

# Coverage Part B

## Educators' Legal Liability

### Claims-Made Coverage

This Coverage Part B, subject to its terms and conditions, provides claims-made coverage and applies only to **claims** first made against any **Insured** during the policy period. **Claim expenses** are payable within, and not in addition to, the **Limit(s) of Insurance**. Payment of **claim expenses** under this policy will reduce, and may exhaust, the **Limit(s) of Insurance**. This policy does not provide for any duty by Genesis Insurance Company to defend any of the **Insureds**.

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

Throughout this Coverage Part the words **you** and **your** refer to the **Named Insured(s)** shown on the **Declarations Page** and any other person, entity or organization qualifying as an **Insured** under this Coverage Part. The words **we**, **us** and **our** refer to Genesis Insurance Company.

The word **Insured** means any person or organization qualifying as such under **SECTION II - WHO IS AN INSURED**.

The words and phrases that are in bold have special meaning. Please refer to **SECTION V - DEFINITIONS** for their meaning or take note of the reference within the text.

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#### SECTION I - COVERAGE

##### A. Insuring Agreement

1. Subject to the applicable **Limit(s) of Insurance** of this Coverage Part, **we** agree to indemnify the **Insured** for **loss** in excess of the **retained limit** which the **Insured** becomes legally obligated to pay because of a **wrongful act(s)** to which this insurance applies. **Our** indemnification obligation shall not arise until the **Insured** itself has paid in full the entire amount of its **retained limit**. The **retained limit** must be paid by the **Insured**, and may not be paid or satisfied, in whole or in part, by any other source of payment, including but not limited to other insurance, or negated, in whole or in part, by any form of immunity to judgment or liability. No other obligation or liability to pay sums or perform acts or services is covered. The **Insured's** obligation to pay **loss**, other than **claim expenses**, shall have been determined by judgment against the **Insured** after a contested **claim** or by written agreement, which has received **our** prior approval, between the **Insured(s)** and the claimant(s) or the claimant's legal representative.
2. This insurance applies to a **wrongful act(s)** only if:
  - a. The **wrongful act(s)** takes place in the **coverage territory**;
  - b. The **wrongful act(s)**, including all **related wrongful act(s)**, takes place on or after the **retroactive date**, if any, shown in the **Declarations Page** and before the end of this policy period; and
  - c. A **claim(s)** is first made against any **Insured**, in accordance with paragraph 3. below, during this policy period or any **Extended Reporting Period** we may provide according to **SECTION IV**.
3. A **claim(s)** will be deemed to have been first made at the earlier of the following times:
  - a. When notice of such **claim(s)** is received and recorded by any **Insured** or by **us**, whichever comes first; or

- b. When **you** become aware of a **wrongful act(s)**, situation or circumstances which may subsequently give rise to a **claim(s)** being made against any **Insured**, and **you** give written notice to **us**, in accordance with **SECTION E – DUTIES IN THE EVENT OF OCCURRENCE, WRONGFUL ACT, CLAIM OR SUIT** of the **COMMON POLICY CONDITIONS**, but not later than:
  - (1) The end of this policy period; or
  - (2) The end of any applicable **Extended Reporting Period**.
4. All **claim(s)** based on or arising out of the same **wrongful act(s)**, or a series of **related wrongful act(s)**, by one or more **Insureds** will be considered first made when the first of such **claim(s)** is made and will be considered a single **claim**. Only one **retained limit** and one each **claim Limit(s) of Insurance** will be applicable to such single **claim**.
5. When the **Insured's** legal obligation to pay **loss** to which this insurance applies has been determined, and this amount is greater than the relevant **retained limit**, then and only then will the **Insured** be entitled to make claim for indemnity under this Coverage Part. In such case, the **Insured** will make claim for indemnification under this Coverage Part as soon as practicable after it has paid or will pay the **retained limit**. We will then indemnify the **Insured** for **loss** that exceeds this Coverage Part's **retained limit** subject to the Coverage Part's relevant **Limit(s) of Insurance** set forth in the **Declarations Page** or in any endorsement.

