



# LAWYERS PROFESSIONAL LIABILITY CLAIMS-MADE POLICY

## OKLAHOMA ATTORNEYS MUTUAL INSURANCE COMPANY (A MUTUAL INSURANCE COMPANY, HEREIN CALLED THE COMPANY)

Agrees with the Insured, named in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the application and subject to the limits of liability, exclusions, conditions and other terms of this policy.

### INSURING AGREEMENT

#### I Coverage

To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as money damages because of any claim or claims first made against the Insured and reported to the Company during the policy period relating to the quality of legal services provided, arising out of any act or omission of the Insured in rendering or failing to render, professional services for others in the Insured's capacity as a lawyer, and caused by the Insured or any other person for whose acts or omissions the Insured is legally responsible, except as excluded or limited by the terms, conditions and exclusions of this policy. The term "money damages" shall not be construed to mean the return, restitution or disgorgement of fees paid to, claimed by or retained by any Insured.

#### II Defense and Settlement

With respect to such insurance as is afforded by this policy, the Company shall defend any suit against the Insured alleging such act or omission and seeking damages which are payable under the terms of this policy, even if any of the allegations of the suit are groundless, false or fraudulent; and the Company may make such investigations and, with consent of the Insured, such settlement of any claim as it deems expedient. If the Insured shall refuse to consent to any settlement or compromise recommended by the Company and acceptable to the claimant and shall elect to contest the claim or suit or proceeding then the Company's liability shall not exceed the amount for which the Company would have been liable for money damages and claims expense at the time the claim or suit or proceeding could have been settled or compromised. It is further provided that the Company shall not be obligated to pay any claim, judgment, award or claims expense, or undertake to continue defense of any suit or proceeding after the limit of the Company's liability has been exhausted by payment of judgments, awards, settlements or claims expense, or by deposit of the applicable limit of liability in a court of competent jurisdiction.

The Company shall pay in addition to the applicable limit of liability a claims expense allowance equal to the lesser of \$100,000 or 50% of the limit of liability stated in the Declarations as applicable to "all claims arising out of the same, related or continuing professional services"; however, claims expense incurred as a result of a claim arising in whole or in part out of the Securities activities of the Insured shall be included within the applicable limit of liability, and the claims expense allowance shall not apply.

If the Company's limits of liability hereunder are exhausted prior to the reduction of any pending claim, or suit or proceeding arising in connection therewith, to settlement, final judgment or final award the Company shall have the right to withdraw from the further defense thereof by tendering control of said defense to the Insured.

#### III Persons Insured

Each of the following is an Insured under this insurance to the extent set forth below:

- if the Named Insured designated in the Declarations is an individual, the person so designated;
- if the Named Insured designated in the Declarations is a partnership, the partnership so designated and any lawyers who are partners thereof;
- if the Named Insured designated in the Declarations is a Professional Corporation or Professional Association, the Professional Corporation or Professional Association so designated and any lawyers who are stockholders or members thereof;
- any lawyer or other person who is an employee of the Named Insured;

#### IV Policy Period and Territory

This policy applies to acts or omissions occurring anywhere in the world (provided claim is made or suit is brought within the United States of America, its territories or possessions or Canada), prior to the end of the policy period, if claim is first made during the policy period or an extended reporting period purchased in accordance with Condition IV.

A claim is first made during the policy period or extended reporting period if during the policy period or extended reporting period the Insured shall have knowledge or become aware of any act or omission which could reasonably be expected to give rise to a claim under this policy, and shall, during the policy period or extended reporting period, give written notice thereof to the Company in accordance with Condition VII. If any claim is first made during a policy year alleging money damages which are payable under this policy, any additional claims which are made, or suits or proceedings in connection therewith which are brought subsequent to that policy year for money damages resulting from the same or related acts or omissions shall be considered part of the claim which was first made during that policy year.

A claim shall be considered to be first made when the Company first receives written notice of the claim or of any event which could reasonably be expected to give rise to a claim.

## V Fiduciary Coverage

Subject to the other terms, conditions and exclusions of this policy, when the Insured lawyer acts as a court appointed administrator, conservator, executor, guardian, trustee or in any similar court appointed fiduciary capacity, his/her acts or omissions in such capacity shall be deemed for the purpose of this policy to be the performance of professional services for others in the Insured's capacity as a lawyer, provided that this policy shall not apply to any claim or claims based upon alleged error of the Insured in the exercise of investment judgment.

## VI Disciplinary Expense

The Company will reimburse the Named Insured, who is a licensed attorney in good standing, up to \$10,000 for each Insured and all Insureds in the aggregate

per policy period, for legal fees and reasonable expenses paid to an attorney, other than any other lawyer insured under this policy, as a result of a Formal Complaint being filed in the Oklahoma Supreme Court or a Formal Proceeding being brought in the Oklahoma Supreme Court relating to act(s) or omission(s) in the provision of legal services on or after the prior acts date of the Insured, and which such Formal Complaint or Formal Proceeding was first initiated and reported to the Company during the policy period.

The disciplinary coverage is not subject to any deductible, and payments under this coverage do not reduce the Limits of Liability as stated on the Declarations Page.

The Company will not reimburse any expense of disciplinary matters arising from act(s) or omission(s) excluded in the Exclusions Section of this policy.

## EXCLUSIONS

This policy does not apply:

- a) to any claim arising out of any dishonest, fraudulent, criminal, malicious or knowingly wrongful act or omission or deliberate misrepresentation committed by, at the direction of, or with the knowledge of any Insured;
- b) to any claim arising out of the division of fees or fee apportionment between an Insured and any other lawyer or lawyers;
- c) to any claim made by an employer against an Insured who is a salaried employee of such employer;
- d) to any claim arising out of bodily injury to, or sickness, disease or death of any person, or to injury to or destruction of any property, including the loss of use thereof;
- e) to any loss sustained by the Insured as the beneficiary or distributee of any trust or estate;
- f) to any claim arising out of the Insured's acts or omissions as a public official or an employee of a governmental body, subdivision or agency;
- g) to any claim arising out of the Insured's acts or omissions as an officer, director, partner, trustee or employee of a business enterprise or charitable organization or of a pension, welfare, profit sharing, mutual or investment fund or trust;
- h) to any punitive or exemplary damages, fines, penalties, sanctions (under statute, rule of Court, order of Court, or pursuant to administrative regulation) except a claim for damages arising under 15 U.S.C. §1692k(a) and 42 U.S.C. §1176;
- i) to any claim arising out of legal services or advice rendered by any Insured in connection with any business enterprise owned in whole or in part, controlled directly or indirectly, or managed by any Insured, which service or advice is either claimed or is, in fact, in conflict with the interest of a client or former client of any Insured or in conflict with the interest of any person claiming an interest in the same or a related business enterprise;
- j) to any claim arising out of any acts or omissions occurring prior to the effective date of this policy if the Insured at the effective date knew or could have reasonably foreseen that such acts or omissions might be expected to be the basis of a claim or suit. However, this policy does not apply to any claim arising out of any acts or omissions occurring prior to the effective date of this policy if there is other valid and collectible insurance applicable to such claim, or if such other coverage would have been applicable except for the exhausting of the limits of liability of such other policy;
- k) to any claim made against any Insured by any Insured or against an Insured by such Insured's spouse, children, parents or siblings;
- l) to any claim arising out of discrimination of any kind by any Insured including, but not limited to, discrimination on the basis of race, national origin, creed, religion, age, sex or marital status;
- m) to any claim based upon or arising out of any bond or any surety, guarantee, warranty, or any similar agreement, or any assumed obligation to indemnify another, signed or otherwise agreed to by any Insured, or by someone for whom the Insured is legally liable;
- n) to any claim based upon or arising directly or indirectly from any sexual contact or conduct or any sexual harassment.
- o) to any claim made against any insured for losses resulting from the deposit or negotiation of a fraudulent or counterfeit check, draft or any such instrument drawn on an account.
- p) to any claim arising out of any theory of obligation assumed by an Insured, or created by contract under an indemnity, hold harmless or liquidated damages provision or agreement of any kind, unless such liability would have attached to the Insured in the absence of such agreement.

## CONDITIONS

### I Definitions

- a) "Claims expense" means (1) fees charged by attorneys designated by the Company and (2) all other fees, costs, and expenses resulting from the investigation, adjustment, defense and appeal of a claim, suit or proceeding arising in connection therewith, if incurred by the Company, or by the Insured with written consent of the Company. The Company, may at its option, pay such additional expense as it deems necessary to provide legal services to or for the benefit of the Insured to rectify an error or omission alleged against the Insured. The cost of such legal services shall be considered as claims expense hereunder; provided, however, that "claims expense" does not include salary charges or expenses of regular employees or officials of the Company.
- b) "Claims expense allowance" means an amount equal to the lesser of \$100,000 or 50% of the limit of liability stated in the Declarations as applicable to "all claims arising out of the same, related or continuing professional services"; less the applicable deductible, shall be paid by the Company in addition to the limit of liability stated in the Declarations. The claims expense allowance defined above is an annual aggregate amount applicable to all claims made during the policy period. The determination of the Company as to the reasonableness of any claims expense shall be conclusive and binding on each Insured.
- c) "Policy period" means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of coverage and specifically excludes any extended reporting period or periods hereunder.
- d) "Extended reporting period" means the period or periods of time after the end of the policy period for reporting claims, suits or proceedings arising out of acts or omissions which occurred prior to the end of the policy period and which would have been covered by this policy but for its termination.
- e) "Policy year" means each consecutive annual period of the policy.
- f) "Effective date" as used in Exclusion j) means the date on which the first policy issued by and continuously renewed by the Company became effective.
- g) "Securities activities" means any of the Insured's acts or omissions in relation to any security or to any activities or transactions covered in whole or in part by The Securities Act of 1933, The Securities Exchange Act of 1934, The Trust Indenture Act of 1939, The Investment Company Act of 1940, The Investment Advisors Act of 1940, The Public Utility Holding Company Act of 1935, or other Federal Securities Law, or in relation to any purchase, sale or offering of any security to or from the public which is covered or claimed to be covered by any State Blue Sky or Securities Law, or any Rules or Regulations issued pursuant to any of the aforementioned, or any amendments or replacements thereof.

## II Limits of Liability

The Company shall pay in addition to the applicable limit of liability, a "claims expense allowance" equal to the lesser of \$100,000 or 50% of the limit of liability stated in the Declarations as applicable to "all claims arising out of the same, related or continuing professional services"; however, claims expense incurred as a result of a claim arising in whole or in part out of the Securities activities of the Insured shall be included within the applicable limit of liability, and the claims expense allowance shall not apply.

Except for claims expense arising out of the Securities activities of the Insured, claims expense shall be paid and applied first from the claims expense allowance provided for in this policy. Claims expenses in excess of the claims expense allowance shall reduce the limit of liability stated in the Declarations as applicable to "all claims arising out of the same, related or continuing professional services." The difference between (1) the applicable limit and (2) claims expense in excess of the claims expense allowance, shall be the amount available to pay damages.

Claims expense for purposes of calculating the claims expense allowance shall include any applicable amount paid or payable as a deductible.

The claims expense allowance above defined is an annual aggregate amount applicable to all claims made during the policy period.

The limit of liability stated in the Declarations as applicable to "all claims arising out of the same, related or continuing professional services" is the limit of the Company's liability for all money damages and claims expense in excess of the claims expense allowance (and claims expense if the claim arises in whole or in part out of the Securities activities of the Insured) arising out of the same, related or continuing professional services without regard to the number of claims, demands, suits, proceedings or claimants.

If additional claims are subsequently made which arise out of the same, related or continuing professional services as a claim already made, all such claims whenever made, shall be considered first made within the policy year or extended reporting period in which the earliest claim arising out of such professional services was first made, and all such claims shall be subject to the same limit of liability.

If the Named Insured applies for the extended reporting period, the limit of liability stated in the Declarations as applicable to "all claims arising out of the same, related or continuing professional services", at the time the policy is terminated, is the limit of the Company's liability for all claims arising out of the same, related or continuing services, which are first made during the extended reporting period.

The limit of liability stated in the Declarations as "aggregate" is, subject to the above provisions respecting "all claims arising out of the same, related or continuing professional services", the total limit of the Company's liability for all money damages and claims expense in excess of the claims expense allowance (and claims expense if the claim arises in whole or in part out of the Securities activities of the Insured) arising out of all claims first made during each policy year or during the extended reporting period.

The inclusion in the policy of more than one Insured shall not operate to increase the limits of the Company's liability.

If one or more other policies of insurance issued by the Company apply to a claim made under this policy for which the insured is vicariously liable for the acts of an attorney or attorneys Insured by the Company under such other policies, the Company shall not be liable under this policy for a greater proportion of such loss and claims expense than the Company's liability under this policy bears to the total liability of the Company under all applicable valid and collectible insurance issued by the Company provided, however, that the Company shall not pay on behalf of all such Insureds, any sum that exceeds the limit of liability of that policy issued by the Company that has the highest applicable limit of liability.

**Deductible.** The deductible amount, stated in the Declarations, shall be subtracted from the total amount of money damages and claims expense resulting from each claim first made during the policy year and the Company shall be liable only for the difference between such deductible amount and the amount of insurance otherwise applicable.

**Reimbursement to the Company.** The Insured shall be liable for amounts paid by the Company in settlement or satisfaction of claims or judgments or claims expense which are in excess of the applicable limit of liability.

The Insured shall also be liable for amounts paid, including claims expense, within the applicable deductible.

The Insureds, jointly and severally, shall be liable for reimbursement to the Company of such amounts upon demand. Further, it shall be a pre-condition to renewal of this policy that all such amounts outstanding be reimbursed to the Company prior to the renewal date.

In the event the Insured(s) fail to pay to the Company such amounts upon demand, such amounts shall accrue interest at the rate of 1.5% per month, or 18% per annum. In the event such amounts are placed in the hands of an attorney for collection, Insureds, jointly or severally, agree to pay, in addition to the unpaid principal amounts due and interest as set forth herein, all costs of collection, including all reasonable attorney's fees and costs incurred by the Company.

## III Waiver of Exclusions and Breach of Conditions

Whenever coverage under any provision of this policy would be excluded suspended or lost:

- a) because of any exclusion or condition relating to dishonest, fraudulent, malicious or criminal act or omission by any Insured or employee of any Insured and with respect to which any other Insured did not personally participate or personally acquiesce or remain passive after having personal knowledge thereof, but only with respect to actual or compensatory damages, or
- b) because of noncompliance with any condition relating to the giving of notice to the Company with respect to which any other Insured shall be in default solely because of the default or concealment of such default by one or more partners or employees responsible for the loss or damage otherwise Insured hereunder

the Company agrees that such insurance as would otherwise be afforded under this policy shall continue in effect, cover and be paid with respect to each and every Insured who did not personally commit or personally participate in committing or personally acquiesce in or remain passive after having personal knowledge of one or more of the acts or omissions described in any such exclusion or condition; provided that if the condition be one with which such Insured can comply, after receiving knowledge thereof, the Insured entitled to the benefit of this Waiver of Exclusions and Breach of Conditions shall comply with such condition promptly after obtaining knowledge of the failure of any other Insured or employee to comply therewith.

## IV Extended Reporting Endorsement

In case of cancellation or nonrenewal by either the Named Insured or the Company, any Insured shall have the right (subject to the following paragraph), upon payment of an additional premium not more than thirty days after termination of the policy, to have issued extended reporting coverage for claims first made subsequent to the termination of the policy on acts or omissions occurring prior to the end of the policy period and otherwise covered by the policy. The additional premium shall be computed in accordance with the Company's rules, rates, rating plans and premiums in effect on the effective date of the applicable endorsement.

If the insured is disbarred or suspended by the Oklahoma Supreme Court or any superintending or regulatory authority in another jurisdiction or submits his or her resignation pending disciplinary proceedings in Oklahoma or before a regulatory authority in another jurisdiction or resigns from the Bar to avoid being subjected to possible disciplinary proceedings, in Oklahoma or any other jurisdiction, at any time during the term of this policy, such insured shall not be entitled to an Extended Reporting Endorsement.

## V Arbitration

The Company shall be entitled to exercise all of the Insured's rights in the choice of arbitration, in the selection of a situs for arbitration and in the conduct of any arbitration proceeding involving a claim covered by this policy.

## VI Other Insurance

This insurance shall be in excess of any other valid and collectible insurance available to the Insured whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as a specific excess insurance over the limits of liability set forth in Item 3 of the Declarations.

## VII Notice of Claim or Suit

Upon the Insured's becoming aware of any act or omission which would reasonably be expected to be the basis of a claim or suit covered hereby, written notice shall be given by or on behalf of the Insured to the Company or any of its authorized agents as soon as practicable, together with the fullest information obtainable. If claim is made or suit is brought against the Insured, the Insured shall immediately forward to the Company every demand, notice, summons or other process received by the Insured or the Insured's representative.

If during the policy period or any extended reporting period, the Company shall be given written notice of any act or omission which could reasonably be expected to give rise to a claim against the Insured under this policy, any claim which subsequently arises out of such act or omission shall be considered to be a claim reported during the policy year or extended reporting period in which the written notice was received.

## VIII Assistance and Cooperation of the Insured

The Insured shall cooperate with the Company and, upon the Company's request, shall assist in making settlements in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization other than an employee of any Insured who may be liable to the Insured because of acts or omissions with respect to which the insurance is afforded under this policy, and the Insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The Insured shall not voluntarily admit liability, make any payment, assume any obligation or incur any expense.

## IX Action Against Company

No action shall lie against the Company unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, and until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Company.

Any person or organization not Insured hereunder or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Company as a party to any action against the Insured to determine the Insured's liability, nor shall the Company be impleaded by the Insured or his legal representative. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

## X Subrogation

In the event of any payment under this policy the Company shall be subrogated to all the Insured's rights of recovery therefor against any person or organization other than an employee of any Insured, and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after loss to prejudice such rights.

## XI Changes

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or stop the Company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy signed by an officer of the Company.

In Witness Whereof, the Company has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by a duly authorized representative of the Company.



Secretary

## XII Change in Membership of Firm

Any addition to or deletion from the attorneys named in the application must be reported to the Company within thirty days of such addition or deletion.

Any additions to the list of attorneys and Insured employees shown on the Insured's application for this policy will require the payment of an additional prorated premium for the current policy period.

## XIII Assignment

The interest hereunder of any Insured is not assignable. If the Insured shall die or be adjudged incompetent, this policy shall cover the Insured's legal representative as the Insured with respect to liability previously incurred and covered by this policy.

## XIV Cancellation or Nonrenewal

This policy may be cancelled by the Insured by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the Company by mailing to the Insured at the address shown in this policy written notice stating when not less than forty-five days (or in the event of non-payment of premium, not less than ten days) thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The effective date of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or by the Company shall be equivalent to mailing.

Notwithstanding the foregoing, this insurance, including any insurance provided under an Extended Reporting Endorsement, will be cancelled or terminated in the event the Insured is disbarred or suspended by the Oklahoma Supreme Court or any superintending or regulatory authority in another jurisdiction or submits his or her resignation pending disciplinary proceedings in Oklahoma or before a regulatory authority in another jurisdiction or resigns from the bar to avoid being subjected to possible disciplinary proceedings at any time during the term of this policy. Receipt of notice of disbarment, resignation, or suspension pending disciplinary proceedings of or by the Insured shall constitute discovery of grounds for cancellation in accordance with the Conditions for Cancellation as modified. Notice of such cancellation shall be not less than ten days.

If the Insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedures. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

## XV Entire Contract

By acceptance of the Policy, the Insured agrees that the statements in the Declarations and in the Insured's application for this policy are true and correct and that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the Insured and the Company relating to this insurance.

*In accordance with O.S. 36, Sec 3613.1, the following becomes a part of this policy:*

*"WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony."*



President

