



580 Walnut Street, Cincinnati, OH 45202

ExecPro<sup>sm</sup>  
**DECLARATIONS**  
for  
**Nonprofit Solutions**  
**Insurance Policy**

Insurance is afforded by the company indicated below: (Each a capital stock corporation)

☒ Great American Insurance Company

Management Company: ASSOCIATION MANAGEMENT RESOURCES INC

Policy Number: **EPP2348229**

Client Number: **2827436**

Policy Form Number: **D16100**

Item 1. Name of **Organization**: **FRIENDS OF THE NATIONAL INSTITUTE OF NURSING RESEARCH**

Mailing Address: **201 EAST MAIN ST., SUITE 1405**

City, State, Zip Code: **LEXINGTON, KY 40507**

Attn: Executive Director/President

Item 2. **Policy Period**: From **03/25/2023** To **03/25/2024**  
(Month, Day, Year) (Month, Day, Year)

(Both dates at 12:01 a.m. Standard Time at the address of the **Organization** as stated in Item 1)

Item 3. Aggregate Limit(s) of Liability for each **Policy Year**:

- (a) **\$1,000,000** for all **Claims** other than **Claims** for **Employment Practices Wrongful Acts**.  
(b) **\$ 10,000** Donor Data Loss Crisis Fund Sublimit of Liability. This limit is part of and not in addition to the Limit of Liability provided for in 3(a).
- (c) **\$1,000,000** for all **Claims** for **Employment Practices Wrongful Acts**. This limit is:  
☒ part of and not in addition to the Limit of Liability provided for in 3(a).  
☐ separate from and in addition to the Limit of Liability provided for in 3(a).  
(d) **\$ 150,000** FLSA Defense Sublimit of Liability. This limit is part of and not in addition to the Limit of Liability provided for in 3(c).

Item 4. Retentions:

Insuring Agreement A: **\$0** Each **Claim**  
Insuring Agreements B and/or C: **\$1,000** Each **Claim**

Item 5. **Premium**: **\$969.00**  
**KY Surcharge**: **\$17.44**  
**KY County Tax**: **\$48.45**  
**Total**: **\$1,034.89**

Item 6. Endorsements Attached:

**D16100, DTCOV2015 (02/15), DTDIS2015 (02/15), D16548, D16718, D16316 (01/09) IL7324 (Ed. 08/12), D 16712(13) (11/16),**

Item 7. Notices: All notices required to be given to the **Insurer** under this Policy shall be addressed to:

*Great American Insurance Companies  
Executive Liability Division  
P.O. Box 66943  
Chicago, Illinois 60666*

Item 8. Prior & Pending Litigation Date: **03/25/2015**

These Declarations along with the completed and signed Proposal Form and Nonprofit Solutions Insurance Policy, shall constitute the contract between the **Insureds** and the **Insurer**.

**THIS IS A CLAIMS MADE POLICY. READ IT CAREFULLY.**



## **TERRORISM COVERAGE ENDORSEMENT CAP ON LOSS FROM CERTIFIED ACTS**

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

### **CERTIFIED ACTS OF TERRORISM COVERAGE**

“Certified Act of Terrorism” means an act that is certified by the Secretary of the Treasury in accordance with the provisions of the Terrorism Risk Insurance Act to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a “Certified Act of Terrorism” include the following:

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

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

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

**Terrorism Premium: \$ 0.00**

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

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

**Insured: FRIENDS OF THE NATIONAL INSTITUTE OF NURSING RESEARCH**

**Policy Period: 03/25/2023 - 03/25/2024**

**Policy Number: EPP2348229**

Countersigned by: \_\_\_\_\_  
*Authorized Representative*

**Endorsement Effective Date: 03/25/2023**



## **POLICYHOLDER DISCLOSURE OFFER OF TERRORISM COVERAGE**

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The Terrorism Risk Insurance Act establishes a program within the Department of the Treasury, under which the federal government shares, with the insurance industry, the risk of loss from future terrorist attacks. The Act applies when the Secretary of the Treasury certifies that an event meets the definition of an act of terrorism. The Act provides that, to be certified, an act of terrorism must cause losses of at least five million dollars and must have been committed by an individual or individuals as part of an effort to coerce the government or population of the United States.

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals a percentage of that portion of the amount of such insured losses that exceeds the applicable insurer retention. The federal share percentage is dependent upon the calendar year and is shown in the Table below.

<b>Year</b>	<b>Federal Share</b>
<b>2015</b>	<b>85%</b>
<b>2016</b>	<b>84%</b>
<b>2017</b>	<b>83%</b>
<b>2018</b>	<b>82%</b>
<b>2019</b>	<b>81%</b>
<b>2020</b>	<b>80%</b>

The Terrorism Risk Insurance Act, as amended in 2015, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers' liability for losses resulting from certified acts of terrorism when the amount of such losses in any one calendar year exceeds \$100 billion. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

In accordance with the Terrorism Risk Insurance Act, we are required to offer you coverage for losses resulting from an act of terrorism that is certified under the federal program as an act of terrorism. The policy's other provisions will still apply to such an act.

Terrorism coverage for acts of terrorism that are certified under the federal program as an act of terrorism is included for no additional premium. Nonetheless, if you would like to reject such Terrorism coverage, please provide Great American written confirmation of such, and an exclusion will be attached to your policy.

## **SUBLIMIT OF COVERAGE FOR TELEPHONE CONSUMER PROTECTION ACT CLAIMS**

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It is understood and agreed that the following changes are made to the Policy:

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

"TCPA Wrongful Act" shall mean any actual or alleged violation(s) of any federal, state or local laws or regulations pertaining to unsolicited or non-consensual communication, advertising or fundraising, through faxes, telephone calls, texting or any other medium, including, but not limited to the Telephone Consumer Protection Act;

"Statutory Damages" shall mean any amounts imposed upon an Insured pursuant to the Telephone Consumer Protection Act of 1991 or any similar state or local law as such amounts relate to a TCPA Wrongful Act.

2. Section III.I.(1) is amended by the addition of the following:

This section shall also not apply to Statutory Damages.

