

The Hartford Premier Choice Professional Liability Policy

COMMON TERMS AND CONDITIONS DESIGN PROFESSIONALS LIABILITY INSURANCE

NOTICE: THE LIABILITY COVERAGE PART PROVIDES CLAIMS MADE COVERAGE. EXCEPT AS OTHERWISE SPECIFIED HEREIN: COVERAGE APPLIES ONLY TO A CLAIM FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND WHICH HAS BEEN REPORTED TO THE INSURER IN ACCORDANCE WITH THE APPLICABLE NOTICE PROVISIONS. COVERAGE IS SUBJECT TO THE INSURED'S PAYMENT OF THE APPLICABLE RETENTION. PAYMENTS OF DEFENSE COSTS ARE SUBJECT TO, AND REDUCE, THE AVAILABLE LIMIT OF LIABILITY. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium, the Insurer and the **Insureds** agree as follows:

I. TERMS AND CONDITIONS

- (A) All Coverage Parts included in this Policy are subject to the following Common Terms and Conditions. If any provision in these Common Terms and Conditions is inconsistent or in conflict with the terms and conditions of any Coverage Part, the terms and conditions of such Coverage Part shall control for purposes of that Coverage Part.
- (B) Except as otherwise provided by specific reference to other Coverage Parts, the terms and conditions of each Coverage Part shall apply only to such Coverage Part.

II. COMMON DEFINITIONS

The following terms, whether used in the singular or plural, shall have the meanings specified below:

- (A) "**Affiliate**" means any insurance company controlling, controlled by or under common control with the Insurer.
- (B) "**Application**" means the application for this Policy, including any (i) materials or written information submitted therewith or made available to the Insurer during the underwriting process, or (ii) warranty, representation or other written statement provided to the Insurer, which **Application** shall be on file with the Insurer. Such **Application** shall be deemed a part of this Policy and attached hereto. In addition, **Application** includes any warranty, representation or other statement provided to us in connection with any policy of which this Policy is a renewal or replacement.
- (C) "**Automatic Extended Reporting Period**" means the period of time beginning with the effective date this Policy was cancelled or non renewed, and ending:
 - (1) 60 days after such cancellation or non renewal takes effect; or
 - (2) The date any other policy obtained by the **Named Entity** that provides similar coverage for **Professional Services** takes effectwhichever is earlier.
- (D) "**Claim**" shall have the meaning specified for such term in each Coverage Part.
- (E) "**Damages**" shall have the meaning specified for such term in each Coverage Part.
- (F) "**Defense Costs**" means:

- (1) reasonable legal fees and expenses, including, but not limited to, e-discovery expenses, incurred in the defense or appeal of a **Claim**; and
- (2) the costs of appeal, attachment or similar bonds, provided that the Insurer shall have no obligation to furnish such bonds.

However, **Defense Costs** shall not include:

- (a) salaries, wages, remuneration, overhead or benefit expenses associated with any **Insureds**;
 - (b) any fees, expenses or costs which are incurred by or on behalf of a party which is not a covered **Insured**; or
 - (c) any fees, expenses or costs which were incurred prior to the date on which the Insurer received written notice of **Claim** from the **Insured**.
- (G) “**Domestic Partner**” means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or any domestic partner relationship arrangement recognized outside of the U.S. and under the Human Resource policy of the **Insured Entity**.
- (H) “**Effective Time**” means the actual time that a transaction is legally consummated as evidenced by the controlling documents of the transaction, including but not limited to the purchase and sale agreement, merger agreement, partnership agreement, or trust agreement.
- (I) “**Employee**” means any natural person who was, is or shall become a(n):
- (1) employee of an **Insured Entity** including any full time, part time, seasonal, temporary, leased, or loaned employee; or
 - (2) volunteer or intern with an **Insured Entity**.
- (J) “**Insured Entity**” means:
- (1) the **Named Entity**; and
 - (2) any **Other Insured Entities**.
- (K) “**Insured Person**” shall have the meaning specified for such term in each Coverage Part.
- (L) “**Insured**” shall have the meaning specified for such term in each Coverage Part.
- (M) “**Interrelated Wrongful Acts**” means **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, or transaction, or series of causally connected facts, circumstances, situations, events, or transactions.
- (N) “**Liability Coverage Part**” means any liability coverage parts, included in the policy.
- (O) “**Loss**” means **Defense Costs** and **Damages**.
- (P) “**Mediation**” means the voluntary and otherwise non-binding process by which a qualified, professional mediator, appointed by the **Insured** and other parties to a **Claim** with the Insurer’s agreement, intercedes between the parties with the intention to reconcile them to resolve the **Claim**. Other dispute resolution by litigation or arbitration is specifically excluded from this definition.
- (Q) “**Named Entity**” means the entity or individual named in ITEM 1a of the Declarations.
- (R) “**Other Insured Entities**” means any additional entity or individual listed in ITEM 1b of the declarations page.
- (S) “**Policy Period**” means the period from the Inception Date to the Expiration Date set forth in Item 3 of the Declarations or any earlier cancellation date.

(T) “**Wrongful Act**” shall have the meaning specified for such term in each Coverage Part.

III. COVERAGE EXTENSIONS

(A) Spousal/Domestic Partner Liability Coverage

Coverage shall apply to the lawful spouse or **Domestic Partner** of an **Insured Person** for a **Claim** made against such spouse or **Domestic Partner**, provided that:

(1) such **Claim** arises solely out of:

(a) such person’s status as the spouse or **Domestic Partner** of an **Insured Person**; or

(b) such spouse or **Domestic Partner**’s ownership of property sought as recovery for a **Wrongful Act**;

(2) the **Insured Person** is named and maintained in such **Claim** together with the spouse or **Domestic Partner**; and

(3) coverage of the spouse or **Domestic Partner** shall be on the same terms and conditions, including any applicable Retention, as apply to coverage of the **Insured Person** for such **Claim**.

No coverage shall apply to any **Claim** for a **Wrongful Act** of such spouse or **Domestic Partner**.

(B) Estates and Legal Representatives

In the event of the death, incapacity or bankruptcy of an **Insured Person**, any **Claim** made against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** shall be deemed to be a **Claim** made against such **Insured Person**. No coverage shall apply to any **Claim** for a **Wrongful Act** of such estate, heirs, legal representatives or assigns.

IV. LIMIT OF LIABILITY

(A) The Per Claim Limit of Liability set forth in Item 4 of the Declarations shall be the maximum aggregate amount that the Insurer shall pay for all **Loss** arising from each **Claim** covered under this Policy. Further, the Per Claim Limit of Liability shall be the maximum aggregate amount that the Insurer shall pay for all **Loss** arising from, or in any way related to the same **Wrongful Act** or **Interrelated Wrongful Acts**.

(B) Notwithstanding the above, the Aggregate Limit of Liability – All Claims set forth in Item 4 of the Declarations:

(1) shall be the maximum aggregate amount that the Insurer shall pay for all **Loss** arising from all **Claims** covered under this Policy; and

(2) any amount specified as a Per Claim Limit of Liability in Item 4 of the Declarations shall be part of, and not in addition to, the amount stated as the Aggregate Limit of Liability – All Claims.

(C) Upon the Aggregate Limit of Liability – All Claims becoming exhausted, the premium for this Policy shall be deemed fully earned.

V. DEFENSE COSTS

Solely with respect to all **Liability Coverage Parts**:

Defense Costs shall be part of, and not in addition to, the Limits of Liability set forth in ITEM 4 of the Declarations, and payment of **Defense Costs** by the Insurer shall reduce and may exhaust such Limits of Liability.

