



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

Administrative Office:
Post Office 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.

NOTICE: THIS IS A CLAIMS-MADE-AND-REPORTED POLICY. EXCEPT AS MAY BE OTHERWISE PROVIDED HEREIN, THIS COVERAGE IS LIMITED TO LIABILITY FOR ONLY THOSE **CLAIMS** WHICH ARE FIRST MADE AGAINST THE **INSURED** AND REPORTED TO THE COMPANY WHILE THE POLICY IS IN FORCE.

- POLICY NUMBER:** 19 EO 0002AK
- ITEM 1. POLICYHOLDER:** The Alaska Real Estate Commission on behalf of its **Licensees** who hold an active real estate license under Alaska Statute AS 08.88 and who have paid the required premium.
550 W. 7th Avenue, Suite 15000, Anchorage, AK 99501-3567
- ITEM 2. GROUP POLICY PERIOD:** From January 1, 2019 to January 1, 2020
(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 (Damages)**
(b) \$300,000 Aggregate all **Claims** per **Licensee (Damages)**
- ITEM 4a. SUBLIMITS DISCRIMINATION CLAIM:** (a) \$5,000 per **Licensee** per **Discrimination Claim (Damages & Claim Expenses)**
(b) \$10,000 Aggregate all **Discrimination Claims** per **Licensee (Damages & Claim Expenses)**
- ITEM 4b. SUBLIMITS ENVIRONMENTAL CLAIM:** (a) \$5,000 per **Licensee** per **Environmental Claim (Damages & Claim Expenses)**
(b) \$10,000 Aggregate all **Environmental Claims** per **Licensee (Damages & Claim Expenses)**
- ITEM 4c. SUBLIMITS ESCROW CLAIM:** (a) \$5,000 per **Licensee** per **Escrow Claim (Damages & Claim Expenses)**
(b) \$10,000 Aggregate all **Escrow Claims** per **Licensee (Damages & Claim Expenses)**
- ITEM 5. DEDUCTIBLE:**
DAMAGES \$2,500 each **Claim**
CLAIMS EXPENSES None each **Claim**
- ITEM 6. PREMIUM:** \$450 per year per **Licensee**
- ITEM 7. RETROACTIVE DATE:** As determined for each **Insured** according to the policy

This insurance does not apply to any **Claim** made against the **Insured** based upon, arising out of, or attributable to any negligent act, error, or omission or **Discriminatory Conduct** committed or alleged to have been committed before the **Retroactive Date** listed above.
- ITEM 8. OPTIONAL EXTENDED REPORTING ADDITIONAL PREMIUM:** One Year is 100% expiring premium (\$450, plus any applicable endorsement premium); two years is 150% expiring premium (\$675, plus any applicable endorsement premium); three years is 200% expiring premium (\$900, plus any applicable endorsement premium); five years is 300% expiring premium (\$1,350, 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

1/1/19

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.

UNLESS THE COMPANY RECEIVES ADDITIONAL PREMIUM FOR AND ISSUES AN EXPANDED DEFINITION OF PROFESSIONAL SERVICES ENDORSEMENT TO THE **LICENSEE**, COVERAGE UNDER THIS MASTER POLICY IS LIMITED TO **CLAIMS** ARISING FROM OR RELATED TO **RESIDENTIAL SALES**.

INSURING AGREEMENT

I. COVERAGE

The Company will pay on the **Insured's** behalf **Damages**, in excess of the Deductible, which the **Insured** becomes legally obligated to pay as a result of or by reason of a **Claim**, 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. the negligent act, error, or omission giving rise to the **Claim** was committed or alleged to have been committed after 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 until the applicable Limits of Liability or Sublimits of Liability are exhausted. The Company has the right to select counsel; investigate the circumstances of the **Claim**; and pay judgments, 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 **Insured's** rights 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, then the Company's applicable Limits of Liability or Sublimits 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, less any applicable deductible.

