

FORMS – APPROVED

FEBRUARY 24, 2020

BUSINESSOWNERS

LI-BP-2020-017

VIRGINIA REVISIONS TO VARIOUS BUSINESSOWNERS CLAIMS-MADE ENDORSEMENTS APPROVED

KEY MESSAGE

Businessowners form filing BP-2019-OEND1 regarding claims-made endorsements approved.

BACKGROUND

In circular [LI-CL-2018-010](#), we announced that we were reviewing Virginia Adopted amendments to chapter 335 of title 14 of the Virginia Administrative Code addressing Rules Governing Claims-made Liability Insurance Policies with respect to requirements that may have impact on various ISO commercial lines of insurance.

In circular [LI-CL-2018-035](#), we announced the filing of CL-2018-OEND1 in response to Virginia Adopted amendments to chapter 335 of title 14 of the Virginia Administrative Code addressing Rules Governing Claims-made Liability Insurance Policies.

In circular [LI-CL-2019-013](#), we announced the amendment of CL-2018-OEND1 in response to comments from the Virginia Bureau of Insurance regarding ISO's revisions in response to Virginia Adopted amendments to chapter 335 of title 14 of the Virginia Administrative Code addressing Rules Governing Claims-made Liability Insurance Policies.

In circular [LI-CL-2019-018](#), we announced the approval of CL-2018-OEND1 in response to Virginia Adopted amendments to chapter 335 of title 14 of the Virginia Administrative Code addressing Rules Governing Claims-made Liability Insurance Policies.

In circular [LI-BP-2019-139](#), we announced the filing of BP-2019-OEND1 in response to Virginia Adopted amendments to chapter 335 of title 14 of the Virginia Administrative Code addressing Rules Governing Claims-made Liability Insurance Policies.

INSURANCE DEPARTMENT ACTION

The Virginia Bureau of Insurance has approved this filing.

EFFECTIVE DATE

The ISO revision is subject to the following rule of application:

These changes are applicable to all policies written on or after August 1, 2020.

COMPANY ACTION

If you have authorized us to file on your behalf and decide:

- To use our revision and effective date, you are not required to file anything with the Bureau of Insurance.
- To use our revision with a different effective date, to use our revision with modification, or to not use our revision, you must make an appropriate submission with the Bureau of Insurance.

For guidance on submission requirements, consult the ISO State Filing Handbook.

In all correspondence with the Bureau of Insurance on this revision, you should refer to ISO Filing Designation Number [BP-2019-OEND1](#), not this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

RATING SOFTWARE IMPACT

New attributes being introduced with this revision:

- New edition dates of existing form numbers are being introduced.
- Forms are being withdrawn.
- New forms are being introduced.

POLICYHOLDER NOTIFICATION

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies, to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2019-057](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

REVISION DISTRIBUTION

We will issue a Notice to Portfolioholders with an edition date of 8-20 (or the earliest possible subsequent date), along with any new and/or revised forms.

RELATED RULES REVISION

We are announcing in a separate circular the implementation of a corresponding rules revision. Please refer to the Reference(s) block for identification of that circular.

REFERENCE(S)

- [LI-BP-2020-018](#) (02/24/2020) Virginia Revisions To Various Businessowners Claims-made Rules Implemented
- [LI-CL-2019-057](#) (12/10/2019) Revised Lead Time Requirements Listing
- [LI-BP-2019-140](#) (10/02/2019) Virginia Revisions To Various Businessowners Claims-made Rules Filed

- [LI-BP-2019-139](#) (10/02/2019) Virginia Revisions To Various Businessowners Claims-made Endorsements Filed
- [LI-CL-2019-018](#) (05/17/2019) Virginia Revisions To Various Claims-made Endorsements Approved
- [LI-CL-2019-013](#) (04/17/2019) Virginia Revisions To Various Claims-made Endorsements Amended
- [LI-CL-2018-035](#) (10/03/2018) Virginia Revisions To Various Claims-made Endorsements Filed
- [LI-CL-2018-010](#) (04/06/2018) Virginia Adoption Of Amendments To Administrative Rules Governing Claims-made Liability Insurance Policies Under Review

ATTACHMENT(S)

Final Copies of Endorsements

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

VIRGINIA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. Section I – Property is amended as follows:

- 1. The Fire Department Service Charge** Additional Coverage is replaced by the following:

Fire Department Service Charge

- a.** When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for service at each premises described in the Declarations, unless a different limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department service charges:

- (1)** Assumed by contract or agreement prior to loss; or
- (2)** Required by local ordinance.

- b.** If the fire department service charge is not covered under the terms of Paragraph **a.**, then the following applies:

When a volunteer fire department is called to save or protect the Covered Property from a Covered Cause of Loss, we will pay the amount billed to you, up to \$250, unless a different limit is shown in the Declarations for volunteer fire department service charges.

This Additional Coverage applies to your liability for service charges billed to you by a volunteer fire department, provided that:

- (1)** The volunteer fire department is not fully funded by real estate taxes or other property taxes; and
- (2)** The service charge is not made in response to a call outside of the volunteer fire department's fire protection district, city or municipality pursuant to a contract.

- c.** No deductible applies to this Additional Coverage.

- 2. Paragraph E.2. Appraisal** Property Loss Condition is replaced by the following:

2. Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. You and we must notify the other of the appraiser selected within 20 days of the written demand for appraisal. The two appraisers will select an umpire. If the appraisers do not agree on the selection of an umpire within 15 days, the insured or the insurer may apply in writing, for the appointment of an umpire, to the judge of the circuit court of the county or city in which the damaged or destroyed property was located at the time of loss. The appraisers will state separately the value of the property and amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss. Any outcome of the appraisal will be binding on both parties. If you make a written demand for an appraisal of the loss, each party will:

- a.** Pay its own appraiser; and
- b.** Bear the other expenses of the appraisal and umpire equally.

However, if we make written demand for an appraisal of the loss, we will reimburse you for the reasonable cost of your chosen appraiser and for your portion of the cost of the umpire.

If there is an appraisal, we will still retain our right to deny the claim.

3. Paragraph **E.3. Duties In The Event Of Loss Or Damage** Property Loss Condition is amended as follows:

Paragraph **a.(1)** does not apply.

B. Paragraph **B.1.f.(1)(a)(i)** under Paragraph **B. Exclusions** of **Section II – Liability** is replaced by the following:

- (i) "Bodily injury" or "property damage" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests.

C. Section III – Common Policy Conditions is amended as follows:

1. Paragraph **A. Cancellation** is replaced by the following:

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this Policy by mailing or delivering to the first Named Insured written notice of cancellation, stating the reason for cancellation, at least:
 - a. 15 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 45 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver written notice to the first Named Insured's last mailing address known to us. If notice is mailed, it will be sent in accordance with Virginia Law.
4. Our notice will state the effective date of cancellation. The policy period will end on that date.

5. If this Policy is cancelled, we will send the first Named Insured any premium refund due. The cancellation will be effective even if we have not made or offered a refund. The following provisions govern calculation of return premium:

a. We will compute return premium pro rata and round to the next higher whole dollar when this Policy is cancelled:

- (1) At our request;
- (2) Because you no longer have a financial or insurable interest in the property or business operation that is the subject of insurance;
- (3) And rewritten by us or a member of our company group; or
- (4) After the first year, if it is a prepaid policy written for a term of more than one year.

b. When this Policy is cancelled at your request (except when Paragraph **a.(2)**, **a.(3)** or **a.(4)** applies), we will return 90% of the pro rata unearned premium, rounded to the next higher whole dollar. However, when such cancellation takes place during the first year of a multiyear prepaid policy, we will return the full annual premium for the subsequent years. In addition, earned premium will not be less than our policywriting minimum premium.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. Paragraph **1. of H. Other Insurance** is replaced by the following:

1. If there is other insurance covering the same loss or damage, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Policy bears to the Limits of Insurance of all insurance covering on the same basis.

3. Paragraph **I. Premiums** is amended as follows:

- a. The last subparagraph of Paragraph **3.** is replaced by the following:

Our forms then in effect will be provided to you. If you do not pay the continuation premium, this Policy will expire on the first anniversary date that we have not received the premium.

- b. Paragraph **4.** is replaced by the following:

4. Undeclared exposures or changes in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with the rates and rules in effect on the inception date or last anniversary date of the Policy.

4. The following paragraph is added:

M. Nonrenewal

1. If we elect not to renew this Policy, we will mail or deliver a notice of nonrenewal to the first Named Insured, shown in the Declarations, stating the reason for nonrenewal, at least:
- a. 15 days before the expiration date if the nonrenewal is due to nonpayment of premium; or
- b. 45 days before the expiration date if the nonrenewal is for any other reason.

2. We will mail or deliver written notice of nonrenewal to the first Named Insured's last mailing address known to us. If notice is mailed, it will be sent in accordance with Virginia Law. If notice is mailed, proof of mailing will be sufficient proof of notice.