## **B. Defense**

We have no duty to defend any **claim(s)** but we will have the right and **you** will give **us** the opportunity to associate in the defense of any **claim(s)** against the **Insured** seeking damages for **wrongful act(s)**, which, in **our** sole opinion, may create indemnification obligations for **us** under this Coverage Part. In addition:

1. The **Insured**, or the **Named Insured** on the **Insured's** behalf, has the duty to defend any **claim(s)** seeking damages to which this insurance applies and will be responsible for paying any **claim expenses**. The **claim expenses** incurred by the **Insured** serve to erode this Coverage Part's **retained limit**.
2. The **Insured** must obtain **our** prior written consent before offering or agreeing to pay an amount which exceeds the **retained limit** in order to settle any **claim(s)** seeking damages to which this insurance applies either in whole or in part.
3. We will also have the right, but not the duty, to assume control in the defense of any **claim(s)** which, in **our** sole opinion, may create indemnification obligations for **us** under this Coverage Part. This assumption of control will include, but not be limited to:
  - a. The investigation of any **wrongful act(s)** or **claim(s)**;
  - b. The selection or retention of defense counsel;
  - c. The appeal of any judgment; or
  - d. The settlement of any **claim(s)**.

In the event we exercise **our** rights specified in this paragraph, the **Limit(s) of Insurance** and the **Insured's** responsibility to pay the **retained limit(s)** and handling of the **claim expenses** will remain unchanged as stated in the Coverage Part or as amended by Endorsement.

4. In the event that **we** exercise **our** right to assume control in the defense of any **claim**, **we** will not commit an **Insured** to any settlement without the **Named Insured's** consent. If the **Named Insured** refuses to consent to any settlement recommended by **us** and to which the claimant(s) agree(s), and elects to contest the **claim** or continue any legal proceedings in connection with such **claim**, then **our** indemnification obligations shall not exceed the amount for which the **claim** could have been settled with **our** consent, up to the date of such refusal.

### C. Exclusions

This insurance does not apply to any **loss**:

1. Based upon, or arising out of, any **wrongful act(s)** or **claim(s)** which are the subject of any notice given under any policy or policies the term of which has expired prior to the inception date of this policy.
2. Arising out of any **wrongful act(s)** or **related wrongful acts** that takes place prior to the inception date of this Coverage Part, provided that any person referenced in paragraph 1. of **SECTION E. – DUTIES IN THE EVENT OF OCCURRENCE, WRONGFUL ACT, CLAIM OR SUIT of the COMMON POLICY CONDITIONS** knew or reasonably should have foreseen that such **wrongful act(s)** or **related wrongful acts** would give rise to a **claim(s)**.
3. Brought about or contributed to by the fraud, dishonesty or bad faith of an **Insured** or arising from the deliberate violation of any federal, state, or local statute, ordinance, rule or regulation committed by or with the knowledge and consent of the **Insured**. The actual or alleged conduct of any **Insured** will not be imputed to any other **Insured** for the applicability of this exclusion.
4. Arising out of or attributable to the **Insured** gaining profit, advantage, or remuneration to which the **Insured** is not entitled. The actual or alleged conduct of any **Insured** will not be imputed to any other **Insured** for the applicability of this exclusion.
5. Arising directly or indirectly out of any **Insured's**:
  - a. Obligations under the Employee Retirement Income Security Act of 1974 (ERISA), including any subsequent amendments or any similar federal, state or local law or regulation;
  - b. Activities in any fiduciary capacity; or
  - c. Failure to effect, adequately purchase or maintain any insurance, bond or self-insurance fund.
6. Arising out of any land use issue, including but not limited to, condemnation, inverse condemnation, adverse possession, dedication by, adverse use, or disputes involving the application of impact or linkage fees. This includes but is not limited to takings and partial takings of private property resulting from the application of a land use, zoning, building, subdivision or similar ordinance or regulation.
7. Arising directly or indirectly out of:
  - a. **Bodily injury**;
  - b. **Property damage**;
  - c. **Personal injury**; or
  - d. **Advertising injury**.

