES. THIS POLICY DOES NOT PROVIDE COVERAGE FOR ANY OVERPAYMENTS AN “INSURED” IS REQUIRED TO RETURN OR REFUND TO A GOVERNMENT ENTITY OR COMMERCIAL PAYOR. PLEASE READ THE ENTIRE POLICY CAREFULLY.

In consideration of the payment of the premium, and in reliance upon all statements, representations and warranties made in the Application and its attachments, which are made part of this Policy as if attached hereto, and subject to the Limits of Liability and all the terms, definitions, conditions and exclusions of this Policy, Underwriters and the Insured agree as follows:

I. INSURING AGREEMENTS

(A) If, during the **Policy Period**, any **Claim** is first made against the **Insured** and is reported to Underwriters in writing during the **Policy Period** or within twenty-one (21) days after the end of the **Policy Period**, Underwriters shall indemnify the **Insured** against:

- 1) **Loss** in excess of the Retention stated in Item 6 of the Declarations which the **Insured** is legally obligated to pay, and
- 2) **Defense Expenses** which the **Insured** incurs

as a result of any **Claim** for a **Wrongful Act**; provided always that the **Insured** had no knowledge of such **Wrongful Act** prior to the Continuity Date set forth in Item 3(a) of the Declarations, such **Wrongful Act** took place subsequent to the applicable **Retroactive Date**, and the **Insured** has not notified any **Government Entity** or **Commercial Payor** of the **Wrongful Act** giving rise to the **Claim**.

(B) If, during the **Policy Period**, the **Insured** notifies any **Government Entity** of a **Wrongful Act** the **Insured** reasonably believes could give rise to a **Claim** and notifies Underwriters consistent with Section IV (B)(2), Reporting of Circumstances, Underwriters shall indemnify the **Insured** for **Defense Expenses** in excess of the Retention stated in the Declarations, which the **Insured** incurs as a result of any **Claim** subsequently made against the **Insured** arising out of the **Wrongful Act**; provided always that the **Insured** had no knowledge of such **Wrongful Act** prior to the Continuity Date set forth in the Declarations and such **Wrongful Act** took place subsequent to the applicable **Retroactive Date**.

II. DEFINITIONS

Whenever used in this Policy:

(A) **“Claim”** means any written demand brought by or on behalf of any **Government Entity** or brought by a **Commercial Payor** against an **Insured**:

- 1) seeking **Loss** for a **Wrongful Act**;
- 2) commencing an audit or investigation of a **Wrongful Act**; or
- 3) seeking injunctive relief on account of a **Wrongful Act**.

However, **Claim** does not include:

- 4) any customary or routine billing inquiry, including any cost report, request for documentation to support a submission for payment or reimbursement, or other audit/reconciliation conducted by or on behalf of a **Government Entity** or a **Commercial Payor**;
- 5) notice of a **Wrongful Act** provided in Section IV(B)(2), Reporting of Circumstances;
- 6) any criminal proceeding against an **Insured**; or
- 7) any written demand or civil proceeding brought by or on behalf of a private citizen against an **Insured**; provided, however, that this subsection 7 shall not apply to a *qui tam* action commenced by a private citizen as the relator for a **Government Entity**.

(B) **“Commercial Payor”** means any entity which arranges for payment or reimbursement of expenses on account of **Medical Services**, including the following types of entities:

- 1) any entity, including an investor-owned insurance company, which indemnifies subscribers against expenses incurred for **Medical Services**;
- 2) any self-funded plan or any type of health plan where the risk for the cost of **Medical Services** is assumed, in whole or in part, by an employer rather than by an insurance company or managed care organization; or
- 3) any managed care organization, such as a health maintenance organization (“HMO”), preferred provider organization (“PPO”), point of service plan (“POS”), integrated delivery network (“IDN”), or any other type of entity which has all or some of the following characteristics:
 - (a) negotiated discount arrangements with selected providers;
 - (b) explicit criteria for selection of providers;
 - (c) financial or program incentives or penalties to enrollees who do not use selected providers; and
 - (d) provider risk-sharing arrangements.

(C) **“Defense Expenses”** means:

- 1) reasonable and necessary fees charged by an attorney or auditor designated by the **Insured** with the written consent of Underwriters; or
- 2) other reasonable and necessary fees, costs or expenses incurred in the investigation, adjustment, defense and appeal of a **Claim**, if incurred by the **Insured** with the written consent of Underwriters.

However, **Defense Expenses** does not include:

- 3) remuneration, salaries, wages, overhead, fees or benefits of any **Insured**;
- 4) any fees, costs, or expenses incurred with respect to any criminal proceedings or actions against any **Insured**; or
- 5) any fees, costs or expenses associated with the adoption and implementation of any corporate integrity agreement, compliance program or similar provision regarding the operations of the **Insured’s** business.

(D) **“Entity”** means:

- 1) the **Named Insured** if not an **Insured Person**; and
- 2) any other organization or entity designated in the Declarations.

(E) **“Government Entity”** means:

- 1) any department, agency, task force or other organization created by any federal, state or local law, executive order, ordinance or rule;
- 2) any department, agency, task force or other organization operated, funded or staffed, in whole or in part, by the federal or any state, county or local government; or
- 3) any organization operating as a Medicare Integrity Program Contractor in accordance with 63 F.R. 1590 (March 20, 1998) and pursuant to section 1893 of the Social Security Act (42 U.S.C. § 1395ddd).

(F) **“Insured”** means any **Insured Person** and any **Entity**.

(G) **“Insured Person”** means:

- 1) each physician designated in the Declarations and his or her professional corporation, if on file with Underwriters, or each physician for whom the **Named Insured** has notified Underwriters and paid the respective premium to Underwriters and is on file with Underwriters; and, in the event of the death, incapacity, or bankruptcy of any such person, the estate, heirs, legal representatives, or assigns of such person;
- 2) any past, present, or future employee, director, officer, trustee, review board or

committee, or volunteer of a person identified in paragraph (G)(1) above, but only while acting within the scope of that person's duties or capacity as such.

- (H) **“Loss”** means any monetary amount, otherwise covered by this Policy and subject to the Limit of Liability, which an **Insured** is legally obligated to pay as a result of a **Claim**, including sums paid as awards, judgments, settlements, and civil fines and penalties imposed by a **Government Entity**, and any interest accrued or imposed upon such amount.

However, **Loss** shall not include:

- 1) the return, disgorgement or restitution of fees, profits, charges or benefit payments to any **Commercial Payor** or governmental health benefit payor or program, and any interest accrued or imposed thereon;
- 2) any fees, costs or expenses associated with the adoption and implementation of any security measures, corporate integrity agreement, compliance program or similar provision regarding the operations of the **Insured's** business;
- 3) matters deemed uninsurable by law;
- 4) punitive and exemplary damages, taxes, criminal fines or penalties; however, this provision does not apply to any multiplied portion of a civil fine or penalty; or
- 5) any costs associated, whether directly or indirectly, with the **Insured's** temporary or permanent loss of provider number(s) or the **Insured's** exclusion from participation in any **Commercial Payor** program or governmental health program, including, but not limited to, Medicare and/or Medicaid.

- (I) **“Medical Services”** means health care, medical care, or treatment provided to any individual, including without limitation any of the following: medical, surgical, dental, psychiatric, mental health, chiropractic, osteopathic, nursing, or other professional health care; the furnishing or dispensing of medications, drugs, blood, blood products, or medical, surgical, dental, or psychiatric supplies, equipment, or appliances in connection with such care; the furnishing of food or beverages in connection with such care; the providing of counseling or other social services in connection with such care; and the handling of, or the performance of post-mortem examinations on, human bodies.

- (J) **“Named Insured”** means the entity and/or physician(s) designated in the Declarations.

- (K) **“Policy Period”** means the period from the Inception Date stated in Item 2(a) of the Declarations to the earlier of the Expiration Date stated in Item 2(b) of the Declarations or the cancellation date.

- (L) **“Retroactive Date”** means:

- 1) the dates identified in Item 3(b) the Declarations for the **Named Insured** if not an **Insured Person**; and
- 2) the respective date for each **Insured Person** on file with Underwriters.

(M) **“Wrongful Act”** means:

- 1) presenting, or causing or allowing to be presented, by an **Insured** any actual or alleged erroneous submission to a government health benefit payor or program or to a **Commercial Payor** from which an **Insured** seeks payment or reimbursement for **Medical Services** provided or prescribed by an **Insured Person**;
- 2) any negligent or reckless act, error or omission by an **Insured** in violation of any federal, state or local anti-kickback or self-referral laws, or any rules or regulations promulgated thereunder;
- 3) any negligent or reckless act, error or omission by an **Insured** in violation of the Health Insurance Portability and Accountability Act (“HIPAA”) and any amendments thereto, or any rules or regulations promulgated thereunder; or
- 4) any negligent or reckless act, error or omission by an **Insured** in violation of the Emergency Medical Treatment and Labor Act (“EMTALA”) and any amendments thereto, or any rules or regulations promulgated thereunder.

III. EXCLUSIONS

Underwriters shall not pay any **Loss** or **Defense Expenses** for **Claims**:

- (A) based upon or arising out of: (1) any dishonest, fraudulent, criminal, intentional or malicious act by any **Insured**; (2) any willful violation of any law, statute, ordinance, rule or regulation by any **Insured**; or (3) any **Insured** gaining any profit, remuneration or advantage to which such **Insured** was not legally entitled; provided, however, that this Exclusion (A) shall not apply to any **Claim** brought under any federal or state statute, regulation or rule based on “knowing” conduct as that term is defined under the False Claims Act (31 U.S.C. § 3729(b)). For the purposes of determining the applicability of this Exclusion (A), no **Wrongful Act** of any **Insured** shall be imputed to any other **Insured**;
- (B) based upon or arising out of any actual or alleged act, error, or omission in the rendering of or failure to render **Medical Services** by an **Insured**, except with respect to any allegations of billing for **Medical Services** which were not rendered or were not medically necessary;
- (C) for bodily injury, sickness, disease or death of any person, or for emotional distress, mental anguish, or other similar injury or damage;
- (D) arising out of false arrest, humiliation, detention or imprisonment, wrongful entry or eviction or other invasion of private occupancy, or malicious prosecution, libel, slander or other defamatory or disparaging material, or a publication or an utterance in violation of an individual’s rights of privacy;
- (E) based upon or arising out of employment discrimination, termination or other wrongful employment acts in violation of any municipal, State or Federal Civil Rights law, regulation or ordinance;

- (F) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged: (1) damage to or destruction of any tangible property, including loss of use thereof whether or not resulting from damage or destruction; (2) ownership, operation, use, maintenance, loading, or unloading of any motor vehicle, trailer, watercraft, aircraft, or helipad;
- (G) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged bodily injury, sickness, disease or death to any employee of any **Insured** arising out of and in the course of employment by the **Insured**; or any obligation for which the **Insured** in its capacity as an employer and/or its insurer may be held liable under any worker's compensation, unemployment compensation, disability benefits law, or any similar law;
- (H) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974 or similar provisions of any federal, state, or local law, or any amendments thereto, or any rules and regulations promulgated thereunder;
- (I) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged liability of any **Insured** under any contract or agreement; provided, however, that this Exclusion (I) shall not apply to the extent that liability would have attached to the **Insured** and would have been insured by this Policy even in the absence of such contract or agreement;
- (J) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any actual or alleged: (1) insolvency, bankruptcy, conservatorship, rehabilitation, receivership, liquidation, or financial inability to pay of (a) any **Insured** acting as an insurer or reinsurer, or (b) any other insurer, reinsurer, self-insurer, third party payor, managed care organization, health care plan, or other person or entity; (2) failure to obtain, effect, or maintain any form, policy, plan or program of insurance, stop loss or provider excess coverage, reinsurance, self-insurance, suretyship, or bond; (3) commingling or mishandling of funds; or (4) failure to collect or pay premiums, commissions, brokerage charges, fees or taxes;
- (K) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any fact, circumstance, situation, transaction, event or **Wrongful Act**, or series of facts, circumstances, situations, transactions, events or **Wrongful Acts**: (1) which underlies or is alleged in any litigation or administrative or regulatory proceeding brought prior to and/or pending as of the Continuity Date stated in the Declarations; or (2) which was the subject of any notice given prior to the Continuity Date under any other policy of insurance or plan or program of self-insurance; or (3) which was the subject of any **Claim** made prior to the Continuity Date;
- (L) against any subsidiary designated in the Declarations or its past, present, or future employees, directors, officers, trustees, review board or committee members, or volunteers acting in their capacity as such, which are based upon, arise out of, directly or indirectly result from, are in consequence of, or in any way involve any fact, circumstance, situation, transaction, event, or **Wrongful Act** or series of facts, circumstances, situations, transactions, events or **Wrongful Acts** happening before the date such entity became a subsidiary;
- (M) based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way

involving any actual or alleged service of any **Insured Person** as an employee, director, officer, trustee, member, member manager, governor, medical director, member of any duly constituted review board or committee, or volunteer of any entity other than an **Entity**, even if directed or requested by an **Entity** to serve in such capacity for such other entity;

- (N) based upon or arising out of a violation or alleged violation of the Securities Act of 1933 as amended, or the Securities Exchange Act of 1934 as amended, or any state Blue Sky or securities law or similar state or federal statute, and any regulation or order issued pursuant to any of the foregoing statutes;
- (O) for any actual or alleged violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1961 et seq., and any amendments thereto, or any rules or regulations promulgated thereunder;
- (P) based upon assertions, allegations, causes of action or any demands whatsoever by or on behalf of an **Insured** or **Insureds** under this Policy against another **Insured** or **Insureds** hereunder; provided, however, that this provision shall not apply to any **Claim** brought by a *qui tam* plaintiff or brought under the False Claims Act (31 U.S.C. §3729 et seq.) or any similar state or local statute, ordinance or regulation;
- (Q) relating to any injury or damage which would not have occurred in whole or part but for the actual or threatened discharge, dispersal, seepage, migration, release or escape of pollutants; or
 - 1) any **Claim, Loss, cost or Defense Expenses** arising out of any request, demand or order that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants; or
 - 2) any **Claim** or suit by or on behalf of a governmental authority for **Loss or Defense Expenses** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of pollutants.

“Pollutants” means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. “Waste” includes medical waste and material to be recycled, reconditioned or reclaimed;

- (R) based upon, directly or indirectly arising out of, resulting from or in any way related to fungi, whether or not there is another cause of loss which may have contributed to concurrently or in any sequence to a loss. “Fungi” as utilized herein, shall mean any fungus or mycota or any byproduct or type of infestation produced by such fungus or mycota, including but not limited to mold, mildew, mycotoxins, spores or any bionic aerosols; and
- (S) based upon, directly or indirectly arising out of, resulting as a consequence of, or related to the manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to asbestos or materials or products containing asbestos whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss.

IV. CONDITIONS

(A) **Limits of Liability:**

- 1) The amount stated in Item 4(a) of the Declarations shall be Underwriters' maximum Each Claim Limit of Liability for all **Loss** and **Defense Expenses** resulting from a single **Claim** made against an **Insured** for which this Policy provides coverage. Defense Expenses are part of, included in, and not in addition to Underwriters' Limit of Liability, and payment of **Defense Expenses** by Underwriters will reduce such Limit of Liability.
- 2) The amount stated in Item 4(b) of the Declarations shall be Underwriters' maximum Aggregate Limit of Liability for all **Loss** and **Defense Expenses** resulting from all **Claims** for which this Policy provides coverage, regardless of whether such **Claims** are made during the **Policy Period** or during the Extended Reporting Period, and regardless of the time of payment by Underwriters. **Defense Expenses** are part of, included in, and not in addition to Underwriters' Limit of Liability, and payment of **Defense Expenses** by Underwriters will reduce such Limit of Liability.
- 3) Underwriters shall be obligated to pay only **Loss** and **Defense Expenses** which are in excess of the applicable Retention stated in Item 6 of the Declarations. The **Insured** shall pay the Retention uninsured and at its own risk. Underwriters shall have no obligation to pay any portion of the Retention although Underwriters shall, at their sole discretion, have the right and option to do so, in which event the **Insured** agrees to repay Underwriters for any amounts so paid.
- 4) In the event a **Claim** is made against an **Insured Person** designated in the Declarations and one or more other **Insured Persons** designated in the Declarations arising from the same **Wrongful Act**, Underwriters' Limit of Liability will be limited to the applicable Limit of Liability shown in the Group Aggregate Endorsement attached hereto. All **Insured Persons** subject to this provision shall share pro rata in such Group Aggregate Limit of Liability and each **Insured Person's** Limit of Liability shall be reduced by the pro rata payment on behalf of that **Insured Person**.
- 5) After Underwriters' Limit of Liability for an **Insured** has been exhausted by payment of **Loss** and/or **Defense Expenses**, all of Underwriters' obligations under this Policy shall be completely fulfilled, and Underwriters shall have no further obligation to pay any **Loss** or **Defense Expenses**.
- 6) If both **Loss** covered by this Policy and loss not covered by this Policy are incurred, either because a **Claim** against any **Insured** includes both covered and uncovered matters or because a **Claim** is made against both **Insureds** and others, the **Insured** and Underwriters shall use their best efforts to agree upon a fair and proper allocation of such amount between covered **Loss** and **Defense Expenses** and uncovered portions of settlements or judgments and defense expenses.

(B) **Reporting of Claims and Circumstances:**

- 1) If during the **Policy Period** or any Extended Reporting Period any **Claim** is first made against any **Insured**, the **Insured**, as a condition precedent to its right to any coverage

under this Policy, shall give Underwriters written notice of such **Claim** as soon as practicable thereafter, but in no event later than twenty-one (21) days after the end of the **Policy Period** or, if purchased, the Extended Reporting Period.

- 2) If during the **Policy Period** the **Insured** first becomes aware of any **Wrongful Act** which may subsequently give rise to a **Claim**, and (a) gives Underwriters written notice of such **Wrongful Act** with full particulars as soon as practicable thereafter but in any event before the end of the **Policy Period**, and (b) requests coverage under this Policy for any **Claim** subsequently arising from such **Wrongful Act** as soon as practicable after such **Claim** is made, then any **Claim** not otherwise excluded by this Policy subsequently made against the **Insured** arising out of such **Wrongful Act** shall be treated as if it had been first made during the **Policy Period**. Notice of such **Wrongful Act** shall give full particulars, including a description of the **Wrongful Act**, the identities of the potential claimants and involved **Insureds**, damages which may result from such **Wrongful Act**, and the reasons why the **Insured** believes the **Wrongful Act** is likely to result in a **Claim** being made.

(C) **Related Claims Deemed Single Claim; Date Claim Made:**

All **Claims** arising out of the same **Wrongful Act**, whenever made, shall be deemed to be a single **Claim** and shall be deemed to have been first made at the earliest of either:

- 1) the time the earliest **Claim** of such related **Claims** was received by the **Insured**; or
- 2) the time at which written notice was first given to Underwriters of the **Wrongful Act** which subsequently gave rise to any of the related **Claims**;

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

(D) **Defense and Settlement:**

Underwriters do not assume any duty to defend under this Policy. Except as hereafter stated, Underwriters shall advance, at the written request of the **Insured**, **Defense Expenses** prior to the final disposition of a **Claim**. Such advance payments by Underwriters shall be repaid to Underwriters by the **Insured** in the event and to the extent that the **Insured** shall not be entitled under the terms and conditions of this Policy to payment of **Loss** or such **Defense Expenses**.

The **Insured** shall defend and contest any **Claim** made against the **Insured**, selecting counsel from a panel of counsel provided by Underwriters. The **Insured** shall not admit or assume any liability, enter into any settlement agreement, stipulate to any judgment, or incur any **Defense Expenses** without the prior written consent of Underwriters. Only those settlements, stipulated judgments and **Defense Expenses** to which Underwriters have consented shall be recoverable as **Loss** or **Defense Expenses** under the terms of this Policy. Underwriters' consent shall not be unreasonably withheld, provided that Underwriters shall be entitled to effectively associate in the defense and the negotiation of any settlement of any **Claim**.

The **Insured** shall not, except at his or her own cost, make any payment, admit any liability, settle any **Claims**, assume any obligation or incur any expense without the written consent of Underwriters. If, however, the **Insured** shall refuse to consent to any settlement recommended by Underwriters and shall elect to contest the **Claim** or continue any legal proceedings in connection with such **Claim**, then Underwriters' liability for the **Claim** shall not exceed the amount for which the **Claim** could have been so settled plus **Defense Expenses** incurred up to the date of such refusal. Such amounts are subject to the provisions of Section IV(A), Limits of Liability.

(E) **Assistance and Cooperation:**

In the event of a **Claim**, the **Insured** shall provide Underwriters with all information, assistance, and cooperation that Underwriters reasonably request. The **Insured** and Underwriters shall cooperate in investigating, defending, and settling **Claims** and in the conduct of suits, appeals or other proceedings, including but not limited to attending trials, hearings, and depositions, securing and giving evidence, and obtaining the attendance of witnesses. Underwriters shall keep confidential any information received.

Underwriters may examine and audit the **Insured's** books and records at any time during the **Policy Period** and after the final termination of this Policy, as far as they relate to the subject matter of this Policy.

(F) **Subrogation:**

In the event of any payment hereunder, Underwriters shall be subrogated to the extent of any such payment to all of the **Insured's** rights of recovery. The **Insured** shall execute all papers and do everything necessary to secure such rights, including the execution of any documents necessary to enable Underwriters effectively to bring suit in its name. The **Insured** shall do nothing that may prejudice Underwriters' position or potential or actual rights of recovery. The obligations of the **Insured** under this Condition (F) shall survive the Policy.

Any recovery shall first be paid to Underwriters to the extent of any **Loss** or **Defense Expenses** paid by Underwriters, with the balance paid to the **Insured**. However, no subrogation shall be had against any **Insured** unless such **Insured** is excluded from coverage by reason of Section III(A).

(G) **Other Insurance; Other Indemnification:**

This Policy shall be in excess of and shall not contribute with (1) any other existing insurance or self-insurance, unless such other insurance or self-insurance is specifically stated to be in excess of this Policy, and (2) any indemnification to which an **Insured** is entitled from any entity other than an **Entity**. This Policy shall not be subject to the terms of any other policy of insurance or plan or program of self-insurance.

(H) **Mergers, Acquisitions, or Newly Created Entities:**

If, during the **Policy Period**, the **Named Insured** or any **Entity** acquires or creates another

entity or subsidiary; or the **Named Insured** or any **Entity** becomes a member of a joint venture or partner in a partnership which is not designated in the Declarations; or if the **Named Insured** or any **Entity** merges or consolidates with another entity which is not designated in the Declarations such that the **Entity** is the surviving entity (any of which events is referred to as a "Transaction" in this Condition (H)); then Underwriters shall have the option of providing coverage in respect of such entity or subsidiary. No coverage shall be afforded under this Policy for any **Claim** in any way involving the entity or subsidiary which is acquired, created, merged with or consolidated into, unless: (1) the **Named Insured** gives Underwriters notice of such Transaction as soon as possible, but in no event later than twenty-one (21) days after the effective date of the Transaction; (2) the **Named Insured** gives Underwriters such information regarding the Transaction as Underwriters request; and (3) Underwriters have specifically agreed by written endorsement to this Policy to provide coverage in respect to such entity or subsidiary and the **Named Insured** accepts any terms, conditions, exclusions, limitations, and additional premium as Underwriters, at their sole discretion, impose. If Underwriters, in their sole discretion, elect to provide coverage in respect of such entity or subsidiary, this Policy shall not apply to, and Underwriters shall not pay any **Loss** or **Defense Expenses** for, any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any **Wrongful Act** by such entity or subsidiary or any **Insured Person** thereof happening before (a) the effective date of the Transaction or (b) the effective date of coverage under this Policy for such entity or subsidiary as set forth in an endorsement to be issued to extend coverage to such entity or subsidiary, whichever is later.

(I) **Sale or Dissolution of Entities; Cessation of Business:**

- 1) If, during the **Policy Period**, the **Named Insured** is dissolved, sold, acquired by, merged into, or consolidated with another entity such that the **Named Insured** is not the surviving entity; or if any person, entity, or affiliated group of persons or entities obtains: (a) the right to elect or appoint more than fifty percent (50%) of the **Named Insured's** directors or trustees, or member managers, as applicable, or (b) more than fifty percent (50%) of the **Named Insured's** equity or assets; or if the **Named Insured** ceases to do business for any reason; or if a receiver, liquidator, conservator, trustee, rehabilitator, or similar administrator is appointed for the **Named Insured** (any of which events is referred to as a "Transaction" in this Condition (I1)); then 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 **Wrongful Acts** committed or allegedly committed before the effective date of such Transaction. This Policy shall not apply to, and Underwriters shall not pay any **Loss** or **Defense Expenses** for, any **Claim** against any **Insured** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any **Wrongful Act** committed or allegedly committed on or after the effective date of such Transaction.
- 2) If, during the **Policy Period**, any **Entity** other than the **Named Insured** is involved in a Transaction, then coverage under this Policy for such **Entity** and its **Insured Persons** shall continue in full force and effect until the Expiration Date or any earlier cancellation date, but this Policy shall apply only to **Wrongful Acts** for such **Entity** and its **Insured Persons** committed or allegedly committed before the effective date of such Transaction. This Policy shall not apply to, and Underwriters shall not pay any **Loss** or **Defense Expenses** for, any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any **Wrongful Act** of such **Entity** or its

Insured Persons committed or allegedly committed on or after the effective date of such Transaction. Coverage under this Policy shall continue in full force and effect for all other **Insureds**.

(J) **Cancellation; Non-Renewal:**

This Policy may be canceled by the **Named Insured** by surrender thereof to Underwriters or by mailing written notice stating when thereafter such cancellation shall be effective. If canceled by the **Named Insured**, the premium stated in the Declarations shall be returned, less the pro rata portion of the earned premium as per the attached short rate cancellation table. This Policy may also be canceled, with or without the return by tender of the unearned premium, by or on behalf of Underwriters by delivering to the **Named Insured** at the address set forth in the Declarations, or by sending to the **Named Insured** by certified or registered mail at the address in the Declarations, not less than thirty (30) days' written notice (or not less than ten (10) days' written notice in the event of the **Insured's** non-payment of premium) stating when the cancellation shall be effective. If the Policy is canceled by Underwriters, Underwriters shall retain the pro rata portion of the earned premium. For purposes of this Policy, notice of cancellation given to the **Named Insured** by Underwriters or given to Underwriters by the **Named Insured** pursuant to this paragraph shall be deemed to be notice on behalf of all **Insureds** hereunder.

Underwriters will not be required to renew this Policy upon its expiration.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(K) **Extended Reporting Period:**

If this Policy is canceled for any reason other than non-payment of premium or is not renewed by Underwriters or the **Named Insured**, the **Named Insured** shall have the right, upon payment of an additional premium as determined by Underwriters, to purchase an extension of the coverage granted by this Policy for the additional period indicated in Item 9(a) of the Declarations (the "Extended Reporting Period"), for the premium indicated in Item 9(b) of the Declarations, after the date such cancellation or non-renewal takes effect (the "Termination Date"). Such coverage shall apply only to **Wrongful Acts** which happened before the Termination Date and for which a **Claim** is first made against the **Insured** during the Extended Reporting Period. The **Named Insured** may exercise such right to purchase an extension of coverage only if it so notifies Underwriters in writing by Certified Mail within thirty (30) days after the Termination Date. The additional premium for such an extension of coverage must be paid within thirty (30) days after the Termination Date. The purchase of such an extension of coverage shall not in any way increase Underwriters' Limits of Liability. The offer of renewal terms, conditions, limits of liability, retentions, or premium different from those in effect prior to renewal shall not constitute cancellation or refusal to renew for purposes of this provision.

The provisions of Section IV(B)(2), Reporting of Circumstances, shall not be applicable to any Extended Reporting Period.

(L) **Representation; Incorporation of Application:**

The **Insured** represents that the particulars and statements contained in the Application attached to this Policy are true, accurate, and complete, and agrees that: (1) this Policy is issued and continued in force by Underwriters in reliance upon the truth of such representation; (2) those particulars and statements are the basis of this Policy; and (3) the Application and those particulars and statements are incorporated in and form a part of this Policy. No knowledge or information possessed by any **Insured** shall be imputed to any other **Insured** for the purposes of this Condition (L), except for material facts or information known to the person or persons who signed the Application. In the event of any material untruth, misrepresentation, or omission in connection with any of the particulars or statements in the Application, this Policy shall be void with respect to any **Insured** who knew of such untruth, misrepresentation, or omission, or to whom such knowledge is imputed.

(M) **Action Against Underwriters:**

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

(N) **Insolvency of Insured:**

Underwriters shall not be relieved of any of their obligations under this Policy by the bankruptcy or insolvency of any of the **Insureds** or any of their estates.

(O) **Notice; Named Insured Authorization:**

- 1) Notice to any **Insured** shall be sent to the **Named Insured** at the address designated in the Declarations. The **Insureds** agree that the **Named Insured** shall act on their behalf with respect to receiving any notices and any return premiums from Underwriters.
- 2) Notice to Underwriters shall be sent to the address designated in the Declarations.

(P) **Changes:**

Notice to or knowledge possessed by any agent or other person acting on behalf of Underwriters shall not effect a waiver or change in any part of this Policy or estop Underwriters from asserting any right under this Policy. This Policy can only be altered, waived, or changed by written endorsement issued to form a part of this Policy.

(Q) **Assignment:**

No assignment of interest under this Policy shall bind Underwriters without their written

consent, issued as an endorsement to form a part of this Policy.

(R) **Entire Agreement:**

The **Insureds** agree that this Policy, including the Application and its attachments, the Declarations, and any endorsements, constitutes the entire agreement between them and Underwriters or any of Underwriters' agents relating to this insurance.

(S) **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.

(T) **False or Fraudulent Claims**

If any **Insured** shall commit fraud in proffering any **Claim** to the Policy as regards amount or otherwise, this insurance shall become void as to such **Insured** from the date such fraudulent **Claim** is proffered.

(U) **Service of Suit**

Underwriters, at the request of the **Insured**, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Service of Process in such suit may be made upon Mendes & Mount and/or their Nominees, 750 Seventh Avenue, New York, N. Y. 10019-65829 and in any suit instituted against Underwriters upon this Policy, subject to the limitations above, Underwriters will abide by the final decision of such court or of any appellate court in the event of any appeal.

Pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, Underwriters hereby designate the Superintendent, Commissioner, or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their 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, and hereby designate the above-named as the entity to which the said officer is authorized to mail such process or a true copy hereof.

WAR AND TERRORISM EXCLUSION ENDORSEMENT

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature 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;

(1) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or

(2) any act of terrorism.

For the purpose of this endorsement 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 organisation(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.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (1) and/or (2) above.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

NMA2918
08/10/2001

Toxic Mold and Asbestos Exclusionary Endorsements

Notwithstanding any other provisions of this Policy, the following are specifically excluded from coverage:

Toxic Mold Exclusion

- A. Excluding all loss, cost or expense directly or indirectly arising out of, resulting from or in any way related to Fungi whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss.
- B. “Fungi” as utilized herein, shall mean any fungus or mycota or any byproduct or type or infestation produced by such fungus or mycota, including but not limited to mold, mildew, mycotoxins, spores or any bionic aerosols.

Asbestos Exclusion

This Policy does not cover any loss, cost or expense directly or indirectly arising out of, resulting as a consequence of, or related to the manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to asbestos or materials or products containing asbestos whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss.

FF02 6/9/04

Biological or Chemical Materials Exclusion

It is agreed that this Insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

NMA2962

06/02/03

Form approved by Lloyd's Market Association won-Marine]

U.S.A.

**RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE –
PHYSICAL DAMAGE – DIRECT**

(Approved by Lloyd's Underwriters' Non-Marine Association)

This policy does not cover any loss or damage arising directly or indirectly from nuclear reaction, nuclear radiation or radioactive contamination, however, such nuclear reaction, nuclear radiation or radioactive contamination may have been caused *
NEVERTHELESS if Fire is an insured Peril and a Fire arises directly or indirectly from nuclear reaction, nuclear radiation or radioactive contamination, any loss or damage arising directly from that Fire shall (subject to the provisions of this policy) be covered EXCLUDING however all loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination arising directly or indirectly from that Fire.

*Note: If Fire is not an insured peril under this policy, the words "NEVERTHELESS" to the end of the clause do not apply and should be disregarded.

7/5/59

N.M.A. 1191

U.S.A.

NUCLEAR INCIDENT EXCLUSION CLAUSE - LIABILITY - DIRECT (BROAD)
(Approved by Lloyd's Underwriters' Non-Marine Association)

For attachment to insurances of the following classifications in the U.S.A., its Territories and Possessions, Puerto Rico and the Canal Zone:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability),

not being insurances of the classifications to which the Nuclear Incident Exclusion Clause - Liability - Direct (Limited) applies.

This Policy* does not apply:

1. Under any Liability Coverage, to injury, sickness, disease, death or destruction
 - a. with respect to which an insured under the policy 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
 - b. 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 policy 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.

2. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

3. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:
 - a. 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 there from;

- b. 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
- c. 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 to or destruction of property at such nuclear facility.

4. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or byproduct material; "source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof "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 (1) containing byproduct 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; "nuclear facility" means:

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (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; "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 word "injury" or "destruction" includes all forms of radioactive contamination of property.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

*NOTE:-As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

17/3/60

N.M.A. 1256

PUNITIVE AND EXEMPLARY DAMAGES EXCLUSION CLAUSE

Regardless of any other provision of this insurance, this insurance does not apply to punitive or exemplary damages.

10/11/77
N.M.A. 1933

SERVICE OF SUIT CLAUSE (U.S.A.)

This Service of Suit Clause will not be read to conflict with or override the obligations of the parties to arbitrate their disputes as provided for in any Arbitration provision within this Policy. This Clause is intended as an aid to compelling arbitration or enforcing such arbitration or arbitral award, not as an alternative to such Arbitration provision for resolving disputes arising out of this contract of insurance (or reinsurance).

It is agreed that in the event of the failure of the Underwriters hereon to pay any amount claimed to be due hereunder, the Underwriters hereon, at the request of the Insured (or Reinsured), will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States.

It is further agreed that service of process in such suit may be made upon Mendes & Mount and/or their Nominees, 750 Seventh Avenue, New York, N. Y. 10019-65829 and that in any suit instituted against any one of them upon this contract, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the Insured (or Reinsured) to give a written undertaking to the Insured (or Reinsured) that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their 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 Reinsured) or any beneficiary hereunder arising out of this contract of insurance (or reinsurance), and hereby designate the above-named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

14/09/2005

LMA5020

Form approved by Lloyd's Market Association

SHORT RATE CANCELLATION TABLE

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:

A. For insurances written for one year:

Days Insurance in Force	Per cent. of One Year Premiu m	Days Insurance in Force	Per cent. of One Year Premiu m
1 - 4	35	133 - 136	68
5 - 8	36	137 - 140	69
9 - 12	37	141 - 144	70
13 - 16	38	145 - 148	71
17 - 20	39	149 - 152	72
21 - 24	40	153 - 156	73
25 - 28	41	157 - 160	74
29 - 32	42	161 - 164	75
33 - 36	43	165 - 168	76
37 - 40	44	169 - 172	77
41 - 44	45	173 - 176	78
45 - 48	46	177 - 180	79
49 - 52	47	181 - 184	80
53 - 56	48	185 - 188	81
57 - 60	49	189 - 192	82
61 - 64	50	193 - 196	83
65 - 68	51	197 - 200	84
69 - 72	52	201 - 204	85
73 - 76	53	205 - 208	86
77 - 80	54	209 - 212	87
81 - 84	55	213 - 216	88
85 - 88	56	217 - 220	89
89 - 92	57	221 - 224	90
93 - 96	58	225 - 239	91
97 - 100	59	240 - 254	92
101 - 104	60	255 - 269	93
105 - 108	61	270 - 284	94
109 - 112	62	285 - 299	95
113 - 116	63	300 - 314	96
117 - 120	64	315 - 329	97
121 - 124	65	330 - 344	98
125 - 128	66	345 - 359	99
129 - 132	67	360 - 365	100

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

1. If insurance has been in force for 12 months or less, apply the short rate table for annual insurances to the full annual premium determined as for an insurance written for a term of one year.
2. If insurance has been in force for more than 12 months:
 - (a) Determine full annual premium as for an insurance written for a term of one year.

- (b) 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.

- (c) Add premium produced in accordance with items (a) and (b) to obtain Earned Premium during full period insurance has been in force.

NMA 45 (amended SJC)

Sanction Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

LMA3100

15 September 2010

LLOYD'S PRIVACY POLICY STATEMENT

UNDERWRITERS AT LLOYD'S, LONDON

The Certain Underwriters at Lloyd's, London want you to know how we protect the confidentiality of your non-public personal information. We want you to know how and why we use and disclose the information that we have about you. The following describes our policies and practices for securing the privacy of our current and former customers.

INFORMATION WE COLLECT

The non-public personal information that we collect about you includes, but is not limited to:

- Information contained in applications or other forms that you submit to us, such as name, address and social security number.
- Information about your transactions with our affiliates or other third parties, such as balances and payment history.
- Information we receive from a consumer-reporting agency, such as credit-worthiness or credit history.

INFORMATION WE DISCLOSE

We disclose the information that we have when it is necessary to provide our products and services. We may also disclose information when the law requires or permits us to do so.

CONFIDENTIALITY AND SECURITY

Only our employees and others who need the information to service your account have access to your personal information. We have measures in place to secure our paper files and computer systems.

RIGHT TO ACCESS OR CORRECT YOUR PERSONAL INFORMATION

You have a right to request access to or correction of your personal information that is in our possession.

CONTACTING US

If you have any questions about this privacy notice or would like to learn more about how we protect your privacy, please contact the agent or broker who handled this insurance. We can provide a more detailed statement of our privacy practices upon request.

GROUP AGGREGATE ENDORSEMENT

In consideration of the premium already paid, this endorsement will identify the maximum aggregate Limits of Liability for **Insured Persons** in a group.

Number of Insured Persons	Corporation	Limit Per Insured Person / Corp.	Group Aggregate Limit
1-5	1	\$1,000,000	\$1,000,000
6-9	1	\$1,000,000	\$2,000,000
10-19	1	\$1,000,000	\$3,000,000
20-Over	1	\$1,000,000	\$5,000,000

Maximum Reimbursement:

The maximum reimbursed in respect of each **Claim**, and in the annual aggregate against an **Insured Person** during the **Policy Period**, shall be \$1,000,000.

The maximum reimbursed in respect to each **Claim** and in the aggregate against more than one **Insured Person** in a group (including the Corporation) during the **Policy Period** shall be based upon the number of **Insured Persons** in the group at the time a **Claim** is made, as shown in the table above.

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

FF01

ERISKS & PRIVACY LIABILITY PROTECTION ENDORSEMENT

ATTACHING TO AND FORMING PART OF PHYSICIANS ORGANIZATION BILLING ERRORS AND OMISSIONS AND REGULATORY LIABILITY POLICY

I(C) - INSURING AGREEMENT

If, during the **Policy Period**, any **Claim** is first made against the **Insured** and is reported to Underwriters in writing during the **Policy Period** or within twenty-one (21) days after the end of the **Policy Period**, or any extended reporting period purchased, provided always that the **Insured**:

- 1) had no knowledge of such circumstance or **Claim** prior to the Retroactive Date set forth in Item 3(c) of the Declarations.

Underwriters shall indemnify the **Insured** against:

A: (SECURITY AND PRIVACY LIABILITY)

1. **Insured's** failure to prevent or hinder unauthorized access to or unauthorized use of a **computer network**; failure to prevent physical theft, or loss of documentation, **hardware** or **firmware** controlled by **the Insured**, the **Insured's** people, or processes; security failures; or false communications designed to trick the user into surrendering personal information (commonly known as "phishing" or "pharming") that results in:
 - a. The alteration, copying, corruption, destruction, deletion, or damage to electronic **data** on a **computer network**;
 - b. Unauthorized disclosure of commercial, personal, patient or other private information;
 - c. Theft of **data** (including theft of **data** which is commonly referred to as identity theft);
 - d. **Insured's** failure to disclose a breach of security affecting personally identifiable, non-public information, or failure to dispose of such information within the required time period in violation of notification laws or regulations in effect now or in the future;
 - e. The failure to prevent transmission of **malicious code** or **computer virus** from a **computer network** to third party computers or systems; or
2. **Privacy breach, security breach, or breach of privacy regulations**; or
3. The failure to prevent or hinder participation in a **denial of service** from a **computer network** operated by the **Insured** or on the **Insured's** behalf against **internet** sites or **computer networks** of a third party; or
4. Loss of **Insured Person's** personally identifiable information as defined in **privacy regulations**.

B: (PRIVACY REGULATORY DEFENSE AND PENALTIES)

A civil regulatory action, including a **regulatory compensatory award**, civil penalty, or fines to the extent insurable by law, imposed by a federal, state, or governmental regulatory body against the **Insured**, as a result of a **privacy breach, security breach**, or breach of **privacy regulations** by the **Insured** or others on the **Insured's** behalf for whom **Insured** is legally responsible, provided that the **privacy breach, security breach**, or breach of **privacy regulations** occurred on or after the **Retroactive Date**.

C: (CRISIS MANAGEMENT COSTS, PATIENT NOTIFICATION EXPENSES, AND CUSTOMER SUPPORT AND CREDIT MONITORING EXPENSES)

Underwriters shall indemnify the **Insured** for **crisis management costs, patient notification expenses**, and **patient support and credit monitoring expenses**, when such costs and expenses are incurred, following a **security breach, privacy breach** or breach of **privacy regulations**, provided that the **security breach, privacy breach** or breach of **privacy regulations** occurred on or after the **Retroactive Date**.

D: (MULTIMEDIA LIABILITY)

Underwriters shall pay on **Insured's** behalf all **Loss** and **defense expenses**, which the **Insured** become legally obliged to pay as a result of any **claim** first made against the **Insured**, which occurred on or after the **Retroactive Date**, arising from **multimedia activities**, which results in any of the following actual or alleged acts, which for the purpose of this endorsement shall mean:

- A. Defamation including, but not limited to, disparagement or harm to the reputation or character of any person or organization, libel, slander, product disparagement, trade libel, or infliction of emotional distress or mental anguish;
- B. Invasion, infringement, or interference with the right to privacy or right of publicity, including false light, public disclosure of private facts, including those of an **employee**, intrusion, or commercial appropriation of name or likeness;
- C. Plagiarism, piracy or misappropriation of ideas in connection with the **internet** or **print media**;
- D. Infringement of copyright, domain name, title, or slogan; trade duress; or the dilution or infringement of trademark, service mark, service name, or trade name;
- E. Wrongful entry or eviction, trespass, eavesdropping, false arrest, malicious prosecution; or
- F. Liability arising out of **Insured's** negligence in respect to any **internet** or **print media** content

E: (DATA RECOVERY)

Underwriter shall indemnify the **Insured** for **first party costs and expenses**, as a result of a **first party insured event** incurred by the **Insured**, provided that the **first party insured event** during the **policy period** and was notified to the Underwriter by the **Insured** within sixty (60) days after the expiration of the **policy period**.

F: (CYBER EXTORTION)

Underwriters shall indemnify the **Insured** for those amounts, when **cyber extortion monies** are paid by the **Insured** following a **cyber extortion threat**, to the extent insurable by law, if applicable, provided that the **cyber extortion threat** occurred during the **policy period** and was notified to the Underwriter by the **Insured** within sixty (60) days after the expiration of the **policy period**.

As a condition precedent to this coverage, keep the terms of this **Cyber Extortion** coverage confidential, to be shared only with necessary management and potential law enforcement authorities in the course of responding to a **cyber extortion threat**. The **Insured** must cooperate with outside governmental authorities, where necessary, to effectively mitigate the extent and nature of any **cyber extortion threat**.

The following are added to II DEFINITIONS and apply only in respect of this endorsement

(A) **Claim** means:

1. A written demand for monetary damages or non-monetary relief, a request for a tolling agreement, the service of a civil suit, or institution of arbitration proceedings received by **you** seeking monetary damages or including the threat or initiation of a suit and/or proceeding seeking a temporary restraining order or a preliminary or permanent injunction;
2. A formal civil administrative proceeding or regulatory action to the extent covered by B (PRIVACY REGULATORY DEFENSE AND PENALTIES);
3. A **first party insured event**;
4. A **crisis management event** or the incurring of **customer notification expenses** or **customer support and credit monitoring expenses**;
5. A **cyber extortion threat**; and
6. Notice by a third party to **you** of acts, facts, or circumstances that could reasonably be expected to result in any of the foregoing (1) to (5) above.

(N) **Computer network(s)** means interconnected electronic, wireless, web, or similar systems (including all **hardware** and software) used to process **data** or information in an analog, digital, electronic or wireless format including, but not limited to, computer programs, electronic data, operating systems, **firmware**, servers, media libraries, associated input and output devices, mobile devices, networking equipment, websites, extranets, off line storage facilities (to the extent that they hold electronic data), and electronic backup equipment.

- (O) **Computer virus** means a program that possesses the ability to create replicas of itself (commonly known as “auto-reproduction” program) within other programs or operating system areas, or which is capable of spreading copies of itself wholly or partly to other computer systems/networks.
- (P) **Crisis management costs** means any fees reasonably incurred by the Insured and approved by underwriters for the employment of a public relations consultant if the **Insured** reasonably considers that action is needed in order to avert or mitigate any material damage to any of the **Insured’s** brands and which constitutes a **newsworthy event**
- (Q) **Crisis management event** means any unpredictable **newsworthy event** that threatens material damage to any of the **Insured’s** brands, which results in the **Insured** incurring **crisis management costs**.
- (R) **Patient notification expenses** means those reasonable and necessary legal expenses, public relations expenses, postage expenses, and related advertising expenses incurred by the **Insured** and approved by underwriters to comply with governmental privacy legislation mandating customer notification in the event of a **security breach, privacy breach**, or breach of **privacy regulations** that results in the compromise or potential compromise of personal information maintained by the **Insured** or otherwise residing on a **computer network** operated by the **Insured** or on the **Insured’s** behalf.
- (S) **Patient support and credit monitoring expenses** means those reasonable expenses incurred by the **Insured** and approved by underwriters for the provision of customer support activity, including the provision of credit file monitoring services and identity theft education and assistance in the event of a **privacy breach** that results in the compromise or potential compromise of personal information maintained by the **Insured** or otherwise residing on a **computer network** operated by the **Insured** or on the **Insured’s** behalf.
- (T) **Cyber extortion threat** means a credible threat or series of related threats, including a demand for funds, directed at the **Insured** to avoid corruption, damage, destruction, or introduction of a **computer virus, malicious code**, or a **denial of service** to any aspect of the insured’s **computer networks**.
- (U) **Cyber extortion monies** means:
1. Monies payable by the **Insured**, with underwriters prior written consent, to a person(s) or entity(ies) believed to present a **cyber extortion threat** for the purpose of terminating such a threat; or
 2. Other reasonable and necessary costs and expenses that have been subject to underwriters prior written consent directly resulting from a **cyber extortion threat**.
- (V) **Data** means any machine readable information, including ready for use programs or electronic data, irrespective of the way it is used and rendered including, but not limited to, text or digital media.

(W) **Denial of service** means unauthorized or unexpected interference or malicious attack on the **Insured's computer network** that restricts or prevents access to the **Insured's computer network** by persons or entities authorized to gain access to it.

(X) **Firmware** means the fixed programs that internally control basic low-level operations in a device.

(Y)**First party costs and expenses** means costs authorized by underwriters, which may include:

1. **Insured's** actual costs to restore, re-collect, or replace **data**, including expenses for materials, working time, and overhead cost allocation at the affected location(s) associated with restoring or replacing **data**;
2. **Insured's** reasonable and necessary costs and expenses of specialists, investigators, forensic auditors, or loss adjusters retained by the **Insured** for the purpose of conducting a review or audit to substantiate that a **first party insured event** is occurring or has occurred or to determine the scope, cause, or extent of any theft or unauthorized disclosure of **Insured's** information or **data, privacy breach**, or breach of **privacy regulations**;
3. **Insured's** reasonable and necessary costs and expenses for the use of rented, leased, or hired external equipment, services, labor, premises, or additional operating costs, including staff overtime and expenditure, provided that these costs and expenses were reasonably incurred as a result of a **first party insured event**; or
4. Any other reasonable and necessary costs and expenses that the **Insured** incurs directly as a result from a **first party insured event**.

First party costs and expenses do not include loss of profits or **loss of business income**. **First party costs and expenses** are part of, and not in addition to, the Limit of Liability.

(Z) **First party insured event** means loss sustained by the **Insured** arising from:

1. **Security breach**;
2. **Malicious code**;
3. Unauthorized use of **Insured's computer network**;
4. Accidental damage or destruction of **data** because of **human error**;
5. Accidental damage or destruction of **hardware**, so that the **data** stored is not machine readable;
6. Malfunction or failure of **your computer network**;
7. Natural disaster, but only for corruption, destruction, or damage to **data**; that occurs whilst

First party insured event only pertains to **Insured's** loss and does not include coverage for any **claim** made by a third party.

- (AA) **Hardware** means any and all physical components of a **computer network**.
- (BB) **Human error** means an operating error, an error in setting parameters, or an unintentional mistake by **your employee** or a third party providing services to the **Insured**, which results in **First party costs and expenses** sustained by the **Insured**.
- (CC) **Internet** means the worldwide public network of **computer networks** which enables the transmission of electronic **data** between different users, including a private communications network existing within a shared or public network platform.
- (DD) **Malicious code** means software designed to infiltrate or damage a **computer network** without the owner's informed consent by a variety of forms including, but not limited to, Trojan horses, spyware, dishonest adware, and crimeware. **Computer Virus**, is not deemed to be **malicious code**, for the purposes of this definition
- (EE) **Multimedia activities** means the release of any **internet** and/or **print media** content.
- (FF) **Newsworthy event** means an event that has been caused by an actual or potential **privacy breach, security breach**, or breach of **privacy regulations** where such actual or potential **privacy breach, security breach**, or breach of **privacy regulations** has been publicized through any media channel including, but not limited to, television, **print media**, radio or electronic networks, the **internet**, and/or electronic mail.
- (GG) **Print media** means newspapers, newsletters, magazines, books and literary works in any form, brochures or other types of publications, and advertising materials, including packaging, photographs, and digital images.
- (HH) **Privacy breach** means a breach of confidentiality, infringement, or violation of any right to privacy including, but not limited to, a breach of the **Insured's** privacy policy, breach of a person's right of publicity, false light, intrusion upon a person's seclusion, public disclosure of a person's privacy information.
- (II) **Privacy regulations** means the following, as well as similar statutes and regulations, as they currently exist and as amended, associated with the confidentiality, access, control, and use of personally identifiable, non-public information including, but not limited to:
1. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), known as HIPAA, and as amended per the HITECH Act, and related state medical privacy laws;
 2. Gramm-Leach-Bliley Act of 1999 (G-L-B), also known as the Financial Services Modernization Act of 1999;
 3. State and Federal statutes and regulations regarding the security and privacy of consumer information;
 4. Governmental privacy protection regulations or laws associated with the control and use of personal information;

5. Privacy provisions of consumer protection laws, including the Federal Fair Credit Reporting Act (FCRA) and similar state laws;

(JJ) **Regulatory compensatory award** means a regulatory agency's monetary award to a third party. **Regulatory compensatory award** does not include a criminal penalty or fine issued by a regulatory agency of any kind, including federal, state, or local governmental agencies.

(KK) **Security breach** means the intentional, malicious and wilful misuse of the **Insured's computer network** to modify, delete, corrupt, or destroy **data** or a **denial of service**, or the actual or alleged act, error, omission, or breach of duty to protect the security and confidentiality of non-public proprietary corporate information, personally identifiable non-public information of a medical or financial nature, or other personal or confidential paper records or electronic information. This includes, but is not limited to, electronic or non-electronic security failures, failure to protect against anticipated threats or hazards, failure to protect against unauthorized access, use, disclosure or physical theft of documentation, **hardware** or **firmware**, false communications, or social engineering techniques designed to trick the user into surrendering personal information (commonly known as "phishing" or "pharming").

(LL) **Computer virus** means a program that possesses the ability to create replicas of itself (commonly known as "auto-reproduction" program) within other programs or operating system areas, or which is capable of spreading copies of itself wholly or partly to other computer systems/networks.

Amendment to III EXCLUSIONS

(A) based upon or arising out of: (1) any dishonest, fraudulent, criminal, intentional or malicious act by any **Insured**; (2) any willful violation of any law, statute, ordinance, rule or regulation by any **Insured**; or (3) any **Insured** gaining any profit, remuneration or advantage to which such **Insured** was not legally entitled, as evidenced by an oral or written statement or admission by the **Insured** or a judgment or final adjudication; provided, however, that this Exclusion (A) shall not apply to any **Claim** brought under the United States False Claims Act (31 U.S.C. §3729 et. seq.) or any similar state statute, regulation or rule based on "knowing" conduct as that term is defined under the False Claims Act (31 U.S.C. § 3729(b)). For the purposes of determining the applicability of this Exclusion (A), no **Wrongful Act** of any **Insured** shall be imputed to any other **Insured**; - However this exclusion shall not apply to sabotage undertaken by an **Insured Person** when such claim is brought under

- 1) **A: (SECURITY AND PRIVACY LIABILITY)**
- 2) **B: (PRIVACY REGULATORY DEFENSE AND PENALTIES)**
- 3) **C: (CRISIS MANAGEMENT COSTS, PATIENT NOTIFICATION EXPENSES AND PATIENT SUPPORT AND MONITORING EXPENSES)**
- 4) **E (DATA RECOVERY).**

(B) for bodily injury, sickness, disease or death of any person, or for emotional distress, mental anguish, or other similar injury or damage; - except that this exclusion shall not apply to emotional distress or mental anguish arising out of actual or alleged, **privacy breach, security breach, or breach of privacy regulations;**

- (C) arising out of false arrest, humiliation, detention or imprisonment, wrongful entry or eviction of other invasion of private occupancy, malicious prosecution, libel, slander or the publication or utterance of other defamatory or disparaging material, depiction of another in a false light, or intrusion upon the seclusion of another; Unless such claim is brought under (INSURING AGREEMENT D MULTIMEDIA LIABILITY)
- (D) Computer Virus, but only in relation to **E DATA RECOVERY**

Additional Exclusions applicable to this endorsement

- (T) The wear and tear, drop in performance, progressive deterioration, or aging of electronic equipment and other property or **hardware** used by the **Insured**;
- (U) Failure of overhead transmission and distribution lines;
- (V) Fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God, or any other physical event however caused, unless such **claim** is part of a **first party insured event**;
- (W) Any actual or alleged discrimination of any kind including, but not limited to, age, color, race, gender, creed, national origin, marital status, sexual preferences, disability, or pregnancy;
- (X) Any fine or penalty arising out of any agreement by the **Insured** to comply with or follow the Payment Card Industry Standard or any Payment Card Company Rules; or implement, maintain, or comply with any security measures or standards related to any payment card data including, but not limited to, any fine or penalty imposed by a payment card company on a merchant bank or payment processor that **you** have paid or agreed to reimburse or indemnify. However, this exclusion shall not apply to civil penalties and fines to the extent insurable by law arising out of an otherwise covered **claim** under B (PRIVACY REGULATORY DEFENSE AND PENALTIES)
- (Z) Any actual or alleged unfair competition, antitrust violations, deceptive trade practices, or restraint of trade or antitrust statute, legislation, or regulation;

Amendment to IV CONDITIONS

(B) Reporting of Claims and Circumstances

With respect to INSURING AGREEMENT paragraphs E: (DATA RECOVERY) and F: (CYBER EXTORTION), it is a condition precedent to Underwriters' liability under this Policy that

a) **Notice of First Party Insured Event or Cyber Extortion Threat**

If **you** have information from which it may reasonably conclude that a **first party insured event** or **cyber extortion threat** is occurring or has occurred, notice shall be provided to Underwriters immediately, which term should be construed narrowly in order to provide **us** the appropriate amount of time in managing, responding to, mitigating and adjusting loss for a **first party insured event insured event** or **cyber extortion threat**. However, the insurance provided by these paragraphs shall not be

invalidated by the **Insured's** omission to provide such immediate notification if the **Insured** demonstrates to Underwriters' reasonable satisfaction that it was previously unknown that the loss was the result of a **first party insured event** or **cyber extortion threat**.

b) **Reporting**

It is the **Insured's** sole responsibility to report the loss to the police or other governmental authorities for the purpose of properly notifying them that a crime has occurred or is suspected to have occurred.

c) **Computer Virus**

When a loss is caused by a computer virus, all losses directly resulting from the same computer virus within a period of 48 hours after the **Insured** first becomes aware of the virus, are considered to be related to one single **first party insured event**. Any damage that occurs after this period shall be deemed to constitute a new loss and the policy excess will be applied again

The **Insured** should take all necessary measures to identify that all traces of the virus have been removed prior to the **Insured's** computer network resuming operations.

Notification of Claim

Peggy Reetz

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