

**MEDICAL PROFESSIONAL LIABILITY PROGRAM
PHYSICIANS & SURGEONS**

Notice: This is a Claims-Made and Reported Policy

This Professional Liability Policy provides coverage on a Claims-Made and Reported basis. The coverage provided by this Policy is limited to only those **claims** which arise from **professional services** rendered entirely after the retroactive date stated in the Declarations and which are first made against any Insured for damages or services in writing and reported to the Company during the **policy period** or any applicable **extended reporting period**.

Please review this Policy carefully. This Policy contains important exclusions and conditions. All words or phrases (other than captions) that are printed in bold face are defined terms as described in Section X, Definitions, of this Policy.

The Insureds should discuss any questions concerning the coverage with their insurance agent or broker.

WHAT TO DO IN CASE OF A CLAIM

In the event any Insured receives written notice of a **claim** for damages or services, the Insured shall report the details within 30 days of date notice is first received by the Insured to either the Insured's agent or broker, or to:

E-mail: hallmarkclaims@hamlinandburton.com

E-fax: (321) 972-0122

Hamlin & Burton Liability Management, Inc.
615 Crescent Executive Court, Suite 212
Lake Mary, FL 32746
Phone: (321) 972-0121

Notice: Failure to promptly report a claim may make this Policy inapplicable.

IMPORTANT

This Policy is not effective unless Declarations are issued.

MEDICAL PROFESSIONAL LIABILITY POLICY

PHYSICIANS AND SURGEONS

In consideration of the Premium paid, the Deductible and Limits of Liability shown in the Declarations, the terms and conditions contained herein, and in reliance upon the information provided in the application, deemed attached and made part of this Policy, the Company agrees with the Insured as follows:

I. THE COVERAGE

- A. To pay on behalf of any Insured, subject to the Limit of Liability and in excess of the Deductible, those sums which the Insured is legally obligated to pay as a result of **claims** first made against the Insured during the **policy period** or within any applicable **extended reporting period**, for damages arising out of **professional services** subject to the following:
 - 1. The Company's duty to defend ends when the applicable Limit of Liability has been exhausted due to payment of damages or **claim expenses**.
 - 2. The Company has no duty to pay **claim expenses** or defend any Insured against any **claim** not covered by this Policy.
- B. The coverage described herein will also apply to any **named insured's** corporation, professional association, or partnership, but only if:
 - 1. Such entity is named in the Declarations or any Endorsement attached thereto, and/or
 - 2. **Claim** is made due to damages arising out of **professional services** rendered for a patient and committed by the **named insured** or any person described in Section II, The Insured, of this Policy.

If the **named insured** is no longer a party to the **claim**, all coverage shall cease as respects such corporation, professional association, or partnership.

II. THE INSURED

The unqualified word "Insured" whenever used in this Policy means:

- A. Each individual or entity designated as the **named insured** in the Declarations or attached Endorsement;
- B. The **named insured's** employees but only when working within the scope of their duties on behalf of the **named insured**; however, coverage shall not apply to any physician or surgeon under employ or contract to the **named insured**, unless such physician or surgeon is named in the Declarations or attached Endorsement;
- C. Any temporary substitute physician designated by the **named insured** but only to continue the practice on behalf of the **named insured**; and

- D. The heirs, executors, administrators, assigns and legal representatives of the **named insured** in the event of the **named insured's** death, total and permanent disability, or bankruptcy.

III. LIMITS OF LIABILITY

A. Insureds – Shared Limits

The “Per Claim – Limit of Liability” and the “Annual Aggregate – Limit of Liability,” shown in the Declarations, shall apply for all **claims** covered under this Policy, regardless of the number of Insureds, persons, or entities entitled to coverage under this Policy.

B. Per Claim – Limit of Liability

The “Per Claim – Limit of Liability” specified in the Declarations is the maximum amount, less the Deductible, the Company will pay for **claim expenses** and damages for each **claim** first made and reported during the **policy period** including, if applicable, during the **extended reporting period**.

1. Two or more **claims** arising, directly or indirectly, out of the same or related **professional services** by one or more Insured shall be considered a single **claim** regardless of:
 - a. The number of resulting injuries, patients, claimants, or litigants, provided that in the event both mother and child (twins or otherwise) make **claims** against one or more Insured, alleging two or more causes of action or related **professional services**, both mother and child (twins or otherwise) shall be considered one patient for the purposes of determining the “Per Claim – Limit of Liability” in effect at the time such **claims** are first made against an Insured;
 - b. The number of **claims**, lawsuits, or legal or administrative proceedings;
 - c. The length of the treatment period for any related **professional services**; or
 - d. The number of policy periods over which any related **professional services** may extend.
2. All such **claims** whenever made and reported, shall be deemed first made and reported within the **policy period** or any applicable **extended reporting period** in which the earliest **claim** is first reported to the Company, and all such **claims** shall be subject to the Limit of Liability in effect during such **policy period**.
3. For purposes of determining the Company’s “Per Claim – Limit of Liability,” all claims arising out of all **professional services** rendered to a patient will be considered a single **claim** and only one “Per Claim – Limit of Liability” shall apply, regardless of:
 - a. The nature or number of causes of action asserted; or

- b. The number of patient visits; or
- c. The number and/or nature of **professional services** rendered and the period of time over which they were rendered.

C. Annual Aggregate – Limit of Liability

The Company's Limit of Liability for all **claims** shall not exceed the amount stated in the Declarations, designated as "Annual Aggregate – Limit of Liability." This "Annual Aggregate – Limit of Liability" is the maximum amount, less the Deductible(s), for **claims expenses** and damages that the Company will pay for all **claims** first made and reported or deemed made and reported during the **policy period** or if applicable, during any applicable **extended reporting period**.

- D. The "Per Claim" and "Annual Aggregate" Limits of Liability are not cumulative, even if related **professional services** extend over more than one **policy period**.
- E. **Claim expenses** incurred by the Company are a part of and not in addition to the applicable Limit of Liability, less any Deductible amount.
- F. If this Policy and any other primary professional liability insurance policy issued by the Company or any affiliated or related company applies to the same **claim** or series of related **claims** seeking damages for bodily injury or property damage arising out of **professional services** to which this coverage applies:
 - 1. The Company shall not be liable under this Policy for a greater proportion of the loss than the applicable Limit of Liability under this Policy bears to the total Limits of Liability of all such policies; and
 - 2. The maximum amount payable under all such policies shall not exceed the Limit of Liability of that policy which has the largest Limit of Liability.

This provision does not increase the Limits of Liability available under this Policy.

This provision does not apply to any policy issued by the Company or any affiliated company specifically to apply as excess insurance over this Policy.

IV. DEDUCTIBLE

- A. The Deductible amount stated in the Declarations at the time the **claim** is first made and reported shall be paid by the **named insured** and shall be applicable to each **claim** and shall include **claim expenses** and damages.
- B. The Deductible amount is a part of, and not in addition to, the amount shown in the Declarations as Limits of Liability. The Deductible reduces the Company's Limits of Liability and the amount that the Company may be obligated to pay under this Policy.
- C. Failure of the **named insured** to remit the Deductible to the Company within 10 days of the **named insured's** receipt of the Company's written demand, shall, at the option of the Company, nullify and terminate the application of this Policy to such **claim**. All other pending **claims** and any outstanding monies due by the

named insured will be applied first to the Deductible and then to the **extended reporting period**, should the **extended reporting period** be purchased.

V. TERRITORY

The insurance afforded by this Policy applies worldwide, provided that any **claim** must be brought in the United States of America, its territories and possessions, Puerto Rico, or Canada.

VI. CLAIMS

This Policy applies to a **claim** only if:

- A. The **professional services** giving rise to such **claim** are rendered:
 - 1. To a patient of the **named insured**;
 - 2. Within the **named insured's** profession as described in the Declarations; and
 - 3. Entirely on or after the retroactive date specified in the Declarations and before the end of the **policy period**;
- B. Such **claim** is reported to the Company in writing as soon as practicable but in any event within 30 days of receipt by the **named insured** of a written notice of a **claim**;
- C. In the event suit is brought against any Insured, the Insured immediately forwards to the Company every demand, notice, summons, or other process received by the Insured or the Insured's representatives; and
- D. The **named insured's** written report of a **claim** is received by the Company prior to the expiration date of the **policy period** including the expiration of any applicable **extended reporting period**.

A **claim** shall be considered to have been first made at the time written notice of **claim** is first received by the **named insured**.

VII. DEFENSE

- A. Subject to the Insureds' compliance with the terms of this Policy, the Company has the right and the duty to defend the Insureds against any covered **claim** that is properly reported even if such **claim** is groundless, false, or fraudulent.
- B. The Company has the exclusive right to appoint counsel to defend the Insureds. Any counsel retained by any Insured will be at the sole expense of the Insured.
- C. The Company's right and duty to defend end when the applicable Limit of Liability described in the Declarations has been exhausted by payment of damages or **claim expenses** or by any combination of both.

- D. Once the Limit of Liability is exhausted, the Company's duty to defend is deemed discharged. All further damages and **claim expenses** are the responsibility of the Insureds.
- E. The Company has no duty to defend any **claim** not covered by this Policy.

VIII. SETTLEMENT

- A. The Company may investigate, solicit settlement offers and pay damages to settle any **claim** at the Company's sole discretion, as the Company deems appropriate.
- B. The Company may appeal any judgment against any Insured for any **claim** covered under this Policy at the Company's sole discretion.
- C. As a condition precedent to issuance of this Policy, the Insureds consent to the Company, where obligated by law or regulation, to report any **claim** settlement, including factual details, to the National Practitioners Data Bank, or to any other professional or state agency.

IX. EXCLUSIONS

The Policy does not apply:

- A. To any act committed in violation of any law or ordinance;
- B. To any **claim** based on or arising out of any dishonest, fraudulent, criminal, malicious, knowing, wrongful, deliberate, or intentional acts, errors or omissions committed by or at the direction of any Insured;
- C. To any **claim** based on or arising out of discrimination by any Insured on the basis of race, creed, age, sex, sexual preference, physical handicap, or national origin.
- D. To any liability arising out of any Insured's actions or inactions in an administrative capacity, such as but not limited to any Insured's capacity as proprietor, superintendent, executive officer, director, partner, or trustee of any hospital, sanitarium, clinic with bed and board facilities, laboratory, or any business enterprise that is not an Insured under this Policy;
- E. To the liability of others assumed by any Insured under any contract or agreement, unless such liability would have attached to the Insured even in the absence of such contract or agreement;
- F. To any **claim** arising out of general liability, or goods or products manufactured, sold, handled, or distributed by the **named insured** or by others trading under the **named insured's** name;
- G. To liability arising out of the ownership, maintenance, operation, use, loading or unloading of any vehicle, watercraft, or aircraft;
- H. To any **claim** based on, arising out of, or in any way involving:

- a. Any physical assault, sexual assault, abuse, or molestation, or
- b. Any licentious, immoral, amoral, or other behavior which was threatened, intended to, lead to, or culminated in, any sexual act,

whether committed intentionally, negligently, inadvertently, or with the belief, erroneous or otherwise, that the other party was consenting and had the legal and mental capacity to consent thereto that was committed, or alleged to have been committed by any Insured or by any person for whom any Insured is or is alleged to be legally responsible.

This exclusion applies regardless of the legal theory or basis upon which the Insured is alleged to be legally liable or responsible.

However, the Company does agree to defend any such **claim**, subject to the applicable Limits of Liability, until a final judgment has been entered. If judgment is rendered against any Insured, the **named insured**, upon written demand by the Company, agrees to reimburse the Company for all **claim expenses** incurred in the defense of such **claim** within 10 days;

- I. To any **claim** based on or arising out of **professional services** rendered by any Insured while that Insured is under the influence of any type of alcohol, narcotic, hallucinogenic agent, or any other type of intoxicant or drug;
- J. To any obligation for which any Insured or any carrier as that Insured's insurer may be held liable under any Workers' Compensation, unemployment compensation or disability benefits law, or under any similar law;
- K. To any **claim** based on or arising out of any employment dispute, personal injury, sickness, disease, or death of any employee of any Insured arising out of, and in the course of the employee's employment, by that Insured;
- L. To any **claim** based on or arising out of use, administration or prescription of any drug, pharmaceutical, or medical device that has not received final approval by the Federal Drug Administration (FDA) for treatment of human beings or that is not used, administered, or prescribed as part of an FDA approval study or in accordance with standard medical practice;
- M. To any **claim** based on or arising out of experimental or investigational procedures, or practice protocols;
- N. To any **claim** based on or arising out of **professional services** which occur while an Insured's professional license to practice is inactive, under suspension, revoked, surrendered, or has otherwise been terminated;
- O. To any **claim** based on or arising out of the prescribing or dispensing of controlled substances while the license or registration to prescribe or dispense such, issued to an Insured, is not in effect;
- P. To any **claim** based on or arising out of records of any person that have been altered or modified, not in accordance with medically accepted standards, by any Insured or any person for whom an Insured is legally responsible;

- Q. To any **claim** based on or arising out of any guarantee of cure or particular results or outcome of **professional services** rendered by any Insured;
- R. To any **claim** based on or arising out of any fee dispute for patient treatment;
- S. To any disciplinary proceeding before any state licensing board, hospital peer review, or other similar entity. In addition, the Company has no duty or obligation to pay any fines, penalties, or other costs assessed against any Insured arising out of any disciplinary proceeding before any state licensing board, hospital peer review, or other similar entity;
- T. To any **claim** based on or arising out of **professional services** rendered to any Insured's spouse, child, any other dependent, or any member of any Insured's immediate family or household;
- U. To any **claim** against any Insured for or arising out of any act, error, or omission committed or alleged to have been committed by that Insured which in any manner relates to or arises out of the actual, alleged, or threatened discharge, dispersal, release, escape, or existence of pollutants, hazardous substances, toxic substances, or substances which in any manner impair or allegedly impair the environment, or which result in bodily injury or property damage;
- V. To any **claim** based on or arising out of the hazardous properties of any nuclear material or in connection with any nuclear facility, however caused.

X. DEFINITIONS

Whenever used in this Policy, the following apply:

- A. **Claim** means a written demand received by any Insured for damages or services, including the service of suit or institution of arbitration proceedings against any Insured arising out of **professional services**.
- B. **Claim Expenses** means all costs, expenses, and attorneys' fees incurred by the Company in the investigation, discovery, adjustment, defense, arbitration, settlement, or appeal of any covered **claim**.
 - 1. **Claim expenses** include:
 - a. Prejudgment interest awarded against any Insured on that part of the judgment covered by this Policy;
 - b. Interest on that part of the judgment covered by this Policy after the entry of the judgment and before the Company has paid, offered to pay, or deposited in court that part of the judgment that is within our Limit of Liability as described in Section III, Limits of Liability; and
 - c. The cost of a jury bond or an appeal bond required in the defense of a **claim** to which this Policy applies.
 - 2. **Claim expenses** do not include:
 - a. Civil, criminal, administrative, or other fines or penalties;
 - b. Sanctions;

- c. Any portion of any judgment, award, or verdict that represents a multiple of the compensatory damages;
 - d. Payment for **professional services**, including refund, withdrawal, or reduction of fees paid to any Insured;
 - e. Salaries and expenses of any Insured, or any Insured's employees; or
 - f. Bail bonds.
- C. **Extended Reporting Period** means the period of time described in Section XI, Extended Reporting Period, of this Policy.
- D. **Named Insured** means the persons and entities listed in the Declarations Page in the **Named Insured** box.
- E. **Personal Injury** means any **claim**:
 - 1. Caused by or at the direction of any Insured with the knowledge that the act would violate the rights of another and would inflict personal or advertising injury;
 - 2. Arising out of oral or written publication of material, if done by or at the direction of any Insured with knowledge of its falsity; or
 - 3. Arising out of the wrong description of the price of goods, products or services stated in any Insured's advertisement;
- F. **Policy Period** means the period from the inception date of this Policy to the policy expiration date as set forth in the Declarations, or its earlier termination date, if any.
- G. **Professional Services** means the rendering of health care treatment or services within a doctor-patient relationship.

XI. EXTENDED REPORTING PERIOD

- A. An optional **extended reporting period** of 12 months is available in the event the Company changes a Policy retroactive date to a date later in time or of cancellation or non-renewal of this Policy by the **named insured** or the Company for any reason other than:
 - 1. Flat cancellation by the Company effective at policy inception for nonpayment of Premium;
 - 2. Cancellation by the Company effective midterm for nonpayment of any Premium;
 - 3. Failure to comply with policy provisions;
 - 4. Nonpayment of the Deductible;
 - 5. Failure to cooperate with the Company; or

6. Fraud, concealment or material misrepresentation of facts in the Application or Renewal Application for this Policy or any renewal policy for this insurance.
- B. The Premium for the **extended reporting period**, pursuant to Section XI, Extended Reporting Period, A, shall be the percentage of the total Premium as set forth in the Declarations.
- C. This **extended reporting period** applies to **claims** first made against any Insured during 12 calendar months following immediately upon the effective date of such cancellation or non-renewal, but only for **professional services** rendered subsequent to the retroactive date and prior to the effective date of such cancellation or non-renewal, and which are otherwise covered by this Policy.
- D. The right to purchase the **extended reporting period** shall terminate 30 days after such cancellation or non-renewal unless written notice of such election, together with the additional Premium, is received by the Company or its authorized representative within that 30 day period.
- E. As a condition precedent to the **named insured's** right to purchase the **extended reporting period**, the full Premium of this Policy and any Deductible amounts that are due must have been paid. In the event that there are outstanding Premium and Deductible amounts, any payment for the **extended reporting period** will first be applied to the outstanding amounts and the remainder applied to the **extended reporting period** Premium.
- F. At the commencement of any **extended reporting period**, the entire Premium shall be deemed earned and the Company shall not be liable to return to the **named insured** any portion of the Premium for any **extended reporting period**.
- G. The fact that the period during which **claims** must first be made against any Insured under this Policy is extended by virtue of the **extended reporting period** shall not in any way increase the Limit of Liability of this Policy. The Limit of Liability available under the **extended reporting period** shall be part of, and not in addition to, the Limit of Liability available under the last policy or renewal issued to the **named insured**.
- H. The quotation of a different Premium, Deductible and/or Limit of Liability for renewal does not constitute a cancellation or refusal to renew for the purpose of this provision.
- I. Any coverage provided under this **extended reporting period** shall be excess of other coverage available to any Insured for a **claim** reported during this **extended reporting period**.
- J. In no way does any **extended reporting period** change the requirement that **claims** must be reported to the Company in writing within 30 days of receipt by the **named insured** of a written notice of a **claim**.

XII. CONDITIONS

A. Action Against the Company

No action shall lie against the Company unless there has been full compliance with all of the terms of this Policy, nor until the amount of any Insured's obligation to pay damages shall have been finally determined either by judgment against that Insured after actual trial and appeal, or by written agreement of that Insured, the claimant, and the Company.

Nothing contained in this Policy shall give any person or organization any right to join the Company as a co-defendant in any action against any Insured to determine the Insured's liability.

B. Authorization of Named Insured

The first **named insured** shown in the Declarations of this Policy shall be the authorized agent of all Insureds, including but not limited to those named in the Endorsements attached to this Policy, with respect to any notice required under the terms of this Policy, including but not limited to Premium due notices, policy issuance, any changes in this Policy, renewal Premium notices, Endorsements to this Policy, cancellation, non-renewal, and unearned Premium refunds.

C. Non-Assessability

This Policy is non-assessable.

D. Assignment

The interest of any Insured under this Policy cannot be transferred or assigned without the written consent of the Company.

E. Cancellation / Non-Renewal

1. Cancellation – Named Insured's Request

The **named insured** may cancel all coverage under this Policy at any time, by giving 10 days advanced written notice to the Company. Such written notice must specify the date that cancellation is requested. All coverage will end at 12:01 a.m., Standard Time, at the **named insured's** address, referenced in the Declarations, on the cancellation date. Unearned Premium will be refunded to the **named insured**, within a reasonable period of time, in accordance with the customary short rate table and procedure, subject to the retention by the Company of any minimum earned Premium stated in the Declarations.

2. Cancellation – The Company's Request

The Company may terminate coverage under this Policy by mailing advanced notice to the last known address of the **named insured**, stating the Company's intent to cancel this Policy. Such notice must be mailed not less than 30 days prior to the cancellation date, and shall include the cancellation date of this Policy and the reason for termination. Any unearned Premium, if any, will be refunded to the **named insured**, within

a reasonable period of time, in accordance with the customary pro rata tables and procedures, subject to the retention by the Company of any minimum earned Premium stated in the Declarations.

In the case of nonpayment of Premium, this Policy may be canceled by the Company by mailing written notice to the **named insured** at the address shown in this Policy at least 10 days before the effective date of cancellation.

3. Non-Renewal

The Company may non-renew this Policy by mailing or delivering written notice of non-renewal at least 30 days before the expiration date of this Policy to the **named insured** at the address stated in the Declarations. The offer of renewal policy terms, conditions, or Premium amount different than those in effect prior to renewal does not constitute non-renewal.

4. Nonpayment of the Renewal Premium

The renewal Premium for this Policy is due and payable in advance, on or before the renewal date of this Policy. Nonpayment of the Premium owed, on or before the renewal date, shall be deemed cancellation by the **named insured** effective at the end of the **policy period**.

5. Authorization to Apply any Premium Refund to Unpaid Deductible(s)

As a condition precedent to issuance of this Policy, the **named insured** consents to the Company applying any unearned Premium refund towards any outstanding unpaid Deductible(s) due to the Company under the terms of this Policy. In this eventuality, within a reasonable period of time, the Company shall provide the **named insured** with a detailed explanation of the transaction and shall refund the **named insured** with any unearned Premium in excess of the unpaid Deductible(s) within a reasonable period of time.

F. Changes in the Named Insured's Practice, Licensure or Privileges

The **named insured** shall immediately notify the Company of the following:

1. If any of the **named insured's** licenses to practice are restricted in any way, suspended, revoked, or otherwise terminated;
2. If any of the **named insured's** hospital staff privileges are restricted in any way, suspended, revoked, or otherwise terminated; and
3. Of any material changes in the **named insured's** specialty or practice as described in the Application for this Policy.

Failure to immediately notify the Company of any of the above will disqualify the **named insured** from being able to exercise the option to purchase an Extended Reporting Period Endorsement.

G. Changes in the Policy

The terms of this Policy cannot be changed or waived except by written Endorsement issued to form a part of this Policy by the Company.

H. Declarations and Application

By acceptance of this Policy the Insureds acknowledge that all statements in the Application(s) are the Insureds' representations, that they shall be deemed material, and that this Policy is issued in reliance upon the truth of such representations. Furthermore, the Insureds agree the Declarations and this Policy embody all agreements existing between the Insureds and the Company or any of its agents or brokers relating to this Policy.

I. Disclosures on Renewal Applications

Disclosure of a **claim** on a renewal application for insurance or a Supplemental Claim Information form that is submitted to the Company shall not constitute notice of a **claim**. In order for the Company to have notice of a **claim**, the Insureds must follow the reporting requirement set forth in Section XII, K, 1-3 of this Policy.

J. Inspection and Audit

The Company may examine any Insured under oath, while not in the presence of any other Insured and at such times as may be reasonably required, about any matter relating to this Policy or any **claim**, including an examination of any Insured's books and records. In the event of an examination, an Insured's answers must be signed by the **named insured**.

K. The Insureds' Duties in the Event of a Claim

1. Notice of Claim – If a **claim** covered by this Policy is made against any Insured, that Insured shall deliver to the Company within 10 days after the date of receipt of the **claim**, every demand, notice, summons, notice of intent to sue, summons, complaint, and/or other documents that Insured or that Insured's representative receives relating to the **claim**.
2. Cooperation – The Insureds must cooperate and assist the Company and the appointed defense counsel in the investigation and defense. The Insureds shall submit to examination and interrogation by a representative of the Company, under oath if required, upon request. The Insureds shall attend hearings, depositions and trials, assist in giving evidence, and cooperate in obtaining the attendance of witnesses, all without charge to the Company.

The Insureds shall further cooperate with the Company to do whatever is necessary to secure and affect any rights of indemnity, contribution or apportionment that any Insured may have. Any failure of any Insured to cooperate that prejudices the Company's ability to defend any **claim**, shall, at the option of the Company, nullify and terminate the application of this Policy to such **claim**, all other pending **claims**, and will disqualify the **named insured** from being able to exercise the option to purchase an Extended Reporting Period Endorsement.

3. No Insured shall, except at their own expense, make any payment, admit any liability, agree to any settlement of a **claim**, incur any expenses, or assume any obligations without the Company's written consent.

L. Other Insurance

If there is other valid insurance, whether primary, excess, contingent or self-insurance, which may apply against a **claim** covered by this Policy, the insurance provided hereunder shall be deemed excess insurance over and above the applicable limit of all other insurance or self insurance except for that insurance purchased specifically in excess of this Policy.

This Policy is written as specific excess of coverage available under any **extended reporting period**, Optional Extended Reporting Period and Automatic Extended Reporting Period or similar period in any prior policy or policies.

When this insurance is excess, the Company shall have no duty under this Policy to defend any **claim** that any other insurer or self insurer has a duty to defend. If such other insurer or self insurer refuses to defend such **claim**, the Company shall be entitled to the **named insured's** rights against all such other insurers or self insurers for any **claim expenses** incurred by the Company.

M. Premium

All Premiums and other charges shall be computed in accordance with the Company's rules, rates, rating plan, minimum Premiums and individual risk considerations.

N. Reimbursement

While the Company has no duty to do so, if the Company pays damages or **claim expenses** within the amount of the applicable Deductible and/or in excess of the applicable Limit of Liability, the **named insured** shall be jointly and severally liable to the Company for such amounts. Upon written demand, the **named insured** shall repay such amounts to the Company within 10 days thereof.

O. Subrogation

In the event of any payment under this Policy, the Company shall be subrogated to all the Insureds' rights of recovery for such loss against any person or entity other than an employee of any Insured. The Insureds shall execute and deliver instruments or papers and do whatever else is necessary to secure such rights. The Insureds shall do nothing after the **claim** to waive or prejudice such rights.

P. Bankruptcy or Insolvency

Bankruptcy or insolvency of the **named insured** or the **named insured's** estate shall not relieve the Company of any of its obligation.