



REAL ESTATE LICENSEES ERRORS AND OMISSIONS POLICY

NOTICE

THIS INSURANCE IS WRITTEN ON A CLAIMS-MADE AND REPORTED BASIS. EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, COVERAGE UNDER THIS MASTER POLICY IS LIMITED TO LIABILITY ONLY FOR THOSE **CLAIMS** THAT ARE FIRST MADE AGAINST THE **INSURED** AND REPORTED TO THE COMPANY DURING THE **INDIVIDUAL POLICY PERIOD** OR ANY APPLICABLE EXTENDED REPORTING PERIOD. NO COVERAGE EXISTS FOR **CLAIMS** FIRST MADE AGAINST THE **INSURED** BEFORE THE BEGINNING OR AFTER THE END OF THE **INDIVIDUAL POLICY PERIOD**. PLEASE REVIEW THIS MASTER POLICY CAREFULLY AND DISCUSS THIS COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

INSURING AGREEMENT

I. COVERAGE

The Company will pay on behalf of the **Insured Damages** in excess of the Deductible as a result of a **Claim** which the **Insured** shall become legally obligated to pay by reason of a negligent act, error, or omission (including **Personal Injury**) in the performance of **Professional Services**, so long as the **Claim** is first made against the **Insured** during the **Individual Policy Period** and reported to the Company in writing during the **Individual Policy Period**, unless an Extended Reporting Period applies provided that:

- A. such negligent act, error, or omission (including **Personal Injury**) was committed or alleged to have been committed subsequent to the **Retroactive Date**; and
- B. prior to the inception date of the **Individual Policy Period** no **Insured** had a basis to believe that any such negligent act, error, or omission (including **Personal Injury**) or **Related Act, Error or Omission** might reasonably be expected to be the basis of an **Claim** against the **Insured**.

The Company has the right and duty to defend the **Insured** against any **Claim** seeking **Damages** covered by this policy. The Company has the right to select counsel, to make investigation of the circumstances of the **Claim**, and to make payments of judgments or settlements and **Claim Expenses** as the Company deems necessary. In the event a **Claim** is subject to arbitration or mediation, the Company is entitled to exercise all of the rights of the **Insured** in the choice of arbitrators or mediators and in the conduct of any arbitration or mediation proceeding. The Company has no duty to defend any **Claim** not covered by this policy.

The Company will not settle any **Claim** without the consent of the **Insured**, which consent shall not be unreasonably withheld. If the Company recommends a settlement to the **Insured** which is agreeable to the claimant and the **Insured** does not agree to settle, the Company's Limits of Liability are reduced to the total amount for which the **Claim** could have been settled. The maximum amount the Company will pay in the event of any later settlement or judgment is the amount for which the **Claim** could have been settled plus the amount of **Claim Expenses** incurred up to the time the Company made the recommendation.

II. LIMITS OF LIABILITY

The Company's Limits of Liability for the **Licensee** are as set forth in the Declarations. The Limits of Liability are excess of the Deductible. All other persons or organizations included under the definition of **Insured** share such Limits of Liability with the **Licensee**. The Limits of Liability apply regardless of the number of **Claims** made or the number of persons or organizations making **Claims** against the **Insured**. If **Related Claims** are subsequently made against the **Insured** and reported to the Company during this group policy or any renewal of this group policy, all such **Related Claims**, whenever made shall be considered a single **Claim** first made and reported to the Company within the **Individual Policy Period** in which the earliest of the **Related Claims** was first made and reported to the Company. If a **Claim** involves coverage issued to two or more **Licensees**, the amount paid by the Company on behalf of all **Insureds** under each **Licensee's** coverage, shall be prorated in relationship to the amount awarded against each such **Insured**, but in no event shall that amount paid by the Company for all **Insureds** under each **Licensee's** coverage exceed the per **Licensee** Limits of Liability shown on the Declarations.

- A. Subject to paragraphs B. through G. below, the Company's Limit of Liability for **Damages** for each



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**Claim** per **Licensee** shall not exceed Each **Claim** Limit stated in the Declarations.