VI. RETENTION

Solely with respect to all **Liability Coverage Parts**:

- (A) The Insurer shall pay **Loss** in excess of the Retention applicable to each **Claim** as specified in Item 5 of the Declarations.
- (B) All Retentions shall be borne by the **Insured** at its own risk.
- (C) The Retention shall apply to **Defense Costs** and **Damages** covered under this Policy. If, any **Defense Costs** or **Damages** are incurred by the Insurer prior to the **Insured's** complete payment of the Retention, then the **Insured** shall reimburse the Insurer therefor upon request.
- (D) If a **Claim** is covered under more than one Coverage Part, the applicable Retention for each Coverage Part shall be applied separately to such **Claim**, provided that the maximum Retention applied to such **Claim** shall not exceed the highest of such applicable Retentions.
- (E) If the Insurer and the **Insured** agree to resolve a **Claim** through voluntary **Mediation**, the **Insured's** retention obligation shall be reduced by 50% subject to a maximum reduction of \$25,000.
- (F) If a **Claim** made during the **Policy Period** is resolved by agreement with the consent of the **Named Entity** and the Insurer, as reflected in a signed settlement agreement:
 - (1) Within one year following the date that the **Claim** was first made against the **Insured** then the **Insured's** retention shall be reduced by 75%, up to a maximum of \$25,000; or
 - (2) Within two years following the date that the **Claim** was first made against the **Insured** then the **Insured's** retention shall be reduced by 50% up to a maximum of \$15,000.

If both (E) and (F) above could apply to a **Claim**, then only the Section which provides the largest benefit to the **Insured** will apply.

VII. DEFENSE AND SETTLEMENT

Solely with respect to all **Liability Coverage Parts**:

- (A) The Insurer shall have the right and duty to defend **Claims** covered under the Policy, even if such **Claim** is groundless, false or fraudulent, provided that the Insured gives notice to the Insurer in accordance with the applicable **Liability Coverage Parts'** notice provisions. Defense counsel shall be appointed by the Insurer.
- (B) If the Insurer has the duty to defend a **Claim**, the Insurer's duty to defend such **Claim** shall cease upon exhaustion of any applicable Limit of Liability.
- (C) The **Insured** shall not admit or assume any liability, make any settlement offer or enter into any settlement agreement, stipulate to any judgment, agree to any mediation or arbitration or incur any **Defense Costs** or any other costs regarding any **Claim** without the prior written consent of the Insurer, such consent not to be unreasonably withheld. The Insurer shall not be liable for any admission, assumption, settlement offer or agreement, stipulation, or **Defense Costs** to which it has not consented.
- (D) The Insurer shall have the right to associate itself in the defense and settlement of any **Claim** that appears reasonably likely to involve this Policy. The Insurer may make any investigation it deems appropriate in connection with any **Claim**. The Insurer may, with the written consent of the **Insured**, settle any **Claim** for a monetary amount that the Insurer deems reasonable. The **Insured's** consent shall not be unreasonably withheld.
- (E) The **Insured** shall give to the Insurer all information and cooperation as the Insurer may reasonably request. However, if the Insurer is, in its sole discretion, able to determine coverage for cooperating **Insureds**, the failure of one **Insured Person** to cooperate with the Insurer shall not impact coverage provided to cooperating **Insureds**.

VIII. MINIMUM STANDARDS

In the event that there is an inconsistency between:

(A) the terms and conditions that are required to meet minimum standards of a state's law (pursuant to a state amendatory endorsement attached to this Policy); and

(B) any other term or condition of this Policy:

It is understood and agreed that, where permitted by law, the Insurer shall apply those terms and conditions of (A) or (B) above that are more favorable to the **Insured**.

IX. AUTOMATIC EXTENDED REPORTING PERIOD

Solely with respect to all **Liability Coverage Parts**:

(A) If any **Liability Coverage Part** is cancelled or non-renewed for any reason other than non-payment of premium then the **Insured** shall be provided with an non-cancelable **Automatic Extended Reporting Period**.