II. LIMITS OF LIABILITY

The Declarations sets forth the Company's Limits of Liability and Sublimits of Liability for the **Licensee**. The Limits of Liability and Sublimits of Liability are in excess of the Deductible. All other persons or organizations included under the definition of **Insured** share such Limits of Liability and Sublimits of Liability with the **Licensee**. The Limits of Liability or Sublimits of Liability apply regardless of the number of **Claims**

made or the number of persons or organizations making **Claims**. If **Related Claims** are subsequently made against any **Insured** and reported to the Company during this group policy or any renewal of this group policy issued by the Company, all such **Related Claims**, whenever made, shall be considered a single **Claim** first made within the **Individual Policy Period** in which the earliest of the **Related Claims** was first made.

- A. Subject to the paragraphs below, the Company's Limits of Liability for **Damages** for each **Claim** per **Licensee** shall not exceed the per **Licensee** per **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 all **Claims** per **Licensee** Limit stated in the Declarations.
- C. The Company's Sublimit of Liability for **Damages** and **Claim Expenses** for each **Discrimination Claim** per **Licensee** shall not exceed the per **Licensee** per **Discrimination Claim** Sublimit stated in the Declarations. The Company's Sublimit of Liability for **Damages** and **Claim Expenses** for all **Discrimination Claims** per **Licensee** shall not exceed the Aggregate all **Discrimination Claims** per **Licensee** Sublimit set forth on the Declarations. **Damages** paid within the **Discrimination Claim** Sublimits of Liability are included within, and not in addition to, the per **Licensee** per **Claim** Limit of Liability and the Aggregate all **Claims** per **Licensee** Limit of Liability under Item 3 of the Declarations.
- D. The Company's Sublimit of Liability for **Damages** and **Claim Expenses** for each **Environmental Claim** per **Licensee** shall not exceed the per **Licensee** per **Environmental Claim** Sublimit stated in the Declarations. The Company's Sublimit of Liability for **Damages** and **Claim Expenses** for all **Environmental Claims** per **Licensee** shall not exceed the Aggregate all **Environmental Claims** per **Licensee** Sublimit set forth on the Declarations. **Damages** paid within the **Environmental Claim** Sublimits of Liability are included within, and not in addition to, the per **Licensee** per **Claim** Limit of Liability and the Aggregate all **Claims** per **Licensee** Limit of Liability under Item 3 of the Declarations.
- E. The Company's Sublimit of Liability for **Damages** and **Claim Expenses** for each **Escrow Claim** per **Licensee** shall not exceed the per **Licensee** per **Escrow Claim** Sublimit stated in the Declarations. The Company's Sublimit of Liability for **Damages** and **Claim Expenses** for all **Escrow Claims** per **Licensee** shall not exceed the Aggregate all **Escrow Claims** per **Licensee** Sublimit set forth on the Declarations. **Damages** paid within the **Escrow Claim** Sublimits of Liability are included within, and not in addition to, the per **Licensee** per **Claim** Limit of Liability and the Aggregate all **Claims** per **Licensee** Limit of Liability under Item 3 of the Declarations.
- F. Except with respect to a **Discrimination Claim**, **Environmental Claim**, and **Escrow Claim**, **Claim Expenses** are in addition to the Limits of Liability. The Company will not pay **Claim Expenses** in connection with a **Discrimination Claim**, **Environmental Claim**, or **Escrow Claim** after the applicable Sublimits of Liability have been exhausted. 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 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 the amount paid by the Company for all **Insureds** under each **Licensee's** coverage exceed the applicable per **Licensee** Limits of Liability or Sublimits of Liability shown on the Declarations.
- H. Neither the Limits of Liability nor Sublimits of Liability are 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 the Declarations, for each **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 may pay any part or all of the Deductible to settle, defend, or investigate a **Claim**. In such case, 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 **Insureds** or licensees who were affiliated with the same **Real Estate Firm** at the time of the **Professional Services** giving rise to the **Claim**, only one Deductible applies. The Deductible amount will be shared equally by all such persons, who are all jointly and severally liable for payment of the Deductible.

