

MIIA Property and Casualty Group, Inc.
3 Center Plaza, Suite 610
Boston, MA 02108
www.emiia.org



PUBLIC OFFICIALS LIABILITY COVERAGE

MEMBER NAME AND ADDRESS

CONTRACT# EAS00488-06-23

Town of East Bridgewater
175 Central Street
East Bridgewater, MA 02333

CONTRACT PERIOD

07/01/2023 TO 07/01/2024

AT 12:01 AM STANDARD TIME
AT THE ADDRESS SHOWN ABOVE

SCHEDULE OF COVERAGES

Coverage	Limits of Insurance	Deductible
Each Claim Limit	\$1,000,000	\$10,000
Annual Aggregate Limit	\$3,000,000	
Back Wages Per Person Limit	\$150,000	
Administrative Disciplinary Proceeding Limit	\$15,000	\$1,500
Communicable Disease and Virus	Included	\$100,000

Coverage does not apply to "wrongful acts" committed before the Retroactive Date below:

Retroactive Dates	
Coverage A Public Officials Liability	07/01/1994
Coverage B Employment Practices Liability	07/01/1994
Coverage C Fiduciary Liability	07/01/1994
Coverage D Administrative Disciplinary Proceeding Coverage (Non-Lawyers)	07/01/1994
Coverage E Employed Lawyers Professional	07/01/1994

FORMS AND ENDORSEMENTS ATTACHED TO THIS CONTRACT:

MDEC 6(0720), MPOL 001(0723)

MDEC 6 - Declarations
(ED 07/20)

PUBLIC OFFICIALS LIABILITY

THIS IS A CLAIMS-MADE CONTRACT

Various provisions in this contract restrict coverage. Read the entire contract carefully to determine rights, duties and what is and is not covered.

Throughout this contract, the words “you” and “your” refer to the Member Named Insured shown in the Declarations.

The words “we”, “us” and “our” refer to the MIIA Property and Casualty Group, Inc.

The word “insured” means any person or organization qualifying as such under SECTION II – Who is an Insured. Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION VII – Definitions.

SECTION I – Coverage

Coverage A – Public Officials Liability

1. Coverage Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages resulting from “claims” against the insured by reason of “wrongful acts” to which this coverage applies. We will have the right and duty to defend any “claim” or “suit” seeking those damages, even if such “claim” or “suit” is groundless, false, or fraudulent. However, we will have no duty to defend any “claim” or “suit” seeking damages to which this coverage does not apply. We may, at our discretion, investigate any “wrongful acts” and, with your consent, settle any “claim” or “suit” that may result. But:

- (1) The amount we will pay for damages is limited as described in SECTION III – Limits of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable Limit of Insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

We shall have the right, but not the duty, to appeal any judgement, award, or ruling entered against the insured, at our expense.

- b. This coverage does not apply to “wrongful acts” which occurred or were committed before the Retroactive Date for this coverage, if any, shown in the Declarations, or which occur or are committed after the end of the contract period shown in the Declarations.
- c. This coverage applies only if a “claim” for damages because of a “wrongful act” is first made against any insured during the contract period shown in the Declarations (or extended reporting period if applicable) and a written notice pursuant to this contract is received by us during the contract period, or within sixty (60) days thereafter, or within the extended reporting period if applicable.
 - (1) We shall deem that any “claim” by a person or organization seeking damages has been made when notice of such “claim” is received and recorded by any insured or by us, whichever comes first.
 - (2) We shall deem that all “claims” for damages by the same person or organization as a result of a “wrongful act” have been made at the time the first of those “claims” is made against any insured.
 - (3) We shall deem all “claims” based on and arising out of the same “wrongful acts” or a series of continuous or interrelated “wrongful act(s)” by one or more insureds are a single “claim” at the time the first of those “claims” is made.

- d. This coverage does not apply to “claims” that result from a series of continuous or interrelated “wrongful act” if the first “wrongful act” in that series first occurred or was first committed before the Retroactive Date, if any, shown in the Declarations.
- e. No insured shall admit liability or settle any “claim” or “suit” without our written consent. We shall have no coverage, defense or indemnity obligation if any insured admits liability or settles any “claim” or “suit” without our written consent.
- f. We will not pay for any defense costs, costs or expenses incurred by an insured including, but not limited to consulting legal counsel, without our written consent.
- g. If a “claim” or “suit” includes both covered and uncovered matters, the insureds and we shall use best efforts to agree upon a fair and proper allocation between covered and uncovered damages with respect to the settlement or any other indemnity payment made in connection with said “claim” or “suit”.

2. Exclusions

This Coverage A does not apply to any damages, costs, “claims” or “suits” made against the insured:

- a. Based upon or attributable to the insured gaining any profit, remuneration or financial advantage to which the insured is not legally entitled, if a final adjudication in any underlying proceeding or action establishes the insured was not legally entitled.
- b. Brought about or contributed to by fraud, dishonesty or criminal act of the insured, if a final adjudication in any underlying proceeding or action establishes such fraudulent, dishonest or criminal act or omission.
- c. Arising out of the willful violation of any federal, state, or local statute, ordinance, rule or regulation committed by or with the knowledge and consent of the insured, if a final adjudication in any underlying proceeding or action establishes such a willful violation.
- d. For the activities of any law enforcement agency or law enforcement personnel or the activities of any private security guard service or security guard personnel, including the operation of jails or other detention facilities.
- e. As a result of strikes, riots, or civil commotion.
- f. Based upon or arising out of any insured’s:
 - (1) Obligations under the Employee Retirement Income Security Act of 1974 (ERISA) or any regulations promulgated thereunder, including subsequent amendments or any similar provisions of federal, state, or local law or regulation; or
 - (2) “Administration” of any “employee” benefit program or self-insurance fund.
- g. Based upon, arising out of or in any way related to actual or alleged bodily injury (including sexual abuse and emotional distress arising out of bodily injury), sickness, disease or death of any person.
- h. Based upon, arising out of or in any way related to physical injury to tangible property, including all resulting loss of use of that property, or loss of use of tangible property that is not physically injured.
- i. For any obligation of the insured under a workers’ compensation, disability benefits or unemployment compensation law, Massachusetts General Laws Chapter 41 or any similar law.
- j. Arising out of, directly or indirectly, resulting from, or in any way involving any fact, situation, circumstance, incident, event or “wrongful act”:
 - (1) Underlying or alleged in any prior or pending litigation, proceeding with the Massachusetts Commission Against Discrimination, arbitration proceeding, or any other alternative dispute resolution proceeding, of which an insured had received notice prior to the inception date of this contract.
 - (2) For which an insured is entitled to indemnity, payment on his or her behalf, or defense by reason of having received or given notice of any fact, situation, circumstance, incident, event or “wrongful act” which might give rise to a “claim” under any contract, policy or policies, the term of which has expired prior to the inception date of this contract.

- (3) Which, prior to the inception date of the first claims-made contract issued to you by us and continuously renewed, any insured knew or reasonably should have known might give rise to a "claim" hereunder, whether or not it was disclosed to us prior to inception, and whether or not insurance was in effect when such fact, situation, circumstance, incident, event, or "wrongful act" occurred or was committed.
- k. Seeking relief or redress in any form other than monetary damages. Nor shall we have any obligation to pay on behalf of the insured any costs, fees including attorneys' fees, or expenses which the insured becomes legally obligated to pay as a result of such "claims" or "suits". Should any demand for relief or redress in a form other than monetary damages arise in conjunction with a demand for monetary damages, then we shall only provide defense costs and expenses until the resolution of the covered "claim" or "suit".
- l. Arising out of or in any way connected with the application of the principles of eminent domain, adverse possession, dedication by adverse use, inverse condemnation, condemnation proceedings, regulatory takings, slander of title, or any violation of the Takings Clauses, by whatever named called, whether "claims" for such damages occur directly against the insured or by virtue of any agreement entered into, by or on behalf of the insured.
- m. For any loss, cost, civil fine, penalty or expense against any insured arising from any complaint or enforcement action by any federal, state, or local governmental regulatory agency or any civil penalty assessed by the Massachusetts Commission Against Discrimination.
- n. Based upon or attributable to any failure or omission of the Member Named Insured to purchase or maintain insurance of any kind.
- o. For back wages, overtime, future wages, or similar damages, even if designated as liquidated damages, under any federal, state, or local statutes, rules, ordinances, or regulations; or for "claims" arising out of collective bargaining agreements, negotiations, or disputes.
- p. Alleging, arising out of, based upon, attributable to, or in any way involving, directly or indirectly, any of the following:
 - (1) The actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
 - (2) Any request, demand, or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
 - (3) Any "claim" or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of "pollutants".

This exclusion also includes, but is not limited to:

- (1) Any supervision, instructions, recommendations, requests, warnings or advice given, or which should have been given in connection with the above; and
- (2) Any obligation to share damages with or repay someone else who must pay damages.
- q. Arising out of, resulting from, caused or contributed to by the existence of, the use of, sale of, installation of, removal of, distribution of, disposal of, or exposure to asbestos, asbestos products, asbestos fibers, or asbestos dust. This includes, but is not limited to, any costs for abatement, mitigation, removal or disposal of asbestos.

This exclusion also includes, but is not limited to:

- (1) Any supervision, instructions, recommendations, requests, warnings or advice given, or which should have been given in connection with the above; and
- (2) Any obligation to share damages with or repay someone else who must pay damages.
- r. Arising directly or indirectly out of:

The actual, alleged, or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or

presence of, any "fungi", bacteria, or any other microorganisms regardless of whether any other cause, event, material, or product contributed concurrently or in any sequence to such injury or damage.

Any loss, cost, or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, or disposing of, or in any way responding to, or assessing the effects of "fungi", bacteria, or other microorganisms, by any insured or by any other person or entity.

s. Arising out of, resulting from or in any manner related to any insured:

- (1) Providing services for others in advertising, broadcasting, publishing, or telecasting;
- (2) Designing or determining content of websites for others;
- (3) Serving as an Internet search, access, content, or service provider or consultant;
- (4) Providing Internet services;
- (5) Providing electronic mail services; or
- (6) Providing encryption software for use on the Internet.

For the purposes of this exclusion, the placing of frames, borders, links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing, or telecasting.

t. For which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

u. Arising out of, directly or indirectly:

- (1) Any debt financing, including but not limited to bonds, notes, debentures, or guarantees of debt;
- (2) The formulation of tax rates, the collection of taxes and/or the disbursement of tax refunds;
- (3) Investment of or failure to invest funds;
- (4) The destruction, theft, conversion, or disappearance of money, securities, or the "loss" of use thereof;
- (5) Any tax assessment or adjustments;
- (6) The collection, refund, disbursement or application of any taxes;
- (7) Failure to anticipate tax revenue shortfalls;
- (8) Guarantee on bond issues; or
- (9) Activities in any fiduciary capacity.

v. Arising out of "personal and advertising injury".

w. Arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

x. Arising out of any "Employment Practices Violation" or "Third Party Violation".

y. Arising out of:

- (1) Your ownership, maintenance or use of any airport or any property located thereon;
- (2) Operations on such airport which are necessary or incidental to the ownership, maintenance or use of such airport; or

(3) Goods or products manufactured at or distributed from such airport.

This exclusion does not apply to sanitation services.

- z.** Arising out of your ownership, maintenance, use, or operation of any school, hospital, clinic, nursing home, housing authority or port authority, or other healthcare operations, unless specifically scheduled on Declarations page.

This exclusion does not apply to activities and operations usual or common to municipal Boards of Health.

- aa.** Arising out of your ownership, maintenance, use, operation or participation in any development or re-development agency or authority.
- bb.** Arising out of your ownership, maintenance, use, operation or participation in any gas or electric utility.
- cc.** Arising out of your ownership, maintenance, use, operation or participation in any transit or transportation agency or authority.
- dd.** Arising out of, directly or indirectly, or related to, any architect, engineer or surveyor rendering or failing to render the following professional services:
- (1)** Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
 - (2)** Giving directions or instructions, or failing to give them, if that is the primary cause of the "claim"; or
 - (3)** Supervisory, inspection or engineering services.

This exclusion does not apply to any licensed architect, engineer or surveyor employed by you and working on your municipal projects. This coverage does not extend to independent or private firms or individuals contracted, appointed, hired or otherwise retained by you, except individual licensed architects, engineers or surveyors employed by you and considered public "employees" as defined by Massachusetts General Laws Chapter 258.

This coverage does not extend to projects that are not undertaken by you.

As used in this exclusion, professional services shall not include administrative or other services that can be performed by nonprofessionals or services that are otherwise not necessary to the discharge of such architects, engineers, or surveyors professional duties.

- ee.** For fines, penalties, punitive damages, exemplary damages or the multiplied portion of multiplied damages.
- ff.** Arising out of or in any way related to any actual or alleged breach of any written or oral contract or agreement.
- gg.** For providing any accommodation for persons with disabilities or any other status which is protected under any applicable federal, state, or local statutory law or common law, including but not limited to the Americans with Disabilities Act, the Civil Rights Act of 1964, or amendments to or rules or regulations promulgated under any such law.
- hh.** Arising out of notary services for third parties that are unrelated to the business of the named insured.
- ii.** Arising directly or indirectly out of:
- (1)** Any actual or alleged failure, malfunction or inadequacy of:
 - (a)** Any of the following, whether belonging to any insured or to others:
 - (i)** Computer hardware, including microprocessors or other electronic data processing equipment;
 - (ii)** Computer application software or other electronic media and records;
 - (iii)** Computer operating systems and related software;
 - (iv)** Computer networks;
 - (v)** Microprocessors (computer chips) not part of any computer system; or

- (vi) Any other computerized or electronic equipment or components.
- (b) Any of the following, whether belonging to any insured or to others:
 - (vii) Computer hardware, including microprocessors or other electronic data processing equipment;
 - (viii) Computer application software or other electronic media and records;
 - (ix) Computer operating systems and related software;
 - (x) Computer networks;
 - (xi) Microprocessors (computer chips) not part of any computer system; or
 - (xii) Any other computerized or electronic equipment or components.
- (c) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (1)(a) of this exclusion;

due to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of computer Software to recognize the year 2000.
- (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) of this exclusion.

Coverage B – Employment Practices Liability

1. Coverage Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages resulting from “claims” against the insured by reason of “employment practices violations” or “third party violations” to which this coverage applies.

We will have the right and duty to defend any “claim” or “suit” seeking those damages, even if such “claim” or “suit” is groundless, false, or fraudulent. However, we will have no duty to defend any “claim” or “suit” seeking damages to which this coverage does not apply. We may, at our discretion, investigate any “employment practices violation” or “third party violation” and, with your consent, settle any “claim” or “suit” that may result. But:

- (1) The amount we will pay for damages is limited as described in SECTION III – Limits of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable Limit of Insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

We shall have the right, but not the duty, to appeal any judgement, award, or ruling entered against the insured, at our expense.

- b. This coverage does not apply to “employment practices violations” or “third party violations” which occurred or were committed before the Retroactive Date for this coverage, if any, shown in the Declarations, or which occur or are committed after the end of the contract period shown in the Declarations.
- c. This coverage applies only if a “claim” for damages because of the “employment practices violations” or “third party violations” is first made against any insured during the contract period shown in the Declarations (or extended reporting period if applicable) and a written notice pursuant to this contract is received by us during the contract period, or within sixty (60) days thereafter, or within the extended reporting period if applicable.
 - (1) We shall deem that any “claim” by a person or organization seeking damages has been made when notice of such “claim” is received and recorded by any insured or by us, whichever comes first.

- (2) We shall deem that all “claims” for damages by the same person or organization as a result of an “employment practices violation”, or “third party violation” have been made at the time the first of those “claims” is made against any insured.
- (3) We shall deem that all “claims” based on and arising out of the same “employment practices violations”, or “third party violations” or a series of continuous or interrelated “employment practices violations”, or “third party violations” by one or more insureds are a single “claim” made at the time the first of those “claims” are made.
- d. No insured shall admit liability or settle any “claim” or “suit” without our written consent. We shall have no coverage, defense or indemnity obligation if any insured admits liability or settles any “claim” or “suit” without our written consent.
- e. We will not pay for any defense costs, costs or expenses incurred by an insured including, but not limited to, consulting legal counsel, without our written consent.
- f. This coverage provides “back wages” for “employment practices violations” if there is a Back-Wages Limit shown in the Declarations. A separate Limit of Insurance applies to this coverage as described in Section III – Limits of Insurance.
- g. If a “claim” or “suit” includes both covered and uncovered matters, the insureds and we shall use best efforts to agree upon a fair and proper allocation between covered and uncovered damages with respect to the settlement or any other indemnity payment made in connection with said “claim” or “suit”.

2. Exclusions

This Coverage B does not apply to any damages, costs, “claims”, or “suits”:

- a. Brought about or contributed to by fraud, dishonesty or criminal act of the insured.
- b. Arising out of “Personal or Advertising Injury”, however this exclusion shall not apply to:
 - (1) Libel, slander, or defamation arising out of an “employment practices violation”;
 - (2) Assault or battery arising out of an “employment practices violation” or;
 - (3) Discrimination arising out of an “employment practices violation” or “third party violation”.
- c. Arising out of the following:
 - (1) Bodily injury to, or sickness, disease, emotional distress, or death of any person. However, this exclusion shall not apply to emotional distress arising out of an “employment practices violation” or a “third party violation”; or
 - (2) Physical injury to tangible property, including all resulting loss of use of that property, or loss of use of tangible property that is not physically injured.
- d. Arising out of or in any way connected with, the operation of the principles of eminent domain, adverse possession, dedication by adverse use, inverse condemnation, condemnation proceedings, regulatory takings, slander of title, or any violation of the Takings Clauses, by whatever name called, whether “claims” for such damages occur directly against the insured or by virtue of any agreement entered into by or on behalf of the insured.
- e. Alleging, arising out of, based upon, attributable to, or in any way involving, directly or indirectly, any of the following:
 - (1) The actual, alleged, or threatened discharge, dispersal, release, or escape of “pollutants”;
 - (2) Any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize “pollutants”; or
 - (3) Any “claim” or “suit” by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of “pollutants”.

