Specified Medical Professions Excess Professional Liability Insurance Policy - Follow Form Claims Made Coverage

Specified Medical Professions Excess General Liability (Including Products and Completed Operations Liability) Insurance Policy - Follow Form Occurrence or Claims Made Coverage

THIS IS A CLAIMS MADE POLICY FOR PROFESSIONAL LIABILITY. GENERAL LIABILITY (INCLUDING PRODUCTS AND COMPLETED OPERATIONS LIABILITY) IS AFFORDED ON THE SAME BASIS (OCCURRENCE OR CLAIMS MADE) AS UNDERLYING INSURANCE. PLEASE READ THIS POLICY CAREFULLY.

In consideration of the payment of the premium, in reliance upon the statements in the Declarations, in reliance upon the statements in the application(s) attached hereto and made a part hereof and the underwriting information submitted on behalf of the Insured, and subject to the terms, conditions and limitations of this policy, the Company and the Insured agree as follows:

THE INSURED

The unqualified word “Insured,” either in the singular or plural, means:

A. the Named Insured specified in Item 1. of the Declarations;

B. any person or organization qualifying as an Insured in the Underlying Insurance but only for the Coverage applicable to that Insured; provided, however, Insured shall not include any medical director who is a physician, surgeon or dentist arising out of the rendering of or failure to render Professional Services in his/her capacity as a physician, surgeon or dentist.

INSURING AGREEMENT

A. Coverage A. - Specified Medical Professions Professional Liability Coverage

COVERAGE A. PROVIDES CLAIMS MADE COVERAGE ONLY.

The Company shall pay on behalf of the Insured Ultimate Net Loss to which Coverage A. applies in excess of the applicable Limits of Liability of Underlying Insurance as stated in Item 6. of the Declarations subject to this policy’s Limits of Liability, provided that the Underlying Insurance also applies or would have applied but for the exhaustion of the Underlying Insurance Limits of Liability.

The Company’s obligation to pay Ultimate Net Loss shall not exceed the applicable Company’s Excess Limits of Liability stated in Item 6. of the Declarations.

Coverage A. applies solely to claims first made against the Insured during the Policy Period or any Extended Reporting Period, if exercised, and reported to the Company pursuant to Claim Reporting Conditions, for Professional Personal Injury by reason of any act, error or omission in Professional Services rendered or that should have been rendered by the Insured or by any person for whose acts, errors or omissions the Insured is legally responsible, and arising out of the conduct of the Insured’s Professional Services provided:

1. the act, error or omission happens during the Policy Period or on or after the Retroactive Date; and

2. prior to the effective date of this policy the Insured has no knowledge of such act, error or omission or any fact, circumstance, situation or incident that may result in a claim under Coverage A.

B. Coverage B. - General Liability (Including Products and Completed Operations Liability)

The Company shall pay on behalf of the Insured Ultimate Net Loss to which Coverage B. applies in excess of the applicable Limits of Liability of Underlying Insurance stated in Item 6. of the
Declarations subject to this policy’s Limits of Liability, provided that the Underlying Insurance also applies or would have applied but for the exhaustion of the Underlying Insurance Limits of Liability.

The Company’s obligation to pay Ultimate Net Loss shall not exceed the applicable Company’s Excess Limits of Liability stated in Item 6. of the Declarations.

1. IF UNDERLYING INSURANCE IS AFFORDED ON AN OCCURRENCE BASIS, THE FOLLOWING APPLIES:
   Coverage B. applies to injury or damage only if the injury or damage was caused by an Occurrence or offense and the injury or damage and the Occurrence or offense which caused it occurred during the Policy Period.

2. IF UNDERLYING INSURANCE IS AFFORDED ON A CLAIMS MADE BASIS, THE FOLLOWING APPLIES:
   Coverage B. applies to claims first made against the Insured during the Policy Period or any Extended Reporting Period, if exercised, provided:
   (i) the injury or damage and the Occurrence or offense that caused it both take place on or after the Retroactive Date and before the end of the Policy Period; and
   (ii) prior to the effective date of this policy the Insured has no knowledge of such Occurrence or offense or any fact, circumstance, situation or incident that may result in a claim under Coverage B.

C. Coverages A. and B.:
   Settlement of any claim or suit for an amount in excess of the Underlying Insurance shall not be binding on the Company without the Company’s written consent.

Except as otherwise stated in this policy or Declarations, the coverage provided in this policy follows the agreements, terms, conditions, definitions, exclusions and endorsements of the Underlying Insurance as stated in Item 7. of the Declarations except for premium and Limits of Liability. This policy applies solely to those Coverages stated in Item 4. of the Declarations. This policy incorporates any additional exclusions included in Underlying Insurance. Where any provision of this policy conflicts with any provision of the Underlying Insurance, the provisions of this policy will apply so long as the provision in this policy is no broader than the conflicting provision in the Underlying Insurance.

In the event of bankruptcy, insolvency, liquidation or refusal or inability to pay of the Underlying Insurer or the Named Insured, this policy will apply as if the otherwise applicable Underlying Insurance Limits of Liability were available. The Company’s liability under this policy shall in no way be increased or expanded as a result of the bankruptcy, insolvency, receivership, liquidation or refusal or inability to pay of the Underlying Insurer or Named Insured. The Underlying Insurance Limits of Liability shall be deemed applicable irrespective of the Insured’s failure to comply with any condition of the Underlying Insurance.

DEFINITIONS
All terms that are capitalized in this policy are either specifically defined terms in Underlying Insurance or are defined herein.

A. Automobile means a land motor vehicle, trailer or semitrailer designed for travel on public roads (including any attached machinery or equipment); provided, however, it does not include mobile equipment.

B. Defense Expenses means reasonable and necessary amounts incurred by the Company, or by the Insured with the prior written consent of the Company, in the defense of that portion of any claim for which coverage is afforded under this policy, including costs of investigation, court costs, costs of bonds to release attachments and similar bonds, but without any obligation of the Company to apply for or furnish any such bonds, and costs of appeals, provided, however, that
Defense Expenses shall not include: (1) salary, wages, overhead or benefit expenses of or associated with employees or officials of the Insured or employees or officials of the Company, or (2) salary, wages, administration, overhead, benefit expenses, or charges of any kind attributable to any in-house counsel or captive out-of-house counsel for the Insured or the Company.

C. Policy Period means the period from the inception date of this policy to the policy expiration date as stated in Item 3. of the Declarations, or its earlier cancellation or termination date.

D. Professional Personal Injury means any injury covered under the professional liability insurance to which Coverage A. of this policy follows form.

E. Professional Services mean those services stated in Item 5. of the Declarations.

F. Retroactive Date means the applicable date stated in Item 8. of the Declarations.

G. Ultimate Net Loss means those sums that the Insured shall become legally obligated to pay as damages (including interest thereon) whether by reason of adjudication or settlement with the Company’s consent because of Professional Personal Injury under Coverage A. and injury or damage under Coverage B. to which this insurance applies, after making deductions for all recoveries and for other insurance, except, however the policy of the Underlying Insurer, and Defense Expenses. Ultimate Net Loss shall exclude: (1) all interest accruing after entry of judgment except with the consent of the Company; (2) punitive or exemplary damages or any multiplied portions of damages in excess of actual damages, including trebling of damages; and/or (3) taxes, criminal or civil fines, or attorneys’ fees of a party other than an Insured or other penalties imposed by law.

G. Underlying Insurance means the coverage afforded under the insurance policy as stated in Item 7. of the Declarations and any renewals or replacements thereof.

THE EXCLUSIONS

With respect to all Coverages this policy shall not apply to Ultimate Net Loss:

A. based upon or arising out of:

1. the actual, alleged or threatened discharge, disposal, migration, dispersal, seepage, release or escape of Pollutants; provided, however, with respect to Coverage B., this subparagraph 1. shall not apply with respect to:
   (i) the Products-Completed Operations hazard;
   (ii) damage, arising out of heat, smoke or fumes from hostile fire at or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any Insured.

2. injury or damage arising out of the actual, alleged or threatened discharge, disposal, migration, dispersal, seepage, release or escape of Pollutants;
   (i) at or from any premises, site or location which is or was at any time used by or for any Insured or others for the handling, storage, disposal, processing or treatment of waste;
   (ii) which are or were at any time transported handled, sorted, treated, disposed of, or processed as waste by or for any Insured or any person or organization for which the Insured may be legally responsible; or

3. any demand, request, direction, order or statutory or regulatory requirement to test for, monitor, remediate, clean up, remove, contain, treat, detoxify or neutralize Pollutants, or in any way respond to or assess the effects of Pollutants or to pay for or contribute to the costs of undertaking such actions; provided, however, this subparagraph shall not apply to liability for damages because of property damage that the Insured would have in the absence of such demand, request, direction, order or statutory or regulatory requirement.
Pollutants mean any solid, liquid, gaseous or thermal irritants or contaminants including, smoke, vapors, soot fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed;

B. based upon or arising out of Professional Personal Injury under Coverage A. and/or injury or damage under Coverage B. arising out of ownership, maintenance, operations, use or entrustment to others or loading or unloading of:

1. any Automobile, aircraft or watercraft owned or operated by or rented or loaned to any Insured;
2. any other Automobile, aircraft or watercraft operated by any person in the course of his/her employment by the Named Insured;

provided, however this exclusion shall not apply to:

(i) the parking of an Automobile on premises owned by, rented to or controlled by the Named Insured or on ways next to such premises, if such Automobile is not owned by or rented or loaned to any Insured;
(ii) a watercraft while ashore on premises owned by, rented to or controlled by the Named Insured; or
(iii) a watercraft that is less than twenty-six (26) feet in length, that is not owned by the Named Insured and that is not being used to carry persons or property for a charge;

C. based upon or arising out of Professional Personal Injury under Coverage A. and/or injury or damage under Coverage B. which has first occurred or began to occur prior to the Retroactive Date, if applicable, or prior to the Policy Period for any Coverage not subject to a Retroactive Date, regardless of whether repeated or continued exposure to conditions which were a cause or contributed to such Professional Personal Injury, injury or damage occur on or after the Retroactive Date, if applicable, or prior to the Policy Period for any Coverage not subject to a Retroactive Date, and cause additional, progressive or further Professional Personal Injury, injury or damage of any kind regardless of cause;

D. based upon or arising out of any claim made against the Insured where any other claim was first made against any Insured prior to the effective date of the Policy Period with regard to the same Occurrence or offense under Coverage B. or with regard to the same act, error or omission under Coverage A. This exclusion shall apply regardless of whether the Insured’s legal obligation to pay damages has been established as of the effective date of this policy;

E. based upon or arising out of injury to any employee of the Insured arising out of and in the course of employment by the Insured or performing duties related to conduct of the Insured’s business or any such claim brought by or on behalf of the spouse, child, parent, brother, sister or domestic partner of the employee.

This exclusion shall apply:

1. whether the Insured may be liable as an employer or in any other capacity; and
2. to any obligation to share damages with or repay someone else who must pay damages because of injury;

F. based upon or arising out of the Insured’s activities as fiduciary under the Employee Retirement Income Security Act of 1974 and its amendment or any regulation or order issued pursuant thereto;

G. based upon or arising out of Professional Personal Injury under Coverage A. and injury under Coverage B. to:

1. a person arising out of any:
   (i) refusal to employ that person;
   (ii) termination of that person’s employment; or
(iii) employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or hostile work environment directed at that person; or

2. the spouse, child, parent, brother, sister or domestic partner of that person as a consequence of injury to that person at whom any of the employment-related practices described in subparagraphs (i), (ii) or (iii) above is directed.

This exclusion applies:

(a) whether the Insured may be liable as an employer or in any other capacity; and

(b) to any obligation to share damages with or repay someone else who must pay damages because of the injury; or

H. based upon or arising out of any sexual act, including without limitation sexual intimacy (even if consensual), sexual conduct, sexual advances, requests for sexual favors, sexual molestation, sexual assault, sexual abuse, sexual harassment, sexual exploitation or other verbal or physical conduct of a sexual nature under any theory whatsoever;

this exclusion shall apply:

(i) to any obligation to share damages with or repay someone else who must pay damages because of injury; or

(ii) if the underlying operative facts constitute excluded conduct irrespective of whether the claim alleges negligent hiring, supervision and/or retention against any Insured or any other form of negligence or negligent conduct.

LIMITS OF LIABILITY

The Limits of Liability stated in Item 6. of the Declaration and the rules below fix the most the Company will pay under this policy. The Company’s obligations end upon exhaustion of the applicable Company’s Excess Limits of Liability stated in Item 6. of the Declarations.

The Company’s Excess Limits of Liability Policy Aggregate Limit of Liability stated in Item 6. of the Declarations, is the most the Company will pay under this policy for all Ultimate Net Loss under Coverage A. and under Coverage B.

The Company’s Excess Limits of Liability Each Claim Limit of Liability stated in Item 6. of the Declarations, is the most the Company will pay under Coverage A. for Ultimate Net Loss for Professional Personal Injury arising out of each claim.

The Company’s Excess Limits of Liability Each Occurrence Limit of Liability stated in Item 6. of the Declarations, is the most the Company will pay under Coverage B. for Ultimate Net Loss arising out of any one Occurrence or offense.

The inclusion herein of more than one Insured in any claim or suit or the making of claims or the bringing of suits by more than one person or organization shall not operate to increase the Limits of Liability stated in Item 6. of the Declarations. More than one claim arising out of a single Occurrence or offense shall be considered a single claim under Coverage B. if Coverage B. is afforded on a claims made basis. All such claims, whenever made, shall be treated as a single claim. Such single claim, whenever made, shall be deemed to be first made on the date on which the earliest claim arising out of such Occurrence or offense is made. More than one claim arising out of a single act, error or omission or a series of related acts, errors or omissions under Coverage A. shall be considered a single claim. All such claims, whenever made, shall be treated as a single claim. Such single claim, whenever made, shall be deemed to be first made on the date on which the earliest claim arising out of such act, error or omission is made.

If more than one Coverage applies to any Occurrence, offense, claim, suit, act, error or omission, or Professional Personal Injury, the most the Company will pay under this policy is the highest Limit of Liability applicable as stated in Item 6. of the Declarations, or one Limit of Liability if the Company’s Limits
of Liability under Coverage A. and Coverage B. are the same, subject to the Company’s Excess Limits of Liability Policy Aggregate.

If Underlying Insurance provides for any sublimit of liability this policy shall not apply in excess of such sublimit.

DEFENSE EXPENSES

The Company shall not be called upon to assume charge of the investigation, settlement or defense of any claim made, or suits brought, or proceedings instituted against the Insured, but shall have the right to and be given the opportunity to associate in the defense and trial of any such claims, suits or proceedings relative to any claim made which, in the opinion of the Company, may create liability on the part of the Company under the terms of this policy.

If the Underlying Insurance and any other applicable concurrent, preceding and successive insurance and self-insured retentions are exhausted, the Company will pay Defense Expenses for such other claims, suits or proceedings to which this insurance applies. In such event, the Company has the right and shall be given the opportunity to defend any such claim, suit or proceeding.

Defense Expenses are part of and not in addition to the Limits of Liability as stated in Item 6. of the Declarations. Defense Expenses will reduce the Limits of Liability as stated in Item 6. of the Declarations.

The Company has the right to withdraw from the defense of any suit it has elected to defend and tender the continued defense to the insured if the applicable Company’s Excess Limits of Liability as stated in Item 6. of the Declarations are exhausted.

CLAIM REPORTING CONDITIONS

The insured shall as a condition precedent to the obligations of the Company under this policy give written notice to the Company in the same manner and to the same extent as provided for by the Underlying Insurance. All notices to the Company shall be in writing and provided to the Company as stated in Item 13. of the Declarations.

EXTENDED REPORTING PERIOD

A. If the Named Insured nonrenews this policy or cancels this policy pursuant to Section Other Conditions A., or if the Company nonrenews this policy or cancels this policy pursuant to Section Other Conditions A., for reasons other than nonpayment of premium or non-compliance with the terms and conditions of this policy, then the Named Insured shall have the right upon payment of an additional premium calculated at the percentage stated in Item 11. of the Declarations of the annual deposit premium for the policy, subject to adjustment as per Section Other Conditions M., Premium, but in no event less than the percentage set forth in Item 11. of the Declarations of the annual minimum premium for the policy, to extend the coverage granted under this policy, to claims first made against the Insured during the period of months stated in Item 11. of the Declarations which shall in no event exceed thirty-six (36) months; as elected by the Named Insured, and reported to the Company pursuant to Section Claims Reporting Conditions, following immediately upon the effective date of such cancellation or nonrenewal, for:

1. injury or damage which happened on or after the Retroactive Date and prior to the effective date of such cancellation or nonrenewal, caused by an Occurrence which happened on or after the Retroactive Date and prior to the effective date of such cancellation or nonrenewal and which is otherwise covered by this policy and Underlying Insurance;

2. personal injury or advertising injury which happened on or after the Retroactive Date and prior to the effective date of such cancellation or nonrenewal, caused by an offense which happened on or after the Retroactive Date and prior to the effective date of such cancellation or nonrenewal and which is otherwise covered by this policy and Underlying Insurance.

This period of months as elected by the Named Insured and described in this paragraph shall be referred to in this policy as the Extended Reporting Period.
B. As a condition precedent to the right to purchase the Extended Reporting Period, the Named Insured must have: (1) paid all premiums due for the Policy Period; (2) paid all premiums due on any other policy(ies) issued by the Company or any of its affiliated companies in an uninterrupted series of policies for which this policy is a renewal or replacement; and (3) the Insured must have purchased an Extended Reporting Period for the Underlying Insurance for a period of months equal to at least the number of months purchased for this policy and in no event exceeding the number of months stated in Item 11. of the Declarations.

The right to purchase the Extended Reporting Period shall terminate unless a written notice as stated in Item 13. of the Declarations of such election for the Extended Reporting Period is received by the Company within thirty (30) days after the effective date of cancellation or nonrenewal together with payment of the additional premium for the Extended Reporting Period. If such written notice of election and payment of additional premium are not so received by the Company, there shall be no right to purchase the Extended Reporting Period at a later date.

C. The Named Insured shall promptly pay any additional premium that may be due.

D. In the event of the purchase of the Extended Reporting Period the entire premium therefor shall be fully earned at its commencement.

E. The Extended Reporting Period shall not in any way increase the Limits of Liability stated in Item 6. of the Declarations.

OTHERS CONDITIONS

A. Cancellation: This policy may be cancelled by the Named Insured on behalf of all Insureds by mailing to the Company written notice stating when thereafter such cancellation shall be effective. If cancelled by the Named Insured, the earned premium shall be computed at the customary short rate. Payment or tender of unearned premium shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

This policy may be cancelled by the Company or by its underwriting manager, on behalf of the Company, by mailing to the Named Insured, at the address stated in Item 2. of the Declarations, written notice stating when, not less than thirty (30) days thereafter, such cancellation shall be effective. However, if the Company cancels the policy because the Named Insured has failed to pay a premium when due, including premium due on any other policy(ies) issued by the Company or any of its affiliated companies in an uninterrupted series of policies for which this policy is a renewal or replacement, this policy may be cancelled by the Company by mailing a written notice of cancellation to the Named Insured stating when, not less than ten (10) days thereafter, such cancellation shall be effective. The mailing of notice as aforementioned shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the Policy Period. Such notice shall be conclusive on all Insureds. Delivery of such written notice by the Named Insured, the Company or its underwriting manager, shall be equivalent to mailing. If cancelled by the Company or its underwriting manager, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation is effective or as soon as practicable thereafter.

B. Changes: The Company, or its underwriting manager, on behalf of the Company, shall be promptly notified of any change in coverage or Underlying Insurance Limits of Liability made to the Underlying Insurance after the inception date of this policy.

C. Representations: By acceptance of this policy, the Insureds warrant as follows:

1. that the information and statements contained in the application(s) are the basis of this policy and are to be considered as incorporated into and constituting a part of this policy; and

2. that the information and statements contained in the application(s) are their representations, that they shall be deemed material to the acceptance of the risk or hazard assumed by the Company under this policy, and that this policy is issued in reliance upon the truth of such representations.
D. Maintenance of Underlying Insurance: The Underlying Insurance Limits of Liability shall be maintained in full effect during the currency of this policy except for reduction of such limits of liability by exhaustion of aggregate limits, if any contained therein, by paying or by having been held liable to pay for damages for claims first made against the Insured during the Policy Period or any subsequent reporting period as provided for under the Section Extended Reporting Period. Failure of the Named Insured to comply with the foregoing shall not invalidate this policy; provided, however, in the event of such failure, the Company shall be liable only to the extent that it would have been liable had the Named Insured complied therewith. In the event of the bankruptcy, insolvency, liquidation or refusal or inability of the Underlying Insurer to pay, the Company shall only be liable to the same extent as it would have been liable had the Underlying Insurance Limits of Liability been maintained and were fully collected.

E. Rescission or Reformation: If the Underlying Insurance is rescinded in whole or in part, or reformed, then this policy shall be rescinded or reformed in the same manner and to the same extent that the Underlying Insurance has been rescinded or reformed.

F. Prior Insurance and Non-Cumulation of Liability: If any loss covered by this policy is also covered in whole or in part under any other excess policy issued to the Named Insured prior to the inception date of this policy, the Limits of Liability of this policy shall be reduced by any amounts due the Insured on account of such loss under such prior policy.

G. Appeals: In the event the Insured or the Underlying Insurer as stated in Item 7. of the Declarations elects not to appeal a judgment in excess of the Underlying Insurance Limits of Liability the Company may elect to do so, but without any obligation of the Company to apply for or furnish any appeal bond. If the Company elects to appeal such judgment, all costs, disbursements and interest associated with the appeal shall be included as Ultimate Net Loss.

H. Entire Agreement: This policy, the Declarations, the application(s) and any written endorsements attached hereto shall be deemed to be a single unitary contract.

I. Other Insurance: This insurance is excess over, and shall not contribute with any other concurrent, preceding or successive insurance whether primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the limits of liability provided in this policy.

J. False or Fraudulent Claims: If any Insured shall commit fraud in proffering any claim, this insurance shall become void as to such Insured from the date such fraudulent claim is proffered.

K. Assignment of Interest: Assignment of interest under this policy shall not bind the Company unless its consent is endorsed hereon.

L. Subrogation: In the event of any payment under this policy, the Company shall be subrogated to the right of recovery of all Insureds to the extent of such payment. The Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after the claim to prejudice such rights.

Any amount so recovered shall be apportioned as follows:

Any recovery shall first be used for the repayment of expenses incurred toward subrogation; second, to any loss and expense payments by the Insured in excess of any deductible(s); third, to any loss and expense payments by any excess carrier on behalf of the Insured; fourth, to any loss and expense payments by any primary carrier on behalf of the Insured; and, last, to repayment of the Insured's deductible.

M. Premium: The Named Insured shall pay premium to the Company as specified in the Declarations.

Upon expiration of this policy or it earlier cancellation or termination date, the earned premium shall be computed as stated in Item 9. of the Declarations. If the actual earned premium thus computed is more than the deposit premium stated in Item 10. of the Declarations paid, the Named Insured shall pay the difference to the Company; if less the Company shall refund the difference to the
Named Insured, except that the Company shall be entitled to the minimum premium as stated in Item 10. of the Declarations.

N. Audit: The Company shall have the right to require of the Named Insured, an audit by a duly authorized representative of the Company, who shall have the right and opportunity to examine the books and records of the Named Insured, and such examination may be made at any time during the Policy Period and within three (3) years thereafter.

O. Inspection: Any of the Company's authorized representatives shall have the right and opportunity, whenever the Company so desires, to inspect at any reasonable time the Insured's products, goods, operations and premises, but the Company assumes no responsibility or duty by reason of such inspection or the omission thereof. The Insured agrees to provide appropriate personnel to assist the Company's representatives during such inspection without cost to the Company.

P. Action Against the Company: No action shall lie against the Company unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, nor until the amount of the Insured's obligation to pay shall have been fully and finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Company.

Nothing contained in this policy shall give any person or organization any right to join the Company as a co-defendant in any action against the Insured to determine the Insured's liability. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

Q. Authorization: By acceptance of this policy, the first person or organization stated in Item 1. of the Declarations shall act on behalf of all Insureds with respect to the giving and receiving of all notices to and from the Company as provided herein; the exercising of the Extended Reporting Period; the cancellation of this policy in whole or part; the payment of premiums when due; the receiving of any return premiums that may become due under this policy; and the Insureds agree that such person or organization shall act on their behalf.

R. Reporting of Changes in Professional Services, Products, Goods, Operations and Premises: The premium charged for this policy is based on those Professional Services with respect to Coverage A. and those products, goods, operations and premises with respect to Coverage B. identified in the underwriting information submitted to the Company on behalf of the Insured at the time of policy inception. The Named Insured shall report promptly to the Company any changes in those Professional Services for Coverage A. and products, goods, operations or premises for Coverage B., as described below, and the Company shall have the right to adjust the premium for such changes, based on its sole assessment of the additional exposure(s) presented.

Changes to report:

With Respect to Coverage A: Any changes which result in Professional Services that differ in nature, magnitude or scope from those described in the application(s) for this policy.

With Respect to Coverage B:

1. any changes to manufacturing or servicing premises requiring structural alterations, or acquisition of additional manufacturing or servicing premises;
2. any changes in manufacturing or servicing operations which is likely to result in an annual increase in payrolls of twenty-five (25%) or more;
3. any change which results in products, goods and/or operations that differ from those described in the application for this policy.

In the event that the Named Insured fails to comply with the reporting requirements herein no coverage shall be afforded for Ultimate Net Loss based on or arising out of the changed Professional Services with respect to Coverage A. or for products, goods, operations and/or premises with respect to Coverage B., not reported.
S. Service of Suit: Except with respect to any policy issued in any state in which the Company is licensed as an admitted insurer to transact business, it is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the Named Insured, will submit to the jurisdiction of a court of competent jurisdiction within the United States and will comply with all requirements necessary to give such court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such court. Nothing in this clause constitutes or should be understood to constitute a waiver of the Company’s 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 Secretary, Legal Department, Markel Midwest, Ten Parkway North, Deerfield, Illinois 60015 and that in any suit instituted against the Company upon this policy, the Company will abide by the final decision of such court or of any appellate court in the event of an appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, the Company hereby designates the Superintendent, Commissioner, or Director of Insurance or other official specified for that purpose in the statute, or his/her successor or successors in office, as its 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 Named Insured or any beneficiary hereunder arising out of this policy, and hereby designates the above-named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

IN WITNESS WHEREOF, the Company has caused this policy to be signed by its President and Secretary, but this policy shall not be valid unless countersigned on the Declaration by a duly authorized representative of the Company.

SPECIMEN
Secretary

SPECIMEN
President
NUCLEAR ENERGY LIABILITY
EXCLUSION (BROAD FORM)

This exclusion modifies the provisions of this policy.

It is agreed that:

1. This policy does not apply:
   A. Under any Liability Coverage, to bodily injury or property damage
      (1) with respect to which an Insured under this 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
      (2) resulting from the hazardous properties of nuclear material and with respect to which (a) any
          person or organization is required to maintain financial protection pursuant to the Atomic
          Energy Act of 1954, or any law amendatory thereof, or (b) 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.
   B. Under any Medical Payments Coverage, or any Supplementary Payments provision relating to first
      aid, to expenses incurred with respect to bodily injury resulting from the hazardous properties of
      nuclear material and arising out of the operation of a nuclear facility by any person or organization.
   C. Under any Liability Coverage, to bodily injury or property damage resulting from the hazardous
      properties of nuclear material, if
      (1) the nuclear material (a) is at any nuclear facility owned by, or operated by or on behalf of, an
          Insured or (b) has been discharged or dispersed therefrom;
      (2) 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
      (3) the bodily injury or property damage 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 (3) applies only to property
          damage to such nuclear facility and any property thereat.

2. As used in this exclusion:
   "hazardous properties" include radioactive, toxic or explosive properties;
   "nuclear material" means source material, special nuclear material or by-product material;
   "source material", "special nuclear material", and "by-product material" have the meanings given them in
   the Atomic Energy Act of 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 by-product material and (2) resulting from the
   operation by any person or organization of any nuclear facility 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;

"property damage" includes all forms of radioactive contamination of property.