

<Product Name>
EMPLOYMENT PRACTICES LIABILITY CLAUSE

I. INSURING CLAUSES

- A. The Underwriters shall pay on behalf of the **Insureds** all **Loss** resulting from any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the **Policy Period** or **Optional Reporting Period**, if applicable, for a **Wrongful Act**.
- B. The Underwriters shall pay on behalf of the **Insured Persons** all **Loss** resulting from any **Claim** first made against the **Insured Persons** and reported in writing to the Underwriters during the **Policy Period** or **Optional Reporting Period**, if applicable, for a **Wrongful Act** committed while serving in an **Outside Executive Position**.

The coverage, including any defense obligation, afforded by this Insuring Clause shall be specifically excess of any indemnification and insurance available to such **Insured Persons** from the **Outside Entity** and any insurer of the **Outside Entity**.

- C. If indicated in Item 3. of the Declarations, Underwriters shall pay on behalf of the **Insureds** all **Loss** resulting from any **Claim** first made against any of the **Insureds** and reported in writing to the Underwriters during the **Policy Period** or **Optional Reporting Period**, if applicable, for a **Third Party Wrongful Act**.

If a sublimit applicable to **Third Party Wrongful Acts** is indicated in Item 4. of the Declarations, then such amount shall be part of and not in addition to the aggregate limit of liability applicable to the Employment Practices Liability Clause.

- D. The Underwriters shall pay **Employment Event Loss** incurred by the **Insured Organization** solely with respect to an **Employment Event** first occurring during the **Policy Period** or **Optional Reporting Period**, if purchased, and reported in writing to the Underwriters as soon as practicable but in no event later than sixty (60) days after the expiration of the **Policy Period** or the last day of the **Optional Reporting Period**, if purchased, from first dollar, provided that the payment of **Employment Event Loss** shall not waive the Underwriters' rights under this **Policy** or at law. Coverage under this Clause I. shall apply regardless of whether a **Claim** is ever made against an **Insured** arising from such **Employment Event** and, in the case where a **Claim** is made, regardless of whether the **Employment Event Loss** is incurred prior to or subsequent to the making of the **Claim**.

If a sublimit applicable to **Employment Event Loss** is indicated in Item 4. of the Declarations, then such amount shall be part of and not in addition to the aggregate limit of liability applicable to the Employment Practices Liability Clause.

II. DEFINITIONS

- A. "**Breach Notice Law**" means any state, federal or foreign statute or regulation that requires notice to persons whose **Personally Identifiable Non-Public Information** was accessed or may reasonably have been accessed by an unauthorized person.
- B. "**Claim**" means:

1. a written demand or request for monetary damages or non-monetary relief against any of the **Insureds**, or a written request to toll or waive a statute of limitations;
2. a civil, criminal, administrative, investigative or regulatory proceeding initiated against any of the **Insureds**, including any proceeding before the Equal Employment Opportunity Commission or any similar federal, state or local governmental body, commenced by:
 - a. the service of a complaint or similar pleading;
 - b. the filing of a notice of charges, investigative order or similar document;
 - c. written notice or subpoena from an investigatory authority identifying such **Insured** as an entity or person against whom formal proceeding may be commenced;
3. in the context of an audit conducted by the Office of Federal Contract Compliance Programs, a Notice of Violation or Order to Show Cause against any **Insured**; or
4. an arbitration or mediation or other alternative dispute resolution against any **Insured** proceeding if the **Insured Organization** is obligated to participate in such proceeding or if the **Insured Organization** agrees to participate in such proceeding with the Underwriters' prior written consent, such consent not to be unreasonably withheld.

However, **Claim** does not include any labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement.

- C. **"Defense Costs"** means reasonable and necessary legal fees and expenses (at rates which are actually paid by the Underwriters to attorneys retained in the ordinary course of business in the defense of similar actions in the community where the claim arose or is being defended), to which the Underwriters consent in advance and which are incurred by or on behalf of the **Insureds** solely in defending, settling, appealing or investigating any **Claim** and the cost of appeal, supersedes, injunction, attachment or similar bonds resulting from a covered judgment (provided, however, the Underwriters shall have no obligation to apply for, secure, collateralize, or furnish any bond for appeal, supersedes, injunction, attachment or any similar purpose), but shall not include salaries, regular or overtime wages, fees or benefit expenses associated with **Insured Persons** or the **Insured Organization's** overhead expenses; consent by Underwriters for **Defense Costs** shall not be unreasonably withheld.
- D. **"Discrimination"** means any actual or alleged termination of the employment relationship, demotion, failure or refusal to hire or promote, denial of an employment benefit or the taking of any adverse or differential employment action because of race, color, religion, age, sex, disability, pregnancy, sexual orientation, national origin, military status in violation of the Uniformed Services Employment Reemployment Rights Act or any other basis which is or is alleged to be prohibited by federal, state or local law.