IV. SUPPLEMENTARY PAYMENTS

Payments made under this section are not subject to the Deductible. In addition to the Limits of Liability and Sublimits 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 applicable Limits of Liability or Sublimits of Liability. 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 a \$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.
- D. If the **Insured** receives a subpoena for documents or testimony arising out of **Professional Services** and would like the Company's assistance in responding to the subpoena, the Company will retain an attorney to provide advice regarding the production of documents, to prepare the **Insured** for sworn testimony, and to represent the **Insured** at the **Insured's** deposition and while providing trial testimony pursuant to the subpoena, provided that:
 1. the **Insured** first receives the subpoena during the **Individual Policy Period** or any applicable Extended Reporting Period;
 2. the **Professional Services** occurred after the **Licensee's Retroactive Date** and before the effective date of cancellation or nonrenewal of the **Individual Policy Period**;
 3. the **Professional Services** are not the subject of a **Claim** that is not covered under this policy;
 4. the subpoena does not arise from **Professional Services** to which Exclusion J or Exclusion K would apply;
 5. the subpoena arises out of a lawsuit to which the **Insured** is not a party; and
 6. the **Insured** has not been engaged to provide advice or testimony in connection with the lawsuit, nor has the **Insured** provided such advice or testimony in the past.

It is further provided that the **Insured** shall have the following duties under this Supplemental Payment:

1. The **Insured** shall give the Company written notice of the subpoena by any of the methods listed in Section XI. THE INSURED'S DUTIES IF THERE IS A CLAIM within the **Individual Policy Period** or any applicable Extended Reporting Period, but no more than twenty (20) days after the **Insured** first becomes aware of such subpoena.
2. The **Insured** shall cooperate with the Company and, at the Company's request, the **Insured** shall assist the Company in responding to the subpoena. The **Insured** shall attend depositions and help in securing and giving evidence at the Company's request.

Any written notice to the Company of a subpoena shall be deemed notification of a circumstance under Section XII. CIRCUMSTANCE REPORTING.

The amount payable under this provision shall be subject to a \$2,500 Aggregate Limit, regardless of the number of subpoenas. All subpoenas involving the same **Professional Services**; the same negligent act, error, or omission; or **Related Negligent Acts, Errors, or Omissions**, whenever made, shall be

considered a single subpoena first made within the **Individual Policy Period** in which the earliest of the subpoenas was first made. The Company shall not pay any **Damages** in connection with a subpoena.

- E. The Company will pay a maximum of \$2,500 with respect to fees, costs, and expenses resulting from the investigation, adjustment, defense, and appeal for each complaint to a real estate regulatory board or commission, provided that:
1. a **Claim** covered by this policy has been made involving the same negligent act, error, or omission or a **Related Negligent Act, Error, or Omission** or, alternatively, if no **Claim** has been made, the **Insured** first receives such complaint during the **Individual Policy Period** or any applicable Extended Reporting Period;
 2. the complaint involves **Professional Services** that occurred after the **Licensee's Retroactive Date** and before the effective date of cancellation or nonrenewal of the **Individual Policy Period**;
 3. the complaint would otherwise be covered under this policy if the matter arose to a **Claim**; and
 4. the complaint does not allege, arise from, or relate to a negligent act, error, or omission or **Related Negligent Act, Error, or Omission** which is the subject of a **Claim** that is not covered by this policy.

It is further provided that the **Insured** shall have the following duties under this Supplemental Payment:

1. The **Insured** shall give the Company written notice of the complaint by any of the methods listed in Section XI. THE INSURED'S DUTIES IF THERE IS A CLAIM within the **Individual Policy Period** or any applicable Extended Reporting Period, but no more than twenty (20) days after the **Insured** first becomes aware of such complaint to a real estate regulatory board or commission.
2. The **Insured** shall cooperate with the Company and, at the Company's request, the **Insured** shall assist the Company in responding to the complaint. The **Insured** shall attend hearings and help in securing and giving evidence at the Company's request.

Any written notice to the Company of a complaint to a real estate regulatory board or commission shall be deemed notification of a circumstance under Section XII. CIRCUMSTANCE REPORTING.

The amount payable under this provision shall be subject to a \$5,000 Aggregate Limit, regardless of the number of complaints. All complaints arising out of the same negligent act, error, or omission or **Related Negligent Acts, Errors, or Omissions**, whenever made, shall be considered a single complaint first made within the **Individual Policy Period** in which the earliest of the complaints was first made. The Company shall not pay any **Damages** awarded by a regulatory board or commission.

V. TERRITORY

- A. If the **Licensee's Domicile** is in the State of Alaska, 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 Alaska only if the **Licensee** is duly licensed in such jurisdiction and the services performed would be covered under this policy had the acts been performed in Alaska; 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.
- B. If the **Licensee** is not domiciled in the State of Alaska, then this policy and the coverage provided hereunder apply only to **Professional Services** performed in Alaska. The **Claim** arising out of the rendering of such **Professional Services** must be brought within the United States of America, its territories or possessions.

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 or omissions committed by the **Insured**, at the **Insured's** direction, with the **Insured's** knowledge, or by anyone for whose acts the **Insured** is legally responsible; except that this exclusion does not apply to an **Insured** who (1) did not personally participate in committing the fraudulent, dishonest, criminal, or malicious act or omission and (2) upon having knowledge of the act or omission, reported it to the Alaska Real Estate Commission or appropriate law enforcement authorities;

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** Sublimit of Liability has 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, suffering, emotional distress, or death of any person;

F. Property Damage

physical injury to, destruction of, or loss of use of tangible property;

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, 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 shall not apply to a **Discrimination Claim** until the **Discrimination Claim** Sublimit of Liability has been exhausted;

J. Owned or Purchased Property

1. **Professional Services** relating to property in which any of the following had more than a 10% ownership or financial interest: an **Insured**; **Insured's** spouse or **Domestic Partner**; or any entity, partnership, or trust in which an **Insured** or **Insured's** spouse or **Domestic Partner** owned or controlled more than 10% ownership or financial interest; or
2. **Professional Services** relating to property purchased or attempted to be purchased by any of the following: an **Insured**; **Insured's** spouse or **Domestic Partner**; or any entity, partnership, or trust in which an **Insured** or **Insured's** spouse or **Domestic Partner** owned or controlled more than 10% ownership or financial interest;

however, this exclusion does not apply to 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;

K. Developed/Constructed Property

Professional Services relating to property developed or constructed by any of the following: an **Insured**; **Insured's** spouse or **Domestic Partner**; or any entity, partnership, or trust in which an **Insured** or **Insured's** spouse or **Domestic Partner** owned or controlled more than 10% ownership or financial interest;

L. Statutory Violations

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

M. Maintenance of Insurance

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

N. Specified Activities

the **Insured's** activities:

1. as 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 an **Escrow Claim** until the **Escrow Claim** Sublimit of Liability has been exhausted;
2. as an appraiser, if the appraisal activity performed requires licensing or certification other than a real estate license; or
3. from related business activities for which a license is not required under Alaska Statutes § 08.88;

O. Non-Residential Real Estate Services

activities other than **Residential Sales**, even if such activities require a real estate license under Alaska Statutes § 08.88, unless an Expanded Definition of Professional Services Endorsement was purchased by and attached to the **Licensee's** insurance under this policy and coverage would apply under the endorsement;

P. Real Estate Investment Trusts

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

Q. 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;

R. 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, 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**;
3. any nuclear reaction, nuclear radiation, or radioactive contamination or any act, condition, or pollution incidental to the foregoing; or
4. the actual or alleged:
 - a. or threatened inhalation of, ingestion of, contact with, exposure to, existence of, growth of, or presence of; or
 - b. failure to detect, disclose, report, test for, monitor, clean, remove, contain, dispose of, treat, detoxify, or neutralize, 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**.

S. Expected or Intended

injury or damage expected or intended by the **Insured**;

T. Commission Disputes

1. 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; or
2. claims made or brought by any person insured by the Company against any other person insured by the Company within the same **Real Estate Firm**;

U. Acts Prior to Licensing

negligent acts, errors, or omissions committed or alleged to have been committed either (1) before the date the **Insured** received an active real estate license or (2) after the effective date of suspension, revocation, or inactive status of the **Insured's** real estate license;

V. Fines and Penalties

any fines, penalties, assessments, punitive damages, exemplary damages, multiplied damages, or matters deemed uninsurable under applicable law; or

W. Conversion/Third Party Deception

any conversion, misappropriation, commingling, defalcation, embezzlement, theft, disappearance, or insufficiency in amount of any funds or other property, including, but not limited to, any failure to detect, identify, disclose or prevent such conversion, misappropriation, commingling, defalcation, embezzlement, theft, disappearance or insufficiency in amount, regardless of the identity of the person or entity actually or allegedly engaged in or responsible for the conduct or failure(s) in question.

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 for any reason (other than cancellation for non-payment of premium), 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 (other than cancellation for nonpayment of premium), 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 and is determined as shown below:

<u>Optional Extended Reporting Periods</u>	<u>Optional Extended Reporting Period Premium</u>
One Year	100% expiring premium, including any endorsement premium
Two Years	150% expiring premium, including any endorsement premium
Three Years	200% expiring premium, including any endorsement premium
Five Years	300% expiring premium, including any endorsement premium

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 after the **Retroactive Date**;
 - b. committed or alleged to have been committed before the effective date of cancellation or nonrenewal; and
 - c. which is 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 Paragraph A or B shall serve to increase the Limits of Liability or Sublimits of Liability as provided in Section II. LIMITS OF LIABILITY or Section IV. SUPPLEMENTARY PAYMENTS. 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**. A **Claim** also includes a **Discrimination Claim**. Complaints to or disputes before a real estate regulatory board or commission are not **Claims**.

Claim Expenses means:

1. fees, costs, and expenses resulting from the investigation, adjustment, defense, and appeal of a **Claim** incurred by the Company or by the **Insured** with the Company's written consent; and
 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

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**, alleging **Discriminatory Conduct**.

Discriminatory Conduct means acts, errors or omissions in violation 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 rendering of **Professional Services**.

Domicile means a person's permanent legal home to which he or she returns or intends to return. A person may have more than one residence but only one domicile.

Domestic Partner means any person qualifying as a "domestic partner" under any federal, state, or local law or under the **Real Estate Firm's** employee benefit plans.

Environmental Claim means a **Claim** alleging the **Insured's** failure to detect, report, or assess the effects of or advise of the existence of **Pollutants, Fungi, or Microbes**.

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 Alaska 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 the Declarations. The **Group Policy Period** may be shortened by cancellation.

Individual Policy Period means the period set forth in the **Licensee's** Certificate of Coverage commencing with the date the **Licensee** obtained coverage under this group policy by paying the appropriate premium and ending with the cancellation or expiration of the **Licensee's** coverage under this 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 **Licensee's Unlicensed Employees**;
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;
4. the spouse or **Domestic Partner** of the **Licensee** but only for **Claims** arising solely out of such status and only if the **Claim** seeks **Damages** from marital community property, jointly held property, or property transferred from the **Insured** to the spouse or **Domestic Partner**. No coverage is provided for any act, error, or omission of a spouse or **Domestic Partner**.

When this policy provides coverage for a **Claim** made against any of the **Insureds** listed in 1, 2, 3, or 4 above, **Insured** will also mean:

5. any **Real Estate Firm** or real estate franchisor that the **Licensee** represents but only for its vicarious liability for negligent acts, errors, or omissions in the **Licensee's Professional Services**.

Licensee means the person who holds an active real estate license issued by the **Policyholder** under Alaska Real Estate License Law, Alaska Statutes § 08.88 and who has paid the required premium.

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

Policyholder means the Alaska Real Estate Commission.

Pollutants means any solid, liquid, gaseous, or thermal, biological, or radioactive substance, material, 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.

Professional Services means services performed by the **Licensee** in connection with **Residential Sales** that require a real estate broker, associate real estate broker, or real estate salesperson, license pursuant

to Alaska Statute § 08.88, provided all necessary licenses are held by the **Licensee** at the time of the negligent act, error, or omission giving rise to the **Claim**.

Real Estate Firm means a legal entity with which brokers or salespersons, licensed by the **Policyholder** pursuant to Alaska Statutes § 08.88, 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.

Residential Sales means sales or listings for sale of real property whose primary purpose is to provide one (1) or two (2) single-family dwellings in one building. **Residential Sales** do not include commercial sales; commercial listings; or renting, leasing, managing, or appraising any type of property.

Retroactive Date means 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 policy. The **Retroactive Date** is established separately for each **Licensee**.

Third Party Deception means the intentional misleading of an **Insured** through the misrepresentation by a third party unknown, unrelated, and unconnected to the **Insured** of a material fact relied upon by the **Insured** during the performance of **Professional Services** resulting in the theft, conversion, embezzlement, or misappropriation of any monies, funds, or other assets or property at the direction of the unknown, unrelated, and unconnected third party.

Unlicensed Employee means the support staff employed by the **Licensee** and under the **Licensee's** supervision and control, and who is assisting the **Licensee** in the performance of the **Licensee's Professional Services**, including a 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**. **Unlicensed Employee** does not include appraisal trainees or anyone who manages property, even if such person is under the **Licensee's** supervision and control.

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 policy's commencement without any obligation by the Company to return any portion thereof 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**. Additionally, the **Insured** shall give written notice by submitting a completed Notice of Claim Form to the Company as soon as possible after any **Related Claim** is first made but in no event more than ninety (90) days after the **Insured** first becomes aware of such **Related 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 Blvd.

Louisville, KY 40207-4048

Electronic Delivery

Fax: (502) 896-6343

Email: claims@risceo.com

- 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** representative.
- 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.
- E. Misrepresentations, omissions, concealment of facts, or incorrect statements may not prevent a recovery under this policy unless:
 - 1. they are fraudulent;
 - 2. they are material to the acceptance of the risk or to the hazard assumed by the Company; or
 - 3. if the true facts had been made known to the Company as required either by the application for the policy or otherwise, the Company in good faith would not have insured the **Licensee**, would not have insured the **Licensee** at the same premium or rate, or would not have provided coverage with respect to the hazard resulting in the **Claim**.

XII. CIRCUMSTANCE REPORTING

If during the **Individual Policy Period**, the **Insured** becomes aware of any 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 by any of the means listed in Section XI. THE INSURED'S DUTIES IF THERE IS A CLAIM of such act, error, or omission and information about the potential **Claim**, including but not limited to:

- 1. the specific act, error, or omission;
- 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 Claim, subpoena, or complaint to a real estate regulatory board or commission, which arises out of such reported act, error, or omission, subsequently made against the Insured and reported to the Company shall be deemed to have been made at the time such written notice was first 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 Endorsement's effective date. 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 to 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 policy is canceled, the effective date of cancellation will become the end of the **Group Policy Period** and the **Individual Policy Period**. If the **Policyholder** cancels the policy, it is responsible for notifying each licensee insured under the policy of the effective date of cancellation. If the **Policyholder** cancels the policy, the Company will return or credit any unearned premium (a) within forty-five (45) days of a request for cancellation by the **Policyholder** or (b) the effective date of cancellation, whichever is later.
- B. The Company may cancel this policy by mailing written notice, to the last mailing address known to the Company, to the **Policyholder** and the **Policyholder's** agent or broker of record at least:
1. ten (10) days before the effective date of cancellation, if the Company cancels for:
 - a. conviction of the **Licensee** of a crime having as one of its necessary elements an act increasing a hazard insured against; or
 - b. discovery of fraud or material misrepresentation made by the **Licensee** or a representative of the **Licensee** in obtaining the insurance or by the **Licensee** in pursuing a claim under the policy.
 2. twenty (20) days before the effective date of cancellation, if the Company cancels for:
 - a. nonpayment of premium; or
 - b. failure or refusal of the **Licensee** to provide the information necessary to confirm exposure or determine the policy premium.
 3. sixty (60) days before the effective date of cancellation, if the Company cancels for any other reason.

The Company will mail the notice by first class mail and obtain a certificate of mailing from the United States Postal Service. The notice will state the actual reason for the cancellation and the effective date of cancellation. The policy period will end on that date. If the Company cancels the policy, the **Policyholder** is responsible for notifying the **Licensee** of the effective date of cancellation. 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 will return or credit the pro rata unearned premium before the effective date of cancellation, except that unearned premium will be returned or credited within forty-five (45) days after notice of cancellation is given if cancellation is for one of the reasons listed in B.1. or B.1. of this Section, above.

XVIII. NONRENEWAL

If the Company elects not to renew this policy, it will provide written notice of nonrenewal to the **Policyholder**, at the last mailing address known to the Company, at least forty-five (45) days before the expiration date of the policy. The notice will state the actual reason for nonrenewal. The Company will mail the notice by first class mail and obtain a certificate of mailing from the United States Postal Service.

This section does not apply if:

- A. the Company has in good faith manifested its willingness to renew,
- B. the **Licensee** failed to pay the premium for the expiring policy, or
- C. the **Licensee** fails to pay the premium as required by the Company for renewal.

XIX. RENEWAL WITH ALTERED TERMS

If the renewal premium is increased more than 10% for a reason other than an increase in coverage or exposure base, or if after renewal there will be a material restriction or reduction in coverage not specifically requested by the **Policyholder**, the Company will mail or deliver written notice to the **Policyholder**, at the last mailing address known to the Company, at least forty-five (45) days before expiration date of the policy. The Company will mail the notice by first class mail and obtain a certificate of mailing from the United States Postal Service.

XX. CONFORMITY TO STATUTES

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

XXI. OTHER 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 or Sublimits of Liability of all valid and collectible insurance against such **Claims**. This provision does not apply to other insurance written by the Company as specific excess insurance over the Limits of Liability of this policy.

XXII. LICENSE INACTIVE

In the event a **Licensee's** license is placed on inactive status or retired 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 or retired, regardless of whether the license is re-activated, except that coverage will not be provided for acts, errors, or omissions of the **Licensee** which occur during the period when the license was in an inactive status or retired.

XXIII. 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.

XXIV. TRANSFER

This policy is not transferable.

XXV. TRADE AND ECONOMIC SANCTIONS

This policy does not provide coverage for **Insureds**, transactions, or that part of **Damages** or **Claim Expenses** that are uninsurable under the laws or regulations of the United States concerning trade or economic sanctions.

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.

Chairman

Secretary



SAMPLE



ALASKA ATTORNEYS FEES
NOTICE TO INSURED
COVERAGE NOTICE A

ALASKA DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE

THIS POLICY LIMITS COVERAGE FOR ATTORNEY FEES
UNDER ALASKA RULE OF CIVIL PROCEDURE 82

In any suit in Alaska in which we have a right or duty to defend an insured in addition to the limits of liability, our obligation under the applicable coverage to pay attorney's fees taxable as costs against the insured is limited as follows:

Alaska Rule of Civil Procedure 82 provides that if you are held liable, some or all of the attorney fees of the person making a claim against you must be paid by you. The amount that must be paid by you is determined by Alaska Rule of Civil Procedure 82. We provide coverage for attorney fees for which you are liable under Alaska Rule of Civil Procedure 82 subject to the following limitation:

We will not pay that portion of any attorney's fees that is in excess of fees calculated by applying the schedule for contested cases in Alaska Rule of Civil Procedure 82(b)(1) to the limit of liability of the applicable coverage.

This limitation means the potential costs that may be awarded against you as attorney fees may not be covered in full. You will have to pay any attorney fees not covered directly.

For example, the attorney fees provided by the schedule for contested cases in Alaska Rule of Civil Procedure 82(b)(1) are:

- 20% of the first \$25,000 of a judgment;
- 10% of the amounts over \$25,000 of a judgment.

Therefore, if a court awards a judgment against you in the amount of \$125,000, in addition to that amount you would be liable under Alaska Rule of Civil Procedure 82(b)(1) for attorney fees of \$15,000, calculated as follows:

20% of \$25,000	\$ 5,000
10% of \$100,000	\$10,000
Total Award \$125,000	Total Attorney Fees \$15,000

If the limit of liability of the applicable coverage is \$100,000, we would pay \$100,000 of the \$125,000 award, and \$12,500 for Alaska Rule of Civil Procedure 82(b)(1) attorney fees, calculated as follows:

20% of \$25,000	\$5,000
10% of \$75,000	\$7,500
Total Limit of Liability \$100,000	Total Attorney Fees Covered \$12,500

You would be liable to pay, directly and without our assistance, the remaining \$25,000 in liability plus the remaining \$2,500 for attorney fees under Alaska Rule of Civil Procedure 82 not covered by this policy.