<Product Name>
REGULATORY LIABILITY CLAUSE

I. INSURING CLAUSES

A. Regulatory Liability

The Underwriters will pay on behalf of the **Insured Loss** and **Defense Costs** which the **Insured** shall become legally obligated to pay in respect of any **Claim** or **Claims** first made against any **Insured** during the **Policy Period** and reported to the Underwriters during the **Policy Period** or the **Optional Reporting Period**, if applicable, arising out of any **Wrongful Act**, except as excluded or limited by the terms, conditions and exclusions of this **Policy**.

Provided always that:

1. the **Insured** had no knowledge of such **Wrongful Act** prior to the Continuity Date specified in Item 11. of the Declarations;

2. such **Wrongful Act** took place subsequent to the Retroactive Date specified in Item 12. of the Declarations; and

3. the **Insured** has not notified any **Government Entity** or **Commercial Payor** of the **Wrongful Act** giving rise to the **Claim**.

B. Voluntary Notification to any **Government Entity** or **Commercial Payor**

If, during the **Policy Period**, the **Insured** notifies any **Government Entity** or **Commercial Payor** of a **Wrongful Act** which the **Insured** reasonably believes could give rise to a **Claim** and notifies the Underwriters consistent with Section VII.B. of the Policy Terms and Conditions, the Underwriters shall indemnify the **Insured** for **Loss** and **Defense Costs** in excess of the Retention stated in Item 5 of the Declarations which the **Insured** incurs as a result of any **Claim** subsequently made against the **Insured** arising out of that **Wrongful Act**; provided always that the **Insured** had no knowledge of such **Wrongful Act** prior to the Continuity Date of this **Policy** specified in Item 11. of the Declarations and such **Wrongful Act** took place subsequent to the Retroactive Date specified in Item 12. of the Declarations.

II. DEFINITIONS

A. **"Claim"** means any written demand brought by or on behalf of any **Government Entity** or brought by a **Commercial Payor** against an **Insured** (i) seeking monetary compensation for a **Wrongful Act**; (ii) commencing an audit or investigation of a **Wrongful Act**; or (iii) seeking injunctive relief on account of a **Wrongful Act**.

However, **Claim** does not include:

1. any customary or routine billing inquiry, including any cost report, request for documentation to support a submission for payment or reimbursement, or other audit/reconciliation conducted by or at the behest of a **Government Entity** or a **Commercial Payor**

2. notice of a **Wrongful Act** provided in accordance with Section VII.B. of the Policy Terms and Conditions;

3. any criminal proceeding against an **Insured**, except when a **Claim** arising from the same conduct alleged in the criminal proceeding is also asserted against an **Insured** entity in a civil proceeding; or

4. any written demand or civil proceeding brought by or on behalf of a citizen or any non-governmental entity (other than a **Commercial Payor**) against an **Insured**; except that this subsection shall not apply to a *qui tam* action commenced by a private citizen as the relator for a **Government Entity**.

B. **"Defense Costs"** means (i) reasonable and customary fees charged by an attorney, external auditor or billing and coding consultant, designated and agreed by the Underwriters in consultation with the **Insured** but subject always to the Underwriters' final decision; and (ii) other reasonable and necessary fees, costs or expenses incurred in the investigation, adjustment, defense or appeal of a **Claim**, if incurred by the **Insured** with the written consent of the Underwriters.

However, **Defense Costs** does not include:

1. remuneration, salaries, wages, overhead, fees, benefits or other charges of any **Insured**;

2. any fees, costs, or expenses incurred with respect to any criminal proceedings or actions against any **Insured**, except when a **Claim** arising from the same conduct alleged in the criminal proceeding is also asserted against an **Insured** entity in a civil proceeding. However, in that event the Underwriters will have the right to recover those **Defense Costs** incurred in the criminal proceeding from any **Insured** found to have committed a criminal act by a court or jury, including through a plea agreement accepted by a court or the entry of a guilty verdict or conviction; or

3. any fees, costs or expenses associated with the adoption and implementation of any security measures, corporate integrity agreement, deferred prosecution agreement, compliance program or similar provision regarding the operations of the **Insured**'s business.