- E. “**Employee**” means all persons whose labor or service is currently or has formerly been engaged by and directed by the **Insured Organization**, but only while that person is acting in such capacity, including members or managers, applicants for employment, employees, volunteers, interns, part time, seasonal, leased and temporary employees as well as any individual employed in a supervisory or managerial position and **Independent Contractors**, but does not include employees who are leased to another employer.
- F. “**Employment Advisor**” means any public relations firm, security firm or mental health professional selected by the **Insured** with the Underwriters’ consent, such consent not to be unreasonably withheld.
- G. “**Employment Event**” means any of the following events, which shall be deemed to commence (i) when an **Executive Officer** first believes in good faith that it is more likely than not that such event will occur within the next sixty (60) days, or (ii) with respect to 5. below, when the event occurs, whichever is earlier:
1. layoff/termination of 20% or greater of the **Insured Organization’s** workforce;
 2. acquisition of an organization which necessitates a material change in employment status or terms of employment of 20% or greater of the **Insured Organization** workforce;
 3. the public announcement of allegations of discrimination or harassment implicating an **Executive Officer**; or a **Claim** alleging a **Third Party Wrongful Act**;
 4. receipt by the **Insured Organization** of notice that a civil rights organization, public interest group or similar organization is investigating the **Insured Organization** for violations of state or federal employment laws or is distributing literature which accuses the **Insured Organization** of violations of state or federal employment laws; or
 5. a workplace disaster resulting in loss of life or the imminent threat of or actual use of a lethal weapon which occurs on the **Insured Organization’s** premises, including, but not limited to, flood, fire, or workplace violence.
- An **Employment Event** shall conclude ninety (90) days after it first commences or when the **Employment Event** Sublimit has been exhausted.
- H. “**Employment Event Loss**” means reasonable fees and expenses charged by an **Employment Advisor** in connection with:
1. advising the **Insured Organization** with respect to minimizing potential loss or liability on account of an **Employment Event**;
 2. Retaining an independent security consultant or for independent security guard services with respect to an **Employment Event** described in Definition G.1., 2. or 5;

3. managing or administering disclosures to clients, customers, suppliers, investors or the public regarding an **Employment Event**; or
4. providing counseling to any **Employee** on account of an **Employment Event**;

except that **Employment Event Loss** shall not include salaries, regular or overtime wages, fees or benefit expenses associated with **Employees** or the **Insured Organization's** overhead expenses.

- I. **"Executive Officer"** means the chief executive officer, chief operating officer, president, **Manager**, chief financial officer, in-house general counsel, risk manager, human resources staff, or an individual acting in a similar capacity with the **Insured Organization**.
- J. **"Harassment"** means actual or alleged unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct, including bullying, of a sexual or non-sexual nature, where such harassment is based on an **employee's** race, color, religion, age, sex, disability, pregnancy, sexual orientation, national origin, or any other basis protected by federal, state or local law and is explicitly or implicitly made a condition of employment, used as a basis for employment decisions or performance, or creates a hostile, intimidating or offensive work environment or that interferes with performance.
- K. **"Inappropriate Employment Conduct"** means any of the following:
 1. actual or constructive termination of an employment relationship in a manner which is alleged to have been against the law or wrongful;
 2. actual or alleged wrongful demotion, evaluation, deprivation of a career opportunity, or discipline;
 3. actual or alleged breach of an express written employment agreement, but only when such breach would otherwise constitute a **Wrongful Act**;
 4. actual or alleged violation of the Family and Medical Leave Act;
 5. actual or alleged misrepresentation, false imprisonment, detention or malicious prosecution but only in connection with an employment decision;
 6. actual or alleged libel, slander, defamation of character or any invasion of right of privacy but only in connection with an employment decision;
 7. with respect to any of the foregoing items (1) through (6) of this definition; actual or alleged negligent hiring, retention or supervision, or failure to employ or promote, train, create or enforce adequate workplace or employment policies and procedures, or grant tenure or seniority; or
 8. any **Privacy Violation**, which shall be subject to any sublimit specified in Item 4. of the Declarations.