- D. With respect to property to which replacement cost valuation applies, the following provision is added and supersedes any provision to the contrary:

If replacement cost coverage applies, you may make an initial claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within six months of the later of the following dates:

- a. The last date on which you received a payment for actual cash value; or
- b. The date of entry of a final order of a court of competent jurisdiction declaring your right to full replacement cost.

However, if the Actual Cash Value – Building option applies, as shown in the Declarations, Paragraph **D.** above does not apply to Building. Instead, we will determine the value of Buildings at actual cash value.

- E. If Condominium Commercial Unit-owners Optional Coverages Endorsement **BP 17 03** is attached to this Policy, Paragraph **B.2.** of Endorsement **BP 17 03** does not apply.

F. The following changes apply only to Information Security Protection Endorsement **BP 15 07** if it is attached to this Policy:

Paragraph **N. Extended Reporting Periods** is replaced by the following:

N. Extended Reporting Periods

For the purposes of the coverage provided by this Endorsement under Insuring Agreements

d. Security Breach Liability and **g. Web Site Publishing Liability**, the following are added to Paragraph **E. Liability And Medical Expenses General Conditions** of **Section II – Liability**:

1. Basic Extended Reporting Period

a. A Basic Extended Reporting Period is automatically provided without additional charge if:

(1) This Endorsement is cancelled or not renewed for any reason, except for nonpayment of premium, failure to comply with terms or conditions of the Policy or fraud; or

(2) We renew or replace this Endorsement with insurance that:

(a) Has a Retroactive Date later than the date shown in the Schedule of this Endorsement for either Insuring Agreement **d. Security Breach Liability** or **g. Web Site Publishing Liability**. However, the Basic Extended Reporting Period will only be provided for the insuring agreement for which our renewal or replacement endorsement has a Retroactive Date later than the date shown in the Schedule of this Endorsement; or

(b) Does not apply to "wrongful acts" on a claims-made basis for either Insuring Agreement **d. Security Breach Liability** or **g. Web Site Publishing Liability**. However, the Basic Extended Reporting Period will only be provided for the insuring agreement for which our renewal or replacement endorsement does not apply to "wrongful acts" on a claims-made basis.

b. The Basic Extended Reporting Period starts with the end of the "policy period" and lasts for 30 days. A "claim" first made and reported by the insured during this 30-day period will be considered to have been received within the "policy period". However, the 30-day Basic Extended Reporting Period does not apply to "claims" that are covered under any subsequent insurance purchased by the insured, or that would be covered but for exhaustion of the Aggregate Limit of Insurance applicable to such "claims".

c. The Basic Extended Reporting Period does not extend the "policy period" or change the scope of coverage provided. It applies only to "claims" to which the following applies:

(1) The "claim" is first made and reported to us during the Basic Extended Reporting Period; and

(2) The "claim" arose out of either a "wrongful act" or the first of a series of "interrelated wrongful acts" which occurred on or after the Retroactive Date, if any, shown in the Schedule and before the end of the "policy period".

2. Supplemental Extended Reporting Period

a. You will have the right to purchase a Supplemental Extended Reporting Period from us if:

(1) This Endorsement is cancelled or not renewed; or

(2) We renew or replace this Endorsement with insurance that:

(a) Has a Retroactive Date later than the date shown in the Schedule of this Endorsement for either Insuring Agreement **d. Security Breach Liability** or **g. Web Site Publishing Liability**. However, the Supplemental Extended Reporting Period will only be provided for the insuring agreement for which our renewal or replacement endorsement has a Retroactive Date later than the date shown in the Schedule of this Endorsement; or

- (b) Does not apply to "wrongful acts" on a claims-made basis for either Insuring Agreement **d.** Security Breach Liability or **g.** Web Site Publishing Liability. However, the Supplemental Extended Reporting Period will only be provided for the insuring agreement for which our renewal or replacement endorsement does not apply to "wrongful acts" on a claims-made basis.
 - b.** The Supplemental Extended Reporting Period will not be available if:
 - (1) We cancel this Endorsement for nonpayment of premium, failure to comply with terms or conditions of the Policy or fraud; or
 - (2) You fail to pay any amounts owed us.
 - c.** A Supplemental Extended Reporting Period, as specified in Paragraph **a.**, lasts one year and is available only for an additional premium.
 - d.** The Supplemental Extended Reporting Period starts with the end of the Basic Extended Reporting Period set forth in Paragraph **1.** It does not extend the policy period or change the scope of the coverage provided. It applies only to "claims" to which the following applies:
 - (1) The "claim" is first made and reported to us during the Supplemental Extended Reporting Period; and
 - (2) The "claim" arose out of either a "wrongful act" or the first of a series of "interrelated wrongful acts" which occurred on or after the Retroactive Date, if any, shown in the Schedule and before the end of the "policy period".
 - e.** You must give us a written request for the Supplemental Extended Reporting Period within 30 days after the end of the "policy period" or the effective date of cancellation, whichever comes first.
 - f.** The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium in full along with any premium or deductible you owe us for coverage provided under this Endorsement within 30 days after the end of the "policy period" or the effective date of cancellation, whichever comes first. Once in effect, the Supplemental Extended Reporting Period may not be cancelled by us, except for fraud. The premium for the Supplemental Extended Reporting Period will be deemed to be fully earned as of the date it is purchased.
 - g.** We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - (1) The exposures insured;
 - (2) Previous types and amounts of insurance;
 - (3) Limit of Insurance available under this Endorsement for future payment of damages; and
 - (4) Other related factors.

The additional premium may not exceed 100% of the annual premium for this Endorsement.
- 3. Basic And Supplemental Extended Reporting Period Limits**
- a. Basic Extended Reporting Period Limit**

There is no separate or additional Aggregate Limit of Insurance for the Basic Extended Reporting Period. The Limit of Insurance available during the Basic Extended Reporting Period shall be the remaining amount, if any, of the Information Security Protection Aggregate Limit of Insurance available at the end of the "policy period".

b. Supplemental Extended Reporting Period Limit

There is no separate or additional Aggregate Limit of Insurance for the Supplemental Extended Reporting Period. The Limit of Insurance available during the Supplemental Extended Reporting Period, if purchased, shall be the remaining amount, if any, of the Information Security Protection Aggregate Limit of Insurance available at the end of the Basic Extended Reporting Period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

VIRGINIA EMPLOYEE BENEFITS LIABILITY COVERAGE

**THIS ENDORSEMENT PROVIDES CLAIMS-MADE COVERAGE.
PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY.**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Employee Benefits Program:			
Limit Of Insurance		Deductible (Each Employee)	Premium
Each Employee	Aggregate		
\$	\$	\$	\$
Retroactive Date:			
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

A. Section II – Liability is amended as follows:

1. The following is added to Paragraph **A. Coverages:**

Coverage – Employee Benefits Liability

a. Insuring Agreement

- (1) We will pay those sums that the insured becomes legally obligated to pay as damages because of any act, error or omission, of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any "claim" or "suit" that may result. But:

- (a) The amount we will pay for damages is limited as described in Paragraph **4.** of this endorsement; and

- (b) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- (2) This insurance applies to damages only if:
 - (a) The act, error or omission is negligently committed in the "administration" of your "employee benefit program";
 - (b) The act, error or omission did not take place before the Retroactive Date, if any, shown in the Schedule nor after the end of the policy period; and

(c) A "claim" for damages, because of an act, error or omission, is first made against any insured, in accordance with Paragraph **a.(3)** below, during the policy period or an Extended Reporting Period we provide under Paragraph **6.** of this endorsement.

(3) A "claim" seeking damages will be deemed to have been made at the earlier of the following times:

(a) When notice of such "claim" is received and recorded by any insured or by us, whichever comes first; or

(b) When we make settlement in accordance with Paragraph **a.(1)** above.

A "claim" received and recorded by the insured within 60 days after the end of the policy period will be considered to have been received within the policy period, if no subsequent policy is available to cover the "claim".

(4) All "claims" for damages made by an "employee" because of any act, error or omission, or a series of related acts, errors or omissions, including damages claimed by such "employee's" dependents and beneficiaries, will be deemed to have been made at the time the first of those "claims" is made against any insured.

b. Exclusions

This insurance does not apply to:

(1) Dishonest, Fraudulent, Criminal Or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission committed by any insured, including the willful or reckless violation of any statute.

(2) Bodily Injury, Property Damage Or Personal And Advertising Injury

"Bodily injury", "property damage" or "personal and advertising injury".

(3) Failure To Perform A Contract

Damages arising out of failure of performance of contract by any insurer.

