

**THIS IS A CLAIMS MADE AND REPORTED POLICY WITH DEFENSE COSTS INCLUDED IN THE LIMIT OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY.**

## **DECLARATIONS**

### **WAGE AND HOUR PRACTICES LIABILITY INSURANCE**

**Insurance is provided by:**                      **POLICY**                      {Response}  
**NUMBER:**

Various Insurers as per attached                      **Renewal of:**                      {Response}  
Schedule

**NOTICE: THIS IS A CLAIMS MADE POLICY THAT APPLIES, SUBJECT TO ITS TERMS, ONLY TO “CLAIMS” FIRST MADE DURING THE “POLICY PERIOD,” OR, IF PURCHASED, ANY EXTENDED REPORTING PERIOD, AND REPORTED WITHIN THE TIME SPECIFIED IN THE NOTICE PROVISIONS. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED BY “DEFENSE COSTS” AND “DEFENSE COSTS” WILL BE APPLIED AGAINST THE SELF-INSURED RETENTION. THESE DECLARATIONS, THE COMPLETED, SIGNED APPLICATION, AND THE POLICY WITH ENDORSEMENTS SHALL CONSTITUTE THE CONTRACT BETWEEN THE UNDERWRITERS AND THE INSURED.**

**ITEM 1.    INSURED COMPANY:**

**Name:**                      {Response}

**Address:**                      {Response}

**ITEM 2.    POLICY PERIOD:**

**(a) Inception Date:**                      {Response}

**(b) Expiration Date:**                      {Response}

at 12.01 a.m. both dates at the Principal Address in  
ITEM 1

**ITEM 3. LIMIT OF LIABILITY (inclusive of Defense Costs):**

(a) {Response} Maximum Limit of Liability for each Claim.

(b) {Response} Maximum aggregate Limit of Liability for all Claims

**ITEM 4 SELF-INSURED RETENTION:**

{Response} Each and every Claim

**ITEM 5. PRIOR AND PENDING DATE:**

{Response}

**ITEM 6 RETROACTIVE DATE:**

{Response}

**ITEM 7. PREMIUM:**

{Response} Premium

**ITEM 8. NOTIFICATION OF CLAIMS TO;:**

{Response}

**ITEM 9. SERVICE OF SUIT**

{Response}

**Dated in London** {Response}

{Response}

Wage & Hour Product

IMPORTANT NOTE: THIS IS CLAIMS MADE AND REPORTED COVERAGE. PLEASE READ THIS POLICY CAREFULLY.

THIS POLICY IS WRITTEN ON A CLAIMS MADE BASIS AND COVERS ONLY CLAIMS: 1. FIRST MADE DURING THE POLICY PERIOD OR THE EXTENDED REPORTING PERIOD IF EXERCISED; AND 2. REPORTED WITHIN THE TIME SPECIFIED IN THE NOTICE PROVISIONS. THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY DEFENSE COSTS. DEFENSE COSTS AND LOSS PAYMENTS SHALL BE APPLIED AGAINST THE SELF-INSURED RETENTION.

## **WAGE AND HOUR PRACTICES LIABILITY INSURANCE**

## WAGE AND HOUR PRACTICES LIABILITY INSURANCE

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

Throughout this **Policy** the words “you” and “your” refer to the **Insured Company** shown in the Declarations. The words “we”, “us”, and “our” refer to the Underwriters providing this insurance.

The word “**Insured**” means any person or organization qualifying as such under the definition of **Insured** in SECTION III.F.

Other words and phrases that appear in **bold** have special meaning as described in SECTION III.

In consideration of payment of the premium and in reliance upon the statements made in the **Application**, which is made a part of and deemed attached to this **Policy** and subject to the Declarations and the limitations, conditions, provisions, and other terms of this **Policy**, the Underwriters and the **Insureds** agree as follows:

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**I. INSURING AGREEMENT** We will pay all **Loss** that the **Insureds** become obligated to pay as a result of **Claims** first made against any **Insured** during the **Policy Period**, or the Extended Reporting Period if applicable, and reported in accordance with the notice provisions in Section V.B.1, for **Wrongful Wage and Hour Practices**.