This exclusion does not apply to **loss** arising out of any **employment wrongful act(s)**.

8. a. Arising directly or indirectly out of or contributed to by any actual or alleged violation of:
  - (1) The Securities Act of 1933;
  - (2) The Securities Exchange Act of 1934;
  - (3) The Public Utilities Holding Act of 1935;

- (4) The Trust Indenture Act of 1939;
  - (5) The Investment Company Act of 1940; or
  - (6) Any State Blue Sky Laws.
- b. Based upon common law principles of liability similar to any law listed in a. above; or
  - c. Involving, directly or indirectly:
    - (1) Debt security financing, including but not limited to bonds, notes and debentures; or
    - (2) The investment of, or the failure to invest, any funds, including but not limited to the use of derivative investment instruments.
- 9.
- a. Which arises directly or indirectly out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.
  - b. Cost or expense arising directly or indirectly out of any:
    - (1) Request, demand, order or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of **pollutants**;
    - (2) **Claim** by or on behalf of a governmental authority or others because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants**; or
    - (3) **Insured's wrongful act** in complying with, enforcing or enacting any rule, ordinance, law or regulation having to do with the prevention, mitigation, monitoring, clean up, removal, containment, treatment, detoxification, neutralization, or assessment of the effects of **pollutants**.
10. Cost or expense arising directly or indirectly out of, resulting from, caused or contributed to by electromagnetic radiation, provided that such **loss**, cost or expense result from or are contributed to by the hazardous properties of electromagnetic radiation. This includes any costs for the actual or threatened abatement, mitigation, or removal.
11. Cost or expense arising directly or indirectly out of, resulting from, caused by or contributed to by:
- a. The use of, sale of, installation of, removal of, abatement of, distribution of, containment of, or exposure to asbestos, asbestos products, asbestos-containing material, asbestos fibers, or asbestos dust;
  - b. The actual or threatened abatement, mitigation, removal or disposal of asbestos, asbestos products, asbestos-containing material, asbestos fibers, or asbestos dust;
  - c. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with parts a. and b. above; or
  - d. Any obligation of the **Insured** to indemnify any party in connection with subparagraphs a., b. or c. above.
12. Cost or expense arising directly or indirectly out of, resulting from, caused by or contributed to by:
- a. The toxic or pathological properties of lead, lead compounds or lead contained in any materials;
  - b. The actual or threatened abatement, mitigation, removal or disposal of lead, lead compounds or materials containing lead;
  - c. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with parts a. or b. above; or
  - d. Any obligation of the **Insured** to indemnify any party in connection with subparagraphs a. b. or c. above.
13. Cost or expense arising directly or indirectly out of, resulting from, caused by or contributed to by:
- a. Any **fungus(es)** or **spore(s)**;
  - b. Any solid, liquid, vapor, or gas produced by or arising out of any **fungus(es)** or **spore(s)**;
  - c. Any material, product, building component, or building structure that contains, harbors, nurtures or acts as a medium for any **fungus(es)** or **spore(s)**;
  - d. Any intrusion, leakage, or accumulation of water or any other liquid that contains, harbors, nurtures or acts as a medium for **fungus(es)** or **spore(s)**;

- e. The actual or threatened abatement, mitigation, removal or disposal of **fungus(es)** or **spore(s)** or any material, product, building component, or building structure that contains, harbors, nurtures or acts as a medium for any **fungus(es)** or **spore(s)**;
- f. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with subparagraphs a., b., c., d., or e. above; or
- g. Any obligation of the **Insured** to indemnify any party in connection with subparagraphs a., b., c., d., e., or f. above.