(B) Coverage during the **Automatic Extended Reporting Period** shall apply to **Claims** made during the **Automatic Extended Reporting Period** for **Wrongful Acts** occurring prior to the end of the **Policy Period**.

X. EXTENDED REPORTING PERIOD

Solely with respect to all **Liability Coverage Parts**:

(A) If any **Liability Coverage Part** is cancelled or non-renewed for any reason other than non-payment of premium, the **Insured** shall have the right to elect an extension of time to report **Claims** under such **Liability Coverage Part** (the "Extended Reporting Period").

(B) To elect the Extended Reporting Period, the **Insured** shall send a written notice of election of the Extended Reporting Period to the Insurer together with the premium therefor. The right to elect the Extended Reporting Period shall end unless the Insurer receives such notice and premium within sixty (60) days of cancellation or non-renewal. There shall be no right to elect the Extended Reporting Period after such time.

(C) The premium for the Extended Reporting Period shall be that percentage specified in Item 9 of the Declarations of the sum of the original annual premium plus the annualized amount of any additional premium charged by the Insurer during the **Policy Period**. Such premium shall be deemed fully earned at the inception of the Extended Reporting Period.

(D) The Extended Reporting Period shall be for the duration specified in the Declarations following the end of the **Policy Period**.

(E) Coverage during the Extended Reporting Period shall apply to **Claims** made during the Extended Reporting Period for **Wrongful Acts** occurring prior to the earlier of the end of the **Policy Period** or the time of any transaction described in **Section XV. CHANGES IN EXPOSURE**. No coverage shall apply for any **Wrongful Act** occurring after such time.

(F) There is no separate or additional Limit of Liability for any Extended Reporting Period.

(G) If the **Insured** is a sole proprietor and has been continuously insured for professional liability coverage with a member of the Hartford Financial Services Group, Inc. group of companies for three or more full consecutive years, an unlimited extended reporting period will be provided without additional charge if the **Insured**:

(1) cancels or fails to renew this policy due to the **Insured's** retirement as a design professional within the policy period;

(2) ceases the performance of all **Professional Services** covered by this policy; and

(3) is fifty-five (55) years of age or older; and

(4) notifies us in writing if this coverage is desired within sixty (60) days after the termination of the policy.

This retirement extended reporting period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.

XI. INTERRELATIONSHIP OF CLAIMS

Solely with respect to all **Liability Coverage Parts**:

All **Claims** based upon, arising from, or in any way related to the same **Wrongful Act**, or **Interrelated Wrongful Acts**, shall be deemed to be a single **Claim** for all purposes under this Policy first made on the earliest date that:

- (A) any of such **Claims** was first made, regardless of whether such date is before or during the **Policy Period**;
- (B) notice of any **Wrongful Act** described above was given to the Insurer under this Policy pursuant to the section titled Notice Of Claim found in the applicable **Liability Coverage Part**; or
- (C) notice of any **Wrongful Act** described above was given under any prior management liability, professional liability or errors and omissions insurance policy if such notice is accepted under such other policy.

XII. ALLOCATION

With respect to all **Liability Coverage Parts**:

Where **Insureds** who are afforded coverage for a **Claim** incur an amount consisting of both **Loss** that is covered by this Policy and also loss that is not covered by this Policy because such **Claim** includes both covered and uncovered matters, then coverage shall apply as follows:

- (A) with respect to a covered **Claim** for which the Insurer has the duty to defend:
 - (1) 100% of the **Insured's Defense Costs** shall be allocated to covered **Loss**; and
 - (2) All other **Loss** shall be allocated between covered **Loss** and non-covered loss based upon the relative legal exposure of all parties to such matters.

XIII. OTHER INSURANCE

If **Loss** arising from any **Claim** is insured under any other valid and collectible policy or policies, then this Policy shall apply only in excess of the amount of any deductibles, retentions and limits of liability under such other policy or policies, whether such other policy or policies are stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other policy or policies to this Policy's Policy Number. Any payments made under any such policy(ies) will serve to offset any applicable retention amounts set forth in the Declarations.

