

OLD REPUBLIC INSURANCE COMPANY

EXCESS PROFESSIONAL LIABILITY POLICY

In consideration of payment of the premium shown in the Declarations, in reliance upon the statements made in the **Application**, and subject to the Declarations and the terms, conditions, exclusions and limitations of this Policy, Old Republic Insurance Company (herein called the Company) and the **Insured** agree as follows:

I. INSURING AGREEMENT

The Company shall provide to the **Insured** insurance coverage for **Loss** on account of any **Claim** first made against the **Insured** during the **Policy Period** or the **Extended Reporting Period** (if exercised) and reported to the Company in accordance with Clause V.A.. Such insurance coverage shall attach only after the **Underlying Limit** has been exhausted by actual payment of **Loss** and shall be in accordance with and subject to the same warranties, terms, conditions, exclusions and limitations (except as regards the premium, the amount and limits of liability, the policy period, the extended reporting period and except as otherwise stated herein) as are contained in or as may be added to the **Primary Policy**.

II. LIMIT OF LIABILITY

The Company's maximum aggregate liability for **Loss** under this Policy with respect to all **Claims** first made during the **Policy Period** and the **Extended Reporting Period** (if exercised), and reported to the Company in accordance with Clause V.A., shall not exceed the Limit of Liability as set forth in Item 3 of the Declarations, irrespective of the time of payment by the Company.

If the **Underlying Limit** is reduced or exhausted by actual payment of **Loss**, this Policy shall, in event of reduction, apply as excess insurance over the reduced **Underlying Limit** or, in event of exhaustion, continue in force as primary insurance; provided that in the latter event this Policy shall only pay for **Loss** in excess of the deductible or retention, if applicable, under the **Primary Policy** which shall be applied to each subsequent **Claim** under this Policy in the same manner as specified in the **Primary Policy**.

Multiple **Claims** which are deemed to be a single **Claim** under the **Primary Policy** shall be deemed under this Policy to be a single **Claim** first made when the earliest of such **Claims** is made against any **Insured**. Such multiple **Claims** shall be subject to the same aggregate limit of liability that is applicable to the **Policy Period** and the **Extended Reporting Period** (if exercised) in which such earliest Claim is first made against any **Insured**.

III. RETROACTIVE LIMITATION

The Company shall have no liability for **Loss** on account of any **Claim** based upon, arising out of or attributable to any act, error or omission which before the effective date of this Policy (i) any **Insured** knew or had a reasonable basis to believe could give rise to a **Claim** or (ii) has been the subject of any written notice given under any other insurance policy including but not limited to any insurance policy of which this Policy is a renewal or replacement.

IV. UNDERLYING INSURANCE

A. **Maintenance of Underlying Policies**

The **Underlying Policies** shall be maintained in full effect during the **Policy Period** and the **Extended Reporting Period** (if exercised), except for reduction or exhaustion of the **Underlying**

Limit by actual payment of **Loss**. If the **Underlying Policies** are not maintained in full effect during the **Policy Period** and the **Extended Reporting Period** (if exercised), the Company shall not be liable under this Policy to a greater extent than it would have been had such **Underlying Policies** been maintained in full effect.

B. Uncollectability of Underlying Policies

Except as otherwise stated in Clause II., this Policy shall not drop down for any reason including but not limited to uncollectability (in whole or in part) of any **Underlying Policy**. The risk of uncollectability of any **Underlying Policy** (in whole or in part) whether because of financial impairment or insolvency of an **Underlying Insurer** or for any other reason is expressly retained by the **Insured** and is not in any manner insured or assumed by the Company under this Policy.

C. Changes to Underlying Policies

To the extent the terms, conditions, exclusions or limitations of any **Underlying Policy** are changed to limit or restrict coverage, this Policy shall become subject to such changes upon the effective date of such changes. To the extent the terms, conditions, exclusions or limitations of any **Underlying Policy** are changed to expand or broaden coverage, this Policy shall become subject to such changes only if and to the extent the Company agrees to such changes by written endorsement to this Policy and the **Insured** pays any additional premium reasonably required by the Company for such changes.

The **Insured** shall give to the Company as soon as practicable written notice and full particulars of (i) any change in the terms, conditions, exclusions or limitations of any **Underlying Policy** and (ii) exhaustion, termination or cancellation of any **Underlying Policy**.

V. CLAIMS

A. Notice of Claim or Circumstances

The **Insured** shall, as a condition precedent to their rights under this Policy, give to the Company written notice of any **Claim** made against the **Insured** as soon as practicable but in no event later than sixty (60) days after the end of the **Policy Period** or the **Extended Reporting Period** (if exercised) in which such **Claim** was made. Such written notice shall be given to the Company regardless of the amount of the **Claim** or the **Underlying Limit**.

If during the **Policy Period** the **Insured** shall become aware of any act, error or omission that could reasonably give rise to a **Claim** ("Circumstances") and the **Insured** shall give written notice of such Circumstances to the Company during the **Policy Period**, then any **Claim** subsequently arising from such Circumstances shall be deemed to have been made at the time such written notice was given to the Company.

The **Insured** shall include within any notice of **Claim** or Circumstances (i) a description of the **Claim** (including the nature of the alleged act, error or omission) or Circumstances (ii) the nature of the alleged or potential damages, (iii) the names of actual or potential claimants, (iv) the names of the **Insureds** involved and (v) the manner in which the **Insured** first became aware of the **Claim** or Circumstances.

B. Cooperation and Claim Participation

The **Insured** shall cooperate with the Company and keep the Company fully informed of all material developments regarding the investigation, defense and settlement of any **Claim**. The **Insured** shall give the Company written notice as soon as practicable of all settlement demands and court orders (including discovery scheduling orders, settlement conferences and trial dates) and such other information and assistance in connection with any **Claim** or Circumstances reported to the Company

under this Policy as the Company may reasonably require.

The Company may, at its sole discretion, participate in the investigation, settlement and defense of any **Claim** reasonably likely to be covered by this Policy even if the **Underlying Limit** has not been exhausted and assume control of the investigation, settlement and defense of any **Claim** covered by this Policy after exhaustion of the **Underlying Limit**.

The **Insured** shall not admit liability for or settle any **Claim**, or incur any costs, charges or expenses with respect to any **Claim**, in excess of the **Underlying Limit** without the Company's prior written consent.

C. Subrogation and Recoveries

In the event of any payment under this Policy, the Company shall be subrogated to the **Insured's** rights of recovery against any person or organization, and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights.

Any amounts recovered shall be apportioned between the **Insured**, the **Underlying Insurers** and the Company in the inverse order of payment to the extent of actual payment. The expenses of such recovery proceedings shall be apportioned in the ratio of respective recoveries.

D. Appeals

If the **Insured** and the **Underlying Insurers** elect not to appeal a judgment for which the Company is liable in whole or in part under this Policy, the Company may, at its sole discretion, appeal such judgment at its own expense and shall be liable for taxable costs, disbursements and interest incidental to such appeal, but in no event shall the liability of the Company exceed the Limit of Liability as set forth in Item 3 of the Declarations.

VI. GENERAL CONDITIONS

A. Representations

In granting coverage under this Policy, the Company has relied upon the statements, representations and warranties in the **Application**. All such statements, representations and warranties are the basis of coverage under this Policy and shall be considered as incorporated in and constituting part of this Policy as if physically attached.

B. Extended Reporting Period

If the Company cancels or refuses to renew this Policy for any reason other than nonpayment of premium, the **Named Insured** shall have the right, upon payment of the additional premium calculated at 100% of the total annual premium for this Policy, to an extension of the coverage granted by this Policy for any **Claim** first made during the period of 12 calendar months immediately following the effective date of such cancellation or nonrenewal, but only with respect to any act, error or omission taking place prior to the effective date of such cancellation or nonrenewal. The additional premium for this extension shall be deemed fully earned and nonrefundable once it becomes effective.

The right to purchase this extension shall lapse if the **Named Insured** does not request the extension from the Company in writing and pay the additional premium to the Company within ten (10) days after the effective date of cancellation or nonrenewal.

This extension (if exercised) shall not operate to increase or reinstate the Limit of Liability as set forth in Item 3 of the Declarations.

C. Notices

All notices under this Policy shall be in writing and mailed or delivered to the appropriate party. If notice is mailed, proof of mailing shall be sufficient proof of notice.

Notice to the **Insured** may be mailed or delivered to the **Named Insured** at the last mailing address known to the Company. Notice to the Company shall be mailed or delivered to Old Republic Insurance Company c/o Chicago Underwriting Group, Inc., 191 North Wacker Drive, Suite 1000, Chicago, Illinois 60606-1905.

Notice to an **Underlying Insurer** shall not constitute notice to the Company under this Policy unless also given to the Company as provided in this Clause VI.C.

D. Alteration and Assignment

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to this Policy which is signed by an authorized representative of the Company.

E. Cancellation

The **Named Insured** may cancel this Policy by mailing or delivering to the Company advance written notice of cancellation. The Company may cancel this Policy by mailing or delivering to the **Named Insured** written notice of cancellation at least ten (10) days before the effective date of cancellation if the Company cancels for nonpayment of premium or thirty (30) days before the effective date of cancellation if the Company cancels for any other reason. Notice of cancellation shall state the effective date of cancellation. The **Policy Period** shall end on that date.

If the **Named Insured** cancels, the Company shall retain the customary short rate proportion of the premium. If the Company cancels, the return premium shall be computed pro rata. The Company shall make premium adjustment with the **Named Insured** at the time the cancellation is effective or as soon as practicable after that time, but premium adjustment shall not be a condition of cancellation.

F. Authorization Clause

The **Named Insured** first shown in Item 1 of the Declarations shall act on behalf of all **Insureds** with respect to (i) the giving and receiving of any notices under this Policy, (ii) the payment of any premiums and the receiving of any return premiums that may become due under this Policy, (iii) the negotiation, agreement to and acceptance of any endorsements, and (iv) exercising the right to purchase the **Extended Reporting Period**.

G. Validation

This Policy shall not be valid unless completed by a Policy Jacket containing the signatures of the Company's president and secretary and a Declarations page countersigned by an authorized representative of the Company.

VII. DEFINITIONS

When used in this Policy:

- A. "Claim" and "Insured" have the same meanings as the definitions thereof in the **Primary Policy**.

- B. **"Application"** means the signed applications, including attachments and materials submitted therewith, for this Policy and the **Underlying Policies**.
- C. **"Extended Reporting Period"** means the period described in Clause VI.B. of this Policy.
- D. **"Loss"** means, to the extent for which coverage would be provided under the **Primary Policy**, (i) damages, judgments or settlements and (ii) reasonable costs, charges and expenses associated with the investigation, defense and appeal of any **Claim**.
- E. **"Named Insured"** means the person or organization named in Item 1 of the Declarations.
- F. **"Policy Period"** means the period from the effective date of this Policy to the expiration date of this Policy as set forth in Item 2 of the Declarations or its earlier termination date, if any.
- G. **"Primary Policy"** means the insurance policy listed in Item 4(a) of the Declarations.
- H. **"Underlying Limit"** means the total limits of liability of all **Underlying Policies** as set forth in Items 4(a) and 4(b) of the Declarations, including the deductible or retention under the **Primary Policy**.
- I. **"Underlying Policies"** means the insurance policies listed in Items 4(a) and 4(b) of the Declarations.
- J. **"Underlying Insurers"** means the insurers providing the **Underlying Policies** listed in Items 4(a) and 4(b) of the Declarations.