

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

| | | |
|-----------------------------------|---|-----------------------|
| _____ | X | |
| In re | : | |
| | : | Chapter 11 |
| HOSPITAL FOR SPECIAL SURGERY, LLC | : | |
| <i>Db</i> a ONECORE HEALTH, | : | Case No. 24-12862-JDL |
| | : | |
| Debtor. | : | |
| _____ | X | |

**ALLIED WORLD INSURANCE COMPANY MOTION FOR ENTRY OF ORDER
GRANTING (I) RELIEF FROM AUTOMATIC STAY AND (II) WAIVER OF THE
STAY UNDER RULE 4001(a)(4), TO THE EXTENT APPLICABLE, TO PERMIT
ALLIED WORLD TO ADVANCE AND/OR REIMBURSE COVERED LOSS UP TO
THE REMAINING LIMITS OF LIABILITY UNDER CERTAIN INSURANCE
POLICIES WITH BRIEF IN SUPPORT, AND NOTICE OF OPPORTUNITY FOR
HEARING**

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this Document carefully and consult your attorney about your rights and the effect of this Document. If you do not want the Court to grant the motion, or you wish to have your views considered, you must file a written response to the motion with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of the motion. You should also serve a file-stamped copy of the response to the undersigned [and others who are required to be served] and file a certificate or affidavit of service with the Court.

[Note – this is a flat fourteen (14) days regardless of the manner of service.]

Allied World Insurance Company (“Allied World”) hereby submits this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as Exhibit 1 (the “Proposed Order”), granting relief from the automatic stay and waiver of the stay under Bankruptcy Rule 4001(a)(4), to the extent applicable, pursuant to sections 105 and 362(d) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), 4001(a) and 9013



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of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and 4001-1 and 9013-1 of the Local Bankruptcy Rules for the Western District of Oklahoma (the “Local Rules”) to permit Allied World to pay **Loss**, including **Defense Expenses**, up to the remaining available Limits of Liability, under two Healthcare Organizations Professional and General Liability Insurance policies, which Allied World issued to the Debtor.¹

Jurisdiction and Venue

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and rule 81.4(a) of the Local Civil Rules of the United States District Court for the Western District of Oklahoma. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for purposes of considering this Motion is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105 and 362 of the Bankruptcy Code and Bankruptcy Rules 4001 and 9013.

Brief Statement of Facts

2. Allied World issued Healthcare Organizations Professional and General Liability Insurance Policy No. 0312 6808 to Debtor for the respective **Policy Periods** of December 31, 2020 to December 31, 2021 (the “2020-2021 AW Policy”) and December 31, 2021 to December 31, 2022 (the “2021-2022 AW Policy” and, with the 2020-2021 AW Policy, the “AW Policies”). See 2020-2021 AW Policy, attached as Exhibit 2, Declarations, Items 1-2 and 2021-2022 AW Policy, attached as Exhibit 3, Declarations, Items 1-2. The AW Policies each provide a \$1 million each **Claim** and \$3 million aggregate Limit of Liability under the Claims Made

¹ Except for headings and the language in the Notice of Opportunity for Hearing section, above, terms in bold are defined in the AW Policies.

Professional Liability Insuring Agreement. *See id.*, Declarations, Item 3. For all relevant purposes, the AW Policies contain the same terms and conditions.

3. Subject to all of its terms and conditions, the applicable Claims Made Professional Liability Insuring Agreement in the AW Policies provides that:

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss** and **Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging a **Medical Professional Incident**, provided always that:

1. such **Medical Professional Incident** takes place on or after the **Retroactive Date** and before the end of the **Policy Period**
2. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
3. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

Id., Claims Made Professional Liability Insuring Agreement, Section I.A.

4. **Loss** means “**Defense Expenses** and any monetary amount which an **Insured** is legally obligated to pay as a result of a **Claim**, pre- and post-judgment interest awarded or imposed in any judgment, legal costs or attorney’s fees awarded by a court in favor of the claimant, premiums on appeal bonds required to be furnished with respect to any such judgment (without any obligation to furnish such bond).” *Id.*, Section III.S. “However, **Loss** shall not include: 1. the multiplied portion of any multiplied damages award; 2. fines, penalties, sanctions or taxes levied against the **Insured**; 3. sums due under any contractual provision for liquidated damages, or pre-agreed penalties under any contract, or any similar contractual remedy; 4. salaries, remuneration, overhead, fees or benefit expenses of the **Insured**; 5. non-monetary relief or redress

in any form other than monetary compensation or damages, including, but not limited to, injunctive, declaratory and administrative relief, or any amounts paid or incurred by **Insureds** to comply with a judgment or settlement for such relief; 6. the return, restitution, refund or disgorgement of fees, profits or amounts allegedly wrongfully held and/or retained by an **Insured**; 7. amounts which the **Insured** is not legally obligated to pay; 8. amounts or matters which are uninsurable under applicable law; or 9. the payment, satisfaction or writing off of any medical bills or charges by an **Insured**.” *Id.*

5. **Defense Expenses** means “reasonable and necessary legal fees and expenses incurred in the investigation, adjustment, defense or appeal of a **Claim**, including premiums on appeal bonds required to be furnished with respect to any such judgment (without any obligation to furnish such bond); provided, that **Defense Expenses** shall not include remuneration, salaries, overhead, fees or benefit expenses of any **Insured**.” *Id.*, Section III.F.

6. The AW Policies provide that “[i]n the event that an aggregate Limit of Liability for Insuring Agreements I.A. is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under the respective Insuring Agreement[.]” *Id.*, Endorsement No. 2. Further, under Insuring Agreement I.A., “**Defense Expenses** paid by the **Insurer** are part of and not in addition to the **Insurer’s Limits of Liability**, and will reduce and may exhaust the Limits of Liability. The payment of **Defense Expenses** by the **Insured** will reduce the applicable Deductible.” *Id.*

7. Debtor requested coverage under the 2020-2021 AW Policy in connection with the action styled *Albert P. Poteat, Individually and as Surviving Spouse of Gwendolyn Poteat*,

Deceased v. Steve R. Randall, M.D., et al., Case No. CJ-2021-4021, filed in the District Court of Oklahoma County (the “Poteat Action”).

8. Debtor also requested coverage under the 2021-2022 AW Policy for the action styled *Stephanie Rodriguez, Individually, and as the Surviving Natural Child of Margaret Merrell, Deceased v. Cheng L. Soo, M.D., et al.*, Case No. CJ-2024-2311, filed in the District Court of Oklahoma County (the “Rodriguez Action” and, collectively with the Poteat Action, the “Actions”).

9. Allied World has acknowledged potential coverage for the Actions pursuant to the terms and conditions of the AW Policies.

10. On January 6, 2025, the Court entered agreed orders for both Actions granting relief from the automatic stay to allow the respective plaintiffs to resume litigation in which plaintiffs’ respective sole recovery from Debtor is limited to the proceeds of any applicable insurance policies. [Dkt. Nos. 152 and 153].

Relief Requested

11. By this Motion, Allied World respectfully moves the Court for entry of the Proposed Order to permit Allied World to pay **Loss**, including **Defense Expenses**, up to the respective remaining available Limits of Liability relating to the Actions pursuant to the AW Policies and for waiver of the stay under Bankruptcy Rule 4001(a)(4).

Argument and Authorities

12. To the extent the automatic stay in this proceeding applies both to the AW Policies and the proceeds of the AW Policies, Debtor respectfully submits that “cause” exists under 11 U.S.C. § 362(d)(1) to lift the automatic stay to the limited extent necessary to authorize Allied

World's payment of **Loss**, including **Defense Expenses**, in the Actions up to the respective remaining available Limits of Liability of the AW Policies.

13. The Bankruptcy Code provides that a court shall grant relief from the automatic stay “for cause,” which is “a discretionary determination made on a case by case basis.” *In re Phoenix Corp.*, 342 B.R. 385, 2006 WL 694290, at *2 (B.A.P. 10th Cir. 2006). While the United States Court of Appeals for the Tenth Circuit “has not set forth a precise framework or exhaustive set of factors for analyzing whether cause exists” to lift a stay, courts may consider the factors set forth in *In re Curtis*, 40 B.R. 795 (Bankr. D. Utah 1984) to determine whether the stay should be lifted. *See In re Dampier*, No. BAP CO-15-006, 2015 WL 6756446, at *4 (10th Cir. BAP Nov. 5, 2015) (internal quotations and citations omitted)).²

14. In this regard, the applicable *Curtis* factors are satisfied. If the Motion is granted, the relief will result in complete resolution of the issues and will not interfere with the Chapter 11 Case. The Court entered agreed orders granting relief from the automatic stay to allow the respective plaintiffs to resume the Actions and limited recovery to the proceeds of applicable insurance policies. [Dkt. Nos. 152 and 153]. To the extent that plaintiffs in the Actions pursue their respective lawsuits, Debtor will incur defense costs that are subject to payment under the AW

² The *Curtis* factors are: “(1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interest of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; (12) The impact of the stay on the parties and the “balance of hurt.” *In re Dampier*, 2015 WL 6756446 at 4–5.

Policies. Payment of **Loss**, including **Defense Expenses**, under the Allied World Policies will not interfere with Debtor's proposed plan of reorganization, or otherwise interfere with the claims administration process.

15. Bankruptcy Rule 4001(a)(4) provides that the Court may order an exception to the requirement that a stay relief order must be stayed for fourteen days after it is entered. In light of the Court's January 6, 2025 orders allowing the plaintiffs in the Actions to resume litigation to the extent of the available proceeds of any applicable insurance policies, [Dkt. Nos. 152 and 153], Allied World requests that the Court waive the Bankruptcy Rule 4001(a)(4) stay requirement, so that Allied World may promptly pay amounts under the AW Policies pursuant to the terms and conditions of the AW Policies.

Notice

16. Pursuant to Local Rule 4001-1(D), notice of this Motion has been provided to the Debtor, Debtor's counsel, the U.S. Trustee, all other parties who have requested notice in this Chapter 11 Case, and any other individuals known to have an interest in the property affected by this Motion. Allied World submits that, in light of the nature of the relief requested, no other or further notice need be provided.

Conclusion

17. For the foregoing reasons, there is good cause to lift the automatic stay for the limited purpose of allowing Allied World to pay **Loss**, including **Defense Expenses**, incurred on behalf of the Debtor in connection with the Actions. Allied World respectfully requests that the Court enter the Proposed Order authorizing it, subject to the terms and conditions of the AW Policies, to pay **Loss** incurred by the Debtor in connection with the Actions up to the respective

available remaining Limits of Liability of the AW Policies and to waive the stay requirement under Bankruptcy Rule 4001(a)(4).

Dated: March 28, 2025

Respectfully submitted,

/s/ Sean H. McKee

Sean H. McKee, OBA No. 14277
BEST & SHARP
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One West Third Street, Suite 900
Tulsa, OK 74103
Telephone: (918) 582-1234
Facsimile: (918) 585-9447

/s/ Emily S. Hart

Emily S. Hart (*pro hac vice*)
WILEY REIN LLP
1050 M Street NW
Washington, DC 20036
Telephone: (202) 719-7000
Facsimile: (202) 719-7049

Counsel for Allied World Insurance Company

Certificate of Service by U.S. Mail or by Email

The undersigned certifies that on this 28th day of March 2025, this motion was served on all parties on the Approved Distribution List (Docket Item no. 9) as well as on all persons who have filed a Notice of Appearance and Request for Service or who otherwise have an interest in this motion. Persons with their email listed below were served by email; all others were served by regular U.S. mail. Furthermore, all eligible CM/ECF participants were served via the Court's CM/ECF system with true and correct copies of the foregoing.

| Description | Creditor Name | Creditor Notice Name | Email |
|---|---|--------------------------------------|---|
| Top 20 Creditor | Abbott Laboratories Inc | Eric R. von Helms | evonhelms@kmksc.com |
| Top 20 Creditor | AbbVie US LLC | | shari.blum@abbvie.com; Collections_US@abbvie.com; victoria.ribando@abbvie.com; irene.shelton@abbvie.com; hanna.ohlenschlager@abbvie.com |
| Top 20 Creditor | Arthrex Inc | Legal Department | Communications@Arthrex.com |
| Top 20 Creditor | BlueCross BlueShield of OK | Rick Kelly | Rick_Kelly@bcbsok.com |
| Top 20 Creditor | C R Bard Inc BD Peripheral Intervention | Michelle Quinn, EVP, General Counsel | customer_support@bd.com |
| Top 20 Creditor | Comprehensive Diagnostic Imaging | Charles Mooney | cmooney@obi.com |
| Counsel to United States of America, ex rel. Department of Health and Human Services (DHHS) | Department of Health and Human Services | Kay Sewell, Assistant US Attorney | kay.sewell@usdoj.gov |
| Top 20 Creditor | Emma Base | Heather Mitchell | heather@hjmlaw.com |
| Counsel to BOKF, N.A | Frederic Dorwart, Lawyers PLLC | Samuel S. Ory | Sory@fdlaw.com |

| | | | |
|---|---------------------------------------|--|---|
| Counsel to Oklahoma Center for Spine & Pain Solutions, P.C., Members Oklahoma Center for Spine & Pain Solutions, P.C., Members, Orthopaedic & Reconstructive Center, P.C., and Cheng-Lun Soo Family Trust | Gable & Gotwals | Sidney K. Swinson | sswinson@gablelaw.com |
| Top 20 Creditor | Glaukos Corporation | Robert L. Davis, SVP, General Counsel | rdavis@glaukos.com |
| Conflicts Counsel for Debtor | Liz George and Associates, PLLC | Lysbeth L. George | liz@georgelawok.com |
| Top 20 Creditor | Medicare Novitas Solutions | Legal Department | communication@guidewellsorce.com |
| Top 20 Creditor | Medline Industries Inc | Alex Liberman, Chief Legal Officer | aliberman@medline.com |
| Top 20 Creditor | Midtown Orthopedics & Sports Medicine | Jason Emerson | mfupar@me.com |
| Office of the United States Trustee for the Western District of Oklahoma | Office of the United States Trustee | Jeffrey E. Tate, Marjorie J. Creasey | Jeff.Tate@usdoj.gov; Marjorie.Creasey@usdoj.gov |
| Oklahoma Tax Commission | Oklahoma Tax Commission | Lorena M. Massey | bankruptcy@tax.ok.gov |
| Top 20 Creditor | Olsen Orthopedics PLLC | Andrea Wiliamson | andrea@olsenorthopedics.com |
| Counsel to Comprehensive Diagnostic Imaging, LLC | Phillips Murrah P.C. | Clayton D. Ketter | cdketter@phillipsmurrah.com |
| Top 20 Creditor | Relievent Medsystems Inc | Legal Department | support@relievent.com |
| Counsel to Emma Base | Rupert & Steiner, PC | Geren T. Steiner, Anton J. Rupert | geren@rs-okc.com |
| Top 20 Creditor | Smith & Nephew Inc | Helen Barraclough, Group General Counsel and Company Secretary | helen.barraclough@smith-nephew.com |
| Counsel to Solara Surgical Partners, LLC | The Gooding Law Firm | Mark B. Toffoli | mtoffoli@goodingfirm.com |

| | | | |
|--------------------------------|---|--|---|
| Counsel to Debtor | Crowe & Dunlevy | Mark Craige Kaleigh Ewing William H. Hoch Craig R. Regens | mark.craige@crowedunlevy.com kaleigh.ewing@crowedunlevy.com will.hoch@crowedunlevy.com craig.regens@crowedunlevy.com |
| Counsel to Stephanie Rodriguez | Hammond Law Firm | Gary D. Hammond | gary@okatty.com |
| Counsel to Albert Poteat | Fenton, Fenton, Smith, Reneau & Moon | Michael S. McMillin | msmcmillin@fentonlaw.com |

| Description | Creditor Name | Creditor Notice Name | Address 1 | Address 2 | City | State | Zip |
|--------------------|--|---|--|--|-------------------|-------|------------|
| Top 20 Creditor | Abbott Laboratories Inc | Eric R. von Helms | Kohner, Mann & Kailas, S.C. | 4650 North Port Washington Road, 2nd Floor | Milwaukee | WI | 53212 |
| Top 20 Creditor | AbbVie US LLC | | 1 N. Waukegan Road | | North Chicago | IL | 60064 |
| Top 20 Creditor | Alcon Vision LLC | Royce Bedward, SVP, General Counsel and Corporate Secretary | 6201 South Freeway | | Fort Worth | TX | 76134-2001 |
| Top 20 Creditor | Arthrex Inc | Legal Department | 1370 Creekside Boulevard | | Naples | FL | 34108-1945 |
| Top 20 Creditor | BlueCross BlueSheild of OK | Rick Kelly | 3817 Northwest Expressway, Ste 300 | | Oklahoma City | OK | 74119 |
| Top 20 Creditor | Boston Scientific Corporation | Vance R. Brown, Senior Vice President, General Counsel and Corporate Secretary | 300 Boston Scientific Way | | Marlboroug h | MA | 01752-1234 |
| Top 20 Creditor | C R Bard Inc BD Periperal Intervention | Michelle Quinn, EVP, General Counsel | Becton, Dickinson and Company | 1 Becton Drive | Franklin Lakes | NJ | 07417-1880 |
| Top 20 Creditor | Comprehensive Diagnostic Imaging | Charles Mooney | 5800 North Portland | | Oklahoma City | OK | 73112 |

| | | | | | | | |
|-----------------|---------------------------------------|--|------------------------------------|-----------------------------|---------------|----|------------|
| Top 20 Creditor | Emma Base | Heather Mitchell | c/o Heather Mitchell Law | 14001 Quail Springs Parkway | Oklahoma City | OK | 73134 |
| Top 20 Creditor | Flospine LLC | Peter Harris President & CEO | 3998 Fau Blvd Ste 300 | | Boca Raton | FL | 33431 |
| Top 20 Creditor | Glaukos Corporation | Robert L. Davis, SVP, General Counsel | One Glaukos Way | | Aliso Viejo | CA | 92656 |
| IRS | Internal Revenue Service | Centralized Insolvency Operation | PO Box 7346 | | Philadelphia | PA | 19101-7346 |
| Top 20 Creditor | Medicare Novitas Solutions | Legal Department | 2020 Technology Parkway, Suite 100 | | Mechanicsburg | PA | 17050 |
| Top 20 Creditor | Medline Industries Inc | Alex Liberman, Chief Legal Officer | 1 Medline Place | | Mundelein | IL | 60060 |
| Top 20 Creditor | Medtronic | Ivan Fong, EVP, General Counsel & Secretary | 710 Medtronic Parkway | | Minneapolis | MN | 55432-5604 |
| Top 20 Creditor | Midtown Orthopedics & Sports Medicine | Jason Emerson | 400 NW 13th | | Oklahoma City | OK | 73103 |
| Top 20 Creditor | Nevro Corp | Kashif Rashid SVP, Corporate Development & Chief Legal Officer | 1800 Bridge Parkway | | Redwood City | CA | 94065 |
| Top 20 Creditor | Olsen Orthopedics PLLC | Andrea Williamson | 1140 S. Douglas Blvd | | Oklahoma City | OK | 73130 |
| Top 20 Creditor | Relievent Medsystems Inc | Legal Department | 7201 Metro Blvd #300 | | Edina | MN | 55439 |
| Top 20 Creditor | Smith & Nephew Inc | Helen Barraclough, Group General Counsel and Company Secretary | 150 MINUTEMAN ROAD | | Andover | MA | 01810 |

| | | | | | | | |
|---|--|--------------------------------------|----------------------------|-----------|------------------|----|-------|
| Top 20 Creditor | Solara Surgical Partners LLC | Laura Horton | 2325 Dean Way Suite 100 | | Southlake | TX | 76092 |
| United States Attorney Office for the Western District of Oklahoma | US Attorney Office, Western District of Oklahoma | | 210 Park Avenue | Suite 400 | Oklahoma City | OK | 73102 |
| Debtor | | Hospital for Special Surgery, LLC | 100 NE 85th St | | Oklahoma City | OK | 73114 |

/s/ Sean H. McKee

Sean H. McKee, OBA No. 14277

BEST & SHARP

Williams Center Tower 1

One West Third Street, Suite 900

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Telephone: (918) 582-1234

Facsimile: (918) 585-9447

/s/ Emily S. Hart

Emily S. Hart (*pro hac vice*)

WILEY REIN LLP

1050 M Street NW

Washington, DC 20036

Telephone: (202) 719-7000

Facsimile: (202) 719-7049

Counsel for Allied World Insurance Company

EXHIBIT 1

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

| | | |
|-----------------------------------|---|-----------------------|
| | X | |
| In re | : | |
| | : | Chapter 11 |
| HOSPITAL FOR SPECIAL SURGERY, LLC | : | |
| <i>Db</i> a ONECORE HEALTH, | : | Case No. 24-12862-JDL |
| | : | |
| Debtor. | : | |
| | X | |

**ORDER GRANTING ALLIED WORLD’S
MOTION FOR ENTRY OF ORDER GRANTING (I) RELIEF FROM
AUTOMATIC STAY AND (II) WAIVER OF THE STAY UNDER RULE 4001(a)(4), TO
THE EXTENT APPLICABLE, TO PERMIT ALLIED WORLD TO ADVANCE AND/OR
REIMBURSE COVERED LOSS UNDER CERTAIN INSURANCE POLICIES UP TO
THE REMAINING LIMITS OF LIABILITY**

Upon the Motion (the “Motion”)¹ of Allied World, for entry of an order (this “Order”), under sections 105 and 362 of the Bankruptcy Code and Bankruptcy Rules 4001 and 9013, and Local Rules 4001-1 and 9013-1, lifting the automatic stay and waiving the fourteen-day

¹ All defined terms shall have the meaning ascribed to them in the Motion unless otherwise defined herein.

stay requirement under Bankruptcy Rule 4001(a)(4), to the extent applicable, to authorize Allied World's payment of **Loss**, including **Defense Expenses**, in the Actions up to the respective remaining available Limits of Liability of the AW Policies; and this Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and rule 81.4(a) of the Local Civil Rules of the United States District Court for the Western District of Oklahoma; and venue of this Chapter 11 Case and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that the Motion was filed on March ___, 2025, and served on or before March ___, 2025 and that the response deadline to the Motion expired on March ___, 2025; and objections (if any) to the Motion having been withdrawn, resolved or overruled on the merits; and this Court finding that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Bankruptcy Rules of the United States Bankruptcy Court for the Western District of Oklahoma, and that, except as otherwise ordered herein, no other or further notice is necessary; and a hearing, if requested, having been held to consider the relief requested in the Motion and upon the record of any such hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of Debtor, its estate, its creditors and all other parties-in-interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Subject to the terms of the AW Policies, Allied World is permitted to reimburse, advance, and/or pay amounts constituting **Loss** under the AW Policies, including **Defense**

Expenses, incurred on behalf of the Debtor in the Actions up the respective remaining available Limits of Liability of the AW Policies. To the extent applicable and necessary, the automatic stay imposed by section 362 of the Bankruptcy code is modified to permit such reimbursement, advancement and/or payment.

3. Nothing in this Order shall modify or alter the terms and conditions of the AW Policies or the parties' contractual rights and obligations thereunder.

4. The fourteen-day stay provided by Rule 4001(a)(4) of the Federal Rules of Bankruptcy Procedure is waived.

5. This Court shall retain jurisdiction over any and all matters arising from or related to the interpretation and implementation of this Order.

6. Allied World shall effectuate service of this Order on all parties in interest.

7. Findings of fact are based upon representations of counsel. Local Rule 9013-1.L.1.

IT IS SO ORDERED.

###

Approved for Entry:

ONECORE

/s/ Craig M. Regens

William H. Hoch, OBA #15788
Craig M. Regens, OBA #22894
Mark A. Craige, OBA #1992
Kaleigh Ewing, OBA #35598
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ALLIED WORLD

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Facsimile: (202) 719-7049

Counsel to Debtor

Counsel to Allied World

EXHIBIT 2



ALLIED WORLD INSURANCE COMPANY
199 Water Street, New York, NY 10038 · Tel. (646) 794-0500 · Fax (646) 794-0611

**HEALTHCARE ORGANIZATIONS
PROFESSIONAL AND GENERAL LIABILITY
INSURANCE POLICY DECLARATIONS**

Policy Number: 0312-6808

Renewal of: New

THIS POLICY CONTAINS BOTH CLAIMS MADE AND OCCURRENCE COVERAGES.

THIS POLICY PROVIDES COVERAGE ON A DEFENSE WITHIN THE LIMITS BASIS FOR INSURING AGREEMENTS I.A., I.C., AND ADDITIONAL COVERAGE II.A. THE APPLICABLE LIMIT OF LIABILITY TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

FOR INSURING AGREEMENT I.B., THE PAYMENT OF DEFENSE EXPENSES BY THE INSURER SHALL BE IN ADDITION TO THE LIMITS OF LIABILITY. THE APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL NOT BE REDUCED OR EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

DEFENSE EXPENSES SHALL BE APPLIED AGAINST THE DEDUCTIBLE.

PLEASE READ THIS POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE BROKER.

Item 1. Name and Mailing Address of Named Insured:

Hospital for Special Surgery, LLC d.b.a. OneCore Health
1044 Southwest 44th Street
Oklahoma City, OK 73109

Item 2. Policy Period:

(a) Inception Date: December 31, 2020

(b) Expiration Date: December 31, 2021

At 12:01AM Standard Time at the Mailing Address shown above

Item 3. Limits of Liability:

Insuring Agreement I.A. Claims Made Professional Liability

(a) \$1,000,000 each Claim under Insuring Agreement I.A.;

(b) \$3,000,000 in the aggregate for all Claims under Insuring Agreement I.A.

Either Claims Made or Occurrence General Liability Coverage was purchased by the Insured, but coverage may not be provided under both Insuring Agreements I.B.1. and I.B.2. The selected coverage is indicated by an "X" in the appropriate box below.

- ☒ Insuring Agreement I.B.1. Occurrence General Liability
- (c) \$1,000,000 each Occurrence - Bodily Injury, Property Damage and Personal and Advertising Injury;
 - (d) \$50,000 each Occurrence - Fire Damage;
 - (e) \$3,000,000 in the aggregate for all Claims under Insuring Agreement I.B.1.

- ☐ Insuring Agreement I.B.2. Claims Made General Liability
- (f) N/A each Claim - Bodily Injury, Property Damage and Personal and Advertising Injury;
 - (g) N/A each Claim - Fire Damage;
 - (h) N/A in the aggregate for all Claims under Insuring Agreement I.B.2.

Insuring Agreement I.C. Claims Made Employee Benefits Liability

- (i) \$1,000,000 each Claim under Insuring Agreement I.C.;
- (j) \$3,000,000 in the aggregate for all Claims under Insuring Agreement I.C.

Additional Coverage II.A. Claims Made Patient Privacy Coverage

- (k) N/A each Claim under Additional Coverage II.A.;
 - (l) N/A in the aggregate for all Claims under Additional Coverage II.A.;
- Such Limits shall be part of, and not in addition to, the aggregate Limit of Liability for Insuring Agreement I.A.*

Policy Aggregate Limit of Liability

- (m) \$6,000,000 Insurer's Maximum Aggregate Limit of Liability for all Claims under all Insuring Agreements and Additional Coverages.

Item 4. Deductibles:

- (a) \$25,000 each and every Claim under Insuring Agreement I.A.
- (b) \$25,000 each and every Occurrence under Insuring Agreement I.B.1., or each and every Claim under Insuring Agreement I.B.2.
- (c) \$1,000 each and every Claim under Insuring Agreement I.C.
- (d) N/A each and every Claim under Additional Coverage II.A.

Item 5. Retroactive Dates

- (a) November 29, 2004 Insuring Agreement I.A. Claims Made Professional Liability
- (b) November 29, 2004 Insuring Agreement I.B.2. Claims Made General Liability.
- Not applicable to Insuring Agreement I.B.1. Occurrence General Liability
- (c) November 29, 2004 Insuring Agreement I.C. Claims Made Employee Benefits Liability
- (d) N/A Additional Coverage II.A. Claims Made Patient Privacy Coverage

Item 6. Address of Insurer For Notices Under This Policy:

Claim-Related Notices:
Noticeofloss@awac.com

All Other Notices:
1690 New Britain Avenue, Suite 101
Farmington, CT 06032

Item 7. Premium:



Item 8. Minimum Earned Premium:

\$32,200 of the Policy Premium set forth above.

Item 9. Endorsements Attached at Issuance:

1. MED 00012 35 (11/2015) Oklahoma Amendatory - Cancellation and Nonrenewal
2. MED 00213 35 (11/2015) Oklahoma Amendatory - Defense Outside the Limits GL
3. MED 00142 00 (12/2014) Claims Made Sexual Misconduct
4. MED 00147 00 (12/2014) Damage to Patients Property
5. MED 00157 00 (12/2014) Evacuation Coverage
6. MED 00158 00 (12/2014) Exclude Employed Physicians w Named Exceptions
7. MED 00169 00 (12/2014) Medical Payments Coverage
8. MED 00180 00 (12/2014) Schedule A - Insured Entity

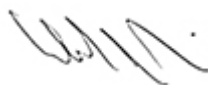
In Witness Whereof, the Insurer has caused this Policy to be executed and attested. This Policy shall not be valid unless countersigned by a duly authorized representative of the Insurer.

A handwritten signature in cursive script, likely belonging to the President.

President

A handwritten signature in cursive script, identified as Karen Colom.

Asst. Secretary

A handwritten signature in cursive script, positioned above the authorized representative line.

AUTHORIZED REPRESENTATIVE

ENDORSEMENT NO. 1

**OKLAHOMA AMENDATORY
CANCELLATION/NONRENEWAL**

This Endorsement , effective at 12:01AM on December 31, 2020, forms part of

Policy No. 0312-6808
Issued to Hospital for Special Surgery, LLC d.b.a. OneCore Health
Issued by Allied World Insurance Company

In consideration of the premium charged Section V. CONDITIONS, Subsection M. Cancellation or Non-Renewal is amended as follows:

1. If the Policy has been in effect for less than forty-five (45) business days, the Insurer may cancel this Policy by mailing written notice to the **Named Insured** at the last known address stated in Item 1 of the Declarations stating when, no less than thirty (30) days thereafter such cancellation shall be effective.
2. If the Policy has been in effect for more than forty-five (45) business days, the **Insurer** may cancel this Policy **only** for nonpayment or for any of the following reasons:
 - a) Fraud or material misrepresentation in obtaining the Policy or in pursuing a claim.
 - b) Willful or reckless acts by the named insured that increase any hazard.
 - c) A violation of any local fire, health, or safety code that substantially increases any hazard insured against.
 - d) If the Insurance Commissioner determines that the continuation of the Policy would place the insurer in violation of the Oklahoma insurance laws.
 - e) Conviction of a crime that increases any hazard insured against.
 - f) If the insurer loses its reinsurance on the risk.
 - g) A change in the risk that substantially increases the hazard insured against.by mailing written notice to the **Named Insured** at the last known address stated in Item 1 of the Declarations stating when, no less than forty-five (45) days thereafter such cancellation shall be effective.

However, in the event of non-payment of premium, the **Insurer** may cancel this Policy effective upon ten (10) days' written notice by providing notice to the **Named Insured** in the manner set forth in the preceding sentence.
3. The **Named Insured** may cancel this Policy prospectively only by mailing the **Insurer** written notice stating when thereafter such cancellation shall be effective. In such event, the earned premium shall be computed in accordance with the customary short rate table and procedure.

4. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.
5. The **Insurer** will not be required to renew this Policy upon its expiration. The **Insurer** will provide the **Named Insured** with forty- five (45) days prior to the expiration date of this Policy or an anniversary date of this Policy, if it is written for a term longer than one year or with no fixed expiration date. Any notice of nonrenewal will be mailed or delivered to the **Named Insured** at the mailing address stated in Item 1 of the Declarations.
6. Notice of nonrenewal shall not be required if:
 - a) The **Insurer**, or another company within the same insurance group, has offered to issue a renewal policy; or
 - b) The **Named Insured** has obtained replacement coverage or has agreed in writing to obtain replacement coverage.
7. If the **Insurer** elects to renew this Policy, the **Insurer** will give written notice of any premium increase, change in deductible, or reduction in limits or coverage, to the **Named Insured** at the mailing address indicated in Item 1 of the Declarations at least forty-five days before the expiration of this Policy or an anniversary date of this Policy, if it is written for a term longer than one year or with no fixed expiration date.

All other terms, conditions, and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 2

**OKLAHOMA AMENDATORY
DEFENSE OUTSIDE THE LIMITS – INSURING AGREEMENT I.B. GENERAL LIABILITY**

This Endorsement, effective at 12:01 a.m. on December 31, 2020, forms part of

Policy No. 0312-6808
Issued to Hospital for Special Surgery, LLC d.b.a. OneCore Health
Issued by Allied World Insurance Company

In consideration of the premium charged, it is hereby agreed that:

1. The caption shown at the top of the Policy is deleted in its entirety and replaced as follows:

THIS POLICY CONTAINS BOTH CLAIMS MADE AND OCCURRENCE COVERAGES.

THIS POLICY PROVIDES COVERAGE ON A DEFENSE WITHIN THE LIMITS BASIS FOR INSURING AGREEMENTS I.A., I.C., AND ADDITIONAL COVERAGE II.A. THE APPLICABLE LIMIT OF LIABILITY TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

FOR INSURING AGREEMENT I.B., THE PAYMENT OF DEFENSE EXPENSES BY THE INSURER SHALL BE IN ADDITION TO THE LIMITS OF LIABILITY. THE APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL NOT BE REDUCED OR EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

DEFENSE EXPENSES SHALL BE APPLIED AGAINST THE DEDUCTIBLE.

PLEASE READ THIS POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE BROKER.

2. Section I.B. of the Policy is deleted in its entirety and replaced as follows:

B. GENERAL LIABILITY

1. Occurrence Based General Liability

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss** in excess of the Deductible stated in Item 4. of the Declarations, which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage, Fire Damage** or **Personal or Advertising Injury** caused by an **Occurrence**; provided always that:

- a. such **Bodily Injury, Property Damage, Fire Damage, or Personal or Advertising Injury** is caused by an **Occurrence** that takes place during the **Policy Period**; and
- b. notice of such **Claim** is given to the **Insurer** in accordance with Section IV.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

2. **Claims-Made General Liability**

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss** in excess of the Deductible stated in Item 4. of the Declarations, which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** caused by an **Occurrence**; provided always that:

- a. such **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** is caused by an **Occurrence** that takes place on or after the Retroactive Date stated in Item 5. of the Declarations and before the end of the **Policy Period**;
- b. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
- c. notice of such claim is given to the **Insurer** in accordance with Section IV.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

3. The definition of “**Loss**” as set forth in the Policy, is deemed amended such that **Loss** does not include **Defense Expenses**.
4. Paragraphs 1, 3, and 6 of Section V. CONDITIONS, Subsection A. are deleted in their entirety and replaced with the following:

A. Limits of Liability

1. The amount stated in Item 3(m) of the Declarations shall be the Policy Maximum Aggregate Limit of Liability of the **Insurer**, and shall be the most the **Insurer** shall pay under this Policy for all:
 - a. **Loss and Defense Expenses** under Insuring Agreements I.A., I.C., and Additional Coverage II.A; and
 - b. **Loss** under Insuring Agreement I.B;resulting from all **Claims** for which this Policy provides coverage, regardless of the number of **Claims**, the number of persons or entities included within the definition of **Insured**, or the number of Claimants.

3. Payment of Defense Expenses:

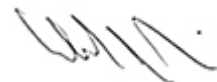
Under Insuring Agreements I.A., I.C., and Additional Coverage II.A, **Defense Expenses** paid by the **Insurer** are part of and not in addition to the **Insurer's Limits of Liability**, and will reduce and may exhaust the Limits of Liability. The payment of **Defense Expenses** by the **Insured** will reduce the applicable Deductible.

Under Insuring Agreement I.B., **Defense Expenses** paid by the **Insurer** are in addition to the **Insurer's** Limits of Liability, and will not reduce the Limits of Liability. The payment of **Defense Expenses** by the **Insured** will reduce the applicable Deductible.

6. Exhaustion of Limits:

- a. In the event that an aggregate Limit of Liability for Insuring Agreements I.A. or I.C., or Additional Coverage II.A. is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under the respective Insuring Agreement or Additional Coverage to which such Limit of Liability applied, and the premium for such Insuring Agreement will be deemed fully earned.
- b. In the event that the aggregate Limit of Liability for Insuring Agreement I.B. is reduced and exhausted in full by the payment of **Loss** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under Insuring Agreement I.B., and the premium for such Insuring Agreement will be deemed fully earned.
- c. In the event that the Policy Aggregate Limit of Liability is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under this Policy, and the entire premium will be deemed fully earned.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 3

CLAIMS MADE SEXUAL MISCONDUCT COVERAGE

This Endorsement, effective at 12:01 a.m. on December 31, 2020, forms part of

Policy No. 0312-6808
Issued to Hospital for Special Surgery, LLC d.b.a. OneCore Health
Issued by Allied World Insurance Company

In consideration of the premium charged it is hereby agreed:

A. Coverage

The **Insurer** will pay, on behalf of the **Insured**, **Loss** and **Defense Expenses** in excess of the Deductible stated below which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging sexual misconduct or sexual abuse, including, but not limited to, any physical acts or oral statements of a sexually suggestive manner, or any unwelcome physical contact or touching; provided always that:

1. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period;
2. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of the Policy; and
3. the alleged sexual misconduct or sexual abuse takes place on or after the Retroactive Date set forth below and during the **Policy Period**.

The **Insurer** will have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if the allegations of the **Claim** are groundless, false or fraudulent.

B. Limit of Liability, Deductible, Retroactive Date

1. The coverage provided under this Endorsement shall be subject to the following Limit of Liability:

\$1,000,000 per **Claim**, and

\$1,000,000 in the Aggregate.

Such Limit of Liability shall apply to all allegations set forth in the **Claim** against the **Insured**, regardless of whether or not all such allegations are expressly stated to relate to sexual misconduct or sexual abuse. No other Limit of Liability under this Policy shall be available with regard to such **Claim**. The **Insurer's** obligations with regard to such **Claim** shall cease once the Limit of Liability stated above has been exhausted by the payment of **Loss** or **Defense Expenses**.

2. The coverage provided under this Endorsement shall be subject to the following Deductible: \$25,000 per **Claim**. The Deductible shall be included in, and shall not be in addition to, the applicable Limit of Liability stated above.
3. The Limit of Liability stated above shall erode the Policy Aggregate Limit of Liability shown in Item 3(m) of the Declarations.
4. The coverage provided under this Endorsement shall be subject to the following


Retroactive Date: July 1, 2004.

C. Exclusions and Conditions

It is expressly agreed that the coverage afforded by this Endorsement shall be subject to all exclusions set forth in Section IV.G. of the Policy ("Exclusions Applicable to all Insuring Agreements") and all Conditions.

Provided that for purposes of the application of coverage under this Endorsement, Section IV.G.4. shall be deemed deleted from the Policy.

All other terms, conditions and limitations of this Policy shall remain unchanged.

A handwritten signature in dark ink, appearing to be "W.M.", is positioned above a horizontal line.

Authorized Representative

ENDORSEMENT NO. 4

DAMAGE TO PATIENTS' PROPERTY COVERAGE

This Endorsement, effective at 12:01 a.m. on December 31, 2020, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed that the following additional coverage is added to Insuring Agreement I.B. of the Policy, General Liability, and is subject to all terms, conditions and exclusions which are applicable to such coverage:

DAMAGE TO PATIENTS' PROPERTY COVERAGE

- A. The **Insurer** will reimburse the **Insured**, subject to the Limit of Insurance set forth below, for amounts incurred due to **Property Damage** for which the **Insured** becomes legally liable and that takes place during the **Policy Period**. Such **Property Damage** must be caused by the **Insured** to the tangible property of a **Patient**, and must not have been caused intentionally.
- B. The **Insured** must provide us with a sworn statement of the value of such **Property Damage** within sixty (60) days from the date it takes place and exhibit the damaged property to the **Insurer** if in the **Insured's** possession and control.
- C. The most the **Insurer** will pay pursuant to this Endorsement is:
 - \$500 per incident of **Property Damage**; and
 - \$5,000 in the aggregate for all **Property Damage**.
- D. The amount shown above is payable in addition to the Limits of Insurance for Insuring Agreement I.B.
- E. The obligation of the **Insurer** to pay any amount for **Property Damage** pursuant to this Endorsement will only be excess of a Deductible in the amount of:
 - \$0 each and every incident of Property Damage.
- F. It is understood and agreed that Section IV. EXCLUSIONS, Subsection B.5.d. shall not be applied to deny the coverage provided pursuant to this Endorsement.
- G. For purposes of this coverage, electronic data or electronically stored information is not considered "tangible" property regardless of the fact that such data or information may be stored on any type of device or medium.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 5
EVACUATION COVERAGE

This Endorsement, effective at 12:01 a.m. on December 31, 2020, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed that the following additional coverage is added to the Policy, and is subject to all terms, conditions and exclusions:

EVACUATION COVERAGE:

1. The **Insurer** will reimburse the **Insured** for **Evacuation Expenses** actually incurred in connection with an **Evacuation** which first takes place during the **Policy Period** and which is reported in accordance with Section 6. of this Endorsement, subject to the Limit of Insurance and Deductible set forth below.
2. The maximum amount payable for **Evacuation Expenses** shall be:

\$25,000 for each **Evacuation**; and
\$25,000 in the aggregate for all **Evacuations**, all **Insureds** and all Locations.

Which amounts shall be part of, and not in addition to, the Policy Aggregate Limit of Liability as set forth in the Declarations.

3. A Deductible in the amount of \$0 shall apply to the payment of **Evacuation Expenses** from each and every **Evacuation**. The **Insurer** shall only pay **Evacuation Expenses** in excess of this Deductible and subject to the Limit of Insurance above.
4. Solely with respect to the coverage provided pursuant to this Endorsement, the following definitions shall apply:
 - (a) **Evacuation** means the removal of all or the majority of **Patients** from one or more of the **Named Insured's** Locations in response to a natural or man-made condition that is unexpected and unforeseen, or the threat thereof, that in the reasonable judgment of the **Named Insured's** senior management, causes the **Patients** of such Location to be in imminent danger of loss or life or physical harm. Such condition must be in the form of an emergency or sudden crisis requiring immediate action, and not the result of a latent or hidden condition at the Location.
 - (b) **Evacuation Expenses** means reasonable costs and expenses actually incurred by the **Named Insured** in connection with the **Evacuation**, including the costs associated with transporting and lodging **Patients** who have been evacuated. **Evacuation Expenses** shall not include any remuneration, salaries, overhead, fees or benefit expenses of the **Named Insured** or any **Insured**.

5. Solely with respect to the coverage provided pursuant to this Endorsement, the following

Exclusions shall apply:

(a) No coverage will be available under this Endorsement for **Evacuation Expenses**:

- (i) which have been reported, or any **Evacuation** of which notice has been given, under any policy which may succeed this Policy in time, whether or not such policy affords coverage for such **Evacuation**;
- (ii) arising out of a strike or bomb threat, unless the **Evacuation** was ordered by a civil authority;
- (iii) arising out of a false fire alarm or a planned evacuation drill;
- (iv) arising out of the vacating of one or more **Patients** that is due and confined to their individual medical condition;
- (v) arising out of a nuclear reaction, radiation or any radioactive contamination, however caused;
- (vi) arising out of the seizure or destruction of property by order of a governmental authority; provided that this Exclusion shall not apply to an order of evacuation by a governmental authority due to a condition described in Section 4.a. above;
- (vii) arising out of war, including undeclared or civil war, warlike action by a military force, terrorism, insurrection, rebellion or revolution.

6. Any **Evacuation** shall be reported to the **Insurer** as soon as practicable, but in no event later than 30 days after the **Named Insured** first incurs **Evacuation Expenses** for which coverage will be requested, or the expiration of the **Policy Period**, whichever is earlier.

7. There shall be no requirement for the **Named Insured** to obtain the **Insurer's** prior written approval or consent, before incurring any **Evacuation Expenses**.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 6

EMPLOYED PHYSICIAN EXCLUSION WITH NAMED EXCEPTIONS

This Endorsement, effective at 12:01 a.m. on December 31, 2020, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |


In consideration of the premium charged, it is hereby understood and agreed that:

Section II. DEFINITIONS, Subsection N. "**Insured**", paragraph 3. is deleted in its entirety and replaced as follows:

3. any **Employee**, but only while acting within the scope of his or her duties as such on behalf of the **Named Insured** or any **Insured Entity**; provided that no employed physicians of the **Named Insured** or **Insured Entity** shall be covered under this Policy as an **Insured** other than the following:

No Named Exceptions

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 7
MEDICAL PAYMENTS COVERAGE
FOR GENERAL LIABILITY

This Endorsement, effective at 12:01 a.m. on December 31, 2020, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed:

1. Solely with respect to the coverage afforded under Insuring Agreement I.B. of the Policy, the **Insurer** will pay, on behalf of the **Insured**, “**Medical Payments**” as such term is defined below, for **Bodily Injury** caused by an accident:

- (a) on premises owned or rented by the **Named Insured**, or ways adjacent thereto; or
- (b) because of the operations of the **Named Insured**;

provided that:

- (i) such accident takes place during the **Policy Period**;
- (ii) **Medical Payments** are incurred and reported to the **Insurer** within one year of the date of the accident; and
- (iii) the injured person submits to examination, as often as required by the **Insurer**, by physicians of the **Insurer’s** choice and at the expense of the **Insurer**.

2. Solely with respect to the coverage provided by this Endorsement, the term set forth below shall have the following meaning and the Definitions Section of the Policy shall be deemed amended to include such term:

“**Medical Payments**” shall mean reasonable payments for:

- (a) first aid administered at the time of an accident;
- (b) necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (c) necessary ambulance, hospital, professional medical and nursing and funeral services.

3. In addition to, and not in limitation of, the existing Exclusions set forth in the Policy, no coverage will be available under this Policy for **Bodily Injury** sustained by:

- (a) any **Insured**;
- (b) any person hired to do work for or on behalf of any **Insured**;
- (c) a tenant of any **Insured**;
- (d) any person injured on that part of any premises owned or rented by the **Named Insured**, that the person normally occupies;
- (e) any person, whether or not an **Employee** of any **Insured**, if benefits for such **Bodily**

Injury are payable or must be provided under workers' compensation or disability benefits laws or similar laws;

- (f) any person injured while engaging in athletic activities;
 - (g) any person otherwise excluded from coverage under the Policy.
4. The maximum amounts payable for **Medical Payments** by the **Insurer** pursuant to this Endorsement are:
- \$5,000 for each person, per incident; and
\$5,000 in the aggregate for all payments.
- Such amounts shall be a part of, and not in addition to, the **Insurer's** Limits of Liability for Insuring Agreement I.B. set forth in Item 3. of the Declarations.
5. Notwithstanding any terms or conditions to the contrary in the Policy, no retention or deductible shall apply to the coverage provided under this Endorsement.
6. Solely with respect to the coverage provided by this Endorsement, the definition of "**Loss**" as set forth in the Policy is amended to include **Medical Payments**, as defined herein.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 8
SCHEDULE A
SCHEDULE OF INSURED ENTITIES

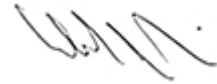
This Endorsement, effective at 12:01 a.m. on December 31, 2020, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed that the term **Insured Entity** as defined in the Policy, shall include the entities shown on and in accordance with the attached Schedule A.

Coverage will only be provided for **Medical Professional Incidents** otherwise covered under the Policy and which occur on or after the respective Retroactive Date(s), and before the respective Termination Date(s), for each **Insured Entity**, as set forth in the attached Schedule A.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

Account Name: Hospital for Special Surgery, LLC d.b.a. OneCore Health

[illegible]

**POLICYHOLDER DISCLOSURE STATEMENT
UNDER THE TERRORISM RISK INSURANCE ACT**

The Insured is hereby notified that under the federal Terrorism Risk Insurance Act, as amended, (the "Act"), the Insured has a right to purchase insurance coverage for losses arising out of an Act of Terrorism, as defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury in consultation with the Secretary of Homeland Security and the Attorney General of the United States to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside of the United States in case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. The Insured should read the Act for a complete description of its coverage. The decision to certify or not to certify an event as an Act of Terrorism covered by this law is final and not subject to review.

The Insured should know that where coverage is provided by this policy for losses caused by a Certified Act of Terrorism may be partially reimbursed by the United States Government under a formula established by federal law. However, the insured's policy may contain other exclusions that might affect coverage, such as an exclusion for nuclear events. Under the formula, the United States generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019; and 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible that must be met by the Insurer, and which deductible is based on a percentage of the Insurer's direct earned premiums for the year preceding the Act of Terrorism

Be advised that the Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap on all losses resulting from Certified Acts of Terrorism. If aggregate insured losses attributable to Certified Acts of Terrorism exceed \$100 billion in a calendar year the United States Government shall not make any payment for any portion of the amount of such loss that exceeds \$100 billion. If aggregate insured losses attributable to Acts of Terrorism exceed \$100 billion in a Program Year and the Insurer has met its deductible under the Act, the Insurer shall not be liable for payment of any portion of the losses that exceeds \$100 billion, and in such case, insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

Coverage for "insured losses" as defined in the Act is subject to the coverage terms, conditions, amounts and limits in this policy applicable to losses arising from events other than Acts of Terrorism.

Please see the options available to the Insured below.

- If you, the Insured, **elect to purchase coverage** in accordance with the Act, there will be \$0.00 additional premium due and **no further action or response is needed by you.**
- If you, the Insured, reject coverage in accordance with the Act, you must check below and sign and return this form to the Insurer.

☐ I HEREBY REJECT THIS COVERAGE.

Signature of Insured

Hospital for Special Surgery, LLC d.b.a. OneCore
Health

Print/Title

0312-6808

Date

ALLIED WORLD INSURANCE COMPANY
199 Water Street, New York, NY 10038 · Tel. (646) 794-0500 · Fax (646) 794-0611

**HEALTHCARE ORGANIZATIONS
PROFESSIONAL AND GENERAL LIABILITY
INSURANCE POLICY**

THIS POLICY CONTAINS BOTH CLAIMS MADE AND OCCURRENCE COVERAGES.

THIS POLICY PROVIDES COVERAGE ON A DEFENSE WITHIN THE LIMITS BASIS. THE APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

PLEASE READ THIS POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE BROKER.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the **Insurer**, including the statements made in the **Application**, the **Insurer** and the **Insureds**, subject to all of the terms, conditions and limitations of this Policy and any endorsements thereto, agree as follows:

I. INSURING AGREEMENTS

A. CLAIMS MADE PROFESSIONAL LIABILITY

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging a **Medical Professional Incident**, provided always that:

1. such **Medical Professional Incident** takes place on or after the **Retroactive Date** and before the end of the **Policy Period**;
2. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
3. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

B. GENERAL LIABILITY

1. Occurrence Based General Liability

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations, which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** caused by an **Occurrence**; provided always that:

- a. such **Bodily Injury, Property Damage, Fire Damage, or Personal or Advertising Injury** is caused by an **Occurrence** that takes place during the **Policy Period**; and
- b. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

2. **Claims Made General Liability**

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations, which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** caused by an **Occurrence**; provided always that:

- a. such **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** is caused by an **Occurrence** that takes place on or after the **Retroactive Date** and before the end of the **Policy Period**;
- b. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
- c. notice of such claim is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

C. CLAIMS MADE EMPLOYEE BENEFITS LIABILITY

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging injury to **Employees** because of an act, error or omission in the **Insured's Administration** of its **Employee Benefit Program**; provided always that:

1. such act, error or omission takes place on or after the **Retroactive Date** and before the end of the **Policy Period**;
2. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
3. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any allegations of the **Claim** are groundless, false or fraudulent.

II. ADDITIONAL COVERAGES

A. CLAIMS MADE PATIENT PRIVACY COVERAGE

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations which the **Insured** becomes legally obligated to pay as a result of a **Claim** brought by an individual **Patient** of the **Insured**, which are based upon or arising out of an actual or alleged negligent act, error or omission or breach or duty of an **Insured**, in violation of the **Patient's** right to the confidentiality of his or her **Protected Health Information**; provided always that:

1. such act, error or omission takes place on or after the **Retroactive Date** and before the end of the **Policy Period**;
2. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
3. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

In no event shall coverage be available under this Policy for any such **Claim** brought in the form of a class action or seeking certification as a class action, or brought by more than one individual **Patient**.

The Limits of Liability for this Additional Coverage shall be part of, and not in addition to, the Limits of Liability for Insuring Agreement I.A. Claims Made Professional Liability.

Exclusion IV.G.16. shall not apply only to the limited extent that a **Claim** may be provided coverage under this Additional Coverage II.A. The coverage under this Additional Coverage II.A. shall be the sole and exclusive coverage for **Claims** arising out of or relating to the confidentiality or disclosure of **Protected Health Information** under this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any allegations of the **Claim** are groundless, false or fraudulent.

III. DEFINITIONS

A. "Administration" means:

1. giving advice or counsel to **Employees** or their beneficiaries concerning their rights or interest with regard to the **Employee Benefit Program**;
2. determining the eligibility of **Employees** to participate in such **Employee Benefit Program**;
3. interpreting the provisions of such **Employee Benefit Program**;
4. effecting enrollment and termination of **Employees** in such **Employee Benefit Program**; or
5. handling and keeping records pertaining to such **Employee Benefit Program**.

- B. **“Advertisement”** means a notice that is broadcast or published to the general public or specific market segments about the **Insured’s** goods, products or services, for the purpose of attracting customers or supporters.
- For purposes of this Definition:
1. notice that is broadcast or published includes material placed on the internet or similar means of electronic communication; and
 2. with regard to websites, only that part of a website that is about the **Insured’s** goods, products or services, for the purpose of attracting customers or supporters, will be considered an **Advertisement**.
- C. **“Application”** means: (1) the application submitted to the **Insurer** for this Policy or any prior policy issued by the **Insurer** to the **Insured**; or (2) the application submitted to any competitor of the **Insurer**, which is provided to the **Insurer** for the purposes of procuring coverage hereunder, and which shall be treated as if it were submitted directly to the **Insurer**; and any and all materials and information submitted to or obtained by the **Insurer** in connection with such applications, all of which are deemed to be attached to, and form part of, this Policy as if physically attached.
- If the **Application** uses terms or phrases that differ from terms defined in this Policy, no inconsistency between any term or phrase used in the **Application** and any term defined in this Policy will serve to waive or change any of the terms, conditions and limitations of this Policy.
- D. **“Bodily Injury”** means physical injury, sickness or disease sustained by a person other than a **Patient**, including mental anguish, emotional distress or death resulting there from.
- E. **“Claim”** means:
1. with respect to Insuring Agreement I.A., a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for a **Medical Professional Incident**;
 2. with respect to Insuring Agreement I.B., a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for an **Occurrence**;
 3. with respect to Insuring Agreement I.C., a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for an act, error or omission in the **Insured’s Administration** of its **Employee Benefit Program**;
 4. with respect to Additional Coverage II.A, a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for an act, error or omission or breach or duty of an **Insured**, in violation of the **Patient’s** right to the confidentiality of his or her **Protected Health Information**.
- F. **“Defense Expenses”** means reasonable and necessary legal fees and expenses incurred in the investigation, adjustment, defense or appeal of a **Claim**, including premiums on appeal bonds required to be furnished with respect to any such judgment (without any obligation to furnish such bond); provided, that **Defense Expenses** shall not include remuneration, salaries, overhead, fees or benefit expenses of any **Insured**.
- G. **“Employee”** means a person who has been hired by the **Named Insured** or an **Insured Entity** to perform services, and who has an assigned work schedule and appears on the regular payroll of the **Insured**, with applicable federal, state and local taxes withheld. **Employee** does not include an independent contractor or a **Volunteer**. An **Employee’s** status as an **Insured** with respect to any covered **Claim** under this Policy shall be

determined as of the date of the **Occurrence**, **Medical Professional Incident** or other act, error or omission upon which the **Claim** involving the **Employee** is based.

- H. **“Employee Benefit Program”** means any group life insurance, group accident and health insurance, profit sharing plan, pension plan, **Employee** stock subscription plan, workers’ compensation, unemployment insurance, social security and disability benefits insurance, or any other similar plan administered by or on behalf of the **Insured** for the benefit of its **Employees**.
- I. **“Employment Practices”** means any actual or alleged breach of employment contract; failure or refusal to hire, employ or promote a person; demotion or discharge of a person; employment-related defamation or humiliation; discipline or evaluation of an **Employee**, **Volunteer** or independent contractor; discrimination, harassment, segregation, limitation or classification of persons in any way that tends to deprive any person of employment opportunities or otherwise adversely affect his/her status as an **Employee**, **Volunteer** or independent contractor because of his/her race, age, sex, national origin, marital status, physical or mental handicap, pregnancy, religion, sexual orientation or preference, military status, or any other status that is protected under any applicable federal, state or local statute or ordinance; retaliation; or employment-related misrepresentation.
- J. **“Express Contract”** means an actual agreement among the contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making.
- K. **Fire Damage** means **Property Damage** to the tangible property of a third party other than an **Insured**, caused by a fire to premises an **Insured** rents or leases from others or to premises temporarily occupied by an **Insured** with the permission of the owner, solely for the purpose of rendering **Medical Professional Services**. Such premises shall not include an **Insured’s** residence. Water damage from such fire is also included. The fire must not be caused intentionally; and must take place during the **Policy Period**.

With respect to **Fire Damage**, **Property Damage** shall not include damage to any personal property owned by an **Insured**, or any other personal property of any person that is within an **Insured’s** care, custody or control.
- L. **“Good Samaritan Acts”** means acts or services provided by or failed to be provided by the **Insured** in rendering emergency treatment, without remuneration, at the scene of an accident, medical crisis or disaster.
- M. **“Hostile Fire”** means a fire which becomes uncontrollable or breaks out from where it was intended to be.
- N. **“Insured”** means any of the following:

1. the **Named Insured**;
2. any **Insured Entity**;
3. any **Employee**, but only while acting within the scope of his or her duties as such on behalf of the **Named Insured** or an **Insured Entity**;

and, solely with respect to Insuring Agreements I.A. and I.B., **Insured** shall also mean the following:

4. any student or **Volunteer**, but only while acting within the scope of his/her duties as such on behalf of the **Named Insured** or an **Insured Entity**;
5. **Locum Tenens**, engaged to provide **Medical Professional Services** on behalf of the **Named Insured** or an **Insured Entity**, but only if the **Locum Tenens** is substituting for an **Insured** physician and only while acting within the scope of his or her duties as such;

6. any member of a duly authorized board or committee of the **Named Insured** or an **Insured Entity**, any person communicating information to such board or committee, or any person charged with the duty of acting as a hearing officer or agent of such committee or executing directives of any such board or committee; provided, however, that any such person shall only be an **Insured** while acting within the scope of his/her duties as such on behalf of the **Named Insured** or an **Insured Entity**;
 7. any of the **Insured's** medical directors, administrators, department heads or chiefs of staff, who are not **Employees**, while acting within the scope of their duties as such; provided, however, that such persons, other than medical directors, shall not be an **Insured** for **Claims** arising out of direct patient care rendered or allegedly failed to be rendered by him/her;
 8. any individual duly authorized by the **Named Insured** or an **Insured Entity** to conduct **Peer Review**, including but not limited to consultants and contractors, retained pursuant to an **Express Contract** for such purposes, but only with respect to coverage under Insuring Agreement I.A.; and
 9. any member or partner of a joint venture or partnership specifically designated as such in Schedule A, but only with respect to such member or partner's liability arising out of such designated joint venture or partnership.
- O. **"Insured Entity"** means the organization(s) listed in Schedule A.
- P. **"Insured's Products"** means:
1. goods or products manufactured, sold, handled or distributed by:
 - a. the **Insured**;
 - b. others trading under the name of the **Named Insured** or an **Insured Entity**; or
 - c. a person or organization whose assets the **Insured** has acquired in accordance with Section V.K. of this Policy; and
 2. containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- Insured's Products** does not mean vending machines or other property rented to or located for the use of others but not sold.
- Q. **"Insurer"** means the Company identified in the Declarations.
- R. **"Locum Tenens"** means a physician, surgeon, midwife, nurse anesthetist, nurse practitioner, physician assistant or surgical assistant who is temporarily serving as a substitute physician, surgeon, midwife, nurse anesthetist, nurse practitioner, physician assistant or surgical assistant for any **Insured**, while such **Insured** is temporarily absent from professional practice. Coverage for a **Locum Tenens** shall only extend for up to sixty (60) days per **Insured** during any one **Policy Period**.

Any **Locum Tenens** for which coverage is provided under this Policy shall share in the Limits of Liability available to the **Insured** on whose behalf they are acting, unless otherwise required by law.

- S. “**Loss**” means **Defense Expenses** and any monetary amount which an **Insured** is legally obligated to pay as a result of a **Claim**, pre-and post-judgment interest awarded or imposed in any judgment, legal costs or attorney’s fees awarded by a court in favor of the claimant, premiums on appeal bonds required to be furnished with respect to any such judgment (without any obligation to furnish such bond).

However, **Loss** shall not include:

1. the multiplied portion of any multiplied damages award;
2. fines, penalties, sanctions or taxes levied against the **Insured**;
3. sums due under any contractual provision for liquidated damages, or pre-agreed penalties under any contract, or any similar contractual remedy;
4. salaries, remuneration, overhead, fees or benefit expenses of the **Insured**;
5. non-monetary relief or redress in any form other than monetary compensation or damages, including, but not limited to, injunctive, declaratory and administrative relief, or any amounts paid or incurred by **Insureds** to comply with a judgment or settlement for such relief ;
6. the return, restitution, refund or disgorgement of fees, profits or amounts allegedly wrongfully held and/or retained by an **Insured**;
7. amounts which the **Insured** is not legally obligated to pay;
8. amounts or matters which are uninsurable under applicable law; or
9. the payment, satisfaction or writing off of any medical bills or charges by an **Insured**.

- T. “**Managed Care Activities**” means any of the following services or activities: **Peer Review**; **Utilization Review**; advertising, marketing, selling, or enrollment for health care, workers' compensation, life, dental, vision, short-term disability, long-term disability, behavioral health, pharmacy benefit and consumer-directed health plans; claim services; establishing health care provider networks; reviewing the quality of **Medical Professional Services** or providing quality assurance; design and/or implementation of financial incentive plans; wellness or health promotion education; development or implementation of clinical guidelines, practice parameters or protocols; triage for payment of **Medical Professional Services**; and services or activities performed in the administration or management of health care, workers' compensation, life, dental, vision, short-term disability, long-term disability, behavioral health, pharmacy benefit and consumer-directed health plans.

- U. “**Medical Professional Incident**” means an actual or alleged negligent act, error or omission by the **Insured** in connection with:

1. the **Insured’s** rendering of or failure to render **Medical Professional Services**;
2. the **Insured’s** activities as a member of a duly authorized board or committee of the **Named Insured** or an **Insured Entity**, or as a member of any committee of the medical or professional staff of the **Named Insured** or an **Insured Entity** when engaged in **Peer Review**;
3. the **Insured’s** activities as a member of an accreditation, standards review or similar board or committee of the **Named Insured** or an **Insured Entity**;

4. the **Insured's** performance of quality assurance activities for the **Named Insured** or an **Insured Entity**; or

5. **Good Samaritan Acts.**

Provided that any **Claim** for a **Medical Professional Incident** arising out of an act, error or omission described in paragraphs 1. through 4. immediately above must be brought by or on behalf of a **Patient** in connection with **Medical Professional Services** provided to such **Patient**.

V. **"Medical Professional Services"** means services performed by an **Insured**, on behalf of the **Named Insured** or an **Insured Entity**, in the treatment or care of any person, including: medical, surgical, dental, nursing, psychiatric, mental health, osteopathic, chiropractic, or other professional healthcare or healthcare-related services; the use, prescription, furnishing or dispensing of medications, drugs, blood, blood products, or medical, surgical, dental or psychiatric supplies, equipment or appliances in connection with such treatment or care; the furnishing of food or beverages in connection with such treatment or care; counseling or social services provided in connection with such treatment or care; the providing of counseling or social services in connection with such treatment or care; and the handling of or performance of post-mortem examinations on human bodies; but **Medical Professional Services** shall not include **Managed Care Activities**.

W. **"Named Insured"** means the entity identified in Item 1. of the Declarations.

X. **"Occurrence"** means:

1. with respect to **Bodily Injury, Property Damage or Fire Damage**, an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results in injury neither expected nor intended by the **Insured**;
2. with respect to **Personal or Advertising Injury**, a covered offense as set forth in Definition AA.

Y. **"Patient"** means any person or human body seeking, admitted or registered to receive **Medical Professional Services** from the **Named Insured** or an **Insured Entity**, whether on an inpatient, outpatient or emergency basis.

Z. **"Peer Review"** means the process of evaluating, any individual or entity for purposes of selecting, employing, contracting with or credentialing providers of **Medical Professional Services**; provided however, that such evaluation must be performed by members of a duly authorized professional review board or committee of the **Insured**.

AA. **"Personal or Advertising Injury"** means injury, other than **Bodily Injury**, arising out of one or more of the following offenses:

1. false arrest, detention or imprisonment;
2. malicious prosecution; or
3. the wrongful eviction from, wrongful entry into or invasion of the right of private occupation of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
4. oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, product or services;

5. oral or written publication, in any manner, of material that violates a person's right of privacy;
6. the **Insured's** use of another's advertising idea in its **Advertisement**;
7. the **Insured's** use of another's copyright, trade dress or slogan in its **Advertisement**; or
8. the **Insured's** infringement upon another's copyright, trade dress or slogan in its **Advertisement**.

The term "material" as used in this definition, shall not include information from which an individual may be uniquely and reliably identified, including, both personal or financial, or personal information as defined in any U.S. federal or state privacy protection law governing the control and use of an individual's personal and confidential information, including **Protected Health Information**, or other data or information stored, processed or transmitted on the **Insured's** or any third party's computer systems or devices.

BB. **"Policy Period"** means the period from the Inception Date stated in Item 2(a) of the Declarations to the earlier of the Expiration Date stated in Item 2(b) of the Declarations or the cancellation date.

CC. **"Pollutant"** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned, reclaimed or disposed of.

DD. **"Protected Health Information"** means "protected health information" as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended.

EE. **"Property Damage"** means:

1. physical injury to or destruction of tangible property, including all loss of use thereof as a result of such physical injury or destruction; or
2. loss of use of tangible property that is not physically injured.

"Tangible property" as used herein, shall not include any kind of data or information stored on any kind of device or computer system.

FF. **"Related Claims"** means all **Claims** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events, whether related logically, causally or in any other way.

GG. **"Retroactive Date"** means the date set forth in Item 5. of the Declarations Page or the respective date for each **Insured** shown in Schedule A or Schedule B, as applicable.

HH. **"Utilization Review"** means the process of evaluating the appropriateness or necessity of **Medical Professional Services** provided or to be provided by an **Insured**. **Utilization Review** includes prospective, concurrent and retrospective review of such **Medical Professional Services**;

II. **"Volunteer"** means a person providing services and/or labor to the **Insured**, without being paid by the **Insured** for providing such services and/or labor and under the supervision or direction of the **Insured**. **Volunteer** shall not include any **Employee** or independent contractor.

IV. **EXCLUSIONS**

A. Exclusions Applicable To Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY

As respects Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury**, unless such **Claim** is for injury and is brought by or on behalf of a **Patient** and arises out of an **Insured's** alleged rendering of or failure to render **Medical Professional Services** to such **Patient**;
2. any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by any of the **Insured's** directors or officers in the discharge of their duties in such capacity, or any matter claimed against a director or officer of an **Insured** solely by reason of him or her being a director or officer of an **Insured**;
provided however, that this Exclusion shall not apply to a **Claim** under Insuring Agreement I.A. against a director or officer of an **Insured** for a **Medical Professional Incident** brought by or on behalf of a **Patient** in connection with **Medical Professional Services** provided to such **Patient**.
3. the rendering of or failure to render **Medical Professional Services** by any person other than an **Insured**;
provided however, that this Exclusion shall not apply to the **Insured's** vicarious liability with regard to such **Medical Professional Services**;
4. any **Medical Professional Incident** arising out of the ownership, maintenance, use, operation, or entrustment to others of any aircraft, auto, watercraft, helipad or heliport, motor vehicle or semi-trailer, or the loading or unloading thereof;
provided however, that this Exclusion will not apply to any **Claim** arising out of a **Medical Professional Incident** in connection with the loading or unloading of a **Patient**;
5. any **Medical Professional Incident** taking place prior to the **Retroactive Date**;
6. any **Medical Professional Services** provided by any **Insured Person**, or by any person for whom an **Insured** is responsible, if such **Medical Professional Services** are provided outside of their employment for the **Named Insured** or an **Insured Entity**;
provided however, that this Exclusion shall not apply to a **Claim** against an **Insured** for **Good Samaritan Acts**;

B. Exclusions Applicable to Insuring Agreement I.B., GENERAL LIABILITY

As respects Insuring Agreement I.B.1., OCCURRENCE BASED GENERAL LIABILITY, and Insuring Agreement I.B.2, CLAIMS MADE GENERAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. injury to a **Patient**;
provided however, that this Exclusion shall not apply to any **Claim** arising out of: **Hostile Fire** or lightning; explosion; smoke; elevator malfunction; or structural collapse of a building;

2. **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** expected or intended from the standpoint of the **Insured**;
provided however, that this exclusion shall not apply to **Bodily Injury** resulting from the use of reasonable force to protect any person or property from injury or damage;
3. **Personal or Advertising Injury** arising out of the written or oral publication of material if done by or at the direction of an **Insured** with knowledge of its falsity;
4. **Bodily Injury or Property Damage** arising out of the ownership, maintenance, use, operation, or entrustment to others of any aircraft, auto, watercraft, helipad or heliport, motor vehicle or semi-trailer, or the loading or unloading thereof;
5. **Property Damage** to:
 - a. any property the **Insured** owns or rents;
 - b. any premises sold, given away, or abandoned by the **Named Insured**;
 - c. any property loaned to the **Insured**;
 - d. any personal property in the care, custody or control of the **Insured**; or
 - e. the **Insured's Products**, arising out of such products or any part thereof;
6. **Property Damage** to property that has not been physically injured, arising out of:
 - a. a delay or failure by or on behalf of the **Insured** in performing any contract or agreement; or
 - b. the failure of the **Insured's Products** to meet the level of performance, quality, fitness or durability promised or warranted by the **Insured**;
provided however, that this exclusion shall not apply to loss of use of other tangible property resulting from the sudden or accidental physical damage to or destruction of the **Insured's Products** or work performed by or on behalf of the **Insured** after such products or work have been put to use by any person or organization other than the **Insured**;
7. any actual or alleged infringement of right of patent, trademark, service mark, trade name, copyright, title or slogan.
8. injury or damage arising in whole or in part, directly or indirectly, out of fungi, including mold or mildew, any mycotoxins, toxins, allergens, spores, scents, vapors, gases or by-products released by fungi, regardless of whether such fungi is:
 - a. airborne;
 - b. contained in a product; or
 - c. contained in or a part of any building, structure, building material, or any component part of any of the foregoing;

C. Exclusions applicable to Insuring Agreement I.B.1., OCCURRENCE GENERAL LIABILITY

As respects Insuring Agreement I.B.1., OCCURRENCE GENERAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any actual or alleged **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** caused by an **Occurrence** taking place before the Inception Date of this Policy or after the Expiration Date of this Policy, or any earlier date of cancellation.

With respect to **Personal or Advertising Injury**, if such material was first published prior to the Inception Date of this Policy, it shall be immaterial whether such material was re-published or allegedly caused injury during the **Policy Period**;

D. Exclusions applicable to Insuring Agreement I.B.2., CLAIMS MADE GENERAL LIABILITY

As respects Insuring Agreement I.B.2., CLAIMS MADE GENERAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any actual or alleged **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** arising out of an **Occurrence** taking place prior to the **Retroactive Date**.

With respect to **Personal or Advertising Injury**, if such material was first published prior to the **Retroactive Date**, it shall be immaterial whether such material was re-published or allegedly caused injury during the **Policy Period**.

E. Exclusions Applicable to Insuring Agreement I.C., CLAIMS MADE EMPLOYEE BENEFITS LIABILITY

As respects Insuring Agreement I.C., CLAIMS MADE EMPLOYEE BENEFITS LIABILITY, this Policy will not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury**;
2. a **Medical Professional Incident**, or injury to a **Patient**;
3. failure of performance by any insurer, including, but not limited to, the failure of such insurer to pay or provide benefits allegedly due under any contract relating to the **Insured's Employee Benefit Program**;
4. the insufficiency of funds to meet any obligations of the **Insured's Employee Benefit Program**;
5. failure of stock or any compensation, investment or savings program to produce the financial gain represented; or
6. any act, error or omission in the **Insured's Administration** of its **Employee Benefit Program** taking place prior to the **Retroactive Date**.