**Fungus(es)** includes, but is not limited to, any form or type of mold, mushroom or mildew.

**Spore(s)** include any reproductive body produced by or arising out of any **fungus(es)**.

- 14. Arising out of any **Insured's** campus security activities. This includes, but is not limited to:
  - a. **Loss** payable to or caused by any person while being apprehended, held in custody, or who has escaped from custody; and
  - b. The operation of detention or similar facilities.

This exclusion does not apply to **loss** arising out of any **employment wrongful act(s)**.

- 15. Arising out of the destruction, theft, conversion, or disappearance of money, securities or the loss of use thereof.
- 16. Arising directly or indirectly out of rendering or failure to render **professional services** (even if unpaid) by:
  - a. **You**;
  - b. Any **Insured**; or
  - c. Anyone else for whom **you** may be responsible.

- 17. Arising out of or related to any **claim** or other proceeding:
  - a. By or on behalf of any **Insured**, whether directly or derivatively, against any other **Insured**; or
  - b. By the spouse, child, parent, brother or sister of any **Insured** for consequential injury as a result of any injury to any **Insured**.

This exclusion does not apply to **loss** arising out of any **employment wrongful act(s)**.

- 18. For which the **Insured** is liable or alleged to be liable under any contract or agreement, including any expressed or implied employment contract or any collective bargaining agreement. This exclusion does not apply to **loss** that the **Insured** would have in the absence of the contract or agreement.
- 19. Arising directly or indirectly out of or related to construction, architectural, or engineering contracts or to any other contract for the purchase of goods or services.
- 20. Arising directly or indirectly out of:
  - a. Any tax assessments or adjustments;
  - b. The collection, refund, disbursement or application of any taxes; or
  - c. Failure to anticipate tax revenue shortfalls.

- 21. Arising out of any lockout, strike, picket line, replacement or other similar actions resulting from labor disputes or labor negotiations or any protections contained within the National Labor Relations Act.

- 22. Arising out of or in connection with any **claim(s)** for any salary, wages, or other employment related benefits which the **Insured** is liable to pay any employee by operation of the:
  - a. Fair Labor Standards Act (except the Equal Pay Act);
  - b. National Labor Relations Act;

- c. Workers Adjustment and Retaining Notification Act;
  - d. Consolidated Omnibus Budget Reconciliation Act of 1985;
  - e. Occupational Safety and Health Act; or
  - f. Other similar provisions of any federal, state or local statutory or common law or any rules or regulations promulgated under any such law.
23. Arising out of any investigation, **claim(s)**, or other proceeding seeking relief or redress in any form other than money damages, including but not limited to, costs, fees, or expenses which the **Insured** may become obligated to pay as a result of a consent decree, settlement or adverse judgment for declaratory relief or injunctive relief. This includes but is not limited to:
- a. Any failure to integrate or desegregate enrollment or participation in any educational or extracurricular program on the basis of race, ethnic background, or national origin;
  - b. The transportation of students to or from schools or extra-curricular events in connection with a program or plan of such integration or desegregation;
  - c. Causing or allowing enrollment or participation in any program to be operated or administered on a discriminatory basis because of race, ethnic background or national origin; or
  - d. The failure to provide an individualized education program or related facilities or services, including but not limited to, any cause of action under the Individuals with Disabilities Education Act, American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act or any similar federal, state or local law.
24. Arising directly or indirectly out of any law concerning workers compensation, unemployment insurance, social security, or disability benefits or any similar law.
25. Arising directly or indirectly out of the failure of any investment in any **employee benefit program**, including but not limited to stocks, bonds, or mutual funds, to perform as represented by an **Insured**.
26. Arising out of actual or alleged discrimination with respect to the **administration** of the **Insured's employee benefit program** including but not limited to discrimination based on race or national origin, religion or creed, age, sex, sexual orientation, handicap, pregnancy, physical disability, military status, or other employment practices whether or not any of the foregoing violated any federal, state or local governmental or regulation prohibiting such discrimination.
27. Arising out of **non-employment harassment**.
28. Cost or expense arising directly or indirectly out of, resulting from, caused by or contributed to by:
- a. **Silica, silica-related dust**, exposure to **silica** or the use of **silica**;
  - b. Any damages or any loss, cost or expense arising, in whole or in part, out of any
    - (1) Claim or suit by or on behalf of any governmental authority or any other alleged responsible party because of, or
    - (2) Request, demand, order or statutory or regulatory requirement that any insured or any other person or entity should be, or should be responsible for:
      - (a) Assessing the presence, absence or amount or effects of **silica** or **silica-related dust**;
      - (b) Identifying, sampling or testing for, detecting, monitoring, cleaning up, removing, containing, neutralizing, treating, detoxifying, remediating, neutralizing, abating, disposing of or mitigating **silica**; or
      - (c) Responding to **silica** or **silica-related dust** in any way other than as described in (2) (a) and (b) above;
  - c. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with subparagraphs a. or b. above; or
  - d. Any obligation of the **Insured** to indemnify or contribute with any party in connection with subparagraphs a., b., or c. above.

29. Cost or expenses arising directly or indirectly out of the loss of, loss of use of, damages to, corruption of, inability to access, or inability to manipulate **electronic data**.
  30. Arising out of the infringement of copyright, patent, trademark, trade dress, trade secret, service mark, slogan, or other intellectual property rights.
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## SECTION II - WHO IS AN INSURED

- A. **You** are an **Insured**.
  - B. Each of the following is an **Insured**:
    1. All persons who were, are now, or will be **your** Directors, Officers, Trustees, or any equivalent position.
    2. All of **your** current, former, or future employees, including full and part time faculty members including while such employees are serving as a member of a committee or representative to an education association of which **you** are a member.
    3. All persons who perform a service on a volunteer basis for **you**, provided such performance is under **your** direction and control. This does not include any person working on retainer or as an independent contractor.
    4. Student Organizations including those involved with radio, television and publishing, but only those organizations formally recognized by the **Named Insured** as student organizations.
    5. Students, but only with respect to liability arising out of service by the student as a teaching assistant, student teacher, or while serving in a supervised internship program in satisfaction of course requirements or while servicing or acting under the direction of an entity included as an **Insured** under this Coverage Part.
    6. The estate of any person in 1. through 5. above; and the spouse of any person in 1. through 5. above, but only to the extent that the spouse is involved in **claims** brought under this Coverage Part solely due to his/her status as a spouse.
  - C. Any **subsidiary** of the **Named Insured** will qualify as a **Named Insured** if there is no other similar insurance available to that organization. However:
    1. Coverage under this provision is afforded only until the 90th day after **you** acquire or form the **subsidiary** or the end of the policy period, whichever is earlier;
    2. Coverage does not apply to **bodily injury** or **personal injury** arising out of any **employment wrongful act(s)** committed before **you** acquired or formed the **subsidiary**; and
    3. Coverage does not apply to **wrongful act(s)** that take place before **you** acquired or formed the **subsidiary**.
  - D. No person, entity or organization is an **Insured** with respect to service on any board other than an education association of which **you** are a member.
  - E. No person, entity, or organization is an **Insured** with respect to the conduct of any current or past partnership or joint venture that is not shown as a **Named Insured** in the **Declarations Page**.
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## SECTION III - LIMIT(S) OF INSURANCE

- A. The **Limit(s) of Insurance** shown in **Item 3.** of the **Declarations Page** and the rules below fix the most **we** will indemnify the **Insured** under this Coverage Part regardless of the number of:
  1. **Insureds**;
  2. **Claims** made; or
  3. Persons or organizations making **claims**.
- B.
  1. The each **claim Limit of Insurance** is the most **we** will indemnify the **Insured** for **loss** under **Coverage Part B** for any single **claim**.

2. Subject to **B. 1.** above, the **Coverage Part B** Aggregate **Limit of Insurance** is the most we will indemnify the **Insured** for all loss for all covered **claims** deemed first made during the policy period.
  - C. The Coverage Part each **claim Limit of Insurance** and the Aggregate Limit apply to **loss** in excess of the **retained limit** shown on the **Declarations Page, Item 2., Schedule of Retained Limit(s), Coverage Part B,** and will not be reduced by the **retained limit**.
  - D. If any **occurrence** covered in whole or in part under **Coverage Part A** of this policy (or any preceding or succeeding policy issued by Genesis Insurance Company or Genesis Indemnity Insurance Company) also constitutes a **wrongful act(s)** covered in whole or in part under **Coverage Part B** of this policy (or any preceding or succeeding policy issued by Genesis Insurance Company or Genesis Indemnity Insurance Company), then only the Coverage Part with the higher limits for the each **occurrence (Coverage Part A)** or each **claim(s) (Coverage Part B) Limit(s) of Insurance** as listed on the **Declarations Page** or any Endorsement, and its corresponding **retained limit**, will apply. If the each **occurrence (Coverage Part A)** and the each **claim(s) (Coverage Part B) Limit(s) of Insurance** as listed on the **Declarations Page** or any Endorsement are equal, only one limit will still apply and it will be the each **occurrence (Coverage Part A) Limit(s) of Insurance** and its corresponding **retained limit**.
  - E. The **Limit(s) of Insurance** apply separately to each consecutive annual period, and to any remaining period of less than twelve (12) months, starting with the beginning of the policy period shown on the **Declarations Page**, unless the policy period is extended after issuance for an additional period of less than twelve (12) months. In that case, the additional period will be deemed part of the last preceding annual period for purposes of determining the **Limit(s) of Insurance**.
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#### SECTION IV - EXTENDED REPORTING PERIODS

- A. We will provide one or more **Extended Reporting Periods**, as described below, if:
  1. This Coverage Part is canceled or not renewed; or
  2. We renew or replace this Coverage Part with insurance that does not apply to **wrongful acts** on a claims-made basis.
- B. **Extended Reporting Periods** do not extend the Coverage Part period or change the scope of coverage provided. They apply only to **claim(s)** arising out of **wrongful act(s)**, including all **related wrongful act(s)**, that take place before the end of this Coverage Part's policy period.

Once in effect, **Extended Reporting Periods** cannot be canceled.

- C. A **Basic Extended Reporting Period** is automatically provided without additional charge. This period starts with the end of this Coverage Part's policy period, and lasts for 60 days.

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

- D. A **Supplemental Extended Reporting Period** of 3 years duration is available, but only by an endorsement and for an extra charge. This supplemental period starts when the **Basic Extended Reporting Period** ends.

You must give us a written request for this endorsement within 60 days after the end of the **Coverage Part B** policy period. The **Supplemental Extended Reporting Period** will not be effective unless you pay the additional premium in full within 15 days of the beginning of the start of the **Supplemental Extended Reporting Period**.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

1. The exposures insured;

2. Previous types and amounts of insurance;
3. The **Limit(s) of Insurance** available under this Coverage Part for future indemnification payments; and
4. Other related factors.

The additional premium will not exceed 100% of the most recent annual premium for this Coverage Part.

This endorsement will set forth the terms, not inconsistent with this Section, applicable to the **Supplemental Extended Reporting Period**, including a provision to the effect that the insurance afforded for **claims** first made during such period is excess over any other valid and collectible insurance available under policies in force after the **Supplemental Extended Reporting Period** starts.

- E. Extended Reporting Periods** do not reinstate or increase the **Limit(s) of Insurance** of this Coverage Part nor do they modify the handling of the **retained limit(s)**.

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## SECTION V - DEFINITIONS

**A. Administration** means:

1. Providing information to employees, including their dependents and beneficiaries, with respect to eligibility for any **employee benefit program**.
2. Handling of records in connection with the **employee benefit program**; or
3. Starting, effecting, continuing or terminating any employee participation in any benefit included in the **employee benefit program**, but this does not include the actual starting, effecting, continuing or terminating of such **employee benefit program** which will be deemed to be a fiduciary act provided that all such **administration** is performed by a person authorized by the **Insured**.

