



**CONTINENTAL CASUALTY COMPANY**

(A stock insurance company, hereinafter called the "Company")

**Administrative Office:**

**P.O. Box 6709**

**Louisville, Kentucky 40206-0709**

**(502) 897-1876**

**(800) 637-7319**

**REAL ESTATE LICENSEES ERRORS AND OMISSIONS**

**DECLARATIONS**

**THIS IS A CLAIMS-MADE POLICY. PLEASE READ THIS POLICY CAREFULLY.**

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.

**Policy Number:** **12 EO 0009CO**

**ITEM 1. POLICYHOLDER:** The Colorado Real Estate Commission on behalf of its licensees who hold an active real estate license under the Colorado Real Estate License Act and who have paid the required premium  
1560 Broadway, Suite 925, Denver, CO 80202

**ITEM 2. GROUP POLICY PERIOD:** From January 1, 2012 To January 1, 2013 (12:01 A.M. Standard Time at the Address stated in Item 1)

**ITEM 3. LIMITS OF LIABILITY:** (a) \$100,000 per **Licensee** per **Claim**  
(b) \$300,000 Aggregate per **Licensee**

**ITEM 4. SUBLIMIT LOCK BOX CLAIM:** (a) \$100,000 per **Licensee** per **Claim**  
(b) \$300,000 Aggregate per **Licensee**

**ITEM 5. SUBLIMIT DISCRIMINATION CLAIM:** (a) \$30,000 per **Licensee** per **Claim (Damages & Claims Expenses)**  
(b) \$30,000 Aggregate per **Licensee**

**ITEM 6. SUBLIMIT ESCROW CLAIM:** (a) \$10,000 per **Licensee** per **Claim (Damages & Claims Expenses)**  
(b) \$25,000 Aggregate per **Licensee**

**ITEM 7. DEDUCTIBLES:**  
**DAMAGES:** \$ 1,000 each **Claim**  
**CLAIM EXPENSES:** \$ None each **Claim**

**ITEM 8. PREMIUM:** \$243 per year per **Licensee**

**ITEM 9. RETROACTIVE DATE:** As determined for each **Insured** according to the policy

**ITEM 10. OPTIONAL EXTENDED REPORTING ADDITIONAL PREMIUM:** One Year is 100% expiring premium (\$243 plus any applicable endorsement premium); Two Years is 150% expiring premium (\$364.50 plus any applicable endorsement premium); Three Years is 200% expiring premium (\$486 plus any applicable endorsement premium).

The Declarations and the forms listed and attached hereto, together with the completed and signed application shall constitute the contract between the **Insured** and the Company.

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
1/1/2012  
Date

# 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 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 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, or **Related Negligent Act, Error or Omission** might reasonably be expected to be the basis of a **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 make investigation of the circumstances of the **Claim** and to make payments of judgments or settlements and **Claim Expenses** as the Company deems necessary. The Company and the **Licensee** shall mutually agree on the appointment of counsel to investigate and to defend any **Claim** subject to the written permission of the Company. Either party's agreement to defense counsel shall not be unreasonably withheld.

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

- B. The Declarations sets forth the Company's Limits of Liability for the **Licensee**. 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. The amount paid by the Company on behalf of all **Insureds** under each **Licensees'** 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 **Licensees'** coverage

exceed the per **Licensee** Limits of Liability shown on the Declarations.

- A. Subject to paragraphs B through H below, the Company's Limits of Liability for **Damages** for each **Claim** per **Licensee** shall not exceed the 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** and **Claim Expenses** for each **Escrow Claim** per **Licensee** shall not exceed the Each **Escrow Claim** Limit stated in the Declarations. The Company's Limits of Liability for **Damages** and **Claim Expenses** for all **Escrow Claims** per **Licensee** shall not exceed the Aggregate **Escrow Claim** Limit set forth on the Declarations. **Damages** paid within the **Escrow 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. 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.
- F. Except with respect to a **Discrimination Claim** and **Escrow Claim**, **Claim Expenses** are in addition to the Limits of Liability. The Company will not pay **Claim Expenses** in connection with covered **Discrimination Claims**, **Escrow Claims**, or **Lock Box Claims** after the applicable Sublimits of Liability have been exhausted.
- G. 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**.
- H. 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 7 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 60 (sixty) 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. Postjudgment 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.

#### V. TERRITORY

- A. Coverage applies to a **Licensee** domiciled in Colorado performing **Professional Services** in Colorado.
- B. If the **Licensee** is domiciled in the State of Colorado, 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 Colorado only if the **Licensee** is duly licensed in such jurisdiction and the services performed would require a license pursuant to the laws of Colorado had the acts been performed in Colorado; 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 Colorado, then this policy applies only to **Professional Services** performed in Colorado. 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 Colorado shall be treated as domiciled in the State of Colorado if the **Licensee's Principal Real Estate License** is affiliated with a real estate office located in the State of Colorado and the **Licensee** resides within fifty (50) miles of the Colorado 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;

- 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; except that this Exclusion shall not apply to an **Escrow Claim** until the **Escrow Claim** Sublimits of Liability have been exhausted;

D. Wrongful Termination

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

E. Bodily Injury

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;

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 does 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 10% 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 10% 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) transactions in which:
  - (i) the property is listed by an **Insured** who is not the property owner, builder or developer, and
  - (ii) the property is advertised, marketed, and promoted by an **Insured** who is not the property owner, builder or developer, and
  - (iii) all **Professional Services** related to the transaction, including the sale or closing on the property, are conducted by an **Insured** who is not the property owner, builder or developer, and
  - (iv) the transaction would otherwise be covered by this policy; or

(c) the sale or listing of residential property which is the **Licensee's Primary Residence**, so long as the sale or listing is performed under the **Licensee's** real estate license and supervised by the employing broker or firm;

K. Statutory Violations

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 this Exclusion shall not apply to an **Escrow Claim** until the **Escrow Claim** Sublimits of Liability have been exhausted;
2. an appraiser, if the appraisal activity performed requires licensing or certification other than a real estate license;
3. a property manager which do not require a real estate license.

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**.

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.

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

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 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:

<u>Optional Extended Reporting Periods</u>	<u>Premium</u>
One Year	100%
Two Years	150%
Three Years	200%

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:
  - (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.
3. Nothing in Paragraphs A or B shall serve to increase the Limits of Liability or Sublimits of Liability as provided in Insuring Agreement, Section 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** and alleging a negligent act, error or omission in the performance or failure to perform **Professional Services**.

**Claim Expenses** means:

1. fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **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**.

**Escrow Claim** means a **Claim** alleging the **Insured's** failure to pay, collect, or return escrow monies or earnest money deposits in connection with the **Licensee's Professional Services**; provided that: (i) such **Insured** has met the requirements of the Colorado Real Estate License Law governing client funds and (ii) such funds are held separate from the **Insured's** funds.

**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 in Item 2 of the Declarations. 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 arising out of **Professional Services** by the **Licensee**.

**Licensee** means the person who holds an active real estate license issued by the **Policyholder** under the Colorado Real Estate License Law and who has paid the required premium.

**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.

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

**Primary Residence** means a residential property of two or fewer units which serves as the principal 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 services performed by the **Licensee** as a real estate broker or salesperson as defined in Colorado Real Estate License Law and for which the **Licensee** is required to have a real estate license.

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

**Related Claims** means all **Claims** arising out of a single negligent act, error or omission or arising out of **Related Negligent Acts, Errors or Omissions** in the rendering of **Professional Services**.

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

**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 **Licensee's** supervision and control but only while 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:

- (i) an owner, officer, director, or
- (ii) 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 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.S. Mail Delivery:**  
Claims Department  
P. O. Box 6709  
Louisville KY 40206-0709

**Overnight Delivery:**  
Claims Department  
4211 Norbourne Boulevard  
Louisville KY 40207-4048

**Phone**  
(502) 897-1876 Ext. 2  
(800) 637-7319 Ext. 2  
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**.

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 negligent act, error, or omission that may reasonably be expected to be the basis of a **Claim** against the **Insured** and gives written notice to the Company of such negligent act, error, omission and the reason for anticipating a **Claim** with full particulars, including but not limited to:

- a. the specific act, error, or omission;
- b. the dates and persons involved;
- c. the identity of the anticipated or possible claimants;
- d. the circumstances by which the **Insured** first became aware of the potential **Claim**;

then any **Claim** arising out of such reported act, error, or omission and that is subsequently made against the **Insured** and reported to the Company shall be deemed to have been made at the time 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. The **Policyholder** 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 by mailing notice of the intention to cancel accompanied by the reasons therefor to the **Policyholder** by first-class mail at the last address shown in the Company's records in accordance with the provisions of Colorado Code §10-4-109.7 at least ninety days (90 days), (except that only ten days (10 days) notice is required where cancellation is for nonpayment of premium) if based on one or more of the following reasons: (1) Nonpayment of premium; or (2) in the event the **Licensee's** license is revoked.

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 **Policyholder** is responsible for notifying the **Licensee** of the effective date of cancellation.

## **XVIII. NONRENEWAL**

If the Company elects not to renew this policy, it will give, mail or deliver to the **Policyholder** written notice of nonrenewal at least one hundred twenty (120) days before the 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 **Claims**.

## **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 or omissions 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 Thomas F. Motamed

Secretary John M. White

SAMPLE

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ECONOMIC AND TRADE SANCTIONS CONDITION**

The following condition is added to the Policy:

### **ECONOMIC AND TRADE SANCTIONS CONDITION**

In accordance with laws and regulations of the United States concerning economic and trade embargoes, this policy is void from its inception with respect to any term or condition of this policy that violates any laws or regulations of the United States concerning economic and trade embargoes including, but not limited to the following:

1. Any insured under this Policy, or any person or entity claiming the benefits of such insured, who is or becomes a Specially Designated National or Blocked Person or who is otherwise subject to U.S. economic or trade sanctions;
2. Any claim or suit that is brought in a Sanctioned Country or by a Sanctioned Country Government, where any action in connection with such claim or suit is prohibited by U.S. economic or trade sanctions;
3. Any claim or suit that is brought by any Specially Designated National or Blocked Person or any person or entity who is otherwise subject to U.S. economic or trade sanctions;
4. Property that is located in a Sanctioned Country or that is owned by, rented to or in the care, custody or control of a Sanctioned Country Government, where any activities related to such property are prohibited by U.S. economic or trade sanctions; or
5. Property that is owned by, rented to or in the care, custody or control of a Specially Designated National or Blocked Person, or any person or entity who is otherwise subject to U.S. economic or trade sanctions.

As used in this endorsement a Specially Designated National or Blocked Person is any person or entity that is on the list of Specially Designated Nationals and Blocked Persons issued by the U.S. Treasury Department's Office of Foreign Asset Control (O.F.A.C.) as it may be from time to time amended.

As used in this endorsement a Sanctioned Country is any country that is the subject of trade or economic embargoes imposed by the laws or regulations of the United States of America.

**PROFESSIONAL LIABILITY INSURANCE ENDORSEMENT**

**POLICYHOLDER NOTICE - COLORADO**

**IMPORTANT NOTICE TO POLICYHOLDERS**

**COLORADO DISCLOSURE FORM  
CLAIMS - MADE POLICY**

**THIS DISCLOSURE FORM IS NOT YOUR POLICY. IT DESCRIBES SOME OF THE MAJOR FEATURES OF OUR CLAIMS - MADE POLICY FORM. READ YOUR POLICY CAREFULLY TO DETERMINE RIGHTS, DUTIES, AND WHAT IS AND IS NOT COVERED. ONLY THE PROVISIONS OF YOUR POLICY DETERMINE THE SCOPE OF YOUR INSURANCE PROTECTION.**

**DEFINITIONS**

1. 'Claims Made coverage' means an insurance policy that provides coverage only if a claim is made during the policy period or any applicable extended reporting period. A claim made during the policy period could be charged against a claims - made policy even if the injury or loss occurred many years prior to the policy period. If a claims - made policy has a retroactive date, an occurrence prior to that date is not covered.
2. 'Extended Reporting Period' means a period allowing for making claims after expiration of a claims - made policy. This is also known as a 'tail'.
3. 'Occurrence coverage' means an insurance policy that provides liability coverage only for injury or damage that occurs during the policy term, regardless of when the claim is actually made. A claim made in the current policy year could be charged against a prior policy year, or may not be covered, if it arises from an occurrence prior to the effective date.
4. 'Retroactive Date' means the date on a claims - made policy which denotes the commencement date of coverage under this policy.

**YOUR POLICY**

Your policy is a claims - made policy. It provides coverage only for injury or damage occurring after the policy retroactive date (if any) shown on your policy and the incident is reported to your insurer prior to the end of the policy period. Upon termination of your claims - made policy an extended reporting period option is available from your insurer.

There is no difference in the kind of injury or damage covered by occurrence or claims - made policies. Claims for damages may be assigned to different policy periods, depending on which type of policy you have.

If you make a claim under your claims - made policy, the claim must be a demand for damages by an injured party and does not have to be in writing. Under most circumstances, a claim is considered made when it is received and recorded by you or by us. Sometimes, a claim may be deemed made at an earlier time. This can happen when another claim for the same injury or damage has already been made, or when the claims is received and recorded during an extended reporting period.

## PROFESSIONAL LIABILITY INSURANCE ENDORSEMENT

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### PRINCIPAL BENEFITS

This policy provides for claims - made coverage up to the maximum dollar limit specified in the policy.

The principal benefits and coverages are explained in detail in your claims - made policy. Please read it carefully and consult your insurance producer about any questions you might have.

### EXCEPTIONS, REDUCTIONS AND LIMITATIONS

Your claims - made policy contains certain exceptions, reductions and limitations. Please read them carefully and consult your insurance producer about any questions you might have.

### RENEWALS AND EXTENDED REPORTING PERIODS

Your claims - made policy has some unique features relating to renewal, extended reporting periods and coverage for events with long periods of potential liability exposure.

If there is a retroactive date in your policy, no event or occurrence prior to that date will be covered under the policy even if reported during the policy period. It is therefore important for you to be certain that there are no gaps in your insurance coverage. These gaps can occur in several ways. Among the most common are:

1. If you switch from an occurrence policy to a claims - made policy, the retroactive date in your claims - made policy should be no later than the expiration date of the occurrence policy.
2. When replacing a claims - made policy with a claims - made policy, you should consider the following:
  - a. The retroactive date in the replacement policy should extend far enough back in time to cover any events with long periods of liability exposure, or
  - b. If the retroactive date in the replacement policy does not extend far enough back in time to cover events with long periods of liability exposure, you should consider purchasing extended reporting period coverage under the old claims - made policy.
3. If you replace this claims - made policy with an occurrence policy, you may not have insurance coverage for a claim arising during the period of claims - made coverage unless you have purchased an extended reporting period under the claims - made policy. Extended reporting period coverage must be offered to you by law for a least one year after the expiration of the claims - made policy at a premium not to exceed 200% of your last policy premium.

**CAREFULLY REVIEW YOUR POLICY REGARDING THE AVAILABLE EXTENDED REPORTING PERIOD COVERAGE, INCLUDING THE LENGTH OF COVERAGE, THE PRICE AND THE TIME PERIOD DURING WHICH YOU MUST PURCHASE OR ACCEPT ANY OFFER FOR EXTENDED REPORTING PERIOD COVERAGE.**

# ENDORSEMENT

The following spaces preceded by an asterisk(\*) need not be completed if this endorsement and the policy have the same inception date.

ATTACHED TO AND FORMING PART OF POLICY NUMBER 12 EO 0009CO	*EFFECTIVE DATE OF ENDORSEMENT 1/1/2012 – 1/1/2013	ISSUED TO The Colorado Real Estate Commission on behalf of its licensees who hold an active real estate license under the Colorado Real Estate License Act and who have paid the required premium
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**This Endorsement Changes The Policy. Please Read It Carefully.**

## LIMITED CLAIM EXPENSES COVERAGE REAL ESTATE REGULATORY COMPLAINTS ENDORSEMENT

In consideration of the additional premium paid to the Company, it is understood and agreed that Section IV., Supplementary Payments is amended by the addition of the following new paragraph:

The Company will pay a maximum of \$2,500 with respect to all **Claim Expenses** incurred in the handling of a complaint to a real estate regulatory board or commission as long as the complaint arises from an act, error or omission that would otherwise be covered by the policy. The Company, however, shall not pay any **Damages** arising from such complaints. The maximum amount payable during the **Individual Policy Period** for **Claim Expenses** pursuant to this Endorsement shall not exceed \$5,000 even if such complaint spans more than one **Individual Policy Period**.

All other provisions of the policy remain unchanged.

## SUBPOENA ASSISTANCE ENDORSEMENT

In consideration of the premium paid to the Company, it is understood and agreed that Section **IV. SUPPLEMENTARY PAYMENTS** is amended by the addition of the following new paragraph:

In the event the **Insured** receives a subpoena and the **Insured** would like the Company's assistance in responding to the subpoena, the Company will retain counsel to represent the **Insured** in connection with the subpoena, provided that:

1. The **Insured** notifies the Company and provides a copy of the subpoena within 20 days of receipt of such subpoena;
2. the subpoena arises out of **Professional Services**;
3. the **Professional Services** occurred after the **Licensee's Retroactive Date**;
4. the underlying lawsuit relates to **Professional Services** and does not involve **Professional Services** to which Exclusion J would apply;
5. the subpoena arises out of a lawsuit to which the **Insured** is not a party; and
6. the **Insured** has never been engaged to provide advice or testimony in connection with the lawsuit.

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

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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GSL51122CO (11-11)

Policy No: **12 EO 0009CO**

Endorsement No: 4

Effective Date: 1/1/2012 – 1/1/2013

Policyholder: The Colorado Real Estate Commission on behalf of its licensees who hold an active real estate license under the Colorado Real Estate License Act and who have paid the required premium