

Executive Liability Division
P.O. Box 66943, Chicago, IL 60666

Employment Practices Liability Solution

DECLARATIONS

Insurance is afforded by the company indicated below (a non-participating stock company):

Great American Insurance Company

(The Insurance Company selected shall herein be referred to as the “Insurer”)

NOTE: This is a claims made policy, please read it carefully. DEFENSE WITHIN LIMITS: Amounts incurred as Costs of Defense shall reduce the Limit of Liability available to pay judgments or settlements, unless amended by endorsement, and shall also be applied against the Retention. The Insurer shall assume the duty to defend any Claim covered under this Policy.

Policy Number:		Policy Form Number: D71100-G	
Item 1.	Named Entity:		
	Physical Address:		
	Attention:		
Item 2.	Policy Period:	From:	To:
		(Month, Day, Year) (inception)	(Month, Day, Year) (expiration)
	(Both dates at 12:01 a.m. Standard Time at the physical address of the Named Entity as stated in Item 1.)		
Item 3.	A.	Limit of Liability (Inclusive of Costs of Defense unless amended by endorsement):	
	\$	Limit of Liability for the Policy Period	
	B.	Sub-Limit of Liability (part of, and not in addition to, the Limit of Liability):	
	\$100,000	Sub-Limit for Immigration Practices Coverage	
Item 4.	Retentions:		
	A.	Each and Every Claim under Insuring Agreement A. Employment Practices Coverage	\$10,000
	B.	Each and Every Claim under Insuring Agreement B. Third Party Coverage	\$10,000
	C.	Each and Every Claim under Insuring Agreement C. Immigration Practices Coverage	\$10,000



Executive Liability Division
P.O. Box 66943, Chicago, IL 60666

Employment Practices Liability Solution DECLARATIONS

Item 5. A. Premium:

B. Additional Discovery Premium Amount (percentage of Policy Premium or, if the **Policy Period** is other than annual, percentage of annualized premium) for a **Discovery Period**, pursuant to Section II. **Discovery Period** of this Policy.

<u>Discovery Period Options</u>	<u>Percentage of Policy Premium or Annualized Premium</u>
One year:	50%
Two years:	100%
Three years:	150%

Item 6. Endorsements Attached:

D 71401(2)	Fictitious Names of Corporation (Including DBA, FKA, Trade N
D 71705(1)	Cost of Defense - In Addition to Limit of Liability
D 71706(7)	Cost of Defense Sub-Limit For - Wage and Hour Violations
D 71710(3)	First Party Coverage - Work Place Violence Act Sub-Limit
D 71712(7)	Cost of Defense Sub-Limit - Biometric Information Violations
DTCOV	Terrorism Coverage Endorsement
IL 7324	Trade Sanctions Clause
D 71300OH	Ohio Amendatory Endorsement

Item 7. Prior and Pending Date:

Item 8. Notices: All notices required to be given to the **Insurer** pursuant to Section IX. of this Policy shall be reported as follows:

Please mail or e-mail notice of any CLAIM to:	Great American Insurance Company ABA Insurance Services Inc. 3401 Tuttle Road, Suite 300 Shaker Heights, Ohio 44122 e-mail: eplinotice@abais.com
Please send all other notices to:	Great American Insurance Company Executive Liability Division P.O. Box 66943 Chicago, Illinois 60666
To contact Great American by phone:	800-274-5222

Other than as stated above, nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the Policy to which this endorsement is attached.

THIS IS A CLAIMS MADE POLICY. READ IT CAREFULLY.

THIS POLICY IS WRITTEN ON A “CLAIMS MADE” BASIS. AS SUCH, COVERAGE, SUBJECT TO APPLICABLE TERMS AND CONDITIONS, IS AVAILABLE ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD. NO COVERAGE EXISTS FOR CLAIMS MADE AFTER THE END OF THE POLICY PERIOD UNLESS, AND TO THE EXTENT THAT, THE DISCOVERY PERIOD APPLIES. FURTHER, COSTS OF DEFENSE ARE SUBJECT TO THE APPLICABLE RETENTION AND COSTS OF DEFENSE IN EXCESS OF THE APPLICABLE RETENTION MAY REDUCE THE LIMIT OF LIABILITY AVAILABLE TO PAY ALL OTHER LOSS, INCLUDING SETTLEMENTS AND JUDGMENTS.

Table of Contents

I.	Insuring Agreements.....	Page 1
II.	Discovery Period.....	Page 1
III.	Definitions.....	Page 2
IV.	Exclusions.....	Page 6
V.	Limit of Liability.....	Page 7
VI.	Retention.....	Page 7
VII.	Loss Allocation and Advancement.....	Page 8
VIII.	Defense and Settlement.....	Page 8
IX.	Notice of Claim.....	Page 9
X.	General Conditions.....	Page 10
(A)	Other Insurance.....	Page 10
(B)	Cancellation or Non-Renewal.....	Page 10
(C)	Proposal Forms.....	Page 10
(D)	Action Against the Insurer.....	Page 11
(E)	Merger or Acquisition.....	Page 11
(F)	Conversion to Run-Off Coverage.....	Page 12
(G)	Coverage Extensions.....	Page 12
(H)	Subrogation.....	Page 12
(I)	Assignment.....	Page 13
(J)	Entire Agreement.....	Page 13
(K)	State Amendatory Inconsistency.....	Page 13
(L)	Named Entity Represents Insureds.....	Page 13
(M)	Representative of the Insurer.....	Page 13
(N)	Bankruptcy.....	Page 13

THIS IS A CLAIMS MADE POLICY. READ IT CAREFULLY.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the insurance company set forth in the Declarations (a stock insurance company, hereinafter called the **Insurer**), including the statements made in the Proposal Form and any attachments thereto, and subject to all terms, conditions and limitations of this Policy, the **Insured** and **Insurer** agree as follows:

Terms that appear in boldface type shall have the meaning set forth in Section III. Definitions.

Section I. Insuring Agreements

A. Employment Practices Coverage

The **Insurer** shall pay on behalf of the **Insureds** all **Loss** which the **Insureds** shall be legally obligated to pay as a result of a **Claim** first made against an **Insured** during the **Policy Period** or the **Discovery Period** for an **Employment Practices Wrongful Act**.

B. Third Party Coverage

The **Insurer** shall pay on behalf of the **Insureds** all **Loss** which the **Insureds** shall be legally obligated to pay as a result of a **Claim** first made against an **Insured** during the **Policy Period** or the **Discovery Period** for a **Third Party Wrongful Act**.

C. Immigration Practices Coverage

The **Insurer** shall pay on behalf of the **Insureds** **Costs of Defense** which the **Insureds** shall be legally obligated to pay as a result of a **Claim** first made against an **Insured** during the **Policy Period** or the **Discovery Period** for an **Immigration Practices Wrongful Act**. This coverage shall be subject to the Sub-Limit of Liability stated in Item 3. of the Declarations.