- B. The Company's Limit of Liability for **Damages** for all **Claims** per **Licensee** shall not exceed the Aggregate Limit stated in the Declarations.
- C. The Company's Limit of Liability for **Damages** and **Claim Expenses** for each **Discrimination Claim** per **Licensee** shall not exceed the Each **Discrimination Claim** Limit stated in the Declarations. The Company's Limits of Liability for **Damages** and **Claim Expenses** for all **Discrimination Claims** per **Licensee** shall not exceed the Aggregate **Discrimination Claim** Limit set forth on the Declarations. **Damages** paid within the **Discrimination Claim** Sublimits of Liability are included within, and not in addition to the per **Claim** Limits of Liability and the Aggregate Limits of Liability under Item 3 of the Declarations.
- D. The Company's Limit of Liability for **Damages** for each **Lock Box Claim** per **Licensee** shall not exceed the Each **Lock Box Claim** Limit stated in the Declarations. The Company's Limits of Liability for **Damages** for all **Lock Box Claims** per **Licensee** shall not exceed the Aggregate **Lock Box Claim** Limit set forth on the Declarations. **Damages** paid within the **Lock Box Claim** Sublimits of Liability are included within, and not in addition to the per **Claim** Limits of Liability and the Aggregate Limits of Liability under Item 3 of the Declarations.
- E. Except with respect to a **Discrimination Claim**, **Claim Expenses** are in addition to the stated Limits of Liability.
- F. The Company's payment of the applicable Limits of Liability or Sublimits of Liability ends the Company's duties to defend, pay **Damages** and pay **Claim Expenses**.
- G. The Limits of Liability and Sublimits of Liability are not renewed or increased by virtue of the operation of the Automatic or Optional Extended Reporting Period.

### III. DEDUCTIBLE

The **Insured** shall pay the Deductible, as stated in Item 6 of the Declarations for each **Claim**. However, there is no Deductible for a **Lock Box Claim**. The Company's obligation to pay **Damages** begins only after the **Insured** has paid the Deductible. The Deductible applies to the payment of **Damages** only. The Company is obligated for amounts payable in excess of the Deductible up to the applicable Limits of Liability or Sublimits of Liability. The Company may pay any part or all of the Deductible to settle, defend or investigate a **Claim**. The **Insured** must promptly reimburse the Company any amount of the Deductible paid by the Company. In the event the **Insured** does not reimburse the Company within sixty (60) days, the Company will be entitled to recover reasonable costs and attorney fees incurred in collecting such reimbursement.

If a **Claim** involves two or more **Licensees** who are affiliated with the same **Real Estate Firm**, only one Deductible applies. However, the Deductible amount will be shared equally by all **Licensees** involved in the **Claim**. Payment of the Deductible is the joint and several liability of all **Insureds** but collection of the Deductible will be the responsibility of the **Real Estate Firm**.

### IV. SUPPLEMENTARY PAYMENTS

Payments made under this section are not subject to the Deductible and are in addition to the Limits of Liability. The Company will pay the following:

- A. Premiums on appeal bonds and bonds to release attachments. Premiums are limited to bonds no larger than the Company's remaining Limits of Liability or Sublimits of Liability applicable to the **Claim**. Obtaining the bond is not the Company's obligation.
- B. \$250 for each day the **Insured** attends a trial or hearing in a civil lawsuit covered under this policy; however, attendance must be at the Company's request. In no event shall the amount payable under this provision exceed \$5,000 Aggregate Limit during the **Individual Policy Period**. In addition, the \$5,000 limit is the maximum the Company will pay even if such trial or hearing spans more than one **Individual Policy Period**.
- C. Post-judgment interest on that portion of any judgment to which this insurance applies and which accrues after entry of the judgment and before the Company has paid, offered to pay or deposited, whether in court or otherwise, that part of the judgment for which the Company is responsible.



