**EMPLOYMENT PRACTICES LIABILITY COVERAGE PART – Educators**

IMPORTANT NOTICE: THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE. THIS COVERAGE PART APPLIES ONLY TO THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE.

AMOUNTS INCURRED AS SUPPLEMENTARY PAYMENTS SHALL BE APPLIED AGAINST THE DEDUCTIBLE AMOUNT.

Various provisions in this Coverage Part restrict coverage. Read the entire Coverage Part carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Part the words **you** and **your** refer to the Entity shown as Named Insured in the Declarations, or if multiple entities are named, the first of such entities. The words **we, us** and **our** refer to the company providing this insurance.

The word **insured** means any person or organization qualifying as such under **Section II - Who Is An Insured**). Other words and phrases that appear in quotation marks have special meaning. Refer to **Section V - Definitions**.

#### SECTION I – COVERAGES

* 1. **Insuring Agreement**

1. We will pay on behalf of the insured those ”damages” and Supplementary Payments that the insured becomes legally obligated to pay because of a “claim” first made against the insured during the policy period or extended reporting period, if applicable, by reason of a “wrongful employment act” by the insured to which this insurance applies. The “wrongful employment act” must have commenced to occur on or after the Retroactive Date shown in the declarations, but prior to the end of the policy period.

We will have the right and duty to defend and to appoint an attorney to defend the insured against any “claim” or “suit” seeking “damages”. However, we will have no duty to defend the insured against any “claim” or “suit” seeking “damages” for a “wrongful employment act” to which this insurance does not apply. We may, at our discretion, investigate any “wrongful employment act” and settle any “claim” or “suit” that may result. However:

* + 1. The amount we will pay for "damages" and Supplementary Payments is limited as described in **Section III - Limits Of Insurance And Deductible**; and
    2. Our right and duty to defend ends when we have used up the EPL Supplementary Payments Aggregate limit of insurance in the payment of Supplementary Payments as defined under Paragraph **I.C**.

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

We have the right, but not the duty, to appeal any judgment, award or ruling entered against the insured, at our expense.

**2**. This insurance applies to a “wrongful employment act” only if prior to the effective date of this Coverage Part, neither you nor any “designee” had knowledge of any actual or alleged “wrongful employment act” or circumstance that reasonably could give rise to a “claim” under thisCoverage Part. If you or such “designee” knew, prior to the effective date of this Coverage Part, of any “wrongful employment act” or circumstance that reasonably could give rise to a “claim” under this Coverage Part, then any continuation, change or resumption of such “wrongful employment act” or circumstance during or after this policy period will be deemed to have been known prior to this policy period.

**3**. A “wrongful employment act” will be deemed to have been known to have occurred at the earliest time when you or any of your “designees”:

**a**. Reports all, or any part, of the “wrongful employment act” to us or any other insurer;

**b**. Receives a written or verbal demand or “claim” for “damages” because of the “wrongful employment act”; or

**c**. Becomes aware by any other means that a “wrongful employment act” has occurred or has begun to occur.

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

**a.** When written notice of such “claim” or “suit” is received and recorded by any insured or by us, whichever comes first; or

**b.** When we make any settlement in accordance with the term and conditions of the Coverage Part.

#### Exclusions

This insurance does not apply to:

1. Any “claim”, or any portion of any “claim”, alleging “bodily injury”, “property damage”, “personal and advertising injury” or "employee benefits injury”.

**2**. Any “claim” arising out of;

* 1. A breach of contract, including but not limited to amounts owed under any written employment-related contract or agreement; or
  2. Any liability for which the insured is obligated to pay “damages” by reason of the assumption of liability under any contract or agreement. This exclusion does not apply to liability for “damages” that the insured would have in absence of the contract or agreement.

**3**. Any “claim” arising out of:

* + 1. a dishonest, malicious, fraudulent or criminal act, error or omission by or at the direction of any insured; or
    2. a knowing violation of any federal, state or local statute, rule or regulation.

This exclusion applies only to the insured(s) who committed or had knowledge of the dishonest, malicious, fraudulent, or criminal act, error, or omission; or violation of a federal, state or local statute, rule, or regulation. However, if it is later established by a judgment or other final adjudication that the allegation was not proven, we will reimburse the insured for the reasonable costs of a civil defense.