The **Insurer** shall assume the duty to defend any **Claim** covered under these Insuring Agreements. However, pursuant to Section VIII.C. of the Policy, the **Insureds** may assume the duty to defend any **Claim**.

Section II. Discovery Period

A. In the event the **Insurer** refuses to renew this Policy or the **Named Entity** chooses to cancel or not renew this Policy, the **Named Entity** shall have the right, upon payment of the respective "Additional Discovery Premium Amount" stated in Item 5.B. of the Declarations, to an extension of the coverage provided by this Policy solely for any **Claim** first made against any **Insured** for the period of time (or one of the periods of time) stated in Item 5.B. of the Declarations after the end of the **Policy Period**, but only with respect to any **Wrongful Act** committed or alleged to have been committed before the end of the **Policy Period**. Only one such period may be elected, and this period shall be referred to in this Policy as the **Discovery Period**.

B. As a condition precedent to the right to purchase the **Discovery Period**, the total premium for this Policy must have been paid, and a written request together with payment of the appropriate Additional Discovery Premium Amount for the **Discovery Period** must be provided to the **Insurer** no later than sixty (60) days after the end of the **Policy Period**.

C. The purchase of the **Discovery Period** shall not in any way increase the Limit of Liability stated in Item 3. of the Declarations. For purposes of the Limit of Liability, and any applicable Sub-Limit(s) of Liability, the **Discovery Period** is part of, and not in addition to, the **Policy Period**.

D. Upon the election of the **Discovery Period**, Section X.F. Conversion to Run-Off Coverage, is deleted in its entirety.

Section III. Definitions

A. Claim shall mean:

- (1) a written demand for monetary or non-monetary relief;
- (2) a civil proceeding commenced by the service of a complaint or similar pleading, or any appeal thereof;
- (3) a criminal proceeding commenced by the filing of charges, the return of an indictment or similar document or any appeal thereof;
- (4) a formal administrative or regulatory proceeding commenced by the filing of charges, formal investigative order, or similar document, including any proceeding initiated against any **Insured** before the Equal Employment Opportunity Commission (EEOC) or any similar governmental body, or any appeal thereof;
- (5) an arbitration, mediation or similar alternative dispute resolution proceeding commenced against an **Insured** if the **Insured** is obligated to participate in such proceeding or if the **Insured** agrees to participate in such proceeding with the **Insurer's** written consent, or any appeal thereof; or
- (6) a written request to toll any applicable statute of limitations related to a possible **Claim** as described in paragraphs (1) through (5) above, if the **Insured** chooses to report such written request to toll to the **Insurer** as a **Claim** under Section IX.A.;

provided, however, **Claim** shall not include any labor or grievance proceeding pursuant to the terms and conditions of a collective bargaining agreement.

B. Claimant shall mean any **Employee** or prospective **Employee** of the **Company**, any **Independent Contractor**, and any governmental agency acting on behalf of an **Employee** or prospective **Employee**.

C. Company shall mean the **Named Entity** or **Subsidiary** or, in the event of **Financial Insolvency**, the resulting debtor in possession or receiver (or foreign equivalent status), if any.

D. Costs of Defense shall mean reasonable and necessary legal fees, costs and expenses incurred in the investigation, defense or appeal of any **Claim** including the costs of an appeal bond, attachment bond or similar bond (but without obligation on the part of the **Insurer** to apply for or furnish such bonds). **Costs of Defense** shall not include salaries, wages, overhead or benefit expenses associated with any **Insured Person**.

E. Employee shall mean any natural person whose labor or service is engaged and directed by the **Company** in the ordinary course of the **Company's** business including:

- (1) past, present, future, part-time, seasonal, temporary or leased employees; and
- (2) past, present or future volunteers, interns and students.

However, **Employee** shall not include any **Independent Contractor**.

F. Employment Practices Wrongful Act shall mean any of the following acts by any **Insured** but only if alleged by or on behalf of a **Claimant**:

- (1) wrongful dismissal, discharge or termination of employment, whether actual or constructive, or breach of an express or implied employment contract;
- (2) employment-related misrepresentation;

- (3) workplace harassment of any kind;
- (4) discrimination;
- (5) wrongful failure to employ or promote;
- (6) wrongful discipline;
- (7) wrongful demotion or deprivation of career opportunity, including defamatory statements made in connection with an employee reference;
- (8) failure to grant tenure;
- (9) negligent evaluation;
- (10) failure to provide and enforce adequate workplace or employment policies and procedures;
- (11) wrongful-retaliation;
- (12) employment-related libel, slander or defamation;
- (13) employment-related invasion of privacy;
- (14) workplace bullying;
- (15) sexual harassment whether “quid pro quo”, hostile work environment or otherwise;
- (16) negligent supervision, negligent training, negligent hiring or negligent retention; or
- (17) breach of any actual or alleged **Independent Contractor Agreement**;

provided, however, **Employment Practices Wrongful Act** shall not include an **Immigration Practices Wrongful Act** or a **Wage and Hour Violation**.

- G. Financial Insolvency** shall mean the **Company** becoming a debtor in possession, or the appointment of a creditors' committee, a receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the **Company**.
- H. Immigration Practices Wrongful Act** shall mean any actual or alleged violation of the Immigration Reform and Control Act of 1986 (IRCA), and rule or regulation promulgated under IRCA, or any similar provisions of any federal, state, local or foreign law.
- I. Independent Contractor** shall mean any natural person, other than an **Employee**, who performs services on behalf of the **Company** pursuant to an **Independent Contractor Agreement**.
- J. Independent Contractor Agreement** shall mean any express contract or agreement between the **Company** and any **Independent Contractor**, or any entity on behalf of an **Independent Contractor**, governing the **Company's** engagement of such **Independent Contractor**.
- K. Insured(s)** shall mean the **Company** and all **Insured Persons**.
- L. Insured Persons** shall mean:
- (1) all natural persons who were, now are or shall be:
 - (a) directors and officers, or the functional equivalents, if any;
 - (b) general counsels;
 - (c) risk managers;
 - (d) general partners;
 - (e) partnership managers;

- (f) management committee members; or
- (g) managers of a limited liability company if such entity is duly chartered as a limited liability company with a provision in its bylaws requiring indemnification to the fullest extent permitted by applicable law of such individuals;

of the **Company**;

- (2) **Employee(s)**; and
- (3) **Independent Contractors**, but only if the **Company** provides indemnification to such **Independent Contractors** in the same manner as provided to any **Employee** of the **Company**.

M. Loss shall mean:

- (1) judgments, including pre-judgment interest, post-judgment interest;
- (2) compensatory damages, punitive or exemplary damages, or the multiple portion of any multiplied damage award;
- (3) settlements;
- (4) liquidated damages awarded pursuant to the Age Discrimination in Employment Act, Family and Medical Leave Act or the Equal Pay Act;
- (5) back pay and front pay, and attorney's fees either awarded by a court against an **Insured** or agreed to by the **Insurer** in connection with a settlement (but only if such attorney's fees are agreed to in writing by the **Insurer** at the time of or after a final settlement); or

(6) **Costs of Defense**;

provided, however, **Loss** shall not include:

- (7) taxes or criminal or civil fines or penalties imposed by law;
- (8) the value of tuition or scholarships in relation to any **Claim** by or on behalf of an **Employee** as defined in Section III.E.(2); or
- (9) any matter which may be deemed uninsurable under the law pursuant to which this Policy shall be construed.

The enforceability of the foregoing coverage for punitive or exemplary damages or the multiple portion of any multiplied damage award shall be governed by the applicable law which most favors coverage.

N. Management Control shall mean:

- (1) with respect to any corporation, partnership, limited liability company or other entity organized under the laws of any jurisdiction, the **Named Entity's** ownership, directly or indirectly, of more than fifty percent (50%) of the outstanding securities or voting rights representing the present right to elect, appoint, or exercise a majority control over such entity's directors, trustees, managers, members of the board of managers, natural person general partners or the functional equivalent; or
- (2) with respect to any entity operated as a joint venture, the **Named Entity's** ownership, directly or indirectly, of exactly fifty percent (50%) of issued and outstanding voting securities and whose management and operation the **Named Entity** controls, pursuant to a written agreement or the by-laws, charter, operating agreement or similar documents of such entity, to elect, appoint or designate a majority of the management committee of such entity.

O. Named Entity shall mean the entity named in Item 1. of the Declarations.

- P. Policy Period** shall mean the period from the inception date of this Policy to the expiration date of this Policy as set forth in Item 2. of the Declarations, or its earlier termination if applicable.
- Q. Pollutant** shall mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, asbestos, chemicals or waste of any kind, including any materials to be recycled, reconditioned or reclaimed.
- R. Related Wrongful Acts** shall mean all **Wrongful Acts** that have as a common nexus, or are causally connected by reason of any fact, circumstance, situation, event or decision.
- S. Single Claim** shall mean all **Claim(s)** involving the same **Wrongful Act** or **Related Wrongful Acts**.
- T. Subsidiary** shall mean:
- (1) any entity in which and while the **Named Entity** has **Management Control**, provided the **Named Entity** obtains **Management Control**:
 - (a) on or before the inception date of this Policy;
 - (b) subsequent to the inception date of this Policy by reason of being created or acquired by the **Named Entity** after such date, if the **Employee** count of the created or acquired entity does not exceed fifty percent (50%) of the total **Employee** count of the **Company** as of the inception date of this Policy; or
 - (c) subsequent to the inception date of this Policy by reason of being created or acquired by the **Named Entity** other than as described in (b) above, if the **Named Entity**, within ninety (90) days of such creation or acquisition, provides the **Insurer** with written notice thereof and agrees to any premium adjustment and/or coverage revision that may be required by the **Insurer**.
 - (2) any nonprofit entity while such entity is controlled by the **Named Entity**.
- U. Third Party Wrongful Act** shall mean any actual or alleged discrimination, harassment or violation of any person's civil rights related to such discrimination or harassment by any **Insured** but only if alleged by a customer, client, supplier, distributor or other person who is not a **Claimant**.
- V. Wage and Hour Violation** shall mean any actual or alleged violation of the duties and responsibilities imposed upon an **Insured** by any federal, state, local or foreign law or regulation, including but not limited to the Fair Labor Standards Act, California Labor Code, California Assembly Bill No. 5 and/or California Unfair Competition Law, Bus. and Prof. Code § 17200 (UCL), and/or any similar law (except the Equal Pay Act) in any other jurisdiction which governs classification, wage, hour and payroll practices. Such practices include but are not limited to:
- (1) the calculation and payment of wages, overtime wages, minimum wages and prevailing wage rates;
 - (2) the calculation and payment of any benefits;
 - (3) reimbursement of any business expenses;
 - (4) the classification of any person or entity for wage and hour purposes;
 - (5) garnishments, withholdings and other deductions from wages;
 - (6) the use of child labor; or
 - (7) the furnishing of pay records, stubs and wage statements.
- W. Wrongful Act(s)** shall mean any **Employment Practices Wrongful Act**, **Third Party Wrongful Act** or **Immigration Practices Wrongful Act**.

Section IV. Exclusions

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:

A. brought about or contributed to by:

- (1) any **Insured** gaining any personal profit, financial advantage or remuneration to which such **Insured** was not legally entitled; or
- (2) the deliberately fraudulent or deliberately criminal acts of any **Insured**;

provided, however, this exclusion shall not apply unless and until there is a final, non-appealable adjudication as to such conduct in the underlying proceeding. For acts or omissions of an **Insured** which are considered a criminal violation in a Foreign Jurisdiction that are not considered a criminal violation in the United States of America or the imposition of a criminal fine or criminal sanction in such Foreign Jurisdiction will not trigger this exclusion. For purposes of this exclusion, Foreign Jurisdiction shall mean any jurisdiction, other than the United States of America or any of its territories or possessions.

B. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any **Wrongful Act** or **Related Wrongful Act** or any fact, circumstance or situation which has been the subject of any notice given and accepted or **Claim** reported under any other policy that provided employment practices liability coverage of which this Policy in whole or in part is a direct or indirect renewal or replacement;

C. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any prior and/or pending civil, criminal, administrative, arbitration or investigative proceeding involving any **Insured**, including any proceeding brought by or before the EEOC or any similar state, local or foreign agency, as of the date stated in Item 7. of the Declarations, or any fact, circumstance or situation underlying or alleged in such proceeding;

D. for any actual or alleged:

- (1) bodily injury, sickness, disease, or death of any person with the exception of mental anguish or emotional distress; or
- (2) damage to or destruction of any tangible property, including the loss of use thereof; or
- (3) non-employment-related invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, libel or slander.

E. for any **Wrongful Act** of any **Insured Persons** in their capacity as a director, officer, trustee, regent or governor of any entity other than the **Company**, even if directed or requested to serve as a director, officer, trustee or governor of such entity;

F. for any actual or alleged violation of the Employee Retirement Income Security Act of 1974 (except Section 510), 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, any amendments to any of these acts or any rules or regulations promulgated under these acts or any similar provisions of any federal, state, local or foreign law; provided, however, this exclusion shall not apply to any **Claim** alleging retaliation for the exercise of any rights under such laws;

G. for any actual or alleged **Wage and Hour Violation** brought by or on behalf any **Employee** or any past or present **Independent Contractor**; provided, however, this exclusion shall not apply to that part of any **Claim** alleging retaliation for the exercise of any rights under such laws or regulations governing wage, hour and payroll practices.

H. other than Costs of Defense:

- (1) for any obligation of the **Company** as a result of a **Claim** seeking relief or redress in any form other than money damages, including but not limited to any obligation of the **Company** to modify any building or property;
 - (2) for any obligation of the **Company** to pay:
 - (a) salary, wages or other employment-related benefits to any **Employee** pursuant to an express contract unless such obligation would exist absent the contract;
 - (b) compensation earned by an **Employee** in the course of employment but not paid by the **Company** including any unpaid salary, bonus, wages, severance pay, retirement benefits, vacation days or sick days; provided, however, this exclusion shall not apply to front pay and back pay; or
 - (c) any money, benefits or other consideration to any **Independent Contractor** pursuant to any **Independent Contractor Agreement**; and
 - (3) for any obligation of the **Company** as a result of a **Claim** for an **Immigration Practices Wrongful Act**; provided, however, this exclusion shall not apply to any **Claim** alleging retaliation for the exercise of any rights under such immigration laws;
- I.** based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving actual or alleged seepage, pollution, radiation, emission, contamination or irritant of any kind, including but not limited to any **Pollutant**; provided, however, this exclusion shall not apply to any **Claim** alleging retaliation.

In determining the applicability of the above exclusions, the **Wrongful Acts** of any **Insured** shall not be imputed to any other **Insured**.

Section V. Limit of Liability

- A.** The **Insurer's** liability for all **Loss** shall be the amount set forth in Item 3. of the Declarations which shall be the maximum aggregate Limit of Liability of the **Insurer** for the **Policy Period**, regardless of the time of payment or the number of **Claims**.
- B.** The **Insurer** shall be liable to pay all **Loss** in excess of the applicable Retention amount stated in Item 4. of the Declarations up to the Limit of Liability stated in Item 3. of the Declarations.
- C.** **Costs of Defense** shall be part of, and not in addition to, the Limit of Liability stated in Item 3. of the Declarations, and such **Costs of Defense** shall serve to reduce the Limit of Liability.
- D.** Certain coverages extended by the Policy are subject to Sub-Limits of Liability as set forth by endorsement to this Policy or as specified on the Declarations. Each such Sub-Limit of Liability shall be part of, and not in addition to, the applicable Limit of Liability set forth in Item 3. of the Declarations.

Section VI. Retention

- A.** The Retention is set forth in Item 4. of the Declarations.
- B.** The **Insurer** shall pay one hundred percent (100%) of the covered **Loss** from each **Claim** or **Single Claim** in excess of the applicable Retention, if any, up to the applicable Limit of Liability. The **Named Entity** shall be responsible for, and shall hold the **Insurer** harmless from, any amount within the Retention.
- C.** Only one Retention shall be applicable to each **Claim** or **Single Claim**. In the event more than one Retention applies to the **Loss**, only the highest Retention shall be applied.

- D.** In the event the **Named Entity** is unable to indemnify **Insured Persons** solely by reason of its **Financial Insolvency**, then: (1) the **Insurer** shall advance **Costs of Defense** incurred by the **Insured Persons** without first requiring payment of the Retention applicable to any **Claim or Single Claim** made against them; and (2) with respect to **Loss** incurred solely by **Insured Persons** as a result of a **Claim or Single Claim** made against them, no Retention shall apply. For the purpose of applying the Retention, the **Named Entity** agrees that the certificate of incorporation, charter or other organizational documents of the **Named Entity**, including by-laws and resolutions, shall be deemed to require indemnification and advancement of **Loss** to the **Insured Persons** to the fullest extent permitted by law.

Section VII. Loss Allocation and Advancement

- A.** For any **Claim** made against any **Insured** that includes both covered and uncovered matters pursuant to this Policy or is made against others (including **Insureds** who are not extended coverage for such **Claim**) and provided:

- (1) the **Insured** has not assumed the defense of such **Claim** pursuant to Section VIII.C. below; and/or
- (2) such **Claim** is not:
 - (i) subject, in whole or in part, to a Sub-Limit of Liability; and/or
 - (ii) limited by endorsement to this Policy;

then:

- (3) one hundred percent (100%) of reasonable and necessary **Costs of Defense** incurred by the **Insurer** from such **Claim** will be considered covered **Loss**; and
- (4) all remaining amounts from such **Claim** will be allocated between covered **Loss** and uninsured amounts. The **Insureds** and the **Insurer** shall use their best efforts to agree upon a fair and proper allocation.

For any covered **Claim** where the **Insured** has assumed the defense pursuant to Section VIII.C. and/or such **Claim** is subject, in whole or in part, to a Sub-Limit of Liability and/or limited by endorsement to this Policy, then (3) above shall not apply to such **Claim** and only (4) above shall apply with respect to all **Loss**, including **Costs of Defense**.

- B.** If the **Insureds** and **Insurer** are unable to agree on an allocation of **Loss** as required by A. above, the **Insurer** shall advance any **Loss** which the **Insurer** believes to be covered under this Policy until a different allocation is negotiated, arbitrated or judicially determined. Such advancement is on the condition that:

- (1) the applicable Retention has been satisfied;
- (2) any amounts advanced by the **Insurer** shall serve to reduce the Limit of Liability stated in Item 3. of the Declarations, or, if applicable, any Sub-Limit of Liability; to the extent such amounts are not in fact repaid; and
- (3) in the event it is finally established that the **Insurer** has no liability under this Policy for such **Loss**, the **Insureds** will repay the **Insurer** upon demand all **Loss** advanced.

Section VIII. Defense and Settlement

- A.** The **Insurer** shall assume the duty to defend any **Claim** covered under this Policy unless the **Insured** has assumed the defense of such **Claim** as outlined under Section VIII.C. below. Such duty to defend shall apply even if the allegations are groundless, false or fraudulent. Such duty to defend will cease and be deemed fully fulfilled and extinguished if the Limit of Liability or any applicable Sub-Limit of Liability has been exhausted. The **Insureds** shall at all times have the right to associate with the **Insurer** in the investigation, defense or settlement of any **Claim** to which coverage under this Policy may apply.

- B. The **Insurer** has the right to settle any **Claim** with the consent of the **Insured**. The **Insured's** consent shall not be unreasonably withheld.
- C. The **Insureds** have the right to assume the defense of any **Claim** against them. The **Named Entity** shall exercise this option in writing on behalf of all **Insureds** within thirty (30) days of the reporting of the **Claim** to the **Insurer**. If this option is exercised, the **Insurer** shall not re-assume the defense of the **Claim**. The **Insurer** shall at all times have the right to associate with the **Insured** in the investigation, defense or settlement of any **Claim** to which coverage under this Policy may apply.
- D. The **Insureds** shall not retain counsel, incur **Costs of Defense**, admit liability, offer to settle, or agree to any settlement in connection with any **Claim** without the express prior written consent of the **Insurer**, which consent shall not be unreasonably withheld. The **Insureds** shall provide the **Insurer** with all information and particulars it may reasonably request in order to reach a decision as to such consent. Any **Loss** resulting from any **Costs of Defense** incurred, admission of liability, or any offer or agreement to settle prior to the **Insurer's** consent shall not be covered.