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- D. In the event the **Insured** receives a subpoena, the Company will retain counsel to represent the **Insured** in connection with the subpoena, provided that the following conditions are met:
1. the underlying lawsuit relates to **Professional Services** and does not involve **Professional Services** to which Exclusion J would apply;
  2. such **Professional Services** referred to in Item 1 above occurred subsequent to the **Licensee's Retroactive Date**;
  3. the **Insured** notifies the Company in accordance with the provisions of **Section XI. THE INSURED'S DUTIES IF THERE IS A CLAIM** and provides the Company with copies of the subpoena and underlying lawsuit;
  4. the **Insured** is not a party in the underlying lawsuit; and
  5. the **Insured** has never been retained to provide advice or testimony in connection with the underlying lawsuit.

Any written notice to the Company of a subpoena shall be deemed notification of a Circumstance under Section XIII THE INSURED'S DUTIES IN THE EVENT OF A CIRCUMSTANCE.

### V. TERRITORY

- A. Coverage applies to a **Licensee** domiciled in Nebraska performing **Professional Services** in Nebraska.
- B. If the **Licensee** is domiciled in the State of Nebraska, then this policy applies to **Professional Services** performed anywhere in the world, provided that:
1. the **Licensee** will be covered for **Professional Services** performed outside the State of Nebraska only if the **Licensee** is duly licensed in such jurisdiction and the services performed would require a license pursuant to the laws of Nebraska had the acts been performed in Nebraska; and
  2. the **Claim** arising out of the rendering of such **Professional Services** is brought within the United States of America, its territories or possessions.
- C. If the **Licensee** is not domiciled in the State of Nebraska, then this policy applies only to **Professional Services** performed in Nebraska. The **Claim** arising out of the rendering of such **Professional Services** must be brought within the United States of America, its territories or possessions.
- D. For purposes of this section, a **Licensee** who is not domiciled in the State of Nebraska shall be treated as domiciled in the State of Nebraska if the **Licensee's Principal Real Estate License** is affiliated with a real estate office located in the State of Nebraska and the **Licensee** resides within fifty (50) miles of the Nebraska State line.

### VI. EXCLUSIONS

This insurance does not apply to any **Claim** alleging, arising from or related to:

A. Fraudulent or Dishonest Acts

Fraudulent, dishonest, criminal or malicious acts committed by the **Insured**, at the **Insured's** direction or with the **Insured's** knowledge, or by anyone for whose acts the **Insured** is legally responsible, except for a **Claim** alleging, arising from or related to malicious prosecution;

B. Insolvency

the insolvency of the **Insured**;

C. Failure to Pay or Collect

the failure to pay, collect or return insurance premiums, escrow monies, earnest money deposits, security deposits, tax money or commissions;

D. Wrongful Termination

the wrongful termination of employment, breach of an employment contract, or other employment disputes;

E. Bodily Injury



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bodily injury, sickness, disease, mental anguish, pain or suffering, emotional distress or death of any person;

### F. Property Damage

physical injury to, destruction or loss of use of tangible property except that this exclusion shall not apply to a **Lock Box Claim** until the **Lock Box Claim** Sublimit of Liability has been exhausted;

### G. Unfair Competition

unfair competition, piracy, advertising injury or theft or wrongful taking of concepts or other intellectual property;

### H. Libel or Slander

libel, slander, defamation of character, disparagement, detention, humiliation, sexual harassment, false arrest or imprisonment, wrongful entry or eviction, violation of the right to privacy or malicious prosecution, personal injury or other invasion of rights to private occupancy; except that this exclusion shall not apply to a **Claim** alleging **Personal Injury** so long as such **Claim** does not allege, arise from, or relate to the advertising of the **Insured's** goods, products, or services;

### I. Discrimination

discrimination on the basis of race, color, creed, national origin, sex, religion, age, sexual preference, marital status, any mental or physical handicap or disease, or any other unlawful discrimination category, except that this exclusion shall not apply to a **Discrimination Claim** until the **Discrimination Claim** Sublimit of Liability has been exhausted;

### J. Owned Property

property:

1. developed or constructed by, or
2. more than 25% owned by, or
3. purchased or attempted to be purchased by

an **Insured** or by the spouse of an **Insured** or by any entity, corporation, partnership or trust in which the **Insured** or spouse of an **Insured** owns or controls more than 25% financial interest;

however, this exclusion does not apply to:

- (a) any **Claim** arising from the sale of property acquired by the **Insured** pursuant to a guaranteed sale listing contract. The guaranteed sale listing contract must be a written agreement between the **Insured** and the seller of a property in which the **Insured** agrees to purchase the property if it is not sold under the listing agreement in a specified time. For coverage to apply, the **Insured** must hold title to the property for less than one (1) year and must continually offer it for sale; or
- (b) the sale or listing of residential property which is the **Licensee's Primary Residence**, so long as it is not a For Sale By Owner sale or listing; or
- (c) the sale or listing of residential property which is not the **Licensee's Primary Residence** by an **Insured** who is the owner of such residential property for more than 180 days and all of the following conditions are met in connection with such sale:
  - (i) a written Home Inspection Report is issued by an inspector who is not related to or affiliated with the **Insured**;
  - (ii) a home warranty policy was purchased prior to closing;
  - (iii) a seller disclosure form was signed by the **Insured** who owns the property and acknowledged by the buyer prior to closing; and
  - (iv) a state or local board approved standard sales contract was utilized;

### K. Statutory Violations



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violation of the Employee Retirement Income Security Act of 1974, the Securities Act of 1933, the Securities Exchange Act of 1934 or any state Blue Sky or securities laws, or amendments thereto;

### L. Maintenance of Insurance

failure by an **Insured** to provide or maintain insurance;

### M. Specified Activities

the **Insured's** activities as:

1. a lawyer, title agent, mortgage banker, mortgage broker or correspondent, escrow agent, construction manager, property developer, or insurance agent; except that the "escrow agent" portion of this exclusion shall not apply to money held in a trust account, including down payments, earnest money deposits or other funds received by a real estate licensee in connection with a real estate transaction; or
2. as an appraiser, if the appraisal activity performed requires proper credentialing as required under the applicable state's laws regarding appraisal activities; except that this exclusion shall not apply if the **Insured** is properly credentialed as a Trainee, Registered, Licensed, Certified Residential, or Certified General Appraiser, under the applicable state's laws regarding appraisal activities.

### N. Real Estate Investment Trusts

activities involving property syndication, limited partnership or real estate investment trusts in which any **Insured** has, or had, a direct or indirect interest in the profits or losses;

### O. Contractual Liability

liability assumed by any **Insured** under any contract, indemnity agreement, purchase agreement, hold harmless clause or other similar agreement unless such liability would have attached to the **Insured** in the absence of such contract;

### P. Pollution/Mold/Fungi

whether suddenly or over a long period of time:

1. the actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, asbestos, radon or lead;
2. the actual or alleged failure to detect, disclose, report, test for, monitor, clean up, remove, contain, dispose of, treat, detoxify or neutralize, or in any way respond to, assess the effects of or advise of the existence of pollutants; or
3. any nuclear reaction, nuclear radiation or radioactive contamination, or any act, condition or pollution incidental to the foregoing.
4. the actual or alleged:
  - a. or threatened inhalation of, ingestion of, contact with, exposure to, existence of, growth or presence of; or
  - b. failure to detect, report, test for, monitor, clean-up, remove, contain, dispose of, treat, detoxify or neutralize, or in any way respond to, assess the effects of or advise of the existence of;

any **Fungi** or **Microbes**, or of any spores, mycotoxins, odors, or any other substances, products or byproducts produced by, released by, or arising out of the current or past presence of **Fungi** or **Microbes**.

This paragraph 4 applies regardless of any other cause or event that contributes concurrently or in any sequence to the **Damages** claimed.

As used in this Exclusion, pollution includes the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants. Pollutants include any solid liquid, gaseous, thermal, biological or radioactive substance, material or matter, toxin, irritant or contaminant, including but not limited to radon, asbestos, smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.