C. **"Commercial Payor"** means any entity which arranges for payment or reimbursement of expenses on account of **Medical Services**, including the following types of entities:

1. any entity, including an investor-owned insurance company, which indemnifies subscribers against expenses incurred for **Medical Services**;

2. any self-funded plan or any type of health plan where the risk for the cost of **Medical Services** is assumed, in whole or in part, by an employer rather than by an insurance company or managed care organization; or

3. any managed care organization, such as a health maintenance organization ("HMO"), preferred provider organization ("PPO"), point of service plan ("POS"), integrated delivery network ("IDN"), or any other type of entity which has any of the following characteristics:

   a. negotiated discount arrangements with selected providers;

   b. explicit criteria for selection of providers;

   c. financial or program incentives or penalties to enrollees who do not use selected providers; and

   d. provider risk-sharing arrangements.

D. **"Employee"** means all persons whose labor or service is currently or has formerly been engaged by and directed by the **Insured Organization**, including members or managers, applicants for employment, employees, volunteers, part time, seasonal, leased and temporary employees as well as any individual employed in a supervisory or managerial position, but does not include employees who are leased to another employer or **Independent Contractors**.

E. **"Executive Officer"** means the chief executive officer, chief operating officer, chief compliance officer, president, **Manager**, chief financial officer, in-house general counsel, risk manager, or an individual acting in a similar capacity with the **Insured Organization**.

F. **"Government Entity"** means:

1. any department, agency, task force or other organization created by any federal, state or local law, executive order, ordinance or rule;

2. any department, agency, task force or other organization operated, funded or staffed, in whole or in part, by the federal or any state, county or local government;

3. any organization operating as a Medicare Integrity Program Contractor in accordance with 63 F.R. 1590 (20 March 1998) and pursuant to section 1893 of the Social Security Act (42 U.S.C. § 1395ddd);

4. any organization auditing billing on behalf of the government in respect of contracted rates including, but not limited to, in accordance with The Tax Relief and Health Care Act of 2006 or the Medicare Prescription Drug Improvement and Modernization Act of 2003; and

5. any governmental health benefit program or payor.

G. **"Insured"** means any **Insured Organization** and **Insured Person** with provider numbers on file with the **Named Insured** at the time of the covered **Wrongful Act**.

H. **"Insured Person"** means any past, present, or future **Employee**, director, officer, trustee, review board or committee member, or volunteer of an **Insured** entity, but only while acting within the scope of that person's duties or capacity as such; and, in

the event of the death, incapacity, or bankruptcy of any such person, the estate, heirs, legal representatives, or assigns of such person.

I. **"Loss"** means any monetary amount, otherwise covered by this **Policy** and subject to the Limit of Liability, which an **Insured** is legally obligated to pay as a result of a **Claim**, including sums paid as awards, judgments, settlements and civil fines and penalties imposed by or on behalf of a **Government Entity** or **Commercial Payor**, and any interest accrued or imposed on any covered amount.

However, **Loss** shall not include:

1. the **Insured's** return, refund, disgorgement or restitution of fees, profits, charges, overpayments or benefit payments to any **Commercial Payor** or **Government Entity**, and any interest accrued or imposed thereon;

2. any fees, costs or expenses associated with the adoption and implementation of any security measures, corporate integrity agreement, deferred prosecution agreement, compliance program or similar provision regarding the operations of the **Insured**'s business;

3. matters deemed uninsurable by law;

4. punitive and exemplary damages, taxes, sanctions, criminal fines and penalties; except that this provision does not apply to any multiplied portion of a civil fine or penalty; or

5. any costs associated, whether directly or indirectly, with the **Insured**'s temporary or permanent loss of provider number(s) or the **Insured**'s exclusion from participation in any **Commercial Payor** program or governmental health benefit program, including, but not limited to, Medicare and/or Medicaid.

J. **"Medical Services"** means any health care, medical care, or treatment provided to any individual, including but not limited to: medical, surgical, dental, psychiatric, mental health, chiropractic, osteopathic, nursing, or other professional health care; the furnishing or dispensing of medications, drugs, blood, blood products, or medical, surgical, dental or psychiatric supplies, equipment, or appliances in connection with such care; the furnishing of food or beverages in connection with such care; and the handling of, or the performance of post-mortem examinations on, human bodies.

K. **"Wrongful Act"** means:

1. presenting, or causing or allowing to be presented, by an **Insured** any actual or alleged erroneous submission (including submissions presented by third parties on behalf of the **Insured** only to the extent of the **Insured's** liability therefor) to a governmental health benefit program or a **Commercial Payor**, seeking payment or reimbursement for **Medical Services** provided or prescribed by an **Insured**;

2. any negligent or reckless act, error or omission by an **Insured** in violation of the Stark Act (42 U.S.C. §1395nn) or any federal, state or local anti-kickback or self-referral laws, or any rules or regulations promulgated thereunder; or

3. a negligent or reckless act, error or omission by the **Insured** in violation of the United States False Claims Act (31 U.S.C. § 3729(b)) or any similar federal or state statute, regulation or rule based on "knowing" conduct as that term is defined in the False Claims Act (31 U.S.C. § 3729(b)).

III. EXCLUSIONS

The coverage under this **Policy** does not apply to **Loss** or **Defense Costs** incurred with respect to any **Claim**:

A. based upon or arising out of:

1. any dishonest, fraudulent, criminal, intentional, or malicious act by any **Insured**;

2. any willful violation of any law, statute, ordinance, rule or regulation by any **Insured**; or

3. any **Insured** gaining any profit, remuneration or advantage to which such **Insured** was not legally entitled;

except that exclusions A. 1, 2. and 3. above shall not apply to any **Claim** brought under the United States False Claims Act (31 U.S.C. § 3729(b)) or any similar federal or state statute, regulation or rule based on "knowing" conduct as that term is defined in the False Claims Act (31 U.S.C. § 3729(b)); and exclusion (A)(3) shall also not apply to any **Claim** based upon an **Insured's** unintentional and erroneous billing for **Medical Services.**

For the purposes of determining the applicability of this exclusion, no **Wrongful Act** of any **Insured** shall be imputed to any other **Insured**;

B. arising out of any actual or alleged act, error, or omission in the rendering of or failure to render **Medical Services** by any **Insured**, except with respect to any allegations of billing for **Medical Services** which were not rendered or were not medically necessary;

C. for actual or alleged: libel, slander, defamation, bodily injury, sickness, disease, death, false arrest, false imprisonment, assault, battery, mental anguish, emotional distress, invasion of privacy, or damage to or destruction of tangible property (including loss of use thereof);

D. arising out of actual or alleged plagiarism, misappropriation of likeness, breach of confidence, or misappropriation or infringement of any intellectual property right, including patent, trademark, trade secret, trade dress and copyright;

E. based upon an express or implied warranty or guarantee, or breach of contract in respect of any agreement to perform work for a fee;

F. arising out of employment discrimination, retaliation, termination or other wrongful employment acts in violation of any municipal, state or federal Civil Rights law, regulation or ordinance;

G. arising out of any actual or alleged bodily injury, sickness, disease or death to any **Employee** of any **Insured** arising out of and in the course of employment by the **Insured**; or any obligation for which the **Insured** in its capacity as an employer and/or its insurer may be held liable under any Workers' Compensation, Unemployment Compensation, Disability Benefits law, or any similar law;

H. arising out of the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto;

I. arising out of or relating to any liability under any contract or agreement, whether written or oral, unless such liability would have attached to the **Insured** in the absence of such contract or agreement, but this exclusion shall not apply to any **Claim** by a **Commercial Payor**;

J. arising out of any actual or alleged:

1. insolvency, bankruptcy, conservatorship, rehabilitation, receivership, liquidation, or financial inability to pay of:

   a. any **Insured** acting as an insurer or reinsurer; or

   b. any other insurer, reinsurer, self-insurer, third party payor, managed care organization, health care plan, or other person or entity;

2. failure to obtain, effect, or maintain any form, policy, plan or program of insurance, stop loss or provider excess coverage, reinsurance, self-insurance, suretyship, or bond;

3. commingling or mishandling of funds; or

4. failure to collect or pay premiums, commissions, brokerage charges, fees or taxes;

K. or circumstance which might lead to a **Claim:**

1. in respect of which any **Insured** has given notice to any **Government Entity,** insurer of any other policy or self-insurance in force prior to the Continuity Date specified in Item 11. of the Declarations;

2. known to any **Insured** prior to the Inception Date of this **Policy** and not disclosed to the Underwriters before inception; or

3. arising out of any **Wrongful Act** which first took place, or is alleged to have taken place, prior to the Retroactive Date as specified in Item 12. of the Declarations;

L. or circumstance which might lead to a **Claim**, in respect of which any **Insured** has given notice to a **Government Entity** during the **Policy Period** and has not provided notice to the Underwriters in accordance with Section VII., Notification, of the Policy Terms and Conditions;

M. arising out of any actual or alleged service of any **Insured Person** as an **Employee**, director, officer, trustee, member, member manager, governor, medical director, member of any duly constituted review board or committee, or volunteer of any entity other than the **Named Insured**, even if directed or requested by the **Insured** entity to serve in such capacity for such other entity;

N. arising out of a violation or alleged violation of the Securities Act of 1933 as amended, or the Securities Exchange Act of 1934 as amended, or any state Blue Sky or securities law or similar state or federal statute, and any regulation or order issued pursuant to any of the foregoing or similar statutes;

O. for any actual or alleged violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1961 et seq., and any amendments thereto, or any rules or regulations promulgated thereunder;

P. brought against any **Insured** by any other **Insured** hereunder; except that this provision shall not apply to any **Claim** brought by a *qui tam* plaintiff or Relator or brought under the False Claims Act (31 U.S.C. §3729 et seq.) or any similar state or local statute, ordinance or regulation;

Q. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving:

1. the actual, alleged or threatened discharge, release, escape, seepage, migration, dispersal or disposal of **Pollutants** into or on real or personal property, water or the atmosphere; or

2. any direction or request that the **Insureds** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or any voluntary decision to do so including, but not limited to, any **Claim** alleging damage to the **Insured Organization** or its securities holders, purchasers or sellers;

R. based upon or arising out of any **Insured's** data processing services, including but not limited to:

1. conversion of data from source material into media for processing on the **Insured's** electronic data processing system;

2. processing of data by the **Insured** on the **Insured's** electronic data processing system; except that this exclusion shall not apply to **Claims** brought under the False Claims Act (31 U.S.C. §3729 et seq.) or any similar state or local statute, ordinance or regulation; or

3. design or formulation of an electronic data processing program or system;

S. arising out of or resulting from the distribution of unsolicited email, direct mail or facsimiles, or telemarketing;

T. arising from costs of complying with physical modifications to any premises or any changes to the **Insured's** usual business operations mandated by the Americans with Disabilities Act of 1990, including any amendments, or similar federal, state or local law;

U. associated with the implementation of any compliance program or any policies, procedures or practices relating to participation as a provider of medical services to a managed care organization or under a healthcare benefit program, whether initiated voluntarily or pursuant to direction by, order of, or in settlement with a government body, hospital, healthcare facility or managed care organization;

V. based upon or arising out of any actual or alleged unfair or deceptive trade practices or violation of any federal, state, or local anti-trust, restraint of trade, unfair competition, consumer protection or price fixing law, or any rules or regulations promulgated thereunder;

W. based upon or arising out of any services provided for a fee by an **Insured** to any third party not identified as an **Insured** under this **Policy**;

X. based upon or arising out of any decision of a **Government Entity** or a **Commercial Payor** during the **Policy Period:**

1. that the **Insured** has readmitted patients in excess of their agreed guidelines, requirements, codes, programs or formulas in force from time to time; or

2. based upon any survey or index involving patient satisfaction, clinical or other standards, or death rates, or similar;

which has resulted in the imposition of a fine, penalty, levy or financial adjustment (whether involving payment, reimbursement, reduction, set-off or otherwise) on the **Insured**.

For the purposes of this Section "**Claim**" includes any such decision;

Y. arising out of (or alleged to arise out of) defective billing services which shall in no circumstances extend to any billing services provided by an **Insured** to any third party not identified as an **Insured** under this **Policy**;

Z. based upon or arising out of any payment or reimbursement for **Medical Services** which is paid to or collected by any **Insured** acting as a billing administrator for any person or entity other than itself, himself or herself, or any other **Insured**.

IV. MERGERS AND 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 acquires a **Subsidiary** whose total annual revenues exceed twenty five percent (25%) of the total annual revenues 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 of 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 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,** including **Defense Costs** incurred within the Retention specified in Item 5 of the Declarations.

E. The Underwriters shall not be obligated to pay any **Loss,** including **Defense Costs** after the applicable Limit of Liability has been exhausted by payment of **Loss,** 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 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**; and the remaining 100% of such **Loss** incurred after the date such settlement or compromise was proposed to the **Insureds** shall 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 **Insured**s for the uninsured amounts. The right to allocate **Loss** includes but is not limited to **Claims** arising out of any **Wrongful Act** which occurs prior to and after the Retroactive Date. 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. COINSURANCE

In addition to the applicable Retention(s) the **Insureds** shall bear uninsured and retain at their own risk a percentage of any **Claim** ("Coinsurance") as set forth in Item 6. of the Declarations of any **Loss** and **Defense Costs**, and the Underwriters' shall only be liable for the remaining percentage of such **Loss** or **Defense Costs** within the Limit of Liability. Such Coinsurance does not erode or form part of the Limit of Liability.

VIII. NOTICE OF CLAIM

For the purposes of the Regulatory Liability Clause the following shall apply:

1. All **Claims** arising out of the same, related or continuing **Wrongful Acts** shall be deemed to be one **Claim** and shall be deemed to have been first made at the time the earliest **Claim** of such related **Claims** was received by the **Insured** if then properly notified.

2. The first relevant **Wrongful Act** occurs after the Retroactive Date and before the Expiration Date of the **Policy Period**.

3. The first of all such related **Claims** has been made within **Policy Period**; or directly relates to a **Wrongful Act** notified within the **Policy Period**.

4. The **Named Insured** has requested in writing prior to, or within one hundred twenty (120) days after, the Expiration Date of the **Policy Period** that the Underwriters agree to such designation as one **Claim**, such consent not to be unreasonably withheld.

5. If the Underwriters agree to designate such **Claims** as one **Claim**, then any later related **Claims** which are made and notified within three (3) years of the Expiration Date of the **Policy Period** are hereby covered under this **Policy** as that one **Claim**, and will be deemed to have been notified at the date of the first designated **Claim** or notification and are subject to one Retention and one Limit of Liability.

6. Any **Claims**, **Loss** or **Defense Costs** arising from any **Wrongful Act** notified to the Underwriters or other insurer prior to the Inception Date shall not be included as one **Claim** or payable under this **Policy** as **Loss** or **Defense Costs** arising out of the same, continuing or related **Wrongful Act** of which any **Claim** is made or notice is first given during this **Policy Period.**