This exclusion also includes, but is not limited to:

- (1) Any supervision, instructions, recommendations, requests, warnings or advice given, or which should have been given in connection with the above; and
 - (2) Any obligation to share damages with or repay someone else who must pay damages.
- f. Arising out of a "breach of fiduciary duty", responsibility, or obligation in connection with any "employee" benefit or pension "plan", or to any amount due under any fringe benefit or retirement program.
 - g. Arising out of the operation of or activities of any airports, transit authorities, hospitals, clinics, nursing homes or other health care operations, utilities, housing authorities, jails or other detention centers, law enforcement cooperation agreement authorities, law enforcement councils, or private firefighting companies unless specifically named in the Declarations or by attached endorsement.
 - h. For fines, penalties, punitive damages, exemplary damages, or the multiplied portion of multiplied damages.
 - i. Arising out of, directly or indirectly, resulting from, or in any way involving any fact, situation, circumstance, incident, event, or "employment practices violation" or "third party violation":
 - (1) Underlying or alleged in any prior or pending litigation, proceeding with the Massachusetts Commission Against Discrimination, arbitration proceeding, or any other alternative dispute resolution proceeding, of which an insured had received notice prior to the inception date of this contract.
 - (2) For which an insured is entitled to indemnity, payment on his or her behalf, or defense by reason of having received or given notice of any fact, situation, circumstance, incident, event, "employment practices violation", or "third party violation" under any contract, policy or policies, the term of which has expired prior to the inception date of this contract.
 - (3) Which, prior to the inception date of the first claims-made contract issued to you by us and continuously renewed, any insured knew or reasonably should have known might give rise to a "claim" hereunder, whether or not it was disclosed to us prior to inception, and whether or not insurance was in effect when such fact, situation, circumstance, incident, event or "employment practices violation" or "third party violation" occurred or was committed.
 - j. For any actual or alleged violation of the responsibilities, obligations or duties imposed by any federal, state, or local statutory law or common law that governs any "employee" benefit arrangement, program, policy, "plan" or scheme of any type. Such excluded laws include, but are not limited to, the Employee Retirement Income Security Act of 1974 (except section 510 thereof) and the Consolidated Omnibus Budget Reconciliation Act of 1985 or amendments to or regulations promulgated under any such law. This exclusion shall not apply to any Employment Practices Liability Claim for Retaliation.
 - k. For any actual or alleged violation of the responsibilities, obligations or duties imposed by any federal, state, or local statutory law or common law that governs workplace safety and health. Such excluded laws include, but are not limited to, the Occupational Safety and Health Act. This exclusion shall not apply to any Employment Practices Liability Claim for Retaliation.
 - l. For any actual or alleged violation of the responsibilities, obligations, or duties imposed by any federal, state, or local statutory law or common law that governs wage, hour and payroll policies and practices, except the Equal Pay Act. Such excluded laws include but are not limited to the Fair Labor Standards Act. This exclusion shall not apply to any Employment Practices Liability Claim for Retaliation.
 - m. For any actual or alleged violation of the responsibilities, obligations, or duties imposed by any federal, state, or local statutory law or common law that governs any obligation of an employer to notify, discuss or bargain with its "employees" or others in advance of any "plan" or facility closing, or mass layoff, or any similar obligation. Such excluded laws include but are not limited to the Worker Adjustment and Retraining Notification Act. This exclusion shall not apply to any Employment Practices Liability Claim for Retaliation.

- n. For any actual or alleged violation of the responsibilities, obligations, or duties imposed by any federal, state, or local statutory law or common law that governs any of the rights of "employees" to engage in, or to refrain from engaging in, union or other collective activities, including, but not limited to, union organizing, union elections, and other union activities. Such excluded laws include, but are not limited to, the National Labor Relations Act. This exclusion shall not apply to any Employment Practices Liability Claim for Retaliation.
- o. For any "claims" or "suits" arising out of:
 - (1) War, including undeclared or civil war;
 - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; or
 - (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
- p. For any "claims" or "suits" arising out of your ownership, maintenance, use, or operation of any hospital, clinic, or nursing home, unless specifically scheduled on Declarations page. This exclusion shall not apply to activities and operations usual or common to municipal Boards of Health and Council on Aging.
- q. Arising out of or in any way related to any actual or alleged breach of any written or oral employment contract or agreement.
- r. Associated with providing any accommodation for persons with disabilities or any other status which is protected under any applicable federal, state, or local statutory law or common law, including but not limited to the Americans with Disabilities Act, the Civil Rights Act of 1964, or amendments to or rules or regulations promulgated under any such law.
- s. For any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law, Massachusetts General Laws Chapter 41, or any similar law.
- t. Arising directly or indirectly out of:
 - (1) Any actual or alleged failure, malfunction or inadequacy of:
 - (a) Any of the following, whether belonging to any insured or to others:
 - (i) Computer hardware, including microprocessors or other electronic data processing equipment;
 - (ii) Computer application software or other electronic media and records;
 - (iii) Computer operating systems and related software;
 - (iv) Computer networks;
 - (v) Microprocessors (computer chips) not part of any computer system; or
 - (vi) Any other computerized or electronic equipment or components.
 - (b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (1)(a) of this exclusion;

due to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of computer Software to recognize the year 2000.
 - (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) of this exclusion.
- u. Arising directly or indirectly out of:
 - (1) Any bacteria, parasite, mold, "fungi" or microorganism;

- (2) Any action or inaction of any insured (or other party acting or failing to act on behalf of any insured) undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, remediate or otherwise respond to the actual, suspected, or anticipated presence, existence, or transmission of any bacteria, parasite, mold, "fungi" or microorganism;
 - (3) Any order of a governmental representative, authority or agency undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, remediate or otherwise respond to the actual, suspected, or anticipated presence, existence, or transmission of any bacteria, parasite, mold, "fungi" or microorganism;
- v. We shall not be liable for that part of "loss", other than Defense Costs:
- (1) Which constitutes "back-wages", overtime, future wages, any other salary, wages, or earnings, or other similar "claims", even if designated as liquidated damages, under any federal, state, or local statutes, rules, ordinances, or regulations; or for "claims" arising out of collective bargaining agreements, negotiations, or disputes.

However, this exclusion shall not apply to "back-wages" for "employment practices violations" if there is a Back-Wages Limit shown in the Declarations. A separate Limit of Insurance applies to this coverage as described in SECTION III – Limits of Insurance.
 - (2) Which constitutes costs of compliance with any order, grant, agreement or judgment to provide non-monetary relief. Defense of such "suits" shall be subject to a contract period aggregate limit of \$150,000.

Coverage C – Fiduciary Liability

1. Coverage Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages resulting from "claims" against the insured by reason of "breach of fiduciary duty" to which this coverage applies.

We will have the right and duty to defend any "claim" or "suit" seeking these damages. However, we will have no duty to defend any "claim" or "suit" seeking damages to which this coverage does not apply. We may at our discretion, investigate any "breach of fiduciary duty" and, with your consent, settle any "claim" or "suit" that may result. But:
 - (1) The amount we will pay for damages is limited as described in SECTION III – Limits of Insurance; and
 - (2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

We shall have the right, but not the duty, to appeal any judgment, award, or ruling entered against the insured, at our expense.
- b. This coverage does not apply to "breach of fiduciary duty" which occurred or were committed before the Retroactive Date for this coverage, if any, shown in the Declarations, or which occur or are committed after the end of the contract period shown in the Declarations.
- c. This coverage applies only if a "claim" for damages because of a "breach of fiduciary duty" is made against any insured in the contract period shown in the Declarations (or extended reporting period if applicable) and a written notice pursuant to this contract is received by us during the contract period, or within sixty (60) days thereafter, or within the extended reporting period if applicable.
 - (1) We shall deem a "claim" by a person or organization seeking damages to have been made when notice of such "claim" is received and recorded by any insured or by us, whichever comes first.
 - (2) We shall deem all "claims" for damages by the same person or organization as a result of a "breach of fiduciary duty" to have been made at the time the first of those "claims" is made against any insured.

- (3) We shall deem all "claims" based on and arising out of the same "breach of fiduciary duty" or a series of continuous or interrelated "breaches of fiduciary duty" of one or more insureds to be a single "claim" made at the time the first of those "claims" is made.
- d. No insured shall admit liability or settle any "claim" or "suit" without our written consent. We shall have no coverage, defense or indemnity obligation if any insured admits liability or settles any "claim" or "suit" without our written consent.
- e. We will not pay for any defense costs, costs or expenses incurred by an insured including, but not limited to, consulting legal counsel, without our written consent.
- f. If a "claim" or "suit" includes both covered and uncovered matters, the insureds and we shall use best efforts to agree upon a fair and proper allocation between covered and uncovered damages with respect to the settlement or any other indemnity payment made in connection with said "claim" or "suit".

2. Exclusions

This Coverage C does not apply to any damages, "claims", or "suits":

- a. Based upon, arising from, or in consequence of any fact, circumstance, situation, transaction, event or "breach of fiduciary duty" that before the inception date set forth in the Declarations was the subject of any notice accepted under any fiduciary liability or "employee" benefit liability policy or coverage part of which this is a direct or indirect renewal or replacement.
- b. Based upon, arising from, or in consequence of a written demand, "suit", or other proceeding pending against, or order, decree, or judgment entered for or against any insured, on or prior to the applicable Retroactive Date for this coverage, if any set forth in the Declarations or for the same or substantially the same fact, circumstance, or situation underlying or alleged therein.
- c. For any bodily injury, mental anguish, humiliation, emotional distress, sickness, disease, or death of any person.
- d. For physical injury to tangible property, including all resulting loss of use of that property, or loss of use of tangible property that is not physically injured.
- e. Alleging, arising out of, based upon, attributable to, or in any way involving, directly or indirectly any of the following:
 - (1) The actual, alleged, or threatened discharge, dispersal, release, or escape of "pollutants";
 - (2) Any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize "pollutants"; or
 - (3) Any "claim" or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of "pollutants".

This exclusion also includes, but is not limited to:

- (1) Any supervision, instructions, recommendations, requests, warnings or advice given, or which should have been given in connection with the above; and
- (2) Any obligation to share damages with or repay someone else who must pay damages.
- f. Based upon, arising from, or in consequence of liability of others assumed by any insured under any written or oral contract or agreement, provided that this exclusion shall not apply to the extent that:
 - (1) You would have been liable in the absence of the contract or agreement; or
 - (2) The liability was assumed under the agreement or declaration of trust pursuant to which the "plan" was established.
- g. For any failure of any insured to comply with any workers' compensation, unemployment insurance, social security, or disability benefits law or any amendments to or rules or regulations promulgated under any such law, or any similar provisions of any federal, state, or local statutory law or common law except, to the extent otherwise covered hereunder, in connection with:

- (1) The Consolidated Omnibus Budget Reconciliation Act of 1985;
 - (2) The Health Insurance Portability Act of 1996; or
 - (3) Any amendments to or any rules or regulations promulgated under such Acts.
- h. Arising out of any violation of the responsibilities, obligations, or duties imposed by any federal, state, or local statutory law or common law (including, but not limited to, the Fair Labor Standards Act) or amendments to or regulations promulgated under any such law that governs wage, hour, and payroll policies and practices.
- i. Arising out of:
 - (1) Any fraudulent act or omission, or any willful violation of any statute or regulation, by any insured; or
 - (2) Any insured, having gained any profit, remuneration, or other advantage to which such insured was not legally entitled,provided that, for purposes of Coverage C, no conduct pertaining to any insured shall be imputed to any other insured or to any "plan".
- j. Arising directly or indirectly out of:
 - (1) Any actual or alleged failure, malfunction or inadequacy of:
 - (a) Any of the following, whether belonging to any insured or to others:
 - (i) Computer hardware, including microprocessors or other electronic data processing equipment;
 - (ii) Computer application software or other electronic media and records;
 - (iii) Computer operating systems and related software;
 - (iv) Computer networks;
 - (v) Microprocessors (computer chips) not part of any computer system; or
 - (vi) Any other computerized or electronic equipment or components.
 - (b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (1)(a) of this exclusion;due to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of computer Software to recognize the year 2000.
 - (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) of this exclusion.
- k. Arising directly or indirectly out of:
 - (1) Any bacteria, parasite, mold, "fungi" or microorganism;
 - (2) Any action or inaction of any insured (or other party acting or failing to act on behalf of any insured) undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, remediate or otherwise respond to the actual, suspected, or anticipated presence, existence, or transmission of any bacteria, parasite, mold, "fungi" or microorganism;
 - (3) Any order of a governmental representative, authority or agency undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, remediate or otherwise respond to the actual, suspected, or anticipated presence, existence, or transmission of any bacteria, parasite, mold, "fungi" or microorganism.

Coverage D – Administrative Disciplinary Proceeding Coverage (non-lawyers)

1. Coverage Agreement

- a. We will only pay the “defense expenses” and “media and public relations consultation charges”, caused by “wrongful conduct”, which results in an “administrative disciplinary proceeding” against a “licensed professional” during the contract period. We will not pay for any award, judgement, damages, administrative monetary fines, penalties and/or assessments or other costs or expenses arising out of an “administrative disciplinary proceeding”.
- b. We shall deem an “administrative disciplinary proceeding” to begin at the time that:
 - (1) An insured or the “licensed professional” receives verbal or written notice from any official representative or agent of any “regulatory entity” that an investigation is occurring against a “licensed professional”;
 - (2) An “administrative disciplinary proceeding” commences naming any “licensed professional” as a respondent; or
 - (3) An insured receives a formal written notice from a “regulatory entity” in the form of a “charging document” or other document instituting the proceedings.
- c. We will have the right and duty to defend a “licensed professional” during any “administrative disciplinary proceeding”. However, we have no duty to defend and will not pay the “defense expenses” or “media and public relations consultation charges” to the extent that this coverage does not apply.
 - (1) The amounts we will pay for “defense expenses” or “media and public relations consultation charges” are limited as described in SECTION III – Limits of Insurance; and
 - (2) Our right and duty to defend ends when we have used up the applicable Limit of Insurance in the payment of “defense expenses” and “media and public relations consultation charges”.
- d. This coverage does not apply to “wrongful conduct” which occurred or were committed before the Retroactive Date for this coverage, if any, shown in the Declarations, or which occur or are committed after the end of the contract period shown in the Declarations.
- e. This coverage applies only if an “administrative disciplinary proceeding” is first initiated against any insured during the contract period shown in the Declarations (or extended reporting period if applicable) and a written notice pursuant to this contract is received by us during the contract period, or within sixty (60) days thereafter, or within the extended reporting period if applicable.
 - (1) We shall deem that all “administrative disciplinary proceedings” initiated by the same person or organization as a result of “wrongful conduct” have been made at the time the first of those “administrative disciplinary proceedings” is initiated against any insured.
 - (2) We shall deem all “administrative disciplinary proceedings” based on and arising out of the same “wrongful conduct” or a series of continuous or interrelated “wrongful conduct” by one or more insureds are a single “administrative disciplinary proceeding” at the time the first of those “administrative disciplinary proceedings” is initiated.
- f. No insured shall incur any cost or expense, including, but not limited to, consulting legal counsel, without our written consent. We shall not pay any defense costs, which were incurred without our written consent.
- g. Our duty to pay “defense expenses” or “media and public relations consultation charges” ceases upon the admittance by a “licensed professional” of “wrongful conduct”, acceptance of any agreement with the “regulatory entity”, or a final finding by the “regulatory entity”.

2. Exclusions

This coverage does not apply to any “defense expenses” or “media and public relations consultation charges”:

- a. Based upon, arising out of, or in consequence of any fact, circumstance, situation, transaction, event, or “wrongful conduct” that, before the inception date of this contract was the subject of any notice accepted under any contract or coverage part of which this contract is a direct or indirect renewal or replacement.
- b. Based upon, arising out of, or in consequence of any notice of an “administrative disciplinary proceeding” against any “licensed professional”, on or prior to the applicable Retroactive Date set forth in the Declarations, or arising out of the same or substantially the same fact, circumstance, situation, transaction, or event underlying or alleged therein.
- c. Based upon, arising from, or in consequence of any “wrongful conduct” first committed before the inception date, if on or before such date, a “licensed professional” or “employee” or agent of the Member Named Insured knew or should have reasonably foreseen that such “wrongful conduct” did or could result in an “administrative disciplinary proceeding” against the insured.
- d. For any violation of the responsibilities, obligations, or duties imposed by any federal, state, or local statutory law or common law (including the Fair Labor Standards Act and the Equal Pay Act) or amendments to or regulations promulgated under any such law that governs wage, hour, and payroll policies and practices.
- e. For any violation of the responsibilities, obligations, or duties imposed by 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, or any amendments thereto or any rules or regulations promulgated thereunder, or any similar provisions, of any federal, state, or local statutory law or common law.
- f. Based upon, arising out of, or in consequence of any “employment practices violation” not included in Paragraphs d. and e. above.
- g. Based upon, arising out of, or in consequence of any infringement of patent, false patent marking, or misappropriation of trade secrets.
- h. For which an insured has coverage under any valid and collectible Directors and Officers Liability policy, Employment Practices Liability policy, Errors and Omissions policy, Media Liability policy, Lawyers Professional Liability policy, or any similar policy; whether or not the retention or deductible of such policy has been exhausted, and regardless of whether such policy is stated to be primary, contributory, excess, contingent, or otherwise. This Exclusion shall not apply to “defense expenses” or “media and public relations consultation charges” that are in excess of both the amount of any retention or deductible and the limit or remaining limit of “defense expenses” of such other policy.
- i. Based upon, arising from, or in consequence of any insured notarizing any signature not made in the presence of such insured at that time of such notarization.
- j. Based upon, arising from, or in consequence of:
 - (1) Any fraudulent act or omission, or any willful violation of any statute or regulation, by an insured, if a final adjudication in any underlying proceeding or action establishes such an act or omission or violation; or
 - (2) Any insured having gained any profit, remuneration, or other advantage which such person was not legally entitled, if a final adjudication in any underlying proceeding or action establishes the gaining of such a profit, remuneration, or advantage;Provided that no conduct pertaining to any insured shall be imputed to any other insured.
- k. For payments in the nature of restitution, reimbursement, compensatory damages, punitive damages, exemplary damages, any multiple of compensatory damages, fines, penalties, or fees.

- l. For any payment of “defense expenses”, “media and public relations consultation charges”, administrative monetary fines, or penalties incurred in any criminal prosecution.
- m. Based upon, arising from, or in consequence of any legal action initiated by the insured, except with our written consent.
- n. Based upon, arising from, or in consequence of any routine audit, review, or accounting conducted by any “regulatory entity”, or any audit or review that does not have as a possible consequence, an adverse effect on the “licensed professional’s”:
 - (1) Licensure status;
 - (2) Professional membership; and
 - (3) Privileges, as governed by applicable laws, rules, or regulations.
- o. Based upon, arising from, or in consequence of any violation of any lawful order or directive of a “regulatory entity”. This exclusion shall not apply to any initial violation or alleged act that causes an “administrative disciplinary proceeding”.
- p. For any costs or fees associated with the medical, psychiatric, or psychological treatment of any insured or any education or training program, whether or not such treatment or program is requested or mandated by any “regulatory entity”.
- q. For any payment of “defense expenses”, “media and public relations consultation charges”, administrative monetary fines, or penalties brought or assessed by any bar, board of bar overseers, bar association, or other agency that is responsible for the licensure or regulation of “lawyers.”
- r. Arising directly or indirectly out of:
 - (1) Any actual or alleged failure, malfunction or inadequacy of:
 - (a) Any of the following whether belonging to any insured or to others:
 - (i) Computer hardware, including microprocessors or other electronic data processing equipment;
 - (ii) Computer application software or other electronic media and records;
 - (iii) Computer operating systems and related software;
 - (iv) Computer networks;
 - (v) Microprocessors (computer chips) not part of any computer system; or
 - (vi) Any other computerized or electronic equipment or components.
 - (b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (1)(a) of this exclusion;

due to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of computer Software to recognize the year 2000.
 - (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) of this exclusion.
- s. Arising directly or indirectly out of:
 - (1) Any bacteria, parasite, mold, “fungi” or microorganism;
 - (2) Any action or inaction of any insured (or other party acting or failing to act on behalf of any insured) undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, remediate or otherwise respond to the actual, suspected, or anticipated presence, existence, or transmission of any bacteria, parasite, mold, “fungi” or microorganism;
 - (3) Any order of a governmental representative, authority or agency undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, remediate or otherwise respond to the actual, suspected,

or anticipated presence, existence, or transmission of any bacteria, parasite, mold, "fungi" or microorganism.

Coverage E – Employed Lawyers Professional

1. Coverage Agreement

- a. We will pay a "legal loss" for a "legal claim", to which this coverage applies, made against a "lawyer" during the contract period or the extended reporting period.
- b. We will pay "subpoena defense costs" on behalf of a "lawyer" for any "covered subpoena" first served during the contract period.
 - (1) We will only pay "subpoena defense costs" if an insured reports the "covered subpoena" to us in writing as soon as practicable, but in no event later than ninety (90) days after such "covered subpoena" is served.
 - (2) Our maximum aggregate limit for "subpoena defense costs" shall be \$10,000, which shall be part of, not in addition to the maximum aggregate limit of liability for this coverage set forth in the Declarations.
- c. This coverage does not apply to "legal claims" or for "subpoena defense costs" which occurred or were committed before the Retroactive Date for this coverage, if any, shown in the Declarations, or which occur or are committed after the end of the contract period shown in the Declarations.
- d. This coverage applies only if a "legal claim" or "subpoena defense costs" are first made against any insured during the contract period shown in the Declarations (or extended reporting period if applicable) and a written notice pursuant to this contract is received by us during the contract period, or within sixty (60) days thereafter, or within the extended reporting period if applicable.
 - (1) We shall deem that any "legal claims" or "subpoena defense costs" by a person or organization seeking damages has been made when notice of such "claim" is received and recorded by any insured or by us, whichever comes first.
 - (2) We shall deem that any "legal claims" or "subpoena defense costs" by the same person or organization as a result of a "legal wrongful act" have been made at the time the first of those "legal claims" or "subpoena defense costs" are made against any insured.
 - (3) We shall deem that any "legal claims" or "subpoena defense costs" based on and arising out of the same "legal wrongful act" or "covered subpoena", or a series of continuous or interrelated "legal wrongful acts" or "covered subpoenas" by one or more insureds are a single "legal claim" or "covered subpoena" made at the time the first "legal claims" are made.
- e. No insured shall admit liability or settle any "legal claim" without our written consent. We shall have no coverage, defense or indemnity obligation if any insured admits liability or settles any "legal claim" without our written consent.
- f. We will not pay for any defense costs, costs or expenses incurred by an insured including, but not limited to, consulting legal counsel, without our written consent.
- g. If a "legal claim" includes both covered and uncovered matters, the insured and we shall use best efforts to agree upon a fair and proper allocation between covered and uncovered damages with respect to the settlement or any other indemnity payment made in connection with said "legal claim".

2. Exclusions

This Coverage E does not apply to any "legal claims" or "subpoena defense costs":

- a. Based upon, arising out of, or in consequence of any fact, circumstance, situation, transaction, event, or "legal wrongful act" that, before the inception date of this contract set forth in the Declarations, was the subject of any notice accepted under any policy or coverage part of which this contract is a direct or indirect renewal or replacement.

- b. Based upon, arising out of, any order, decree, or judgment entered for or against any "lawyer", on or prior to the applicable Retroactive Date set forth in the Declarations, or arising out of substantially the same fact, circumstance, situation, transaction, or event underlying or alleged therein.
- c. Based upon, arising out of, or in consequence of any "legal wrongful act" first committed before the first inception date if, on or before such date, any "lawyer" knew or was aware of facts that could result in a "legal claim" against any "lawyer".
- d. Based upon, arising out of, or in consequence of any:
 - (1) Discharge, emission, release, dispersal, or escape of any "pollutants" or any threat thereof;
 - (2) Treatment, removal, or disposal of any "pollutants"; or
 - (3) Regulation, order, direction, or request to test for monitor, clean-up, remove contain, treat, detoxify, or neutralize any "pollutants".
- e. For any violation of the responsibilities, obligations, or duties imposed by ERISA provided that this exclusion shall not apply to "legal loss" arising out of the performance of "legal services" rendered to a fiduciary of a "plan" sponsored by a municipality for the benefit of employees and elected or appointed officials.
- f. For any "legal claims" or "subpoena defense costs" brought by an insured; provided that this exclusion shall not apply to a "legal claim":
 - (1) For contribution or indemnity arising from another "legal claim" otherwise covered under this contract;
 - (2) Brought by any insured person who has ceased serving in his or her capacity as an insured person for at least one (1) year; or
 - (3) Brought in any insured's capacity as a whistleblower as defined under any federal, state, local, or foreign law.
- g. For any violations of the responsibilities, obligations, or duties imposed by any federal, state, or local statutory law or common law (including the Fair Labor Standards Act and the Equal Pay Act) or amendments to or regulations promulgated under any such law that governs wage, hour, and payroll policies and practices provided that this exclusion shall not apply to "bar defense costs".
- h. For any violation of the responsibilities, obligations, or duties imposed by 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, or any amendments thereto or any rules or regulations promulgated thereunder, or any similar provisions of any federal, state, or local statutory law or common law, provided that this exclusion shall not apply to "bar defense costs".
- i. Based upon, arising out of, or in consequence of any "employment practices violation" not included in exclusions Paragraph g. and h. above; provided that this exclusion shall not apply to "loss" for any violation of such "employment practices violation" committed by an entity or person, other than an "in-house counsel" to the extent that such employment practice was committed in reliance upon "legal services" performed by an "in-house counsel".
- j. Based upon, arising out of, or in consequence of any infringement of patent, false patent marking, or misappropriation of trade secrets;
- k. For which an insured has coverage under any valid and collectible Directors and Officers Liability policy, Employment Practices Liability policy, Errors and Omissions policy, Media Liability policy, Lawyers Professional Liability policy, or any similar policy; whether or not the retention or deductible of such policy has been exhausted, and regardless of whether such policy is stated to be primary, contributory, excess, contingent, or otherwise. This Exclusion shall not apply to "legal losses" that are in excess of both the amount of any retention or deductible and the limit or remaining limit of "legal claims" or "subpoena defense costs" of such other policy.

- l. Based upon, arising out of, or in consequence of any insured person notarizing any signature not made in the presence of such "in-house counsel" or a notary public operating under the supervision of "in-house counsel" at that time of such notarization.
- m. Based upon, arising from, or in consequence of:
 - (1) Any fraudulent act or omission, or any willful violation of any statute or regulation, by an insured, if a final adjudication in any underlying proceeding or action establishes such an act or omission or violation; or
 - (2) Any insured having gained any profit, remuneration, or other advantage which such person was not legally entitled, if a final adjudication in any underlying proceeding or action establishes the gaining of such a profit, remuneration, or advantage;

Provided that no conduct pertaining to any insured shall be imputed to any other insured.

- n. Arising directly or indirectly out of:
 - (1) Any actual or alleged failure, malfunction or inadequacy of:
 - (a) Any of the following whether belonging to any insured or to others:
 - (i) Computer hardware, including microprocessors or other electronic data processing equipment;
 - (ii) Computer application software or other electronic media and records;
 - (iii) Computer operating systems and related software;
 - (iv) Computer networks;
 - (v) Microprocessors (computer chips) not part of any computer system; or
 - (vi) Any other computerized or electronic equipment or components.
 - (b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (1)(a) of this exclusion;
 due to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of computer Software to recognize the year 2000.
 - (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) of this exclusion.
- o. Arising directly or indirectly out of:
 - (1) Any bacteria, parasite, mold, "fungi" or microorganism;
 - (2) Any action or inaction of any insured (or other party acting or failing to act on behalf of any insured) undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, remediate or otherwise respond to the actual, suspected, or anticipated presence, existence, or transmission of any bacteria, parasite, mold, "fungi" or microorganism;
 - (3) Any order of a governmental representative, authority or agency undertaken to control, prevent, suppress, mitigate, test for, monitor, treat, remediate or otherwise respond to the actual, suspected, or anticipated presence, existence, or transmission of any bacteria, parasite, mold, "fungi" or microorganism.

Supplementary Payments

We will pay, with respect to any "claim", "legal claim" or "suit" we investigate, settle or defend:

1. All expenses we incur.
2. The cost of bonds to release attachments and appeal bonds required in any "suit" or "legal claim" we defend, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.

3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the "claim", "legal claim" or "suit", including actual "loss" of earnings up to \$250 a day because of time off from work. Such expenses do not include salaries of your "executive officers", other officials, or "employees".
4. All costs taxed against the insured in the "suit" or "legal claim".
5. Pre-judgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

These payments will not reduce the Limits of Insurance.

SECTION II - Who is an Insured

Each of the following is an insured:

1. You, the public entity named in the Declarations.
2. Your past, present, and future "executive officers" and other elected, appointed or employed officials operating under your jurisdiction while acting within the scope of their duties as such.
3. Members of commissions, committees, agencies or boards while acting within their duties as such, provided such commission, committee, agency or board is operated under your jurisdiction and within an apportionment of your total operating budget reserve funds, revolving funds, grants, and capital expenditures all authorized by the appropriate governing authority, while acting within the scope of their duties as such.
4. Your "employees," but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
5. Any person providing volunteer services for you at your request and operating under your direction and control, while performing duties related to the conduct of your business.
6. Any person providing services for you under mutual aid or similar agreements. However, no law enforcement council or similar organization is an insured.
7. The estates, heirs, legal representatives, successors, or assigns of deceased persons who were insureds at the time of the covered acts upon which a "claim" or "legal claim" is based and to which this coverage applies.
8. The legal representatives or assigns of the insureds in the event of their incompetency, insolvency, or bankruptcy.
9. "Executive Officers", "employees", directors, other officials and members of commissions, committees, agencies, boards or other units while serving at your written request with an outside tax-exempt entity.

None of the above, however, are insureds with respect to operations involving schools, airports, hospitals, nursing homes, housing authorities, port authorities, transit authorities, or gas or electric utility companies, unless specifically endorsed onto this contract.

Additionally, none of the above shall include any law firm(s) or individual attorney(s) appointed, hired or otherwise retained by you. This provision shall not apply to your "in-house counsel" while employed by you and considered a public employee as defined by Massachusetts General Laws Chapter 258.

SECTION III – Limits of Insurance

1. The Limits of Insurance shown in the Declarations and the rules below define the most we will pay regardless of the number of:
 - a. Insureds;
 - b. "Claims", "suits" or "legal claims" made or brought; or
 - c. Persons or organizations making or bringing "claims", "suits" or "legal claims".

2. The Annual Aggregate Limit is the most we will pay for all damages under this Coverage Form in one annual period. In no event shall our Annual Aggregate Limit be increased for any Extended Reporting Period.
3. Subject to Paragraph 2. above, the Each "Claim" Limit is the most we will pay for all damages arising out of any one "wrongful act", "employment practices violation", "third party violation", "breach of fiduciary duty", or "legal wrongful act" covered by this contract. "Claims" or "legal claims" based on and arising out of the same "wrongful act", "employment practices violation", "third party violation", "breach of fiduciary duty", or "legal wrongful act" or a series of continuous or interrelated "wrongful acts", "employment practices violations", "third party violations", "breaches of fiduciary duty" or "legal wrongful acts" of one or more insureds shall be considered to be a single "claim" made at the time the first of those "claims" or "legal claims" is made, subject to the Limits of Insurance in effect at that time.
4. Subject to Paragraph 2. above, the Back-wages Per Person Limit shown on the Declarations is the most we will pay for damages under Coverage B arising out of any "claim" for "back-wages". Also subject to Paragraph 2. above, the Back-wages Per Person Limit shown on the Declarations is the most we will pay for the sum of damages under Coverage B arising out of more than one "claim" asserting that the insured owes any "back-wages" to one "employee".
5. Subject to Paragraph 2. above, the Administrative Disciplinary Proceeding Limit shown on the Declarations is the most we will pay for the sum of all defense costs or "media and public relations consultation charges" arising out of all claims for "administrative disciplinary proceedings" in one annual contract period.
6. The limits of this contract apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the contract period shown in the Declarations, unless the contract period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance. When the initial contract period is less than 12 months, the Limits of Insurance apply separately to that period.

SECTION IV – Deductible

1. Our obligation under SECTION I of this contract to pay damages on behalf of the insured applies only to the amount of damages in excess of any deductible amount stated in the Declarations.
2. The deductible amount stated in the Declarations, if any, applies to all damages sustained by any person or organization as the result of any one "claim" or "legal claim". "Claims" or "legal claims" based on or arising out of the same "wrongful act" or a series of continuous or interrelated "wrongful acts" of one or more insureds shall be considered a single "claim" or "legal claim" made at the time the first of those "claims" or "legal claims" is made, subject to the deductible in effect at that time.
3. As respects "claims" or "legal claims" arising out of "Communicable Disease", our obligation to pay damages, loss payments, adjustment costs, investigative fees or legal fees and costs applies only to the amount of damages in excess of the deductible amount shown as applying to "Communicable Disease" in the Declarations.
4. Any deductible amount stated in the Declarations applies to each "claim" or "legal claim" and includes loss payments and adjustment, investigative and legal fees and costs, whether or not loss payment is involved.
5. The terms of this coverage, including those with respect to:
 - a. Our right and duty to defend any "claims", "legal claims" or "suits" seeking damages; and
 - b. Your duties in the event of a potential or actual "wrongful act," "claim", "suit", "third party violations", "employment practices violation", "breach of fiduciary duty" or "legal claim";
 apply irrespective of the application of the deductible amount.
6. We may pay any part or all of the deductible amount to investigate, settle or defend any "claim", "legal claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

SECTION V – Extended Reporting Periods – Basic and Optional Supplement

1. We will provide a Basic Extended Reporting Period Endorsement, as described below, if:
 - a. This contract is cancelled or not renewed for any reason other than non-payment of any portion of contributions due us or failure to promptly pay any deductible amount when due; or
 - b. We renew or replace this contract with coverage that:
 - (1) Has a Retroactive Date later than the date shown in the Declarations of this contract; or
 - (2) Does not apply on a claims-made basis.

A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the contract period and lasts for:

- a. Three years for “claims” or “legal claims” arising out of a fact, situation, circumstance, incident or event reported to us, not later than sixty (60) days after the end of the contract period; or
- b. Sixty (60) days for all other “claims” or “legal claims” not previously reported to us.

The Basic Extended Reporting Period does not apply to “claims” that are covered under any other insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such “claims”.

2. We will provide a Supplemental Extended Reporting Period Endorsement, as described below, if:
 - a. We, or you, cancel or non-renew this contract for any reason other than non-payment of any portion of contributions due us or failure to promptly pay any deductible amount when due; or
 - b. We renew or replace this contract with coverage that:
 - (1) Has a Retroactive Date later than the date shown in the Declarations of this contract; or
 - (2) Does not apply on a claims-made basis.

A Supplemental Extended Reporting Period of up to three years is available, but only by an endorsement and for an additional contribution charge. This supplemental period starts sixty (60) days after the end of the contract period.

You must give us a written request for the endorsement within sixty (60) days after the end of the contract period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional contribution promptly when due.

We will determine the additional contribution in accordance with our rules and rates. In doing so, we may take into account the following: the exposures insured; previous types and amounts of insurance; limits of insurance available under this contract for future payment of damages; and other related factors.

The additional contribution for a one, two or three-year Supplemental Extended Reporting Period will not exceed 75%, 100% or 150%, respectively, of the annual contribution for this contract.

This endorsement shall set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the coverage afforded for “claims” or “legal claims” first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

3. Extended Reporting Periods do not extend the contract period or change the scope of coverage provided. They apply only to “claims” for “wrongful acts”, “employment practices violations”, “third party violations”, or “breaches of fiduciary duty”, or “legal wrongful acts” that occur or are committed before the end of the contract period (but not before the Retroactive Date, if any, shown in the Declarations).
4. “Claims” or “legal claims” for injury or damage which are first received and recorded during the Basic Extended Reporting Period (or during the Supplemental Extended Reporting Period, if it is in effect) will be deemed to have been made on the last day of the contract period.
5. Once in effect, Extended Reporting Periods may not be cancelled.

6. Extended Reporting Periods do not reinstate or increase the Limits of Insurance applicable to any “claim” or “legal claim” to which this contract applies.

SECTION VI – Public Officials Liability Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured’s successor will not relieve us of our obligations under this Coverage Form.

2. Consent to Settle

We will not settle any “claim”, “legal claim” or “suit” without your consent.

However, if you refuse to consent to the settlement of such “claim”, “legal claim” or “suit” after receiving our request for consent to settle, and you elect to contest such “claim”, “legal claim” or “suit” and continue legal proceedings for such “claim”, “legal claim” or “suit”, then our liability to pay damages under this contract will be the lesser of the following:

- a. Up to and not to exceed the amount of the damages set forth in our request for consent to settle, or
- b. The Limits of Insurance.

Additionally, all further legal expenses, costs, and supplementary payments incurred by an insured, after the date of such refusal of the consent to settle, will be the responsibility of such insured.

3. Contributions

- a. We will compute all contributions for this Coverage in accordance with our applicable rules, rates, rating plans, contributions and minimum contributions.
- b. If this contract is issued for more than one year, the contribution for this coverage will be computed annually based on our rates or contributions in effect at the beginning of each year of the contract.
- c. The estimated contribution for this Coverage is based on the exposures you told us you would have when this contract began. We will compute the final contribution due when we determine your actual exposures. The estimated total contribution will be credited against the final contribution due you and you will be billed for the balance, if any. If the estimated total contribution exceeds the final contribution due, you will get a refund.
- d. You must keep records of the information we need for contribution computation and send us copies at such times as we may request.
- e. You are responsible for the payment of all contributions and will be the payee for any return contributions we pay.

4. Duties in the Event of Potential or Actual “Claim”, “Legal Claim” or “Suit”

- a. You, your “executive officers” or “employee” authorized by you to give or receive notice of “claims” or “legal claims”, must see to it that we are notified, in writing, as soon as practicable after you, your “executive officer” or “employee” authorized by you to give or receive notice of “claims” or “legal claims” or any other involved insured becomes aware of any fact, situation, circumstance, incident or event which may result in a “claim” or “legal claim” being made against you or any other insured alleging a “wrongful act”, “employment practices violation”, “third party violation”, or “breach of fiduciary duty”, or “legal wrongful act”. To the extent possible, notice should include:
 - (1) A description of the fact, situation, circumstance, incident or event, including how, when and where it occurred;
 - (2) The names and addresses of any potential insureds or claimants and any other involved persons and witnesses; and
 - (3) The nature and extent of any damage arising or likely to arise out of the fact, situation, circumstance, incident or event.

Notice of such a fact, situation, circumstance, incident or event is not notice of a "claim" or "legal claim" unless a "claim" or "legal claim" is made pursuant to Paragraph **b.** or Paragraph **c.** below.

- b.** If an insured receives written or oral notice from any person or organization of their intention to hold the insured responsible for any actual or alleged "wrongful act", "employment practices violation", "third party violation", "breach of fiduciary duty", or "legal wrongful act", the insured must immediately record the specifics and the date received and you, your "executive office" or "employee" authorized by you to give or receive notice of "claims" or "legal claims", must see to it that we are notified of this information, in writing, as soon as practicable. Any "claims" or "legal claims" made later arising from such covered act will be deemed to have been made at the time the insured first received such notice.
- c.** If a "claim" or "legal claim" is received by any insured, that insured, you, your "executive officer" or "employee" authorized by you to give or receive notice of "claims" or "legal claims" must:
 - (1) Immediately record the specifics of the "claim" or "legal claim" and the date received;
 - (2) Notify us promptly; and
 - (3) See to it that we receive written notice of the "claim" or "legal claim" as soon as practicable.
- d.** You, your "executive officer" or "employee" authorized by you to give or receive notice of "claims" or "legal claims" and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim", "legal claim" or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation, settlement and defense of the "claim", "legal claim" or "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this coverage may also apply.
- e.** No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

5. Legal Action Against Us

No person or organization has a right under this contract:

- a.** To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b.** To sue us on this contract unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this contract or that are in excess of the applicable Limit of Insurance. An agreed settlement means a fully executed release of liability.

6. Other Insurance

- a.** The coverage afforded by this contract is primary, except when stated to apply in excess of or contingent upon the absence of other insurance.

In the event of a "claim" or "legal claim" against an individual insured arising out of his or her service as a director, officer or trustee of a legally constituted not-for-profit organization this coverage shall be excess of any indemnification provided by, and any insurance provided to, such organization.

In the event of a "claim" against an "employee" leased to you by a labor leasing firm, this coverage shall be excess of any indemnification provided by, and any insurance provided to, such labor leasing firm.

When this coverage is primary and the insured has other insurance, which is stated or found to be applicable to the loss on an excess or contingent basis, the amount of our liability under this contract shall not be reduced by the existence of such other insurance.

When this coverage is excess, we will have no duty to defend any "claim", "legal claim" or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this coverage is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this coverage; and
- (2) The total of all deductible and self-insured amounts under all such other insurance.

When both this coverage and other insurance apply to the loss on the same basis, whether primary, excess or contingent, we shall not be liable under this contract for a greater proportion of the loss than that stated in the applicable Method of Sharing provision below:

b. Method of Sharing

- (1) If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this method each insurer contributes equal amounts until it has paid its applicable Limit of Insurance or none of the loss remains, whichever comes first.
- (2) If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable Limit of Insurance to the total applicable Limits of Insurance of all insurers.

7. No Stacking Clause

If this contract and any other contract, contracts or coverage form(s) issued to you by us or any of our affiliated companies apply to the same or related "claims", "legal claims", "suits" or damages, the most that will be paid by us and our affiliated companies either individually or collectively for the sum of all those damages is the single largest applicable limit available under any one of those policies or coverage forms. The same or related "claims", "legal claims", "suits" or damages include the continuation of injury or damages from a prior contract period into a subsequent contract period, or any injury or damage resulting from the same cause or occurrence.

However, this provision does not apply to umbrella or similar contracts or coverage forms that are purchased specifically to apply in excess of another contract or coverage form that is scheduled as underlying insurance.

In no event will coverage be provided during the contract period for the same or related "claims", "legal claims", "suits" or damages after (1) the applicable aggregate Limit of Insurance under any one coverage form or contract has been exhausted, or (2) the applicable aggregate Limit of Insurance under any one coverage form or contract would have been exhausted had all covered "claims" or "legal claims", been submitted under that one coverage form or contract rather than under two or more coverage forms or policies.

8. Authorization Clause

By acceptance of this contract, you agree to act on behalf of each insured with respect to completion of the application in the solicitation of this coverage, the giving and receiving of notice of cancellation, acceptance of endorsements, the payment of contributions or deductible amounts that may become due under this contract, and the selection of Supplemental Extended Reporting Period. Each insured agrees that you shall act on their behalf.

9. Representations

By accepting this contract, you agree that:

- a. The statements in the Application (and attachments thereto) completed in solicitation of this coverage and the Declarations are made a part of this contract as though set forth in full herein; and
- b. Those statements:
 - (1) Are accurate and complete;
 - (2) Are deemed material; and

(3) Have been relied upon by us in the issuance of this contract.

10. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Form to you, this coverage applies:

- a. if each Member Named Insured were the only Member Named Insured; and
- b. Separately to each insured against whom "claim" or "legal claim" is made or "suit" is brought.

11. Territory

This coverage applies to a "claim" or "legal claim" because of a "wrongful act", "employment practices violation", "third party violation", "breach of fiduciary duty" or "legal wrongful act" that occurs, provided that the "claim" or "legal claim" is made and "suit" is brought in the United States of America (including its territories and possessions), or Puerto Rico.

12. Transfer of Rights of Recovery Against Others to Us

If the insured has rights to recover all or part of any payment we have made under this contract, those rights are transferred to us. The insured must do nothing to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

SECTION VII – Definitions

The words and phrases defined below apply to both the singular and plural of the defined words and phrases.

1. "Administration" means:

- a. Advising, counseling, or failing to provide proper or timely notice to "employees", "executive officers", participants or beneficiaries with respect to any "plan";
- b. Providing interpretations with respect to any "plan"; or
- c. Handling of records or effecting enrollment, termination or cancellation of "employees", "executive officers", participants or beneficiaries under any "plan".

2. "Administrative disciplinary proceeding" means:

- a. Any proceeding instituted by a "regulatory entity" responsible for licensing and regulation of the "licensed professionals" professional discipline. A proceeding instituted by the Massachusetts Peace Officer Standards & Training (POST) Commission shall not be deemed an "administrative disciplinary proceeding".
- b. Any proceeding instituted by a business or hospital or other facility against any insured, which has a possible outcome the suspension, revocation, limitation of, or other corrective action against staff membership or privileges of an insured at said facility, as governed by applicable law, bylaws, rules, or regulations.

3. "Administrative hearing" means any non-judicial proceeding of a local, state and/or federal agency, other than the commencement of a proceeding with the Massachusetts Commission Against Discrimination, an arbitration proceeding, or any other alternative dispute resolution proceeding.

4. "Back-wages" means wages that would have been earned if a person had been employed, promoted, or received wage increases and includes overtime, future wages, pension and retirement benefits, even if designated as liquidated damages under any federal, state, or local statutes, rules, ordinances, or regulations arising out of an "employment practices violation", but does not include wage loss arising out of collective bargaining agreements, negotiations, or disputes.

5. "Bar defense costs" means "subpoena defense costs" and reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees, or benefits of a "lawyer", appointed or elected official, or "employee" of an insured) incurred in investigating, defending, opposing, or appealing any "legal claim" and the premium for the appeal, attachment, or similar bonds.

6. "Breach of fiduciary duty" means any actual or alleged:

- a. Breach of the responsibilities, obligations, or duties imposed by ERISA upon fiduciaries of the “plan” committed, attempted, or allegedly committed or attempted by any insured while acting in the insured’s capacity as a fiduciary;
 - b. Negligent act, error, or omission in the “administration” of any “plan” committed, attempted or allegedly committed or attempted by an insured; or
 - c. Matter other than as set forth in (a) or (b) above, claimed against an insured solely by reason of the insured’s service as a fiduciary of any “plan”.
7. “Charging document” means the initial formal written notice issued by a “regulatory entity”, managed care organization, or entity responsible for enforcement of compliance with statutes or regulations setting forth the pending allegation or charges against a “licensed professional”.
8. “Claim” means any of the following in connection with alleged damages because of a “wrongful act”, “employment practices violation”, “third party violation”, or “breach of fiduciary duty” to which this coverage applies:
- a. Written demand or notice for monetary or non-monetary relief;
 - b. Summons, pleadings or legal documents filed or served in connection with a “suit”;
 - c. Notice of the commencement of a proceeding with the Massachusetts Commission Against Discrimination;
 - d. Arbitration or mediation proceeding;
 - e. Criminal proceeding commenced by: (1) an arrest, or (2) return of an indictment, information or similar document;
 - f. Written notice of commencement of a fact-finding investigation by the U.S. Department of Labor or the U.S. Pension Benefit Guaranty Corporation; or
 - g. A written request first received by an insured to toll or waive a statute of limitations relating to a potential “claim” as described above.
- But “claim” does not mean any “administrative hearing”, or any action, proceeding, matter or “suit”, based upon or arising out of or in any way related to a labor, grievance, and/or disciplinary dispute, arbitration or proceeding, including but not limited to one subject to a collective bargaining agreement.
9. “Communicable disease” means a contagious disease or illness arising out of a biological virus transmitted or spread, directly or indirectly, to a person from a person, from an animal, or through the vector of the inanimate environment.
10. “Covered subpoena” means a subpoena seeking documents, testimony, or information solely in connection with a “lawyer’s” “legal wrongful act”.
11. “Defense expenses” means the reasonable costs, charges, fees (including attorneys’ fees and experts’ fees) and expenses (other than regular or overtime wages, salaries, fees, or benefits of an insured, public official, or “employee” of the municipality) incurred in investigating, defending, opposing, or appealing any “administrative disciplinary proceeding”.
12. “Employee” means any compensated or non-compensated “employee”, including volunteer workers and student teachers teaching as part of their educational requirements. “Employee” includes a “leased worker”. “Employee” includes a so-called volunteer or call firefighter or police officer. “Employee” does not include a “temporary worker” but does include seasonal or occasional workers. “Employee” does not include any person not considered a public employee as defined by Massachusetts General Laws Chapter 258.
13. “Employment practices violation” means “wrongful acts” involving:
- a. Employment related refusal to employ, promote, or grant tenure;
 - b. Employment related dismissal, discharge, or termination of employment;
 - c. Employment related coercion;
 - d. Employment related demotion;

- e. Employment related evaluation, reassignment, or discipline;
 - f. Employment related libel, slander, defamation, humiliation, or invasion of privacy;
 - g. Employment related harassment or discrimination;
 - h. Employment related retaliation; and
 - i. Employment related violation of an individual's civil rights.
14. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws, or any other similar governing document.
15. "Fungi", as used herein, shall mean any mold, fungus, mildew and any mycotoxins, spores, scents or byproducts or type of infestation produced by such mold, fungus, wet or dry rot or mildew.
16. "In-house counsel" means any "employee" licensed to practice law and acting in the capacity as an attorney for you. "In-house counsel" shall not include any "independent contractor attorney".
17. "Independent contractor attorney" means any attorney licensed to practice law, who provides "legal services" to an insured, who is not an "employee".
18. "Lawyer" means any:
- a. "In-house counsel";
 - b. "Legal assistant";
 - c. Person who is, was, or becomes a full-time or part-time "employee" of the municipality whose duties include serving as a notary public, but only while acting in his or her capacity as a notary public under the supervision of an "in-house counsel"; or
 - d. "Temporary attorney".
- "Lawyer" shall not mean, under any circumstance, an "independent contractor attorney".
19. "Leased worker" means a person leased to you by a labor leasing firm, under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
20. "Legal assistant" means any person who is, was, or becomes a full-time or part-time "employee" of the Member Named Insured who supports an "in-house counsel" in the performance of "legal services."
21. "Legal claim" means any of the following against a "lawyer" for a "legal wrongful act":
- a. Written demand against a "lawyer" or in relation to the official activities of the "lawyer" for monetary or non-monetary relief, including injunctive relief;
 - b. Civil proceedings commenced by the service of a complaint or similar proceeding;
 - c. Formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document;
 - d. Judicial, administrative, bar association, or other proceeding against a "lawyer" which concerns the eligibility or license of such "lawyer" to practice law;
 - e. Civil, administrative, or regulatory investigation or interview of a "lawyer" for a "legal wrongful act" once such "lawyer" is identified in writing by an investigative authority as a target of such investigation or interview, including when such "lawyer" is served with a target letter or similar document; or
 - f. Written request first received by an insured to toll or waive a statute of limitations relating to a potential "legal claim" described in Paragraph a. through e. above.
22. "Legal Loss" means the amount which any "lawyer" becomes legally obligated to pay as a result of any "legal claim", including:
- a. Compensatory damages;
 - b. Judgments, including pre-judgment, and post-judgment interest;

- c. Settlements; and
- d. "Bar defense costs";

Provided that "legal loss" does not include any portion of such amount that constitutes any:

- a. Cost of compliance with any order for, grant of, or agreement to provide non-monetary relief, including injunctive relief;
- b. Amount uninsurable under the law pursuant to which this contract is construed;
- c. Tax, fine, sanction, or penalty imposed by law;
- d. Amount incurred by a "lawyer" in the defense or investigation of any action, proceeding or demand that was not then a "legal claim", other than "subpoena defense costs", even if such amount also benefits the defense of a covered "legal claim" or such action, proceeding, or demand subsequently gives rise to a "legal claim".
- e. Any salary, wages, commissions, benefits, or monetary payments owed to any "lawyer", elected official, appointed official; or other "employee"; or
- f. Cost incurred in cleaning-up, removing, containing, treating, detoxifying, neutralizing, assessing the effects of, testing for, or monitoring "pollutants".

23. "Legal services" means:

- a. "Legal services" and notary public services, rendered to an insured by an "in-house counsel" solely while acting in his or her capacity as such;
- b. "Legal services" and notary public services, rendered to an insured by a "temporary attorney" or "legal assistant" solely while acting:
 - (1) In his or her capacity as such; and
 - (2) Under the supervision and direction of an "in-house counsel"; or
- c. Pro bono services rendered by an "in-house counsel" without compensation to indigent clients or for non-profit public interest groups solely while such "in-house counsel" is a full-time or part-time "employee" of an insured.

24. "Legal wrongful act" means any actual or alleged error, misstatement, misleading statement, act, omission, neglect, breach of duty, or personal injury committed, attempted, or allegedly committed or attempted solely in the performance of or failure to perform "legal services" by a "lawyer" while acting in his or her capacity as such.

25. "Licensed professional" means any person who is:

- a. An "employee" of the Member Named Insured under Massachusetts General Laws Chapter 258; and
- b. Is engaged in a profession where they must be licensed by a government organization, licensing authority, professional trade organization, guild, or any other such associations to be permitted to perform the duties of that "employee"; and
- c. Is so licensed by the appropriate government organization, licensing authority, professional trade organization, guild, or any other such associations.

However, "licensed professional" shall not include any "in-house counsel" or "legal assistant".

26. "Media and public relations consultation charges" means the following amounts when incurred in anticipation of, or during the pendency of, an "administrative disciplinary proceeding":

- a. Amounts paid for the advice and assistance of media and public relations consultants to minimize potential harm to the reputation of the insured arising from an "administrative disciplinary proceeding", including advice and activity undertaken to maintain and restore public confidence in the competence, integrity, or viability of the insured;
- b. Amounts paid for representation of the insured by an independent spokesperson in connection with media inquiries; and

- c. Costs related to the creation of notices, position statements, advertisements, or other publications, whether in print or other media, as well as costs of production, advertising, mailing of such materials.
- 27. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:**
- a. False arrest, detention, or imprisonment;
 - b. Malicious prosecution;
 - c. Abuse of Process;
 - d. Discrimination, unrelated to employment;
 - e. Erroneous service of process;
 - f. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - g. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - h. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - i. The use of another's advertising idea in your "advertisement" or "your website";
 - j. Infringing upon another's copyright, trade dress or slogan in your "advertisement" or "your website";
 - k. Injury caused by assault or battery that was not committed by or at the direction of the insured; or
 - l. Injury caused by assault or battery that was committed by or at the direction of the insured to prevent or eliminate danger to any persons or property.
- 28. "Plan" means**
- a. Any group life insurance, group accident or health insurance, group casualty insurance, "employee" travel or vacation plans, "employee" savings plans, "employee" deferred compensation plans, profit sharing plans, salary continuation plans, dental plans, vision plans, hearing plans, flexible spending accounts, healthcare savings accounts, health reimbursement accounts, leave of absence programs (including military leave, maternity leave, family leave, and, civil leave), tuition assistance plans, transportation subsidies, health club subsidies, or similar plans or insurance which is operated solely by the insured or jointly by the insured and a labor organization solely for the benefit of the "employees" or "executive officers" of the insured, and which existed on or before the inception date of this contract.
 - b. Any government-mandated insurance for workers' compensation, unemployment, social security or disability benefits for "employees" and "executive officers".
 - c. Any other plan, fund, or program specifically included as a plan by endorsement to this contract.
- "Plan" shall not include any pension plan, retirement plan, or retirement savings plan by whatever name called.
- 29. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including, without limitation, smoke, vapor, soot, fumes, acids, alkalis, chemicals, lead, electro-magnetic radiation, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.**
- 30. "Regulatory entity" means any body:**
- a. Empowered to license an individual to perform duties in a profession;
 - b. Empowered to regulate the conduct of any individual engaged in a profession; or
 - c. Empowered to conduct an "administrative disciplinary proceeding" against an individual that is engaged in a profession where a license is required.
- 31. "Subpoena defense costs" means reasonable attorney's fees incurred in connection with a "covered subpoena" including:**
- a. Seeking to quash or modify a subpoena;

- b. Opposing any motion to enforce a subpoena against a “lawyer”; and
 - c. Representation of a “lawyer” during the document production, witness preparation, and giving of testimony in connection with such subpoena.
32. “Suit” means a civil proceeding in which damages because of “wrongful acts”, “employment practices violations”, “third party violations”, or “breaches of fiduciary duty” to which this coverage applies are alleged. “Suit” includes:
- a. A proceeding with the Massachusetts Commission Against Discrimination or an arbitration proceeding in which damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
33. “Temporary attorney” means any person admitted to practice law anywhere in the world provided by a temporary employment agency through a service agreement between the insured and the temporary employment agency to provide “legal services” to the insured and the attorney is considered a public “employee” as defined by Massachusetts General Laws Chapter 258, but only if the “temporary attorney” does not have any other professional coverage available.
34. “Temporary worker” means a person who is furnished to you by a “third party”, who compensates the person, as a substitute for a permanent “employee” on leave or to meet seasonal or short-term workload conditions.
35. “Third party” means any natural person who is a customer, vendor, service provider, or other business invitee of the insured.
36. “Third party violation” means:
- a. Discrimination against a “third party” based upon such “third party's” race, color, religion, creed, age, sex, national origin, disability, pregnancy, HIV status, marital status, sexual orientation or preference, gender identity, military status or other status that is protected pursuant to any applicable federal, state, or local statutory law or common;
 - b. Sexual harassment, including unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature against a “third party”;
 - c. Invasion of Privacy; or
 - d. Violation of civil rights protected under 42 USC § 1981 et seq. or State Law;
- committed, attempted, or allegedly committed or attempted by any insured in his or her capacity as such.
37. “Wrongful act” means any actual or alleged error, misstatement, misleading statement, act or omission, neglect or breach of duty, or any actual or alleged violation of civil rights, by an insured, individually or collectively, while acting within the scope of his or her duties as your “executive officer(s)”, public official, officially appointed commission, committee, agency or board member, “employee” or volunteer worker, or while performing duties related to the conduct of your business.
38. “Wrongful conduct” means any of the following:
- Actual or alleged:
- a. Error, act, omission, neglect, or breach of duty;
 - b. Misstatement, or misleading statement;
 - c. Breach of regulation; or
 - d. Breach of ethical standards promulgated by a “regulatory entity”.
- When such conduct is committed, attempted, or allegedly committed or attempted solely in the performance a professional service by a “licensed professional” while acting in his or her capacity as such.