(4) Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

(5) Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation

Any "claim" based upon:

(a) Failure of any investment to perform;

(b) Errors in providing information on past performance of investment vehicles; or

(c) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

(6) Workers' Compensation And Similar Laws

Any "claim" arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

(7) ERISA

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

(8) Available Benefits

Any "claim" for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

(9) Taxes, Fines Or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

(10) Employment-related Practices

Damages arising out of wrongful termination of employment, discrimination or other employment-related practices.

2. For the purposes of the coverage provided by this endorsement:

- a. All references to Supplementary Payments are replaced by Supplementary Payments and Employee Benefits Liability.
- b. Paragraphs **f.(1)(b)**, **f.(2)** and **f.(3)** Coverage Extension – Supplementary Payments do not apply.

3. For the purposes of the coverage provided by this endorsement, Paragraph **C.2. Who Is An Insured** is replaced by the following:

- 2. Each of the following is also an insured:
 - a. Each of your "employees" who is or was authorized to administer your "employee benefit program".
 - b. Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.
 - c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this endorsement.

4. For the purposes of the coverage provided by this endorsement, Paragraph **D. Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

a. Limits Of Insurance

- (1) The Limits Of Insurance shown in the Schedule and the rules below fix the most we will pay regardless of the number of:
 - (a) Insureds;
 - (b) "Claims" made or "suits" brought;
 - (c) Persons or organizations making "claims" or bringing "suits";
 - (d) Acts, errors or omissions; or
 - (e) Benefits included in your "employee benefit program".
- (2) The Aggregate Limit is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".

(3) Subject to the Aggregate Limit, the Each Employee Limit is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:

- (a) An act, error or omission; or
- (b) A series of related acts, errors or omissions;

negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program".

The Limits of Insurance of this endorsement apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations of the policy to which this endorsement is attached, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

b. Deductible

- (1) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in the Schedule as applicable to Each Employee. The Limits of Insurance shall not be reduced by the amount of this deductible.
- (2) The deductible amount stated in the Schedule applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.

(3) The terms of this insurance, including those with respect to:

- (a) Our right and duty to defend any "suits" seeking those damages; and
- (b) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or "claim";

apply irrespective of the application of the deductible amount.

(4) We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

5. For the purposes of the coverage provided by this endorsement, Paragraph **E.2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** is replaced by the following:

2. Duties In The Event Of An Act, Error Or Omission, Or Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a "claim". To the extent possible, notice should include:

- (1) What the act, error or omission was and when it occurred; and
- (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

b. If a "claim" is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the "claim" or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must also see to it that we receive written notice of the "claim" or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

6. For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added:

Extended Reporting Period

a. You will have the right to purchase an Extended Reporting Period, as described below, if:

- (1) This endorsement is cancelled or not renewed; or
- (2) We renew or replace this endorsement with insurance that:
 - (a) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (b) Does not apply to an act, error or omission on a claims-made basis.

However, we will not offer an Extended Reporting Period if cancellation or nonrenewal of this endorsement is due to nonpayment of premium, failure to comply with terms or conditions of the Policy or fraud.

b. The Extended Reporting Period does not extend the policy period or change the scope of coverage provided. It applies only to "claims" for acts, errors or omissions that were first committed before the end of the policy period but not before the Retroactive Date, if any, shown in the Schedule. Once in effect, the Extended Reporting Period may not be cancelled by us, except for fraud. The premium for the Extended Reporting Period endorsement will be deemed to be fully earned when the endorsement takes effect.

c. An Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- (1) The "employee benefit programs" insured;
- (2) Previous types and amounts of insurance;
- (3) Limits of Insurance available under this endorsement for future payment of damages; and
- (4) Other related factors.

The additional premium will not exceed 100% of the annual premium for this endorsement.

The Extended Reporting Period endorsement applicable to this coverage shall set forth the terms, not inconsistent with this section, applicable to the Extended Reporting Period, including a provision to the effect that the insurance afforded for "claims" first received during such period is excess over any other valid and collectible insurance available under policies in force after the Extended Reporting Period starts.

- d. If the Extended Reporting Period is in effect, we will provide an Extended Reporting Period Aggregate Limit of Insurance described below, but only for "claims" first received and recorded during the Extended Reporting Period.

The Extended Reporting Period Aggregate Limit of Insurance will be equal to the dollar amount shown in the Schedule of this endorsement under Limits Of Insurance.

Paragraph 4.a.(2) of this endorsement will be amended accordingly. The Each Employee Limit shown in the Schedule will then continue to apply as set forth in Paragraph 4.a.(3).

7. For the purposes of the coverage provided by this endorsement, the following definitions are added to Paragraph F. **Liability And Medical Expenses Definitions:**

- a. "Administration" means:

- (1) Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";

- (2) Handling records in connection with the "employee benefit program"; or
- (3) Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program".

However, "administration" does not include handling payroll deductions.

- b. "Cafeteria plans" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pretax dollars.
- c. "Claim" means any demand, or "suit", made by an "employee" or an "employee's" dependents and beneficiaries, for damages as the result of an act, error or omission.
- d. "Employee benefit program" means a program providing some or all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:

- (1) Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
- (2) Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
- (3) Unemployment insurance, social security benefits, workers' compensation and disability benefits;
- (4) Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family and civil leave; tuition assistance plans; transportation and health club subsidies; and
- (5) Any other similar benefits designated in the Schedule or added thereto by endorsement.

8. For the purposes of the coverage provided by this endorsement, Paragraphs **F.5.** and **F.18. Liability And Medical Expenses Definitions** are replaced by the following:

5. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

18. "Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

B. Section III – Common Policy Conditions is amended as follows:

For the purposes of the coverage provided by this endorsement, Paragraph **2.** under **H. Other Insurance** is replaced by the following:

2. This Employee Benefits Liability insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

That is effective prior to the beginning of the policy period shown in the Declarations of the policy to which this endorsement is attached and that applies to an act, error or omission on other than a claims-made basis, if:

a. No Retroactive Date is shown in the Schedule of this endorsement; or

b. The other insurance has a policy period which continues after the Retroactive Date shown in the Schedule of this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

VIRGINIA EXTENDED REPORTING PERIOD FOR EMPLOYEE BENEFITS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

VIRGINIA EMPLOYEE BENEFITS LIABILITY COVERAGE ENDORSEMENT

SCHEDULE

Premium: \$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A.** An Extended Reporting Period endorsement is provided, as described in Paragraph **A.6.** of the Virginia Employee Benefits Liability Coverage endorsement.
- B.** An Extended Reporting Period Aggregate Limit applies, as set forth below in Paragraph **C.** of this endorsement, to "claims" first received and recorded during the Extended Reporting Period. This limit is equal to the Aggregate Limit, if any, entered in the Schedule of the Virginia Employee Benefits Liability Coverage endorsement in effect at the end of the policy period.
- C.** Paragraph **A.4.a.(2)** of the Virginia Employee Benefits Liability Coverage endorsement is replaced by the following:

(2) The Aggregate Limit is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".

However, the Aggregate Limit does not apply to "claims" first received and recorded during the Extended Reporting Period.

The Extended Reporting Period Aggregate Limit is the most we will pay for damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program" for "claims" first received and recorded during the Extended Reporting Period.

- D.** The following is added to Paragraph **2.** of the **Other Insurance** Condition of Paragraph **B.** of the Virginia Employee Benefits Liability Coverage endorsement:

This Employee Benefits Liability insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis whose policy period begins or continues after the Extended Reporting Period endorsement takes effect.

- E.** This endorsement will not take effect unless the additional premium for it, as set forth in Paragraph **A.6.** of the Virginia Employee Benefits Liability Coverage endorsement, is paid when due. If that premium is paid when due, this endorsement may not be cancelled by us, except for fraud. The premium for the Extended Reporting Period endorsement will be deemed to be fully earned when the endorsement takes effect.

POLICY NUMBER:

**BUSINESSOWNERS
BP 06 19 03 20**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

VIRGINIA EMPLOYMENT-RELATED PRACTICES LIABILITY ENDORSEMENT

**THIS ENDORSEMENT PROVIDES CLAIMS-MADE AND REPORTED COVERAGE
PLEASE READ THE ENTIRE FORM CAREFULLY**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Employment-related Practices Liability Annual Aggregate Limit Of Insurance:	\$
Supplemental Limit:	\$
Deductible Amount:	\$
Prior Or Pending Litigation Date:	
<input type="checkbox"/>	Employment-related Malicious Prosecution
Retroactive Date:	
<input type="checkbox"/>	Extended Reporting Period
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

For the purposes of the coverage provided by this endorsement, **Section II – Liability** is amended as follows:

A. The following is added to Paragraph **A. Coverages:**

1. Insuring Agreement

a. We will pay those sums the insured becomes legally obligated to pay as damages resulting from a "wrongful act" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages because of a "wrongful act" to which this insurance does not apply. We may, at our discretion, investigate any incident that may result from a "wrongful act". We may, with your written consent, settle any "claim" that may result. But:

(1) The amount we will pay for damages and "defense expenses" is limited as described in Paragraph **D.1.** Employment-related Practices Liability Annual Aggregate Limit Of Insurance and Paragraph **D.2.** Deductible of this endorsement; and

(2) The coverage and duty to defend provided by this endorsement will end when we have used the applicable Limit of Insurance for "defense expenses" or the payment of judgments or settlements.

No other obligation or liability to pay sums, such as civil or criminal fines, imposed on you or any other insured, or to perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "wrongful acts" only if:

(1) The "wrongful act" takes place in the "coverage territory";

(2) The "wrongful act" did not commence before the Retroactive Date, if any, shown in the Schedule, or after the end of the policy period; and

(3) A "claim" against any insured for damages because of the "wrongful act" is first made during the policy period, or an Extended Reporting Period provided under Paragraph **F.** of this endorsement, in accordance with Paragraphs **c.** and **d.** below.

c. A "claim" will be deemed to have been made at the earlier of the following times:

(1) When notice of such "claim" after being received by any insured is reported to us in writing; or

(2) When a "claim" against an insured is made directly to us in writing.

A "claim" received by the insured during the policy period and reported to us within 30 days after the end of the policy period will be considered to have been reported within the policy period. However, this 30-day grace period does not apply to "claims" that are covered under any subsequent insurance you purchase, or that would have been covered but for exhaustion of the amount of insurance applicable to such "claims".

d. If during the policy period you become aware of a "wrongful act" that may reasonably be expected to give rise to a "claim" against any insured, you must provide notice to us in accordance with the provisions of Paragraph **E.2** Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim. If such notice is provided, then any "claim" subsequently made against any insured arising out of that "wrongful act" shall be deemed under this Policy to be a "claim" made during the policy period in which the "wrongful act" was first reported to us.

e. All "claims" for damages because of a "wrongful act" committed against the same person, including damages claimed by any person for care, loss of services or death resulting at any time from the "wrongful act", will be deemed to have been made at the time the first of such "claims" is made, regardless of the number of "claims" subsequently made.

B. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **B. Exclusions, Subparagraph 1. Applicable To Business Liability Coverage:**

This insurance does not apply to:

a. Criminal, Fraudulent Or Malicious Acts

An insured's liability arising out of criminal, fraudulent or malicious acts or omissions by that insured.

This exclusion does not affect our duty to defend, in accordance with Paragraph **A.1.** of this endorsement, an insured prior to determining, through the appropriate legal processes, that that insured is responsible for a criminal, fraudulent or malicious act or omission.

b. Contractual Liability

Any "wrongful act" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

c. Violation Of Laws Applicable To Employers

A violation of your responsibilities or duties required by any other federal, state or local statutes, rules or regulations, and any rules or regulations promulgated therefor or amendments thereto, except for the following, and including amendments thereto: Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act, the Equal Pay Act, the Pregnancy Discrimination Act of 1978, the Immigration Reform Control Act of 1986, the Family and Medical Leave Act of 1993 and the Genetic Information Nondiscrimination Act of 2008 or any other similar state or local statutes, rules or regulations to the extent that they prescribe responsibilities or duties concerning the same acts or omissions.

However, this insurance does not apply to a "wrongful act" arising out of your failure to comply with any of the accommodations for the disabled required of you by, or any expenses incurred as the result of physical modifications made to accommodate any person pursuant to, the Americans With Disabilities Act, or any amendments thereto, or any similar state or local statutes, rules or regulations to the extent that they prescribe responsibilities or duties concerning the same acts or omissions.

This exclusion does not apply to any "claim" for retaliatory treatment by an insured against any person making a "claim" pursuant to such person's rights under any statutes, rules or regulations.

d. Strikes And Lockouts

Any "wrongful act" committed against any striking or locked-out "employee", or to an "employee" who has been temporarily or permanently replaced due to any labor dispute.

e. Prior Or Pending Litigation

Any "claim" or "suit" against any insured which was pending on, or existed prior to, the applicable Pending Or Prior Litigation Date shown in the Schedule, or any "claim" or "suit" arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such "claim" or "suit".

f. Prior Notice

Any "wrongful act" alleged or contained in any "claim" which has been reported, or for which, in any circumstance, notice has been given, under any other prior insurance policy providing essentially the same type of coverage.

C. For the purposes of the coverage provided by this endorsement, **Section II – Who Is An Insured** is amended to include as an insured:

1. Your "employees", unless otherwise excluded in this endorsement.
2. Your former "employees", unless otherwise excluded in this endorsement, but only with respect to "wrongful acts" committed while in your employ.

D. For the purposes of the coverage provided by this endorsement, Paragraph **D. Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

1. Employment-related Practices Liability Annual Aggregate Limit Of Insurance

a. The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay, regardless of the number of:

- (1) Insureds;
- (2) "Claims" made or "suits" brought; or
- (3) Persons, organizations or government agencies making "claims" or bringing "suits".

b. The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay for the sum of:

- (1) All damages; and
- (2) All "defense expenses"

because of all "wrongful acts" to which this insurance applies.

The Employment-related Practices Liability Annual Aggregate Limit Of Insurance applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

2. Deductible

- a. We will not pay for our share of damages and "defense expenses" until the amount of damages and "defense expenses" exceeds the Deductible shown in the Schedule of this endorsement. We will then pay the amount of damages and "defense expenses" in excess of the Deductible, up to the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

Example No. 1

Deductible: \$5,000

Limit of Insurance: \$100,000

Damages and "Defense Expenses": \$75,000

The Deductible will be subtracted from the amount of damages and "defense expenses" in calculating the amount payable:

$\$75,000 - \$5,000 = \$70,000$ Amount Payable

Example No. 2

Deductible: \$5,000

Limit of Insurance: \$100,000

Damages and "Defense Expenses": \$120,000

The Deductible will be subtracted from the amount of damages and "defense expenses" ($\$120,000 - \$5,000 = \$115,000$). Since the amount of the damages and "defense expenses" minus the Deductible exceeds the Limit of Insurance, the Policy will pay the full Limit of Insurance (\$100,000).

- b. The Deductible amount shown in the Schedule applies to all "claims" arising out of:

- (1) The same "wrongful act"; or

- (2) A series of "wrongful acts", circumstances or behaviors which arise from a common cause

regardless of the number of persons, organizations or government agencies making such "claims".

- c. We may pay any part or all of the Deductible amount to effect settlement of any "claim" and, upon notification of the action taken, you shall promptly reimburse us for such part of the Deductible amount as has been paid by us.

- E. For the purposes of the coverage provided by this endorsement, the following are added to Paragraph E. **Liability And Medical Expenses General Conditions:**

1. Consent To Settle

If we recommend a settlement to you which is acceptable to the claimant, but to which you do not consent, the most we will pay as damages in the event of any later settlement or judgment is the amount for which the "claim" could have been settled, to which you did not give consent, less any deductible.

2. Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim

- a. If a "claim" is received by any insured, you must:

- (1) Immediately record the specifics of the "claim" and the date received; and
(2) Notify us, in writing, as soon as practicable.

- b. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
(2) Authorize us to obtain records and other information;
(3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and
(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of a "wrongful act" to which this insurance may also apply.

- c. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our written consent.

d. If you become aware of a "wrongful act" that may reasonably be expected to give rise to a "claim" and for which a "claim" has not yet been received, you must notify us, in writing, as soon as practicable. Such notice must provide:

- (1) A description of the "wrongful act", including all relevant dates;
- (2) The names of the persons involved in the "wrongful act", including names of the potential claimants;
- (3) Particulars as to the reasons why you became aware of and reasonably expect a "claim" which may result from such "wrongful act";
- (4) The nature of the alleged or potential damages arising from such "wrongful act"; and
- (5) The circumstances by which the insured first became aware of the "wrongful act".

3. Representations

By accepting this Policy, you agree that:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this Policy in reliance upon your representations.

4. If You Are Permitted To Select Defense Counsel

If, by mutual agreement or court order, the insured is given the right to select defense counsel and the Limit of Insurance has not been used up, the following provisions apply:

- a. We retain the right, at our discretion, to:
 - (1) Settle, approve or disapprove the settlement of any "claim"; and
 - (2) Appeal any judgment, award or ruling at our expense.
- b. You and any other involved insured must:
 - (1) Continue to comply with Paragraph **E.2. Duties In The Event Of A Claim Or Wrongful Act That May Result In A Claim Condition** of this endorsement as well as the other provisions of this Policy; and
 - (2) Direct defense counsel of the insured to:
 - (a) Furnish us with the information we request to evaluate those "suits" for coverage under this Policy; and

(b) Cooperate with any counsel we may select to monitor or associate in the defense of those "suits".

c. If we defend you under a reservation of rights, both your and our counsel will be required to maintain records pertinent to your "defense expenses". These records will be used to determine the allocation of any "defense expenses" for which you may be solely responsible, including defense of an allegation not covered by this insurance.

5. Transfer Of Duties When Limit Of Insurance Is Used Up

a. If we conclude that, based on "claims" which have been reported to us and to which this insurance may apply, the Employment-related Practices Liability Annual Aggregate Limit Of Insurance is likely to be used up in the payment of judgments or settlements for damages or the payment of "defense expenses", we will notify the first Named Insured, in writing, to that effect.

b. When the Employment-related Practices Liability Annual Aggregate Limit Of Insurance has actually been used up in the payment of judgments or settlements for damages or the payment of "defense expenses", we will:

(1) Notify the first Named Insured in writing, as soon as practicable, that such a limit has actually been used up, and that our duty to defend the insured against "suits" seeking damages subject to that limit has also ended;

(2) Initiate, and cooperate in, the transfer of control, to any appropriate insured, of all "suits" for which the duty to defend has ended for the reason described in preceding Paragraph **5.b.(1)** and which are reported to us before that duty to defend ended; and

(3) Take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

c. If the circumstances described in Paragraph **5.b.(1)** have occurred, the first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must:

(1) Cooperate in the transfer of control of "suits"; and

- (2) Arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.
 - d. We will take no action with respect to defense for any "claim" if such "claim" is reported to us after the Employment-related Practices Liability Annual Aggregate Limit Of Insurance has been used up. It becomes the responsibility of the first Named Insured, and any other insured involved in such a "claim", to arrange defense for such "claim".
 - e. The first Named Insured will reimburse us as soon as practicable for expenses we incur in taking those steps we deem appropriate in accordance with Paragraph 5.b.
 - f. The exhaustion of the Employment-related Practices Liability Annual Aggregate Limit Of Insurance and the resulting end of our duty to defend will not be affected by our failure to comply with any of the provisions of this Condition.
- c. The Extended Reporting Period starts with the end of the policy period. It does not extend the policy period or change the scope of the coverage provided. It applies only to "claims" to which the following applies:
 - (1) The "claim" is first made during the Extended Reporting Period;
 - (2) The "wrongful act" occurs before the end of the policy period; and
 - (3) The "wrongful act" did not commence before the Retroactive Date.
 - d. You must give us a written request for the Extended Reporting Period within 30 days after the end of the policy period or the effective date of cancellation, whichever comes first.
 - e. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due and any premium or deductible you owe us for coverage provided under this endorsement. Once in effect, the Extended Reporting Period may not be cancelled by us, except for fraud. The premium for the Extended Reporting Period will be deemed to be fully earned when the Extended Reporting Period takes effect.

F. Extended Reporting Period

1. For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added:
 - a. You will have the right to purchase an Extended Reporting Period from us if:
 - (1) This endorsement is cancelled or not renewed for any reason; or
 - (2) We renew or replace this endorsement with insurance that:
 - (a) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (b) Does not apply to "wrongful acts" on a claims-made basis.

However, we will not offer an Extended Reporting Period if cancellation or nonrenewal of this endorsement is due to nonpayment of premium, failure to comply with terms or conditions of the Policy or fraud.
 - b. An Extended Reporting Period, as specified in Paragraph F.1.a. above, lasts three years and is available only for an additional premium.
- f. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - (1) The exposures insured;
 - (2) Previous types and amounts of insurance;
 - (3) Limit of Insurance available under this endorsement for future payment of damages; and
 - (4) Other related factors.

The additional premium will not exceed 200% of the annual premium for this endorsement.
- g. When the Extended Reporting Period is in effect, we will provide a Supplemental Limit of Insurance for any "claim" first made during the Extended Reporting Period.

The Supplemental Limit of Insurance will be equal to the dollar amount shown in the Schedule of this endorsement under the Employment-related Practices Liability Annual Aggregate Limit Of Insurance.

Paragraph **D.1.b.** of this endorsement will be amended accordingly.

2. If the Extended Reporting Period is chosen by checking the appropriate box in the Schedule of this endorsement, the provisions of this Paragraph **2.** supersede any other provisions of this endorsement to the contrary.

a. An Extended Reporting Period is provided, as described in Paragraph **F.** Extended Reporting Period.

b. A Supplemental Limit of Insurance applies, as set forth in Paragraph **F.2.c.** below, to "claims" first made during the Extended Reporting Period. The limit is equal to the Employment-related Practices Liability Annual Aggregate Limit Of Insurance entered in the Schedule.

c. Paragraph **D.1.b.** of this endorsement is replaced by the following:

b. The Employment-related Practices Liability Annual Aggregate Limit Of Insurance shown in the Schedule of this endorsement is the most we will pay for the sum of:

(1) All damages; and

(2) All "defense expenses"

because of all "wrongful acts" to which this insurance applies.

However, the Employment-related Practices Liability Annual Aggregate Limit Of Insurance does not apply to "claims" to which the Supplemental Limit Of Insurance applies.

d. The following is added to Paragraph **D.1.** of this endorsement:

c. The Supplemental Limit Of Insurance is the most we will pay for the sum of:

(1) All damages; and

(2) All "defense expenses"

because of all "wrongful acts" for "claims" first made during the Extended Reporting Period.

e. Paragraph **D.1. Employment-related Practices Liability Annual Aggregate Limit Of Insurance**, as amended by Paragraphs **F.2.c.** and **F.2.d.**, is otherwise unchanged and applies in its entirety.

f. The Extended Reporting Period will not take effect unless the additional premium for it, as set forth in Paragraph **F.** Extended Reporting Period, is paid when due. If that premium is paid when due, the Extended Reporting Period may not be cancelled by us, except for fraud. The premium for the Extended Reporting Period will be deemed to be fully earned when the Extended Reporting Period takes effect.

G. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **F. Liability And Medical Expenses Definitions** of the Policy:

1. "Claim" means a "suit" or demand made by or for a current, former or prospective "employee" for damages because of an alleged "wrongful act".

2. "Defense expenses" means payments allocated to a specific "claim" we investigate, settle or defend, for its investigation, settlement or defense, including:

a. Fees and salaries of attorneys and paralegals we retain, including attorneys and paralegals who are our "employees".

b. Fees of attorneys the insured retains when, by our mutual agreement or court order (or when required by administrative hearing or proceeding), the insured is given the right to retain defense counsel to defend against a "claim".

c. All other litigation or administrative hearing expenses, including fees or expenses of expert witnesses hired either by us or by the defense attorney retained by an insured.

d. Reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the "claim", including actual loss of earnings up to \$250 a day because of time off from work.

e. Costs taxed against the insured in a "suit".

"Defense expenses" does not include salaries and expenses of our "employees" or the insured's "employees" (other than those described in Paragraphs **a.** and **d.** of this definition).

3. "Discrimination" means violation of a person's civil rights with respect to such person's race, color, national origin, religion, gender, marital status, age, sexual orientation or preference, physical or mental condition, or any other protected class or characteristic established by any federal, state or local statutes, rules or regulations.
 4. "Wrongful act" means one or more of the following offenses, but only when they are employment-related:
 - a. Wrongful demotion or failure to promote, negative evaluation, reassignment, or discipline of your current "employee" or wrongful refusal to employ;
 - b. Wrongful termination, meaning the actual or constructive termination of an "employee":
 - (1) In violation or breach of applicable law or public policy; or
 - (2) Which is determined to be in violation of a contract or agreement, other than an employment contract or agreement, whether written, oral or implied, which stipulates financial consideration if such financial consideration is due as the result of a breach of the contract;
 - c. Wrongful denial of training, wrongful deprivation of career opportunity, or breach of employment contract;
 - d. Negligent hiring or supervision which results in any of the other offenses listed in this definition;
 - e. Retaliatory action against an "employee" because the "employee" has:
 - (1) Declined to perform an illegal or unethical act;
 - (2) Filed a complaint with a governmental authority or a "suit" against you or any other insured in which damages are claimed;
- (3) Testified against you or any other insured at a legal proceeding; or
 - (4) Notified a proper authority of any aspect of your business operation which is illegal;
- f. Coercing an "employee" to commit an unlawful act or omission within the scope of that person's employment;
 - g. Harassment;
 - h. Libel, slander, invasion of privacy, defamation or humiliation; or
 - i. Verbal, physical, mental or emotional abuse arising from "discrimination".
- H. If Employment-related Malicious Prosecution is chosen by checking the appropriate box in the Schedule of this endorsement, then the following provisions apply:
1. Paragraph **B.a.** of this endorsement is replaced by the following:
This insurance does not apply to:
 - a. **Criminal, Fraudulent Or Malicious Acts**
An insured's liability arising out of criminal, fraudulent or malicious acts or omissions by that insured.

However, this exclusion does not apply to malicious prosecution of "employees" by that insured. This exclusion does not affect our duty to defend, in accordance with Paragraph **A.1.** of this endorsement, an insured prior to determining, through the appropriate legal processes, that that insured is responsible for a criminal, fraudulent or malicious act or omission.
 2. The following is added to Paragraph **G.4.** of this endorsement:
 - j. Malicious prosecution.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

VIRGINIA ELECTRONIC DATA LIABILITY – BROAD COVERAGE

**THIS ENDORSEMENT PROVIDES CLAIMS-MADE COVERAGE.
PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY.**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

<p>Electronic Data Liability Annual Aggregate Limit Of Insurance: \$</p> <p>Each Electronic Data Incident Limit: \$</p> <p>Retroactive Date:</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>

Section II – Liability is amended as follows:

A. The following is added to Paragraph **A.1. Business Liability:**

Coverage – Damage To Electronic Data

Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "loss of electronic data" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any "electronic data incident" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Paragraph **D. Liability And Medical Expenses Limits Of Insurance**; and

- (2) Our right and duty to defend ends when we have used up the applicable Limit of Insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "loss of electronic data" only if:

- (1) The "loss of electronic data":
 - (a) Is caused by an "electronic data incident";
 - (b) Takes place in the "coverage territory"; and
 - (c) Did not occur before the Retroactive Date, if any, shown in the Schedule or after the end of the policy period; and

(2) A claim for damages because of the "loss of electronic data" is first made against any insured, in accordance with Paragraph **c.** below, during the policy period or an Extended Reporting Period we provide under Paragraph **F.** Extended Reporting Period.

c. A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

(1) When notice of such claim is received and recorded by any insured or by us, whichever comes first; or

(2) When we make a settlement in accordance with Paragraph **a.** above.

All claims for damages because of "loss of electronic data" arising out of an "electronic data incident" shall be deemed to have been made at the time the first of those claims is made against any insured.

A claim received and recorded by the insured within 30 days after the end of the policy period will be considered to have been received within the policy period. However, this 30-day period does not apply to claims that are covered under any subsequent insurance you may purchase, or that would be covered but for the exhaustion of the amount of insurance applicable to such claims.

B. For the purposes of the coverage provided by this endorsement, Paragraph **B. Exclusions** is amended by the addition of the following:

This insurance does not apply to:

1. Expected Or Intended Loss

"Loss of electronic data" expected or intended from the standpoint of the insured.

2. Bodily Injury, Property Damage Or Personal And Advertising Injury

Damages that are "bodily injury", "property damage" or "personal and advertising injury".

3. Contractual Liability – Electronic Data

"Loss of electronic data" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

4. Computer Products Or Services Exclusion

"Loss of electronic data" arising out of a negligent act, error or omission, by or for you or anyone acting on your behalf in providing "computer products or services".

5. Damage To Your Data

"Loss of electronic data" that:

a. Is owned by you;

b. Was developed by or for you; or

c. Is "your work" or "your product".

6. Performance Of A Contract

"Loss of electronic data" arising out of a delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

7. Infringement Of Intellectual Property Rights

"Loss of electronic data" arising out of or resulting from the actual or alleged infringement of trademark, copyright, patent, trade secret or other intellectual property rights.

8. Access, Disclosure Or Unauthorized Use Of Electronic Data

Damages arising out of:

a. Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or

b. Theft or unauthorized viewing, copying, use, corruption, manipulation or deletion of "electronic data" by any Named Insured, past or present "employee", temporary worker or volunteer worker.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **a.** or **b.** above.

9. Violation Of An Antitrust Law

Any claim for damages arising out of the violation of an antitrust law.

10. Criminal Or Fraudulent Acts

"Loss of electronic data" arising out of a criminal or fraudulent act committed by or at the direction of the insured.

- C. For the purposes of the coverage provided by this endorsement, Paragraph **B.1.q. Electronic Data Exclusion** does not apply.
- D. For the purposes of the coverage provided by this endorsement, Paragraph **C. Who Is An Insured** is replaced by the following:

C. Who Is An Insured

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

- 2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
- b. Any person (other than your "employee" or "volunteer worker") or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Policy.

E. The following are added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:

- 5. The Electronic Data Liability Annual Aggregate Limit shown in the Schedule of this endorsement is the most we will pay for the sum of all damages because of "loss of electronic data".
- 6. Subject to Paragraph **E.5.**, the Each Electronic Data Incident Limit shown in the Schedule of this endorsement is the most we will pay for the sum of all damages because of the "loss of electronic data" arising out of any one "electronic data incident".

F. For the purposes of the coverage provided by this endorsement, Paragraph **E.2.a. Duties In The Event Of Occurrence, Offense, Claim Or Suit** is replaced by the following:

a. You must see to it that we are notified as soon as practicable once you, or any insured listed under Paragraph **C.1. Who Is An Insured**, know or suspect that an "electronic data incident" has occurred, which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the known or suspected "electronic data incident" took place;
- (2) The name and address of any person or organization whose "electronic data" was lost or damaged; and
- (3) The nature and location of any damage arising out of the known or suspected "electronic data incident".

Notice of a known or suspected "electronic data incident" is not notice of a claim.

G. For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added:

Extended Reporting Period

1. You will have the right to purchase an Extended Reporting Period, as described below, if:

- a. This endorsement is cancelled or not renewed for any reason; or
- b. We renew or replace this endorsement with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Schedule of the endorsement; or
 - (2) Does not apply to "loss of electronic data" on a claims-made basis.

However, we will not offer an Extended Reporting Period if cancellation or nonrenewal of this endorsement is due to nonpayment of premium, failure to comply with terms or conditions of the Policy or fraud.

2. An Extended Reporting Period of three years is available, but only by an endorsement and for an extra charge.
3. The Extended Reporting Period starts with the end of the policy period. It does not extend the policy period or change the scope of coverage provided. It applies only to claims to which the following applies:
 - a. The claim is first made during the Extended Reporting Period;

b. The "loss of electronic data" occurs before the end of the policy period; and

c. The "loss of electronic data" did not commence before the Retroactive Date, if any.

4. You must give us a written request for the Extended Reporting Period endorsement within 30 days after the end of the policy period or the effective date of cancellation, whichever comes first.

5. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due and any premium or deductible you owe us for coverage provided under this Policy. Once in effect, the Extended Reporting Period may not be cancelled by us, except for fraud. The premium for the Extended Reporting Period endorsement will be deemed to be fully earned when the endorsement takes effect.

6. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The exposures insured;
- b. Previous types and amounts of insurance;
- c. Limit of Insurance available under this Policy for future payment of damages; and
- d. Other related factors.

The additional premium will not exceed 200% of the annual premium for this endorsement.

7. When the Extended Reporting Period is in effect, we will provide an Extended Reporting Period Aggregate Limit of Insurance for any claim first made during the Extended Reporting Period.

The Extended Reporting Period Aggregate Limit of Insurance will be equal to the dollar amount shown in the Schedule of this endorsement under the Electronic Data Liability Annual Aggregate Limit Of Insurance.

Paragraph **E.5.** of this endorsement will be amended accordingly.

H. For the purposes of the coverage provided by this endorsement, Paragraphs **F.4.** and **F.18. Liability And Medical Expenses Definitions** are replaced by the following:

4. "Coverage territory" means all parts of the world provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the United States of America (including its territories and possessions), Puerto Rico or Canada, or in a settlement we agree to.

18. "Suit" means a civil proceeding in which damages because of "loss of electronic data" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- I. For the purposes of the coverage provided by this endorsement, the following are added to Paragraph F. **Liability And Medical Expenses Definitions:**
23. "Computer products or services" means:
- a. Manufacturing, developing, designing, creating, selling, handling, marketing, distributing, licensing, or disposing of computer or electronic goods, by you or on your behalf. Computer or electronic goods includes, but is not limited to:
 - (1) Computer software or computer programming;
 - (2) Electronic or computer equipment, components or peripherals;
 - (3) Communications or broadcasting equipment; or
 - (4) Industrial or robotic equipment; and any containers (other than vehicles), materials, parts or equipment furnished in connection with such computer or electronic goods, by you or on your behalf; or
 - b. Computer-related services performed by you or on your behalf, including but not limited to:
 - (1) Installation, testing, service, maintenance, technical support, repair, integration, networking, consulting or analysis of or training for:
 - (a) Computer software or computer programming;
 - (b) Electronic or computer equipment, components or peripherals;
 - (c) Communications or broadcasting equipment; or
 - (d) Industrial or robotic equipment;
 - (2) Processing, storage, transmission or other handling of "electronic data" for others; or
- (3) Provision of broadcasting or communication services for others, or consulting, evaluating or advising on such services, including but not limited to broadcasts or communications via television, cable, satellite, radio, Internet, wireless transmissions or cellular transmissions.
24. "Electronic data incident" means an accident, or a negligent act, error or omission, or a series of causally related accidents, negligent acts or errors or omissions, which results in "loss of electronic data".
25. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.
26. "Loss of electronic data" means damage to, loss of, loss of use of, corruption of, inability to access, or inability to properly manipulate, "electronic data".
- J. For the purposes of the coverage provided by this endorsement, Paragraph H.2. **Other Insurance** is replaced by the following:
2. This Electronic Data Liability insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