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**II. DEFENSE AGREEMENT** We will defend the **Insureds** against all **Claims** for **Wrongful Wage and Hour Practices** in accordance with the defense provisions in Section V.A.

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**III. DEFINITIONS**

A. **Application** means all applications, including attachments and submitted materials, for this **Policy**. All such applications, attachments, and materials are deemed attached to and incorporated into this **Policy**.

B. **Claim** means:

1. a written demand for monetary damages or non-monetary relief, including injunctive relief, or for mediation, arbitration or a request to toll or waive a statute of limitations (or other potential defense based on timeliness);
2. a charge, complaint or other notice of commencement of

federal, state or local administrative proceedings by or before any agency with authority over the **Insured Company's** wage and hour practices, including but not limited to the filing of a complaint with or by the U.S. Department of Labor or similar state or local agency; *provided, however*, this shall not include notice by the U.S. Department of Labor or similar state or local agency of the intent to conduct an audit of the **Insured**; or

3. the filing of a civil lawsuit (including individual actions, collective actions and class actions) or arbitration proceeding.

A **Claim** is deemed first made when it is received by an **Insured**.

For the purposes of this **Policy**, all **Claims** arising out of the same **Wrongful Wage and Hour Practice** and all **Interrelated Claims** shall be deemed one **Claim**, and such **Claim** shall be deemed to be first made on the date the earliest of such **Claims** is first made, regardless of whether such date is before or during the **Policy Period**.

- D. **Defense Costs** means reasonable and necessary fees, costs, and expenses incurred by counsel, experts or investigators appointed or pre-approved by us in the investigation, defense and appeal of any **Claim** pursuant to DEFENSE AGREEMENT Section II; but **Defense Costs** do not include any wages, salaries, fees, or expenses of any **Insured**,
- E. **Employee** means any individual whose labor or service is or was engaged by and directed by the **Insured Company**, including volunteers and all staff members, whether part-time, full-time, seasonal, or temporary, and including joint employees, leased employees and independent contractors.
- F. **Insured** means the **Insured Company** and individuals who are your current or former principals, partners, officers, directors, trustees, shareholders, members of the Board of Managers, management committee members, in-house general counsel and **Employees**, acting in their capacities as such.
- G. **Insured Company** means the organization(s) listed in Item 1 of the Declarations, whether as a corporation, partnership, joint venture, association, or otherwise, and any **Insured Subsidiary**. A debtor in possession of any **Insured Company** will also be considered an **Insured Company**.
- H. **Insured Subsidiary** means any organization greater than 50% owned by the **Insured Company** listed in Item 1 of the Declarations. Subject to the provisions contained in Section V.N of this Policy, **Insured Subsidiary** shall also include any

organization acquired by the **Insured Company** listed in Item 1 during the **Policy Period**; *provided, however*, that: 1. such acquired organization is greater than 50% owned by the **Insured Company**; 2. the total number of the acquired organization's employees does not exceed 15% of the total number of the **Insured Company's Employees** as of the inception date of this **Policy**; and 3. coverage for such acquisition shall only apply to **Loss**, including **Defense Costs**, arising from **Wrongful Wage and Hour Practices** taking place after the acquisition.

- I. **Interrelated Claims** means all **Claims** arising from **Wrongful Wage and Hour Practices** that have as a common nexus any fact, circumstance, situation, event, transaction, or series of related facts, circumstances, situations, events, or transactions.
- J. **Loss** means **Defense Costs**, damages, judgments, settlements, verdicts, and awards, including but not limited to remedies imposed by the Department of Labor or commensurate state or local government agencies (other than fines or penalties) such as payment of wages, liquidated damages, and attorneys' fees, as well as amounts recoverable in private litigation or arbitration or by written demand, including wages, other monetary statutory damages, liquidated damages, attorneys' fees, pre-judgment and post-judgment interest. Punitive, exemplary, and multiple damages are also **Loss** to the extent insurable under the law of any applicable jurisdiction most favorable to insurability.

**Loss** does not include: 1. fines, penalties, taxes, or any employer withholdings; 2. any amount for which the **Insured** is absolved from payment; 3. amounts owed under employment contracts, independent contractor agreements, partnership, stock or other ownership agreements, or any other type of contract; 4. disability, social security, workers' compensation, medical, insurance, retirement or pension benefits, or settlement amounts representing benefits payments; 5. commissions, bonuses, profit sharing or stock options pursuant to any contract of employment, including but not limited to vacation, holiday, sick pay and/or severance payments; 6. amounts that may be deemed uninsurable under applicable law; 7. costs of returning goods shipped in interstate commerce produced in violation of the Fair Labor Standards Act; or 8. the costs of complying with or providing injunctive or non-pecuniary relief.

- L. **Policy** means, collectively, the Declarations, the **Application**, this form, and any endorsements.
- M. **Policy Period** means the period of time specified in Item 2 of the Declarations, subject to any prior cancellation described in Section V.R of this **Policy**.

- N. **Wrongful Wage and Hour Practices** means any actual or alleged violation of the Fair Labor Standards Act (except the Equal Pay Act or similar state or local pay equity laws or regulations) or any federal, state, or local law governing or relating to the employee pay practices, including payment of overtime, on-call time, minimum wage, information provided on pay stubs, tip credit issues, meal and break period laws, off-the clock work including donning and doffing claims, or the classification of workers, and including common law violations derived from the same conduct underlying such violations.
- O. **Wrongful Employment Practice** means any actual or alleged
1. violation of any federal, state, local or common law, prohibiting any kind of employment-related discrimination;
  2. harassment, including any type of sexual or gender harassment as well as racial, religious, sexual orientation, pregnancy, disability, age, or national origin-based harassment and including harassment via social media and workplace harassment by non-employees;
  3. abusive or hostile work environment;
  4. workplace bullying;
  5. wrongful discharge or termination of employment, whether actual or constructive;
  6. breach of an implied employment contract or promissory estoppel;
  7. breach of an actual or written employment;
  8. wrongful failure or refusal to hire or promote, or wrongful demotion;
  9. wrongful failure or refusal to provide equal treatment or opportunities;
  10. employment termination, disciplinary action, demotion or other employment decision that violate public policy or the Family Medical Leave Act or similar state or local law;
  11. defamation, libel, slander, disparagement, false imprisonment, misrepresentation, malicious prosecution, or invasion of privacy;
  12. wrongful failure or refusal to adopt or enforce adequate workplace or employment practices, policies or procedures;



13. wrongful, excessive or unfair discipline;
14. wrongful infliction of emotional distress, mental anguish, or humiliation;
15. retaliation, including retaliation for exercising protected rights, supporting in any way another's exercise of protected rights, or threatening or actually reporting wrongful activity of an **Insured** such as violation of any federal, state, or local "whistleblower" law;
16. wrongful deprivation of career opportunity with the **Insured Company**, negligent evaluation or failure to grant tenure;
17. violation of the Uniformed Services Employment and Reemployment Rights Act or other federal, state or local statute protecting the reemployment of military personnel; or
18. negligent hiring or negligent supervision of others, including wrongful failure to provide adequate training, in connection with 1 through 15 above,

if employment-related and claimed by or on behalf of an **Employee**, former **Employee**, or applicant for employment, and if committed or allegedly committed by any of the **Insureds** in their capacity as such.

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#### IV. EXCLUSIONS

We are not obligated to defend, or pay **Loss**, including **Defense Costs**, on account of any **Claim**:

1. for **Wrongful Employment Practices**;
2. for breach of, or payment under, any independent contractor agreement, or any other type of contract or agreement;
3. based upon, arising out of, or attributable to any actual or alleged liability of any **Insured** under any actual or alleged contractual assumption by an **Insured** of another's liability for any **Wrongful Wage and Hour Practices**; *provided, however*, that this Exclusion shall not apply to the extent such liability would have attached to the Insured in the absence of such contractual assumption of liability;
4. for any actual or alleged violation of 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, the Employee Retirement Income Security Act of 1974, any workers' compensation, unemployment insurance, social security, or disability benefits law, or other similar provisions of any federal, state, or local statutory or common law;

5. for deductions from an **Employee's** pay, or failure to reimburse or indemnify for loans to an **Employee**, mileage reimbursement, the furnishing of tools and equipment, the purchasing of uniforms and payment for maintenance and cleaning of uniforms, the employment of additional personnel, or for any other business related expenses;
6. based upon, arising out of, or attributable to any fact, circumstance, or situation
  - (i) that was the subject of written notice given under any other policy of insurance;
  - (ii) where, prior to the earlier of the inception date of this **Policy** or the inception date of the first policy issued by us of which is **Policy** is a continuous renewal, the person responsible for receiving notice of **Claims** alleging **Wrongful Wage and Hour Practices** in the **Insured's** Law Department, Human Resources Department, or Risk Management Department, or the functional equivalent, (1) had knowledge of such a **Claim**; or (2) had knowledge of the circumstances giving rise thereto and indication that such circumstances may result in a **Claim**;
  - (iii) that was the subject of any written demand for monetary damages, administrative or regulatory proceeding or investigation, notice of violation or order to show cause resulting from any audit by the U.S. Department of Labor or commensurate state or local agency, consent order, court order or administrative order, request for records or by or on behalf of workers investigating a systemic **Wrongful Wage and Hour Practice** or threatening to bring a collective action or class action; or civil litigation against any **Insured** as of the Prior and Pending Date identified in Item 5 of the Declarations, or the same or substantially the same fact, circumstance, or situation underlying or alleged in the prior matter; or
  - (iv) that was identified in any summary or statement of claims or potential claims submitted in connection with the **Application**.
7. based upon, arising out of, or attributable to any **Wrongful Wage and Hour Practice** actually or allegedly occurring prior to the Retroactive Date identified in Item 6 of the

Declarations;

8. based upon, arising out of, or attributable to, the adjudicated fraudulent or criminal act on the part of any **Insured** provided, however, that the fraudulent or criminal act of one **Insured** shall not be imputed to any other **Insured** for purposes of this exclusion;
9. for bodily injury, sickness, mental anguish, humiliation, emotional distress, disease or death of any person, or damage to or destruction of any tangible property, including the loss of use thereof whether or not it is damaged or destroyed;
10. for failure to fund or perform any fiduciary obligation as respects any pension benefit plan, welfare benefit plan, health or other welfare benefit plan; or
11. for actual or alleged violations of §212 of the FLSA, which governs child labor.

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**V. GENERAL CONDITIONS AND LIMITATIONS**

**A. Defense and Settlement**

We have the right and duty to defend any **Claim** for **Wrongful Wage and Hour Practices**. We have the exclusive right to select defense counsel.

Our duty to defend any **Claim** will end once the Limit of Liability, as stated in Item 3(a) of the Declarations, is exhausted by the payment of **Loss**, including **Defense Costs**. If our duty to defend ends with respect to any **Claim**, we will notify you so that you can arrange to take control of the defense of the **Insureds**. We will take whatever steps are necessary to avoid a default judgment during a transfer of control of the defense of any such **Claim**. If we do so, you agree to repay the reasonable expenses incurred by us during the transfer and further agree that, in undertaking the steps necessary to avoid a default judgment during the transfer, we have not waived any rights under the **Policy**.

We may, with your consent, settle any **Claim** for any monetary amount that we consider reasonable. If you do not give your consent to such settlement, then our liability for all **Loss**, including **Defense Costs**, on account of such **Claim**, will not exceed the amount for which we could have settled the **Claim** plus **Defense Costs** incurred as of the date we proposed such settlement and we shall have the right to withdraw from the further defense of the **Claim** by tendering control of the

defense to you. This provision shall not apply unless the total **Loss**, including the proposed settlement, would exceed the applicable Self-Insured Retention.

The **Insureds** will not incur any **Defense Costs**, settle, or offer to settle any **Claim**, assume any contractual obligation, admit liability, voluntarily make any payment or confess or otherwise consent to any damages or judgments with respect to any **Claim** or **Interrelated Claims** covered by this **Policy**, if, with regard to settlement, the total **Loss**, including **Defense Costs**, would exceed the Self-Insured Retention, without our prior written consent, which will not be unreasonably withheld. We will not be liable for any **Defense Costs**, settlement, assumed obligation, admitted liability, voluntary payment, or confessed damages or judgments to which we have not consented.

The **Insureds** will provide full cooperation and all information and particulars that we may request to conduct an investigation, defend a **Claim**, or to reach a settlement of the **Claim**. The **Insureds** agree that in the event of a **Claim**, they will do nothing that may prejudice our position or rights of recovery.

#### B. **Allocation**

If both **Loss** covered by this Policy and non-covered loss are incurred, either because the **Claim** made against the **Insured** includes both covered and non-covered matters, or because a **Claim** is made against both the **Insured** and others not insured under this Policy, then such covered **Loss** and non-covered loss shall be allocated between covered **Loss** and non-covered loss based upon the relative legal and financial exposures of, and, in the event of a settlement of such **Claim**, the relative benefits obtained in connection with the resolution of the **Claim** as between the **Insureds'** or non-**Insureds'** exposure to non-covered loss, and the **Insureds'** exposure to covered **Loss**. In making such allocation determination, the **Insureds** and Underwriters agree to use their best efforts to determine a fair and proper allocation. In the event that an allocation cannot be agreed to, then the Underwriters shall make an interim payment of the amount of **Loss**, including **Defense Costs**, that the parties agree is not in dispute until a final amount is agreed upon or determined pursuant to the provisions of applicable law.

#### C. **Notice Provisions**

##### 1. **Notice of Claim**

The **Insureds** shall, as a condition precedent to their rights under this **Policy**, give our Authorized Representatives, as identified in the Declarations, written notice of any **Claim** for **Wrongful Wage and Hour Practices** made against

the **Insureds** as soon as practicable but no later than thirty (30) days after the **Insured's** in-house counsel, human resources department, risk manager or any executive officer becomes aware of such **Claim**. Along with the notice of **Claim**, the **Insureds** will provide our Authorized Representatives, as identified in the Declarations, with copies of all documentation comprising the **Claim** as well as all authorization, cooperation, or assistance as we may require throughout the duration of the **Claim**.

Under no circumstances will any **Defense Costs** incurred prior to **Claim** notification be applied against the Self-Insured Retention or be payable by us.

## 2. Notice of Potential **Claim**

Solely at the **Insured's** option, the **Insured** may, within the **Policy Period**, provide us with notice of circumstances that could give rise to a **Claim** for **Wrongful Wage and Hour Practices**. Such notice shall include the identity of the person(s) involved, the **Wrongful Wage and Hour Practices** at issue in the Potential **Claim** and the reason the **Insured** believes a **Claim** may be made. If such notice is received by our Authorized Representative within the **Policy Period** then any **Claim** subsequently arising from such circumstances shall be deemed made on the date such notice was received.

## D. **Limit of Liability**

1. Our maximum liability for **Loss** and **Defense Costs** combined on account of each **Claim** first made during the **Policy Period** shall be the Limit of Liability set forth in Item 3(a) of the Declarations. Our maximum liability for **Loss** and **Defense Costs** combined on account of all **Claims** first made during the same **Policy Period** shall be the Limit of Liability for the **Policy Period** set forth in Item 3(b) of the Declarations.
2. The Limit of Liability for the Extended Reporting Period, if exercised, shall be part of and not in addition to the Limit of Liability for the **Policy Period**. The purchase of the Extended Reporting Period shall not increase or reinstate the Limit of Liability set forth in Item 3(b) of the Declarations, which shall be our maximum liability for all **Loss**, including **Defense Costs**, on account of all **Claims** first made during such **Policy Period** and Extended Reporting Period, combined.
3. In the event both this **Policy**, and any other policy (of any kind) issued by us, applies or potentially applies to a **Claim**, only the higher of either the applicable Limit of Liability under this **Policy**, or the per Claim Limit of Liability

of any other such policy will apply, but not both.

4. **Defense Costs** shall be part of, and not in addition to, the Limits of Liability set forth in Item 3 of the Declarations, and **Defense Costs** shall reduce the Limits of Liability.

**E. Self-Insured Retention**

1. Our liability with respect to **Loss**, including **Defense Costs**, arising from each **Claim** shall apply only to that part of **Loss**, including **Defense Costs**, in excess of the Self-Insured Retention amount set forth in Item 4 of the Declarations and that Self-Insured Retention amount will be the **Insured Company's** uninsured responsibility.
2. In the event both this **Policy**, and any other policy (of any kind) issued by us, applies or potentially applies to a **Claim**, as set forth in Section V.D.4., only the larger of the two Self-Insured Retentions shall apply.

**F. Other Insurance**

Unless expressly written to be excess over other insurance, this **Policy** is intended to apply as primary insurance for **Wrongful Wage and Hour Practice Claims** covered by this **Policy**. Nothing in this provision shall prevent Underwriters or the **Insureds** from seeking contribution or coverage from any other insurer or indemnitor.

**G. Spousal and Domestic Partner Extension**

If a **Claim** against an **Insured** includes a claim against the lawful spouse or domestic partner of such **Insured** solely by reason of (a) such spousal or domestic partner status, or (b) such spouse's or domestic partner's ownership interest in property or assets that are sought as recovery for **Wrongful Wage and Hour Practices**, any such **Claim** shall be deemed to be a **Claim** against an **Insured**.

All terms and conditions of this Policy, including the Self-Insured Retention, will be applicable to such **Claim**.

The extension of coverage afforded by this Section V.G shall not apply to the extent the **Claim** alleges any wrongful act or omission by such spouse.

**H. Representations and Severability**

In issuing this **Policy**, we relied upon the statements and representations in the **Application**. The **Insureds** represent that all such statements and representations are true and deemed material to the acceptance of the risk or the hazard assumed by us under this **Policy**.

The **Insureds** agree that in the event any such statements or representations are untrue, this **Policy** will not afford any coverage with respect to any of the following **Insureds**:

1. any **Insured** who knew or should have known the facts that were not truthfully disclosed in the **Application**, and
2. the **Insured Company**, if the individual(s) who executed the Application (or any executive officer having direct or indirect responsibility for wage and hour matters, or any of the persons responsible for receiving notice of **Claims for Wrongful Wage and Hour Practices** in the **Insured's** Law Department, Human Resources Department or Risk Management Department or the functional equivalent) knew or should have known the facts that were not truthfully disclosed.

I. **Authorization Clause**

By acceptance of this **Policy**, you agree to act on behalf of the **Insureds** with respect to the giving and receiving of notice of **Claim** or cancellation, the payment of premiums, and the receiving of any return premiums that may become due under this **Policy**, the agreement to and acceptance of endorsements and the giving or receiving of any notice provided for in this **Policy** and the **Insureds** agree that you will act on their behalf.

J. **Subrogation**

In the event of any payment under this **Policy**, we will be subrogated to the extent of such payment to all of your and the **Insured's** rights of recovery. You and the **Insureds** will execute all required papers and do everything necessary to secure and preserve such rights.

K. **Alteration and Assignment**

This **Policy** cannot be changed, modified, or assigned without our written, signed endorsement.

L. **Territory**

Coverage under this **Policy** applies to **Wrongful Wage and Hour Practices** and **Claims** taking place in the United States of America and its territories.

M. **Action Against Underwriters**

No action shall lie against us unless, as a condition precedent thereto, there shall have been full compliance with all terms of this **Policy**. No person or organization shall have any right

under this **Policy** to join us as a party to any action against **Insureds** to determine the **Insured's** liability nor shall we be impleaded by the **Insureds** or their legal representatives.

It is agreed that any dispute, controversy, or claim arising out of or relating to this **Policy** or its breach, termination, or invalidity, will be submitted either: 1. to final and binding arbitration; or 2. to non-binding mediation, whichever the **Insured** shall select, pursuant to such rules and procedures as the parties may agree or as established by the mediator or arbitrators. In the event of arbitration, the panel shall consist of one arbitrator selected by you, one arbitrator selected by us, and a third independent arbitrator selected by the first two arbitrators. In any arbitration or mediation, each party will bear its own legal fees and expenses.

#### N. **Service of Suit**

In the event that any non-binding mediation selected by the **Insured** in accordance with Section V.M does not resolve disputes arising out of or related to this **Policy**, we agree, at your request or the request of any **Insured**, to submit to the jurisdiction of a court of competent jurisdiction within the United States and we will comply with all requirements necessary to give such court jurisdiction. Nothing in this Section V.N constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon the firm shown under Item 8 of the Declarations, and that in such suit instituted against any of the Underwriters of this **Policy**, we will abide by the final decision of such court or of any appellate court in the event of an appeal.

The firm shown under Item 8 of the Declarations is authorized and directed to accept service of process on our behalf in any such suit and/or, upon the request of any **Insured**, to give a written undertaking to such **Insured** that they will enter general appearance upon our behalf in the event such a suit is instituted.

Further, pursuant to the statute of any state, territory, or district of the United States which makes provision therefore, we hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his or her successor or successors in office, as their true and lawful attorney, upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of any **Insured** or any beneficiary of this **Policy**, and hereby designate the firm shown under Item 8 of



the Declarations as the firm to whom the said officer is authorized to mail such process.

**O. Changes in Exposure**

1. If, during the **Policy Period**, the total number of your **Employees** increases by more than fifteen percent (15%) as a result of your merger(s) with or acquisition(s) of any other entity, the **Insured Company** must give us notice of such increase as soon as practicable but in any event within sixty (60) days. We will be entitled to impose such amended coverage terms and adjust the premium as we may require.
2. Neither death, bankruptcy nor insolvency of any **Insured**, nor dissolution of the **Insured Company**, will relieve us of any obligations under the **Policy**.
3. If, during the **Policy Period**, you acquire more than fifty percent (50%) ownership in an organization and the number of acquired employees exceeds fifteen percent (15%) of the total number of the **Insured Company's Employees** as of the inception date of this Policy then that organization shall be considered an **Insured Subsidiary** but only if you give us notice of such acquisition as soon as practicable but in any event within sixty (60) days after such acquisition. Coverage for such **Insured Subsidiary** shall only apply to **Loss**, including **Defense Costs**, arising from **Wrongful Wage and Hour Practices** taking place after the merger or acquisition.
4. If, during the **Policy Period**, you merge with another entity such that you are no longer the surviving entity or if more than fifty percent (50%) of your outstanding securities representing the present right to vote for the election of directors is acquired by any person or entity, this **Policy** will continue until its natural Expiration Date as set forth in Item 2(b) of the Declarations but only with respect to any **Wrongful Wage and Practices** committed before the date of the merger or acquisition.

**P. Extended Reporting Period**

In the event of non-renewal or cancellation of this **Policy**, you shall have the right, upon payment of an additional premium of 100% of the annual premium charged for the non-renewed or cancelled **Policy**, to an extension of the coverage available under this **Policy** for a period of twelve (12) months following the effective date of such non-renewal or cancellation, but only with respect to **Claims** otherwise covered by this **Policy** and only for **Wrongful Wage and Hour Practices** taking place prior to the effective date of such non-renewal or cancellation.

A written request for the Extended Reporting Period must be received by us within fifteen (15) days from the effective date of the non-renewal or cancellation. The premium due for the Extended Reporting Period must be received by us within thirty (30) days of such effective date. The entire premium for the Extended Reporting Period shall be deemed fully earned and non-refundable upon payment.

**Q. Non-Renewal**

If we decide not to renew this **Policy**, we will mail or deliver to the **Insured Company** written notice of non-renewal not less than sixty (60) days before the expiration date. If the notice is mailed, proof of mailing will be sufficient notice of non-renewal.

**R. Cancellation**

You may cancel this **Policy** by mailing written notice to us stating when thereafter such cancellation shall be effective. We may cancel this **Policy** by mailing written notice to you at the address shown in the Declarations, stating when, not less than twenty (20) days thereafter, such cancellation shall be effective. The mailing of such notice shall be sufficient proof of notice. Delivery of such written notice shall be equivalent to mailing. The effective date and hour of cancellation as stated in the notice shall become the end of the **Policy Period**.

If you cancel, earned premium shall be computed in accordance with the standard short rate table. The premium shall be deemed fully earned if any **Claim** under this **Policy** is reported to us on or before the date of cancellation. If we cancel, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

**S. Liberalization Clause**

In the event the identical unendorsed policy form is amended by us subsequent to the inception date of this **Policy** such that the coverage under such identical unendorsed policy form is broader as a result of the amendments, this **Policy** shall be construed to include the broadened form coverage, subject to any endorsements.

Wage and Hour

Wage & Hour Product

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Wage & Hour Product

## **NON-DUTY TO DEFEND ENDORSEMENT**

In consideration of the premium charged, it is understood and agreed that the **Policy** is amended as follows:

Section II., **DEFENSE AGREEMENT**, is deleted in its entirety and replaced as follows:

The **Insured** retains the responsibility to defend any **Claim** first made against any **Insured** during the **Policy Period**, or the Extended Reporting Period, if applicable, for **Wrongful Wage and Hour Practices**. The **Insured** has the right to select defense counsel, subject to our prior written consent to the defense counsel selected. We have the right to rescind our consent to your selection of defense counsel provided we give you thirty (30) days advance notification. We agree to pay the following maximum rates for professional services rendered by defense counsel selected by you:\_\_\_\_\_. You shall ensure that any attorney designated as defense counsel to represent any **Insured** shall comply with our Litigation Management Guidelines and shall cooperate with us and with our Authorized Representatives in the defense of the **Claim**.

Notwithstanding the foregoing, the **Insured Company** may at its option and on behalf of all **Insureds**, tender the defense of any **Claim** to us in accordance with Section V., **GENERAL CONDITIONS AND LIMITATIONS**, and we shall assume the duty to defend. We shall have the exclusive right to select defense counsel. When the defense has been so tendered, our duty to defend any **Claim** will end once the Limit of Liability, as stated in Item 3(a) of the Declarations, is exhausted by payment of **Loss**, including **Defense Costs**. If our duty to defend ends with respect to any **Claim**, we will notify you so that you can arrange to take control of the defense of the **Insureds**. We will help to transfer control to you. We will take whatever steps are necessary to avoid a default judgment during the transfer of control of the defense of any such **Claim**. If we do so, you agree to pay reasonable expenses incurred by us during the transfer and further agree that, in undertaking the steps necessary to avoid a default judgment during the transfer, we have not waived any rights under the **Policy**.

We may, with your consent, settle any **Claim** for any monetary amount that we consider reasonable. If you do not give your consent to such settlement, then our liability for all **Loss**, including **Defense Costs**, on account such **Claim** will not exceed the amount for which we could have settled the **Claim** plus **Defense Costs** incurred as of the date we proposed such settlement. This provision shall not apply unless the total **Loss**, including the proposed settlement, would exceed the applicable Self-Insured Retention.

The **Insureds** will not incur any **Defense Costs**, settle or offer to settle any **Claim**, assume any contractual obligation, admit liability, voluntarily make any payment or confess or otherwise consent to any damages or judgments with respect to any **Claim** or **Interrelated Claims** covered by this **Policy**, if, with regard to settlement, the total **Loss**, including **Defense Costs**, would exceed the Self-Insured Retention, without our prior written consent, which will not be unreasonably withheld. We will not be liable for any **Defense Costs**, settlement, assumed obligation, admitted liability, voluntary payment, or confessed damages or judgments to which we have not consented.

The **Insureds** will provide full cooperation and all information and particulars that we may request to conduct an investigation, defend a **Claim**, or to reach a settlement of the **Claim**. The **Insureds** agree that in the event of a **Claim**, they will do nothing that may prejudice our position or rights of recovery.

## CO-INSURANCE ENDORSEMENT

In consideration of the premium charged, it is understood and agreed that the **Policy** is amended as follows:

Section V E.1, **Self-Insured Retention**, is deleted in its entirety and replaced as follows:

1. Our obligation to pay under this **Policy** shall apply only to **Loss**, including **Defense Costs**, in excess of the Self-Insured Retention amount set forth in Item 4 of the Declarations and the co-insurance amount noted below. The Self-Insured Retention amount and the co-insurance amount will be the **Insured Company's** uninsured responsibility.

Co-Insurance: % \_\_\_\_\_.