1. Any “claim” arising out of any:
   1. collective bargaining agreements; or
   2. lockout, strike, picket line, replacement of workers or other labor disputes or labor negotiations, union grievances or any “claim” filed by or on behalf of a union.
2. Any “claim” alleging, or arising out of any:
   1. Refusal, failure or inability of any insured to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered or time spent in connection with work related activities (except for tort-based back wages);
   2. Improper deductions from pay taken by any insured from any “employee(s)”; or
   3. Failure to provide or enforce legally required meal or rest break periods;

Notwithstanding the foregoing, this exclusion does not apply to the extent a “claim” or “suit” is for “retaliation.”

1. Any “claim” arising out of any obligation of the insured imposed under the following laws or any rules or regulations promulgated thereunder, and subsequent amendments thereto, or any similar federal, state, local or foreign statutory law or common law:
   1. Fair Labor Standards Act (except the Equal Pay act);
   2. National Labor Relations Act;
   3. Worker Adjustment and Retraining Notification Act;
   4. Consolidated Omnibus Budget Reconciliation Act;
   5. Employee Retirement Income Security Act of 1974;
   6. The Pension Benefit Act;
   7. The Occupational Safety and Health Act; or
   8. Section 89 of the Internal Revenue Code.
2. Any “claim” arising out of the cost of employment reinstatement, continued employment or complying with any order for, grant of, or agreement to provide injunctive or other non-monetary relief related to such employment reinstatement or continued employment.
3. Any “claim” for relief that is equitable in nature and is not payable in money, or any request for equitable or injunctive relief, or the insured's cost to comply with any such non-monetary relief.

The most we will pay to defend any “suit” that is solely seeking non-monetary or equitable or injunctive relief is limited under Paragraph **C. Supplementary Payments**.

If a "suit" seeks both monetary damages and non-monetary relief, we will defend the "suit".

**9.** Any “claim” arising out of any prior and/or pending:

* 1. Litigation;
  2. proceeding with the state’s Commission Against Discrimination or any similarly functioning entity; or
  3. arbitration proceeding or any other alternative dispute resolution proceeding

as of the effective date of this Coverage Part set forth in the Declarations.

1. Any “claim” arising out of any obligation pursuant to any workers’ compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law. This exclusion, however, shall not apply to “damages” or Supplementary Payments arising from a “claim” or “suit” for “retaliation”.
2. Any fines, penalties, punitive, exemplary, multiplied damages or the multiple portion of multiple damages.
3. Any “claim” arising out of:
   1. The activities or operations of public or private entities or of political subdivisions other than schools, school boards, school districts, or other similar educational units, entities or institutions;
   2. The activities or operations of any boards, commissions, agencies, authorities, administrative departments or other similar units operated by, under the jurisdiction, and within the budget of an entity described in **a.** above; or
   3. The liability of any insured for their administration, supervision or oversight of any entity, department, agency, or institution described in **a.** or **b.** above.

#### Supplementary Payments

1. We will pay, with respect to any “claim” we investigate or settle, or any "suit" against an insured we defend:
   * 1. All expenses we incur.
     2. The cost of bonds to release attachments for a covered “suit”, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
     3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the “claim” or "suit", including actual loss of earnings up to $300 a day because of time off from work.
     4. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys’ fees or attorneys’ expenses taxed against the insured.
     5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
     6. 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 applicable limit of insurance.

Payments for Supplementary Payments are included within and are not in addition to the EPL Supplementary Payments Aggregate Limit of Insurance. The insured shall be responsible for Supplementary Payments once the EPL Supplementary Payments Aggregate Limit of Insurance is exhausted.

Amounts incurred as Supplementary Payments shall be applied against the deductible amount.

However, we will pay all interest payments as described in Paragraphs **e.** and **f.** above within the EPL Indemnity Aggregate Limit of Insurance. These interest payments are included within the EPL Indemnity Aggregate Limit of Insurance.

Our right and duty to defend ends when we have used up the EPL Supplementary Payments Aggregate Limit of Insurance in the payment of Supplementary Payments.

1. **Non-Monetary Defense Coverage**

We will pay for Supplementary Payments that the insured incurs in the defense of a “suit” brought against the insured during the policy period that is solely seeking non-monetary damages or equitable or injunctive relief arising out of a “wrongful employment act” that is otherwise covered under this Coverage Part.

* 1. The most we will pay for Supplementary Payments under this Non-Monetary Defense Coverage, is $50,000 per “suit”. The most we will pay is $50,000 in the aggregate for the policy period.
  2. We will not pay to defend any “suits” initiated by a governmental entity that are solely seeking non-monetary or equitable or injunctive relief.

Payments made under this Non-Monetary Defense Coverage shall be in addition to and not part of the EPL Supplementary Payments Aggregate Limit of Insurance.

1. **Equal Employment Opportunity Commission (EEOC) Defense Coverage**

We will pay for Supplementary Payments that the insured incurs in the investigation and defense of an EEOC complaint made against the insured during the policy period arising out of a “wrongful employment act” that is otherwise covered under this Coverage Part.

The most we will pay for Supplementary Payments under this EEOC Defense Coverage is $10,000 in excess of $2,500 deductible for each EEOC complaint that is filed against you. The most we will pay under this EEOC Defense Coverage is $50,000 in the aggregate for the policy period.

Payments made under this Equal Employment Opportunity Commission (EEOC) Defense Coverage shall be in addition to and not part of the EPL Supplementary Payments Aggregate Limit of Insurance.

#### SECTION II – WHO IS AN INSURED

1. You are an insured; and
2. Each of the following is an insured but only for acts that are within the scope of his or her duties for you as a education entity:
   1. Any member of your governing body
   2. Any school under your jurisdiction.
   3. Any member of a board, commission, agency, authority, administrative department, or other similar unit operated by you and under your jurisdiction.
   4. All your elected, appointed, or employed officials, trustees, directors, or superintendents.
   5. Any of your “employees”, including student teachers, but only for acts within the scope of their employment by you.
   6. Any of your authorized “volunteer workers”.

No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture or any other entity that is not shown as a named insured in the Declarations

#### SECTION III - LIMITS OF INSURANCE AND DEDUCTIBLE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
   1. Insureds; or
   2. ”Claims” made or "suits" brought; or
   3. Persons or organizations making “claims” or bringing "suits".
2. The EPL Indemnity Aggregate Limit of Insurance shown in Item 2. of the Declarations is the most we will pay for all “damages” arising out of all “claims” or “suits” covered by this Coverage Part.
3. The EPL Supplementary Payments Aggregate Limit of Insurance is the most we will pay for Supplementary Payments arising out of all “claims” or “suits” covered by this Coverage Part.
4. Subject to **B.** above, the Each “Wrongful Employment Act” Limit of Insurance shown in Item 2. of the Declarations is the most we will pay for all “damages” arising out of any one “wrongful employment act”.

All “claims” or “suits” arising out of the same “wrongful employment act” or series of continuous or interrelated “wrongful employment acts” shall be treated as one “wrongful employment act”.

All “claims” or “suits” arising out of one “wrongful employment act” shall be deemed to be made on the date that the first such “claim” is made or “suit” is brought.

1. Deductible
   1. Our obligation to pay “damages” and Supplementary Payments on your behalf applies only to the amount of “damages” and Supplementary Payments in excess of the Deductible shown in Item 3. of the Declarations. A single Deductible as shown in Item 3. of the Declarations applies to the total amount of all “damages” and related Supplementary Payments resulting from any one “wrongful employment act” in the same manner as set forth in Paragraph **D.** above.
   2. The terms of this insurance, including those with respect to:
      1. Our right and duty to defend any "suits" seeking those “damages”; and
      2. Your duties in the event of a “wrongful employment act”, “claim”, or "suit"

Apply irrespective of the application of the Deductible amount.

* 1. We may pay any part, or all, of the Deductible amount applicable to “damages” and Supplementary Payments 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 has been paid by us.

If we file suit seeking recovery for amounts paid by us as a deductible which is to be reimbursed by you, then you are responsible for all costs of collection, including reasonable attorney’s fees and interest on the amount in question in the full amount allowed by law.

1. Back Wages Limit

Subject to **B.** above, the Back Wages Limit shown in Item 2. of the Declarations is the most we will pay under this Coverage Part, in excess of the Back Wages Deductible shown in the Declarations, for the sum of all "back wages” for any one "wrongful employment act".

This limit does not apply unless an amount is shown in the Declarations.

The Limits of Insurance of this Coverage Part 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, 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.

#### SECTION IV - CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

**B**. **Cancellation**

**1**. The first Named Insured shown in the Declarations may cancel this Coverage Part by mailing or delivering to us advance written notice of cancellation.

**2**. We may cancel this Coverage Part by mailing or delivering to the first Named Insured written notice of cancellation at least:

a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

b. 30 days before the effective date of cancellation if we cancel for any other reason.

3. We will mail or deliver our notice to the first Named Insured’s last mailing address known to us.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

5. If this Coverage Part is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

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

C. Changes

This Coverage Part contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This Coverage Part's terms can be amended or waived only by endorsement issued by us and made a part of this Coverage Part.

D. Conformity to Statute

This Coverage Part is intended to be in full conformity with the laws of the state in which it is issued. If any provision of this Coverage Part (including endorsements which modify the Coverage Part) conflicts with any law, it is changed to comply with that law.

E. Consent To Settle

We will not settle any "suit" without your consent, provided your consent is not unreasonably withheld and is provided as soon as practicable. If, however, you refuse to consent to any settlement recommended by us that is acceptable to the claimant and elect to contest the “claim” or “suit” or to continue any legal proceedings in connection with such “claim” or “suit”, then:

* 1. We will not be obligated to pay Supplementary Payments incurred by you subsequent to such refusal; and
  2. If a settlement or judgment occurs subsequent to such refusal, we will not be obligated to pay any amount in excess of the amount for which the “claim” or “suit” could have been settled prior to such refusal.

Such amounts are subject to the provisions of **Section III - Limits of Insurance And Deductible** of this Coverage Part.

**F. Duties In The Event Of A “Claim”, “Suit” or “Wrongful Employment Act”**

**1**. You or your “designees” must see to it that we are notified as soon as practicable of a "wrongful employment act" which may reasonably be expected to be the basis of a “claim”

To the extent possible, notice should include:

* + 1. How, when and where the "wrongful employment act" took place;
    2. The names and addresses of any injured persons or witnesses; and
    3. The nature and location of any injury or damage arising out of the “wrongful employment act".

Notice of a “wrongful employment act” is not notice of a “claim”.

**2**. If a “claim” is made or "suit" is brought against any insured, you must:

* 1. Record the specifics of the “claim” or "suit" and the date received as soon as you, or your “designee” is notified of it;
  2. Notify us as soon as practicable after you or your “designee” learns of the “claim” or “suit”.

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

* 1. 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 injury or damage to which this insurance may also apply.
  2. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
  3. Notice given by or on behalf of:
     1. The insured;
     2. The injured person;
     3. Any other claimant;

to a licensed agent of ours with particulars sufficient to identify the insured shall be deemed notice to us.

**G. Examination Of Your Books And Records**

We may examine and audit your books and records as they relate to this Coverage Part at any time during the policy period and up to three years afterward.

H. Legal Action Against Us

No person or organization has a right under this Coverage Part:

* 1. To join us as a party or otherwise bring us into a "suit" asking for “damages” from an insured; or
  2. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for “damages” that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

1. Other Insurance

**1.** The insurance provided by this Coverage Part is excess over any other valid and collectible insurance, whether primary, excess, contingent or on any other basis.

**2**. We will have no duty to defend the insured against any “suit” if any other insurer has a duty to defend the insured against that “suit”. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured’s rights against all those other insurers.

**3**. We will pay only our share of the amount of loss, if any, that exceeds the sum of:

* 1. The total amount that all other insurance would pay in the absence of this insurance; and

1. The total of all deductible and self-insured amounts under the other insurance.

**4**. If we share the loss, we will do so by equal share contribution if allowed by the other insurance. If equal share contribution is not permitted, we will contribute by the ratio our limit bears to the total applicable limits of all insurance.

1. Representations

By accepting this Coverage Part, you agree:

* 1. The application and the declarations are the basis of this Coverage Part and are to be considered as incorporated in and constituting part of this Coverage Part.
  2. The statements in your Declarations and/or application are accurate and complete;
  3. Those statements are based upon representations you made to us; and
  4. We have issued this Coverage Part in reliance upon your representations.

1. **Transfer of Control**

#### You may take over control of any outstanding “claim” or “suit” previously reported to us, but only if we, in our sole discretion, decide that you should, or if a court orders you to do so.

#### Notwithstanding Paragraph 1. above, in all events if the EPL Supplementary Payments Aggregate Limit of Insurance is exhausted, we will notify you of all outstanding “claims” or “suits” and you will take over control of defense. We will help transfer control of “claims” and “suits” to you.

#### We will take whatever steps are necessary to continue the defense of any outstanding “claim” or “suit” and avoid a default judgment during the transfer of control to you. If we do so, we shall not waive or give up any of our rights. You will pay all reasonable expenses we incur for taking such steps after the EPL Supplementary Payments Aggregate Limit of Insurance is exhausted.

#### In the event the EPL Supplementary Payments Aggregate Limit of Insurance is exhausted and the EPL Indemnity Aggregate Limit of Insurance is not exhausted, you shall not admit or assume any liability, enter into any settlement agreement or stipulate any judgment without our prior written consent. Only those settlements and stipulated judgments that we have consented to shall be recoverable as “damages” under the terms of this Coverage Part. Our consent shall not be unreasonably withheld. We shall be entitled to effectively associate in the defense of any “claim” that is defended by you.

1. Transfer Of Rights Of Recovery Against Others To Us

If an insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after a “wrongful employment act” or loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

1. Transfer Of Your Rights And Duties Under This Coverage Part

Your rights and duties under this Coverage Part may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

1. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the Named Insured in the Declarations, or if multiple entities are named, the first of such entities, this insurance applies:

* 1. As if each Named Insured were the only Named Insured; and
  2. Separately to each insured against whom “claim” is made or "suit" is brought.

1. Special Rights and Duties of the Named Insured
   1. The Named Insured in the Declarations, or if multiple entities are named, the first of such entities, shall be the sole agent, and shall act on behalf, of each insured with respect to all matters under this Coverage Part, including but not limited to:
      1. Giving notice of any “claim”;
      2. Giving or receiving notice of cancellation;
      3. Receiving any other written notice or correspondence from us;
      4. Consenting to the settlement of any “suit”;
      5. The receipt and acceptance of this Coverage Part and any endorsements to this Coverage Part;
      6. Making changes to this Coverage Part in accordance with the Changes Condition;
      7. Making representations in accordance with the Representations Condition;
      8. The payment of any premium due under this Coverage Part;
      9. The receipt of any return premiums that may become due under this Coverage Part; and
      10. The exercise of any rights under **Section VI - Extended Reporting Periods**; and
   2. Each insured agrees that the Named Insured in the Declarations, or if multiple entities are named, the first of such entities, shall act on their behalf.
2. Territory

We will pay “damages” arising out of covered “claims” from “wrongful employment acts” occurring in all parts of the world, provided that, the insured’s responsibility to pay “damages” is determined in a “claim” made or “suit” brought in the United States, its territories, possessions, or Puerto Rico, or in a settlement we agree to.

1. Title of Paragraphs

The titles of the various paragraphs of this Coverage Part and endorsements, if any, attached to this Coverage Part, are inserted solely for convenience or reference and are not deemed in any way to affect the provisions to which they relate.

1. **Two Or More Coverage Parts Or Policies Issued By Us**

It is our stated intention that the various coverage parts or policies issued to you by us, including any of our affiliates, do not provide any duplication or overlap of coverage for the same “claim” or “suit”. Should the circumstances of any “claim” or “suit”, however, give rise to such duplication or overlap of coverage by applying to the same insured event, professional incident, occurrence, offense, wrongful act, wrongful employment act, accident or loss then, notwithstanding the other insurance provision, the maximum limit of insurance under all such coverage parts or policies combined shall not exceed the highest applicable limit of insurance provided under any one coverage part or policy.

This condition does not apply to any Excess or Umbrella policy issued by us specifically to apply as excess insurance over this Coverage Part.

**S. When We Do Not Renew**

If we decide not to renew this Coverage Part we will mail or deliver to the Named Insured in the Declarations, or if multiple entities are named, the first of such entities, written notice of the non-renewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing as required by state law will be sufficient proof of notice.

#### SECTION V - DEFINITIONS

1. "Back wages" means wages that would have been earned in the past if a person had been employed or promoted or received a wage increase and includes overtime and future wages arising out of a “wrongful employment act(s). "Back wages", as used in this Coverage Part, does not include:
   1. Any wage loss resulting from any lockout, strike, picket line, replacement of workers or other similar actions in connection with labor disputes, labor negotiations, or collective bargaining agreements; or
   2. Any future wages or other compensation paid to reinstated or rehired “employees” or claimants due and payable beyond the date of reinstatement or rehire.
2. "Bodily Injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these at any time.
3. “Claim” means written or oral demand, including a “suit”, to hold the insured responsible for an alleged or actual “wrongful employment act” where payment of “damages” is sought.
4. "Damages" means money damages including “back wages”. “Damages” does not include:
   1. civil or criminal fines or penalties imposed by law;
   2. taxes;
   3. any amount awarded as liquidated damages pursuant to any federal or state statute;
   4. punitive damages;
   5. liability or costs incurred by any insured to modify any building or property in order to make such building or property more accessible or accommodating to any disabled person; or
   6. liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar.
5. “Designee” means one of your officers, administrators, department heads, your legal department or an “employee” you designate to give notice to us.
6. “Employee” means an individual whose labor or service is engaged by and directed by you for remuneration, whether such individual is in a supervisory, co-worker or subordinate position or otherwise, including any “temporary workers ”or “leased workers”.
7. “Employee Benefits Injury” means injury that arises out of any act, error or omission in the administration of your “Employee Benefit Programs” or alleged violation of any employment-related local, state or federal rule, regulation, statute or ordinance.
8. “Employee Benefits Programs” means a program or programs of employee benefits maintained in connection with your business or operations, including but not limited to, Group Life Insurance, Group Accident or Health Insurance, Pension Plans, or Employee Stock Subscription Plans.

**I**. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. “Leased worker” does not include a “temporary worker”.

**J**. “Personal and advertising injury” means injury, including consequential “bodily injury”, arising out of one or more of the following offenses:

**1.** False arrest, detention or imprisonment;

**2.** Malicious prosecution;

1. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
2. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services;
3. Oral or written publication, in any manner, of material that violates a person's right of privacy;
4. The use of another's advertising idea in your “advertisement”; or

**7.** Infringing upon another's copyright, trade dress or slogan in your “advertisement”.

For the purposes of this definition, “advertisement” means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

**a**. Notices that are published include material placed on the Internet or on similar electronic means of communication; and

**b**. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

**K.** “Property Damage" means:

* 1. Physical injury to tangible property including all resulting loss of use of that property;
  2. Loss of use of personal property that is not physically injured;
  3. Disappearance of tangible property (including money); or
  4. Impairment, deprivation or destruction of property, including loss of use thereof, resulting from proceedings in eminent domain, adverse possession, dedication by adverse use, unlawful or unconstitutional taking of property, inverse condemnation or condemnation proceedings, by whatever named called.
     1. “Retaliation” means a “wrongful employment act” of an insured alleged to be in response to, the actual or attempted exercise by an “employee” of any right that such “employee” has under the law. Provided, however, “retaliation” shall not include the “wrongful employment act” of an insured alleged to be in response to the threat of or the actual filing of any claim or suit under the Federal False Claims Act or any other federal, state, local or foreign “whistleblower law”.
     2. “Suit(s)” means a civil proceeding in which “damages” because of a “wrongful employment act” to which this insurance applies are alleged. “Suit” includes:

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

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

However, in no event, will “suit” include any labor or grievance proceeding, which is the subject to a collective bargaining agreement.

* + 1. “Temporary worker” means a person who is furnished to you to substitute for a permanent “employee” on leave or to meet seasonal or short-term workload conditions.
    2. "Volunteer worker" means a person who:

1. Is not an "employee" of any insured; and
2. Donates his or her work; and
3. Acts at the direction of, and within the scope of duties determined by an insured; and
4. Is not paid a fee, salary or other compensation by any insured or anyone else for their work performed for the insured.
   * 1. “Whistleblower law” means a statute, rule or regulation, which protects an employee against discrimination from his or her employer, if the employee discloses or threatens to disclose to a superior or any governmental agency; or who gives testimony relating to, any action with respect to the employer's operations, which may be a violation of public policy as reflected in legislation, administrative rules, regulations or decisions, judicial decisions, and professional codes of ethics.
     2. “Wrongful employment act" means any actual or alleged:

**1.** Wrongful dismissal, discharge or termination (either actual or constructive), including breach of an implied contract;

**2.** Harassment or coercion (including sexual harassment, whether quid pro quo, hostile work environment or otherwise);

**3.** Discrimination (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability);

**4.** “Retaliation” (including lockouts);

**5.** Employment-related misrepresentation(s) to “your” “employee” or applicant for employment with “you”;

**6.** Employment-related libel, slander, humiliation, mental anguish, infliction of emotional distress, defamation, or invasion of privacy;

**7.** Wrongful failure to employ or promote;

**8.** Wrongful deprivation of career opportunity, wrongful demotion or negligent “employee” evaluation, including the giving of negative or defamatory statements in connection with an “employee” reference;

**9.** Wrongful discipline;

**10.** Failure to provide or enforce adequate or consistent corporate policies and procedures relating to any “wrongful employment act”;

**11.** Negligent supervision or hiring by an insured, relating to any of the above; or

**12.** Violation of an individual’s civil rights relating to any of the above.

All such acts, errors or omissions committed by one or more insureds that are substantially the same or are in any way directly or indirectly related - either logically, causally or temporally – shall be deemed to constitute one “wrongful employment act”, regardless of the number of “claims” or claimants. The entire “wrongful employment act” will be considered to have been committed on the date of the first act, error or omission.

#### SECTION VI - EXTENDED REPORTING PERIODS

In case of cancellation or nonrenewal of this Coverage Part, by either you or us, for reason other than your non-payment of any amount due under this Coverage Part or non-compliance with the terms and conditions of this Coverage Part, you shall have the right to an Extended Reporting Period as follows:

**A. Automatic Extended Reporting Period**

We will provide an Automatic Extended Reporting Period for a period of ninety (90) days following the effective date of such cancellation or nonrenewal (the “Automatic Extended Reporting Period”), but only for a “claim” first made against the insured during the Automatic Extended Reporting Period and only with respect to “claims” for “wrongful employment acts” committed before the effective date of such cancellation or nonrenewal and subsequent to the retroactive date shown in the Declarations.

The Limits of Insurance for the Automatic Extended Reporting Period shall be a part of, and not in addition to, the Limits of Insurance shown in Item 2. of the Declarations.

**B. Optional Extended Reporting Period**

**1.** You shall have the right to purchase an Optional Extended Reporting Period, upon payment of an additional premium for a period of either 12-, 24- or 36- months following the effective date of such cancellation or nonrenewal, but only for a “claim” first made against the insured during the Optional Extended Reporting Period and only with respect to “claims” for “wrongful employment acts” committed before the effective date of such cancellation or nonrenewal and subsequent to the retroactive date shown in the Declarations.

This right shall terminate, however, unless written notice of such election and payment of the additional premium is received by us no later than ninety (90) days after the effective date of cancellation or nonrenewal.

1. The first ninety (90) days of the Optional Extended Reporting Period, if it becomes effective, shall run concurrently with the Automatic Extended Reporting Period.
2. Any change in premium or the terms of this Coverage Part shall not be considered a refusal to renew.
3. If the Optional Extended Reporting Period is purchased, the Optional Extended Reporting Period shall:

**a.** not extend the policy period or in any way change the scope of coverage provided by this Coverage Part;

**b.** not change, increase or reinstate the Limits of Insurance. The Limits of Insurance for the Optional Extended Reporting Period shall be a part of, and not in addition to, the Limits of Insurance shown in Item 2. of the Declarations;

**c.** not be renewable or cancelled once in effect; and

**d.** be excess over any other valid and collectible insurance, whether such other insurance applies on a primary, excess, contingent or any other basis.

**5.** If the Optional Extended Reporting Period is purchased, the entire premium shall be deemed fully earned at its commencement without any obligation to return any portion thereof. The following Optional Extended Reporting Periods are available:

|  |  |
| --- | --- |
| Optional Extended Reporting Period | Flat Premium (the percent of the annual premium shown on the Declarations) |
| 12 months | 50% |
| 24 months | 100% |
| 36 months | 150% |

1. We will issue you an Optional Extended Reporting Period Endorsement to affirm the extension you selected.