- Q. Expected or Intended  
injury or damage expected or intended by the **Insured**;
- R. Commission Disputes  
disputes over commissions between real estate brokers and/or salespersons or disputes over commissions involving lawsuits initiated by the **Insured**. This exclusion does not apply to disputes over commissions involving counterclaims filed with the approval of the Company.
- S. Prior Acts  
any acts, errors, or omissions (including **Personal Injuries**) committed or alleged to have been committed either (1) prior to the date the **Insured** received an active real estate license or (2) subsequent to the effective date of suspension, revocation, or inactive status of the **Insured's** real estate license;
- T. Fines and Penalties  
any fines, penalties, assessments, punitive damages, exemplary damages or multiplied damages, or matters deemed uninsurable under applicable law; or
- U. Conversion  
conversion, misappropriation, or commingling of funds or other property.

**VII. EXTENDED REPORTING PERIODS**

In case of cancellation or nonrenewal, a **Licensee** may be eligible for the following Extended Reporting Periods to apply, both subject to Paragraph C. below:

- A. Automatic Extended Reporting Period: In case of cancellation or nonrenewal because a **Licensee** retires, places license on inactive status or allows license to expire, the policy will apply to **Claims** first made against the **Insured** and reported to the Company up to ninety (90) days after the effective date of cancellation or nonrenewal. Said ninety (90) day period will be hereinafter referred to as the Automatic Extended Reporting Period.
- B. Optional Extended Reporting Period: In case of cancellation or nonrenewal for any reason, the **Licensee** shall have the option, upon payment of an additional premium within ninety (90) days after the effective date of the cancellation or nonrenewal, to cause the policy to apply to **Claims** first made against the **Insured** and reported to the Company during the Optional Extended Reporting Period. The Optional Extended Reporting Period will replace the Automatic Extended Reporting Period. The premium for the Optional Extended Reporting Period will be fully earned at the inception of the Optional Extended Reporting Period. The premium for the Optional Extended Reporting Period is determined as shown below:

| Optional Extended Reporting Periods | Premium |
|-------------------------------------|---------|
| Three Year                          | 200%    |
| Five Year                           | 300%    |

The Optional Extended Reporting Period cannot be canceled by the Company or the **Insured**.

- C. Coverage afforded by the Automatic and Optional Extended Reporting Periods:
  1. Shall apply solely to **Claims** arising from a negligent act, error, or omission (including **Personal Injury**):
    - (a) committed or alleged to have been committed subsequent to the **Retroactive Date**, and
    - (b) committed or alleged to have been committed prior to the effective date of cancellation or nonrenewal, and
    - (c) which are otherwise insured under all the other terms, conditions and exclusions of this policy.
  2. Shall not apply to any **Claim** which is insured by any other policy of insurance, nor as excess above such other policy of insurance.



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3. Nothing in Paragraphs A or B shall serve to increase the Limits of Liability or Sublimits of Liability as provided in Insuring Agreement II or the Supplementary Payments as provided in Section IV. The Limits of Liability and Sublimits of Liability for any Extended Reporting Period shall be a part of, and not in addition to, the Limits of Liability and Sublimits of Liability listed on the Declarations.

### VIII. DEFINITIONS

**Claim** means

1. a written demand for money or services received by the **Insured**, or
2. service of a lawsuit or institution of arbitration or mediation proceedings against the **Insured**;

seeking **Damages** alleging a negligent act, error, or omission (including **Personal Injury**) in the performance of **Professional Services**

**Claim Expenses** means:

1. fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of an **Claim**, if incurred by the Company or by the **Insured** with the Company's written consent,
2. fees charged by attorneys designated by the Company,

Costs, fees or expenses of employees or officials of the Company are not **Claim Expenses**. Nor shall **Claim Expenses** include salaries, loss of earnings or other remuneration by or to any **Insured**.

**Damages** means compensatory damages. **Damages** do not include fines; penalties; punitive, exemplary or multiplied damages; or matters deemed uninsurable under applicable law.

**Discrimination Claim** means a claim alleging violations of Title VIII of the Civil Rights Act of 1968, the Fair Housing Amendment Act of 1988, or any similar state or local law or ordinance in the performance or failure to perform **Professional Services**;

**Fungi** means any form of fungus including but not limited to yeast, mold, mildew, rust, smut, or mushroom.

**Group Policy Period** means the period set forth on the Declarations Item 2. The **Group Policy Period** may be shortened by cancellation.

**Individual Policy Period** means the period set forth in the Certificate of Coverage commencing with the date the **Licensee** obtained coverage under the current group policy by paying the appropriate premium and ending with the cancellation or expiration of the **Licensee's** coverage under the current group policy. The **Individual Policy Period** must be within the dates of the **Group Policy Period** shown on the Declarations.

**Insured** means the following:

1. the **Licensee**;
2. the **Unlicensed Employee**;
3. the heirs, executors, administrators, or assigns of the **Licensee** in the event of the **Licensee's** death, incapacity, or bankruptcy but only to the extent that such **Licensee** would have been provided coverage under this policy;

When this policy provides coverage for a **Claim** made against any of its **Insureds** listed in 1, 2 or 3 above, **Insured** will also mean:

4. any **Real Estate Firm** or real estate franchisor that the **Licensee** represents but only for its vicarious liability for the negligent acts, errors, or omissions (including **Personal Injury**) arising out of **Professional Services** by the **Licensee**.

**Licensee** means the person who holds an active real estate license issued by the Nebraska Real Estate Commission under the Nebraska Real Estate License Act and who has paid the required premium. **Licensee** also means a **Real Estate Firm** that is registered with the Nebraska Real Estate Commission and that has paid the required premium.



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**Lock Box Claim** means a **Claim** alleging property damage or loss of use of property resulting from such property damage in the distribution, operation, or use of a **Lock Box** on property not owned, occupied by, or leased to the **Insured**.

**Lock Box** means a device to allow authorized persons without a key to enter a locked door.

**Microbes** mean any non-fungal microorganism or non-fungal colony-form organism that causes infection or disease.

**Personal Injury** means any of the following:

1. False arrest, detention or imprisonment; or
2. Malicious prosecution; or
3. Eviction, wrongful entry, or invasion of the right of private occupancy by or on behalf of the property's owner, landlord or lessor; or
4. Oral or written publication of material that slanders, libels or disparages; or
5. Oral or written publication of material that violates a person's right of privacy.

**Policyholder** means the Nebraska Real Estate Commission.

**Primary Residence** means a residential property of two or fewer units which serves as the principle residence of the **Licensee**.

**Principal Real Estate License** means the state license under which the majority of the **Licensee's** real estate transactions are conducted.

**Professional Services** means:

1. services performed by the **Licensee** as a real estate broker or salesperson as defined in Nebraska Real Estate License Act and for which the **Licensee** is required to have a real estate license, including but not limited to leasing, giving a broker's price opinion, giving a comparative market analysis, and auctioning real estate;
2. **Property Management Services** performed by the **Licensee**;
3. services performed by the **Licensee** as an appraiser if the **Licensee** has the proper credentials required under the applicable state's laws regarding appraisal activities as a Trainee, Registered, Licensed, Certified Residential or Certified General Appraiser.
4. services performed or advice given by the **Licensee** as a real estate consultant, notary public, or escrow agent in connection with services as a **Licensee** in (1) (2), and (3) above.

**Property Management Services** are the following services provided in connection with the management of commercial or residential property:

1. development and implementation of management plans and budget;
2. oversight of physical maintenance of property;
3. solicitation, evaluation and securing of tenants and management of tenant relations, collection of rent and processing evictions;
4. development, implementation and management of loss control and risk management plans for real property;
5. solicitation and negotiation of contracts for sale and leasing of real property;
6. development, implementation and management of contracts and subcontracts, excluding property and liability insurance contracts necessary to the daily functioning of the property;
7. personnel administration; and
8. record keeping.

**Property Management Services** do not include **Renovation Services** or analysis or evaluations of, or recommendations concerning, environmental hazards, or exposures.



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**Real Estate Firm** means a legal entity with which brokers or salespersons, as defined in Nebraska Real Estate License Act, are affiliated and which employs the **Licensee**.

**Related Claims** means all **Claims** arising out of a single act, error, or omission (including **Personal Injury**) or arising out of **Related Acts, Errors or Omissions** in the rendering of **Professional Services**.

**Related Acts, Errors or Omissions** mean all acts, errors, omissions, including **Personal Injury** in the rendering of **Professional Services** that are temporally, logically or causally connected by any common fact, circumstance, situation, transaction, event, advice or decision.

**Renovation Services** are the following services provided in connection with the renovation and reconstruction of commercial or residential property:

1. management of facility renovation and reconstruction plans;
2. development and management of renovation and reconstruction contracts and subcontracts; and
3. development of loss control and risk management plans in connection with the reconstruction or renovation.

**Retroactive Date** is the date when the first real estate errors and omissions coverage was effective insuring the **Licensee** on a claims-made basis and since which time the **Licensee** has been continuously insured by coverage similar to that provided by this agreement. The **Retroactive Date** is established separately for each **Licensee**.

**Unlicensed Employee** means the support staff under the real estate **Licensee's** supervision and control who is assisting the **Licensee** in the performance of the **Licensee's Professional Services**, including the personal assistant, clerk, secretary, messenger and intern; but shall not include an owner, officer, director, or any other staff member who is not under the direct supervision of the **Licensee** or assisting the **Licensee** in the performance of the **Licensee's Professional Services**.

**IX. PREMIUM**

This coverage shall not be effective until and unless the application for coverage has been approved by the Company and the premium has been paid. Each **Insured's** premium shall be fully earned at the inception date of the policy unless the Company cancels the entire policy.

**X. AUDIT**

The Company may audit the **Insured's** records to determine the accuracy of pertinent information provided by the **Insured**. The Company will give reasonable notice to the **Insured** of such an audit. The audit will take place during the **Insured's** regular business hours.

**XI. THE INSURED'S DUTIES IF THERE IS A CLAIM**

A. The **Insured** shall give written notice by submitting a completed Notice of Claim Form to the Company as soon as possible after the **Claim** is first made but in no event more than ninety (90) days after the **Insured** becomes aware of such **Claim**. Such written notice shall include the name of the **Licensee** and shall include the time, place and details of the **Claim**. Notice shall be delivered to:

| <u><b>U.S. Mail Delivery</b></u> | <u><b>Overnight Delivery</b></u> | <u><b>Phone</b></u>             |
|----------------------------------|----------------------------------|---------------------------------|
| Claims Department                | Claims Department                | (502) 897-1876 Ext. 2           |
| P. O. Box 6709                   | 4211 Norbourne Boulevard         | Toll-Free (800) 637-7319 Ext. 2 |
| Louisville KY 40206-0709         | Louisville KY 40207-4048         | Fax: (502) 896-6343             |

B. The **Insured** shall not admit any liability, make any settlement, pay any **Damages** or assume any duty or obligation for any **Claim** without the prior written consent of the Company. The **Insured** shall not incur any **Claim Expenses** for any **Claim** without the prior written consent of the Company.

C. The **Insured** shall immediately forward to the Company every demand, notice, summons or other process received by the **Insured** or the **Insured's** representatives about any **Claim**.



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- D. The **Insured** shall cooperate with the Company and, at the Company's request, the **Insured** shall assist the Company in responding to the **Claim** and making settlements. The **Insured** shall attend hearings and trials and help in securing and giving evidence at the Company's request.

### XII. THE INSURED'S DUTIES IN THE EVENT OF A CIRCUMSTANCE

If during the Individual Policy Period, the **Insured** becomes aware of any act, error, omission, or **Personal Injury** that may reasonably be expected to be the basis of an **Claim** against the **Insured** and gives written notice to the Company of such act, error, omission, or **Personal Injury** and the reason for anticipating an **Claim** with full particulars, including but not limited to:

1. the specific act, error, omission, or **Personal Injury**;
2. the dates and persons involved;
3. the identity of the anticipated or possible claimants; and
4. the circumstances by which the **Insured** first became aware of the potential **Claim**, then any such **Claim** that arises out of such reported act, error, omission, or **Personal Injury** and that is subsequently made against the **Insured** and reported to the Company shall be deemed to have been made at the time such written notice was given to the Company.

### XIII. SUBROGATION

If the Company makes any payment under this policy, the Company shall receive all of the **Insured's** rights of recovery against any persons or organizations. The **Insured** shall assist the Company in whatever way is necessary to secure such rights. When a **Claim** is made, the **Insured** shall do nothing to thwart the Company's recovery of amounts paid to other parties who might be responsible for the **Claim**.

### XIV. CHANGES

The terms of this policy may not be waived or changed unless the Company issues an Endorsement. All Endorsements become a part of this policy upon the effective date of the Endorsement. The **Policyholder** or the **Licensee** and the Company may make changes in the terms of the policy upon mutual consent.

### XV. ACTION AGAINST THE COMPANY

The **Insured** may not bring a lawsuit against the Company unless the **Insured** has complied with all the terms and conditions of this policy. Nor shall an action lie against the Company until judgment or trial determines the **Insured's** responsibility to pay.

### XVI. BANKRUPTCY

Bankruptcy or insolvency of the **Insured** or the **Insured's** estate will not relieve the Company of its obligations under this policy.

### XVII. CANCELLATION

- A. The **Policyholder** may cancel this policy by giving, mailing or delivering the Company advance written notice of cancellation or surrendering the policy to the Company at least one hundred twenty days (120) days before the effective date of cancellation. If the **Policyholder** cancels the policy, it is responsible for notifying each **Licensee** of the effective date of cancellation.
- B. The Company may cancel this policy in accordance with the provisions of Nebraska Code § 44-522 only for one of the following reasons: (a) Nonpayment of premium; (b) The policy was obtained through a material misrepresentation; (c) Any **Insured** has submitted a fraudulent **Claim**; (d) Any **Insured** has violated any of the terms and conditions of the policy; (e) The risk originally accepted has substantially increased; (f) Certification to the Director of Insurance of loss of reinsurance by the insurer which provided coverage to the Company for all or a substantial part of the underlying risk insured; or (g) The determination by the director that the continuation of the policy could place the Company in violation of the insurance laws of this state. Notice of cancellation will state the effective date of cancellation. If notice is mailed, proof of mailing will be sufficient proof of notice. If the policy is canceled, the effective date of cancellation will become the end of the policy period. If the Company cancels the policy, the Company is responsible for notifying the **Policyholder** of the effective date of cancellation.



**XIII. NONRENEWAL**

If the Company elects not to renew this policy, it will give or mail to the **Policyholder** written notice of nonrenewal at least one hundred twenty (120) days before the expiration date of the policy. If the Company offers to renew this policy and the **Policyholder** does not accept the offer during the current policy period, this policy will expire at expiration date of the Policy.

**XIX. CONFORMITY TO STATUTES**

If applicable law is in conflict with this policy, the policy is amended to conform to that law.

**XX. OTHER INSURANCE**

This insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis, except when purchased specifically to apply in excess of this insurance. When both this insurance and other insurance apply to any **Claim**, whether primary, excess or contingent, the Company shall not be liable under this policy for a greater proportion of the **Damages** or **Claim Expenses** than the applicable Limits of Liability or Sublimits of Liability under this policy for such **Damages** bears to the total applicable Limits of Liability of all valid and collectible insurance against such **Claim**.

**XXI. LICENSE INACTIVE**

In the event a **Licensee's** license is placed on inactive status during a period in which the **Insured** has paid the applicable premium, the policy will remain in effect for the remainder of the **Individual Policy Period** as if the license had not been placed in inactive status, regardless of whether the license is re-activated, except that coverage will not be provided for acts, errors, omissions, or **Personal Injuries** of the **Insured** which occur during the period when the license was in an inactive status.

**XXII. AUTHORIZATION CLAUSE**

By accepting this policy, the **Insured** agrees that the statements in the application are the **Insured's** agreements and representations. The **Insured** agrees that these statements are true and correct as of the inception of this policy. This policy has been issued relying upon those statements and representations. The **Insured** agrees that the policy and application are the total agreement between the **Insured** and the Company or its agents.

**XXIII. TRANSFER**

This policy is not transferable.

IN WITNESS WHEREOF, we have caused this Policy to be executed by our Chairperson and Secretary, but this Policy shall not be binding upon us unless completed by the attachment of the Certificate of Coverage and executed by our duly authorized representative.

Chairperson

Secretary: