

## ACCOUNTANTS' PROFESSIONAL LIABILITY POLICY

*(Claims Made)*

**YOUR ACCOUNTANTS' PROFESSIONAL LIABILITY INSURANCE IS WRITTEN ON A "CLAIMS MADE" BASIS. IT PROVIDES COVERAGE FOR THOSE CLAIMS WHICH ARE BOTH FIRST MADE AGAINST YOU AND REPORTED TO US IN WRITING DURING THE POLICY PERIOD.**

**In consideration of the payment of the premium, in reliance upon the statements and representations in the Application referred to in Item 7 of the Declarations, which shall be deemed incorporated herein, and subject to the Limits of Liability shown in Item 5 of the Declarations and all of the other terms and provisions of this Policy, CPA Mutual Insurance Company of America Risk Retention Group ("the Company") agrees with the Named Insured as follows:**

Throughout this Policy, the terms "we", "us" and "our" refer to the Company.

### **I. DEFINITIONS**

Terms shown in bold face type below will have only the following meaning throughout this Policy:

**Affiliated Firm** means any person or entity named as such in the Declarations or by endorsement.

**Bodily Injury** means: (1) injury to the body, including sickness or disease sustained by any person and death resulting from such injuries; and (2) emotional distress or mental anguish sustained by any person whether or not resulting from such injury; and (3) all injuries that are a consequence of the foregoing.

**Claim** means a writing received by **You** that requests that **You** sign an agreement to toll a statute of limitations, notify **Your** insurer concerning **Your** performance of **Professional Services**, or alleges an error or omission committed by **You** in the rendering of **Professional Services**. A **Claim** shall include the service of suit, the institution of arbitration or mediation proceedings, or a demand for money or services, but shall not include a **Regulatory Inquiry** or a criminal investigation or proceeding.

**Claim Expenses** are those fees charged by an attorney we designate or consent to, and all other fees, costs and expenses resulting from the investigation, adjustment, expert analysis, defense and appeal of a **Claim**, if incurred by us or by **You** with our written consent. **Claim Expenses** do not include salaries of our employees or officers, or fees and expenses of independent adjusters retained by us.

**Damages** are monetary judgments, awards and settlements, provided any settlement is negotiated by or with our assistance and approval. **Damages** also include pre-judgment or post-judgment interest awarded against **You** on such judgments or awards. **Damages** do not include any of the following:

- A. Civil or criminal fines, penalties, sanctions or forfeitures, imposed on **You** whether pursuant to law, statute, regulation or court rule.
- B. Punitive or exemplary amounts, including awards of attorneys' fees, and the multiplied portion of multiplied awards on **Claims** otherwise payable under this Policy.
- C. Amounts claimed for the return or reimbursement of fees for **Professional Services**.
- D. Amounts for which **You** are not financially liable or that are without legal recourse to **You**.
- E. Liquidated damages, fees, costs, attorneys' fees, litigation expenses or other amounts payable under any contract or agreement if **You** would not be liable for such amounts if the contract or agreement did not provide for their recovery.

**Effective Date** shall be the date shown on the Declarations as the date on which begins the current **Policy Period**.

**Incident** means circumstances that reasonably suggest that a **Claim** might be asserted against **You**, or that reasonably suggest **You** may have committed an act or omission upon which a **Claim** could be based. An **Incident** shall include a **Regulatory Inquiry** involving **You** and may include **Your** receipt of a subpoena for documents or testimony related to **Your** performance of **Professional Services**.

**Incident** also refers to an act or omission that any of **You** have a reasonable basis to believe may constitute a violation of professional standards, applicable law or regulations, or may result in a **Claim**.

**Interrelated Claims** are all **Claims** and **Incidents** arising out of the same acts or omissions, or arising out of **Interrelated Acts or Omissions** in the rendering of **Professional Services**. **Interrelated Claims** are also **Claims** that have been or may be consolidated in a single lawsuit or arbitration, or for which joint discovery or joint hearings on the merits may be ordered (or may have been ordered had the **Claims** been filed in the same tribunal) as provided by the rules governing any tribunal having jurisdiction over the **Claim**.

**Interrelated Acts or Omissions** mean all acts or omissions in the rendering of **Professional Services** that are logically or causally connected by any common fact, circumstance, situation, transaction, event, advice or decision. **Interrelated Acts or Omissions** are also acts or omissions that: (1) are connected with related client engagements, client financial statements, or client misconduct, errors, or misstatements; or (2) involve the same business failure, financial insolvency or bankruptcy; or (3) involve similar compensatory damages, even if sustained by different parties; or (4) involve the failure to detect knowingly made financial misstatements (including financial misstatements that derive from improper entries or omitted entries in books or records of account) regardless of whether the methods employed to make such misstatements or to conceal such misstatements vary over time, and whether the failure to detect the misstatements arise from continuing or distinct **Professional Services** provided to the same client or to clients related by common ownership, or common control, or common financial management.

**Member** means all persons associated with the **Named Insured**, including employees, officers, agents, retirees, past employees and temporary employees, and is not limited to persons who are owners or registered principals of business entities.

**Named Insured** means the individual or entity named on the Declarations as the **Named Insured**. Also, as used in Exclusion B, the term **Named Insured** includes all persons and businesses described below in the definition of **You** and **Your**, and all persons and businesses insured under any Endorsement to this Policy.

**Policy Period** means the period of time from the effective date and time shown in the Declarations to the date and time of termination, expiration or cancellation of this Policy.

**Predecessor Firm** means a sole proprietor, partnership, professional corporation, professional association, limited liability company or limited liability partnership engaged in **Professional Services**, which has undergone dissolution and of which 50 percent or more of the owners, partners or officers have joined the **Named Insured** as an owner, partner, officer, associate or employee.

**Prior Acts Date**, if any, is indicated on the Declarations. This Policy excludes from coverage all **Claims** by reason of acts or omissions that happened before the **Prior Acts Date**.

**Prior Insurer** means an insurer, including us and any subsidiary or affiliate of ours, who has issued prior accountants' professional liability insurance coverage.

**Professional Services** means advice given or services performed of whatsoever nature in the practice of public accountancy, undertaken by or on behalf of the **Named Insured**, or by an **Affiliated Firm** so named in the declarations, or any other person or entity for whose conduct the **Named Insured** is legally responsible, so long as the services are not otherwise excluded by this Policy, whether assumed by contract or otherwise, provided always that the fee or portion of the fee, unless the work is pro-bono, accruing from such work shall inure to the benefit of the **Named Insured** or **Affiliated Firm**. **Professional Services** also means advice given or services performed in connection with any institute of accountants or any standards board or any similar professional body whether or not on behalf of the **Named Insured**. **Professional Services** also includes the provision of computer software, software packages and products developed, sold or installed by the **Named Insured** or an **Affiliated Firm**, and publications prepared or written by the **Named Insured** or an **Affiliated Firm**.

**Regulatory Inquiry** means an inquiry or investigation or any administrative, disciplinary or regulatory proceedings, arising out of **Professional Services** that **You** provided, by any board, self-regulatory body or governmental agency with regulatory authority over **You**.

**You** and **Your** means the **Named Insured** and any **Predecessor Firm** or **Affiliated Firm** and all of the following:

- A. Any person who is or becomes a partner, officer, director, associate or employee of the **Named Insured**, but only for **Professional Services** performed on behalf of the **Named Insured**.
- B. Any person previously affiliated with the **Named Insured** or a **Predecessor Firm** as a partner, officer, director, associate or employee, but only for **Professional Services** performed on behalf of the **Named Insured** or a **Predecessor Firm** at the time of such affiliation.
- C. The heirs, executors, administrators, assigns and legal representatives of any person or their estate as designated in A. or B. above in the event of such person's death, incapacity, insolvency or bankruptcy, but only to the extent that such person would have been provided coverage under this Policy.
- D. Any person while working as an independent contractor on behalf of and in the name of the **Named Insured** and while providing **Professional Services**, as long as the fees inure to the benefit of the **Named Insured**.

## II. COVERAGE AGREEMENTS

- A. We will pay on **Your** behalf all sums in excess of the deductible, up to our limits of liability, that **You** become legally obligated to pay as **Damages** and **Claim Expenses** because of a **Claim** that is both first made against **You** and reported in writing to us during the **Policy Period** by reason of an act or omission in the performance of **Professional Services** by **You** or by any person for whom **You** are legally liable provided that all of the following conditions precedent to coverage are satisfied:
  1. **You** did not give notice to a **Prior Insurer** of any such act or omission or **Interrelated Act** or **Omission**.
  2. Prior to the effective date of this Policy, none of **You** had a belief or a basis to believe that any such act or omission, or **Interrelated Act** or **Omission**, might result in a **Claim**.
  3. Such act or omission happened subsequent to the **Prior Acts Date**, if any.
  4. **You** did not give notice to a **Prior Insurer** of the same **Claim** or of an **Interrelated Claim**.
- B. We have the right and duty to defend any **Claim**, even if any of the allegations of the **Claim** are groundless, false or fraudulent. We will investigate any **Claim** or **Incident** as we deem appropriate. We will not settle any **Claim** without **Your** consent. If we recommend a reasonable settlement or compromise to **You** which is acceptable to the claimant and **You** withhold consent to such settlement or compromise, then our limit of liability is reduced to the sum or the amount for which the **Claim** could have been settled or compromised plus the amount of **Claims Expenses** and **Damages** incurred up to the time we made the recommendation, which amount shall not exceed the remainder of the limit of liability specified in Section III.A.
- C. We are not obligated to investigate, defend, pay or settle a **Claim** after the applicable limit of our liability has been exhausted by payment of **Damages** or **Claim Expenses** or by any combination thereof, or after we have tendered the remaining available limits of liability to **You**, or into a court of competent jurisdiction. In such case, we shall have the right to withdraw from the further investigation, defense or settlement of any **Claim** by tendering control of said investigation, defense or settlement to **You**. We will initiate and cooperate in the transfer of control to the **Named Insured** of any **Claims** which were reported to us prior to the exhaustion of such limit. The **Named Insured** must cooperate in the transfer of control of such **Claims**. We agree to take the necessary steps, as we deem appropriate, to avoid a default in such **Claims** until such transfer has been completed, provided the **Named Insured** is cooperating in completing such transfer.

- D. If we conclude that the limit of liability applicable to any **Claim** may become exhausted prior to the conclusion of the **Claim**, we will notify the **Named Insured** in writing as soon as practicable to that effect. When the limit of liability applicable to any **Claim** has actually been exhausted prior to the conclusion of the **Claim**, we will notify the **Named Insured** in writing as soon as practicable that such limit has been exhausted. In no event shall untimely notice hereunder cause the Company to be liable for the payment of **Damages** in excess of the applicable limits of liability.

### III. LIMITS OF LIABILITY

A. Each **Claim**

Subject to B. below, the limit of liability for **Damages** and **Claim Expenses** for each **Claim** and all **Interrelated Claims**, and for all other amounts payable under this Policy that are expressly made subject to the “Each **Claim**” limit of liability, shall not exceed the amount stated in the Declarations as “Each **Claim**.” Item 5.(a).

B. Aggregate

Subject to A. above, the limit of our liability for **Damages** and **Claim Expenses** for all **Claims** shall not exceed the amount stated in the Declarations as “Aggregate.” Item 5.(b). Under no circumstances shall our liability for payments of any type exceed the amount stated in the Declarations as “Aggregate”, except for amounts payable under this Policy that expressly state they are in addition to or in excess of the limits of liability.

C. Deductible

Our obligation to pay **Damages** and **Claim Expenses** as a result of a **Claim** is in excess of the applicable amount of the deductible. The **Named Insured** agrees to pay all **Damages** and **Claim Expenses** up to the amount of such deductible (unless modified by endorsement). The deductible amount applies either on a per **Claim** or on an aggregate basis as is indicated on the Declarations. Payment of the deductible or portions thereof shall be made by the **Named Insured** as **Claim Expenses** are incurred or **Damages** are paid. The limit of liability for **Damages** and **Claims Expense** shall not be reduced by the amount of the deductible.

D. Multiple Insureds, **Claims** and Claimants

The limits of liability shown in the Declarations and subject to the provisions of this Policy are the amount we will pay as **Damages** and **Claim Expenses** regardless of the number of **Claims** made, or persons or entities making **Claims**. If **Interrelated Claims** are made against **You** and reported to us, all such **Interrelated Claims**, whenever made, shall be considered a single **Claim** first made and reported to us when the earliest of the **Interrelated Claims** was first made and reported to us.

If we advise **You** in writing that one or more **Claims** or **Incidents** are **Interrelated Claims**, **You** shall advise us within sixty (60) days thereafter if you disagree with our determination, and failing to do so, **You** shall be conclusively deemed to agree with such determination. If **You** so advise us, we agree to promptly initiate the mediation and arbitration provisions of the Policy to determine the applicable limits of liability. While such proceedings are pending, we agree to defend and indemnify **You** to the extent coverage otherwise exists, up to but not exceeding the limits of liability that we have determined to be applicable, and we shall be under no obligation to settle any action against **You** that would cause such limits to be exceeded. We shall give **You** prompt notice of any such settlement offer and the amount, if any, we agree to pay towards that offer and **You** may accept such settlement offer, reserving any rights to seek to recover from us the difference between such settlement amount and such lesser amount we may have agreed to pay towards that settlement. We may, but shall be under no obligation to, advance all or some of said difference, and may condition such advances upon **Your** agreement as to terms, including interest, security, and other terms as may assure timely repayment to us of any amounts we may pay or advance that are later determined to be in excess of our limits of liability.

E. Mediation Incentive

If mediation of a **Claim** takes place before service of suit and such **Claim** is ultimately resolved for an amount acceptable to **You** and us by the process of mediation, **Your** deductible, applying to the **Claim**, will be reduced by 50 percent upon **Your** written request. In no event shall the amount of the deductible waived hereunder exceed \$25,000. **Your** share of the administrative charges for the mediation service and the mediator's fee will be paid by the company and will not be part of the deductible.

F. Supplementary Benefits

1. Defendants Reimbursement

We will compensate **You**, upon written request, for **Your** loss of earnings resulting from being required by us to attend a mediation, an arbitration, a deposition or a trial for a **Claim**, subject to all of the following limitations:

- a. We will compensate **You** for the days following the first three (3) days' attendance for each **Claim**. We will not compensate **You** for the first three (3) days.
- b. This compensation is in addition to the limits of liability. The deductible obligation does not apply to this compensation.
- c. The limit of compensation is \$250 per day per **Claim** and total compensation shall not exceed \$7,000, in the aggregate, for all **Claims** under this Policy.
- d. The per day limit is the most we will compensate **You** for each full day **You** are required to attend a compensable event. The aggregate limit is the most we will compensate for all **Claims** in each **Policy Period**. If an **Extended Claim Reporting Period** is purchased, the aggregate limit for this period is the aggregate limit remaining from the terminating **Policy Period**.

2. Regulatory Investigations and Proceedings

With regard to any **Regulatory Inquiry**, initiated and reported to us in writing during the **Policy Period** and arising from **Professional Services** that **You** provided, we agree to pay 50 percent of **Your** attorneys' fees, attorneys' costs and court cost, up to a maximum of \$25,000 per such proceeding, and no deductible shall apply to this coverage. Coverage is within the limit of liability stated in the Declarations as applicable to "Each **Claim**."

3. Subpoenas for Documents or Testimony

In the event **You** receive a subpoena for documents or testimony related to or arising from **Your** performance of **Professional Services** and would like to receive legal advice in responding to the subpoena, **You** may provide us with a copy of the subpoena and we may retain legal counsel to advise **You** regarding document production or to represent **You** in giving sworn testimony. The maximum cost borne by us under this provision shall not exceed \$1,000 per **Policy Period**. Coverage is within the limit of liability stated in the Declarations as applicable to "Each **Claim**." We may consider **Your** receipt of a subpoena and the attending circumstances in determining whether there is an **Incident**.

4. Services as a Director or Trustee of a Not-for-Profit (Charitable) Organization

In the event a **Claim** is brought against **You** for **Your** services as a director, trustee or other member of the governing body of a Not-for-Profit (Charitable) organization, we will pay up to \$25,000 in **Claims Expenses** in excess of **Your** deductible, for no more than one of **You** per **Claim**, subject to the limits of liability; however, we will provide no indemnity coverage for such **Claims**.

#### 5. Use of Engagement Letters

If **You** utilized an engagement letter in any engagement other than audit services or attest services, then, upon **Your** written request, we will reduce **Your** deductible applying to that **Claim** by 25 percent, up to a total amount of \$5,000, provided all of the following conditions precedent are satisfied:

- a. The engagement letter was signed within the preceding 11 month period prior to rendering the **Professional Services** at issue in the **Claim**.
- b. The engagement letter pertains to the engagement about which the **Claim** is asserted.
- c. The **Claim** is otherwise covered under the Policy.

#### IV. EXCLUSIONS

This Policy does not apply to any of the following:

- A. Any **Claim** or any portion of any **Claim** based on or arising out of **Bodily Injury** to, or sickness, disease, or death of, any person.
- B. Any **Claim** or any portion of any **Claim** by one **Named Insured** under this Policy against another **Named Insured** under this Policy.
- C. Any **Claim** or any portion of any **Claim** based on or arising out of fire, theft, misappropriation, misdirection, malicious activity, sabotage, or other casualty that results in damage to, destruction of, or loss of use of tangible property.
- D. Any **Claim** or any portion of any **Claim** based on or arising out of liability assumed under any contract or agreement unless **You** would have been liable if the contract or agreement did not exist.
- E. Any **Claim** or any portion of any **Claim** based on or arising out of a dishonest, fraudulent, criminal or malicious act by any of **You**. We shall provide **You** with a defense of such **Claim** unless or until the dishonest, fraudulent, criminal or malicious act has been determined by any trial verdict, court ruling, regulatory ruling or legal admission, whether appealed or not. Such defense will not waive any of our rights under this Policy. Criminal proceedings are not covered under this Policy regardless of the allegations made against **You**.
- F. Any **Claim** or any portion of any **Claim** based on or arising out of **Professional Services** performed for any entity other than the **Named Insured** if, at the time of the act or omission giving rise to the **Claim**, **You** or **Your** spouse were an officer, director, partner or manager of such entity or the owner of more than a 10% equity interest in such entity, except that this Exclusion shall not apply if the **Claim** arises out of the provision of non-attestation services that were performed solely by persons who were not officers, directors, partners, managers or more than 10% equity owners; except that:
  1. Nothing in this Exclusion F. shall exclude coverage for **Professional Services** provided by an insured to any charitable organization because another insured serves as an officer or director of that charitable organization; and
  2. Nothing in this Exclusion F. shall exclude coverage for **Professional Services** provided by an insured to any entity for which **You** are covered as a trustee or manager or other fiduciary as set forth hereafter in subparagraphs H.2. and H.3..
- G. Any **Claim** or any portion of any **Claim** based on or arising out of **Professional Services** rendered by **You** as an executor, administrator or personal representative of an estate or as a trustee if **You** or **Your** spouse are a beneficiary or distributee of said estate or trust.
- H. Any **Claim** or any portion of any **Claim** based on or arising out of **Your** capacity as any of the following:
  1. An officer, director, partner or other member of a governing body of an entity, other than the **Named Insured**, except that this exclusion shall not apply to the Supplementary Benefit set forth in Section III.F.4.
  2. A trustee for an investment fund or for a trust established for the benefit of any entity,

or group of unrelated individuals, except that this exclusion shall not apply to **You** when acting as a trustee for a trust established by an individual or a family for their sole benefit and operated solely for the purpose of engaging in passive investment activity, or when acting as a manager or partner of a limited liability company or limited liability partnership similarly established and operated for the sole purpose of engaging in passive investment activities on behalf of an individual or a family.

3. The trustee of an employee benefit plan, or the trustee of any trust established to fund such plan, or any other fiduciary of such plans, regardless of whether the **Claim** is brought against **You** under the Employee Retirement Income Security Act of 1974, its amendments or any other similar state or local law. This exclusion does not apply if **You** are deemed to be a fiduciary solely by virtue of **Professional Services** that **You** render as an accountant to the plan, including accounting, audit attest, consulting, tax, investment advisory services if otherwise covered, or administrative services to an employee benefit plan as an independent third party consultant.

Coverage will be provided despite the exclusions set forth above in subparagraphs H.1., H.2., and H.3., for **Claims** based on or arising out of: (1) **Your** service as a trustee under the United States Bankruptcy Code, Title 11 of the United States Code; and (2) services provided by **You** of a fiduciary nature where such fiduciary services are supervised and approved by a court or by a state or federal administrative agency.

- I. Any **Claim** or any portion of any **Claim** based on or arising out of any of the following:
  1. Advice, solicitation, purchases or sales related to securities or other investments.
  2. Services for which **You** are paid by commission or on a contingency basis or for any client in which **You** have a financial interest.
  3. Advice as to the value of specific securities or the advisability in investing in or purchasing or selling specific securities or to any **Claim** based on or arising out of **Your** capacity as a broker dealer in securities, as defined in Sections 3(a)(4) and 3(a)(5), respectively, of the Securities Exchange Act of 1934, except that this exclusion I. shall not cause business valuation engagements to be excluded from coverage, nor shall this exclusion I. apply to coverage provided by endorsement to this Policy for professional investment services.
- J. Any **Claim** or any portion of any **Claim** based on or arising out of any antitrust law violation or any agreement or conspiracy to restrain trade unless the allegations arise solely from **Your** performance of **Professional Services** as a member of a formal accreditation, standards review or similar professional board or committee related only to accountancy and such services are within the scope of that committee's or board's established guidelines.
- K. Any **Claim** or any portion of any **Claim** based on or arising out of the performance of legal services.
- L. Any **Claim** or any portion of any **Claim** based on or arising out of the performance of actuarial services.
- M. Any **Claim** or any portion of any **Claim** based upon or arising out of the mechanical or electrical failure, breakdown or defect of computer hardware recommended, sold or installed by **You**.
- N. Any **Claim** or any portion of any **Claim** based upon or arising out of the loss, damage, destruction, distortion, erasure, corruption, copying, alteration, or loss of use of data, including client records, whether stored electronically or otherwise, from fire, theft, misappropriation, misdirection, misplacement, computer virus, malicious activity, sabotage, or other casualty.
- O. Any **Claim** or any portion of any **Claim** based upon or arising out of **Your** failure to register with the Public Company Accounting Oversight Board (PCAOB).

## V. POLICY CONDITIONS

### A. Coverage Territory

This Policy applies to **Professional Services** performed anywhere in the world. The **Claim** must be brought against **You**, however, within the United States of America, including its territories and possessions, Puerto Rico or Canada.

### B. Sole Agent

The **Named Insured** shall be the sole agent of all of **You** for all of the following purposes: (1) effecting or accepting any notices hereunder, or any amendments to or cancellation of this Policy; (2) the completion of any applications; (3) the making of any statements, representations and warranties; (4) the payment of any premium earned or the receipt of any returned premium that may become due under this Policy; and (5) the exercising of, or declining to exercise any right under this Policy.

### C. Duties in the event of a **Claim**.

1. **You** must give us written notice as soon as reasonably possible during the **Policy Period** of any **Claim** made against **You**. We agree that **You** may have up to, but not to exceed, 60 days after the Policy expiration to report to us a **Claim** made against **You** during the **Policy Period** if the reporting of such **Claim** is as soon as reasonably possible.
2. **You** must also do all of the following:
  - a. Immediately forward all documents received in connection with the **Claim** to us.
  - b. Fully cooperate with us or our designee in the investigation, the making of settlements, the conduct of suits or other proceedings, or enforcing any right of contribution or indemnity against another who may be liable to **You** in connection with a **Claim** and fully cooperate with us or our designee in the defense of any **Claim** or **Regulatory Inquiry**, including, without limitation, the performance of corrective or remedial work at **Your** expense as we or our designee may recommend.
  - c. Attend depositions, hearings and trials, assist in securing and giving evidence and obtaining the attendance of witnesses.
  - d. Refuse, except with our express written consent, or, absent such consent, solely at **Your** own cost, to admit any liability or errors or deficiencies, assume any **Damages**, voluntarily make any payments, or incur any **Claim Expenses**.
  - e. Provide information relevant to any **Claim** upon our request.
  - f. Upon request, provide sworn statements or submit to examination(s) under oath by our representative regarding information relevant to any **Claim**.

### D. Duties in the event of a **Regulatory Inquiry** or an **Incident**.

#### 1. Duties in the event of a **Regulatory Inquiry**.

**You** must give us written notice as soon as reasonably possible during the **Policy Period** of any **Regulatory Inquiry** involving **You**. Such notice must:

- a. Include all notices received in connection with the **Regulatory Inquiry**; and
- b. Identify the client, the **Professional Services** and the dates and persons involved.

If **You** give us written notice of a **Regulatory Inquiry** in the manner previously described or we accept alternate notice from **You**, then any **Claim**, arising from the same or **Interrelated Acts or Omissions**, that is subsequently made against **You** and reported to us shall be deemed to have been made at the time such notice was given to us. We may, by writing addressed to **You**, accept alternate notice from **You** of a **Regulatory Inquiry** that does not fully comply with these requirements, but shall be under no obligation to do so.

2. Duties in the event of an **Incident**.

If, during the **Policy Period**, **You** become aware of an **Incident**, **You** must give written notice to us as soon as reasonably possible during the **Policy Period**. Such notice must state circumstances that suggest that a **Claim** might be asserted against **You**, or that suggest **You** may have committed an act or omission upon which a **Claim** could be based, with full particulars, including but not limited to all of the following:

- a. The **Professional Services** and dates and persons involved.
- b. The identity of **Your** client or clients and the identities of anticipated or possible claimants.
- c. The circumstances by which **You** first became aware of the **Incident**.

If **You** give us written notice in the manner previously described, or if we accept alternate notice from **You**, then any **Claim**, arising from the same or **Interrelated Acts** or **Omissions**, that is subsequently made against **You** and reported to us shall be deemed to have been made at the time such notice was given to us. We may, by writing addressed to **You**, accept alternate notice from **You** of an **Incident** that does not fully comply with these requirements, but shall be under no obligation to do so.

In the event we determine there is an opportunity to avoid a **Claim** arising out of an **Incident** **You** have reported to us and we incur legal or expert expenses to do so, such expenses will be at our cost and will not be subject to **Your** deductible, but shall be within the limit of liability stated in the Declarations as applicable to "Each **Claim**."

E. Notice

Notice of any **Incident**, **Claim**, subpoena, **Regulatory Inquiry**, or other event or circumstance that suggests potential coverage under this Policy, should be reported to the Company, c/o CPA Mutual Management, Inc., 11801 Research Drive, Alachua, FL 32615, (386) 418-4003 or (800) 543-3029.

F. Changes/Transfer of Interest

Notice to any of our agents or knowledge possessed by any such agent or any other person shall not act as a waiver or change in any part of this Policy. **You** agree to first obtain our written consent to make any changes, transfers or assignments of this Policy. None of the provisions of this Policy will be waived, changed or modified except by written endorsement issued to form a part of this Policy.

G. Entire Contract

This Policy includes the Declarations, Policy, all endorsements attached to this Policy, the completed and signed application and all supplementary information and statements **You** have provided to us. By acceptance of this Policy, **You** agree that all of the information and statements provided to us by **You** are true, accurate and complete. This Policy has been issued in reliance upon the truth and accuracy of those representations.

No concealment, misrepresentation or fraud shall avoid or defeat recovery under this Policy unless such concealment, misrepresentation or fraud was material. A material misrepresentation means concealment, misrepresentation or fraud in the procurement of this insurance Policy, which, if known by us, would have led to refusal by us to make this contract or provide coverage for a **Claim** hereunder, or such concealment, misrepresentation or fraud has prejudiced the Company's ability to defend a **Claim**. Failure to report, in any original or renewal application, any **Claim**, **Incident** or **Regulatory Inquiry** previously unreported to CPA Mutual shall be considered a material misrepresentation.

H. Other Insurance

If **You** have other valid and collectible insurance that applies to a **Claim**, this insurance shall be excess over any other insurance, self-insurance, self-insured retention or similar programs, whether primary, excess, contingent or on any other basis.

If no other insurer defends a **Claim** that we have an obligation to defend, we will do so,

but we will be entitled to **Your** rights against all those other insurers. We will pay only our share of the amount of the loss, if any, that exceeds the sum of the total amount that all such other insurance would pay in absence of this insurance and the total of all deductible and self-insured amounts under all such other insurance or other available program. This provision does not apply to other insurance that was purchased by **You** specifically to apply in excess of the limits of liability shown on the Declarations of this Policy.

I. Payment and Legal Action Limitations

We have no obligation to pay **Damages** unless the amount of **Your** obligation to pay has been finally decided. Such amount can be decided by final judgment against **You** or by written agreement between **You**, us and the claimant. **You** agree to resolve any claims or disagreements concerning our obligations in connection with any such judgment or agreement exclusively through the mediation and arbitration provisions of this Policy and to commence such proceedings within two years of any final judgment or written agreement fixing **Your** obligation to pay. Only the Company shall be liable for the coverage provided by this Policy and **You** shall not maintain or allow to be maintained any claim or legal proceeding against any representative of the Company concerning whether the obligations of this Policy have been fulfilled.

Only **You** have rights under this Policy. No other individual or entity, or their legal representative, is entitled to recover under this Policy. No individual or entity has any right under this Policy to include us in any action against **You** to determine **Your** liability, nor will we be brought into such an action by **You** or **Your** representative.

J. Subrogation

In the event of any payment under this Policy, we shall be subrogated to all **Your** rights of recovery thereof against any person or organization, including any rights **You** may have against any other person insured under this Policy who is involved in dishonest, fraudulent, criminal, malicious or intentional conduct. **You** shall execute and deliver instruments and papers and do whatever else is necessary to secure and collect upon such rights. **You** shall do nothing to prejudice such rights.

K. Innocent Insureds

If any coverage under this Policy would be void, suspended or excluded as a result of any criminal, dishonest, fraudulent or malicious acts of any of **You**, we agree that the insurance coverage that would otherwise be afforded under this Policy will continue to apply to any of **You** who did not personally commit, have knowledge of, or participate in such criminal, dishonest, fraudulent or malicious acts or in the concealment thereof from us, provided **You** promptly give notice to us in accordance with the provisions of Section V. of this Policy. Nothing herein shall cause there to be coverage where the conditions precedent to coverage set forth in the COVERAGE AGREEMENTS are not satisfied.

L. Reimbursement

While we have no duty or obligation to do so, if we advance any amounts in payment of **Damages** or **Claim Expenses** within the amount of the applicable deductible or in excess of the applicable limit of liability, **You** agree to be jointly and severally liable to us for such amounts. Upon demand, **You** agree to immediately repay such amounts to us. If **You** do not reimburse us within 60 days of our request for the payment of **Damages** or **Claim Expenses** within the amount of the applicable deductible, we will be entitled to recover reasonable attorneys' fees incurred in collecting the amount we have paid. In the event that we provide coverage to **You** under circumstances (including the issuance of a reservation of rights) in which questions are raised as to whether there is coverage under the Policy, and it is thereafter determined by arbitration or a court of competent jurisdiction that we have provided more coverage than provided by the terms of this Policy, **You** shall reimburse us for the amount we paid in excess of coverage provided by this Policy.

M. Bankruptcy/Insolvency

The insolvency or bankruptcy of **You**, or the insolvency of **Your** estate, shall not release us from the payment of **Damages** or **Claim Expenses** recoverable under this Policy.

N. Cancellation and Non-Renewal

This Policy may be canceled by the **Named Insured** by surrender of this Policy to the Company, c/o CPA Mutual Management, Inc., 11801 Research Drive, Alachua, FL 32615 or by mailing to the Company, c/o CPA Mutual Management, Inc., at such address, written notice stating when thereafter the cancellation shall be effective. This Policy may be canceled by the Company by mailing to the **Named Insured** stated in Item 1.(a) of the Declarations, at the address shown in Item 1.(b) of the Declarations, written notice stating when, not less than forty-five (45) days thereafter, such cancellation shall be effective. However, notwithstanding the foregoing, if the Company cancels this Policy because the **Named Insured** has failed to pay a premium or a premium installment when due, or has failed, after demand, to pay any portion of an applicable Deductible, this Policy may be canceled by the Company by mailing written notice of cancellation to the **Named Insured** stated in Item 1.(a) of the Declarations, at the address shown in Item 1.(b) of the Declarations, and such cancellation shall be effective upon such mailing by the Company. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender of the Policy or of the effective date of cancellation stated in any notice of cancellation by either the **Named Insured** or the Company shall become the end of the **Policy Period**. Delivery of such written notice either by the **Named Insured** or by the Company shall be equivalent to mailing.

If the **Named Insured** cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed on a pro rata basis. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable thereafter, but payment or tender of any unearned premium is not a condition precedent of cancellation. The Company shall be entitled to deduct any amounts due it from the **Named Insured** from any amount of unearned premium.

The failure of the Company to issue or to offer to issue a subsequent insurance agreement does not constitute Policy cancellation. The Company is under no obligation to issue or to offer to issue a subsequent insurance agreement and may elect not to do so for any reason.

O. Changes in Policy

Notice to any agent or any other person, or knowledge possessed by any agent or by any other person, shall not effect a waiver or change in any part of this Policy or estop the Company from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by express endorsement validly issued to this Policy, signed by a duly authorized agent of the Company.

P. Mandatory Arbitration

All disputes, claims or controversies arising out of or relating to this Policy or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall exclusively be resolved by binding arbitration in Burlington, Vermont, or such other location as **You** and the Company may agree. The arbitration shall be before three arbitrators and will be administered by JAMS, or its successor, pursuant to the JAMS Comprehensive Arbitration Rules and Procedures, or JAMS Streamlined Arbitration Rules and Procedures, as applicable. The arbitrators shall have no authority to alter or amend the terms of this Policy. Any award shall not include any attorneys' fees or costs awarded to any party, each of which will bear its own costs and expenses and share equally in the costs of arbitration. This clause shall not preclude parties from seeking provisional remedies in aid of mediation or arbitration from a court of appropriate jurisdiction, and judgment on any award may be entered in any court having jurisdiction.

If for any reason JAMS is unable to mediate this case, the parties may select a mediator with no less than five years experience mediating insurance related disputes who shall mediate as far as practical in accordance with the standard JAMS procedures and protocols, and, if for any reason JAMS is unable to arbitrate this case, they shall each appoint a neutral arbitrator who is an attorney with at least five years experience in insurance coverage disputes,

and the two arbitrators shall appoint a third neutral arbitrator with similar qualifications, and the three arbitrators so chosen shall arbitrate the case as far as practical in accordance with the JAMS Comprehensive Arbitration Rules and Procedures, or JAMS Streamlined Arbitration Rules and Procedures, as applicable.

Q. Mediation Prior to Arbitration

Any dispute, claim or controversy arising out of or relating to this Policy, shall and must first be submitted to JAMS, or its successor, for mediation and, if not resolved, may then (and only then) be submitted for final and binding arbitration as set forth above. **You** or the Company may commence mediation by providing to JAMS and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. **You** and the Company will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of insurance-experienced neutrals, and in scheduling the mediation, and will participate in the mediation in good faith, and pursuant to standard JAMS procedures and protocols, and share equally in its costs. **You** or the Company may initiate arbitration with respect to matters first submitted to mediation by filing a written demand for arbitration at any time following the initial mediation session, or 30 days after the date of a written request for mediation, whichever occurs first. Unless otherwise agreed by the parties, the mediator shall be disqualified from serving as arbitrator in the case.

R. Exclusive Forum

All dispute resolution, whether by mediation, arbitration or any other legal process, shall presumptively take place exclusively in Burlington, Vermont; provided, however, that mediation or arbitration may take place at any JAMS office or at the offices of chosen mediators or arbitrators, or at such other place as **You** and the Company may agree.

S. Severability

In the event that any provision, portion or aspect of the Policy conflicts with applicable law, or may be found to be illegal or unenforceable under applicable law, such conflict, illegality or unenforceability shall not affect any other provision, portion or aspect of the Policy that can be given effect without the offending provision(s), and are declared to be severable and each aspect thereof to be separately enforceable.

## VI. EXTENDED CLAIM REPORTING PERIOD

As used herein, “**Extended Claim Reporting Period**” means the period of time after the end of the **Policy Period** for reporting **Claims** to us that are made against **You** during the applicable **Extended Claim Reporting Period** by reason of an act or omission that happened prior to the end of the **Policy Period** and are otherwise covered by this Policy. It is understood and agreed that the **Extended Claim Reporting Period** shall not be construed to be a new policy and any **Claim** submitted during such period shall otherwise be governed by this Policy.

A. Automatic **Extended Claim Reporting Period**

If this Policy is canceled or non-renewed either by us or by the **Named Insured**, we will provide to the **Named Insured** an automatic, non-cancelable **Extended Claim Reporting Period** starting at the termination of the **Policy Period** if the **Named Insured** has not obtained another policy of accountants’ professional liability insurance. This automatic **Extended Claim Reporting Period** will terminate after sixty (60) days.

B. Optional **Extended Claim Reporting Period**

If this Policy is canceled or non-renewed either by us or by the **Named Insured**, then the **Named Insured** shall have the right to purchase an optional **Extended Claim Reporting Period**. Such right must be exercised by the **Named Insured** within sixty (60) days of the termination of the **Policy Period** by providing written notice to us. Coverage is not afforded by purchase of an **Extended Claim Reporting Period** to any **Claim** arising out of an **Incident** or **Regulatory Inquiry** reported pursuant to Section V. of this Policy or arising out of any **Interrelated Acts or Omissions** related to an **Incident** or **Regulatory Inquiry**

about which **You** first notify us during the **Extended Claim Reporting Period**, unless such **Claim** is actually made and reported to us during the **Extended Claim Reporting Period**. The additional premium for the **Extended Claim Reporting Period** shall be (other options may be available upon request) as follows:

1. 12 months for 100% of the Policy's annual premium.
2. 24 months for 150% of the Policy's annual premium.
3. 36 months for 185% of the Policy's annual premium.

C. **Elimination of right to any Extended Claim Reporting Period**

There is no right to the optional **Extended Claim Reporting Period** if we cancel or refuse to renew this Policy due to nonpayment of premiums or any material misrepresentations in the application for this Policy.

IN WITNESS WHEREOF, we have caused this Policy to be executed by our President and Secretary, but this Policy shall not be binding upon us unless completed by the attachment of the Declarations.

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Secretary

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President