That is effective prior to the beginning of the policy period shown in the Declarations and that applies to "loss of electronic data" on other than a claims-made basis if:

 - a. No Retroactive Date is shown in the Schedule of this endorsement; or
 - b. The other insurance has a policy period which continues after the Retroactive Date shown in the Schedule of this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

VIRGINIA EXTENDED REPORTING PERIOD FOR ELECTRONIC DATA LIABILITY – BROAD COVERAGE

This endorsement modifies insurance provided under the following:

VIRGINIA ELECTRONIC DATA LIABILITY – BROAD COVERAGE ENDORSEMENT

SCHEDULE

Premium: \$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A.** An Extended Reporting Period endorsement is provided, as described in Paragraph **G.** of the Virginia Electronic Data Liability – Broad Coverage endorsement.
- B.** An Extended Reporting Period Aggregate Limit applies, as set forth below in Paragraph **C.** of this endorsement, to claims first received and recorded during the Extended Reporting Period. This limit is equal to the Electronic Data Liability Annual Aggregate Limit entered in the Schedule of the Virginia Electronic Data Liability – Broad Coverage endorsement or shown in the Declarations as applicable to this coverage in effect at the end of the policy period.
- C.** Paragraph **E.5.** of the Virginia Electronic Data Liability – Broad Coverage endorsement is replaced by the following:
 - 5.** The Electronic Data Liability Annual Aggregate Limit is the most we will pay for the sum of all damages because of "loss of electronic data".
However, the above Aggregate Limit does not apply to claims first received and recorded during the Extended Reporting Period.
- D.** The following is added to the **Other Insurance** Condition of Paragraph **J.2.** of the Virginia Electronic Data Liability – Broad Coverage endorsement:
This Electronic Data Liability insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis whose policy period begins or continues after the Extended Reporting Period endorsement takes effect.
- E.** This endorsement will not take effect unless the additional premium for it, as set forth in Paragraph **G.** of the Virginia Electronic Data Liability – Broad Coverage endorsement, is paid when due. If that premium is paid when due, this endorsement may not be cancelled by us, except for fraud. The premium for the Extended Reporting Period endorsement will be deemed to be fully earned when the endorsement takes effect.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**VIRGINIA – CONDOMINIUMS, CO-OPS, ASSOCIATIONS –
DIRECTORS AND OFFICERS LIABILITY ENDORSEMENT**

**THIS ENDORSEMENT PROVIDES CLAIMS-MADE COVERAGE.
PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY.**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Named Association:	
Directors And Officers Liability Annual Aggregate Limit Of Insurance:	\$
Deductible:	\$
Pending Or Prior Litigation Date:	Retroactive Date:
<input type="checkbox"/> Extended Reporting Period	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

For the purposes of the coverage provided by this endorsement, **Section II – Liability** is amended as follows:

A. The following are added to Paragraph **A. Coverages:**

1. Insuring Agreement – Management Liability

a. We will pay on behalf of an "insured person" any "loss" which the "insured person" becomes legally obligated to pay as a result of a "claim" first made against that "insured person" during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph **G.**, except to the extent that the "association" has indemnified the "insured person" for such "loss".

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "insured person" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

b. If a "claim" against an "insured person" includes a "claim" against the "insured person's" spouse (whether such status is derived by reason of statutory or common law, or any other law of any country) solely by reason of:

- (1)** Such spousal status; or
- (2)** Such spouse's ownership interest in property or assets that are sought as recovery for the "wrongful act" committed or allegedly committed by the "insured person";

all "loss" which such spouse becomes legally obligated to pay by reason of such "claim" will be treated for the purposes of this endorsement as "loss" which the "insured person" becomes legally obligated to pay as a result of the "claim" made against such "insured person". Such "loss" to the spouse will be covered under this endorsement only if and to the extent that such "loss" would be covered if incurred by the "insured person".

However, this Paragraph **b.** does not apply to a "claim" arising out of any "wrongful act" committed or allegedly committed by the "insured person's" spouse.

c. This insurance also applies to "claims" arising out of the "wrongful acts" of an "insured person" made against:

- (1) The estate, heirs or legal representatives of a deceased "insured person"; and
- (2) The legal representative of that "insured person" in the event of incompetency, insolvency or bankruptcy.

However, this Paragraph **c.** only applies to "claims" if and to the extent that, in the absence of such death, incompetency, insolvency or bankruptcy of the "insured person", such "claims" would have been covered by this insurance according to all applicable terms, conditions and exclusions.

2. Insuring Agreement – Association Reimbursement

We will pay on behalf of the "association" any "loss" for which the "association" has indemnified an "insured person", as permitted or required by law, and which the "insured person" becomes legally obligated to pay as a result of a "claim" first made against that "insured person" (or an "insured person's" spouse or any other party granted the rights of an "insured person" under Paragraph **1.**) during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph **G.**

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "insured person" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

3. Insuring Agreement – Association Liability

We will pay on behalf of the "association" any "loss" which the "association" becomes legally obligated to pay as a result of a "claim" first made against the "association" during the policy period or during the Extended Reporting Period, if purchased, as described in Paragraph **G.**

However, this insurance applies only to a "claim" arising out of a "wrongful act" committed by the "association" which occurs on or after the Retroactive Date, if any, shown in the Schedule, and before the end of the policy period.

4. Defense And Settlement

We will have the right and duty to defend any "claim" made against the insured under Paragraph **A.** of this endorsement. However, we will have no duty to defend the insured against any "claim" because of a "wrongful act" to which this insurance does not apply. We may, at our discretion, investigate any incident that may result in a "loss". We may, with your written consent, settle any "claim".

5. Post-judgment Interest

We will pay, with respect to any "claim" we investigate, defend or settle, all interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay or deposited in court the part of the judgment that is within the Aggregate Limit Of Insurance shown in the Schedule.

These payments will not reduce the aggregate Limit of Insurance nor be subject to the Deductible amount shown in the Schedule.

All "claims" arising out of the same "wrongful act" or "interrelated wrongful acts" committed by one or more "insured persons" shall be considered a single "claim". Such single "claim" shall be deemed to be first made on the date the initial "claim" arising out of such "wrongful act" or "interrelated wrongful acts" was first made pursuant to Paragraph **E.** or notice of such "wrongful act" or "interrelated wrongful acts" was first reported pursuant to Paragraph **E.**

B. For the purposes of the coverage provided by this endorsement, Paragraph **B. Exclusions, Subparagraph 1. Applicable To Business Liability Coverage** is replaced by the following:

This insurance does not apply to any "loss" resulting from any "claim":

- a. Arising out of any dishonest, malicious, fraudulent or deliberately criminal act or any willful violation of any statute or regulation.
- b. For "bodily injury".
- c. For mental or emotional distress, except when allegations of mental or emotional distress are made in a "claim" arising from a "wrongful employment practices act".
- d. For "property damage".
- e. Arising out of the gaining of any profit, remuneration or advantage to which any insured was not legally entitled.
- f. Arising out of a "wrongful act" or "interrelated wrongful act" that has occurred before the Retroactive Date, if any, shown in the Schedule.

- g. Arising out of the same facts, "wrongful acts" or "interrelated wrongful acts", alleged or contained in any "claim" which has been reported, or in any circumstances of which notice has been given:
 - (1) During a prior policy period of this Policy; or
 - (2) Under any insurance policy of which this Policy is a replacement.
- h. Arising out of any demand, "suit" or other proceeding against any insured which was pending on or existed prior to the applicable Pending Or Prior Litigation Date shown in the Schedule, or arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such demand, "suit" or other proceeding.
- i. Arising out of any actual or alleged failure or omission on the part of any insured to effect or maintain insurance.
- j. Arising out of any "wrongful act" committed or allegedly committed by any "insured person" serving in any position or capacity in any organization or association other than the "association" even if the "association" directed or requested that "insured person" to serve in such other position or capacity.
- k. Brought by or on behalf of the "association" or any "insured person", in any capacity, except:
 - (1) A "claim" that is a derivative action brought on behalf of the "association" by one or more unit-owners who are not "insured persons" and who bring the "claim" without the solicitation, assistance or participation of any "insured person" or the "association"; or
 - (2) A "claim" arising out of a "wrongful employment practices act".
- l. For an actual or alleged violation of the Employee Retirement Income Security Act of 1974 and its amendments, or similar provisions of any federal, state, local or statutory law or common law.
- m. For liability under or breach of any oral, written or implied contract or agreement, or for liability of others assumed by the "association" under any such contract or agreement, except if:
 - (1) The "association" would have been liable in the absence of such contract or agreement; or
 - (2) Allegations of liability or breach of such contract or agreement are made in a "claim" arising out of a "wrongful employment practices act".
- n. Arising out of "personal and advertising injury".
- o. Arising out of:
 - (1) The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
 - (2) Any request, demand, order or statutory or regulatory requirement 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
 - (3) A "claim" made or "suit" brought by or on behalf of any governmental authority for damages 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";

including without limitation any "claim" by or on behalf of the "association".
- p. Arising out of "wrongful acts" in the selection or direct or indirect supervision of any contractor or subcontractor liable or alleged to be liable for any defect in construction at any premises insured under this Policy.

A "wrongful act" committed by any "insured person" shall not be imputed to any other "insured person" for purposes of applying the exclusions set forth in this Paragraph B.
- C. For the purposes of the coverage provided by this endorsement, Paragraph C. **Who Is An Insured** is replaced by the following:
 - 1. The "association" is an insured.
 - 2. "Insured persons" are insureds.
- D. For the purposes of the coverage provided by this endorsement, Paragraph D. **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:
 - 1. **Annual Aggregate Limit Of Insurance**

The most we will pay for the sum of all "loss" under Paragraphs A.1., A.2. and A.3. is the Aggregate Limit Of Insurance shown in the Schedule. This limit applies regardless of the number of:

 - a. Insureds;

- b. "Claims" made or "suits" brought; or
- c. Persons, organizations or government agencies making "claims" or bringing "suits".

If the aggregate Limit of Insurance is exhausted by the payment of "loss", we will have no further obligations or liability of any kind under this endorsement.

"Claims expenses" are part of the "loss" and are payable within the Limit Of Insurance shown in the Schedule, thereby reducing that Limit.

2. Deductible

Subject to Paragraph **D.1.** of this endorsement, we will pay only that amount of "loss" which is in excess of the Deductible shown in the Schedule. The Deductible will be borne by the insureds, uninsured and at their own risk. A single deductible will apply to all "loss" resulting from all "claims" alleging the same "wrongful acts" or "interrelated wrongful acts".

If the "association" is permitted or required by law to indemnify an "insured person" for "loss", but fails or refuses, other than for reason of "financial insolvency", then our payment for such "loss" will not be subject to any deductible and the "association" shall be responsible for, and shall hold us harmless from, and shall reimburse us for such "loss" up to the Deductible shown in the Schedule.

- E. For the purposes of the coverage provided by this endorsement, the **Duties In The Event Of Occurrence, Offense, Claim Or Suit** condition is replaced by the following:

Duties In The Event Of A Claim Or A Wrongful Act That May Result In A Claim

- 1. You must see to it that we are notified as soon as practicable of a "wrongful act" which may result in a "claim". To the extent possible, notice should include:
 - a. How, when and where the "wrongful act" took place;
 - b. The names and addresses of any person involved in the specific "wrongful act", including names and addresses of the potential claimants;
 - c. Particulars as to the reasons for anticipating a "claim" which may result from such specific "wrongful act";
 - d. The nature of the alleged or potential damages arising from such specific "wrongful act"; and

- e. The circumstances by which the insureds first became aware of the specific "wrongful act".

- 2. If a "claim" is received by any insured, you must:

- a. Immediately record the specifics of the "claim" and the date received; and
- b. Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" as soon as practicable.

- 3. You and any other involved insured must:

- a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim";
- b. Authorize us to obtain records and other information;
- c. Cooperate with us in the investigation or settlement of the "claim"; and
- d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "wrongful acts" to which this insurance may also apply.

- 4. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our written consent.

- F. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **E. Liability And Medical Expenses General Conditions:**

Consent To Settle

If we recommend a settlement to the insured which is acceptable to the claimant, but to which the insured does not consent, the most we will pay as damages in the event of any later settlement or judgment is the amount for which the "claim" could have been settled, to which the insured did not give consent, plus "claims expenses" incurred as of the date such settlement was proposed in writing by us to the insured.

G. Extended Reporting Period

For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added:

- 1. You will have the right to purchase an Extended Reporting Period from us if:
 - a. This endorsement is cancelled or not renewed for any reason; or

b. We renew or replace this endorsement with insurance that:

- (1) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
- (2) Does not apply to "wrongful acts" on a claims-made basis.

However, we will not offer an Extended Reporting Period if cancellation or nonrenewal of this endorsement is due to nonpayment of premium, failure to comply with terms or conditions of the Policy or fraud.

2. An Extended Reporting Period, as specified in Paragraph **G.1.** of this endorsement, lasts three years and is available only for an additional premium.
3. The Extended Reporting Period starts with the end of the policy period. It does not extend the policy period or change the scope of the coverage provided. It applies only to "claims" to which the following applies:
 - a. The "claim" is first made during the Extended Reporting Period;
 - b. The "wrongful act" occurs before the end of the policy period; and
 - c. The "wrongful act" did not commence before the Retroactive Date.
4. You must give us a written request for the Extended Reporting Period within 30 days after the end of the policy period or the effective date of cancellation, whichever comes first.
5. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due and any premium or deductible you owe us for coverage provided under this endorsement. Once in effect, the Extended Reporting Period may not be cancelled by us, except for fraud. The premium for the Extended Reporting Period will be deemed to be fully earned as of the date it is purchased.
6. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. Limit of Insurance available under this endorsement for future payment of damages; and
 - d. Other related factors.

The additional premium may not exceed 100% of the annual premium for this endorsement.

7. There is no separate or additional Limit of Insurance for the Extended Reporting Period. The Limit of Insurance available during the Extended Reporting Period, if purchased, shall be the remaining amount, if any, of the aggregate Limit of Insurance available at the time this Policy was cancelled or nonrenewed.

H. For the purposes of the coverage provided by this endorsement, the following is added to Paragraph **F. Liability And Medical Expenses Definitions** of **Section II – Liability**:

1. "Association" means the entity named in the Schedule as the named association.
2. "Claim" means:
 - a. A written demand for monetary damages against any insured;
 - b. A civil proceeding against any insured commenced by the service of a complaint or similar pleading;
 - c. A criminal proceeding against any "insured person" commenced by a return of an indictment; or
 - d. A formal administrative or regulatory proceeding against any insured commenced by the filing of a notice of charges, formal investigative order or similar document;for a "wrongful act", including any appeal therefrom.
3. "Claims expenses" means that part of a "loss" consisting of reasonable and necessary fees (including attorneys' and experts' fees), expenses incurred in the defense or appeal of a "claim", and the premium for appeal, attachment or similar bonds (without any obligation on our part to provide such bonds), excluding the wages, salaries, benefits or expenses of any "insured person".
4. "Financial insolvency" means the status of the "association" resulting from:
 - a. The appointment of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the "association"; or
 - b. The "association" becoming a debtor in possession.

5. "Insured person" means any former, present or future director, officer, trustee, employee or volunteer of the "association".
6. "Interrelated wrongful act" means all causally connected "wrongful acts".
7. "Loss" means "claims expenses", compensatory damages, settlement amounts, legal fees and costs awarded pursuant to judgments. "Loss" does not include civil or criminal fines or penalties imposed by law, punitive or exemplary damages, the multiplied portion of multiplied damages, taxes or matters that are uninsurable pursuant to applicable law.
8. "Wrongful act" includes a "wrongful employment practices act" and means:
 - a. With respect to the "insured person", any actual or alleged error, misstatement, misleading statement, neglect or breach of duty, omission or act by the "insured person" in their insured position or capacity for the "association"; or any matter claimed against them solely by reason of their serving in such insured position or capacity. This does not apply to a position or capacity in any entity other than the "association", even if the "association" directed or requested the "insured person" to serve in such other position or capacity.
 - b. With respect to the "association", any actual or alleged error, misstatement, misleading statement, neglect or breach of duty, omission or act by the "association".
9. "Wrongful employment practices act" means any actual or alleged:
 - a. Wrongful dismissal, discharge or termination of employment;
 - b. Breach of any implied employment contract;
 - c. Employment-related misrepresentation;
 - d. Violation of any federal, state or local statute, regulation, ordinance or common law concerning employment or discrimination in employment;
 - e. Sexual harassment (as that term is defined by the Federal Equal Employment Opportunity Commission) or other illegal workplace harassment;
 - f. Wrongful failure to employ or promote;
 - g. Wrongful reference, discipline or deprivation of a career opportunity;
 - h. Failure to adopt adequate workplace or employment policies and procedures; or
 - i. Illegal retaliatory treatment.
- I. For the purposes of the coverage provided by this endorsement, the definition of "suit" in Paragraph **F. Liability And Medical Expenses Definitions** is replaced by the following:

"Suit" means a civil proceeding in which damages because of a "wrongful act" to which this insurance applies are alleged. "Suit" includes:

 - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.