- L. “**Independent Contractor**” means any natural person independent contractor who performs labor or service for the **Insured Organization** on or pursuant to a written contract or agreement, but only where such labor or service is under the exclusive direction of the **Insured Organization**. The status of an individual as an **Independent Contractor** shall be determined as of the date of an alleged **Wrongful Act**.
- M. “**Insureds**” means the **Insured Persons** and the **Insured Organization**.
- N. “**Insured Persons**” means all persons who were, now are, or shall be duly elected or appointed:
1. directors, officers, trustees, **Employees** or **Managers** of the **Insured Organization**;
 2. members of any duly constituted committee, any individual person engaged by a duly constituted committee for purposes of providing an expert opinion with regard to a peer review or credentialing decision concerning an individual physician, any individual in charge of any operational department or any medical director, staff physician or faculty member of the **Insured Organization**, regardless of whether or not such person is directly employed by the **Insured Organization** or is considered to be an **Independent Contractors**;
- O. “**Loss**” means compensatory money which an Insured is legally obligated to pay as a result of a **Claim** including compensatory damages, compensatory judgments (including prejudgment and post judgment interest awarded against an Insured on that part of any judgment paid by the Underwriters), back pay, front pay, covered settlements, statutory attorney fees pursuant to a covered judgment against an **Insured, Defense Costs** and punitive and, exemplary damages where insurable by law in the applicable jurisdiction most favoring coverage for punitive, exemplary or multiple damages. However, **Loss** shall not include any of the following:
1. the cost of providing any remedial, preventative or non-monetary relief including, but not limited to, any costs associated with compliance with any such relief of any kind or nature imposed by any judgment, settlement or governmental authority, or to modify or adapt any building or property to be accessible or accommodating, or to be more accessible or accommodating, to any person, except that this provision does not apply to **Defense Costs** where non-monetary relief is sought;
 2. civil fines (other than civil fines imposed under the Health Insurance Portability and Accountability Act), criminal fines, penalties, sanctions, multiple damages, liquidated damages (other than those awarded under the Age **Discrimination** in Employment Act or the Equal Pay Act); and statutory damages that are predicted upon a finding of willfulness;
 3. payroll or other taxes;
 4. any matters that are deemed uninsurable according to the law under which this policy is construed;

5. amounts owed under **Wage and Hour Laws**;
 6. severance pay, commissions, bonuses, profit sharing, or benefits including but not limited to medical, stock options, vacation, holiday, and/or sick pay;
 7. future salary, wages, bonus, commissions and/or benefits resulting from a settlement of a **Claim**, judgment, order or award that results in the rehiring, promotion or reinstatement of an **Insured Person**;
 8. awards, costs, judgments, or orders resulting from contempt of court or violation of a court order or administrative decree;
 9. any amounts incurred in defense of any **Claim** for which any other insurer has a duty to defend; or
 10. any amounts owed under an employment contract, partnership, stock or other ownership agreement, or any other type of contract.
- P. **“Outside Entity”** means:
1. any non-profit corporation, community chest, fund or foundation that is not included in the definition of the **Insured Organization** and that is exempt from federal income tax; or
 2. any other entity, if specified in an endorsement to this **Policy**.
- Q. **“Outside Executive Position”** means the position of director, officer, trustee or other equivalent executive position held by any of the **Insured Person** in an **Outside Entity** if service in such position is at the specific request of the **Insured Organization**.
- R. **“Personally Identifiable Non-Public Information”** means information about an **Employee** obtained by the **Insured** solely in its capacity as the employer of such individual. **Personally Identifiable Non-Public Information** does not include any information obtained by the **Insured** in any other capacity including, but not limited to, information obtained as the result of the **Employee** being a customer of the **Insured**.
- S. **“Privacy Policy”** means the internal or publicly accessible written documents that set forth the **Insured Organization’s** policies, standards and procedures for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to, **Personally Identifiable Non-Public Information**.
- T. **“Privacy Violation”** means:
1. theft of **Personally Identifiable Non-Public Information** that is in the care, custody or control of the **Insured Organization**, or an **Independent Contractor** that is holding or processing such information on behalf of the **Insured Organization**;
 2. the **Insured Organization’s** failure to timely disclose a incident or event triggering a violation of any **Breach Notice Law**;