Section IX. Notice of Claim

- A. All notices to the **Insurer** shall be e-mailed or mailed to the **Insurer** as indicated in Item 8. of the Declarations.
- B. With respect to any **Claim**, the **Insureds** shall, as a condition precedent to their rights under this Policy, give the **Insurer** notice in writing of such **Claim** as soon as practicable after the general counsel, or risk manager of the **Named Entity**, or person with equivalent responsibility becomes aware of such **Claim**, but in no event later than ninety (90) days after the end of the **Policy Period** or expiration of the **Discovery Period** if applicable. However, an **Insured's** failure or decision not to give notice to the **Insurer** of a **Claim** that the definition of **Claim** specifically permits the **Insured** to choose to report as a **Claim** under Section IX.A. shall not impair the **Insured's** right to give notice of a subsequent **Claim** involving **Related Wrongful Acts** under this Policy or any renewal issued by the **Insurer** to the **Named Entity**.
- C. If, during the **Policy Period** or **Discovery Period**, any **Insured** first becomes aware of a specific **Wrongful Act** and gives notice to the **Insurer** of:
 - (1) the specific **Wrongful Act**;
 - (2) the injury or damage which has or may result therefrom; and
 - (3) the circumstances by which the **Insured** first became aware thereof;then any **Claim** arising out of such **Wrongful Act** which is subsequently made against the **Insured** shall be deemed to have been made at the time the **Insurer** received such written notice from the **Insured**.
- D. All **Claims** constituting a **Single Claim** shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which such **Claim** was first made; or (2) the earliest date on which any such **Wrongful Act** or **Related Wrongful Acts** was reported under this Policy or any other policy providing similar coverage.
- E. With respect to any **Claim** for which coverage is provided, the **Insureds** shall give to the **Insurer** any such assistance, cooperation and information as the **Insurer** may reasonably require, including copies of reports, investigations, pleadings, and other papers. The failure of any **Insured** to provide the **Insurer** with full cooperation and information it may reasonably request shall not impair the rights of any other **Insured** under this Policy.

Section X. General Conditions

A. Other Insurance

- (1) For any **Claim** under Insuring Agreements I.A. and I.C. that is also covered under any other valid and collectible insurance policy not written expressly excess of this Policy, then this Policy shall be primary with respect to such **Claim**. However, if such **Claim** is made against an **Insured Person** who is an **Independent Contractor** or a leased or temporary employee, then this coverage shall be specifically excess of any such other insurance whether such insurance is stated to be primary, contributory, excess, contingent, or otherwise.
- (2) For any **Claim** under Insuring Agreement I.B. that is also covered under any other valid and collectible insurance not written expressly excess of this Policy, then this Policy shall be excess of and shall not contribute with such other insurance, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.

B. Cancellation or Non-Renewal

- (1) This Policy may be canceled by the **Named Entity** at any time by written notice to the **Insurer**. If the **Named Entity** cancels this Policy, the **Insurer** shall refund any unearned premium on a pro rata basis. Payment of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation but such payment shall be made as soon as practicable.
- (2) This Policy may only be canceled by the **Insurer** if the **Named Entity** does not pay the premium when due. The **Insurer** shall provide such Notice of Cancellation according to any applicable state requirements.
- (3) If the **Insurer** elects not to renew this Policy, the **Insurer** shall provide the **Named Entity** with no less than sixty (60) days advance notice thereof.

C. Proposal Forms

It is agreed by the **Company** and the **Insured Persons** that the particulars and statements contained in the Proposal Form(s) and any information provided therewith and any filing by the **Company** with the Securities and Exchange Commission within twelve (12) months prior to the date of the Proposal Form(s) (which shall be on file with the **Insurer** and be deemed attached thereto as if physically attached) are the basis of this Policy and are to be considered as incorporated in and constituting a part of this Policy. It is further agreed by the **Company** and the **Insured Persons** that the statements in the Proposal Form(s) and any information provided therewith and any filing by the **Company** with the Securities and Exchange Commission within twelve (12) months prior to the date of the Proposal Form(s) are their representations and this Policy is issued in reliance upon the truth of such representations. In the event any of the material statements, representations, or information in the Proposal Form(s) or any material information provided therewith and/or any filing by the **Company** with the Securities and Exchange Commission within twelve (12) months prior to the date of the Proposal Form(s) (hereafter referred to as "Facts") are not true and accurate:

- (1) there shall be no coverage for any **Insured Person** for any **Claim** if such **Insured Person** had knowledge, as of the inception date of the **Policy Period**, of any material Facts that were not truthfully and accurately disclosed in the Proposal Form(s) whether or not such **Insured Person** knew of such disclosure in the Proposal Form(s). The knowledge of any **Insured Person** shall not be imputed to any other **Insured Person** for the purposes of determining if coverage is available;
- (2) there shall be no coverage for the **Company**, to the extent that it indemnifies any **Insured Person** with knowledge as defined in (1) above;

- (3) there shall be no coverage for the **Company** for any **Claim** if either the person(s) who signed the Proposal Form(s) for this coverage or any **Insured Person** who is or was a past, present or future chief financial officer, or chief executive officer, of the **Named Entity**, had knowledge, as of the inception date of the **Policy Period**, of any material Facts that were not truthfully and accurately disclosed in the Proposal Form(s); and
- (4) in no event shall this Policy be rescinded by the **Insurer**.

The terms and conditions contained in this section supersede any inconsistent terms and conditions contained in the Proposal Form.

D. Action Against the Insurer

- (1) No action shall be taken against the **Insurer** unless, as a condition precedent thereto, there has been full compliance with all the terms of this Policy, and until the **Insured's** obligation to pay has been finally determined by an adjudication against the **Insured** or by written agreement of the **Insured**, the party bringing any **Claim**, and the **Insurer**.
- (2) No person or organization shall have any right under this Policy to join the **Insurer** as a party to any action against the **Insureds** nor shall the **Insurer** be impleaded by any **Insured** or their legal representative in any such action.

E. Merger or Acquisition

- (1) If, during the **Policy Period**:

- (a) the **Named Entity** acquires **Management Control** of or acquires all or substantially all of the assets of an entity by merger or otherwise, and
- (b) the total **Employee** count of such entity exceeds fifty percent (50%) of the total **Employee** count of the **Company** as of the inception date of this Policy;

then written notice thereof shall be given to the **Insurer** as soon as practicable, but in no event later than ninety (90) days from the effective date of such acquisition, together with such information as the **Insurer** may request. Premium adjustment and coverage revisions shall be effected as may be required by the **Insurer**; provided, however, any such entity shall automatically be included as a **Subsidiary** for the first ninety (90) days after the effective date of such acquisition, subject to any further conditions or limitations on coverage with respect to such acquisition.