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

Personal Injury Wrongful Act shall not include any TCPA Wrongful Act;

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

Wrongful Act shall also mean TCPA Wrongful Act;

5. Section IV.D. is amended by the addition of the following:

Part (3) of this exclusion shall also not apply to any TCPA Wrongful Act;

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

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Insured: FRIENDS OF THE NATIONAL INSTITUTE OF

Policy Period: 03/25/2023 to 03/25/2024

Policy Number: EPP2348229

Countersigned by: Stephen Miller

Authorized Representative

Endorsement Effective Date: 03/25/2023

## **SUBLIMIT OF COVERAGE FOR TELEPHONE CONSUMER PROTECTION ACT CLAIMS**

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The Insurer's maximum aggregate liability for all Loss in connection with Claims made against any Insured for a TCPA Wrongful Act shall be \$ 100,000 for each Policy Year, which amount is part of, and not in addition to, the maximum Limit of Liability shown in Item 3.(a) of the Declarations regardless of the number of Claims during such Policy Year.

In the event a Claim involves a TCPA Wrongful Act and a Personal Injury Wrongful Act, such Claim shall be considered a Claim for a TCPA Wrongful Act and shall be subject to the TCPA Sublimit of Liability.

7. Section V.C. is amended by the addition of the following:

With respect to any Claim for a TCPA Wrongful Act, Costs of Defense incurred either by the Insurer or the Insured shall be considered Loss and, therefore, subject to the TCPA Sublimit of Liability and the Retention.

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

\$ 100,000 TCPA Sublimit of Liability for Claims for any TCPA Wrongful Act for each Policy Year.

9. Item 4. of the Declarations is amended by the addition of the following:

\$ 1,000 Retention applicable to Insuring Agreements I.B. and I.C. for any Claim for TCPA Wrongful Act.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

## AMENDMENT TO SECTION VIII

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It is understood and agreed that Section VIII of the Policy is hereby amended as follows:

**Section VIII. E. Association Management Company Extension**

**1. Section III. P. is deleted and replaced with the following:**

**P. 'Subsidiary' shall mean:**

- (1) any entity in which the Organization owns, directly or indirectly, more than fifty percent (50%) of the voting stock on or before the inception date of this Policy;**
- (2) any similar entity which was created or acquired by the Organization after the inception date of this Policy, if the entity's total assets do not exceed thirty-five percent (35%) of the total consolidated assets of the Organization as of the inception date of this Policy; or**
- (3) any other entity added as a Subsidiary by written endorsement to this Policy.**

Coverage shall apply to a Subsidiary only for Wrongful Acts allegedly committed during the time such entity qualified as a Subsidiary.

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

- (4) any of (a) through (e) in item R. (1) by the Organization, and/or any Subsidiary, and/or any Insured Persons acting in their capacity with a nonprofit association client.**

**3. Section IV. H. is deleted and replaced with:**

**by, or for the benefit of, or at the behest of the Organization or any Subsidiary or any entity which controls, is controlled by, or is under common control with the Organization or any Subsidiary, or any person or entity which succeeds to the interests of the Organization or any Subsidiary, provided, however, this exclusion shall not apply to any Claim brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner or similar official of the Organization, if any, in the event of Financial Insolvency;**

**For purposes of this exclusion, Subsidiary shall not include any nonprofit association client of the Organization.**

**Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.**

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**Insured: FRIENDS OF THE NATIONAL INSTITUTE OF NURSING RESEARCH**

**Policy Period: 03/25/2023 - 03/25/2024**

**Policy Number: EPP2348229**

**Countersigned by:**

  
*Authorized Representative*

**Endorsement Effective Date: 03/25/2023**



## ECONOMIC AND TRADE SANCTIONS CLAUSE

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

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Insured: FRIENDS OF THE NATIONAL INSTITUTE OF NURSING RESEARCH

Policy Period: 03/25/2023 - 03/25/2024

Policy Number: EPP2348229

Countersigned by:

  
Authorized Representative

Endorsement Effective Date: 03/25/2023



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## KENTUCKY AMENDATORY ENDORSEMENT

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It is understood and agreed that Section IX.A.(3) of the Policy is hereby amended as follows:

- (3) If the **Insurer** elects not to renew this Policy, the **Insurer** shall provide the **Organization** with no less than seventy-five (75) days advance notice thereof.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

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Insured: **FRIENDS OF THE NATIONAL INSTITUTE OF NURSING RESEARCH**

Policy Period: **03/25/2023 - 03/25/2024**

Policy Number: **EPP2348229**

Countersigned by: \_\_\_\_\_

*Stephen Miller*  
Authorized Representative

Endorsement Effective Date: **03/25/2023**





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## GREAT AMERICAN NONPROFIT EAGLE ENDORSEMENT

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It is understood and agreed that the following changes are made to the Policy:

AMENDMENT TO LIMIT OF LIABILITY
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**Additional A-Side Limit of Liability**

It is understood and agreed that Section V. is amended by the addition of the following:

Notwithstanding anything in this Policy to the contrary, the Policy provides an Additional Limit of Liability dedicated for directors, trustees, officers, regents, governors and members of the Board of Managers. This Additional Limit of Liability shall be \$250,000, which amount is in addition to, and not part of, the aggregate Limit of Liability as set forth in Item 3. of the Declarations.

This Additional Limit of Liability is available solely for Loss resulting from any Claim against any director, trustee, officer, regent, governor and/or member of the Board of Managers covered under Section I.A. of this Policy, and:

- (1) Any Loss resulting from any Claim against any director, trustee, officer, regent, governor and/or member of the Board of Managers covered under Section I.A. of this Policy shall first be paid under the aggregate Limit of Liability as set forth in Item 3. of the Declarations, and such Limit of Liability must be completely exhausted by payment of Loss under Section I.A., I.B., and/or I.C. of this Policy before Loss shall be paid under the dedicated Additional Limit of Liability, and
- (2) The dedicated Additional Limit of Liability shall be excess of any insurance available that is specifically excess of this Policy, and such excess insurance must be completely exhausted by payment of Loss thereunder before the Insurer shall have any obligations to make payment on account of the dedicated Additional Limit of Liability

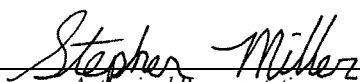
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Insured: FRIENDS OF THE NATIONAL INSTITUTE OF NURSING RESEARCH

Policy Period: 03/25/2023 - 03/25/2024

Policy Number: EPP2348229

Countersigned by:

  
Authorized Representative

Endorsement Effective Date: 03/25/2023



## **GREAT AMERICAN NONPROFIT EAGLE ENDORSEMENT**

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### **TERRORISM TRAVEL REIMBURSEMENT FUNDS**

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

“Certified Act of Terrorism” shall mean an act that is certified by the Secretary of the Treasury in accordance with the provisions of the Terrorism Risk Insurance Act to be an act of terrorism pursuant to such Act.

