

RE ASSURE[®]
REAL ESTATE PROFESSIONAL LIABILITY POLICY

In consideration of the payment of the premium, and in reliance upon the **application** and the statements therein, which form a part of this policy, **we** agree as follows:

1. INSURING AGREEMENTS

COVERAGE A: REAL ESTATE SERVICES LIABILITY COVERAGE

We shall pay amounts, in excess of the Retention amount, **you** are legally obligated to pay as **damages** arising from any **claim** first made against **you** and reported to **us** during the **policy period** or any applicable **extended reporting period** for **your wrongful act** in rendering or failing to render **real estate services**. Such **wrongful act** must occur on or after the **retroactive date** and prior to the end of the **policy period**.

COVERAGE B: CRISIS MANAGEMENT COVERAGE

We shall pay amounts **you** are legally obligated to pay for **crisis management loss** incurred in connection with a **crisis management event** first occurring during the **policy period**, but solely up to the amount of the **crisis management fund**. **Our** obligation to pay **crisis management loss** ends upon the exhaustion of the **crisis management fund**. No Retention shall apply to this provision.

COVERAGE C: DEFENSE OF INSURED

- (a) ***Our Duty To Defend Insureds:*** **We** have the right and duty to defend a **suit** brought against any **insured** for covered **wrongful acts**, even if the **suit** is groundless or fraudulent.
- (b) ***Claim Expenses:*** **We** shall pay for **claim expenses** any **insured** incurs with **our** prior written consent in the defense of a **suit** for covered **wrongful acts**.
- (c) ***Our Right To Investigate and Settle Claims:*** **We** have the right to investigate any **claim** against any **insured**, and, with **your** written consent, settle any **claim** against **you**.
- (d) ***Your Right To Settle:*** **You** may settle any **claim** or **suit** to which this insurance applies provided that **you** do so (i) on behalf of all **insureds**, and (ii) without incurring **loss** in excess of all applicable Retentions.
- (e) ***When Our Duty To Defend Ends:*** **Our** duty to defend ends upon the exhaustion of the **policy limit of liability** by payment of **loss**, including **claim expenses**. **Our** duty to defend also ends if **you** fail or refuse to consent to a settlement **we** recommend and the claimant will accept. **You** must then defend the **claim** at **your** own expense. As a consequence of such failure or refusal, **our** liability for **loss** shall not exceed the amount for which **we** could have settled such **claim** had **you** consented, plus **claim expenses** incurred prior to the time **we** made such recommendation.

2. DEFINITIONS

- (a) **Application** means each and every signed application, any attachments to such applications, other materials submitted therewith or incorporated therein and any other documents submitted or representations made by **you**, or **your** broker, agent or attorney in connection with the underwriting of this policy or the underwriting of any other Real Estate Professional Liability Policy (or equivalent) issued by the **insurer**, or any of its affiliates, of which this policy is a renewal, replacement or which it succeeds in time.
- (b) **Bodily injury** means physical injury, sickness, disease, emotional distress, mental anguish, mental injury, shock, humiliation or death.
- (c) **Claim** means:
- (1) a demand for money or services;
 - (2) a **suit**;
 - (3) a **licensing proceeding claim**, subject to all relevant terms and conditions of this policy, including the limitations set forth in Paragraph 3(l) below;
 - (4) a **lock box claim**, subject to all relevant terms and conditions of this policy, including the limitations set forth in Paragraph 3(c) below; or
 - (5) a **Fair Housing Act discrimination claim**, subject to all relevant terms and conditions of this policy, including the limitations set forth in Paragraph 3(f) and in Clause 5., "**FAIR HOUSING ACT DISCRIMINATION COVERAGE PROVISION**," below.
- (d) **Claim expense** means all reasonable and necessary fees charged by attorneys designated by **us** and all other reasonable and necessary fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **claim** if incurred by **us**, or by **you** with **our** prior written consent, including the costs of appeal, attachment or similar bonds arising out of a covered judgment. **We** have no obligation to provide such bonds. **Claim expense** does not include salary, charges or expenses for **you** or **your** employees.
- Claim expense** shall not include fees, costs or expenses incurred prior to the time that a **claim** as defined in Paragraph 2(c) is first made against **you**. The definition of **claim expense** is subject to the limitations set forth in Paragraph 2(t) (**loss**).
- (e) **Crisis management event** means one of the following events:
- (1) **Management crisis**: The death, incapacity or criminal indictment of any director, trustee or officer, including, but not limited to, the executive director, or any employee on whom the **named insured** maintains key person life insurance.
 - (2) **Bankruptcy**: The public announcement that the **named insured** intends to file for bankruptcy protection or that a third party is seeking to file for involuntary bankruptcy on behalf of the **named insured**; or the imminence of bankruptcy proceedings of the **named insured**, whether voluntary or involuntary.
 - (3) **Contribution revocation**: The withdrawal or return of any non-governmental grant, contribution or bequest in excess of \$500,000.
 - (4) **Regulatory crisis**: The public announcement of the commencement or threat of commencement of litigation or governmental, regulatory or criminal proceedings against the **named insured**.
 - (5) **Mass tort**: The public announcement or accusation that the **named insured**, in the conduct of its business, has caused the **bodily injury** of a group of persons, or damage to or destruction of any tangible group of properties, including the loss of use thereof.

(6) **Other:** Any other event previously consented to by **us** which, in the good faith opinion of the **named insured**, did cause or is reasonably likely to cause, a **material effect**, but only if such event is specifically scheduled by written endorsement to this policy.

provided, however, **crisis management event** shall not include any event involving:

- (i) any claim which has been reported, or any circumstances of which notice has been given, under any policy of which this policy is a renewal or replacement or which it may succeed in time, whether or not such policy affords coverage for such **crisis management event**;
 - (ii) the actual, alleged or threatened discharge, dispersal, release or escape of pollutants; or any direction or request to test for, monitor, clean up, remove, contain, treat detoxify or neutralize pollutants; or
 - (iii) the hazardous properties of nuclear materials.
- (f) **Crisis management firm** means any public relations firm, crisis management firm or law firm hired by the **named insured** or its directors, officers, partners or employees to perform **crisis management services** in connection with the **crisis management event** that has been consented to by **us**, such consent shall not be unreasonably withheld. Attached to this policy is a list of firms which have been pre-approved by **us** and may be hired by the **named insured** without **our** further approval.
- (g) **Crisis management fund** means \$25,000.
- (h) **Crisis management loss** means the following amounts incurred during the pendency of or within ninety (90) days prior to and in anticipation of, the **crisis management event**, regardless of whether a **claim** is ever made against an **insured** arising from the **crisis management event** and, in the case where a **claim** is made, regardless of whether the amount is incurred prior to or subsequent to the making of the **claim**:
- (1) amounts for which the **named insured** is legally liable for the reasonable and necessary fees and expenses incurred by a **crisis management firm** in the performance of **crisis management services** for the **named insured** arising from a **crisis management event**; and
 - (2) amounts for which the **named insured** is legally liable for the reasonable and necessary printing, advertising, mailing of materials, or travel by directors, officers, partners, employees or agents of the **named insured** or the **crisis management firm**, in connection with the **crisis management event**.

provided, however, **crisis management loss** shall not include compensation, fees, benefits, overhead, charges or expenses of any **insured's** or any **insured's** employees.

- (i) **Crisis management services** means those services performed by a **crisis management firm** in advising the **named insured** or any of its directors, officers, partners or employees, on minimizing potential harm to the **named insured** arising from the **crisis management event**, including, without limitation, maintaining and restoring public confidence in the **named insured**.
- (j) **Contingent bodily injury/property damage** means those **claim** situations wherein the **damages** sought by the claimant are for indirect (not the direct or immediate cause) **bodily injury** or **property damage** (i) arising out of any **wrongful act** committed or allegedly committed by an **insured** in the performance of **property management services** for others for compensation; and (ii) not covered under any other policy of insurance available to any **insured** or any clients of an **insured**.

- (k) **Damages** means any amount that **you** shall be legally required to pay because of judgments, arbitration awards or the like rendered against **you**, or for settlements negotiated by **us** with **your** written consent.

Damages also means with respect to a covered judgment:

- (1) pre-judgment interest;
- (2) post-judgment interest that accrues after entry of judgment and before **we** have paid, offered to pay or deposited in court that covered part of the judgment within the applicable Limit of Liability; and
- (3) subject to this policy's other terms, conditions, exclusions and other limitations, including, but not limited to, exclusions relating to profit or advantage, fraud or criminal acts:
 - (i) punitive,
 - (ii) exemplary, and
 - (iii) multiple damages;

the enforceability of this Subparagraph 2(k)(3) shall be governed by the applicable law that most favors coverage for such punitive, exemplary and multiple damages.

The definition of **damages** is subject to the limitations set forth in Paragraph 2(t) (**loss**).

- (l) **Fair Housing Act discrimination claim** means any **claim** arising from **real estate services**: (1) performed by **you** after the **first inception date**, and (2) alleging tenant discrimination under the Fair Housing Act of 1968, 42 USCS §3601, et seq. (as amended).
- (m) **Fair Housing Act discrimination claim sublimit of liability** means the aggregate sublimit of liability applicable to **Fair Housing Act discrimination claims** set forth as such in Item 5. of the Declarations.
- (n) **First inception date** means the date set forth in Item 8. of the Declarations as the inception date of the first Real Estate Professional Liability Policy that (i) provides or provided the same or essentially the same coverage as this policy, and (ii) was issued by **us** or any other member company of Chartis Inc. ("Chartis") to the **named insured** or its predecessors and was continually renewed by **us** or any other Chartis member company through the inception date of this policy; or such other date specified in Item 8. of the Declarations as such.
- (o) **Guaranteed sale listing contract** means a written agreement between the **named insured** and the seller of real property, in which the **named insured** agrees to purchase the seller's real property at a preset price if such real property is not sold in the time frame specified by the agreement.
- (p) **Licensing proceeding claim** means any administrative or other proceeding commenced before, or brought by or on behalf of a real estate licensing board or equivalent State entity, including any investigation initiated by such board or equivalent State entity arising from **real estate services** performed by **you** after the **first inception date**.
- (q) **Licensing proceeding claim sublimit of liability** means the aggregate sublimit of liability applicable to **licensing proceeding claims** set forth as such in Item 5. of the Declarations.
- (r) **Lock box claim** means any **claim** arising out of damage to or destruction of tangible property arising from **real estate services** performed: (1) by **you** after the **first inception date**, and (2) in the distribution, maintenance, operation or use of a lock box at any property owned, occupied, leased, listed by or under the control of an **insured**.

- (s) **Lock box claim sublimit of liability** means the aggregate sublimit of liability applicable to **lock box claims** set forth as such in Item 5. of the Declarations.
- (t) **Loss** means the total sum of **damages** and **claim expenses**. **Claim expenses, damages** and **loss** shall not mean and this policy shall not cover: (1) compensation, fees, benefits, overhead, charges or expenses of any **insured** or such **insured's** employees; (2) civil or criminal fines or penalties; (3) the return or restitution of fees, expenses or costs, or other disgorgement; (4) taxes owed by any party; (5) any amounts for which an **insured** is not financially liable or which are without legal recourse against an **insured**; (6) the costs and expenses of complying with any injunctive or other form of equitable relief; (7) the monetary value of any electronic fund transfer or transaction by an **insured** or on **insured's** behalf, which is lost or diminished during transfer into, out of or between an **insured's** account(s); and (8) matters which may be deemed uninsurable under the law pursuant to which this policy shall be construed.
- Claim expenses, damages** and **loss** shall not mean **crisis management loss**.
- (u) **Management control** means: (1) owning interests representing more than fifty percent (50%) of the voting, appointment or designation power for the selection of a majority of: the Board of Directors of a corporation, the management committee members of a joint venture or partnership, or the members of the management board of a limited liability company; or (2) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of the **named insured**, to elect, appoint or designate a majority of: the Board of Directors of a corporation, the management committee of a joint venture or partnership or the management board of a limited liability company.
- (v) **Material effect** means the publication of unfavorable information regarding the **named insured** which can reasonably be considered to lessen public confidence in the competence, integrity or viability of the **named insured** to conduct its business. Such publication must occur in either:
- (1) a daily newspaper of general circulation in the geographic area of the **named insured**;
or
 - (2) a radio or television news report about a **insured** received in the geographic area of the **named insured**.
- (w) **Named insured** means the entity named as such in Item 1. of the Declarations.
- (x) **Over-redemption** means price discounts, prizes, awards or other valuable consideration given in excess of the total contracted or expected amount.
- (y) **Personal injury peril** means any:
- (1) false arrest, detention or imprisonment;
 - (2) libel or slander or other defamatory or disparaging materials; or
 - (3) wrongful entry or eviction, or other invasion of the right to private occupancy.
- (z) **Policy limit of liability** means the aggregate limit of liability set forth as such in Item 3(a) of the Declarations.
- (aa) **Policy period** means the period set forth as such in Item 2. of the Declarations and ending on the earlier of either the expiration date set forth in Item 2. of the Declarations or the effective date of cancellation of this policy. If **you** become an **insured** under this policy after the effective date, the **policy period** begins on the date **you** became an **insured**.

- (bb) **Pollutants** means any substance exhibiting hazardous characteristics as, is or may be defined or identified on any list of hazardous substances issued by the United States Environmental Protection Agency or any state, local or foreign equivalent. **Pollutants** also means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and **waste**. **Waste** includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.
- (cc) **Property damage** means (1) physical injury to, loss or destruction of, tangible property including the resulting loss of use thereof; or (2) loss of use of tangible property which has not been physically injured or destroyed. For purposes of this definition “tangible property” shall include electronic data.
- (dd) **Property improvement services** means any of the following services provided in connection with the renovation and reconstruction of commercial or **residential property**:
- (1) managing facility renovation and reconstruction plans;
 - (2) developing and managing renovation and reconstruction contracts and subcontracts; and
 - (3) developing loss control and risk management plans in connection with reconstruction or renovation.
- (ee) **Property management services** means any of the following services provided in connection with the management of commercial or **residential property**:
- (1) developing management plans and budgets;
 - (2) overseeing the physical maintenance of real property;
 - (3) tenant relation services, including the collection of rent and processing evictions;
 - (4) soliciting and negotiating contracts for the sale or leasing of real property;
 - (5) developing, implementing and managing contracts and subcontracts necessary to the daily functioning of real property; and
 - (6) record keeping.

Property management services does not include and this policy shall not cover:

- (i) **property improvement services**;
 - (ii) analyzing, evaluating or making recommendations concerning environmental hazards or exposures; or
 - (iii) obtaining, maintaining or negotiating property and liability insurance contracts.
- (ff) **Real estate agent/broker services** means any of the following services:
- (1) real estate agent, real estate broker, real estate personal assistant or leasing agent services;
 - (2) real estate consultant or expert witness services provided in connection with those services described in Subparagraphs 2(ff)(1);
 - (3) notary public services; and
 - (4) pro bono services performed as a member of a real estate accreditation, standards review or similar real estate board or committee, but only when such board or committee is listed by endorsement to this policy.

- (gg) **Real estate services** means any of the following services selected and checked in Item 4. of the Declarations and defined below, which **you** provide to others for compensation (except for the coverage provided under Subparagraph 2(ff)(4), if such coverage is elected and evidenced by endorsement to this policy):
- (1) **property management services**; or
 - (2) **real estate agent/broker services**.
- (hh) **Residential property** means a one to four family dwelling in which an **insured** or others reside.
- (ii) **Retroactive date** means the date set forth as such in Item 7. of the Declarations.
- (jj) **Sublimit of liability** means each of the respective sublimits of liability set forth in Item 5. of the Declarations as applicable to all **loss (claim expenses only for Fair Housing Act discrimination claims)** covered under the specific coverages identified thereon.
- (kk) **Subsidiary** means:
- (1) if "Blanket" has been checked in Item 1(c) of the Declarations, (a) any for-profit entity of which the **named insured** has **management control ("controlled entity")** on or before the inception of the **policy period** either directly or indirectly through one or more other **controlled entities**; and (b) any not-for-profit entity under section 501(c)(3) of the Internal Revenue Code of 1986 (as amended) sponsored exclusively by the **named insured**; or
 - (2) otherwise, the entities listed as such on an endorsement to this policy.
- (ll) **Suit** means a civil proceeding for monetary, non-monetary or injunctive relief, which is commenced by service of a complaint or similar pleading. **Suit** shall also include any binding arbitration proceeding in which **damages** are alleged and to which **you** must submit or do submit with **our** prior written consent.
- (mm) **Transaction** means the occurrence of any of the following events:
- (1) the **named insured** shall consolidate with, merge into, or sell all or substantially all of its assets to any person or entity or group of persons or entities acting in concert; or
 - (2) any person or entity or group of persons or entities acting in concert shall acquire **management control** of the **named insured**.
- (nn) **We, us, insurer or our** means the insurer named in Item 10. of the Declarations.
- (oo) **Wrongful act** means any actual or alleged negligent act, error, omission, breach of duty, misstatement or misleading statement, including any of the foregoing that results in a **personal injury peril**, committed or omitted on or after the **retroactive date** in **your** performance of **real estate services**.
- (pp) **You, your or insured** means:
- (1) the **named insured**;
 - (2) any **subsidiary** of the **named insured**, but only with respect to **wrongful acts** which occur while it is a **subsidiary** and is otherwise covered by this policy;
 - (3) any past, present or future officer, director, trustee or employee of the **named insured** or **subsidiary** thereof (and in the event the **named insured** is a partnership, limited liability partnership or limited liability company, then any general or managing partner or principal thereof), but only while acting within the scope of their duties as such;

- (4) any independent contractor, but only for **wrongful acts** committed or allegedly committed, in the performance of **real estate services** for, on behalf of, at the direction of or at the request of the **named insured**; and
- (5) any entity whom the **named insured** is required by contract to add as an **insured** under this policy, but only for the **wrongful acts** of the **named insured**;

3. EXCLUSIONS

This **EXCLUSION** section shall not be applicable to **crisis management loss** which is subject to all relevant terms and conditions of this policy, including the limitations set forth in Paragraph 2(e) above and in Clause 6., "**CRISIS MANAGEMENT PROVISIONS**," below.

With respect to the coverage afforded for **your wrongful acts** in rendering or failing to render **real estate services** for others, this policy does not cover any **claim**:

- (a) arising out of or resulting, directly or indirectly, from any (1) dishonest, fraudulent, criminal or malicious act or omission, (2) intentional or knowing violation of the law, or (3) profit, remuneration or pecuniary advantage to which an **insured** was not legally entitled; provided, however, **we** will defend a **claim** against any **insured** alleging any of the foregoing conduct until there is a judgment against, final adjudication against or adverse finding of fact against any **insured** or adverse admission by any **insured**, at which time **you** shall reimburse **us** for **claim expenses**; provided, however, **we** will not defend such **suits** if they allege any of the foregoing conduct which has been the subject of a criminal proceeding in which an **insured** has been found guilty, or pleaded *nolo contendere* or no contest;
- (b) arising out of or resulting, directly or indirectly, from any **bodily injury** (other than emotional distress or mental anguish resulting from a covered **personal injury peril**); provided, however, if **property management services** coverage has been selected and checked in Item 4. of the Declarations, this exclusion shall not preclude coverage for **contingent bodily injury**;
- (c) arising out of or resulting, directly or indirectly, from any **property damage**; provided, however:
 - (1) this exclusion shall not apply to any **lock box claim** subject to the **lock box claim sublimit of liability**; or
 - (2) if **property management services** coverage has been selected and checked in Item 4. of the Declarations, this exclusion shall not preclude coverage for **contingent property damage**;
- (d) arising out of or resulting, directly or indirectly, from any:
 - (1) purchase, sale, offer of or solicitation of an offer to purchase or sell securities, or violation of any securities law, including provisions of the Securities Act of 1933, or the Securities Exchange Act of 1934 (as amended);
 - (2) violation of the Organized Crime Control Act of 1970 (commonly known as "Racketeer Influenced And Corrupt Organizations Act" or "RICO")(as amended);
 - (3) antitrust violations, restraint of trade, deceptive trade practices or unfair competition, or violations of the Sherman Act, the Clayton Act or the Robinson-Patman Act (as amended), or of any local, state or federal consumer protection or privacy laws; or
 - (4) regulation promulgated under the foregoing laws, or any federal, state, local or foreign laws (a) similar to the foregoing laws (including "Blue Sky" laws), or (b)

regulating the same or similar conduct or services, whether such law is statutory, regulatory or common law;

- (e) for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 (ERISA), the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any federal, state, local or foreign statutory law or common law that regulates the same matters or conduct as the foregoing laws;
- (f) arising out of or resulting, directly or indirectly, from any employment practices liability or any discrimination on any basis, including, but not limited to: race, creed, color, religion, ethnic background, national origin, age, handicap, disability, gender, sexual orientation or pregnancy; provided, however, **we** will defend any **Fair Housing Act discrimination claim** subject to the **Fair Housing Act discrimination sublimit of liability**;
- (g) arising out of or resulting, directly or indirectly, from the same **wrongful act**, or series of continuous, repeated or related **wrongful acts**, or alleging the same or similar facts, alleged or contained in any **claim** which has been reported, or in any circumstances of which notice has been given, under any policy of which this policy is a renewal or replacement or which it may succeed in time, whether or not such policy affords coverage for such **wrongful acts**;
- (h) arising out of or resulting, directly or indirectly, from any **claim**, arbitration, mediation, litigation, administrative proceeding (including disciplinary and licensing), bankruptcy or regulatory proceeding or investigation, pending as of or commenced prior to the **first inception date**, or alleging or derived from the same or essentially the same facts as alleged in such pending or prior **claim**, arbitration, mediation, litigation or administrative, bankruptcy or regulatory proceeding or investigation;
- (i) arising out of or resulting, directly or indirectly, from any **wrongful act**, circumstance or event committed, omitted or occurring prior to the **first inception date** if on or before the **first inception date**, **you** knew or could have reasonably foreseen that such **wrongful act**, circumstance or event could give rise to a **claim**;
- (j) arising out of or resulting, directly or indirectly, from any infringement of any patent, copyright, trademark, trade dress, trade name, service mark or other intellectual property or misappropriation of any trade secret;
- (k) arising out of or resulting, directly or indirectly, from any use of false or deceptive advertising or misrepresentation in advertising, however, this exclusion shall not apply to negligent misrepresentation in listing or advertising of client's properties;
- (l) against **you** that is brought by or on behalf of any federal, state or local government agency or professional or trade licensing organizations; provided, however, this exclusion shall not apply:
 - (1) to any **licensing proceeding claim** subject to the **licensing proceeding claim sublimit of liability**; or
 - (2) where the **claim** is alleging a **wrongful act** in **your** rendering **real estate services** to such entity;
- (m) arising out of or resulting, directly or indirectly, from any **wrongful act** occurring, committed or omitted prior to the **retroactive date**;

- (n) against **you** that is brought by or on behalf of:
 - (1) any **insured** except as described in Subparagraph 2(pp)(5);
 - (2) any business entity that is owned, managed or operated, directly or indirectly, in whole or in part, by **you**;
 - (3) any parent company, **subsidiary**, successor or assignee of **yours**, or anyone affiliated with **you** or such business entity through common majority ownership or control; or
 - (4) any independent contractor supplying material or services to **you**;

provided, however, if **property management services** coverage has been selected and checked in Item 4. of the Declarations, Subparagraphs 3(n)(2) and 3(n)(3) of this exclusion shall not apply to any **claim** arising out of **your property management services** which is brought or maintained by an entity:

- (i) in which **you** have an ownership interest of twenty-five percent (25%) or less; or
 - (ii) which is owned by **you** if such ownership interest is twenty-six percent (26%) or more but is equal to or less than ninety-nine percent (99%), provided that **our** liability for any **loss** for such **claim**, in excess of the Retention, shall not exceed a percentage equal in proportion to the amount of ownership interest in such entity not owned by **you** and **you** shall be responsible for the remaining percentage of such **loss**;
- (o) arising out of or resulting, directly or indirectly, from any **insured's** fees, including, without limitation, any disputes involving the collection of **your** fees from third parties;
- (p) arising out of or resulting, directly or indirectly, from **over-redemption** of coupons, awards, or prizes from advertisements, promotions, games, sweepstakes, contests, and games of chance;
- (q) arising out of or resulting, directly or indirectly, from **your** advising, requiring, obtaining or failing to advise, require or obtain any bond, suretyship or other form of insurance;
- (r) arising out of or resulting, directly or indirectly, from liability **you** assume under any contract or agreement, including but not limited to, any contract price, cost guarantee or cost estimate being exceeded; provided, however, this exclusion does not apply to liability **you** would have in the absence of such contract or agreement;
- (s) arising out of or resulting, directly or indirectly, from the performance of or failure to perform services as an accountant, attorney, insurance agent, insurance broker, mortgage banker, mortgage broker, property developer, architect, engineer, builder or construction manager;
- (t) arising out of or resulting, directly or indirectly, from:
 - (1) the exercise of any authority or discretionary control by an **insured** with respect to any client's funds or accounts;
 - (2) an **insured** providing investment advice, or selecting an investment manager, investment advisory or custodial firm;
 - (3) an **insured** advising as to, warranting, promising or guaranteeing a future value of any investment or property, or any rate of return or interest;
 - (4) any failure of any investment to perform as expected or desired;

- (5) any actual or alleged commingling, misappropriation or improper use of funds or monies; or
- (6) any flood zone verification;
- (u) arising out of or resulting, directly or indirectly, from the formulation, promotion, syndication, offer, sale or management of any limited partnership, general partnership, real estate investment trust or other security, including any interest therein;
- (v) arising out of or resulting, directly or indirectly, from any **insured** notarizing, certifying or acknowledging any signature not signed before such **insured** at the time of such notarization, certification or acknowledgment;
- (w) arising out of or resulting, directly or indirectly, from the purchase of property by, or the sale, leasing, appraisal, or property management of property developed, constructed or owned by:
 - (1) any **insured**;
 - (2) any entity in which any **insured** has or had a financial interest or a contemplated financial interest;
 - (3) any entity which has or had a financial interest or a contemplated financial interest in the **named insured** or any **subsidiary** thereof; or
 - (4) any entity which is or was under the same financial control as the **named insured**;provided, however, if **real estate agent/broker services** coverage has been selected and checked in Item 4. of the Declarations, this exclusion will not apply to any **claim** arising out of or resulting, directly or indirectly, from:
 - (i) the sale or leasing of real property in which the combined ownership interest of all **insured's** hereunder was, at the time of sale or lease, less than fifteen percent (15%);
 - (ii) the sale of **residential property** by an **insured** who is the owner of such **residential property** for more than three hundred and sixty-five (365) days and all of the following conditions are met in connection with such sale:
 - (a) a seller disclosure form was signed by the **insured** and acknowledged in writing by the buyer prior to closing;
 - (b) a written home inspection report is issued by a third party home inspector accredited by a recognized state or regional home inspection association and who maintains an errors and omissions policy with a minimum per claim limit of liability of \$1,000,000;
 - (c) a zone disclosure report which identifies flood hazard designation, earthquake hazard zones, (including but not limited to liquefaction, landslide and flood inundation), environmental hazards, fire hazards and fire responsibility areas, and Mello-Roos Facilities Districts (in California) must be issued by an accredited property disclosure company who maintains an errors and omissions policy with a minimum per claim limit of liability of \$1,000,000;
 - (d) the current state or local board approved standard sales contract was utilized; and
 - (e) a state approved home warranty policy was purchased by the buyer prior to closing;

- (iii) the sale of an **insured's residential property** by an **insured** who is not the owner of such **residential property** provided that the **residential property** owner was not the selling, listing or closing agent; or
- (iv) the sale of real property one hundred percent (100%) owned by the **named insured** at the time of sale if all of the following conditions are met:
 - (a) the property was acquired by the **named insured** under a **guaranteed sale listing contract**; and
 - (b) from the date of acquisition to the date of resale:
 - (1) the title to the property was held by the **named insured** for less than twelve (12) months; and
 - (2) the property was continually offered for sale by the **named insured**;
- (x) arising out of or resulting, directly or indirectly, from any warranty, representation or guarantee; or liquidated damages; or any failure to provide goods or products, or perform services within a specified time period, by a deadline or according to specified milestones; or the collection of or seeking the return of unearned fees or royalties or other compensation paid to an **insured**; or any violation of any **insured's privacy policy**; or any cost or profit guarantees, cost representations, contract price, or estimates of probable costs or cost estimates being exceeded;
- (y) arising out of or resulting, directly or indirectly, from any tax advice, including, but not limited to, any implications resulting from failure to comply with any United States of America tax laws or regulations; provided, however, **we** will defend any **claim** arising out of or resulting, directly or indirectly, from any like-kind exchange made in accordance with §1031 of the Internal Revenue Code of 1986 (as amended) except where such **claim** involves the **insured's** own property or tax liability; or
- (z) arising out of or resulting, directly or indirectly, from the presence of or the actual, alleged or threatened discharge, dispersal, release or escape of **pollutants**, or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **pollutants**, or in any way respond to or assess the effects of **pollutants**.

4. LIMIT OF LIABILITY (FOR ALL LOSS-INCLUDING CLAIM EXPENSES)

- (a) The **policy limit of liability** set forth in the Declarations is the most **we** will pay as **loss** (other than a **crisis management loss**) under this policy regardless of the number of persons, occurrences, **claims** or entities covered by this policy, or claimants or **claims** brought against any **insured**.
- (b) **Our** total liability for all **loss** arising from each **claim** (other than a **licensing proceeding claim, lock box claim, Fair Housing Act discrimination claim** or **crisis management event**) made against an **insured** and reported to **us** during the **policy period** or any applicable **extended reporting period**, alleging a **wrongful act** or series of continuous, repeated or related **wrongful acts** shall not exceed the per **claim** Limit of Liability set forth in Item 3(b) of the Declarations. The per **claim** Limit of Liability is part of, not in addition to, the **policy limit of liability**.
- (c) **Our** total liability for all **loss** arising from any and all **licensing proceeding claims** made against an **insured** and reported to **us** during the **policy period** or any applicable **extended reporting period**, alleging a **wrongful act**, or series of continuous, repeated or related **wrongful acts**, shall not exceed the **licensing proceeding claim sublimit of liability**. The

- (d) **Our total liability for all loss arising from each licensing proceeding claim made against an insured and reported to us during the policy period or any applicable extended reporting period, alleging a wrongful act or series of continuous, repeated or related wrongful acts shall not exceed the per licensing proceeding claim Limit of Liability set forth in Item 5. of the Declarations. The per licensing proceeding claim Limit of Liability is part of, not in addition to, the policy limit of liability and the licensing proceeding claim sublimit of liability.**
- (e) **Our total liability for all loss arising from any and all lock box claims made against an insured and reported to us during the policy period or any applicable extended reporting period, alleging a wrongful act, or series of continuous, repeated or related wrongful acts, shall not exceed the lock box claim sublimit of liability. The lock box claim sublimit of liability is part of and not in addition to the policy limit of liability.**
- (f) **Our total liability for all loss arising from each lock box claim made against an insured and reported to us during the policy period or any applicable extended reporting period, alleging a wrongful act or series of continuous, repeated or related wrongful acts shall not exceed the per lock box claim Limit of Liability set forth in Item 5. of the Declarations. The per lock box claim Limit of Liability is part of, not in addition to, the policy limit of liability and the lock box claim sublimit of liability.**
- (g) **Our total liability for all claim expenses arising from any and all Fair Housing Act discrimination claims made against an insured and reported to us during the policy period or any applicable extended reporting period, alleging a wrongful act, or series of continuous, repeated or related wrongful acts, shall not exceed the Fair Housing Act discrimination claim sublimit of liability. The Fair Housing Act discrimination claim sublimit of liability is part of and not in addition to the policy limit of liability.**
- (h) **Our total liability for all claim expenses arising from each Fair Housing Act discrimination claim made against an insured and reported to us during the policy period or any applicable extended reporting period, alleging a wrongful act or series of continuous, repeated or related wrongful acts shall not exceed the per Fair Housing Act discrimination claim Limit of Liability set forth in Item 5. of the Declarations. The per Fair Housing Act discrimination claim Limit of Liability is part of, not in addition to, the policy limit of liability and the Fair Housing Act discrimination claim sublimit of liability.**
- (i) **If two or more coverages apply to loss and the amount of the sublimits of liability differ, the most we will pay for loss covered by any coverage is the sublimit of liability applicable to that coverage. In any event, the highest applicable sublimit of liability shall be our maximum limit of liability for all loss from such claim.**
- (j) **Our total liability for all crisis management loss arising from any and all crisis management event occurring during the policy period, in the aggregate, shall be the crisis management fund. This limit shall be our maximum liability under this policy regardless of the number of crisis management events reported during the policy period. The crisis management fund shall be in addition to the policy limit of liability.**
- (k) **The policy limit of liability and sublimits of liability for any extended reporting period shall be part of and not in addition to the policy limit of liability and respective sublimits of liability for the policy period.**
- (l) **Each and every claim made subsequent to the policy period or an applicable extended reporting period, that pursuant to Subparagraph 10(b)(1) is considered made during the**

policy period or an extended reporting period, shall also be subject to the same policy limit of liability and respective sublimits of liability afforded to claims made and reported during the policy period.

(m) **Loss** arising out of the same **wrongful act**, or a series of continuous, repeated or related **wrongful acts**, shall be deemed to arise from the first such **wrongful act**.

(n) **Multiple Policies**

Two or more policies may be issued by **us** and/or any other Chartis member companies to **you**. These policies may provide coverage for:

(1) **claims** arising from the same **wrongful acts**, events or circumstances, or series of continuous, repeated or related **wrongful acts**, events or circumstances; or

(2) **claims** for which persons or organizations covered under those policies are jointly and severally liable.

In such case, **we** will not be liable under this policy for an amount greater than the proportion of the **loss** that this policy's applicable limit(s) of coverage bears to the total applicable limits of liability under all such policies. In addition, the total amount payable under all such policies combined shall not be greater than the highest applicable limit of liability among all such policies.

5. FAIR HOUSING ACT LITIGATION COVERAGE

We will not pay and this policy shall not cover any **damages** arising out of any **Fair Housing Act discrimination claim**.

6. CRISIS MANAGEMENT COVERAGE PROVISIONS

(a) There shall be no Retention applicable to **crisis management loss** and **we** shall pay such **crisis management losses** from the first dollar subject to the other terms and conditions of this policy.

(b) An actual or anticipated **crisis management event** shall be reported to **us** as soon as practicable but in no event later than thirty (30) days after the **named insured** first incurs **crisis management loss** for which coverage will be requested under this policy.

(c) There shall be no requirement for the **named insured** to obtain **our** prior written approval before incurring any **crisis management loss**, provided that the **crisis management firm** selected by the **named insured** to perform the **crisis management services** has been approved by **us**.

7. RETENTION

For each **claim** (other than a **Fair Housing Act discrimination claim**, **licensing proceeding claim** or a **lock box claim**) the **insurer** shall only be liable for the amount of **loss** arising from such **claim** that exceeds the Retention amount set forth in Item 6. of the Declarations. For each **Fair Housing Act discrimination claim**, **licensing proceeding claim** or **lock box claim**, the **insurer** shall only be liable for the amount of **loss** (**claim expenses** only with respect to **Fair Housing Act discrimination claims**) arising from such **claim** that exceeds the Retention amount applicable to such **claim** as set forth in Item 5. of the Declarations, respectively. Such Retention amounts must be borne by the **insureds** and remain uninsured with regard to all **loss**. In the event a **claim** triggers more than one Retention amount, then, as to that **claim**, the highest of such Retention amounts shall be deemed the Retention amount applicable to **loss** arising from such **claim**. A single Retention amount shall apply to **loss** arising from all **claims** alleging the same **wrongful acts**, or series of continuous, repeated or related **wrongful acts**. In **our** sole and

absolute discretion, **we** may advance all or part of the applicable Retention amount in which case **you** agree to repay **us** immediately after **we** notify **you** of that payment.

If **you** shall, at **our** written request, submit a **claim** to alternative dispute resolution in accordance with the rules of the American Arbitration Association or the Defense Research Institute, and such **claim** is settled through this process, the Retention obligation shall be deemed to be fifty percent (50%) of the applicable Retention amount stated in Item 6. of the Declarations.

8. LICENSE REQUIREMENT

As a condition precedent to coverage for **your real estate services**, **you** must obtain and/or maintain all licenses required by the State in which **you** are conducting **your real estate services**. This policy shall not apply to any **claim** arising out of an **insured's wrongful act** if such **insured** did not maintain the proper State license to perform the **real estate service** from which the **claim** arises.

9. SPOUSAL AND LEGAL REPRESENTATIVE EXTENSION

If a **claim** against a natural person **insured** includes a **claim** against: (a) the lawful spouse of such **insured**; or (b) a property interest of such spouse, this policy shall cover **loss** arising from the **claim** made against that spouse or the property of that spouse to the extent that such **loss** does not arise from a **claim** for any actual or alleged act, error or omission of such spouse. This policy shall cover **loss** arising from a **claim** made against the estates, heirs, or legal representatives of a deceased **insured**, and the legal representatives of an **insured**, in the event of their incompetency, insolvency or bankruptcy.

10. NOTICE AND AUTHORITY

- (a) With respect to claims or circumstances, notice and all other information and documentation required to be provided under this policy shall be directed to **us**, c/o Chartis, Financial Lines Claims, P.O. Box 25947, Shawnee Mission, KS 66225. To be effective, such notice must reference this policy. If mailed, the date of mailing shall constitute the date that such notice or information was given and proof of mailing shall be sufficient proof of notice.
- (b) For any and all coverage under this policy (other than coverage for a **crisis management event**):
 - (1) before coverage will apply, notice in writing of a **claim** or a **crisis** made against an **insured** must be given to **us** as soon as practicable;
 - (2) if notice pursuant to Subparagraph 10(b)(1) above has been given to **us**, then any **claim** which is subsequently made against an **insured** and reported to **us** alleging, arising out of, based upon or attributable to the facts alleged in the **claim** for which such notice has been given, or alleging any **wrongful act** which is the same as or related to any **wrongful act** alleged in the **claim** of which such notice has been given, shall be considered related to the first **claim** and made at the time such notice was given; and
 - (3) if during the **policy period** or during an applicable **extended reporting period** any **insured** shall become aware of any circumstances which may reasonably be expected to give rise to a **claim** being made against **you** for a **wrongful act** that occurs prior to the end of the **policy period**, and, during the **policy period** or any applicable **extended reporting period** written notice is given to **us** of (i) such circumstances, (ii) the **wrongful act** allegations that are anticipated, and (iii) the reasons for anticipating

such a **claim**, with full particulars as to dates, persons and entities involved, then any **claim** that is subsequently made against **you** arising out of such **wrongful act**, or the same **wrongful act** or series of continuous, repeated or related **wrongful acts**, shall be treated as a **claim** made against **you** and reported to **us** at the time such notice of such circumstances was given.

11. WHAT YOU MUST DO IN THE EVENT OF A CLAIM

- (a) In addition to providing notice as required in this policy, each and every **insured** must also:
- (1) send **us** copies of all demands, suit papers, other legal documents and invoices for **claim expenses** received by such **insured**, as soon as practicable;
 - (2) immediately record the specifics of any **claim** and the date such **insured** first received such **claim**;
 - (3) upon **our** request, furnish to **us** any and all documentation within **your** possession; and
 - (4) give to **us**, and to any counsel **we** select to represent an **insured** in connection with a **claim**, full cooperation and such information as **we** or the counsel may require, including, without limitation, assisting **us** or the counsel in: (i) any investigation of a **claim**, or other matter relating to the coverage afforded under this policy (including submission to an examination by **us** or **our** designee, under oath if required by **us**); (ii) making settlements; (iii) enforcing any legal rights any **insured** or **we** may have against any person or entity who may be liable to **you**; (iv) attending depositions, hearings and trials; (v) securing and giving evidence, and obtaining the attendance of witnesses; and (vi) any inspection or survey conducted by **us**.
- We** will pay up to two hundred and fifty (250) dollars for loss of earnings to each **insured** for each day or part of a day such **insured** is in attendance pursuant to this Subparagraph 11(a)(4) at a trial, hearing or arbitration proceeding involving a **claim** against such **insured**, subject to a ten thousand (10,000) dollar sublimit of liability (herein the "**appearance sublimit of liability**"). The **appearance sublimit of liability** shall be part of, not in addition to, the **policy limit of liability** and shall no way serve to increase the **policy limit of liability**.
- (b) No **insured** shall admit any liability, settle any **claim**, assume any financial obligation or pay any money in connection with any **claim** without **our** prior written consent. If any **insured** does, it will be at their own expense and such amounts shall not be applied to the applicable Retention. The foregoing sentences of this Subparagraph 11(b) shall not apply to a settlement pursuant to Coverage C(d) of this policy so long as such **insured** provides **us** written notice of such settlement as soon as practicable, but in no case later than thirty (30) days after such settlement is reached in principle.
- (c) **We** shall have the right to associate fully and effectively with each and every **insured** in the defense of any **claim** or any matter that involves, or appears reasonably likely to involve, the **insurer**, including, but not limited to, negotiating a settlement.
- (d) In all events, no **insured** shall take any action, or fail to take any required action, which prejudices **our** rights. **You** shall take such actions which are deemed necessary and practicable to prevent or limit **loss** arising from **your wrongful acts**.

12. EXTENDED REPORTING PERIOD

- (a) *Automatic Extended Reporting Period:* If the **named insured** or **we** shall refuse to renew this policy, the **named insured** shall have the right following the effective date of such nonrenewal to a period of sixty (60) days (the “**automatic extended reporting period**”) in which to give written notice to **us** of **claims** first made against an **insured** during the **automatic extended reporting period** for any **wrongful act** committed prior to the end of the **policy period** and otherwise covered by this policy. The **automatic extended reporting period** shall not apply where an **extended reporting period** has been purchased or to **claims** that are covered under any subsequent insurance an **insured** purchases or that is purchased for their benefit, or that would be covered, but for the exhaustion of the amount of insurance applicable to such **claims** or that is within any applicable Retention amount.
- (b) *Optional Extended Reporting Period:* Except as indicated below, if the **named insured** shall cancel or **we** or the **named insured** refuse to renew this policy, the **named insured** shall have the right, upon payment of an additional premium amount of up to one hundred percent (100%) of the full annual premium, to a period of up to one (1) year following the effective date of such cancellation or nonrenewal (herein referred to as the “**extended reporting period**”) in which to give to **us** written notice pursuant to Subparagraph 10(b)(1) of the policy of **claims** first made against an **you** during said **extended reporting period** and solely with respect to a **wrongful act** committed prior to the end of the **policy period** and otherwise covered by this policy. If the **named insured** exercises its right to purchase an **extended reporting period**, that period incept at the end of the **policy period** and there shall be no **automatic extended reporting period**.

As used herein, “full annual premium” means the premium level in effect immediately prior to the end of the **policy period**.

- (c) *Transaction Triggered Extended Reporting Period:* In the event of a **transaction**, the **named insured** shall have the right to request an offer from **us** of an **extended reporting period** (solely with respect to pre-**transaction wrongful acts**). Upon **our** receipt of such a request, **we** shall offer such **extended reporting period** pursuant to such terms, conditions, exclusions and additional premium as **we** may decide in **our** sole and absolute discretion. In the event of a **transaction**, the right to an **extended reporting period** shall not otherwise exist except as provided in this paragraph.
- (d) *Common Extended Reporting Period Terms:* An **extended reporting period** is not cancelable and the additional premium charged shall be fully earned at inception. This Clause 12. shall not apply to any cancellation resulting from non-payment of premium. The rights contained in this Clause 12. shall terminate unless written notice of election of an **extended reporting period** together with any additional premium due is received by **us** no later than thirty (30) days subsequent to the effective date of the nonrenewal or **transaction**.

13. ORGANIZATIONAL CHANGES

- (a) *Transactions:* If there is a **transaction** during the **policy period**, this policy shall continue in full force and effect as to **wrongful acts** committed prior to the effective time of the **transaction**, but there shall be no coverage afforded by any provision of this policy for any actual or alleged **wrongful act** after the effective time of the **transaction**, unless (i) within thirty (30) days of such **transaction**, **we** have been provided with full particulars of the **transaction**, the related entities and any other information requested by **us**, and (ii)

the **named insured** or its successor, has agreed to any additional premium and amendments to this policy required by **us**.

Coverage for post-**transaction wrongful acts** is conditioned upon the **named insured** or its successor paying when due any additional premium required by **us**. This policy may not be canceled after the effective time of a **transaction** and the entire premium for this policy shall be deemed earned as of such time.

(b) **Subsidiary Additions:** If "Blanket" has been checked in Item 1(c) of the Declarations, **subsidiary** also includes any for-profit entity of which the **named insured** first had **management control** during the **policy period**, whether directly or indirectly through one or more other **subsidiaries**, and:

(1) whose revenues from services that, if provided by **you**, would have fallen within the meaning of "**real estate services**" as such term is used in this policy (the "**similar services**"), do not exceed five percent (5%) of the aggregate revenues of the **named insured** (as of the inception date of this policy) from such services; or

(2) whose revenues from **similar services** exceed five percent (5%) or more of the aggregate revenues of the **named insured** (as of the inception date of this policy) from the same services, but such entity shall be a "**subsidiary**" only once the **named insured** shall have provided **us** with full particulars of the new **subsidiary** and agreed to any additional premium and amendments to this policy required by **us** relating to such **subsidiary**. Further, coverage as shall be afforded to any **subsidiary** is conditioned upon the **named insured** paying when due any additional premium required by **us** relating to such **subsidiary**.

(c) **Other Organizational Changes:** In all events, coverage as is afforded under this policy with respect to a **claim** made against any **subsidiary** shall only apply for **wrongful acts** committed or allegedly committed after the effective time the **named insured** obtained **management control** of such **subsidiary**, and prior to the effective time that the **named insured** no longer has **management control** over such **subsidiary**.

14. WHERE COVERAGE APPLIES

We cover **wrongful acts** that occur anywhere in the world, provided that any **claim** must be brought against **you** in the United States of America, its territories or possessions or Canada, except **we** shall not cover such **wrongful acts** that occur in countries against which the Office of Foreign Assets Control of the United States Department of the Treasury administers or enforces economic or trade sanctions, or if otherwise prohibited by law.

All premiums, Limits of Liability, Retentions, **loss** and other amounts under this policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or other elements of **loss** are stated or incurred in a currency other than United States of America Dollars, payment of covered **loss** due under this policy (subject to the terms, conditions and limitations of this policy) will be made either in such other currency (at **our** option and if agreeable to the **named insured**) or, in United States of America Dollars, at the rate of exchange published in The Wall Street Journal on the date **our** obligation to pay such **loss** is established (or if not published on such date, the next publication date of The Wall Street Journal).

15. ACTIONS AGAINST US

(a) No one can sue **us** to recover under this policy unless there has been full compliance with all the terms of this policy.

- (b) A person or organization may sue **us** to recover up to the applicable **policy limit of liability** or any applicable **sublimit of liability** under this policy only after liability of the **insured** has been decided by:
- (1) an arbitration award as a result of arbitration;
 - (2) a trial or appeal, after which a final judgment has been entered; or
 - (3) a written agreement signed by the **insured**, **us** and the party making the **claim**.
- (c) Any person, organization or legal representative thereof who has secured such award, judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join **us** as a party to any **claim** against an **insured** nor shall **we** be impleaded by the **named insured** or any **insured**, their spouse, or any legal representative of the foregoing.

16. SUBROGATION AND ALLOCATION

- (a) To the extent **we** pay any **loss**, **we** shall be subrogated to any **insured's** rights of recovery therefore. **You** shall execute all papers necessary to secure such rights, including executing any documents necessary to enable **us** to effectively bring suit in the name of the **insured**, and shall take no action which impairs **our** rights of subrogation or recovery.
- (b) If a **claim** or **loss** from a **claim** is in part insured and in part either uninsured under this policy or in an amount in excess of the **policy limit of liability**, the **insured** and **we** shall attempt to agree upon an equitable allocation of any recoveries made, whether before or after payment of the **loss** by **us**, from any person or source responsible for causing the **loss**. Reasonable expenses incurred in making a recovery shall always have priority of payment from all such recoveries.
- (c) In no event shall any **insured** be entitled to recoup from recoveries an amount to satisfy any Retention until after all amounts which the **insurer** is required to pay or has paid are reimbursed to the **insurer**.

17. OTHER INSURANCE

Such insurance as is provided by this policy shall apply only as excess over any other valid and collectible insurance available to any **insured** unless such other insurance is written only as specific excess insurance over the **policy limit of liability** provided by this policy.

18. CANCELLATION

- (a) **By named insured:** This policy may be canceled by the **named insured** at any time only by mailing written prior notice to **us** or by surrender of this policy to **our** authorized agent or **us**.
- (b) **By us:** This policy may be canceled by **our** delivering to the **named insured** by registered, certified, other first class mail or other reasonable delivery method, at the address of the **named insured** set forth in the Declarations, written notice stating when, not less than thirty (30) days thereafter (ten (10) days in the event of cancellation for non-payment of premium), the cancellation shall be effective. Proof of mailing or delivery of such notice as aforesaid shall be sufficient proof of notice and this policy shall be deemed canceled at the date and hour specified in such notice. If the period of limitation relating to the giving of notice for cancellation by **us**, as set forth above, is also set forth in any controlling law, the period set forth above shall be deemed to be amended so as to be

equal to the minimum period of limitation set forth in such controlling law if it is a longer period.

- (c) *Return of Premium:* **We** shall have the right to the premium amount for the portion of the **policy period** during which the policy was in effect. If this policy shall be canceled by the **named insured**, **we** shall retain the customary short rate proportion of the premium herein.

19. ASSIGNMENT

This policy and any and all rights hereunder are not assignable without **our** prior written consent.

20. ALTERNATIVE DISPUTE RESOLUTION PROCESS

It is hereby understood and agreed that all disputes or differences which may arise under or in connection with this policy, whether arising before or after termination of this policy, including any determination of the amount of **loss**, may be submitted to the non-binding mediation process as set forth in this clause.

Either the **named insured** or **we** may elect a non-binding mediation administered by any mediation facility to which **we** and the **named insured** mutually agree, in which all implicated **insureds** and **we** shall try in good faith to settle the dispute by mediation in accordance with the then-prevailing Commercial Mediation Rules. The mediator shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. The mediator shall also give due consideration to the general principles of the law of the state where the **named insured** is incorporated in the construction or interpretation of the provisions of this policy. Either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until at least one hundred and twenty (120) days after the date the mediation shall be deemed concluded or terminated. Each party shall share equally the expenses of the non-binding mediation.

The non-binding mediation may be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; or in the state indicated in Item 1(a) of the Declarations as the mailing address for the **named insured**. The **named insured** shall act on behalf of each and every **insured** in connection with any non-binding mediation under this clause.

21. BANKRUPTCY

You or **your** estate's bankruptcy or insolvency does not relieve **us** of **our** obligations under this policy.

22. APPLICATION

All the statements and representations in the **application** are deemed to be material to the risk assumed by the **insurer**, form the basis of this policy and are incorporated into and have become a part of this policy.

23. POLICY CHANGES

This policy contains all the agreements concerning this insurance. This policy can only be changed by a written endorsement **we** issue and make a part of this policy.

24. DISCLAIMERS OF WARRANTY AND LIMITATIONS OF LIABILITY

We do not insure, guarantee or warrant any inspection, survey, report or recommendation required under Subparagraphs 3(w)(ii)(a) through 3(w)(ii)(e), above. **We** do not insure, guarantee

or warrant the activities of any inspector or other assessor who makes such inspections, surveys, reports or recommendations for the purpose of complying with Subparagraphs 3(w)(ii)(a) through 3(w)(ii)(e), above. **We** disclaim any warranty or representation (either express or implied) that any inspection, survey, report or recommendation will identify any or all potential risks, vulnerabilities, defects or problems with regard to the subject **residential property**. **We** do not warrant conditions or warrant that conditions comply with laws, regulations, codes or standards.

25. SPECIAL RIGHTS AND DUTIES OF NAMED INSURED

The **insureds** agree that the **named insured** first listed in Item 1. of the Declarations may act on behalf of all **insured** as to:

- (a) consenting or refusing to consent to any settlement;
- (b) the exercising or declining of any right to an **extended reporting period**;
- (c) the resolution of any dispute in connection with coverage afforded by this policy;
- (d) payment of premiums and receipt of return premiums, if any; and
- (e) acceptance of any endorsements or other changes to this policy.

26. HEADINGS

The descriptions in the headings of this policy and any subsequent endorsements are solely for convenience, and form no part of the terms and conditions of coverage.

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