F. Exclusions Applicable to Additional Coverage II.A.

As respects Additional Coverage II.A. CLAIMS MADE PATIENT PRIVACY COVERAGE, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any actual or alleged: (a) act, error or omission, neglect or breach of duty by an **Insured** or a third party, or (b) unauthorized access to, use of, or tampering with any computer, computer system or electronic device or system; which results in a breach or failure of network security;

“Network security,” as used in this exclusion, includes, but is not limited to, hardware, software and firmware which is designed to control or restrict the access to any computer, computer system or electronic device or system, or parts thereof. Network security shall also include the use of a third party service provider.

2. failure, interruption or reduction in supply of utility service or infrastructure, including, without limitation, electrical, gas, water, telephone, Internet, cable, satellite, or telecommunications;
3. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), strike, lock-out, riot, civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, acts of terrorism or cyberterrorism;
4. **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury;**

provided however, that this Exclusion shall not apply to **Loss** from those allegations in a **Claim** alleging emotional distress or mental anguish caused by a negligent act, error or omission of an **Insured** or an **Insured Entity** in violation of the **Patient’s** right to the confidentiality of his or her **Protected Health Information;**

5. transfer of, or the failure to transfer, funds, money or securities;
6. unsolicited electronic dissemination of faxes, e-mails, text messages or similar communications, including but not limited to any violation of the Telephone Consumer Protection Act, any federal or state anti-spam statute, or any other federal or state statute, law or regulation relating to a person’s or entity’s right of seclusion;
7. discrimination of any kind;
8. unlicensed use of software;
9. any wireless network that is not protected by either Wi-Fi Protected Access (“WPA”) or any other security protocol that provides equal or greater protections than WPA;
10. the use of a laptop computer, computer or other electronic device that does not employ whole disc encryption or is not password protected;
11. back-up tapes, optical media or any other form of portable back-up media which are not encrypted; or
12. expiration or withdrawal of technical support by a software vendor.

G. Exclusions Applicable to All Insuring Agreements

As respects Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY, Insuring Agreement I.B., GENERAL LIABILITY, Insuring Agreement I.C., CLAIMS MADE EMPLOYEE BENEFITS LIABILITY, and Additional Coverage II.A. CLAIMS MADE PATIENT PRIVACY LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any willful misconduct or dishonest, fraudulent, or malicious act, error or omission by any **Insured**; any willful violation by any **Insured** of any law, statute, ordinance, rule or regulation; any **Insured** gaining any profit, remuneration or advantage to which such **Insured** was not legally entitled; or any alleged criminal conduct by an **Insured**.

For purposes of this Exclusion, no act, error or omission of any **Insured** shall be imputed to any other **Insured**; This exclusion will not apply to any natural person who did not personally participate in or assent to such act, error, or omission;

2. any acts, errors, omissions, **Medical Professional Incidents, Occurrences**, facts, matters, events, suits or demands notified or reported to, deemed notified or reported to, or which should have been notified or reported to, any policy of insurance or policy or program of self-insurance in effect prior to the Inception Date of this Policy;
3. any **Occurrence**, claim, suit or **Medical Professional Incident** (hereinafter a "matter") taking place prior to the earlier of, (a) the Inception Date of this Policy, or (b) the Inception Date of the first policy issued by the **Insurer** to the **Insured** of which this Policy is a renewal, if a member of the **Named Insured's** or **Insured Entity's** Risk Management Department, Legal Department, Executive or Management Teams or any individual charged with the responsibility of receiving incident reports for the **Named Insured** or **Insured Entity**, on or before such date, knew of such matter;
4. any actual or alleged sexual misconduct or sexual abuse, including, but not limited to, any physical acts or oral statements of a sexually suggestive manner, or any unwelcome physical contact or touching;
5. any actual or alleged liability of an **Insured** arising out of discrimination of any kind by an **Insured**, including but not limited to discrimination due to or on the basis of race, color, creed, national origin, marital status, age, gender, physical or other disability, HIV or AIDS status, or sexual orientation; or
6. any actual or alleged price fixing; restraint of trade; monopolization; unfair trade practices; or violation of the Federal Trade Commission Act, the Sherman Act, the Clayton Act, or any other federal statute involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities, or of any rules or regulations promulgated under or in connection with any of the foregoing statutes, or of any similar provision of any federal, state or local statute, rule or regulation or common law;
7. any actual or alleged liability of an **Insured** under any **Express Contract**, unless such liability would have attached in the absence of such contract or agreement.
8. any actual or alleged liability of an **Insured** under any workers compensation, unemployment compensation, disability benefits or similar law or regulation;
9. any actual or alleged violation of the Employee Retirement Income Security Act of 1974 (ERISA), or any similar federal, state or local law or regulation;

10. injury or damage arising in whole or in part, directly or indirectly, out of asbestos or silica, regardless of whether such asbestos or silica is:
 - a. airborne, as a fiber or particle;
 - b. contained in a product;
 - c. carried or transmitted by clothing or any other means; or
 - d. contained in or a part of any building, structure, building material, insulation product, or any component part of any of the foregoing;
11. any direct or indirect consequence of war, invasion, act of foreign enemy, hostilities (whether or not war is declared), civil war, rebellion, revolution, civil insurrection, strike, riot, terrorism or cyber-terrorism;

provided however, that this Exclusion shall not apply to “acts of terrorism” as that term is defined in the Terrorism Risk Insurance Act of 2002 (TRIA), as amended, but only to the extent that coverage is required under TRIA;
12. any actual or alleged injury, including **Bodily Injury**:
 - a. to an **Employee** arising out of or in the course of employment by the **Named Insured** or an **Insured Entity** or resulting from and in the course of performing duties related to the conduct of the **Named Insured** or an **Insured Entity’s** business;
 - b. to the spouse, child, parent, brother or sister of such **Employee**, as a consequence of an injury as describe above;

This Exclusion applies whether or not the **Insured** is liable as an employer or in any other capacity and whether or not the **Insured** has any obligation to share damages with or repay someone else who must pay damages because of the injury;
13. **Employment Practices**;
14. any **Insured’s** failure to maintain licensure status;
15. **Managed Care Activities**;

provided however, that this Exclusion shall not apply to the extent that a **Claim** arising out of **Peer Review** may be provided coverage under Insuring Agreement I.A;
16. any misuse of, disclosure or potential disclosure of, failure to keep secure or improper release of **Protected Health Information**, or any other information from which an individual may be uniquely and reliably identified, both personal or financial, or personal information as defined in any U.S. federal or state privacy protection law governing the control and use of an individual’s personal and confidential information; or any actual or alleged act, error or omission in violation of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended, or any other state, federal or local law associated with the confidentiality, security, protection, control and use of **Protected Health Information** or other information as described herein above, or of any rules or regulations promulgated in connection with such laws, including but not limited to the Privacy Rule and the Security Rule; or any act, error or omission in violation or a person’s common law right to privacy;

provided however, that this exclusion shall not apply to the limited extent that coverage for a **Claim** may be provided as specifically described under Additional Coverage II.A.

17. any administrative, disciplinary, licensing or regulatory proceeding, investigation or inquiry, suit, subpoena, demand or notice, brought by or on behalf of, or in the name or right of, any government entity or regulatory agency, department or authority;
18. any **Claim** asserted by or on behalf of an **Insured** against another **Insured**;
provided however, that this Exclusion will not apply to preclude or limit coverage for an otherwise covered **Claim** arising out of the **Insured's Administration** of its **Employee Benefit Program**;
provided further, that this Exclusion will not apply to preclude or limit coverage for an otherwise covered **Claim** based on or arising out of an **Insured's** care or treatment, solely in the capacity of a **Patient**, by another **Insured**, but only to the extent such coverage is provided under Insuring Agreement I.A.;
19. any liability or obligation:
 - a. arising out of the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**; provided however, that this exclusion shall not apply to **Bodily Injury** to a **Patient**, visitor or invitee, or to **Bodily Injury** or **Property Damage** arising out of heat, smoke or fumes from a **Hostile Fire**; or
 - b. to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, whether or not any of the foregoing are to be performed by or on behalf of the **Insured**.
20. any act, error or omission or **Medical Professional Incident** committed, or any **Occurrence** which takes place, while an **Insured** is under the influence of any drug or intoxicant;
provided however, that this Exclusion will not apply to preclude or limit coverage for allegations based on the vicarious liability of the **Named Insured** or an **Insured Entity** in an otherwise covered **Claim** under Insuring Agreement I.A.;
21. the treatment of any **Patient** with, or use of, any drug, medical device, procedure, or biologic or radiation-emitting product that is experimental in nature or not approved for use by the general public by the U.S. Food and Drug Administration, the U.S. Department of Health and Human Services, or an institutional review board, or any other similar committee of the **Named Insured**.

V. CONDITIONS

A. **Limits of Liability**

1. The amount stated in Item 3(m) of the Declarations shall be the Policy Maximum Aggregate Limit of Liability of the **Insurer**, and shall be the most the **Insurer** shall pay under this Policy for all **Loss** or **Defense Expenses** resulting from all **Claims** for which this Policy provides coverage, regardless of the number of **Claims**, the number of persons or entities included within the definition of **Insured**, or the number of Claimants.

2. The amounts stated in Items 3(k) and 3(l) of the Declarations shall be the most the **Insurer** shall pay for each **Claim** and in the aggregate for all **Claims** under Additional Coverage II.A. Claims Made Patient Privacy Coverage, which amounts shall be part of and not in addition to the Limits of Liability for Insuring Agreement I.A. Claims Made Professional Liability. The coverage under this Additional Coverage II.A. shall be the sole and exclusive coverage for **Claims** in any way relating to the confidentiality or disclosure of **Protected Health Information** under this Policy.
3. Payment of **Defense Expenses**:
Defense Expenses paid by the **Insurer** are part of and not in addition to the **Insurer's** Limits of Liability, and will reduce and may exhaust the Limits of Liability. The payment of **Defense Expenses** by the **Insured** will reduce the applicable Deductible.
4. Application of the Deductible:
The obligation of the **Insurer** to pay **Loss** or **Defense Expenses** will only be in excess of the applicable Deductible set forth in Item 4. of the Declarations. The **Insurer** will have no obligation whatsoever, either to the **Insureds** or to any other person or entity, to pay all or any portion of such Deductible on behalf of any **Insured**, although the **Insurer** will, at its sole discretion, have the right and option to do so, in which event the **Insureds** agree to repay the **Insurer** any amounts so paid. The Deductible shall be included in, and shall not be in addition to, the applicable Limit of Liability.
5. Non-Stacking of Limits:
 - a. In the event a **Claim** is first made against the **Insured** during the **Policy Period** that involves more than one (1) Insuring Agreement hereunder, it is understood and agreed that only one (1) Deductible and one (1) Limit of Liability will apply to such **Claim**, which shall be the highest applicable per **Claim** Limit of Liability set forth in the Declarations and the Deductible corresponding to such Limit of Liability.
 - b. All **Insureds** under this Policy share in the applicable Limits of Liability, unless indicated otherwise in a Schedule or Endorsement to this Policy. In no event will the number of **Insureds** involved in or named in a **Claim** increase the Limit of Liability applicable to such **Claim**.
 - c. If a **Claim** involves this Policy and any other policy issued by the **Insurer**, its predecessor or successor, or any of the **Insurer's** affiliated companies or their predecessors or successors, the Limits of Liability which will apply to such **Claim** will be a single Limit of Liability, which shall be the highest applicable per **Claim** limit available under all such policies. In no event will more than one policy issued by the **Insurer** respond to a **Claim**. This section shall not apply if such other policy is specifically written as excess insurance over this Policy.
6. Exhaustion of Limits:
 - a. In the event that an aggregate Limit of Liability for an Insuring Agreement is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under the respective Insuring Agreement to which such Limit of Liability applied, and the premium for

such Insuring Agreement will be deemed fully earned.

- b. In the event that the Policy Aggregate Limit of Liability is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under this Policy, and the entire premium will be deemed fully earned.
7. If the **Insurer** defends, or chooses to associate in the defense of a **Claim**, or pays **Loss** or **Defense Expenses**, and it is ultimately determined that the **Insurer** has no obligation to defend or provide coverage for such **Claim**, in whole or in part, then the **Insurer** will be entitled to reimbursement from the **Insured** of any **Loss** or **Defense Expenses** paid in connection with such **Claim** or any portion thereof for which coverage is not provided.

B. Reporting of Claims and Circumstances

1. With respect to Insuring Agreement I.A. CLAIMS MADE PROFESSIONAL LIABILITY, Insuring Agreement I.B.2. CLAIMS-MADE GENERAL LIABILITY, Insuring Agreement I.C. CLAIMS MADE EMPLOYEE BENEFITS LIABILITY, and Additional Coverage II.A. CLAIMS MADE PATIENT PRIVACY LIABILITY, the following shall apply:

- a. Reporting of Claims:

If, during the **Policy Period** or any applicable Extended Reporting Period, any **Claim** is first made against any **Insured**, the **Insureds** must, as a condition precedent to any right to coverage under this Policy, give the **Insurer** written notice of such **Claim** as soon as practicable thereafter, and in no event later than:

- i. with respect to a **Claim** first made during the **Policy Period**, thirty (30) days after the end of the **Policy Period**; or
- ii. with respect to a **Claim** first made during an Extended Reporting Period, thirty (30) days after such **Claim** is first made, but no later than the expiration of the Extended Reporting Period.

Timely and sufficient notice by one **Insured** of a **Claim** shall be deemed timely and sufficient notice for all **Insureds** involved in the **Claim**. Such notice shall give full particulars of the **Claim**, including, without limitation, a description of the acts, errors or omissions, the identities of the potential claimants and involved **Insureds**, the injury or damages which have resulted and/or may result from such acts, errors or omissions, and the manner in which the **Insured** first became aware of such acts, errors or omissions.

- b. Reporting of Circumstances:

If, during the **Policy Period**, an **Insured** first becomes aware of any act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident** that takes place during the **Policy Period** and that could give rise to a **Claim** against the **Insured**, and:

- i. gives the **Insurer** written notice of such act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident** with full particulars as soon as practicable thereafter, but in any event before the end of the **Policy Period**; and

- ii. requests coverage under this Policy for any **Claim** subsequently arising from such reported acts, errors or omissions as soon as practicable after such **Claim** is made;

then any **Claim** subsequently made against the **Insured** arising out of such act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident** shall, subject to Section V.C. below, be treated as if it had been first made during the **Policy Period**.

The full particulars required in any notice given under this Section V.B.1.b. must include, without limitation:

- (a) The time, date and place of the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**;
- (b) a description of the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**;
- (c) a description of the injury or damage which has allegedly resulted from or may result from the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**;
- (d) how and when the **Insured** first became aware of the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**;
- (e) the names, addresses and ages of the injured parties;
- (f) the names and addresses of any witnesses;
- (g) the identities of any involved **Insureds**;
- (h) the reasons why the **Insured** believes a **Claim** is likely to be made as a result of the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**.

The **Insured's** conduct of internal loss control activities, without more, will not constitute reporting under this Section V.B.1.b.

2. With respect to Insuring Agreement I.B.1., OCCURRENCE BASED GENERAL LIABILITY, the following shall apply:

a. Reporting of Claims and Occurrences:

The **Insured** must see to it that the **Insurer** is immediately notified in writing of any **Claim**, and must see to it that the **Insurer** is notified as soon as practicable in writing of an **Occurrence** that may result in a **Claim**. To the extent possible, such notice should include, without limitation: a description of the nature, time and place of the **Occurrence**; the identities of the potential claimants, any witnesses and involved **Insureds**; and the injury or damages which have resulted and/or may result from such **Occurrence**.

3. Other Reporting Responsibilities of the Insured:

The **Insureds** also must:

- a. immediately send the **Insurer** copies of any demands, notices, summonses or legal papers received in connection with the **Claim**;
- b. authorize the **Insurer** to obtain records and other information;

- c. cooperate with the **Insurer** in the investigation, defense or settlement of the **Claim**; and
- d. assist the **Insurer**, upon the **Insurer's** request, in the enforcement of any right against any person or organization which may be liable to the **Insured** because of injury or damage to which this Policy may also apply.

C. Related Claims Deemed Single Claim; Date Claim Made

All **Related Claims**, whenever made, shall be deemed to be a single **Claim** and shall be deemed to have been first made on the earliest of the following dates:

- 1. the date on which the earliest **Claim** within such **Related Claims** was received by an **Insured**; or
- 2. the date on which written notice was first given to the **Insurer** of an act, error, omission or **Occurrence** which subsequently gave rise to any of the **Related Claims**,

regardless of the number and identity of claimants, the number and identity of **Insureds** involved, or the number and timing of the **Related Claims**, and even if the **Related Claims** comprising such single **Claim** were made in more than one **Policy Period**.

D. Related Acts Deemed Single Act

- 1. With regard to Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY, all damages arising from the same or related acts, errors, omissions, facts, situations or circumstances are considered to arise out of a single **Medical Professional Incident**. Such **Medical Professional Incident** will be deemed to have first taken place at the time of the first act, error or omission.
- 2. With regard to Insuring Agreement I.B.1., OCCURRENCE-BASED GENERAL LIABILITY, all damages arising from the same or related accidents, acts, offenses, publications or general conditions are considered to arise out of a single **Occurrence**, regardless of the frequency or repetition thereof, the type of damage at issue, or the number of claimants. Such **Occurrence** will be deemed to have first taken place at the time of the first such accident, act, offense, publication or general condition.
- 3. With regard to Insuring Agreement I.B.2., CLAIMS MADE GENERAL LIABILITY, all damages arising from the same or related accidents, acts, offenses, publications or general conditions are considered to arise out of a single **Occurrence**, regardless of the frequency or repetition thereof, the type of damage at issue, or the number of claimants. Such **Occurrence** will be deemed to have first taken place at the time of the first such accident, act, offense, publication or general condition.
- 4. With regard to Insuring Agreement I.C., CLAIMS MADE EMPLOYEE BENEFITS LIABILITY, all damages arising from the same or related acts, errors or omissions in the **Insured's Administration** of its **Employee Benefit Program** are considered to arise out of a single act, error or omission. Such act, error or omission will be deemed to have first taken place at the time of the first act, error or omission.
- 5. With regard to Additional Coverage II.A., CLAIMS MADE PATIENT PRIVACY COVERAGE, all damages arising from the same or related acts, errors or omissions of an **Insured** in violation of an individual **Patient's** right to the confidentiality of his or her **Protected Health Information**, are considered to

arise out of a single act, error or omission. Such act, error or omission will be deemed to have first taken place at the time of the first act, error or omission.

E. Defense and Settlement

1. No **Insured** may incur any **Defense Expenses** or admit liability for, or settle or offer to settle, any **Claim** without the **Insurer's** prior written consent.
2. The **Insurer** will have the right to select counsel for the defense of any **Claim**, make investigations and conduct negotiations and to enter into such settlement of any **Claim** as the **Insurer** deems appropriate;

provided however, that if the applicable Deductible exceeds the amount of any proposed settlement plus **Defense Expenses** incurred in any **Claim**, the **Insurer** shall only agree to such settlement with the **Insured's** consent, such consent not to be unreasonably withheld
3. The **Insurer** will have no obligation to pay **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** after the **Insurer's** Limit of Liability, as set forth in the Declarations, has been exhausted by the payment of **Loss** or **Defense Expenses**.
4. In the event and to the extent that the **Insureds** shall not be entitled to payment of **Defense Expenses** under the terms and conditions of this Policy, such payments by the **Insurer** shall be repaid to the **Insurer** by the **Insureds**, severally and according to their respective interests.

F. Assistance and Cooperation

In the event of a **Claim**, the **Insureds** shall provide the **Insurer** with all information, assistance and cooperation that the **Insurer** reasonably requests and shall do nothing that may prejudice the **Insurer's** position. At the **Insurer's** request, the **Insureds** shall assist in:

1. investigating, defending and settling **Claims**;
2. enforcing any right of contribution or indemnity against a third party who may be liable to any **Insured**, and
3. the conduct of actions, suits, appeals or other proceedings, including but not limited to, attending trials, hearings and depositions, securing and giving evidence, and obtaining the attendance of witnesses.

G. Inspection and Audit

The **Insurer** will be permitted, but not obligated, to inspect the **Insured's** property and operations at any time, upon reasonable notice. Neither the **Insurer's** right to make inspections nor the making of any such inspections shall constitute an undertaking, on behalf of or for the benefit of the **Insured** or others, to determine or warrant that such property and operations are safe. The **Insurer** may examine and audit the **Insured's** books and records at any time, upon reasonable notice, as far as such books and records relate to the subject matter of this Policy.

H. Subrogation

In the event of any payment hereunder, the **Insurer** shall be subrogated to the extent of any payment to all of the rights of recovery of the **Insureds**. The **Insureds** shall execute all papers and do everything necessary to secure such rights, including the execution of any documents necessary to enable the **Insurer** effectively to bring suit in their name. The **Insureds** shall do nothing that may prejudice the **Insurer's** position or potential or

actual rights of recovery. The obligations of the **Insureds** under this Section shall survive the cancellation or other termination of this Policy.

I. Coverage Extensions

- (1) This Policy shall cover **Loss** arising from any **Claims** made against the estates, heirs, or legal representatives of any deceased person who was an **Insured** person at the time the acts, errors or omissions upon which such **Claims** are based were committed; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged acts, errors or omissions by or on the part of any such estates, heirs, or legal representatives, but shall apply only to **Claims** arising out of any actual or alleged acts, errors or omissions of an **Insured** person.
- (2) This Policy shall also cover **Loss** arising from any **Claims** made against the legal representatives of any incompetent, insolvent or bankrupt person who was an **Insured** person at the time the acts, errors or omissions upon which such **Claims** are based were committed; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged acts, errors or omissions by or on the part of any such legal representatives, but shall apply only to **Claims** arising out of any actual or alleged acts, errors or omissions of an **Insured** person.
- (3) This Policy shall also cover **Loss** arising from any **Claims** made against the lawful spouse or domestic partner (whether such status is derived by reason of the statutory law or common law of any applicable jurisdiction in the world, or by any formal program established by the **Insured Entity**) of an **Insured** person for all **Claims** arising solely out of his or her status as the spouse or domestic partner of an **Insured** person, including a **Claim** that seeks damages recoverable from marital community property, property jointly held by the **Insured** person and the spouse or domestic partner, or property transferred from the **Insured** person to the spouse or domestic partner; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged acts, error or omissions by or on the part of the spouse or domestic partner, but shall apply only to **Claims** arising out of any actual or alleged acts, error or omissions of an **Insured** person.

J. Other Insurance/Other Indemnification

1. This Policy shall be excess of and shall not contribute with:
 - a. any other insurance or plan or program of insurance or self-insurance (whether collectible or not), unless such other insurance or self-insurance is specifically stated to be in excess of this Policy; and
 - b. any contribution or indemnification to which an **Insured** is entitled from any entity other than another **Insured**.

This Policy shall not be subject to the terms of any other policy of insurance or plan or program of self-insurance.

2. If any other policy or policies issued by the **Insurer** or any of its affiliated companies, or by any predecessors or successors of the **Insurer** or its affiliated companies, shall apply to any **Claim** for which coverage is provided under this Policy, then the aggregate limit of liability with respect to all **Loss** covered under this Policy and all covered loss under such other policies shall not exceed the highest applicable limit of liability, subject to its applicable deductible or

retention, that shall be available under any one of such policies, including this Policy. This Section shall not apply with respect to any other policy which is specifically written as excess insurance over this Policy.

K. Mergers, Acquisitions, or Newly Created Entities

1. If, during the **Policy Period**:

- a. any **Insured Entity** acquires any assets, acquires or creates a Subsidiary, or acquires any entity by merger or acquisition, and, at the time of such transaction, the assets so acquired or the assets of the entity so acquired exceed fifteen percent (15%) of the total assets of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements; or
- b. any **Insured Entity** assumes any liabilities and, at the time of such assumption, the liabilities so assumed exceed fifteen percent (15%) of the total liabilities of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements;

then, for a period of thirty (30) days after the effective date of such event, the coverage granted by this Policy shall extend to any **Claims** arising out of covered acts, errors, omissions or **Occurrences** that take place after the effective date of such event and arise out of or relate to the entity, assets or liabilities acquired, assumed or merged with. After the expiration of such thirty (30) day period, there shall be no coverage under this Policy for such **Claims** unless: (a) within such thirty (30) day period, the **Insurer** receives from the **Insured** such information regarding details of the transaction as the **Insurer** requests and; (b) the **Insurer** specifically agrees by written endorsement to this Policy to provide such coverage upon such terms, conditions and limitations, including payment of additional premium, as the **Insurer**, at its sole discretion, may require.

For purposes of this Section V.K., "Subsidiary" means any entity during any time in which the **Named Insured** or an **Insured Entity** owns or controls, directly or indirectly, more than fifty percent (50%) of the outstanding securities representing the right to vote for the election of such entity's directors or members of the board of managers.

2. If, during the **Policy Period**:

- a. any **Insured Entity** acquires any assets, acquires or creates a Subsidiary, or acquires any entity by merger or acquisition, and, at the time of such transaction, the assets so acquired or the assets of the entity so acquired are less than fifteen percent (15%) of the total assets of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements; or
- b. any **Insured Entity** assumes any liabilities and, at the time of such assumption, the liabilities so assumed are less than fifteen percent (15%) of the total liabilities of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements;

then, the coverage granted by this Policy shall extend to any **Claims** arising out of covered acts, errors, omissions or **Occurrences** that take place after the effective date of such event and arise out of or relate to the entity, assets or

liabilities acquired, assumed or merged with, subject to all coverage terms, conditions and exclusions.

L. Sales or Dissolution of Insured Entities; Cessation of Business

1. If, during the **Policy Period**:

- a. the **Named Insured** is dissolved, sold, acquired by, merged into or consolidated with another entity such that the **Named Insured** is not the surviving entity, or such that any person, entity or affiliated group of persons or entities obtains:
 - i. the right to elect or appoint more than fifty percent (50%) of the **Named Insured's** directors, trustees or member managers, as applicable; or
 - ii. more than fifty percent (50%) of the **Named Insured's** equity or assets;
- b. the **Named Insured** ceases to do business for any reason; or
- c. a receiver, liquidator, conservator, trustee, rehabilitator or similar administrator is appointed for the **Named Insured**;

then in any such event (any of which events is referred to in this Section V.L. as a "Material Event"), coverage under this Policy for all **Insureds** shall continue in full force and effect until the Expiration Date or any earlier cancellation date, but this Policy shall apply only to covered acts, errors or omissions committed or allegedly committed before such Material Event. There will be no coverage under this Policy with respect to any **Claim** against any **Insured** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any covered acts, errors or omissions committed or allegedly committed on or after the date of such Material Event.

This Policy shall be non-cancellable and the entire premium shall be deemed fully earned upon the effective date of the Material Event as described above.

- 2. If, during the **Policy Period**, any **Insured Entity** other than the **Named Insured** is involved in a Material Event, coverage under this Policy for covered acts, errors or omissions committed or allegedly committed before such Material Event by such **Insured Entity** shall continue in full force and effect until the Expiration Date or any earlier cancellation date. There will be no coverage under this Policy with respect to any **Claim** against such **Insured Entity** based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any covered acts, errors or omissions of such **Insured Entity** committed or allegedly committed on or after the date of such Material Event. Coverage under this Policy shall continue in full force and effect for all other **Insureds**.

M. Cancellation or Non-Renewal

- 1. The **Insurer** may cancel this Policy by mailing written notice to the **Named Insured** at the last known address stated in Item 1. of the Declarations stating when, no less than thirty (30) days thereafter or such longer period as may be required by law, such cancellation shall be effective. However, in the event the **Insured** fails to pay a premium when due, the **Insurer** may cancel this Policy effective upon ten (10) days' written notice, or such longer period as may be required by law, by providing notice to the **Named Insured** in the manner set forth in the preceding sentence.

2. The **Named Insured** may cancel this Policy prospectively only by mailing the **Insurer** written notice stating when thereafter such cancellation shall be effective. In such event, the **Insurer** will send any premium refund due, which shall be the lesser of (a) the amount calculated in accordance with the customary short rate table, or (b) the amount calculated in accordance with the Minimum Earned Premium percentage stated in Item 8. of the Declarations.
3. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.
4. The **Insurer** will not be required to renew this Policy upon its expiration. The **Insurer** will provide the **Named Insured** with thirty (30) days notice of any non-renewal or as required by law.

N. Extended Reporting Periods

1. This section is only applicable to those coverages in this Policy which apply on a Claims-Made basis.
2. If this Policy is canceled for any reason other than non-payment of premium or is not renewed by the **Insurer**, an Extended Reporting Period shall be made available as described in this Section;

however, any such Extended Reporting Period shall apply only to **Claims** which arise out of acts, errors, omissions, **Medical Professional Incidents**, or **Occurrences** committed or allegedly committed or taking place before the earlier of a Material Event or effective date of such cancellation or non-renewal ("Termination Date").
3. No Extended Reporting Period shall in any way increase the applicable Limit of Liability as stated in the Declarations, and the **Insurer's** maximum aggregate Limit of Liability for all **Loss** from all **Claims** first made during the **Policy Period** or any Extended Reporting Period shall not exceed the Policy Aggregate Limit of Liability stated in the Declarations.
4. The offer of renewal terms, conditions, limits of liability, retentions or premium different from those in effect prior to renewal shall not constitute cancellation or refusal to renew for purposes of this Section.
5. The Extended Reporting Period will apply as follows:
 - a. The **Insured** shall be entitled to an automatic Extended Reporting Period of sixty (60) days, beginning as of the Termination Date and requiring no additional premium; provided, however, that such automatic Extended Reporting Period will remain in effect only as long as no other policy of insurance is in effect that would apply to any **Claim** made during such Extended Reporting Period.
 - b. The **Named Insured** may purchase an additional Extended Reporting Period by notifying the **Insurer** in writing of its intention to do so no later than thirty (30) days after the Termination Date. The term of, and the additional premium for, the Additional Extended Reporting Period, shall be determined by the **Insurer** at the time of the **Insured's** notification that it has elected to purchase the Additional Extended Reporting Period. The additional premium must be paid by the **Insured** no later than thirty (30) days after **Insurer** notifies the **Insured** of the additional premium amount due.

6. If the **Insured** does not elect to purchase an additional Extended Reporting Period as described above or if the additional premium therefore is not paid within the time period required above, the **Insured** will not have any right to purchase an additional Extended Reporting Period at a later time. The Additional Extended Reporting Period will not become effective until the additional premium and any other amounts due to the **Insurer** under the Policy are paid in full. Failure to elect to purchase an additional Extended Reporting Period or to pay the additional premium therefore will not affect the application of the automatic Extended Reporting Period described above.

O. Representations and Warranties; Incorporation of Application

The **Insureds** represent and warrant that the particulars and statements contained in the **Application** attached to this Policy are true, accurate and complete, and agree that:

1. this Policy is issued and continued in force by the **Insurer** in reliance upon the truth of such representation;
2. those particulars and statements are the basis of this Policy; and
3. the **Application** and those particulars and statements are incorporated in and form a part of this Policy.

No knowledge or information possessed by any **Insured** person shall be imputed to any other **Insured** person for purposes of this Section, except for material facts or information known to the person or persons who signed the **Application**. In the event of any material untruth, misrepresentation or omission in connection with any of the particulars or statements in the **Application**, this Policy shall be void with respect to any **Insured** person who knew of such untruth, misrepresentation or omission. The Policy shall be void as to the **Named Insured** or any **Insured Entity** if a member of the Risk Management, Executive or Management teams of the **Named Insured** or any **Insured Entity**, or any individual in a functionally equivalent position within the **Named Insured** or any **Insured Entity**, knew of such untruth, misrepresentation or omission.

P. Action against Insurer

1. No action shall be taken against the **Insurer** unless, as conditions precedent thereto, the **Insureds** have fully complied with all of the terms of this Policy and the amount of the **Insureds'** obligation to pay has been finally determined either by judgment against the **Insureds** after adjudicatory proceedings, or by written agreement of the **Insureds**, the claimant and the **Insurer**.
2. No individual or entity shall have any right under this Policy to join the **Insurer** as a party to any **Claim** to determine the liability of any **Insured**; nor shall the **Insurer** be impleaded by an **Insured** or his, her or its legal representative in connection with any such **Claim**.

Q. Insolvency of Insured

The **Insurer** shall not be relieved of any of its obligations under this Policy by the bankruptcy or insolvency of any of the **Insureds** or any of their estates.

R. Notice

1. Notice to any **Insured** shall be sent to the **Named Insured** at the address designated in Item 1 of the Declarations. The **Insureds** agree that the **Named Insured** shall act on their behalf with respect to receiving any notices and any return premiums from the **Insurer**.

2. Notice to the **Insurer** shall be sent to the address designated in Item 6. of the Declarations.

S. Changes

Notice to or knowledge possessed by any agent or other person acting on behalf of the **Insurer** shall not effect a waiver or change in any part of this Policy or estop the **Insurer** from asserting any right under this Policy. The **Named Insured** shown in the Declarations is authorized to make changes in the terms of this Policy only with the **Insurer's** written consent. This Policy can be altered, waived or changed only by written endorsement issued by the **Insurer** to form a part of this Policy.

T. Assignment

No assignment of interest under this Policy shall bind the **Insurer** without its written consent issued as an endorsement to form a part of this Policy.

U. Territory

This Policy applies to **Medical Professional Incidents, Occurrences** or other covered acts, errors or omissions taking place anywhere in the world; provided however, that any **Claim** for which coverage is sought under this Policy must be brought and maintained against an **Insured** in the United States of America, its territories or possessions or Canada.

This Policy shall not cover any **Loss** in connection with any **Claim** in the event that such coverage would not be in compliance with any United States of America economic or trade sanctions, laws or regulations, including but not limited to the U.S. Treasury Department's Office of Foreign Assets Control, or any similar foreign, federal, state or statutory law or common law.

V. Entire Agreement

The **Insureds** agree that this Policy, including the **Application**, Declarations and any endorsements, constitutes the entire agreement between them and the **Insurer** or any of the **Insurer's** agents relating to this insurance.

W. Headings

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

IN WITNESS WHEREOF, the Insurer has caused this Policy to be executed on the Declarations Page.

EXHIBIT 3



ALLIED WORLD INSURANCE COMPANY
199 Water Street, New York, NY 10038 · Tel. (646) 794-0500 · Fax (646) 794-0611

**HEALTHCARE ORGANIZATIONS
PROFESSIONAL AND GENERAL LIABILITY
INSURANCE POLICY DECLARATIONS**

Policy Number: 0312-6808

Renewal of: 0312-6808

THIS POLICY CONTAINS BOTH CLAIMS MADE AND OCCURRENCE COVERAGES.

THIS POLICY PROVIDES COVERAGE ON A DEFENSE WITHIN THE LIMITS BASIS FOR INSURING AGREEMENTS I.A., I.C., AND ADDITIONAL COVERAGE II.A. THE APPLICABLE LIMIT OF LIABILITY TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

FOR INSURING AGREEMENT I.B., THE PAYMENT OF DEFENSE EXPENSES BY THE INSURER SHALL BE IN ADDITION TO THE LIMITS OF LIABILITY. THE APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL NOT BE REDUCED OR EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

DEFENSE EXPENSES SHALL BE APPLIED AGAINST THE DEDUCTIBLE.

PLEASE READ THIS POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE BROKER.

Item 1. Name and Mailing Address of Named Insured:

Hospital for Special Surgery, LLC d.b.a. OneCore Health
100 NE 85th St
Oklahoma City, OK 73114

Item 2. Policy Period:

(a) Inception Date: December 31, 2021

(b) Expiration Date: December 31, 2022

At 12:01AM Standard Time at the Mailing Address shown above

Item 3. Limits of Liability:

Insuring Agreement I.A. Claims Made Professional Liability

(a) \$1,000,000 each Claim under Insuring Agreement I.A.;

(b) \$3,000,000 in the aggregate for all Claims under Insuring Agreement I.A.

Either Claims Made or Occurrence General Liability Coverage was purchased by the Insured, but coverage may not be provided under both Insuring Agreements I.B.1. and I.B.2. The selected coverage is indicated by an "X" in the appropriate box below.

- ☒ Insuring Agreement I.B.1. Occurrence General Liability
- (c) \$1,000,000 each Occurrence - Bodily Injury, Property Damage and Personal and Advertising Injury;
 - (d) \$50,000 each Occurrence - Fire Damage;
 - (e) \$3,000,000 in the aggregate for all Claims under Insuring Agreement I.B.1.

- ☐ Insuring Agreement I.B.2. Claims Made General Liability
- (f) N/A each Claim - Bodily Injury, Property Damage and Personal and Advertising Injury;
 - (g) N/A each Claim - Fire Damage;
 - (h) N/A in the aggregate for all Claims under Insuring Agreement I.B.2.

Insuring Agreement I.C. Claims Made Employee Benefits Liability

- (i) \$1,000,000 each Claim under Insuring Agreement I.C.;
- (j) \$3,000,000 in the aggregate for all Claims under Insuring Agreement I.C.

Additional Coverage II.A. Claims Made Patient Privacy Coverage

- (k) N/A each Claim under Additional Coverage II.A.;
 - (l) N/A in the aggregate for all Claims under Additional Coverage II.A.;
- Such Limits shall be part of, and not in addition to, the aggregate Limit of Liability for Insuring Agreement I.A.*

Policy Aggregate Limit of Liability

- (m) \$6,000,000 Insurer's Maximum Aggregate Limit of Liability for all Claims under all Insuring Agreements and Additional Coverages.

Item 4. Deductibles:

- (a) \$25,000 each and every Claim under Insuring Agreement I.A.
- (b) \$25,000 each and every Occurrence under Insuring Agreement I.B.1., or each and every Claim under Insuring Agreement I.B.2.
- (c) \$1,000 each and every Claim under Insuring Agreement I.C.
- (d) N/A each and every Claim under Additional Coverage II.A.

Item 5. Retroactive Dates

- (a) November 29, 2004 Insuring Agreement I.A. Claims Made Professional Liability
- (b) November 29, 2004 Insuring Agreement I.B.2. Claims Made General Liability.
- Not applicable to Insuring Agreement I.B.1. Occurrence General Liability
- (c) November 29, 2004 Insuring Agreement I.C. Claims Made Employee Benefits Liability
- (d) N/A Additional Coverage II.A. Claims Made Patient Privacy Coverage

Item 6. Address of Insurer For Notices Under This Policy:

Claim-Related Notices:
Noticeofloss@awac.com

All Other Notices:
1690 New Britain Avenue, Suite 101
Farmington, CT 06032

Item 7. Premium:



Item 8. Minimum Earned Premium:

\$32,200 of the Policy Premium set forth above.

Item 9. Endorsements Attached at Issuance:

1. MED 00012 35 (11/2015) Oklahoma Amendatory - Cancellation and Nonrenewal
2. MED 00213 35 (11/2015) Oklahoma Amendatory - Defense Outside the Limits GL
3. MED 00079 35 (05/2014) Notice of Cancellation to 3rd Pty (Insert # of Days)
4. MED 00142 00 (12/2014) Claims Made Sexual Misconduct
5. MED 00147 00 (12/2014) Damage to Patients Property
6. MED 00157 00 (12/2014) Evacuation Coverage
7. MED 00158 00 (12/2014) Exclude Employed Physicians w Named Exceptions
8. MED 00169 00 (12/2014) Medical Payments Coverage
9. MED 00180 00 (12/2014) Schedule A - Insured Entity
10. HSS MANU A (04/21) Specific Additional Insureds Claim Made General Liability Coverage Only Waiver of Subrogation

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

A handwritten signature in black ink, appearing to be "W.M.N.".

President

A handwritten signature in black ink, appearing to be "Karen Colom".

Asst. Secretary

A handwritten signature in black ink, appearing to be "W.M.N.".

AUTHORIZED REPRESENTATIVE

ENDORSEMENT NO. 1

**OKLAHOMA AMENDATORY
CANCELLATION/NONRENEWAL**

This Endorsement , effective at 12:01AM on December 31, 2021, forms part of

Policy No. 0312-6808
Issued to Hospital for Special Surgery, LLC d.b.a. OneCore Health
Issued by Allied World Insurance Company

In consideration of the premium charged Section V. CONDITIONS, Subsection M. Cancellation or Non-Renewal is amended as follows:

1. If the Policy has been in effect for less than forty-five (45) business days, the Insurer may cancel this Policy by mailing written notice to the **Named Insured** at the last known address stated in Item 1 of the Declarations stating when, no less than thirty (30) days thereafter such cancellation shall be effective.
2. If the Policy has been in effect for more than forty-five (45) business days, the **Insurer** may cancel this Policy **only** for nonpayment or for any of the following reasons:
 - a) Fraud or material misrepresentation in obtaining the Policy or in pursuing a claim.
 - b) Willful or reckless acts by the named insured that increase any hazard.
 - c) A violation of any local fire, health, or safety code that substantially increases any hazard insured against.
 - d) If the Insurance Commissioner determines that the continuation of the Policy would place the insurer in violation of the Oklahoma insurance laws.
 - e) Conviction of a crime that increases any hazard insured against.
 - f) If the insurer loses its reinsurance on the risk.
 - g) A change in the risk that substantially increases the hazard insured against.

by mailing written notice to the **Named Insured** at the last known address stated in Item 1 of the Declarations stating when, no less than forty-five (45) days thereafter such cancellation shall be effective.

However, in the event of non-payment of premium, the **Insurer** may cancel this Policy effective upon ten (10) days' written notice by providing notice to the **Named Insured** in the manner set forth in the preceding sentence.

3. The **Named Insured** may cancel this Policy prospectively only by mailing the **Insurer** written notice stating when thereafter such cancellation shall be effective. In such event, the earned premium shall be computed in accordance with the customary short rate table and procedure.

4. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.
5. The **Insurer** will not be required to renew this Policy upon its expiration. The **Insurer** will provide the **Named Insured** with forty- five (45) days prior to the expiration date of this Policy or an anniversary date of this Policy, if it is written for a term longer than one year or with no fixed expiration date. Any notice of nonrenewal will be mailed or delivered to the **Named Insured** at the mailing address stated in Item 1 of the Declarations.
6. Notice of nonrenewal shall not be required if:
 - a) The **Insurer**, or another company within the same insurance group, has offered to issue a renewal policy; or
 - b) The **Named Insured** has obtained replacement coverage or has agreed in writing to obtain replacement coverage.
7. If the **Insurer** elects to renew this Policy, the **Insurer** will give written notice of any premium increase, change in deductible, or reduction in limits or coverage, to the **Named Insured** at the mailing address indicated in Item 1 of the Declarations at least forty-five days before the expiration of this Policy or an anniversary date of this Policy, if it is written for a term longer than one year or with no fixed expiration date.

All other terms, conditions, and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 2

**OKLAHOMA AMENDATORY
DEFENSE OUTSIDE THE LIMITS – INSURING AGREEMENT I.B. GENERAL LIABILITY**

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed that:

1. The caption shown at the top of the Policy is deleted in its entirety and replaced as follows:

THIS POLICY CONTAINS BOTH CLAIMS MADE AND OCCURRENCE COVERAGES.

THIS POLICY PROVIDES COVERAGE ON A DEFENSE WITHIN THE LIMITS BASIS FOR INSURING AGREEMENTS I.A., I.C., AND ADDITIONAL COVERAGE II.A. THE APPLICABLE LIMIT OF LIABILITY TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

FOR INSURING AGREEMENT I.B., THE PAYMENT OF DEFENSE EXPENSES BY THE INSURER SHALL BE IN ADDITION TO THE LIMITS OF LIABILITY. THE APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL NOT BE REDUCED OR EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

DEFENSE EXPENSES SHALL BE APPLIED AGAINST THE DEDUCTIBLE.

PLEASE READ THIS POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE BROKER.

2. Section I.B. of the Policy is deleted in its entirety and replaced as follows:

B. GENERAL LIABILITY

1. Occurrence Based General Liability

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss** in excess of the Deductible stated in Item 4. of the Declarations, which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage, Fire Damage** or **Personal or Advertising Injury** caused by an **Occurrence**; provided always that:

- a. such **Bodily Injury, Property Damage, Fire Damage, or Personal or Advertising Injury** is caused by an **Occurrence** that takes place during the **Policy Period**; and
- b. notice of such **Claim** is given to the **Insurer** in accordance with Section IV.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

2. **Claims-Made General Liability**

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss** in excess of the Deductible stated in Item 4. of the Declarations, which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** caused by an **Occurrence**; provided always that:

- a. such **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** is caused by an **Occurrence** that takes place on or after the Retroactive Date stated in Item 5. of the Declarations and before the end of the **Policy Period**;
- b. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
- c. notice of such claim is given to the **Insurer** in accordance with Section IV.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

3. The definition of “**Loss**” as set forth in the Policy, is deemed amended such that **Loss** does not include **Defense Expenses**.
4. Paragraphs 1, 3, and 6 of Section V. CONDITIONS, Subsection A. are deleted in their entirety and replaced with the following:

A. Limits of Liability

1. The amount stated in Item 3(m) of the Declarations shall be the Policy Maximum Aggregate Limit of Liability of the **Insurer**, and shall be the most the **Insurer** shall pay under this Policy for all:
 - a. **Loss and Defense Expenses** under Insuring Agreements I.A., I.C., and Additional Coverage II.A; and
 - b. **Loss** under Insuring Agreement I.B;resulting from all **Claims** for which this Policy provides coverage, regardless of the number of **Claims**, the number of persons or entities included within the definition of **Insured**, or the number of Claimants.

3. Payment of Defense Expenses:

Under Insuring Agreements I.A., I.C., and Additional Coverage II.A, **Defense Expenses** paid by the **Insurer** are part of and not in addition to the **Insurer's Limits of Liability**, and will reduce and may exhaust the Limits of Liability. The payment of **Defense Expenses** by the **Insured** will reduce the applicable Deductible.

Under Insuring Agreement I.B., **Defense Expenses** paid by the **Insurer** are in addition to the **Insurer's** Limits of Liability, and will not reduce the Limits of Liability. The payment of **Defense Expenses** by the **Insured** will reduce the applicable Deductible.

6. Exhaustion of Limits:

- a. In the event that an aggregate Limit of Liability for Insuring Agreements I.A. or I.C., or Additional Coverage II.A. is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under the respective Insuring Agreement or Additional Coverage to which such Limit of Liability applied, and the premium for such Insuring Agreement will be deemed fully earned.
- b. In the event that the aggregate Limit of Liability for Insuring Agreement I.B. is reduced and exhausted in full by the payment of **Loss** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under Insuring Agreement I.B., and the premium for such Insuring Agreement will be deemed fully earned.
- c. In the event that the Policy Aggregate Limit of Liability is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under this Policy, and the entire premium will be deemed fully earned.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 3

NOTICE OF CANCELLATION TO THIRD PARTY

OKLAHOMA

This endorsement modifies the HEALTHCARE EXCESS AND UMBRELLA LIABILITY INSURANCE POLICY to which it is attached.

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed that, in the event of the cancellation of this Policy by the **Insurer**, the **Insurer** will send notice to the individual or entity shown below at the address shown below of such cancellation at least 30 days in advance of the effective date of cancellation, or ten (10) days in advance in the event of non-payment of premium:

Name: AG Western RE Holdings, LLC an Oklahoma Limited Liability Company

Address: AG Western RE Holdings, LLC c/o Ashton Gray, LLC, Attention: Denver Green, 12360 Market Drive, OKC, OK 73114

Any failure on the **Insurer's** part to deliver such notice will not impose liability of any kind upon the **Insurer** or invalidate the cancellation.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 4

CLAIMS MADE SEXUAL MISCONDUCT COVERAGE

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

Policy No. 0312-6808
Issued to Hospital for Special Surgery, LLC d.b.a. OneCore Health
Issued by Allied World Insurance Company

In consideration of the premium charged it is hereby agreed:

A. Coverage

The **Insurer** will pay, on behalf of the **Insured**, **Loss** and **Defense Expenses** in excess of the Deductible stated below which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging sexual misconduct or sexual abuse, including, but not limited to, any physical acts or oral statements of a sexually suggestive manner, or any unwelcome physical contact or touching; provided always that:

1. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period;
2. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of the Policy; and
3. the alleged sexual misconduct or sexual abuse takes place on or after the Retroactive Date set forth below and during the **Policy Period**.

The **Insurer** will have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if the allegations of the **Claim** are groundless, false or fraudulent.

B. Limit of Liability, Deductible, Retroactive Date

1. The coverage provided under this Endorsement shall be subject to the following Limit of Liability:

\$1,000,000 per **Claim**, and

\$1,000,000 in the Aggregate.

Such Limit of Liability shall apply to all allegations set forth in the **Claim** against the **Insured**, regardless of whether or not all such allegations are expressly stated to relate to sexual misconduct or sexual abuse. No other Limit of Liability under this Policy shall be available with regard to such **Claim**. The **Insurer's** obligations with regard to such **Claim** shall cease once the Limit of Liability stated above has been exhausted by the payment of **Loss** or **Defense Expenses**.

2. The coverage provided under this Endorsement shall be subject to the following Deductible: \$25,000 per **Claim**. The Deductible shall be included in, and shall not be in addition to, the applicable Limit of Liability stated above.
3. The Limit of Liability stated above shall erode the Policy Aggregate Limit of Liability shown in Item 3(m) of the Declarations.
4. The coverage provided under this Endorsement shall be subject to the following


Retroactive Date: July 1, 2004.

C. Exclusions and Conditions

It is expressly agreed that the coverage afforded by this Endorsement shall be subject to all exclusions set forth in Section IV.G. of the Policy ("Exclusions Applicable to all Insuring Agreements") and all Conditions.

Provided that for purposes of the application of coverage under this Endorsement, Section IV.G.4. shall be deemed deleted from the Policy.

All other terms, conditions and limitations of this Policy shall remain unchanged.

A handwritten signature in dark ink, appearing to be "W.M.", is positioned above a horizontal line.

Authorized Representative

ENDORSEMENT NO. 5

DAMAGE TO PATIENTS' PROPERTY COVERAGE

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

Policy No. 0312-6808
Issued to Hospital for Special Surgery, LLC d.b.a. OneCore Health
Issued by Allied World Insurance Company

In consideration of the premium charged, it is hereby agreed that the following additional coverage is added to Insuring Agreement I.B. of the Policy, General Liability, and is subject to all terms, conditions and exclusions which are applicable to such coverage:

DAMAGE TO PATIENTS' PROPERTY COVERAGE

- A. The **Insurer** will reimburse the **Insured**, subject to the Limit of Insurance set forth below, for amounts incurred due to **Property Damage** for which the **Insured** becomes legally liable and that takes place during the **Policy Period**. Such **Property Damage** must be caused by the **Insured** to the tangible property of a **Patient**, and must not have been caused intentionally.
- B. The **Insured** must provide us with a sworn statement of the value of such **Property Damage** within sixty (60) days from the date it takes place and exhibit the damaged property to the **Insurer** if in the **Insured's** possession and control.
- C. The most the **Insurer** will pay pursuant to this Endorsement is:
- \$500 per incident of **Property Damage**; and
\$5,000 in the aggregate for all **Property Damage**.
- D. The amount shown above is payable in addition to the Limits of Insurance for Insuring Agreement I.B.
- E. The obligation of the **Insurer** to pay any amount for **Property Damage** pursuant to this Endorsement will only be excess of a Deductible in the amount of:
- \$0 each and every incident of Property Damage.
- F. It is understood and agreed that Section IV. EXCLUSIONS, Subsection B.5.d. shall not be applied to deny the coverage provided pursuant to this Endorsement.
- G. For purposes of this coverage, electronic data or electronically stored information is not considered "tangible" property regardless of the fact that such data or information may be stored on any type of device or medium.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 6

EVACUATION COVERAGE

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

Policy No. 0312-6808
Issued to Hospital for Special Surgery, LLC d.b.a. OneCore Health
Issued by Allied World Insurance Company

In consideration of the premium charged, it is hereby agreed that the following additional coverage is added to the Policy, and is subject to all terms, conditions and exclusions:

EVACUATION COVERAGE:

1. The **Insurer** will reimburse the **Insured** for **Evacuation Expenses** actually incurred in connection with an **Evacuation** which first takes place during the **Policy Period** and which is reported in accordance with Section 6. of this Endorsement, subject to the Limit of Insurance and Deductible set forth below.
2. The maximum amount payable for **Evacuation Expenses** shall be:

\$25,000 for each **Evacuation**; and
\$25,000 in the aggregate for all **Evacuations**, all **Insureds** and all Locations.

Which amounts shall be part of, and not in addition to, the Policy Aggregate Limit of Liability as set forth in the Declarations.

3. A Deductible in the amount of \$0 shall apply to the payment of **Evacuation Expenses** from each and every **Evacuation**. The **Insurer** shall only pay **Evacuation Expenses** in excess of this Deductible and subject to the Limit of Insurance above.
4. Solely with respect to the coverage provided pursuant to this Endorsement, the following definitions shall apply:

(a) **Evacuation** means the removal of all or the majority of **Patients** from one or more of the **Named Insured's** Locations in response to a natural or man-made condition that is unexpected and unforeseen, or the threat thereof, that in the reasonable judgment of the **Named Insured's** senior management, causes the **Patients** of such Location to be in imminent danger of loss or life or physical harm. Such condition must be in the form of an emergency or sudden crisis requiring immediate action, and not the result of a latent or hidden condition at the Location.

(b) **Evacuation Expenses** means reasonable costs and expenses actually incurred by the **Named Insured** in connection with the **Evacuation**, including the costs associated with transporting and lodging **Patients** who have been evacuated. **Evacuation Expenses** shall not include any remuneration, salaries, overhead, fees or benefit expenses of the **Named Insured** or any **Insured**.

5. Solely with respect to the coverage provided pursuant to this Endorsement, the following

Exclusions shall apply:

(a) No coverage will be available under this Endorsement for **Evacuation Expenses**:

- (i) which have been reported, or any **Evacuation** of which notice has been given, under any policy which may succeed this Policy in time, whether or not such policy affords coverage for such **Evacuation**;
- (ii) arising out of a strike or bomb threat, unless the **Evacuation** was ordered by a civil authority;
- (iii) arising out of a false fire alarm or a planned evacuation drill;
- (iv) arising out of the vacating of one or more **Patients** that is due and confined to their individual medical condition;
- (v) arising out of a nuclear reaction, radiation or any radioactive contamination, however caused;
- (vi) arising out of the seizure or destruction of property by order of a governmental authority; provided that this Exclusion shall not apply to an order of evacuation by a governmental authority due to a condition described in Section 4.a. above;
- (vii) arising out of war, including undeclared or civil war, warlike action by a military force, terrorism, insurrection, rebellion or revolution.

6. Any **Evacuation** shall be reported to the **Insurer** as soon as practicable, but in no event later than 30 days after the **Named Insured** first incurs **Evacuation Expenses** for which coverage will be requested, or the expiration of the **Policy Period**, whichever is earlier.

7. There shall be no requirement for the **Named Insured** to obtain the **Insurer's** prior written approval or consent, before incurring any **Evacuation Expenses**.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 7

EMPLOYED PHYSICIAN EXCLUSION WITH NAMED EXCEPTIONS

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

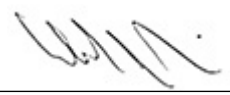
In consideration of the premium charged, it is hereby understood and agreed that:

Section II. DEFINITIONS, Subsection N. "**Insured**", paragraph 3. is deleted in its entirety and replaced as follows:

3. any **Employee**, but only while acting within the scope of his or her duties as such on behalf of the **Named Insured** or any **Insured Entity**; provided that no employed physicians of the **Named Insured** or **Insured Entity** shall be covered under this Policy as an **Insured** other than the following:

No Named Exceptions

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 8
MEDICAL PAYMENTS COVERAGE
FOR GENERAL LIABILITY

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed:

1. Solely with respect to the coverage afforded under Insuring Agreement I.B. of the Policy, the **Insurer** will pay, on behalf of the **Insured**, “**Medical Payments**” as such term is defined below, for **Bodily Injury** caused by an accident:

- (a) on premises owned or rented by the **Named Insured**, or ways adjacent thereto; or
- (b) because of the operations of the **Named Insured**;

provided that:

- (i) such accident takes place during the **Policy Period**;
- (ii) **Medical Payments** are incurred and reported to the **Insurer** within one year of the date of the accident; and
- (iii) the injured person submits to examination, as often as required by the **Insurer**, by physicians of the **Insurer’s** choice and at the expense of the **Insurer**.

2. Solely with respect to the coverage provided by this Endorsement, the term set forth below shall have the following meaning and the Definitions Section of the Policy shall be deemed amended to include such term:

“**Medical Payments**” shall mean reasonable payments for:

- (a) first aid administered at the time of an accident;
- (b) necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (c) necessary ambulance, hospital, professional medical and nursing and funeral services.

3. In addition to, and not in limitation of, the existing Exclusions set forth in the Policy, no coverage will be available under this Policy for **Bodily Injury** sustained by:

- (a) any **Insured**;
- (b) any person hired to do work for or on behalf of any **Insured**;
- (c) a tenant of any **Insured**;
- (d) any person injured on that part of any premises owned or rented by the **Named Insured**, that the person normally occupies;
- (e) any person, whether or not an **Employee** of any **Insured**, if benefits for such **Bodily**

Injury are payable or must be provided under workers' compensation or disability benefits laws or similar laws;

- (f) any person injured while engaging in athletic activities;
 - (g) any person otherwise excluded from coverage under the Policy.
4. The maximum amounts payable for **Medical Payments** by the **Insurer** pursuant to this Endorsement are:
- \$5,000 for each person, per incident; and
\$5,000 in the aggregate for all payments.
- Such amounts shall be a part of, and not in addition to, the **Insurer's** Limits of Liability for Insuring Agreement I.B. set forth in Item 3. of the Declarations.
5. Notwithstanding any terms or conditions to the contrary in the Policy, no retention or deductible shall apply to the coverage provided under this Endorsement.
6. Solely with respect to the coverage provided by this Endorsement, the definition of "**Loss**" as set forth in the Policy is amended to include **Medical Payments**, as defined herein.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 9
SCHEDULE A
SCHEDULE OF INSURED ENTITIES

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed that the term **Insured Entity** as defined in the Policy, shall include the entities shown on and in accordance with the attached Schedule A.

Coverage will only be provided for **Medical Professional Incidents** otherwise covered under the Policy and which occur on or after the respective Retroactive Date(s), and before the respective Termination Date(s), for each **Insured Entity**, as set forth in the attached Schedule A.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

Account Name: Hospital for Special Surgery, LLC d.b.a. OneCore Health

[illegible]

ENDORSEMENT NO. 10

**SPECIFIC ADDITIONAL INSUREDS
CLAIM MADE GENERAL LIABILITY COVERAGE ONLY
WAIVER OF SUBROGATION**

This Endorsement, effective at 12:01 a.m. on December 31, 2021, forms part of

| | |
|------------|---|
| Policy No. | 0312-6808 |
| Issued to | Hospital for Special Surgery, LLC d.b.a. OneCore Health |
| Issued by | Allied World Insurance Company |

In consideration of the premium charged, it is hereby agreed that solely with respect to **Claims** for which coverage is provided for Claims Made General Liability Coverage, the term **Insured** as defined in Section III. of the Policy, is amended to include the entity below with whom the **Named Insured** has agreed under written contract or agreement to provide insurance (hereinafter referred to as ("Additional Insureds")):

AG Western RE Holdings, LLC an Oklahoma Limited Liability Company

The coverage provided shall not exceed the scope of coverage and/or Limits of Liability of this Policy; nor shall the coverage provided exceed the scope of coverage and/or limits required by said contract or agreement.

Any such **Claim** must be: (1) based on an **Occurrence** directly and exclusively caused by, and (2) made and continuously maintained against; at least one **Insured**, other than the Additional Insured.

There shall be no coverage under this Policy for any **Claim** based upon or arising out of the acts, errors or omissions of the Additional Insureds, whether negligent or intentional.

The coverage provided by this Endorsement is primary to, and shall not contribute with, any other applicable insurance plan, policy or program of self-insurance carried by or applicable to any Additional Insured.

With respect to the coverage provided by this Endorsement, it is hereby agreed that the **Insurer's** rights of subrogation pursuant to Section V. Conditions H. of the Policy are waived, solely with respect to the Additional Insureds named above.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

**POLICYHOLDER DISCLOSURE STATEMENT
UNDER THE TERRORISM RISK INSURANCE ACT**

The Insured is hereby notified that under the federal Terrorism Risk Insurance Act, as amended, (the "Act"), the Insured has a right to purchase insurance coverage for losses arising out of an Act of Terrorism, as defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury in consultation with the Secretary of Homeland Security and the Attorney General of the United States to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside of the United States in case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. The Insured should read the Act for a complete description of its coverage. The decision to certify or not to certify an event as an Act of Terrorism covered by this law is final and not subject to review.

The Insured should know that where coverage is provided by this policy for losses caused by a Certified Act of Terrorism may be partially reimbursed by the United States Government under a formula established by federal law. However, the insured's policy may contain other exclusions that might affect coverage, such as an exclusion for nuclear events. Under the formula, the United States generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019; and 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible that must be met by the Insurer, and which deductible is based on a percentage of the Insurer's direct earned premiums for the year preceding the Act of Terrorism

Be advised that the Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap on all losses resulting from Certified Acts of Terrorism. If aggregate insured losses attributable to Certified Acts of Terrorism exceed \$100 billion in a calendar year the United States Government shall not make any payment for any portion of the amount of such loss that exceeds \$100 billion. If aggregate insured losses attributable to Acts of Terrorism exceed \$100 billion in a Program Year and the Insurer has met its deductible under the Act, the Insurer shall not be liable for payment of any portion of the losses that exceeds \$100 billion, and in such case, insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

Coverage for "insured losses" as defined in the Act is subject to the coverage terms, conditions, amounts and limits in this policy applicable to losses arising from events other than Acts of Terrorism.

Please see the options available to the Insured below.

- If you, the Insured, **elect to purchase coverage** in accordance with the Act, there will be \$0.00 additional premium due and **no further action or response is needed by you.**
- If you, the Insured, reject coverage in accordance with the Act, you must check below and sign and return this form to the Insurer.

☐ I HEREBY REJECT THIS COVERAGE.

Signature of Insured Hospital for Special Surgery, LLC d.b.a. OneCore Health

Print/Title 0312-6808

Date

ALLIED WORLD INSURANCE COMPANY
199 Water Street, New York, NY 10038 · Tel. (646) 794-0500 · Fax (646) 794-0611

**HEALTHCARE ORGANIZATIONS
PROFESSIONAL AND GENERAL LIABILITY
INSURANCE POLICY**

THIS POLICY CONTAINS BOTH CLAIMS MADE AND OCCURRENCE COVERAGES.

THIS POLICY PROVIDES COVERAGE ON A DEFENSE WITHIN THE LIMITS BASIS. THE APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES, SETTLEMENTS OR JUDGMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

PLEASE READ THIS POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE BROKER.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the **Insurer**, including the statements made in the **Application**, the **Insurer** and the **Insureds**, subject to all of the terms, conditions and limitations of this Policy and any endorsements thereto, agree as follows:

I. INSURING AGREEMENTS

A. CLAIMS MADE PROFESSIONAL LIABILITY

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging a **Medical Professional Incident**, provided always that:

1. such **Medical Professional Incident** takes place on or after the **Retroactive Date** and before the end of the **Policy Period**;
2. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
3. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

B. GENERAL LIABILITY

1. Occurrence Based General Liability

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations, which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** caused by an **Occurrence**; provided always that:

- a. such **Bodily Injury, Property Damage, Fire Damage, or Personal or Advertising Injury** is caused by an **Occurrence** that takes place during the **Policy Period**; and
- b. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

2. **Claims Made General Liability**

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations, which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** caused by an **Occurrence**; provided always that:

- a. such **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** is caused by an **Occurrence** that takes place on or after the **Retroactive Date** and before the end of the **Policy Period**;
- b. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
- c. notice of such claim is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any of the allegations of the **Claim** are groundless, false, or fraudulent.

C. CLAIMS MADE EMPLOYEE BENEFITS LIABILITY

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations which the **Insured** becomes legally obligated to pay as a result of a **Claim** alleging injury to **Employees** because of an act, error or omission in the **Insured's Administration** of its **Employee Benefit Program**; provided always that:

1. such act, error or omission takes place on or after the **Retroactive Date** and before the end of the **Policy Period**;
2. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
3. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any allegations of the **Claim** are groundless, false or fraudulent.

II. ADDITIONAL COVERAGES

A. CLAIMS MADE PATIENT PRIVACY COVERAGE

The **Insurer** will pay on behalf of the **Insured**, subject to the Limits of Liability set forth in Item 3. of the Declarations, **Loss and Defense Expenses** in excess of the Deductible stated in Item 4. of the Declarations which the **Insured** becomes legally obligated to pay as a result of a **Claim** brought by an individual **Patient** of the **Insured**, which are based upon or arising out of an actual or alleged negligent act, error or omission or breach or duty of an **Insured**, in violation of the **Patient's** right to the confidentiality of his or her **Protected Health Information**; provided always that:

1. such act, error or omission takes place on or after the **Retroactive Date** and before the end of the **Policy Period**;
2. such **Claim** is first made against the **Insured** during the **Policy Period** or any applicable Extended Reporting Period; and
3. notice of such **Claim** is given to the **Insurer** in accordance with Section V.B. of this Policy.

In no event shall coverage be available under this Policy for any such **Claim** brought in the form of a class action or seeking certification as a class action, or brought by more than one individual **Patient**.

The Limits of Liability for this Additional Coverage shall be part of, and not in addition to, the Limits of Liability for Insuring Agreement I.A. Claims Made Professional Liability.

Exclusion IV.G.16. shall not apply only to the limited extent that a **Claim** may be provided coverage under this Additional Coverage II.A. The coverage under this Additional Coverage II.A. shall be the sole and exclusive coverage for **Claims** arising out of or relating to the confidentiality or disclosure of **Protected Health Information** under this Policy.

The **Insurer** shall have the right and duty to defend any such **Claim** brought against the **Insured**, and will do so even if any allegations of the **Claim** are groundless, false or fraudulent.

III. DEFINITIONS

A. "Administration" means:

1. giving advice or counsel to **Employees** or their beneficiaries concerning their rights or interest with regard to the **Employee Benefit Program**;
2. determining the eligibility of **Employees** to participate in such **Employee Benefit Program**;
3. interpreting the provisions of such **Employee Benefit Program**;
4. effecting enrollment and termination of **Employees** in such **Employee Benefit Program**; or
5. handling and keeping records pertaining to such **Employee Benefit Program**.

- B. **“Advertisement”** means a notice that is broadcast or published to the general public or specific market segments about the **Insured’s** goods, products or services, for the purpose of attracting customers or supporters.
- For purposes of this Definition:
1. notice that is broadcast or published includes material placed on the internet or similar means of electronic communication; and
 2. with regard to websites, only that part of a website that is about the **Insured’s** goods, products or services, for the purpose of attracting customers or supporters, will be considered an **Advertisement**.
- C. **“Application”** means: (1) the application submitted to the **Insurer** for this Policy or any prior policy issued by the **Insurer** to the **Insured**; or (2) the application submitted to any competitor of the **Insurer**, which is provided to the **Insurer** for the purposes of procuring coverage hereunder, and which shall be treated as if it were submitted directly to the **Insurer**; and any and all materials and information submitted to or obtained by the **Insurer** in connection with such applications, all of which are deemed to be attached to, and form part of, this Policy as if physically attached.
- If the **Application** uses terms or phrases that differ from terms defined in this Policy, no inconsistency between any term or phrase used in the **Application** and any term defined in this Policy will serve to waive or change any of the terms, conditions and limitations of this Policy.
- D. **“Bodily Injury”** means physical injury, sickness or disease sustained by a person other than a **Patient**, including mental anguish, emotional distress or death resulting there from.
- E. **“Claim”** means:
1. with respect to Insuring Agreement I.A., a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for a **Medical Professional Incident**;
 2. with respect to Insuring Agreement I.B., a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for an **Occurrence**;
 3. with respect to Insuring Agreement I.C., a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for an act, error or omission in the **Insured’s Administration** of its **Employee Benefit Program**;
 4. with respect to Additional Coverage II.A, a written notice received by any **Insured** that a person or entity intends to hold an **Insured** responsible for an act, error or omission or breach or duty of an **Insured**, in violation of the **Patient’s** right to the confidentiality of his or her **Protected Health Information**.
- F. **“Defense Expenses”** means reasonable and necessary legal fees and expenses incurred in the investigation, adjustment, defense or appeal of a **Claim**, including premiums on appeal bonds required to be furnished with respect to any such judgment (without any obligation to furnish such bond); provided, that **Defense Expenses** shall not include remuneration, salaries, overhead, fees or benefit expenses of any **Insured**.
- G. **“Employee”** means a person who has been hired by the **Named Insured** or an **Insured Entity** to perform services, and who has an assigned work schedule and appears on the regular payroll of the **Insured**, with applicable federal, state and local taxes withheld. **Employee** does not include an independent contractor or a **Volunteer**. An **Employee’s** status as an **Insured** with respect to any covered **Claim** under this Policy shall be

determined as of the date of the **Occurrence**, **Medical Professional Incident** or other act, error or omission upon which the **Claim** involving the **Employee** is based.

- H. **“Employee Benefit Program”** means any group life insurance, group accident and health insurance, profit sharing plan, pension plan, **Employee** stock subscription plan, workers’ compensation, unemployment insurance, social security and disability benefits insurance, or any other similar plan administered by or on behalf of the **Insured** for the benefit of its **Employees**.
- I. **“Employment Practices”** means any actual or alleged breach of employment contract; failure or refusal to hire, employ or promote a person; demotion or discharge of a person; employment-related defamation or humiliation; discipline or evaluation of an **Employee**, **Volunteer** or independent contractor; discrimination, harassment, segregation, limitation or classification of persons in any way that tends to deprive any person of employment opportunities or otherwise adversely affect his/her status as an **Employee**, **Volunteer** or independent contractor because of his/her race, age, sex, national origin, marital status, physical or mental handicap, pregnancy, religion, sexual orientation or preference, military status, or any other status that is protected under any applicable federal, state or local statute or ordinance; retaliation; or employment-related misrepresentation.
- J. **“Express Contract”** means an actual agreement among the contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making.
- K. **Fire Damage** means **Property Damage** to the tangible property of a third party other than an **Insured**, caused by a fire to premises an **Insured** rents or leases from others or to premises temporarily occupied by an **Insured** with the permission of the owner, solely for the purpose of rendering **Medical Professional Services**. Such premises shall not include an **Insured’s** residence. Water damage from such fire is also included. The fire must not be caused intentionally; and must take place during the **Policy Period**.

With respect to **Fire Damage**, **Property Damage** shall not include damage to any personal property owned by an **Insured**, or any other personal property of any person that is within an **Insured’s** care, custody or control.
- L. **“Good Samaritan Acts”** means acts or services provided by or failed to be provided by the **Insured** in rendering emergency treatment, without remuneration, at the scene of an accident, medical crisis or disaster.
- M. **“Hostile Fire”** means a fire which becomes uncontrollable or breaks out from where it was intended to be.
- N. **“Insured”** means any of the following:
 1. the **Named Insured**;
 2. any **Insured Entity**;
 3. any **Employee**, but only while acting within the scope of his or her duties as such on behalf of the **Named Insured** or an **Insured Entity**;

and, solely with respect to Insuring Agreements I.A. and I.B., **Insured** shall also mean the following:

4. any student or **Volunteer**, but only while acting within the scope of his/her duties as such on behalf of the **Named Insured** or an **Insured Entity**;
5. **Locum Tenens**, engaged to provide **Medical Professional Services** on behalf of the **Named Insured** or an **Insured Entity**, but only if the **Locum Tenens** is substituting for an **Insured** physician and only while acting within the scope of his or her duties as such;

6. any member of a duly authorized board or committee of the **Named Insured** or an **Insured Entity**, any person communicating information to such board or committee, or any person charged with the duty of acting as a hearing officer or agent of such committee or executing directives of any such board or committee; provided, however, that any such person shall only be an **Insured** while acting within the scope of his/her duties as such on behalf of the **Named Insured** or an **Insured Entity**;
 7. any of the **Insured's** medical directors, administrators, department heads or chiefs of staff, who are not **Employees**, while acting within the scope of their duties as such; provided, however, that such persons, other than medical directors, shall not be an **Insured** for **Claims** arising out of direct patient care rendered or allegedly failed to be rendered by him/her;
 8. any individual duly authorized by the **Named Insured** or an **Insured Entity** to conduct **Peer Review**, including but not limited to consultants and contractors, retained pursuant to an **Express Contract** for such purposes, but only with respect to coverage under Insuring Agreement I.A.; and
 9. any member or partner of a joint venture or partnership specifically designated as such in Schedule A, but only with respect to such member or partner's liability arising out of such designated joint venture or partnership.
- O. **"Insured Entity"** means the organization(s) listed in Schedule A.
- P. **"Insured's Products"** means:
1. goods or products manufactured, sold, handled or distributed by:
 - a. the **Insured**;
 - b. others trading under the name of the **Named Insured** or an **Insured Entity**; or
 - c. a person or organization whose assets the **Insured** has acquired in accordance with Section V.K. of this Policy; and
 2. containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- Insured's Products** does not mean vending machines or other property rented to or located for the use of others but not sold.
- Q. **"Insurer"** means the Company identified in the Declarations.
- R. **"Locum Tenens"** means a physician, surgeon, midwife, nurse anesthetist, nurse practitioner, physician assistant or surgical assistant who is temporarily serving as a substitute physician, surgeon, midwife, nurse anesthetist, nurse practitioner, physician assistant or surgical assistant for any **Insured**, while such **Insured** is temporarily absent from professional practice. Coverage for a **Locum Tenens** shall only extend for up to sixty (60) days per **Insured** during any one **Policy Period**.
- Any **Locum Tenens** for which coverage is provided under this Policy shall share in the Limits of Liability available to the **Insured** on whose behalf they are acting, unless otherwise required by law.

- S. “**Loss**” means **Defense Expenses** and any monetary amount which an **Insured** is legally obligated to pay as a result of a **Claim**, pre-and post-judgment interest awarded or imposed in any judgment, legal costs or attorney’s fees awarded by a court in favor of the claimant, premiums on appeal bonds required to be furnished with respect to any such judgment (without any obligation to furnish such bond).

However, **Loss** shall not include:

1. the multiplied portion of any multiplied damages award;
2. fines, penalties, sanctions or taxes levied against the **Insured**;
3. sums due under any contractual provision for liquidated damages, or pre-agreed penalties under any contract, or any similar contractual remedy;
4. salaries, remuneration, overhead, fees or benefit expenses of the **Insured**;
5. non-monetary relief or redress in any form other than monetary compensation or damages, including, but not limited to, injunctive, declaratory and administrative relief, or any amounts paid or incurred by **Insureds** to comply with a judgment or settlement for such relief ;
6. the return, restitution, refund or disgorgement of fees, profits or amounts allegedly wrongfully held and/or retained by an **Insured**;
7. amounts which the **Insured** is not legally obligated to pay;
8. amounts or matters which are uninsurable under applicable law; or
9. the payment, satisfaction or writing off of any medical bills or charges by an **Insured**.

- T. “**Managed Care Activities**” means any of the following services or activities: **Peer Review**; **Utilization Review**; advertising, marketing, selling, or enrollment for health care, workers' compensation, life, dental, vision, short-term disability, long-term disability, behavioral health, pharmacy benefit and consumer-directed health plans; claim services; establishing health care provider networks; reviewing the quality of **Medical Professional Services** or providing quality assurance; design and/or implementation of financial incentive plans; wellness or health promotion education; development or implementation of clinical guidelines, practice parameters or protocols; triage for payment of **Medical Professional Services**; and services or activities performed in the administration or management of health care, workers' compensation, life, dental, vision, short-term disability, long-term disability, behavioral health, pharmacy benefit and consumer-directed health plans.

- U. “**Medical Professional Incident**” means an actual or alleged negligent act, error or omission by the **Insured** in connection with:

1. the **Insured’s** rendering of or failure to render **Medical Professional Services**;
2. the **Insured’s** activities as a member of a duly authorized board or committee of the **Named Insured** or an **Insured Entity**, or as a member of any committee of the medical or professional staff of the **Named Insured** or an **Insured Entity** when engaged in **Peer Review**;
3. the **Insured’s** activities as a member of an accreditation, standards review or similar board or committee of the **Named Insured** or an **Insured Entity**;

4. the **Insured's** performance of quality assurance activities for the **Named Insured** or an **Insured Entity**; or

5. **Good Samaritan Acts.**

Provided that any **Claim** for a **Medical Professional Incident** arising out of an act, error or omission described in paragraphs 1. through 4. immediately above must be brought by or on behalf of a **Patient** in connection with **Medical Professional Services** provided to such **Patient**.

V. **"Medical Professional Services"** means services performed by an **Insured**, on behalf of the **Named Insured** or an **Insured Entity**, in the treatment or care of any person, including: medical, surgical, dental, nursing, psychiatric, mental health, osteopathic, chiropractic, or other professional healthcare or healthcare-related services; the use, prescription, furnishing or dispensing of medications, drugs, blood, blood products, or medical, surgical, dental or psychiatric supplies, equipment or appliances in connection with such treatment or care; the furnishing of food or beverages in connection with such treatment or care; counseling or social services provided in connection with such treatment or care; the providing of counseling or social services in connection with such treatment or care; and the handling of or performance of post-mortem examinations on human bodies; but **Medical Professional Services** shall not include **Managed Care Activities**.

W. **"Named Insured"** means the entity identified in Item 1. of the Declarations.

X. **"Occurrence"** means:

1. with respect to **Bodily Injury, Property Damage or Fire Damage**, an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results in injury neither expected nor intended by the **Insured**;
2. with respect to **Personal or Advertising Injury**, a covered offense as set forth in Definition AA.

Y. **"Patient"** means any person or human body seeking, admitted or registered to receive **Medical Professional Services** from the **Named Insured** or an **Insured Entity**, whether on an inpatient, outpatient or emergency basis.

Z. **"Peer Review"** means the process of evaluating, any individual or entity for purposes of selecting, employing, contracting with or credentialing providers of **Medical Professional Services**; provided however, that such evaluation must be performed by members of a duly authorized professional review board or committee of the **Insured**.

AA. **"Personal or Advertising Injury"** means injury, other than **Bodily Injury**, arising out of one or more of the following offenses:

1. false arrest, detention or imprisonment;
2. malicious prosecution; or
3. the wrongful eviction from, wrongful entry into or invasion of the right of private occupation of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
4. oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, product or services;

5. oral or written publication, in any manner, of material that violates a person's right of privacy;
6. the **Insured's** use of another's advertising idea in its **Advertisement**;
7. the **Insured's** use of another's copyright, trade dress or slogan in its **Advertisement**; or
8. the **Insured's** infringement upon another's copyright, trade dress or slogan in its **Advertisement**.

The term "material" as used in this definition, shall not include information from which an individual may be uniquely and reliably identified, including, both personal or financial, or personal information as defined in any U.S. federal or state privacy protection law governing the control and use of an individual's personal and confidential information, including **Protected Health Information**, or other data or information stored, processed or transmitted on the **Insured's** or any third party's computer systems or devices.

- BB. **"Policy Period"** means the period from the Inception Date stated in Item 2(a) of the Declarations to the earlier of the Expiration Date stated in Item 2(b) of the Declarations or the cancellation date.
- CC. **"Pollutant"** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned, reclaimed or disposed of.
- DD. **"Protected Health Information"** means "protected health information" as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended.
- EE. **"Property Damage"** means:
1. physical injury to or destruction of tangible property, including all loss of use thereof as a result of such physical injury or destruction; or
 2. loss of use of tangible property that is not physically injured.
- "Tangible property" as used herein, shall not include any kind of data or information stored on any kind of device or computer system.
- FF. **"Related Claims"** means all **Claims** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events, whether related logically, causally or in any other way.
- GG. **"Retroactive Date"** means the date set forth in Item 5. of the Declarations Page or the respective date for each **Insured** shown in Schedule A or Schedule B, as applicable.
- HH. **"Utilization Review"** means the process of evaluating the appropriateness or necessity of **Medical Professional Services** provided or to be provided by an **Insured**. **Utilization Review** includes prospective, concurrent and retrospective review of such **Medical Professional Services**;
- II. **"Volunteer"** means a person providing services and/or labor to the **Insured**, without being paid by the **Insured** for providing such services and/or labor and under the supervision or direction of the **Insured**. **Volunteer** shall not include any **Employee** or independent contractor.

IV. **EXCLUSIONS**

A. Exclusions Applicable To Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY

As respects Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury**, unless such **Claim** is for injury and is brought by or on behalf of a **Patient** and arises out of an **Insured's** alleged rendering of or failure to render **Medical Professional Services** to such **Patient**;
2. any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by any of the **Insured's** directors or officers in the discharge of their duties in such capacity, or any matter claimed against a director or officer of an **Insured** solely by reason of him or her being a director or officer of an **Insured**;
provided however, that this Exclusion shall not apply to a **Claim** under Insuring Agreement I.A. against a director or officer of an **Insured** for a **Medical Professional Incident** brought by or on behalf of a **Patient** in connection with **Medical Professional Services** provided to such **Patient**.
3. the rendering of or failure to render **Medical Professional Services** by any person other than an **Insured**;
provided however, that this Exclusion shall not apply to the **Insured's** vicarious liability with regard to such **Medical Professional Services**;
4. any **Medical Professional Incident** arising out of the ownership, maintenance, use, operation, or entrustment to others of any aircraft, auto, watercraft, helipad or heliport, motor vehicle or semi-trailer, or the loading or unloading thereof;
provided however, that this Exclusion will not apply to any **Claim** arising out of a **Medical Professional Incident** in connection with the loading or unloading of a **Patient**;
5. any **Medical Professional Incident** taking place prior to the **Retroactive Date**;
6. any **Medical Professional Services** provided by any **Insured Person**, or by any person for whom an **Insured** is responsible, if such **Medical Professional Services** are provided outside of their employment for the **Named Insured** or an **Insured Entity**;
provided however, that this Exclusion shall not apply to a **Claim** against an **Insured** for **Good Samaritan Acts**;

B. Exclusions Applicable to Insuring Agreement I.B., GENERAL LIABILITY

As respects Insuring Agreement I.B.1., OCCURRENCE BASED GENERAL LIABILITY, and Insuring Agreement I.B.2, CLAIMS MADE GENERAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. injury to a **Patient**;
provided however, that this Exclusion shall not apply to any **Claim** arising out of: **Hostile Fire** or lightning; explosion; smoke; elevator malfunction; or structural collapse of a building;

2. **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** expected or intended from the standpoint of the **Insured**;
provided however, that this exclusion shall not apply to **Bodily Injury** resulting from the use of reasonable force to protect any person or property from injury or damage;
3. **Personal or Advertising Injury** arising out of the written or oral publication of material if done by or at the direction of an **Insured** with knowledge of its falsity;
4. **Bodily Injury or Property Damage** arising out of the ownership, maintenance, use, operation, or entrustment to others of any aircraft, auto, watercraft, helipad or heliport, motor vehicle or semi-trailer, or the loading or unloading thereof;
5. **Property Damage** to:
 - a. any property the **Insured** owns or rents;
 - b. any premises sold, given away, or abandoned by the **Named Insured**;
 - c. any property loaned to the **Insured**;
 - d. any personal property in the care, custody or control of the **Insured**; or
 - e. the **Insured's Products**, arising out of such products or any part thereof;
6. **Property Damage** to property that has not been physically injured, arising out of:
 - a. a delay or failure by or on behalf of the **Insured** in performing any contract or agreement; or
 - b. the failure of the **Insured's Products** to meet the level of performance, quality, fitness or durability promised or warranted by the **Insured**;
provided however, that this exclusion shall not apply to loss of use of other tangible property resulting from the sudden or accidental physical damage to or destruction of the **Insured's Products** or work performed by or on behalf of the **Insured** after such products or work have been put to use by any person or organization other than the **Insured**;
7. any actual or alleged infringement of right of patent, trademark, service mark, trade name, copyright, title or slogan.
8. injury or damage arising in whole or in part, directly or indirectly, out of fungi, including mold or mildew, any mycotoxins, toxins, allergens, spores, scents, vapors, gases or by-products released by fungi, regardless of whether such fungi is:
 - a. airborne;
 - b. contained in a product; or
 - c. contained in or a part of any building, structure, building material, or any component part of any of the foregoing;

C. Exclusions applicable to Insuring Agreement I.B.1., OCCURRENCE GENERAL LIABILITY

As respects Insuring Agreement I.B.1., OCCURRENCE GENERAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any actual or alleged **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** caused by an **Occurrence** taking place before the Inception Date of this Policy or after the Expiration Date of this Policy, or any earlier date of cancellation.

With respect to **Personal or Advertising Injury**, if such material was first published prior to the Inception Date of this Policy, it shall be immaterial whether such material was re-published or allegedly caused injury during the **Policy Period**;

D. Exclusions applicable to Insuring Agreement I.B.2., CLAIMS MADE GENERAL LIABILITY

As respects Insuring Agreement I.B.2., CLAIMS MADE GENERAL LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any actual or alleged **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury** arising out of an **Occurrence** taking place prior to the **Retroactive Date**.

With respect to **Personal or Advertising Injury**, if such material was first published prior to the **Retroactive Date**, it shall be immaterial whether such material was re-published or allegedly caused injury during the **Policy Period**.

E. Exclusions Applicable to Insuring Agreement I.C., CLAIMS MADE EMPLOYEE BENEFITS LIABILITY

As respects Insuring Agreement I.C., CLAIMS MADE EMPLOYEE BENEFITS LIABILITY, this Policy will not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury**;
2. a **Medical Professional Incident**, or injury to a **Patient**;
3. failure of performance by any insurer, including, but not limited to, the failure of such insurer to pay or provide benefits allegedly due under any contract relating to the **Insured's Employee Benefit Program**;
4. the insufficiency of funds to meet any obligations of the **Insured's Employee Benefit Program**;
5. failure of stock or any compensation, investment or savings program to produce the financial gain represented; or
6. any act, error or omission in the **Insured's Administration** of its **Employee Benefit Program** taking place prior to the **Retroactive Date**.

F. Exclusions Applicable to Additional Coverage II.A.

As respects Additional Coverage II.A. CLAIMS MADE PATIENT PRIVACY COVERAGE, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any actual or alleged: (a) act, error or omission, neglect or breach of duty by an **Insured** or a third party, or (b) unauthorized access to, use of, or tampering with any computer, computer system or electronic device or system; which results in a breach or failure of network security;

“Network security,” as used in this exclusion, includes, but is not limited to, hardware, software and firmware which is designed to control or restrict the access to any computer, computer system or electronic device or system, or parts thereof. Network security shall also include the use of a third party service provider.

2. failure, interruption or reduction in supply of utility service or infrastructure, including, without limitation, electrical, gas, water, telephone, Internet, cable, satellite, or telecommunications;
3. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), strike, lock-out, riot, civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, acts of terrorism or cyberterrorism;
4. **Bodily Injury, Property Damage, Fire Damage or Personal or Advertising Injury;**

provided however, that this Exclusion shall not apply to **Loss** from those allegations in a **Claim** alleging emotional distress or mental anguish caused by a negligent act, error or omission of an **Insured** or an **Insured Entity** in violation of the **Patient’s** right to the confidentiality of his or her **Protected Health Information;**

5. transfer of, or the failure to transfer, funds, money or securities;
6. unsolicited electronic dissemination of faxes, e-mails, text messages or similar communications, including but not limited to any violation of the Telephone Consumer Protection Act, any federal or state anti-spam statute, or any other federal or state statute, law or regulation relating to a person’s or entity’s right of seclusion;
7. discrimination of any kind;
8. unlicensed use of software;
9. any wireless network that is not protected by either Wi-Fi Protected Access (“WPA”) or any other security protocol that provides equal or greater protections than WPA;
10. the use of a laptop computer, computer or other electronic device that does not employ whole disc encryption or is not password protected;
11. back-up tapes, optical media or any other form of portable back-up media which are not encrypted; or
12. expiration or withdrawal of technical support by a software vendor.

G. Exclusions Applicable to All Insuring Agreements

As respects Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY, Insuring Agreement I.B., GENERAL LIABILITY, Insuring Agreement I.C., CLAIMS MADE EMPLOYEE BENEFITS LIABILITY, and Additional Coverage II.A. CLAIMS MADE PATIENT PRIVACY LIABILITY, this Policy shall not apply to any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

1. any willful misconduct or dishonest, fraudulent, or malicious act, error or omission by any **Insured**; any willful violation by any **Insured** of any law, statute, ordinance, rule or regulation; any **Insured** gaining any profit, remuneration or advantage to which such **Insured** was not legally entitled; or any alleged criminal conduct by an **Insured**.

For purposes of this Exclusion, no act, error or omission of any **Insured** shall be imputed to any other **Insured**; This exclusion will not apply to any natural person who did not personally participate in or assent to such act, error, or omission;

2. any acts, errors, omissions, **Medical Professional Incidents, Occurrences**, facts, matters, events, suits or demands notified or reported to, deemed notified or reported to, or which should have been notified or reported to, any policy of insurance or policy or program of self-insurance in effect prior to the Inception Date of this Policy;
3. any **Occurrence**, claim, suit or **Medical Professional Incident** (hereinafter a "matter") taking place prior to the earlier of, (a) the Inception Date of this Policy, or (b) the Inception Date of the first policy issued by the **Insurer** to the **Insured** of which this Policy is a renewal, if a member of the **Named Insured's** or **Insured Entity's** Risk Management Department, Legal Department, Executive or Management Teams or any individual charged with the responsibility of receiving incident reports for the **Named Insured** or **Insured Entity**, on or before such date, knew of such matter;
4. any actual or alleged sexual misconduct or sexual abuse, including, but not limited to, any physical acts or oral statements of a sexually suggestive manner, or any unwelcome physical contact or touching;
5. any actual or alleged liability of an **Insured** arising out of discrimination of any kind by an **Insured**, including but not limited to discrimination due to or on the basis of race, color, creed, national origin, marital status, age, gender, physical or other disability, HIV or AIDS status, or sexual orientation; or
6. any actual or alleged price fixing; restraint of trade; monopolization; unfair trade practices; or violation of the Federal Trade Commission Act, the Sherman Act, the Clayton Act, or any other federal statute involving antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities, or of any rules or regulations promulgated under or in connection with any of the foregoing statutes, or of any similar provision of any federal, state or local statute, rule or regulation or common law;
7. any actual or alleged liability of an **Insured** under any **Express Contract**, unless such liability would have attached in the absence of such contract or agreement.
8. any actual or alleged liability of an **Insured** under any workers compensation, unemployment compensation, disability benefits or similar law or regulation;
9. any actual or alleged violation of the Employee Retirement Income Security Act of 1974 (ERISA), or any similar federal, state or local law or regulation;

10. injury or damage arising in whole or in part, directly or indirectly, out of asbestos or silica, regardless of whether such asbestos or silica is:
 - a. airborne, as a fiber or particle;
 - b. contained in a product;
 - c. carried or transmitted by clothing or any other means; or
 - d. contained in or a part of any building, structure, building material, insulation product, or any component part of any of the foregoing;
11. any direct or indirect consequence of war, invasion, act of foreign enemy, hostilities (whether or not war is declared), civil war, rebellion, revolution, civil insurrection, strike, riot, terrorism or cyber-terrorism;

provided however, that this Exclusion shall not apply to “acts of terrorism” as that term is defined in the Terrorism Risk Insurance Act of 2002 (TRIA), as amended, but only to the extent that coverage is required under TRIA;
12. any actual or alleged injury, including **Bodily Injury**:
 - a. to an **Employee** arising out of or in the course of employment by the **Named Insured** or an **Insured Entity** or resulting from and in the course of performing duties related to the conduct of the **Named Insured** or an **Insured Entity’s** business;
 - b. to the spouse, child, parent, brother or sister of such **Employee**, as a consequence of an injury as describe above;

This Exclusion applies whether or not the **Insured** is liable as an employer or in any other capacity and whether or not the **Insured** has any obligation to share damages with or repay someone else who must pay damages because of the injury;
13. **Employment Practices**;
14. any **Insured’s** failure to maintain licensure status;
15. **Managed Care Activities**;

provided however, that this Exclusion shall not apply to the extent that a **Claim** arising out of **Peer Review** may be provided coverage under Insuring Agreement I.A;
16. any misuse of, disclosure or potential disclosure of, failure to keep secure or improper release of **Protected Health Information**, or any other information from which an individual may be uniquely and reliably identified, both personal or financial, or personal information as defined in any U.S. federal or state privacy protection law governing the control and use of an individual’s personal and confidential information; or any actual or alleged act, error or omission in violation of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended, or any other state, federal or local law associated with the confidentiality, security, protection, control and use of **Protected Health Information** or other information as described herein above, or of any rules or regulations promulgated in connection with such laws, including but not limited to the Privacy Rule and the Security Rule; or any act, error or omission in violation or a person’s common law right to privacy;

provided however, that this exclusion shall not apply to the limited extent that coverage for a **Claim** may be provided as specifically described under Additional Coverage II.A.

17. any administrative, disciplinary, licensing or regulatory proceeding, investigation or inquiry, suit, subpoena, demand or notice, brought by or on behalf of, or in the name or right of, any government entity or regulatory agency, department or authority;
18. any **Claim** asserted by or on behalf of an **Insured** against another **Insured**;
provided however, that this Exclusion will not apply to preclude or limit coverage for an otherwise covered **Claim** arising out of the **Insured's Administration** of its **Employee Benefit Program**;
provided further, that this Exclusion will not apply to preclude or limit coverage for an otherwise covered **Claim** based on or arising out of an **Insured's** care or treatment, solely in the capacity of a **Patient**, by another **Insured**, but only to the extent such coverage is provided under Insuring Agreement I.A.;
19. any liability or obligation:
 - a. arising out of the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**; provided however, that this exclusion shall not apply to **Bodily Injury** to a **Patient**, visitor or invitee, or to **Bodily Injury** or **Property Damage** arising out of heat, smoke or fumes from a **Hostile Fire**; or
 - b. to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, whether or not any of the foregoing are to be performed by or on behalf of the **Insured**.
20. any act, error or omission or **Medical Professional Incident** committed, or any **Occurrence** which takes place, while an **Insured** is under the influence of any drug or intoxicant;
provided however, that this Exclusion will not apply to preclude or limit coverage for allegations based on the vicarious liability of the **Named Insured** or an **Insured Entity** in an otherwise covered **Claim** under Insuring Agreement I.A.;
21. the treatment of any **Patient** with, or use of, any drug, medical device, procedure, or biologic or radiation-emitting product that is experimental in nature or not approved for use by the general public by the U.S. Food and Drug Administration, the U.S. Department of Health and Human Services, or an institutional review board, or any other similar committee of the **Named Insured**.

V. CONDITIONS

A. **Limits of Liability**

1. The amount stated in Item 3(m) of the Declarations shall be the Policy Maximum Aggregate Limit of Liability of the **Insurer**, and shall be the most the **Insurer** shall pay under this Policy for all **Loss** or **Defense Expenses** resulting from all **Claims** for which this Policy provides coverage, regardless of the number of **Claims**, the number of persons or entities included within the definition of **Insured**, or the number of Claimants.

2. The amounts stated in Items 3(k) and 3(l) of the Declarations shall be the most the **Insurer** shall pay for each **Claim** and in the aggregate for all **Claims** under Additional Coverage II.A. Claims Made Patient Privacy Coverage, which amounts shall be part of and not in addition to the Limits of Liability for Insuring Agreement I.A. Claims Made Professional Liability. The coverage under this Additional Coverage II.A. shall be the sole and exclusive coverage for **Claims** in any way relating to the confidentiality or disclosure of **Protected Health Information** under this Policy.
3. Payment of **Defense Expenses**:
Defense Expenses paid by the **Insurer** are part of and not in addition to the **Insurer's** Limits of Liability, and will reduce and may exhaust the Limits of Liability. The payment of **Defense Expenses** by the **Insured** will reduce the applicable Deductible.
4. Application of the Deductible:
The obligation of the **Insurer** to pay **Loss** or **Defense Expenses** will only be in excess of the applicable Deductible set forth in Item 4. of the Declarations. The **Insurer** will have no obligation whatsoever, either to the **Insureds** or to any other person or entity, to pay all or any portion of such Deductible on behalf of any **Insured**, although the **Insurer** will, at its sole discretion, have the right and option to do so, in which event the **Insureds** agree to repay the **Insurer** any amounts so paid. The Deductible shall be included in, and shall not be in addition to, the applicable Limit of Liability.
5. Non-Stacking of Limits:
 - a. In the event a **Claim** is first made against the **Insured** during the **Policy Period** that involves more than one (1) Insuring Agreement hereunder, it is understood and agreed that only one (1) Deductible and one (1) Limit of Liability will apply to such **Claim**, which shall be the highest applicable per **Claim** Limit of Liability set forth in the Declarations and the Deductible corresponding to such Limit of Liability.
 - b. All **Insureds** under this Policy share in the applicable Limits of Liability, unless indicated otherwise in a Schedule or Endorsement to this Policy. In no event will the number of **Insureds** involved in or named in a **Claim** increase the Limit of Liability applicable to such **Claim**.
 - c. If a **Claim** involves this Policy and any other policy issued by the **Insurer**, its predecessor or successor, or any of the **Insurer's** affiliated companies or their predecessors or successors, the Limits of Liability which will apply to such **Claim** will be a single Limit of Liability, which shall be the highest applicable per **Claim** limit available under all such policies. In no event will more than one policy issued by the **Insurer** respond to a **Claim**. This section shall not apply if such other policy is specifically written as excess insurance over this Policy.
6. Exhaustion of Limits:
 - a. In the event that an aggregate Limit of Liability for an Insuring Agreement is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under the respective Insuring Agreement to which such Limit of Liability applied, and the premium for

such Insuring Agreement will be deemed fully earned.

- b. In the event that the Policy Aggregate Limit of Liability is reduced and exhausted in full by the payment of **Loss** and **Defense Expenses** by the **Insurer**, the **Insurer** shall have no further obligation to pay or reimburse **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** under this Policy, and the entire premium will be deemed fully earned.
7. If the **Insurer** defends, or chooses to associate in the defense of a **Claim**, or pays **Loss** or **Defense Expenses**, and it is ultimately determined that the **Insurer** has no obligation to defend or provide coverage for such **Claim**, in whole or in part, then the **Insurer** will be entitled to reimbursement from the **Insured** of any **Loss** or **Defense Expenses** paid in connection with such **Claim** or any portion thereof for which coverage is not provided.

B. Reporting of Claims and Circumstances

1. With respect to Insuring Agreement I.A. CLAIMS MADE PROFESSIONAL LIABILITY, Insuring Agreement I.B.2. CLAIMS-MADE GENERAL LIABILITY, Insuring Agreement I.C. CLAIMS MADE EMPLOYEE BENEFITS LIABILITY, and Additional Coverage II.A. CLAIMS MADE PATIENT PRIVACY LIABILITY, the following shall apply:

- a. Reporting of Claims:

If, during the **Policy Period** or any applicable Extended Reporting Period, any **Claim** is first made against any **Insured**, the **Insureds** must, as a condition precedent to any right to coverage under this Policy, give the **Insurer** written notice of such **Claim** as soon as practicable thereafter, and in no event later than:

- i. with respect to a **Claim** first made during the **Policy Period**, thirty (30) days after the end of the **Policy Period**; or
- ii. with respect to a **Claim** first made during an Extended Reporting Period, thirty (30) days after such **Claim** is first made, but no later than the expiration of the Extended Reporting Period.

Timely and sufficient notice by one **Insured** of a **Claim** shall be deemed timely and sufficient notice for all **Insureds** involved in the **Claim**. Such notice shall give full particulars of the **Claim**, including, without limitation, a description of the acts, errors or omissions, the identities of the potential claimants and involved **Insureds**, the injury or damages which have resulted and/or may result from such acts, errors or omissions, and the manner in which the **Insured** first became aware of such acts, errors or omissions.

- b. Reporting of Circumstances:

If, during the **Policy Period**, an **Insured** first becomes aware of any act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident** that takes place during the **Policy Period** and that could give rise to a **Claim** against the **Insured**, and:

- i. gives the **Insurer** written notice of such act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident** with full particulars as soon as practicable thereafter, but in any event before the end of the Policy Period; and

- ii. requests coverage under this Policy for any **Claim** subsequently arising from such reported acts, errors or omissions as soon as practicable after such **Claim** is made;

then any **Claim** subsequently made against the **Insured** arising out of such act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident** shall, subject to Section V.C. below, be treated as if it had been first made during the **Policy Period**.

The full particulars required in any notice given under this Section V.B.1.b. must include, without limitation:

- (a) The time, date and place of the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**;
- (b) a description of the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**;
- (c) a description of the injury or damage which has allegedly resulted from or may result from the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**;
- (d) how and when the **Insured** first became aware of the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**;
- (e) the names, addresses and ages of the injured parties;
- (f) the names and addresses of any witnesses;
- (g) the identities of any involved **Insureds**;
- (h) the reasons why the **Insured** believes a **Claim** is likely to be made as a result of the act, error, omission, fact, situation, **Occurrence** or **Medical Professional Incident**.

The **Insured's** conduct of internal loss control activities, without more, will not constitute reporting under this Section V.B.1.b.

2. With respect to Insuring Agreement I.B.1., OCCURRENCE BASED GENERAL LIABILITY, the following shall apply:

a. Reporting of Claims and Occurrences:

The **Insured** must see to it that the **Insurer** is immediately notified in writing of any **Claim**, and must see to it that the **Insurer** is notified as soon as practicable in writing of an **Occurrence** that may result in a **Claim**. To the extent possible, such notice should include, without limitation: a description of the nature, time and place of the **Occurrence**; the identities of the potential claimants, any witnesses and involved **Insureds**; and the injury or damages which have resulted and/or may result from such **Occurrence**.

3. Other Reporting Responsibilities of the Insured:

The **Insureds** also must:

- a. immediately send the **Insurer** copies of any demands, notices, summonses or legal papers received in connection with the **Claim**;
- b. authorize the **Insurer** to obtain records and other information;

- c. cooperate with the **Insurer** in the investigation, defense or settlement of the **Claim**; and
- d. assist the **Insurer**, upon the **Insurer's** request, in the enforcement of any right against any person or organization which may be liable to the **Insured** because of injury or damage to which this Policy may also apply.

C. Related Claims Deemed Single Claim; Date Claim Made

All **Related Claims**, whenever made, shall be deemed to be a single **Claim** and shall be deemed to have been first made on the earliest of the following dates:

- 1. the date on which the earliest **Claim** within such **Related Claims** was received by an **Insured**; or
- 2. the date on which written notice was first given to the **Insurer** of an act, error, omission or **Occurrence** which subsequently gave rise to any of the **Related Claims**,

regardless of the number and identity of claimants, the number and identity of **Insureds** involved, or the number and timing of the **Related Claims**, and even if the **Related Claims** comprising such single **Claim** were made in more than one **Policy Period**.

D. Related Acts Deemed Single Act

- 1. With regard to Insuring Agreement I.A., CLAIMS MADE PROFESSIONAL LIABILITY, all damages arising from the same or related acts, errors, omissions, facts, situations or circumstances are considered to arise out of a single **Medical Professional Incident**. Such **Medical Professional Incident** will be deemed to have first taken place at the time of the first act, error or omission.
- 2. With regard to Insuring Agreement I.B.1., OCCURRENCE-BASED GENERAL LIABILITY, all damages arising from the same or related accidents, acts, offenses, publications or general conditions are considered to arise out of a single **Occurrence**, regardless of the frequency or repetition thereof, the type of damage at issue, or the number of claimants. Such **Occurrence** will be deemed to have first taken place at the time of the first such accident, act, offense, publication or general condition.
- 3. With regard to Insuring Agreement I.B.2., CLAIMS MADE GENERAL LIABILITY, all damages arising from the same or related accidents, acts, offenses, publications or general conditions are considered to arise out of a single **Occurrence**, regardless of the frequency or repetition thereof, the type of damage at issue, or the number of claimants. Such **Occurrence** will be deemed to have first taken place at the time of the first such accident, act, offense, publication or general condition.
- 4. With regard to Insuring Agreement I.C., CLAIMS MADE EMPLOYEE BENEFITS LIABILITY, all damages arising from the same or related acts, errors or omissions in the **Insured's Administration** of its **Employee Benefit Program** are considered to arise out of a single act, error or omission. Such act, error or omission will be deemed to have first taken place at the time of the first act, error or omission.
- 5. With regard to Additional Coverage II.A., CLAIMS MADE PATIENT PRIVACY COVERAGE, all damages arising from the same or related acts, errors or omissions of an **Insured** in violation of an individual **Patient's** right to the confidentiality of his or her **Protected Health Information**, are considered to

arise out of a single act, error or omission. Such act, error or omission will be deemed to have first taken place at the time of the first act, error or omission.

E. Defense and Settlement

1. No **Insured** may incur any **Defense Expenses** or admit liability for, or settle or offer to settle, any **Claim** without the **Insurer's** prior written consent.
2. The **Insurer** will have the right to select counsel for the defense of any **Claim**, make investigations and conduct negotiations and to enter into such settlement of any **Claim** as the **Insurer** deems appropriate;

provided however, that if the applicable Deductible exceeds the amount of any proposed settlement plus **Defense Expenses** incurred in any **Claim**, the **Insurer** shall only agree to such settlement with the **Insured's** consent, such consent not to be unreasonably withheld
3. The **Insurer** will have no obligation to pay **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim** after the **Insurer's** Limit of Liability, as set forth in the Declarations, has been exhausted by the payment of **Loss** or **Defense Expenses**.
4. In the event and to the extent that the **Insureds** shall not be entitled to payment of **Defense Expenses** under the terms and conditions of this Policy, such payments by the **Insurer** shall be repaid to the **Insurer** by the **Insureds**, severally and according to their respective interests.

F. Assistance and Cooperation

In the event of a **Claim**, the **Insureds** shall provide the **Insurer** with all information, assistance and cooperation that the **Insurer** reasonably requests and shall do nothing that may prejudice the **Insurer's** position. At the **Insurer's** request, the **Insureds** shall assist in:

1. investigating, defending and settling **Claims**;
2. enforcing any right of contribution or indemnity against a third party who may be liable to any **Insured**, and
3. the conduct of actions, suits, appeals or other proceedings, including but not limited to, attending trials, hearings and depositions, securing and giving evidence, and obtaining the attendance of witnesses.

G. Inspection and Audit

The **Insurer** will be permitted, but not obligated, to inspect the **Insured's** property and operations at any time, upon reasonable notice. Neither the **Insurer's** right to make inspections nor the making of any such inspections shall constitute an undertaking, on behalf of or for the benefit of the **Insured** or others, to determine or warrant that such property and operations are safe. The **Insurer** may examine and audit the **Insured's** books and records at any time, upon reasonable notice, as far as such books and records relate to the subject matter of this Policy.

H. Subrogation

In the event of any payment hereunder, the **Insurer** shall be subrogated to the extent of any payment to all of the rights of recovery of the **Insureds**. The **Insureds** shall execute all papers and do everything necessary to secure such rights, including the execution of any documents necessary to enable the **Insurer** effectively to bring suit in their name. The **Insureds** shall do nothing that may prejudice the **Insurer's** position or potential or

actual rights of recovery. The obligations of the **Insureds** under this Section shall survive the cancellation or other termination of this Policy.

I. Coverage Extensions

- (1) This Policy shall cover **Loss** arising from any **Claims** made against the estates, heirs, or legal representatives of any deceased person who was an **Insured** person at the time the acts, errors or omissions upon which such **Claims** are based were committed; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged acts, errors or omissions by or on the part of any such estates, heirs, or legal representatives, but shall apply only to **Claims** arising out of any actual or alleged acts, errors or omissions of an **Insured** person.
- (2) This Policy shall also cover **Loss** arising from any **Claims** made against the legal representatives of any incompetent, insolvent or bankrupt person who was an **Insured** person at the time the acts, errors or omissions upon which such **Claims** are based were committed; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged acts, errors or omissions by or on the part of any such legal representatives, but shall apply only to **Claims** arising out of any actual or alleged acts, errors or omissions of an **Insured** person.
- (3) This Policy shall also cover **Loss** arising from any **Claims** made against the lawful spouse or domestic partner (whether such status is derived by reason of the statutory law or common law of any applicable jurisdiction in the world, or by any formal program established by the **Insured Entity**) of an **Insured** person for all **Claims** arising solely out of his or her status as the spouse or domestic partner of an **Insured** person, including a **Claim** that seeks damages recoverable from marital community property, property jointly held by the **Insured** person and the spouse or domestic partner, or property transferred from the **Insured** person to the spouse or domestic partner; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged acts, error or omissions by or on the part of the spouse or domestic partner, but shall apply only to **Claims** arising out of any actual or alleged acts, error or omissions of an **Insured** person.

J. Other Insurance/Other Indemnification

1. This Policy shall be excess of and shall not contribute with:
 - a. any other insurance or plan or program of insurance or self-insurance (whether collectible or not), unless such other insurance or self-insurance is specifically stated to be in excess of this Policy; and
 - b. any contribution or indemnification to which an **Insured** is entitled from any entity other than another **Insured**.

This Policy shall not be subject to the terms of any other policy of insurance or plan or program of self-insurance.

2. If any other policy or policies issued by the **Insurer** or any of its affiliated companies, or by any predecessors or successors of the **Insurer** or its affiliated companies, shall apply to any **Claim** for which coverage is provided under this Policy, then the aggregate limit of liability with respect to all **Loss** covered under this Policy and all covered loss under such other policies shall not exceed the highest applicable limit of liability, subject to its applicable deductible or

retention, that shall be available under any one of such policies, including this Policy. This Section shall not apply with respect to any other policy which is specifically written as excess insurance over this Policy.

K. Mergers, Acquisitions, or Newly Created Entities

1. If, during the **Policy Period**:

- a. any **Insured Entity** acquires any assets, acquires or creates a Subsidiary, or acquires any entity by merger or acquisition, and, at the time of such transaction, the assets so acquired or the assets of the entity so acquired exceed fifteen percent (15%) of the total assets of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements; or
- b. any **Insured Entity** assumes any liabilities and, at the time of such assumption, the liabilities so assumed exceed fifteen percent (15%) of the total liabilities of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements;

then, for a period of thirty (30) days after the effective date of such event, the coverage granted by this Policy shall extend to any **Claims** arising out of covered acts, errors, omissions or **Occurrences** that take place after the effective date of such event and arise out of or relate to the entity, assets or liabilities acquired, assumed or merged with. After the expiration of such thirty (30) day period, there shall be no coverage under this Policy for such **Claims** unless: (a) within such thirty (30) day period, the **Insurer** receives from the **Insured** such information regarding details of the transaction as the **Insurer** requests and; (b) the **Insurer** specifically agrees by written endorsement to this Policy to provide such coverage upon such terms, conditions and limitations, including payment of additional premium, as the **Insurer**, at its sole discretion, may require.

For purposes of this Section V.K., "Subsidiary" means any entity during any time in which the **Named Insured** or an **Insured Entity** owns or controls, directly or indirectly, more than fifty percent (50%) of the outstanding securities representing the right to vote for the election of such entity's directors or members of the board of managers.

2. If, during the **Policy Period**:

- a. any **Insured Entity** acquires any assets, acquires or creates a Subsidiary, or acquires any entity by merger or acquisition, and, at the time of such transaction, the assets so acquired or the assets of the entity so acquired are less than fifteen percent (15%) of the total assets of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements; or
- b. any **Insured Entity** assumes any liabilities and, at the time of such assumption, the liabilities so assumed are less than fifteen percent (15%) of the total liabilities of the **Named Insured** as reflected in the **Named Insured's** most recent consolidated financial statements;

then, the coverage granted by this Policy shall extend to any **Claims** arising out of covered acts, errors, omissions or **Occurrences** that take place after the effective date of such event and arise out of or relate to the entity, assets or

liabilities acquired, assumed or merged with, subject to all coverage terms, conditions and exclusions.

L. Sales or Dissolution of Insured Entities; Cessation of Business

1. If, during the **Policy Period**:

- a. the **Named Insured** is dissolved, sold, acquired by, merged into or consolidated with another entity such that the **Named Insured** is not the surviving entity, or such that any person, entity or affiliated group of persons or entities obtains:
 - i. the right to elect or appoint more than fifty percent (50%) of the **Named Insured's** directors, trustees or member managers, as applicable; or
 - ii. more than fifty percent (50%) of the **Named Insured's** equity or assets;
- b. the **Named Insured** ceases to do business for any reason; or
- c. a receiver, liquidator, conservator, trustee, rehabilitator or similar administrator is appointed for the **Named Insured**;

then in any such event (any of which events is referred to in this Section V.L. as a "Material Event"), coverage under this Policy for all **Insureds** shall continue in full force and effect until the Expiration Date or any earlier cancellation date, but this Policy shall apply only to covered acts, errors or omissions committed or allegedly committed before such Material Event. There will be no coverage under this Policy with respect to any **Claim** against any **Insured** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any covered acts, errors or omissions committed or allegedly committed on or after the date of such Material Event.

This Policy shall be non-cancellable and the entire premium shall be deemed fully earned upon the effective date of the Material Event as described above.

- 2. If, during the **Policy Period**, any **Insured Entity** other than the **Named Insured** is involved in a Material Event, coverage under this Policy for covered acts, errors or omissions committed or allegedly committed before such Material Event by such **Insured Entity** shall continue in full force and effect until the Expiration Date or any earlier cancellation date. There will be no coverage under this Policy with respect to any **Claim** against such **Insured Entity** based upon, arising out of, directly or indirectly resulting from, in consequence of or in any way involving any covered acts, errors or omissions of such **Insured Entity** committed or allegedly committed on or after the date of such Material Event. Coverage under this Policy shall continue in full force and effect for all other **Insureds**.

M. Cancellation or Non-Renewal

- 1. The **Insurer** may cancel this Policy by mailing written notice to the **Named Insured** at the last known address stated in Item 1. of the Declarations stating when, no less than thirty (30) days thereafter or such longer period as may be required by law, such cancellation shall be effective. However, in the event the **Insured** fails to pay a premium when due, the **Insurer** may cancel this Policy effective upon ten (10) days' written notice, or such longer period as may be required by law, by providing notice to the **Named Insured** in the manner set forth in the preceding sentence.

2. The **Named Insured** may cancel this Policy prospectively only by mailing the **Insurer** written notice stating when thereafter such cancellation shall be effective. In such event, the **Insurer** will send any premium refund due, which shall be the lesser of (a) the amount calculated in accordance with the customary short rate table, or (b) the amount calculated in accordance with the Minimum Earned Premium percentage stated in Item 8. of the Declarations.
3. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.
4. The **Insurer** will not be required to renew this Policy upon its expiration. The **Insurer** will provide the **Named Insured** with thirty (30) days notice of any non-renewal or as required by law.

N. Extended Reporting Periods

1. This section is only applicable to those coverages in this Policy which apply on a Claims-Made basis.
2. If this Policy is canceled for any reason other than non-payment of premium or is not renewed by the **Insurer**, an Extended Reporting Period shall be made available as described in this Section;

however, any such Extended Reporting Period shall apply only to **Claims** which arise out of acts, errors, omissions, **Medical Professional Incidents**, or **Occurrences** committed or allegedly committed or taking place before the earlier of a Material Event or effective date of such cancellation or non-renewal ("Termination Date").
3. No Extended Reporting Period shall in any way increase the applicable Limit of Liability as stated in the Declarations, and the **Insurer's** maximum aggregate Limit of Liability for all **Loss** from all **Claims** first made during the **Policy Period** or any Extended Reporting Period shall not exceed the Policy Aggregate Limit of Liability stated in the Declarations.
4. The offer of renewal terms, conditions, limits of liability, retentions or premium different from those in effect prior to renewal shall not constitute cancellation or refusal to renew for purposes of this Section.
5. The Extended Reporting Period will apply as follows:
 - a. The **Insured** shall be entitled to an automatic Extended Reporting Period of sixty (60) days, beginning as of the Termination Date and requiring no additional premium; provided, however, that such automatic Extended Reporting Period will remain in effect only as long as no other policy of insurance is in effect that would apply to any **Claim** made during such Extended Reporting Period.
 - b. The **Named Insured** may purchase an additional Extended Reporting Period by notifying the **Insurer** in writing of its intention to do so no later than thirty (30) days after the Termination Date. The term of, and the additional premium for, the Additional Extended Reporting Period, shall be determined by the **Insurer** at the time of the **Insured's** notification that it has elected to purchase the Additional Extended Reporting Period. The additional premium must be paid by the **Insured** no later than thirty (30) days after **Insurer** notifies the **Insured** of the additional premium amount due.

6. If the **Insured** does not elect to purchase an additional Extended Reporting Period as described above or if the additional premium therefore is not paid within the time period required above, the **Insured** will not have any right to purchase an additional Extended Reporting Period at a later time. The Additional Extended Reporting Period will not become effective until the additional premium and any other amounts due to the **Insurer** under the Policy are paid in full. Failure to elect to purchase an additional Extended Reporting Period or to pay the additional premium therefore will not affect the application of the automatic Extended Reporting Period described above.

O. Representations and Warranties; Incorporation of Application

The **Insureds** represent and warrant that the particulars and statements contained in the **Application** attached to this Policy are true, accurate and complete, and agree that:

1. this Policy is issued and continued in force by the **Insurer** in reliance upon the truth of such representation;
2. those particulars and statements are the basis of this Policy; and
3. the **Application** and those particulars and statements are incorporated in and form a part of this Policy.

No knowledge or information possessed by any **Insured** person shall be imputed to any other **Insured** person for purposes of this Section, except for material facts or information known to the person or persons who signed the **Application**. In the event of any material untruth, misrepresentation or omission in connection with any of the particulars or statements in the **Application**, this Policy shall be void with respect to any **Insured** person who knew of such untruth, misrepresentation or omission. The Policy shall be void as to the **Named Insured** or any **Insured Entity** if a member of the Risk Management, Executive or Management teams of the **Named Insured** or any **Insured Entity**, or any individual in a functionally equivalent position within the **Named Insured** or any **Insured Entity**, knew of such untruth, misrepresentation or omission.

P. Action against Insurer

1. No action shall be taken against the **Insurer** unless, as conditions precedent thereto, the **Insureds** have fully complied with all of the terms of this Policy and the amount of the **Insureds'** obligation to pay has been finally determined either by judgment against the **Insureds** after adjudicatory proceedings, or by written agreement of the **Insureds**, the claimant and the **Insurer**.
2. No individual or entity shall have any right under this Policy to join the **Insurer** as a party to any **Claim** to determine the liability of any **Insured**; nor shall the **Insurer** be impleaded by an **Insured** or his, her or its legal representative in connection with any such **Claim**.

Q. Insolvency of Insured

The **Insurer** shall not be relieved of any of its obligations under this Policy by the bankruptcy or insolvency of any of the **Insureds** or any of their estates.

R. Notice

1. Notice to any **Insured** shall be sent to the **Named Insured** at the address designated in Item 1 of the Declarations. The **Insureds** agree that the **Named Insured** shall act on their behalf with respect to receiving any notices and any return premiums from the **Insurer**.

2. Notice to the **Insurer** shall be sent to the address designated in Item 6. of the Declarations.

S. Changes

Notice to or knowledge possessed by any agent or other person acting on behalf of the **Insurer** shall not effect a waiver or change in any part of this Policy or estop the **Insurer** from asserting any right under this Policy. The **Named Insured** shown in the Declarations is authorized to make changes in the terms of this Policy only with the **Insurer's** written consent. This Policy can be altered, waived or changed only by written endorsement issued by the **Insurer** to form a part of this Policy.

T. Assignment

No assignment of interest under this Policy shall bind the **Insurer** without its written consent issued as an endorsement to form a part of this Policy.

U. Territory

This Policy applies to **Medical Professional Incidents, Occurrences** or other covered acts, errors or omissions taking place anywhere in the world; provided however, that any **Claim** for which coverage is sought under this Policy must be brought and maintained against an **Insured** in the United States of America, its territories or possessions or Canada.

This Policy shall not cover any **Loss** in connection with any **Claim** in the event that such coverage would not be in compliance with any United States of America economic or trade sanctions, laws or regulations, including but not limited to the U.S. Treasury Department's Office of Foreign Assets Control, or any similar foreign, federal, state or statutory law or common law.

V. Entire Agreement

The **Insureds** agree that this Policy, including the **Application**, Declarations and any endorsements, constitutes the entire agreement between them and the **Insurer** or any of the **Insurer's** agents relating to this insurance.

W. Headings

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

IN WITNESS WHEREOF, the Insurer has caused this Policy to be executed on the Declarations Page.