3. failure by the **Insured** to comply with that part of a **Privacy Policy** that specifically:
 - a. prohibits or restricts the **Insured Organization's** disclosure, sharing or selling of an **Employee's Personally Identifiable Non-Public Information**;
 - b. requires the **Insured Organization** to provide access to **Personally Identifiable Non-Public Information** or to correct incomplete or inaccurate **Personally Identifiable Non-Public Information** after a request is made by an **Employee**; or
 - c. mandates procedures and requirements to prevent the loss of **Personally Identifiable Non-Public Information**.

- U. "**Retaliation**" means any actual or alleged **Discrimination, Harassment**, and/or **Inappropriate Employment Conduct** against an **Employee** on account of such **Employee's** exercise or attempted exercise of rights protected by law, refusal to violate any law, disclosure or threat to disclose to a superior or to any governmental agency alleged violations of the law, or on account of the **Employee** having assisted or testified in or cooperated with a proceeding or investigation regarding alleged violations of law.

- V. "**Third Party Wrongful Act**" means any actual or alleged discrimination, including discriminatory or sexual harassment, by any of the **Insureds** against any natural person who is not an **Insured Person** or an applicant for employment of the **Insured Organization**.

- W. "**Wage and Hour Law**" means any federal , state, statutory, regulatory, local or common law relating to any wage and hour practice, including, but not limited to, any failure to provide rest or meal periods; failure to provide or pay for vacation, off-the-clock work, sick time, holidays or other paid time off; failure to reimburse expenses or charges improperly allocated to an actual or alleged **Employee**; improper classification of employees as exempt or non-exempt; failure to timely pay wages; failure to pay overtime or required wages or compensation; improper deductions from pay; improper credit for food, lodging or transportation; failure to document or properly record hours, pay, tips, commissions, wages, expenses, or any other sum allegedly due any person; and any allegation related to the foregoing for conversions, unjust enrichment, consumer or employment protection laws, unfair business practice, including but not limited to, the Fair Labor Standards Act (except Equal Pay Act).

- X. "**Wrongful Act**" means **Inappropriate Employment Conduct, Discrimination, Harassment**, and/or **Retaliation** by any of the **Insureds** against an **Insured Person** or an applicant for employment of the **Insured Organization**. If indicated in Item 3. of the Declarations, **Wrongful Act** shall also include a **Third Party Wrongful Act**.

III. EXCLUSIONS

The Underwriters shall not be liable to make any payment for **Loss** in connection with or resulting from any **Claim**:

- A. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving libel, slander, defamation, bodily injury, sickness disease, death, false arrest, false imprisonment, assault, battery, mental anguish, emotional distress, or damage to or destruction of tangible property (including loss of use thereof); except that this exclusion shall not apply to a **Claim** alleging **Inappropriate Employment Conduct** involving libel, slander, defamation or false imprisonment;
- B. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of any **Wage and Hour Law**, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act, the Employee Retirement Income Security Act of 1974, and any workers' compensation, unemployment insurance, social security, or disability benefits law, whether or not such allegations are made in connection with any governmental or administrative proceedings provided, however, this exclusion will not apply to any **Claim** for **Retaliation**;
- C. for actual or alleged violation(s) of the Employee Retirement Income Security Act of 1974 ("ERISA"), or any violation of any federal, state, local or foreign statutory law or common law that governs the same topic or subject and any rules, regulations and amendments thereto or for an **Insured's** failure or refusal to establish, contribute to, pay for, insure, maintain, provide benefits pursuant to, or enroll or maintain the enrollment of an **Insured Person** or dependent in, any Employee benefit plan, fund or program, including contracts or agreements which are not subject to the provisions of ERISA; except that this exclusion shall not apply to a **Claim** for **Retaliation**; or to any **Claim** alleging violation of Section 510 of the Employee Retirement Income Security Act of 1974;
- D. against any of the **Insured Persons** serving in an **Outside Executive Position**:
 - 1. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any **Wrongful Act** occurring prior to the date such **Insured Person** began serving in an **Outside Executive Position** if any of the **Insured Persons**, as of such date, knew or could have reasonably foreseen that such **Wrongful Act** could lead to a **Claim** under this **Policy**; or
 - 2. by, on behalf of, or for the benefit of the **Outside Entity**, or one or more of the **Outside Entity's** directors, officers, trustees or equivalent executives;
- E. based upon, arising out of, directly or indirectly in connection with, related to, or in any way involving lockout, strike, picket line, hiring of replacement workers or other similar action in connection with any labor dispute or labor negotiation or for or arising out of any alleged violation or responsibilities, duties or obligations imposed on an **Insured** under the National Labor Relations Act or amendments thereto or regulations promulgated thereunder, or any similar or related federal, state or local law or regulation; except that this exclusion E. shall not apply to any **Claim** for **Retaliation**;
- F. based upon, arising out of, directly or indirectly in connection with, related to, or in any way involving the liability of others assumed by an **Insured** under any contract or

agreement, oral or written, except to the extent that the **Insured** would have been liable in the absence of such contract or agreement;

- G. for breach of an express written employment agreement, or under any policy or procedure providing for payment in the event of separation from employment unless such liability would have attached in the absence of such contract or agreement; except that this exclusion shall not apply to **Defense Costs** incurred in connection with such **Claim** that is otherwise covered by this policy;
- H. for actual or alleged: (i) sexual abuse or injury; sexual molestation; sexual assault; sexual exploitation; child abuse or child neglect; or (ii) wrongful hiring or retention; wrongful supervision; wrongful investigation; wrongful reporting or failure to report to the proper authorities in connection with or in any way involving any incident or pattern of incidents of alleged sexual abuse or injury, sexual molestation, sexual assault, sexual exploitation, child abuse or child neglect;
- I. based upon, arising out of, directly or indirectly connected or related to, or in any way alleging violation(s) of the Immigration Reform Control Act of 1986 ("IRCA") or any other similar federal, state, or local laws or regulations.

IV. **MERGERS & ACQUISITIONS**

This **Policy** is issued and the premium computed on the basis of the information submitted to the Underwriters as part of the **Application**. In the event the **Named Insured**, after the Inception Date of this **Policy**:

1. merges with another entity such that the **Named Insured** is the surviving entity, or
2. acquires assets of another entity or creates or acquires a **Subsidiary** whose employees exceed twenty five percent (25%) of the total number of employees of the **Insured Organization** at the time of acquisition;

for a period of ninety (90) days, coverage granted by this **Policy** shall extend to **Loss** from **Claims** for **Wrongful Acts** occurring after the effective date of such event which arise or relate to the assets acquired or the assets, liabilities, directors or officers of the entity acquired or merged with, or such Subsidiary. Coverage for such loss beyond such ninety (90) day period shall only be available if written notice of such transaction or event is given to the Underwriters by the **Named Insured**; the **Named Insured** provides Underwriters with such information in connection therewith as the Underwriters may deem necessary; the **Insureds** accept any special terms, conditions, exclusions or additional premium charge as may be required by Underwriters; and Underwriters, at their sole discretion, agree to provide such coverage.

V. **SETTLEMENT AND DEFENSE**

- A. It shall be the duty of the **Insured** and not the duty of the Underwriters to defend **Claims**. The Underwriters shall have the right and shall be given the opportunity to effectively associate with the **Insured** in the investigation, defense and settlement of any **Claim** that appears reasonably likely to be covered in whole or in part hereunder.

- B. The **Insureds** shall not settle any **Claim**, select any defense counsel, incur any **Defense Costs**, admit or assume any liability, stipulate to any judgment or otherwise assume any contractual obligation without the Underwriters' prior written consent, which shall not be unreasonably withheld. The Underwriters shall not be liable for any settlement, **Defense Costs**, assumed obligation, admission or stipulated judgment to which they have not consented or for which the **Insureds** are not legally obligated as a result of a **Claim** for a **Wrongful Act**. Notwithstanding the foregoing, if all **Insureds** are able to fully and finally dispose of, with prejudice, all **Claims** that are subject to one Retention for an amount not exceeding such Retention, including **Defense Costs**, then the Underwriters' consent shall not be required for such disposition.
- C. The Underwriters shall advance, on behalf of the **Insured**, **Defense Costs** which the **Insured** have incurred in excess of the Retention in connection with a **Claim** made against them, prior to the final disposition of such **Claim**, provided that to the extent it is finally established that any such **Defense Costs** are not covered under this **Policy**, the **Insureds**, severally according to their interests, shall repay such **Defense Costs** to the Underwriters. The Underwriters shall pay **Defense Costs** no more than once every sixty (60) days.
- D. The Limit of Liability available to pay **Loss** shall be reduced and may be completely exhausted by payment of **Defense Costs**. Underwriters shall not be liable for any **Loss** incurred within the Retention specified in Item 5. of the Declarations.
- E. The Underwriters shall not be obligated to pay any **Loss**, after the applicable Limit of Liability has been exhausted by payment of **Loss**, including **Defense Costs** or by reason of the tender of the remaining applicable limits into a court of competent jurisdiction.
- F. The Underwriters may, with the consent of the **Insureds**, settle or compromise any **Claim** as they deem expedient. If the **Insureds** withhold consent to a settlement or compromise acceptable to the claimant and Underwriters, then Underwriters' liability for such **Claim** shall not exceed:
 - 1. the amount for which the **Claim** could have settled or compromised and the **Defense Costs** incurred as of the date such settlement or compromise was proposed to the **Insureds**; plus
 - 2. 70% of any **Loss** incurred after the date such settlement or compromise was proposed to the **Insureds**, with the remaining 30% of such **Loss** to be borne by the **Insureds** at their own risk and uninsured or the applicable limit of liability whichever is less.

VI. ALLOCATION

If **Loss** covered by this **Policy** and **Loss** uninsured by this **Policy** are incurred, either because the **Claim** includes both covered and uninsured claims or because it includes both insured and uninsured parties, then the **Insureds** and the Underwriters agree to use their best efforts to fairly and reasonably allocate such amount between covered **Loss**, and uninsured loss based upon the relative legal and financial exposure to the **Insureds** for the uninsured amounts. In the event that an allocation cannot be agreed to, then the Underwriters shall make

an interim payment of the amount of **Loss** that the parties agree is not in dispute until a final amount is agreed upon or determined pursuant to the provisions of applicable law.

In the event that an allocation cannot be agreed upon by the Underwriters and the **Insureds**, then:

1. in any arbitration, suit or other proceeding, no presumption shall exist concerning what is a fair and reasonable allocation;
2. the Underwriters shall advance the amount of **Defense Costs** which they deem fair and proper, until a different amount is negotiated by the parties (determined pursuant to the arbitration process specified in subparagraph 3. below, or determined judicially);
3. the Underwriters, solely if requested by the **Insureds**, shall submit the allocation dispute to binding arbitration through the American Arbitration Association (“AAA”). The Commercial Arbitration Rules of AAA shall apply, except that notwithstanding any then-prevailing rule, the arbitration panel shall be selected from the Commercial Insurance Panel of AAA and shall consist of one arbitrator selected by the **Insureds**, one arbitrator selected by the Underwriters, and a third independent arbitrator selected by the first two arbitrators.

Any negotiated, arbitrated or judicially determined allocation of **Defense Costs** on account of a **Claim** shall be applied retroactively to all **Defense Costs** on account of such **Claim**, notwithstanding any prior advancement to the contrary. Any allocation or advancement of **Defense Costs** on account of a **Claim** shall not apply to or create any presumption with respect to the allocation of other **Loss** on account of such **Claim**.

VII. OTHER INSURANCE

Notwithstanding Section VIII.D., Other Insurance, of the Policy Terms and Conditions, solely in respect of **Claims** for **Wrongful Acts** other than **Third Party Wrongful Acts**, this **Policy** shall apply as primary insurance, except with respect to:

1. **Claims** which include allegations covered under both a fiduciary liability policy (including coverage under this **Policy**) and this **Policy**;
2. **Claims** brought by or on behalf of an **Independent Contractor** or leased or temporary **Employee**; or
3. **Claims** under Insuring Clause B. of the Employment Practices Liability Clause.

in which case the provisions of Section VIII.D., Other Insurance, of the Policy Terms and Conditions shall apply.