- (2) There is no coverage for any **Wrongful Act** of any **Subsidiary** or any **Insured Persons** of such **Subsidiary** or any entity that merges with the **Company** or any **Insured Persons** of such entity that merges with the **Company**, if:
 - (a) such **Wrongful Act** occurs prior to the effective date such entity became a **Subsidiary** or was merged with the **Company**;
 - (b) such **Wrongful Act** occurs subsequent to the effective date such entity became a **Subsidiary** or was merged with the **Company** which together with a **Wrongful Act** occurring prior to the date such entity became a **Subsidiary** or was merged with the **Company**, would constitute **Related Wrongful Acts**; or
 - (c) such **Wrongful Act** occurs subsequent to the date such entity ceased to be a **Subsidiary**

F. Conversion to Run-Off Coverage

If, during the **Policy Period**, an event occurs where: another person or entity, or a group of persons or entities acting in concert, gains control of the **Named Entity** through the ownership of more than fifty percent (50%) of the voting stock, securities or voting interests of the **Named Entity**, or acquires all or substantially all of the assets of the **Named Entity**, then:

- (1) the **Named Entity** must give written notice of such event to the **Insurer** within ninety (90) days after the effective date of such event and provide the **Insurer** with such information in connection therewith as the **Insurer** may deem necessary; and
- (2) this Policy shall only apply to **Wrongful Acts** actually or allegedly committed on or before the effective date of such event and shall be excess of any other insurance available; and
- (3) the entire premium for this Policy shall be deemed earned as of the date of such event.

G. Coverage Extensions

(1) Spousal and Domestic Partner Coverage

The coverage provided by this Policy shall also apply to the lawful spouse or "Domestic Partner" of an **Insured Person**, but only for **Claims** arising out of any actual or alleged **Wrongful Acts** of an **Insured Person**. The term "Domestic Partner" shall mean any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or any formal program established by the **Company**.

(2) Estates and Legal Representatives

The coverage provided by this Policy shall also apply to the estates, heirs, legal representatives or assigns of any **Insured Person** in the event of their death, incapacity or bankruptcy, but only for **Claims** arising out of any actual or alleged **Wrongful Acts** of any **Insured Person**.

(3) Worldwide Provision

The coverage provided under this Policy shall apply worldwide except to the extent that:

- (a) any terms of this Policy conflict with the terms of any applicable laws, in which case such terms are hereby amended to conform to such laws; or
- (b) trade or economic sanctions or other laws or regulations prohibit the **Insurer** from providing insurance.

H. Subrogation

In the event of any payment under this Policy, the **Insurer** shall be subrogated to all of the **Insured's** rights of recovery. The **Insureds** shall execute all papers to secure such rights, including the execution of such documents necessary to enable the **Insurer** to effectively bring suit in the name of any **Insured**. In no event, however, shall the **Insurer** exercise its rights to subrogation against an **Insured Person** under this Policy unless such **Insured Person**:

- (1) has been convicted of a deliberate criminal act and such conviction is considered a final, non-appealable adjudication; or
- (2) has been determined by a final, non-appealable adjudication in the underlying action adverse to the **Insured Person** to have committed a deliberate fraudulent act, or to have obtained any personal profit, financial advantage or remuneration to which such **Insured Person** was not legally entitled.

In the event the **Insurer** for any reason pays indemnifiable **Loss** on behalf of an **Insured Person**, the **Insurer** shall have the contractual right hereunder to recover from the **Company** the amount of such **Loss**

equal to the amount of the Retention not satisfied by the **Company** and shall be subrogated to rights of the **Insured Persons** hereunder.

I. Assignment

Assignment of interest under this Policy shall not bind the **Insurer** until its consent is endorsed hereon.

J. Entire Agreement

This Policy (including the Declarations, Proposal Forms submitted to the **Insurer** and any information provided therewith) and any written endorsements attached hereto constitute the entire agreement between the parties. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

K. State Amendatory Inconsistency

It is understood and agreed that, in the event there is an inconsistency between a state amendatory endorsement attached to this Policy and any term or condition of this Policy, if permitted by law and the public policy of the state of domicile, the **Insurer** shall apply those terms and conditions which are most favorable to the **Insured**.

L. Named Entity Represents Insureds

By acceptance of this Policy, the **Named Entity** shall be designated to act on behalf of the **Insureds** for all purposes including, but not limited to, the giving and receiving of all notices and correspondence, the cancellation or non-renewal of this Policy, the payment of premiums, and the receipt of any return premiums that may be due under this Policy.

M. Representative of the Insurer

Great American Insurance Group, Executive Liability Division, P.O. Box 66943, Chicago, Illinois 60666 shall act on behalf of the **Insurer** for all purposes including, but not limited to, the giving and receiving of all notices and correspondence, except notice of **Claims** shall be given pursuant to Section IX. of the Policy.

N. Bankruptcy

The bankruptcy or insolvency of the **Named Entity**, any **Subsidiary** or any **Insured Person** shall not relieve the **Insurer** of any of its obligations under this Policy. In the event of such bankruptcy or insolvency, the **Insureds** waive and release any automatic stay or injunction in such proceeding which may apply to this Policy or its proceeds and agree not to oppose or object to any efforts by the **Insurer** or any **Insureds** to obtain relief from any such stay or injunction.

In witness whereof the **Insurer** has caused this Policy to be signed by its President and Secretary and countersigned, if required, on the Declarations page by a duly authorized agent of the **Insurer**.

GREAT AMERICAN INSURANCE COMPANIES®



President



Secretary

**Employment Practices
Liability Solution**



**FICTITIOUS BUSINESS NAMES OF CORPORATION
(INCLUDING DBA, FKA, TRADE NAME, ASSUMED NAME)**

It is understood and agreed that the **Named Entity** in Item 1. of the Declarations is amended to read as follows:

Other than as stated above, nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the Policy to which this endorsement is attached.

Insured:

Policy Period:

Policy Number:

Countersigned by: _____
Authorized Representative

Endorsement Effective Date:



Employment Practices Liability Solution

COST OF DEFENSE In Addition to Limit of Liability

It is understood and agreed that the Section V.C. of the Policy is deleted and replaced with the following:

- C. For **Costs of Defense** (not otherwise subject to a Sub-Limit) as a result of the **Insured** assuming the duty to defend a particular **Claim** (pursuant to Section VIII.C.), such amounts shall be part of, and not in addition to, the Limit of Liability stated in Item 3. of the Declarations, and such **Costs of Defense** shall serve to reduce the Limit of Liability. However, for **Costs of Defense** (not otherwise subject to a Sub-Limit) as a result of the **Insurer** assuming the defense of a particular **Claim**, such amounts shall be in addition to, and shall not reduce, the Limit of Liability stated in Item 3. of the Declarations.