However, **administration** does not include handling payroll deductions.

**B. Advertising injury** means injury arising out of one or more of the following **offenses** committed in the course of advertising **your** goods, products or services:

1. Electronic or other publication, transmission, dissemination or storage of material that slanders or libels a person or organization or disparages a person's or organization's goods, products, or services;
2. Electronic or other publication, transmission, dissemination or storage of material that violates a person's right of privacy;
3. Misappropriation of advertising ideas or style of doing business; or
4. Infringement of another's copyright, trade dress or slogan in **your** advertisement.

**C. Bodily injury** means bodily injury, sickness, disease, shock, fright, mental injury or anguish, emotional distress, or disability sustained by a natural person, including death resulting from any of these at any time.

**D. Claim(s)** means an oral or written demand or notice received by an **Insured** containing an allegation of **wrongful act(s)** committed by, and seeking damages against, an **Insured**. **Claim(s)** will include civil proceedings, arbitration, other alternative dispute resolutions, or other legal proceedings. **Claim(s)** will also include a charge or complaint filed with the EEOC or its state or local equivalent containing an allegation of **employment wrongful act(s)** committed by an **Insured**. With the exception of such allegations of **employment wrongful act(s)**, **claim(s)** will not include:

1. Any complaint or investigatory or enforcement action by any federal, state or local governmental agency; or
2. Any labor or grievance arbitration that is subject to a collective bargaining agreement.

**E. Claim expenses** mean:

1. Claim investigation costs;
2. Legal expenses; or

3. Litigation costs, including but not limited to **pre-** and **post-judgment interest** as required by law on awards and judgments and the cost of bonds to release attachments or to appeal without any obligation to furnish such bonds;

which are reasonable in amount and can be directly allocated to the defense of an **Insured** against a specific **claim** to which this Coverage Part applies.

**Claim expenses** do not include salaries and expenses of any **Insured** (including affiliate or **subsidiaries** of any **Insured**), annual retainers, overhead, and any fees paid for claim administration.

- F. Coverage territory** means anywhere in the world if the **Insured's** responsibility to pay damages is determined in a civil, arbitration or other alternative dispute resolution proceeding brought in the United States of America (including its territories and possessions), Puerto Rico or Canada.
- G. Electronic data** means information, facts or programs stored as or on, created or used on, transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- H. Employee benefit program** means:
1. Group life insurance, employee assistance programs, group accident or health insurance, investment plans or savings plans, profit sharing plans, pension plans and stock subscription plans, provided that no one other than an employee of the **Insured** may subscribe to such insurance or plans; and
  2. Unemployment insurance, social security benefits, workers compensation and disability benefits.
- I. Employment-related harassment** means actual or alleged unwelcome or offensive verbal or physical conduct, including sexual molestation, against a present or former employee of, or an applicant for employment with, the **Named Insured**.
- J. Employment wrongful act(s)** means any actual or alleged error or misstatement or misleading statement, act or omission, neglect, negligence or breach of duty by an **Insured** against a present or former employee of, or an applicant for employment with, the **Named Insured**, including, but not limited to, refusal to employ, termination of employment, wrongful demotion, wrongful failure to promote, negative evaluation, hostile work environment, reassignment, wrongful discipline, defamation, humiliation, false arrest, false imprisonment, coercion, libel, slander, retaliation, invasion of privacy, failure to grant tenure, **employment-related harassment** or discrimination.
- K. Fungus(es)** includes, but is not limited to, any form or type of mold, mushroom or mildew.
- L. Loss** means the total amount of damages, including any punitive or exemplary damages when not against public policy and attorney fees awarded in favor of third parties, the **Insured** is legally obligated to pay because of a **wrongful act(s)**. **Loss** also includes related **claim expenses**, back pay, and front pay. **Loss** will be established after a contested **claim** or by a compromise settlement to which **we** have previously agreed in writing. **Loss** will be reduced by any recoveries or salvages which have been paid or collected.
- Loss** does not include the value of tuition, scholarships, taxes, fines, or criminal penalties. **Loss** does not include any damages, costs, or expenses incurred by any **Insured** associated with complying with grants of non-monetary relief including, but limited to making physical changes, modifications, alternations, or improvements as part of an accommodation or any cause of action of any person pursuant to the Individuals with Disabilities Education Act, American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act or any similar federal, state or local law.
- M. Non-employment harassment** means actual or alleged unwelcome or offensive verbal or physical conduct, including sexual molestation, against anyone other than a present or former employee of, or an applicant for employment with, the **Named Insured** and shall include any alleged failure to prevent such conduct.

- N. **Offense** means any of the **offenses** included in the definitions of **advertising injury** or **personal injury**.
- O. **Personal injury** means injury, other than **bodily injury**, arising out of one or more of the following **offenses** from the conduct of **your** operations:
1. False arrest, detention or imprisonment;
  2. Malicious prosecution;
  3. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
  4. Electronic or other publication, transmission, dissemination or storage of material that slanders or libels a person or organization or disparages a person's or organization's goods, products, or services; or
  5. Electronic or other publication, transmission, dissemination or storage of material that violates a person's right of privacy.
- P. **Pollutants** mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- Q. **Post-judgment interest** means interest of the full amount of any settlement, verdict, award or judgment that accrues after entry of the settlement, verdict, award or judgment and before **we** have paid, offered to pay, or deposited in court the part of the settlement, verdict, award or judgment that is within the applicable **Limit(s) of Insurance**.
- R. **Pre-judgment interest** means interest added to a settlement, verdict, award or judgment based on the amount of time prior to the settlement, verdict, award or judgment whether or not made part of the settlement, verdict, award or judgment.
- S. **Professional services** mean any service by anyone engaged in the practice of medicine, including but not limited to, physicians, surgeons, osteopaths, chiropractors, anesthesiologists, dentists, psychiatrists, psychologists, nurses, paramedics, emergency medical technicians, first-aid attendants or pharmacists.
- T. **Property damage** means:
1. Physical injury to tangible property, including all resulting loss of use of that property; or
  2. Loss of use of tangible property that has not been physically injured.
- U. **Related wrongful act(s)** will mean **wrongful act(s)** which have as a common nexus any fact, circumstance, situation, event, transaction or series of facts, circumstances, situations, events or transactions.
- V. **Retained limit** means the amount as shown in **Item 2, Coverage Part B** of the **Declarations Page, Schedule of Retained Limit**. This amount applies to each and every **claim(s)**, and:
1. Shall be comprised only of **loss**. The **Insured** shall be responsible for all **claim expenses** incurred without the right to indemnification in accordance with this Coverage Part's terms and conditions until the **retained limit** is exhausted as a result of **loss**;
  2. Shall not be impaired by any **claim(s)** or part of **claim(s)** brought against the **Insured** for coverages which are not included in the terms of this Coverage Part; and
  3. Payment of **retained limit** may not be satisfied by any other insurance or negated in whole or part by any form of immunity to judgment or liability.
- W. **Silica** means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
- X. **Silica-related dust** means a mixture or combination of silica and other dust or particles.
- Y. **Spore(s)** include any reproductive body produced by or arising out of any **fungus(es)**.

**Z. Subsidiary** means:

1. Any not-for-profit entity more than 50% owned by the **Named Insured** and/or one or more of its **subsidiaries**; and
2. Any for-profit entity for which **we**, at our sole discretion, agree by written endorsement to provide coverage upon such terms, and/or additional premium as **we** may require.

**AA. Wrongful act** means any actual or alleged error or misstatement or misleading statement, act or omission, neglect, negligence, or breach of duty by an **Insured** solely in the course of the **Insured's** duties for **you**. **Wrongful act** will also include such acts in the **administration** of an **employee benefit program** and **employment wrongful act(s)**.

SAMPLE