“Emergency Travel Expenses” shall mean hotel expenses incurred which directly result from the cancellation of a scheduled transport, by train or air, by a commercial transportation carrier resulting directly from and within forty-eight (48) hours of a Certified Act of Terrorism, and the increased amount incurred in air or train fare which may result from rescheduling comparable transport, to replace a similarly scheduled transport canceled by a commercial transportation carrier in direct response to a Certified Act of Terrorism.

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

#### **Terrorism Travel Reimbursement Fund**

In the event any current director, trustee, officer, regent, governor or member of the Board of Managers of the Organization or any Subsidiary advises the Insurer of Emergency Travel Expenses incurred during the Policy Period, the Insurer shall reimburse the Emergency Travel Expenses. This coverage extension shall be subject to the Terrorism Travel Reimbursement Fund Limit of Liability stated below, provided, however, no Retention shall apply.

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

**\$50,000 Aggregate Terrorism Travel Reimbursement Fund Limit of Liability for each Policy Year. This Limit of Liability shall be in addition to the Aggregate Limit of Liability provided for in Item 3. of the Declarations.**

4. Provided the current director, trustee, officer, regent, governor or member of the Board of Managers of the Organization or any Subsidiary advises the Insurer of Emergency Travel Expenses incurred during the Policy Period and provides written evidence of such amounts, the Insurer shall promptly reimburse such individual within thirty (30) days. Such notice and written evidence shall be provided to the Insurer by e-mailing the Insurer at: [eldclaims@gaig.com](mailto:eldclaims@gaig.com).

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### **WORKPLACE VIOLENCE COUNSELING FUND**

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

“Workplace Violence Act” shall mean any actual or alleged intentional and unlawful use of, or threat to use, deadly force with intent to cause harm to others occurring at any building, facility or property occupied by the Organization or any Subsidiary in the conduct of its operations.



## **GREAT AMERICAN NONPROFIT EAGLE ENDORSEMENT**

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

**Workplace Violence Counseling Fund**

In the event that a Workplace Violence Act occurs during the Policy Period and the Organization advises the Insurer of such Workplace Violence Act, the Insurer shall, subject to prior written consent, reimburse the Organization reasonable expenses incurred for the emotional counseling of Insured Persons. This coverage extension is subject to the Workplace Violence Counseling Fund Limit of Liability set forth below, provided, however, no Retention shall apply.

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

**\$50,000 Aggregate Workplace Violence Counseling Fund Limit of Liability for each Policy Year.** This Limit of Liability shall be in addition to the Aggregate Limit of Liability provided for in Item 3. of the Declarations.

4. The Organization shall advise the Insurer of such Workplace Violence Act during the Policy Period by e-mailing the Insurer at: [eldclaims@gaig.com](mailto:eldclaims@gaig.com). The consent of the Insurer shall not be unreasonably withheld.

<b>INCIDENT CRISIS FUND</b>
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1. Section III. is amended by the addition of the following:

“Crisis” shall mean the public announcement that an **Incident** occurred at any building, facility or property occupied by the Organization or any Subsidiary in the conduct of its operations.

“Incident” shall mean an accident or other event resulting in the death or **Serious Bodily Injury** to three or more persons.

“Serious Bodily Injury” shall mean an injury to a person that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

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

**Incident Crisis Fund**

The Insurer shall, subject to prior written consent, reimburse the Organization reasonable expenses incurred to hire an image consulting company for the purpose of reducing damage to reputation suffered by the Organization or any Subsidiary arising from a Crisis during the Policy Period. This coverage extension is subject to the Incident Crisis Fund Limit of Liability set forth below, provided, however, no Retention shall apply.



## **GREAT AMERICAN NONPROFIT EAGLE ENDORSEMENT**

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3. Item 3. of the Declarations is amended by the addition of the following:
- \$50,000 Aggregate Incident Crisis Fund Limit of Liability for each Policy Year. This Limit of Liability shall be in addition to the Aggregate Limit of Liability provided for in Item 3. of the Declarations.**
4. The Organization shall advise the Insurer of such Crisis during the Policy Period by e-mailing the Insurer at: [eldclaims@gaig.com](mailto:eldclaims@gaig.com). The consent of the Insurer shall not be unreasonably withheld.

### **AMENDMENT TO PERSONAL PROFIT EXCLUSION**

Section IV.A. is deleted and replaced with the following:

- A. brought about or contributed to by:
- (1) any Insureds gaining any personal profit, financial advantage or remuneration to which they were not legally entitled; or
  - (2) the deliberately fraudulent or criminal acts of any Insureds;
- provided, however, this exclusion shall not apply unless and until there is a final non-appealable adjudication as to such conduct in the underlying proceeding.  
This exclusion shall not apply to coverage provided under Insuring Agreement I.B.;

### **AMENDMENT TO OTHER INSURANCE EXCLUSION**

Section IV.B. is amended by the addition of the following:

If this Policy includes coverage for any Claim for Employment Practices Wrongful Acts, such coverage shall be deemed primary over any similar coverage maintained either by the Organization or any Subsidiary.

### **AMENDMENT TO INSURED vs. INSURED EXCLUSION**

Section IV.H. is deleted and replaced with the following:

- H. by, or for the benefit of, or at the behest of the Organization or any Subsidiary or any entity which controls, is controlled by, or is under common control with the Organization or any Subsidiary, or any person or entity which succeeds to the interests of the Organization or any Subsidiary, provided, however, this exclusion shall not apply to any Claim, if such Claim:
- (1) is for an Employment Practices Wrongful Act brought by an Insured Person;



## **GREAT AMERICAN NONPROFIT EAGLE ENDORSEMENT**

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- (2) is brought by the receiver, conservator, creditors' committee, **liquidator, trustee, rehabilitator, examiner or similar official of the Organization**, if any, in the event of Financial Insolvency;
- (3) is brought or maintained derivatively, including any Claim brought or maintained under any federal, state, local or foreign whistleblower law or whistleblower provision of any law if the individual bringing such Claim is acting totally independent of, and without the solicitation, assistance, active participation or intervention of any director, officer, trustee, regent, governor or member of the Board of Managers of the Organization or any Subsidiary;
- (4) is brought by any former director, officer, trustee, regent, or governor of the Organization or any Subsidiary who has not served in that capacity with the Organization or any Subsidiary for at least two (2) years prior to the commencement of such Claim, and is acting totally independent of, and without the solicitation, assistance, active participation or intervention of any director, officer, trustee, regent, governor or member of the Board of Managers of the Organization or any Subsidiary.

<b>COSTS OF DEFENSE SUBLIMIT FOR BREACH OF EMPLOYMENT AGREEMENT CLAIMS</b>
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It is understood and agreed that the Policy is amended as follows:

- 1. Section IV.I. is deleted and replaced with the following:
  - I. for any actual or alleged breach by the Organization or any Subsidiary of an express or implied contract, provided, however, this exclusion shall not apply to:
    - (1) employment-related obligations which would have attached absent such contract or agreement; or
    - (2) Costs of Defense if such Claim is for any actual or alleged breach of an employment agreement and such coverage for Costs of Defense shall be subject to the Sublimit stated below.
- 2. Item 3. of the Declarations is amended by the addition of the following:

<b>\$100,000</b>	<b>Sublimit for Costs of Defense for Claims for Breach of an Employment Agreement. This Sublimit is part of and not in addition to the Limit of Liability set forth in Item 3. of the Declarations.</b>
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## **GREAT AMERICAN NONPROFIT EAGLE ENDORSEMENT**

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### **AMENDMENT TO COSTS OF DEFENSE AND SETTLEMENTS**

Section VI.B. is deleted and replaced with the following:

- B. The Insurer has the right to investigate and settle any Claim as it deems expedient. If the Insurer recommends a settlement and the Insured refuses to consent thereto, the Insurer's liability for such Claim is limited to the amount in excess of the Retention, which the Insurer would have contributed had the Insured consented to the settlement, the Costs of Defense covered by the Policy and incurred prior to the date of such refusal to settle, and eighty percent ( 80 %) of any additional covered Loss, including Costs of Defense, incurred subsequent to such refusal and subject to the Limit of Liability.

If the Insured refuses to consent to a settlement as contemplated above, Costs of Defense shall be subject to the Retention.

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### **100% COSTS OF DEFENSE ALLOCATION**

Section VI. is amended by the addition of the following:

- C. If a Claim made against any Insured includes both covered and uncovered matters, the Insureds and the Insurer recognize that there must be an allocation between insured Loss and uninsured loss, therefore, the Insureds and the Insurer shall allocate such amount as follows:
1. with respect to Costs of Defense, one hundred percent (100%) of all Costs of Defense which must otherwise be allocated as described above shall be allocated to the insured Loss; and
  2. with respect to Loss other than Costs of Defense, the Insurer and the Insureds shall use their best efforts to agree upon a fair and proper allocation of such amounts between insured Loss and uninsured loss.

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### **AMENDMENT TO SUBROGATION**

Section IX.H. is deleted and replaced with the following:

- H. In the event of payment under this Policy, the Insurer shall be subrogated to all the Insureds' rights of recovery. The Insureds shall do everything necessary to secure such rights, including the execution of such documents necessary to enable the Insurer to effectively bring suit in the name of any Insured. In no event, however, shall the Insurer exercise its rights to subrogation against an Insured Person under this Policy unless the exclusion set forth in Section IV.A. of the Policy applies to such Insured Person.



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## **GREAT AMERICAN NONPROFIT EAGLE ENDORSEMENT**

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In the event the Insurer shall for any reason pay indemnifiable Loss on behalf of an Insured Person, the Insurer shall have the contractual right hereunder to recover from the Organization or any Subsidiary the amount of such Loss equal to the amount of the Retention not satisfied by the Organization or any Subsidiary and shall be subrogated to rights of the Insured Persons hereunder.

<b>INCONSISTENCY COVERAGE</b>
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Section IX. is amended by the addition of the following:

**Inconsistency Coverage**

In the event of an inconsistency between this endorsement, or a state amendatory endorsement, and any other endorsement attached to this Policy, the Insurer, as permitted by law, shall apply those terms and conditions which are more favorable to the Insureds.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.



***ExecPro***®

**Nonprofit Solution**





## Nonprofit Solution

Great American Insurance Group – Executive Liability Division  
Headquarters: 301 E. Fourth Street, Cincinnati, Ohio 45202

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**THIS IS A CLAIMS MADE AND REPORTED POLICY. READ IT CAREFULLY.**

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

**Section I. Insuring Agreements**

- A. If during the **Policy Period** or the **Discovery Period** any **Claim** is first made against any **Insured Persons** for a **Wrongful Act**, the **Insurer** shall pay on behalf of the **Insured Persons**, **Loss** and **Costs of Defense** resulting from such **Claim**, except for any **Loss** and **Costs of Defense** which the **Organization** or any **Subsidiary** actually pays as indemnification.
- B. If during the **Policy Period** or the **Discovery Period** any **Claim** is first made against any **Insured Persons** for a **Wrongful Act**, the **Insurer** shall pay on behalf of the **Organization** or any **Subsidiary**, **Loss** and **Costs of Defense** resulting from such **Claim**, but only to the extent the **Organization** or any **Subsidiary** is required or permitted by law to indemnify the **Insured Persons**.
- C. If during the **Policy Period** or the **Discovery Period** any **Claim** is first made against the **Organization** or any **Subsidiary** for a **Wrongful Act**, the **Insurer** shall pay on behalf of the **Organization** or any **Subsidiary**, **Loss** and **Costs of Defense** resulting from such **Claim**.

The **Insurer** has the right and duty to defend any **Claim** to which this insurance applies, even if the allegations of such **Claim** are groundless, false or fraudulent.

**Section II. Discovery Period**

- A. If this Policy is not renewed or is cancelled by the **Insurer**, for any reason other than non-payment of premium, then without any additional premium being required, the **Organization** shall receive an automatic ninety (90) day extension of the coverage granted by this Policy for **Claims** first made against an **Insured**, but only with respect to **Wrongful Acts** committed prior to the end of the **Policy Period**. This additional reporting period shall be referred to as the **Automatic Discovery Period**. In addition, if prior to the end of the **Automatic Discovery Period**, the **Organization** pays the **Insurer** an additional amount equal to forty (40%), seventy-five (75%), or one hundred (100%) percent of the annual premium of this Policy, the **Organization** shall receive an extension of the coverage granted by this Policy for an additional twelve (12), twenty-four (24), or thirty-six (36) months respectively from the end of the **Automatic Discovery Period** for **Claims** first made against an **Insured**, but only with respect to **Wrongful Acts** committed prior to the end of the **Policy Period**. This additional reporting period shall be referred to as the **Discovery Period**. The **Organization** has no right to purchase this **Discovery Period** at any later date or to elect more than one **Discovery Period**.
- B. If this Policy is not renewed or is cancelled by the **Organization**, and if no later than sixty (60) days after the end of the **Policy Period** the **Organization** pays the **Insurer** an additional amount equal to forty (40%), seventy-five (75%), or one hundred (100%) percent of the annual premium of this Policy, the **Organization** shall receive a **Discovery Period** for an additional twelve (12), twenty-four (24), or thirty-six (36) months respectively from the end of the **Policy Period**. The **Organization** has no right to purchase this **Discovery Period** at any later date or to elect more than one **Discovery Period**.

- C. The fact that this Policy may be extended by virtue of the **Automatic Discovery Period** or **Discovery Period** shall not in any way increase the Limit of Liability stated in Item 3 of the Declarations. For purposes of the Limit of Liability, the **Automatic Discovery Period** and the **Discovery Period** is considered to be part of and not in addition to the last **Policy Year**.

### Section III. Definitions

A. **"Claim"** shall mean:

- (1) a written demand for monetary or non-monetary (including injunctive) relief made against any **Insured**;
- (2) a civil proceeding, including any appeals therefrom made against any **Insured** seeking monetary or non-monetary (including injunctive) relief commenced by service of a complaint or similar pleading;
- (3) a criminal proceeding, including any appeals therefrom made against any **Insured** commenced by the return of an indictment or the filing of notice of charge or similar document,
- (4) a formal administrative proceeding, including any proceeding before the Equal Employment Opportunity Commission (EEOC) or any similar governmental body, made against any **Insured** commenced by the receipt of charges, formal investigative order, service of summons or similar document;
- (5) any arbitration, mediation or similar alternative dispute resolution proceeding if any **Insured** is obligated to participate in such proceeding; or
- (6) a written request to enter into an agreement to toll any applicable statute of limitation prior to the commencement of any judicial, administrative, regulatory or arbitration proceeding.

In no event shall the term **Claim** include any labor or grievance proceeding which is subject to a collective bargaining agreement.

B. **"Claimant"** shall mean:

- (1) any past, present, and future **Insured Persons** or applicants for employment with the **Organization** or any **Subsidiary**;
- (2) a government entity or agency, including but not limited to the Equal Employment Opportunity Commission (EEOC) or any similar governmental body, when acting on behalf of or for the benefit of any individual in (1) above; or
- (3) all persons who were, now are, or shall be independent contractors, but only to the extent such individuals perform work or services for or on behalf of the **Organization** or any **Subsidiary** and only to the extent such individuals are indemnified by the **Organization** or any **Subsidiary**.

- C. **"Costs of Defense"** shall mean reasonable and necessary legal fees, costs and expenses incurred in the investigation or defense of any **Claim**, including the costs of any appeal or appeal bond, attachment bond or similar bond (but without any obligation on the part of the **Insurer** to apply for or furnish such bonds); provided, however, **Costs of Defense** shall not include: (1) salaries, wages, overhead or benefit expenses associated with any **Insured Persons**, and (2) any amounts incurred in defense of any **Claim** which any other insurer has a duty to defend, regardless of whether or not such other insurer undertakes such duty.

- D. **"Employed Lawyer Legal Services"** shall mean legal services provided by any **Insured Person** as an attorney, but only if such services are performed for the **Organization** or any **Subsidiary** and in the **Insured Persons** capacity with the **Organization** or any **Subsidiary**. **Employed Lawyer Legal Services** shall not include legal services rendered by any **Insured Person** for any third party.
- E. **"Employment Practices Wrongful Act"** shall mean any of the following acts related to employment, but only if alleged by or on behalf of a **Claimant**:
- (1) wrongful dismissal, discharge or termination of employment, whether actual or constructive;
  - (2) misrepresentation;
  - (3) violation of employment laws;
  - (4) sexual or workplace harassment;
  - (5) discrimination;
  - (6) wrongful failure to employ or promote;
  - (7) wrongful discipline;
  - (8) wrongful deprivation of career opportunity including a wrongful failure to hire or promote;
  - (9) failure to grant tenure;
  - (10) negligent employee evaluation;
  - (11) retaliation;
  - (12) failure to provide adequate workplace or employment policies or procedures;
  - (13) defamation (including libel and slander);
  - (14) invasion of privacy;
  - (15) wrongful demotion;
  - (16) negligent reassignment;
  - (17) violation of any federal, state or local civil rights laws;
  - (18) negligent hiring;
  - (19) negligent supervision;
  - (20) negligent training;
  - (21) negligent retention; or
  - (22) acts described in (1) through (21) above arising from the use of the **Organizations** or **Subsidiaries** Internet, e-mail, telecommunication or similar systems, including the failure to provide and enforce adequate policies and procedures relating to such use of the **Organizations** or **Subsidiaries** Internet, e-mail, telecommunication or similar systems.
- F. **"Financial Insolvency"** shall mean the **Organization** becoming a Debtor in Possession, or the appointment of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the **Organization**.
- G. **"Insured"** shall mean:
- (1) the **Organization**;
  - (2) any **Subsidiary**;
  - (3) in the event of **Financial Insolvency**, the resulting Debtor in Possession (or foreign equivalent status), if any; and
  - (4) all **Insured Persons**.
- H. **"Insured Persons"** shall mean all persons who were, now are, or shall be directors, trustees, officers, regents, governors, members of the Board of Managers, employees, leased employees, temporary or seasonal employees, interns, student teachers, substitute teachers, teaching assistants, volunteers or staff members of the **Organization** or any **Subsidiary**, including any executive board members and committee members whether salaried or not.

I. **"Loss"** shall mean settlements, judgments, pre-judgment and post-judgment interest, front and back pay, compensatory damages, punitive or exemplary damages, the multiple portion of any multiplied damage award, and subject to the provisions of Section V and VI, **Costs of Defense** incurred by the **Insured**. **Loss** shall not include:

- (1) criminal or civil fines or penalties imposed by law, or taxes (except for the 10% "excess benefit" tax assessed by the Internal Revenue Service against any **Insured Person** pursuant to 26 USC Section 4958 (a)(2) );
- (2) the value of tuition or scholarships, employment related benefits, stock options, perquisites, deferred compensation or any other type of compensation earned in the course of employment or the equivalent value thereof; and
- (3) any amounts which may be deemed uninsurable under the law pursuant to which this Policy shall be construed.

It is understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for compensatory, punitive, or exemplary damages or the multiple portion of any multiplied damage award.

J. **"Organization"** shall mean the entity named in Item 1 of the Declarations.

K. **"Outside Entity"** shall mean any not-for-profit corporation, community chest, fund or foundation that is not included in the definition of **Organization** or **Subsidiary** and that is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and any other entity organized for a religious or charitable purpose under any non-profit organization act or statute.

L. **"Personal Injury Wrongful Act"** shall mean any actual or alleged invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, libel or slander.

M. **"Policy Year"** shall mean the period of one year following the effective date and hour of this Policy or the period of one year following any anniversary date thereof falling within the **Policy Period**; or if the time between the effective date or any anniversary date and the termination of this Policy is less than one year, such lesser period. Any **Discovery Period** or **Automatic Discovery Period** shall be considered part of and not in addition to the last **Policy Year**.

N. **"Policy Period"** shall mean the period from the inception of this Policy to the expiration date stated in Item 2 of the Declarations or its earlier termination, if applicable.

O. **"Related Wrongful Acts"** shall mean **Wrongful Acts** which are causally connected by reason of any common fact, circumstance, situation, transaction, casualty, event or decision.

P. **"Subsidiary"** shall mean:

- (1) any entity which qualifies as a not-for-profit organization under the Internal Revenue Code, other than a political committee organized pursuant to Section 432 of the Federal Election Campaign Act of 1971 (and amendments thereto), and for which the **Organization** has or controls the right to elect or appoint more than fifty percent (50%) of the Board of Directors or other governing body of such entity as of the inception date of this Policy;
- (2) any similar entity which was created or acquired by the **Organization** after the inception date of this Policy, if the entity's total assets do not exceed thirty-five percent (35%) of the total consolidated assets of the **Organization** as of the inception date of this Policy; or

(3) any other entity added as a **Subsidiary** by written endorsement to this Policy.

Coverage shall apply to a **Subsidiary** only for **Wrongful Acts** allegedly committed during the time such entity qualified as a **Subsidiary**.

**Q. "Third Party Wrongful Act"** shall mean:

- (1) actual or alleged 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, military status or other status protected pursuant to any applicable federal, state, or local statutory law; or
- (2) actual or alleged sexual harassment, including unwelcome sexual advances against, or requests for sexual favors of, a third party; or
- (3) actual or alleged civil rights violations against a third party related to (1) or (2) above.

**R. "Wrongful Act"** shall mean:

- (1) any of the following by the **Organization**, and/or any **Subsidiary**, and/or any **Insured Persons** acting in their capacity with the **Organization** or a **Subsidiary**:
  - (a) actual or alleged error, misstatement, misleading statement, act or omission, neglect or breach of duty;
  - (b) actual or alleged error or omission in the rendering of or the failure to render **Employed Lawyer Legal Services**;
  - (c) **Employment Practices Wrongful Act**;
  - (d) **Personal Injury Wrongful Act**; or
  - (e) **Third Party Wrongful Act**;
- (2) any matter claimed against any **Insured Person** solely by reason of their status with the **Organization** or any **Subsidiary**; or
- (3) any matter claimed against any **Insured Person** arising out of their service as directors, trustees, officers, regents, governors, or member of the Board of Managers of an **Outside Entity**, but only if such service is at the request of the **Organization** or any **Subsidiary**.

#### **Section IV. Exclusions**

This Policy does not apply to any **Claim** made against any **Insured**:

- A.** brought about or contributed to by: (1) any **Insured** gaining any profit, advantage or remuneration to which they were not legally entitled; or (2) the deliberate fraudulent or criminal acts of any **Insured**; however, this exclusion shall not apply unless it is finally adjudicated such conduct in fact occurred, nor shall it apply to coverage provided under Insuring Agreement I.B.;
- B.** to the extent it is insured in whole or in part by any other valid and collectible policy or policies, (except with respect to any excess beyond the amount or amounts of coverage under such other policy or policies), whether such other policy or policies are stated to be primary, contributory, excess, contingent, or otherwise. It is further understood and agreed that coverage for all **Claims** for **Personal Injury Wrongful Acts** shall be specifically excess of any similar coverage provided by the **Organization's** General Liability Policy.

- C. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving:
- (1) any **Wrongful Act** or **Related Wrongful Act** or any fact, circumstance or situation which has been the subject of any notice or **Claim** given under any other policy of which this Policy is a renewal or replacement; or
  - (2) any civil, criminal, administrative or investigative proceeding involving any **Insured** pending as of or prior to the date stated in Item 8 of the Declarations, or any fact, circumstance or situation underlying or alleged in such proceeding;
- D. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving: (1) bodily injury, sickness, disease or death of any person, assault or battery; (2) damage to or destruction of any tangible property or the loss of use of any tangible property; or (3) humiliation, mental anguish, or emotional distress; provided, however, that part (3) of this exclusion shall not apply to any **Claim** for an **Employment Practices Wrongful Act**, **Personal Injury Wrongful Act**, or **Third Party Wrongful Act**;
- E. for any actual or alleged violation by any **Insured** of the Employee Retirement Income Security Act of 1974, 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 rules or regulations promulgated under these acts or any similar provisions of any federal, state, local or foreign law, except a **Claim** alleging retaliation for the exercise of any rights under such laws;
- F. for any **Wrongful Act** of any **Insured Persons** in their respective capacity as a director, officer, trustee, regent, governor, member of the Board of Managers, or equivalent position of an entity other than the **Organization**, any **Subsidiary**, or **Outside Entity**;
- G. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving actual or alleged seepage, pollution, radiation, emission, contamination or irritant of any kind, including but not limited to smoke, vapor, dust, fibers, mold, spores, fungi, germs, soot, fumes, acids, alkalis, asbestos, chemicals or waste of any kind, provided, however, this exclusion shall not apply to coverage provided under Insuring Agreement I.A.;
- H. by, or for the benefit of, or at the behest of the **Organization** or any **Subsidiary** or any entity which controls, is controlled by, or is under common control with the **Organization** or any **Subsidiary**, or any person or entity which succeeds to the interests of the **Organization** or any **Subsidiary**, provided, however, this exclusion shall not apply to any **Claim** brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner or similar official of the **Organization**, if any, in the event of **Financial Insolvency**;
- I. for any actual or alleged breach by the **Organization** or any **Subsidiary** of an express or implied contract, except for employment related obligations which would have attached absent such contract or agreement;
- J. other than **Costs of Defense**:
- (1) for any obligation of the **Organization** or any **Subsidiary**, as a result of a **Claim**, seeking relief or redress in any form other than money damages, including but not limited to any obligations of the **Organization** or any **Subsidiary** to modify any building or property; or

(2) for any obligation of the **Organization** or any **Subsidiary** to pay compensation earned by any **Insured Person** in the course of employment, but not paid by the **Organization** or any **Subsidiary**, including any unpaid salary, bonus, wages, severance pay, retirement benefits, vacation days or sick days, provided, however, this exclusion shall not apply to front pay and back pay; or

(3) for any actual or alleged violation by any **Insured** of the Fair Labor Standards Act or any similar state or local law, provided, however, this shall not apply to the Equal Pay Act. **Costs of Defense** provided pursuant to this section, J.(3), shall be subject to the FLSA Defense Sublimit of Liability stated in Item 3(d) of the Declarations, if any;

K. for any obligations under a worker's compensation, disability benefits, insurance benefits or unemployment compensation law, or any similar law; provided, however this exclusion shall not apply to a **Claim** for an **Employment Practices Wrongful Act** involving retaliation with regard to benefits paid or payable;

L. for the performance of or failure to perform psychological, counseling, financial counseling/advisory, legal (except **Employed Lawyer Legal Services**), arbitration, insurance or investment advisory services or referrals, if brought by or on behalf of any individual and/or entity for whom such services were, now are, or shall be performed;

M. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving infringement of any patent or misappropriation of trade secrets, provided, however, this exclusion shall not apply to copyright or trademark infringement;

With respect to this section of the Policy, no fact pertaining to or conduct by any **Insured Person** shall be imputed to any other **Insured Person**; and only facts pertaining to or conduct by any past, present, or future Executive Director, President, or Chairman of the **Organization** shall be imputed to the **Organization** or any **Subsidiary** to determine if coverage is available.

## Section V. Limits of Liability and Retention

A. The **Insurer** shall be liable to pay one hundred percent (100%) of **Loss** in excess of the Retention stated in Item 4 of the Declarations. The **Insurer's** maximum Limit of Liability for the aggregate amount of **Loss** resulting from all **Claims** deemed to have been made in a **Policy Year** shall be shown in Item 3 of the Declarations.

B. One Retention shall apply to each and every **Claim**. More than one **Claim** involving the same **Wrongful Act** or **Related Wrongful Acts** of one or more **Insureds** shall be considered a single **Claim**, and only one Retention shall be applicable to such single **Claim**. All such **Claims**, constituting a single **Claim**, shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such **Claim** was first made; or (2) the earliest date on which any such **Wrongful Act** or **Related Wrongful Act** was reported under this Policy or any other policy providing similar coverage.

C. **Costs of Defense** incurred by the **Insurer** shall be in addition to the Limit of Liability, and such **Costs of Defense** shall not be subject to the Retention amount. If **Costs of Defense** are incurred by the **Insured** with the **Insurer's** consent, such **Costs of Defense** shall be considered **Loss** and thus subject to the Limit of Liability and Retention.

D. With respect to all **Claims** deemed to have been made in a **Policy Year**, should the Limit of Liability be exhausted by payment of **Loss** resulting from one or more of such **Claims**, the **Insurer's** duty to defend shall cease and any and all obligations of the **Insurer** hereunder shall be deemed to be completely fulfilled and extinguished and the **Insurer** shall have no further obligations.



- E. For the purposes of the application of the Retention, **Loss** applicable to Insuring Agreement I.B. includes that for which indemnification is legally permissible, regardless of whether actual indemnification is granted. The certificate of incorporation, charter or other organizational document of the **Organization**, including by-laws and resolutions, shall be deemed to require indemnification and advancement of **Loss** to the **Insured Persons** to the fullest extent permitted by law.

## Section VI. Costs of Defense and Settlements

- A. The **Insureds** shall not incur **Costs of Defense**, or admit liability, offer to settle, or agree to any settlement in connection with any **Claim** without the express written consent of the **Insurer**, which consent shall not be unreasonably withheld. The **Insureds** shall provide the **Insurer** with full cooperation and all information and particulars it may reasonably request in order to reach a decision as to such consent. Any **Loss** resulting from any admission of liability, agreement to settle, or **Costs of Defense** incurred prior to the **Insurer's** consent shall not be covered hereunder.
- B. The **Insurer** has the right to investigate and settle any **Claim** as it deems expedient. If the **Insurer** recommends a settlement and the **Insured** refuses to consent thereto, the **Insurer's** liability for such **Claim** is limited to the amount in excess of the Retention, which the **Insurer** would have contributed had the **Insured** consented to the settlement, the **Costs of Defense** covered by the Policy and incurred prior to the date of such refusal to settle, and seventy percent (70%) of any additional covered **Loss**, including **Costs of Defense**, incurred subsequent to such refusal and subject to the Limit of Liability.

If the **Insured** refuses to consent to a settlement as contemplated above, **Costs of Defense** shall be subject to the Retention.

## Section VII. Notice of Claim

- A. The **Insureds** shall, as a condition precedent of their rights under this Policy, give the **Insurer** notice in writing of any **Claim** made during the **Policy Period**. Such notice shall be given as soon as practicable after the date the President, Executive Director, Chief Financial Officer, General Counsel, or person with equivalent responsibility has knowledge of the **Claim**, and in no event later than ninety (90) days after the end of the **Policy Year**.
- B. If during the **Policy Period** or **Discovery Period**, any **Insured** first becomes aware of a specific **Wrongful Act** and gives notice to the **Insurer** of: (1) the specific **Wrongful Act**; (2) the injury or damage which has or may result therefrom; and (3) the circumstances by which the **Insured** first became aware thereof; then any **Claim** arising out of such **Wrongful Act** which is subsequently made against the **Insured** shall be deemed to have been made at the time the **Insurer** received such written notice from the **Insured**.
- C. In addition to furnishing the notice as provided in Section VII A or B, the **Insured** shall, as soon as practicable, provide the **Insurer** with copies of reports, investigations, pleadings and other documents in connection therewith, and shall provide all information, assistance and cooperation which the **Insurer** reasonably requests and do nothing to prejudice the **Insurer's** position or its potential or actual rights of recovery.
- D. Notice to the **Insurer** as provided in Section VII A or B shall be emailed to **ELDClaims@gaig.com** or mailed to **GREAT AMERICAN INSURANCE GROUP, EXECUTIVE LIABILITY DIVISION, CLAIMS DEPARTMENT, P.O. BOX 66943, CHICAGO, IL 60666**.

## Section VIII. Coverage Extensions

### A. Spousal/Domestic Partner Provision

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

### B. Worldwide Provision

The coverage provided under this Policy shall apply worldwide. The term **Insured Persons** is deemed to include individuals who serve in equivalent positions in foreign **Subsidiaries**.

### C. Estates and Legal Representatives

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

### D. Donor Data Loss Crisis Fund

The **Insurer** shall, subject to prior written consent, reimburse the **Organization** reasonable expenses incurred to hire an image consulting company for the purpose of reducing damage to reputation suffered by the **Organization** or any **Subsidiary** arising from donor information that is lost or stolen during the **Policy Period** and reported to the **Insurer** pursuant to the terms of this Policy, not to exceed the Donor Data Loss Crisis Fund Sublimit of Liability stated in Item 3(b) of the Declarations, if any. No Retention shall apply to this coverage extension.

## Section IX. General Conditions

### A. Cancellation or Non-Renewal

- (1) This Policy may be cancelled by the **Organization** at any time by written notice to the **Insurer**. In the event the **Organization** cancels this Policy for reasons other than the downgrade of the **Insurer's** rating by A.M. Best, the **Insurer** shall retain the customary short rate portion of the premium. However, if the **Organization** cancels the Policy due to a downgrade of the **Insurer's** rating to below [A-] by A.M. Best, the **Insurer** shall refund any unearned premium on a pro rata basis. Payment of any unearned premium by the **Insurer** shall not be a condition precedent of the effectiveness of cancellation but such payment shall be made as soon as practicable.
- (2) This Policy will only be cancelled by the **Insurer** if the **Organization** does not pay the premium when due.
- (3) If the **Insurer** elects not to renew this Policy, the **Insurer** shall provide the **Organization** with at least sixty (60) days advance notice thereof.

## B. Proposal Form

It is agreed the particulars and statements contained in Proposal Forms submitted to the **Insurer** (and any material submitted therewith) are the representations of the **Insured** and are to be considered as incorporated in and constituting part of this Policy. It is also agreed this Policy is issued in reliance upon the truth of such representations. However, coverage shall not be excluded as a result of any untrue statement in the Proposal Form, except:

- (1) as to any **Insured Person** making such untrue statement or having knowledge of its falsity; or
- (2) as to the **Organization** and any **Subsidiary**, if the person(s) who signed the Proposal Form(s) for this coverage or any **Insured Person** who is or was a past, present or future Chief Financial Officer, President, or Executive Director of the **Organization** made such untrue statement or had knowledge of its falsity.

In no event shall Insuring Agreement I.A. of this Policy be rescinded by the **Insurer**.

## C. Outside Entity Provision

In the event a **Claim** is made against any **Insured Persons** arising out of their service as a director, officer, trustee, regent, governor, or member of the Board of Managers of an **Outside Entity**, coverage as may be afforded under this Policy shall be excess of any indemnification provided by the **Outside Entity** and any insurance provided to the **Outside Entity** which covers its directors, trustees, officers, regents, governors, member of the Board of Managers, or natural person general partners.

In the event Great American Insurance Group provides Directors' and Officers' Liability Insurance for the **Outside Entity**, all **Loss** incurred from all **Claims** submitted under this Policy and the **Outside Entity's** Policy (hereinafter referred to as **Respective Policy(ies)**), arising out of **Related Wrongful Acts**, shall be considered a single **Loss** and the maximum annual aggregate Limit of Liability shall not exceed, under the **Respective Policies**, the higher Limit of Liability between the **Respective Policies**, such Limit of Liability being part of, and not in addition to, the Limits of Liability of the **Respective Policies** previously referenced.

## D. Order of Payments

In the event of **Loss** arising from a covered **Claim** for which payment is due under the provisions of this Policy, the **Insurer** shall first, pay **Loss** for which coverage is provided under Insuring Agreement I.A. of this Policy; and thereafter with respect to whatever remaining amount of the Limit of Liability is available after such payment, pay such other **Loss** for which coverage is provided under any other applicable Insuring Agreements in Section I of this Policy.

## E. Merger or Acquisition

If, during the **Policy Period**, the **Organization** acquires the assets of another entity, by merger or otherwise, and the acquired assets of such other entity exceed thirty-five percent (35%) of the assets of the **Organization** as of the inception date of the Policy, written notice thereof shall be given to the **Insurer** as soon as practicable, but in no event later than ninety (90) days from the effective date of the transaction, together with such information as the **Insurer** may request. Premium adjustment and coverage revisions shall be effected as may be required by the **Insurer**.

#### F. Conversion to Run-Off Coverage

If prior to the end of the **Policy Period**, the **Organization** merges into another organization and the **Organization** is not the surviving entity, another organization or person acquires the right to elect or appoint more than fifty percent (50%) of the Board of Directors or other governing body of the **Organization**, or the **Organization** ceases to qualify as a not-for-profit organization under any federal, provincial and territorial legislation and/or the Internal Revenue Code (such events hereinafter referred to as **Transaction**), then:

- (1) the **Organization** must give written notice of such **Transaction** to the **Insurer** within thirty (30) days after the effective date of such **Transaction**, and provide the **Insurer** with such information as the **Insurer** may deem necessary; and
- (2) this Policy, including the **Discovery Period** if elected, shall apply, but only with respect to any **Wrongful Act** committed prior to the effective date of such **Transaction**.

#### G. Action Against the Insurer

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

#### H. Subrogation

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

- (1) has been convicted of a deliberate criminal act, or
- (2) has been determined by a final adjudication adverse to the **Insured Person** to have committed a deliberate fraudulent act, or to have obtained any profit, advantage or remuneration to which such **Insured Person** was not legally entitled.

In the event the **Insurer** shall for any reason pay indemnifiable **Loss** on behalf of an **Insured Person**, the **Insurer** shall have the contractual right hereunder to recover from the **Organization** or any **Subsidiary** the amount of such **Loss** equal to the amount of the Retention not satisfied by the **Organization** or any **Subsidiary** and shall be subrogated to rights of the **Insured Persons** hereunder.

#### I. Conformity to Law

Any terms of this Policy which are in conflict with the terms of any applicable laws are hereby amended to conform to such laws.

#### J. Assignment

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

**K. Representative of the Insurer**

**Great American Insurance Group, Executive Liability Division, Post Office Box 66943, Chicago, Illinois, 60666** shall act on behalf of the **Insurer** for all purposes including, but not limited to, the giving and receiving of all notices and correspondence.

**L. Organization Represents Insured**

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

**M. Entire Agreement**

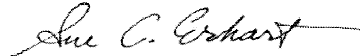
By acceptance of this Policy, the **Insured** and the **Insurer** agree that this Policy (including the Proposal Forms submitted to the **Insurer** and any materials submitted therewith) and any written endorsements attached hereto constitute the entire agreement between the parties.

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

**GREAT AMERICAN INSURANCE COMPANY®**



*President*



*Secretary*