Other than as stated above, nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the Policy to which this endorsement is attached.

Insured:

Policy Period:

Policy Number:

Countersigned by:

Authorized Representative

Endorsement Effective Date:



Employment Practices Liability Solution

COST OF DEFENSE SUB-LIMIT FOR WAGE AND HOUR VIOLATIONS Including Misclassification of Independent Contractors

For purposes of the coverage extended by this endorsement, it is understood and agreed that the Policy and the Declarations are amended as follows:

1. Section I. is deleted and replaced by the following:

Section I. Insuring Agreements

The **Insurer** shall pay on behalf of the **Insureds**:

- (1) all **Loss** which the **Insureds** shall be legally obligated to pay as a result of a **Claim** first made against an **Insured** during the **Policy Period** or the **Discovery Period** for any **Employment Practices Wrongful Act** other than a **Wage and Hour Violation**; or
- (2) all **Costs of Defense** which the **Insureds** shall be legally obligated to pay as a result of a **Claim** first made against an **Insured** during the **Policy Period** or the **Discovery Period** for a **Wage and Hour Violation**, up to the applicable Sub-Limit of Liability for all **Claims** for **Wage and Hour Violations**.

The **Insurer** shall assume the duty to defend any such **Claim** covered by this Policy, even if the allegations are groundless, false or fraudulent. However, pursuant to Section VIII.C. of the Policy, the **Insureds** may assume the duty to defend any **Claim**.

2. Section III.F. is amended as follows

Employment Practices Wrongful Act shall include a **Wage and Hour Violation**.

3. Section III.M. is amended by the addition of the following:

Loss shall not include any obligation of the **Company** to pay:

- (1) salary, wages or other employment-related benefits to any **Employee** or **Independent Contactor** (with respect to any misclassification) under an express contract unless such obligation would exist absent the contract; or
- (2) compensation earned by an **Employee** or **Independent Contactor** (with respect to any misclassification) in the course of employment but not paid by the **Company** including any unpaid salary, bonus, wages, severance pay, retirement benefits, vacation days or sick days.



Employment Practices Liability Solution

COST OF DEFENSE SUB-LIMIT FOR WAGE AND HOUR VIOLATIONS Including Misclassification of Independent Contractors

4. Section IV.G. is amended by the addition of the following:

This exclusion shall also not apply to **Costs of Defense** as a result of any **Claim** for **Wage and Hour Violations** up to the applicable Sub-Limit of Liability for all such **Claims** for **Wage and Hour Violations**;

5. Section V. is amended by the addition of the following:

Costs of Defense for Wage and Hour Violations Sub-Limit of Liability

This Sub-Limit of Liability shall be the **Insurer's** maximum aggregate liability for all **Claims** for **Wage and Hour Violations** regardless of the number of such **Claims**. Such Sub-Limit shall be part of and not in addition to the aggregate Limit of Liability set forth in Item 3. of the Declarations and each such **Claim** shall be subject to the Retention set forth in Item 4. of the Declarations.

6. Item 3. of the Declarations is amended by the addition of the following:

\$150,000

Costs of Defense for Wage and Hour Violations Sub-Limit of Liability This Sub-Limit is part of not in addition to the aggregate Limit of Liability provided for in Item 3. of the Declarations.

Other than as stated above, nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the Policy to which this endorsement is attached.

Insured:

Policy Period:

Policy Number:

Countersigned by: _____

Authorized Representative

Endorsement Effective Date:



Employment Practices Liability Solution

FIRST PARTY COVERAGE Workplace Violence Act Sub-Limit

It is understood and agreed that the Policy is amended as follows:

1. Section X.G. is amended by the addition of the following:

Workplace Violence Sub-Limit

In the event a **Workplace Violence Act** occurs during the **Policy Period** and the **Company** notifies the **Insurer** of such **Workplace Violence Act** as soon as practicable and in no event later than ninety (90) days after the end of the **Policy Period**, the **Insurer** shall, subject to prior written consent, reimburse the **Company** for:

- (1) **Business Interruption Expense**;
- (2) **Public Image Restoration Expense**;
- (3) **Security and Well Being Expense**; and
- (4) **Workplace Violence Expense**

subject to the Workplace Violence Sub-Limit of Liability set forth below. No Retention shall apply. Such coverage shall be subject to and shall be applied against the Limit of Liability as set forth in Item 3. of the Declarations.

2. For purposes of the first party coverage extended by this endorsement, the following definitions are added to the Policy:

Wages shall mean the compensation of such **Insured Person(s)** in effect at the time of the **Workplace Violence Act**. **Wages** shall also mean compensation paid to another person to perform the duties of the **Insured Person(s)** for an amount not to exceed the compensation paid to such **Insured Person(s)** in effect at the time of the **Workplace Violence Act**. **Wages** shall not mean any unpaid salary, bonus, severance pay, retirement benefits or accrued vacation or sick days.

Workplace Violence Act shall mean any actual or alleged intentional and unlawful use of, or threat to use, deadly force with intent to cause harm to others occurring at any building, facility or property occupied by the **Company** in the conduct of its operations. **Workplace Violence Act** shall not include such actual or alleged conduct if it is for purposes of:

- (1) any war, invasion, insurrection, riot, rebellion, revolution, or military action; or
- (2) demanding money, securities or property.

Business Interruption Expense shall mean:

- (1) The sum of:
 - (a) the excess of revenues over expenses, if any, that would have been earned; and



Employment Practices Liability Solution

FIRST PARTY COVERAGE Workplace Violence Act Sub-Limit

- (b) the reasonable costs and expenses which would not have been incurred except for any **Workplace Violence Act** and which were incurred by the **Company**:
 - (i) to continue the activities which are necessary for the **Company** to resume operations with substantially the same quality of service which existed immediately preceding the **Workplace Violence Act**; and
 - (ii) for the sole purpose of reducing any **Business Interruption Expense**, not to exceed the amount of actual reduction of such **Business Interruption Expense**;
- (2) Less the sum of:
 - (a) all recoveries, other insurance, suretyship and other indemnity which cover **Business Interruption Expense**; and
 - (b) the amount by which the **Company** reasonably could have but fails to reduce **Business Interruption Expense**.

Business Interruption Expense is limited to the period of time commencing on the day of the **Workplace Violence Act** and ending on the earlier of ninety (90) days following such date, or until the **Company** restores operations with due diligence and dispatch to the level that existed prior to the **Workplace Violence Act**.

Public Image Restoration Expense shall mean reasonable fees, costs and expenses for an independent public relations consultant for up to ninety (90) days following the date of the **Workplace Violence Act**.

Security and Well Being Expense shall mean reasonable fees, costs and expenses for:

- (1) an independent security consultant for up to ninety (90) days following the date of the **Workplace Violence Act**;
- (2) an independent security guard service for up to thirty (30) days following the date of the **Workplace Violence Act**;
- (3) a counseling seminar for **Insured Persons** conducted by an independent consultant within ninety (90) days following the **Workplace Violence Act**; and
- (4) an independent forensic analyst for up to ninety (90) days following the date the **Workplace Violence Act** occurs.

Workplace Violence Expense shall mean the reasonable **Wages** the **Company** pays:

- (1) **Insured Person(s)** victimized by a **Workplace Violence Act** and who are unable to work because of such



Employment Practices Liability Solution

FIRST PARTY COVERAGE Workplace Violence Act Sub-Limit

Workplace Violence Act;

- (2) newly hired or retained person(s) to perform the duties of such **Insured Person(s)** victimized by a **Workplace Violence Act** and who are unable to work because of such **Workplace Violence Act**;

for up to ninety (90) days following the date of the **Workplace Violence Act**.

3. The Declarations is amended by the addition of:

\$ 250,000 Workplace Violence Sub-Limit of Liability. This Sub-Limit of Liability shall be part of, and not in addition to, the aggregate Limit of Liability.

Other than as stated above, nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the Policy to which this endorsement is attached.

Insured:

Policy Period:

Policy Number:

Countersigned by: _____
Authorized Representative

Endorsement Effective Date:



Employment Practices Liability Solution

COST OF DEFENSE SUB-LIMIT FOR Biometric Information Violations

It is understood and agreed that the Policy and the Declarations are amended as follows:

1. Section I. is amended by the addition of the following:

Biometric Information Violation Coverage

The **Insurer** shall pay on behalf of the **Insureds**:

all **Costs of Defense** which the **Insureds** shall be legally obligated to pay as a result of **Claim** first made against an **Insured** during the **Policy Period** or the **Discovery Period** for a **Biometric Information Violation**, up to the applicable Sub-Limit of Liability for all **Claims** for any **Biometric Information Violation**.

2. Section III. is amended by the addition of the following:

Biometric Information shall mean any:

biometric identifier, including but not limited to an anatomical scan, a retina or iris scan, fingerprint, voiceprint or hand or face geometry, and regardless of how such identifier is captured, converted, stored or shared. However, **Biometric Information** shall not include a physical or digital photograph, video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under The Health Insurance Portability and Accountability Act of 1996.

Biometric Information Violation shall mean any actual or alleged act, error or omission concerning the:

- (i) disclosure, release, collection, possession, usage, retention, storage, transmission, protection, dissemination, or destruction of **Biometric Information**;
- (ii) sale, lease, capture, purchase or trade or any other types of profit from **Biometric Information**;
- (iii) violation of any policies or practices involving **Biometric Information**; and/or
- (iv) violation of any federal, state or local statutory law or common law anywhere in the world involving **Biometric Information**, or any amendments thereto or rules or regulations promulgated thereunder, including, but not limited to: (1) the California Biometric Information Privacy Act of 2017 (CalBIPA); (2) California Consumer Privacy Act of 2018 (CCPA); (3) Illinois Comp. Stat. § 740, 14/5 (BIPA); (4) Texas Bus & Com. § 503.001; and/or (5) Wash. Rev. Code § 19.357.

3. Section III.F. is amended by the addition of the following:

Employment Practices Wrongful Act shall not include any **Biometric Information Violation**. If an actual or alleged act(s) meet(s) the definition of a **Biometric Information Violation** and any other **Employment Practices Wrongful Act** as defined above, such act(s) shall be deemed a **Biometric Information Violation** only.

4. Section III.H. is amended by the addition of the following:



Employment Practices Liability Solution

COST OF DEFENSE SUB-LIMIT FOR Biometric Information Violations

However, **Immigration Practices Wrongful Act** shall not include any **Biometric Information Violation**.

5. Section III.U. is amended by the addition of the following:

However, **Third Party Wrongful Act** shall not include any **Biometric Information Violation**.

6. Section III.W. is amended by the addition of the following:

Wrongful Act shall also include a **Biometric Information Violation**.

7. Section IV.H. is amended by the addition of the following:

for any actual or alleged **Biometric Information Violation**;

8. Section V. is amended by the addition of the following:

Costs of Defense for Biometric Information Violation Sub-Limit of Liability

All **Claims**, in whole or in part alleging a **Biometric Information Violation**, shall be subject to the following Sub-Limit of Liability:

\$ 100,000 **Biometric Information Violation Sub-Limit of Liability**. This Sub-Limit of Liability shall be part of, and not in addition to, the aggregate Limit of Liability stated in Item 3. of the Declarations. The Retention stated in Item 4.A. shall apply to each **Claim** alleging a **Biometric Information Violation**.

9. Item 3. of the Declarations is amended by the addition of the following:

\$ 100,000 **Costs of Defense for Biometric Information Violation Sub-Limit of Liability**

This Sub-Limit is part of not in addition to the aggregate Limit of Liability provided for in Item 3.A. of the Declarations.

Other than as stated above, nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the Policy to which this endorsement is attached.

Insured:

Policy Period:

Countersigned by: _____

Authorized Representative

Policy Number:

Endorsement Effective Date:



TERRORISM COVERAGE ENDORSEMENT CAP ON LOSS FROM CERTIFIED ACTS

Subject to all terms and conditions of this Policy, including any follow-form provisions, this Policy is amended by the addition of the following:

CERTIFIED ACTS OF TERRORISM COVERAGE

"Certified Act of Terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "Certified Act of Terrorism" include the following:

1. the act resulted in insured losses in excess of \$5 million in the aggregate attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. the act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States government by coercion.

If the aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year in the aggregate and the Insurer has met its deductible under the Terrorism Risk Insurance Act, the Insurer shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rate allocation in accordance with procedures established by the Secretary of the Treasury.

It is understood and agreed that the Premium section of the Declarations is amended by the addition of the following:

Terrorism Premium: \$ 0.00

The Policyholder Disclosure Offer of Terrorism Coverage is attached to and is to be considered as incorporated in and constituting a part of this Policy.

This coverage shall not apply to any commercial crime coverage that may be included in this policy.

This endorsement does not extend any additional coverage or otherwise change the terms and conditions of any coverage under this Policy.

Insured:

Policy Period:

Policy Number:

Countersigned by: _____
Authorized Representative

Endorsement Effective Date:



ECONOMIC AND TRADE SANCTIONS CLAUSE

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance.

Insured:

Policy Period:

Policy Number:

Countersigned by: _____
Authorized Representative

Endorsement Effective Date: