

**Independent Insurance Agents and Brokers Coverage Part
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SPECIMEN

Independent Insurance Agents and Brokers Coverage Part
CLAIMS MADE COVERAGE
THIRD PARTY COVERAGE

THIS COVERAGE PART PROVIDES COVERAGE ON A CLAIMS MADE BASIS. COVERAGE AFFORDED UNDER THIS COVERAGE PART APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE INSURER IN ACCORDANCE WITH SECTION 5 (REPORTING AND NOTICE) OF THE GENERAL TERMS AND CONDITIONS OF THIS POLICY. AMOUNTS INCURRED AS CLAIM EXPENSES ARE SUBJECT TO THE APPLICABLE DEDUCTIBLE AS SET FORTH WITHIN THE DECLARATIONS.

It is hereby agreed that the General Terms and Conditions apply to this **Coverage Part** except as amended or as specifically deemed not to apply by the terms and conditions of this **Coverage Part**. The terms and conditions set forth in this **Coverage Part** shall only apply to this **Coverage Part** (and, as applicable, to the General Terms and Conditions):

1. INSURING AGREEMENT

1.1 Errors and Omissions Liability Coverage (hereinafter "E&O Coverage")

This Insuring Agreement affords **Third Party Coverage**.

The **Insurer** will pay on behalf of the **Insured** all **Loss** due to a **Claim** arising out of a **Wrongful Act** to which this Policy applies, but only if the **Claim** is first made against the **Insured** during the **Policy Period** or Extended Reporting Period, if applicable, and reported to the **Insurer**. Coverage is afforded subject to the following:

This coverage applies to **Wrongful Acts** taking place:

- A. during the **Policy Period**; or
- B. prior to the effective date of this **Policy Period** but after the **Retroactive Date**; provided that:
 - 1. as of the effective date of this Policy, the **Insured** does not have actual or constructive knowledge of any circumstances or **Wrongful Act** which could reasonably be expected to result in a **Claim**; and
 - 2. there is no other valid and collectible insurance available to the **Insured** for any such prior **Wrongful Act**.

1.2 Defense and Settlement

- A. The **Insurer** shall have the right and duty to defend any **Claim** against the **Insured** for **Loss** to which this insurance applies even if any of the allegations of the suit are groundless, false or fraudulent. The **Insurer**, at its option, shall select and assign defense counsel; however, the **Insured** may engage additional counsel, solely at their expense, to associate in their defense of any **Claim** covered hereunder. The **Insurer** shall have the right, but not the duty to appeal any judgment awarded against the **Insured**.
- B. The **Insured** shall give the **Insurer** full cooperation, and such information as it may reasonably require in the investigation and defense of any **Claim**. The **Insureds** shall do nothing that would in any way increase the **Insurer's** liability under this Policy or prejudice the **Insurer's** actual or potential rights of recovery. The **Insured** shall not assume any obligations, voluntarily make any payment, admit any liability, stipulate to any judgment, enter into any settlement activities with regard to any **Claim**, nor incur any costs, charges, or expenses without the **Insurer's** consent, such consent shall not be unreasonably withheld.
- C. The **Insurer** shall also have the right to investigate any **Claim** and/or negotiate the settlement of any **Claim**, as it deems expedient, but the **Insurer** shall not commit the

Insured to any settlement without their consent. If the **Insured** refuses to consent to any settlement recommended by the **Insurer** and elects to contest the **Claim** or continue any legal proceedings in connection with such **Claim**, then the **Insurer** shall be relieved of any further duty to defend the **Claim**, and the liability of the **Insurer** for **Loss** shall not exceed the amount for which the **Claim** could have been settled, as well as the **Claim Expenses** incurred by the **Insurer**, or with the **Insurer's** consent, such consent shall not be unreasonably withheld, up to the date of such refusal. Furthermore, the **Insured** shall not assume any obligations, incur any costs, charges, or expenses or enter into any settlement without the **Insurer's** consent, such consent shall not be unreasonably withheld.

- D. For any **Claim** to which this Policy applies:
1. in addition to the **Limit of Liability** applicable to this Policy, the **Insurer** shall pay all **Claim Expenses**;
 2. the **Insurer's** right and duty to defend the **Insured** and pay **Claim Expenses** ends when the **Limit of Liability** for this **Coverage Part** as set forth in Item 4.a of the Declarations is exhausted by payment of judgments or settlements; and
 3. in no event shall the **Insurer's** liability under this Policy for such **Claim** exceed the remaining portion of the **Aggregate Limit of Liability**.

2. COVERAGE EXTENSION

2.1 Supplementary Expenses Extension

The **Insurer** shall pay the following amounts in addition to the **Limit of Liability** as Supplementary Payments provided however, that the **Insurer** shall have no obligation to make such payments after the **Limit of Liability** is exhausted by the payment of **Loss**.

A. Expense Reimbursement

The **Insurer** will pay up to the amount set forth in Item 4.b(1) of the Declarations for all reasonable expenses, other than loss of earnings, incurred by any **Insured** for each day or part of a day of such **Insured's** attendance, to assist the **Insurer** at a trial, deposition, hearing or arbitration proceeding involving a civil suit against such **Insured** for covered **Loss**. However, the amount so payable for any one or series of trials, depositions, hearings or arbitration proceedings arising out a **Claim** shall in no event exceed the amount set forth in Item 4.b(1) of the Declarations.

B. Defense of Regulatory Investigations

The **Insurer** will pay the reasonable attorneys' fees, costs and expenses incurred by the **Insured** in responding to an investigation of an **Insured** by a state licensing board, professional regulatory agency or a governmental agency with authority to regulate **Professional Services**, resulting from the **Insured's** performance of **Professional Services**. The maximum the **Insurer** will pay for all **Insureds** regardless of the number of investigations per **Policy Period** is the amount set forth in Item 4.b(2) of the Declarations.

However, as a condition precedent to coverage under this section, the **Insurer** must:

1. agree in writing in advance of retention of legal counsel selected to defend the **Insured**; and
2. be first notified of the investigation during the **Policy Period** and must provide the **Insurer** with written notice not later than thirty (30) days after the **Insured** has been notified of the investigation.

C. Appeal Bond Premium

If the **Insurer** exercises its right to appeal, the **Insurer** will pay any premium for appeal bonds for the covered part of a judgment; provided, however, that the **Insurer** has no obligation to

apply for, furnish or have any court approve such bonds, or provide any collateral for such bonds.

D. Pre-Judgment and Post-Judgment Interest

The **Insurer** will pay:

1. pre-judgment interest awarded against the **Insured** on that part of the judgment the **Insurer** pays. If the **Insurer** makes an offer to pay the applicable **Limit of Liability**, the **Insurer** will not pay any pre-judgment interest based on that period of time after the offer; and
2. post-judgment interest.

E. Catastrophe

For catastrophes which have occurred during the **Policy Period** and have been designated as a catastrophe by Insurance Services Offices, Inc., the **Insurer** shall pay up to the per catastrophe amount set forth in Item 4.b(3) of the Declarations subject to a per **Policy Period** Aggregate set forth in Item 4.b(3) of the Declarations for the actual reasonable extra expenses incurred by all **Named Insureds** for assisting in the insurance claims processing needs of their **Clients** who have been affected by the catastrophe. Such extra expenses must be incurred beginning on the date of the catastrophe and within ninety (90) days thereafter.

No **Deductible** shall apply to Supplementary Payments. Supplementary Payments do not reduce the **Limit of Liability**.

3. DEFINITIONS

In addition to the Definitions included in the General Terms and Conditions the following Definitions shall also apply to this **Coverage Part**:

3.1 Claim means any:

- A. written demand the **Insured** receives for **Damages** due to a **Wrongful Act** arising out of **Professional Services**, including the institution of arbitration proceedings against the **Insured**;
- B. **Suit** seeking **Damages** against the **Insured** due to a **Wrongful Act** arising out of **Professional Services**, commenced by the service of a complaint or similar pleading;
- C. subpoena or deposition notice received by an **Insured** related to **Professional Services** rendered by the **Insured** for a **Client**; or
- D. written request received by an **Insured** to toll or waive a statute of limitations relating to a **Claim** or potential **Claim**.

3.2 Covered Product means:

- A. With respect to Property and Casualty Insurance, the following products offered by a **Product Provider**:
 1. Property and Casualty Insurance coverage;
 2. Fidelity and Surety Bonds;
 3. Workers Compensation Insurance;
 4. Long Term Care Insurance;
 5. Group Employee Benefit Plans, such as Section 125 Plans, Group Life Plans, Group Accident and Health Plans, Long Term Care Plans, and Group Disability Plans, provided any such plans are fully insured at all times; or

6. Retirement, Pension or Profit Sharing Plans, Individual Retirement Accounts, Keogh Plans and similar plans.
- B. With respect to Life Insurance, the following products offered by a **Product Provider**:
1. Life insurance, fixed annuities, including indexed annuities; Accident and Health Insurance, Medicare Supplemental Insurance, or Disability Income Insurance;
 2. Long Term Care Insurance;
 3. Group Employee Benefit Plans, such as Section 125 Plans, Group Life Plans, Group Accident and Health Plans, Long Term Care Plans, and Group Disability Plans, provided any such plans are fully insured at all times; or
 4. Retirement, Pension or Profit Sharing Plans, Individual Retirement Accounts, Keogh Plans and similar plans.

Covered Products do not include any plan or arrangement operating as a Multiple Employer Welfare Arrangement (as that term is defined in the Employee Retirement Income Security Act of 1974 [ERISA], as amended).

3.3 Damages means compensatory damages, whether part of an award or settlement, and any punitive or exemplary damages awarded against an **Insured**, provided that with respect to punitive, exemplary, or multiple damages, the law of the jurisdiction most favorable to the insurability of those damages shall apply. **Damages** shall include attorneys' fees of the person or entity bringing the **Claim** and any costs awarded to them, but only if such fees, costs are awarded in connection with, or are part of a settlement of a **Claim** covered under this Policy.

Damages shall not include:

- A. civil or criminal fines or penalties, or taxes;
- B. non-monetary relief, including any costs incurred in complying with a request, order, judgment or settlement agreement to provide non-monetary, affirmative or equitable relief, or attorney fees or costs awarded to the party seeking non-monetary;
- C. the collection, payment or return of, or the failure to collect, pay, or return, any commissions, fee, funds or premiums; or
- D. any amount deemed uninsurable under the law pursuant to which this Policy shall be construed.

3.4 Insured shall also mean any individual or entity while acting as an independent contractor solely while performing **Professional Services** on behalf of the **Named Insured**.

3.5 Knowledgeable Person shall mean any owner, director, officers, partners, Member.

3.6 Loss means **Damages**. **Loss** shall not include **Claim Expenses** unless amended otherwise by Endorsement.

3.7 Product Provider means any of the following entities:

- A. an **Authorized Insurance Company**;
- B. a group insurance plan or trust fully insured by an **Authorized Insurance Company**; or
- C. any similar entity in the business of transacting insurance that, as a risk-bearing entity, provides an insurance product, and which is authorized or approved, whether on an admitted or surplus lines basis, to sell the particular type of insurance involved in a **Claim** by the applicable regulatory agency in the state or jurisdiction in which the entity is selling or transacting insurance and at the time such insurance is transacted.

However, **Product Provider** does not include any entity in which any **Insured** has greater than a ten percent (10%) ownership interest or in which any **Insured** serves in any kind of management role.

3.8 Professional Services means:

- A. With respect to all Insurance **Professional Services**, the following services rendered in connection with a **Covered Product** by the **Insured** to a **Client** in the conduct of the **Named Insured's** profession as an Insurance Agent or Broker or Solicitor, General Agent, Managing General Agent, Surplus Lines Broker, or a Notary Public:
1. soliciting (whether directly or indirectly), negotiating, placing, recommending, selling or servicing a **Covered Product**, but not including the sale, surrender, conversion or any alteration of a **Covered Product** in order to acquire or invest in anything other than a **Covered Product**;
 2. providing advice or consultation solely related to a **Covered Product**, including financial planning or consulting solely related to a **Covered Product**, but not including any advice or recommendation to, in any way, sell, convert, surrender or alter a **Covered Product** in order to acquire or invest in anything other than a **Covered Product**;
 3. **Employee Benefit Plan Administration**;
 4. expert witness testimony related to **Professional Services** or a **Covered Product**; or
 5. insurance class instruction.

However, **Professional Services** shall not include:

- a. the ownership, creation, formation, operation or administration of, the adjustment of or administration of claims for:
 - (1) any Multiple Employer Welfare Arrangement;
 - (2) any health maintenance organization or preferred provider organization;
 - (3) any pool, syndicate, association or other similar group combination formed for the purpose of providing insurance or benefits; or
 - (4) any risk retention group, Professional Employer Organization (PEO), captive or self-insurance program;
 - b. any services performed by any **Insured** in their capacity as the **Named Fiduciary**, as defined by ERISA, as amended, or as Trustee of any Employee Benefits Plan;
 - c. any services which the **Insured** is not licensed to render on any date on which a **Wrongful Act** involving such services is alleged to have occurred, provided that lack of license is due to the **Insured's** deliberate violation of any federal, state or local licensing law, statute, ordinance, rule, requirement or regulation, or is with the **Insured's** knowledge of and consent to such deliberate violation of applicable licensing laws or regulations; or
 - d. any commingling, misappropriation or conversion of **Client's** funds.
- B. Solely with respect to Property and Casualty Insurance **Professional Services**, the following additional services rendered in connection with a **Covered Product** by the **Insured** to a **Client** in the conduct of the **Named Insured's** profession as an Insurance Agent or Broker or Solicitor, General Agent, Managing General Agent, Surplus Lines Broker, or a Notary Public:
1. incidental claim adjusting pursuant to agency draft authority extended by the **Product Provider**, but only in connection with Property and Casualty **Covered Products**;
 2. appraising real or personal property in connection with soliciting, placing, selling or servicing a **Covered Product**;
 3. providing loss control or risk management services;

4. assisting a **Client** to secure premium financing from a licensed premium finance company for a **Covered Product** placed by or on behalf of the **Insured**; or
5. training, managing and supervising others, but only in connection with a **Covered Product**.

3.9 Registered Representative means any **Insured** that is:

- A. licensed and, if applicable registered, by the Financial Industry Regulatory Authority (FINRA) and any other applicable federal, state or local governmental or non-governmental regulatory entity charged with regulating the solicitation and sale of securities; and
- B. contracted with or employed by a broker dealer (as defined in the Securities Exchange Act of 1934, as amended) that is licensed by FINRA.

3.10 Registered Investment Advisor or Investment Advisor Representative means a properly licensed or registered individual or entity who or which provides services as an Investment Advisor (as defined by the Investment Advisors Act of 1940, as amended, or any similar state or local law or statute), and, if required to do so, is registered with the Securities Exchange Commission.

3.11 Securities has the same meaning as the term used in the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Companies and Advisors Act of 1940, and as may be amended.

3.12 Wrongful Act means:

- A. any actual or alleged negligent act, error or omission, or negligent misstatement or misleading statement, by the **Insured** in the rendering of or failure to render **Professional Services**; or
- B. any actual or alleged negligent **Personal and Advertising Injury** arising out of the **Insured's** rendering of or failure to render **Professional Services**.

4 EXCLUSIONS

In addition to the Exclusions in the General Terms and Conditions the following Exclusions shall also apply to this **Coverage Part**:

The **Insurer** shall not be liable to make any payment of **Loss** in connection with the following:

4.1 Bodily Injury and Property Damage

any **Claim** based upon, arising out of or in any way involving any actual or alleged:

- A. bodily injury, including sickness, injury, disease or death of any person; provided, however, this exclusion shall not apply to emotional distress or mental anguish solely based upon or arising out of the **Insured's** rendering of or failure to render **Professional Services**; or
- B. damage to or destruction of any property by any **Insured** or any individual or entity for which the **Insured** is responsible, including loss of use thereof.

4.2 Contractual Liability

any **Claim** based upon, arising out of or in any way involving any sums the **Insured** is obligated to pay by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability:

- A. that the **Insured** would have in the absence of the contract or agreement; or
- B. assumed in a written contract or agreement which is fully executed prior to the time of any actual or alleged **Wrongful Act** for which the **Claim** in question is made, and provided that the coverage for the **Claim** otherwise applies under this Policy. Solely for the purposes of liability assumed in a written contract or agreement, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than the **Insured** are deemed to be **Damages** (and not **Claim Expenses**), provided:

1. liability to such party for, or for the cost of, that party's defense has also been assumed under the written contract or agreement in question; and
2. such attorney fees and litigation expenses are for defense of that party against a **Claim** or **Suit** seeking **Damages** to which this insurance applies.

4.3 Fee Disputes

any **Claim** based upon, arising out of or in any way involving any **Claim** or dispute between **Insureds** or with another insurance agent or broker, **Registered Representative**, or **Registered Investment Advisor Or Investment Advisor Representative** including, but not limited to, any business dispute concerning commissions, fees, client lists or non-compete or similar agreements. However, this exclusion shall not apply if the **Wrongful Act** arises out of **Professional Services** by an **Insured** rendered to such other **Insured**, agent or broker as a **Client**, provided the **Insured** rendering such **Professional Services** does not have any legal or equity interest in the subject of the insurance or investment procured for the **Client**.

4.4 Fiduciary

any **Claim** based upon, arising out of, or in any way involving services an **Insured** performs as a **Named Fiduciary** or Trustee under the Employment Retirement Income Security Act of 1974 (ERISA), or any of its amendments. However, this exclusion shall not apply to liability the **Insured** may have independent of their role as **Named Fiduciary** or Trustee.

4.5 Insolvency of Product Provider

any **Claim** based upon, arising out of, or in any way involving any bankruptcy, receivership, conservatorship, insolvency, liquidation or financial inability to pay of any entity, including but not limited to a **Product Provider**, regardless of when the financial impairment of such entity began and whether or not any **Insured** was aware or could have been aware of the financial impairment of such entity. However, this exclusion shall not apply if at the time of the placement or renewal of coverage:

- A. The **Product Provider** was rated B+ or higher by AM Best Company or, irrespective of such rating was subject to or a member of the state guaranty fund, guarantee association, or equivalent applicable to the **Covered Product** or **Client** in question; or
- B. The **Product Provider** was backed by or operated by a governmental body or bodies (such as assigned risk plans, Joint Underwriting Associations, State or Federal Flood, Wind or FAIR pools or plans, or state operated residual markets), or was a County Mutual reinsured by carriers rated B+ or better by A.M. Best Company.

4.6 Intellectual Property

any **Claim** based upon, arising out of or in any way involving any actual or alleged infringement of any intellectual property rights of another. However, this exclusion will not apply to infringement of copyright, trade name, trade dress or service mark, or misappropriation of advertising ideas committed in the course of advertising by the **Insured**.

4.7 Investment Fluctuation

any **Claim** solely based upon any fluctuation in the market value of any investment covered by this Policy.

4.8 Other Services

any **Claim** based upon, arising out of or in any way involving any services performed by the **Insured** as:

- A. a mortgage broker or mortgage banker, including loan origination services;
- B. a tax preparer or advisor (except for tax advice provided directly concerning a **Covered Product**), accountant, architect, engineer, actuary, attorney, real estate agent or broker, escrow agent, or title insurance agent;

- C. a financial planner, except as to services directly connected to a **Covered Product**;
- D. a securities broker dealer; or
- E. a **Registered Representative, Registered Investment Advisor or Investment Advisor Representative**; provided that this exclusion shall not apply in the event that coverage is purchased by Endorsement.

4.9 **Personal and Advertising Injury**

any **Claim** for **Personal and Advertising Injury** based upon or arising out of:

- A. the oral or written publication of material, if done by or at the direction of the **Insured** with knowledge of its falsity; or
- B. the oral or written publication of material whose first publication took place prior to the **Retroactive Date**.

4.10 **Prior Notice**

any **Claim** based upon, arising out of any **Wrongful Act, Related Wrongful Act**, any fact, circumstances, situation or **Claim** which has been the subject of any notice given under any insurance policy prior to the Inception Date of this Policy.

4.11 **Securities Related**

any **Claim** based upon, arising out of or in any way involving any:

- A. Investment Selection, including but not limited to:
 - 1. promissory notes;
 - 2. viatical or life settlements as investments, or viatical investment pools;
 - 3. **Securities**; or
 - 4. commodities, futures contracts or option contracts.
- B. Securities Violations solely for any actual or alleged violation of:
 - 1. the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940 or any state securities or Blue Sky statutes, including any rules or regulations promulgated under any of the foregoing; or
 - 2. the rules or regulations of:
 - a. any self-regulating organization, including but not limited to FINRA or its predecessors; or
 - b. any state insurance or securities department, commission or agency except as provided in Subsection 2.1B (Defense of Regulatory Investigations).
- C. Value or Yield Representation for any actual or alleged warranty, promise, guarantee or representation as to the value or yield of any **Covered Products** or as to non-guaranteed interest rates or future premium payments.

4.12 **Structured Settlements**

any **Claim** based upon, arising out of or in any way involving the offering, sale or servicing of any structured settlement; provided, however, this exclusion shall not apply to a **Claim** solely based upon or arising out of the selling or servicing of a **Covered Product** utilized to fund a structured settlement.

4.13 Third Party Claims Administration

any **Claim** based upon, arising out of or in any way involving any **Insured's** actions, activities, responsibilities or duties as a third party claims administrator, except to the extent to which coverage is specifically provided elsewhere in this Policy.

4.14 Unauthorized Access

any **Claim** based upon, arising out of or in any way involving the **Insured's** unauthorized use or release of any confidential or private information pertaining to any **Client**, any director, manager, partner, member, officer or employee of any **Client** or any family member of any such person; or the loss, theft, accidental release or accidental publication of non-public personal information.

5. Limit of Liability and Deductible

In addition to the General Terms and Conditions, Limit of Liability and Deductible Section, Deductible Subsection, the following provision is added to the end thereof and shall also apply to this **Coverage Part**:

If the **Named Insured** has been continuously insured with the **Insurer** and has not had a **Claim** made against them during the last five years, the applicable **Deductible** will be waived for the first covered **Claim** made during the current **Policy Period**.

SPECIMEN