XIV. CANCELLATION & NON-RENEWAL

- (A) The Insurer may cancel this Policy for non-payment of premium by sending notice to the **Named Entity** not less than 10 calendar days prior to the date of cancellation. The Insurer may cancel this policy, for reasons other than non-payment of premium, by sending notice to the **Named Entity** not less than 90 days prior to the date of cancellation.
- (B) The Insurer may non-renew this Policy by sending written notice to the **Named Entity** no less than 60 days before the expiration of the Policy.
- (C) The **Named Entity** may cancel this Policy by sending written notice of cancellation to the Insurer. Such notice shall be effective upon receipt by the Insurer unless a later cancellation time is specified therein.

- (D) If the Insurer cancels this Policy, unearned premium shall be calculated on a pro rata basis. If the **Named Entity** cancels this Policy, unearned premium shall be calculated at the Insurer's customary short rates. Payment of any unearned premium shall not be a condition precedent to the effectiveness of a cancellation. The Insurer shall make payment of any unearned premium which it received from the **Named Entity** as soon as practicable.

XV. CHANGES IN EXPOSURE

Solely with respect to all **Liability Coverage Parts**:

(A) Acquisitions or Created Subsidiaries

If, before or during the **Policy Period**, any **Insured Entity** acquires or creates an entity then such acquired or created entity, and any natural persons that would qualify as **Insured Persons** thereof, shall be an **Insured** to the extent such entities and persons would otherwise qualify as an **Insured** under the **Liability Coverage Parts**, but only for **Wrongful Acts** occurring after the **Effective Time** of such acquisition or creation. No coverage shall be available for any **Wrongful Act** of such **Insured** occurring before the **Effective Time** of such acquisition or creation, or for any **Interrelated Wrongful Acts** thereto.

The **Insured Entity** shall give the Insurer written notice and full, written details of the acquisition or creation as soon as practicable:

- (1) prior to the expiration or termination date of this Policy; or
- (2) within ninety (90) days of such acquisition or creation;

whichever date is later.

The Insurer shall be entitled to impose such additional terms, conditions, and premium as the Insurer, in its absolute discretion, chooses.

(B) Mergers

If, before or during the **Policy Period**, any **Insured Entity** merges with another entity such that the **Insured Entity** is the surviving entity, then such merged entity and any natural persons that would qualify as **Insured Persons** thereof, shall be an **Insured** to the extent such entities and persons would otherwise qualify as an **Insured** under the **Liability Coverage Parts**, but only for **Wrongful Acts** occurring after such merger. This coverage shall remain in force for 90 days beginning with the date of the merger. No coverage shall be available for any **Wrongful Act** of such **Insured** occurring before the **Effective Time** of such merger or for any **Interrelated Wrongful Acts** thereto.

The **Insured Entity** shall give the Insurer written notice and full, written details of the merger as soon as practicable:

- (1) prior to the expiration or termination date of this Policy; or
- (2) within ninety (90) days of such merger;

whichever date is later.

If the **Insured Entity** is not the surviving entity then coverage shall terminate on the effective date of the merger.

The Insurer shall be entitled to impose such additional terms, conditions, and premium as the Insurer, in its absolute discretion, chooses.

XVI. SUBROGATION

The Insurer shall be subrogated to all of the **Insured's** rights of recovery regarding any payment of **Loss** by the Insurer under this Policy. The **Insured** shall execute all papers required and do everything necessary to secure and preserve such

rights, including the execution of any documents necessary to enable the Insurer to effectively bring suit in the name of the **Insured**. The **Insured** shall do nothing to prejudice the Insurer's position or any potential or actual rights of recovery. If the **Insured** has waived its rights to recovery in a written contract or agreement executed prior to a **Claim** being made, then the Insurer will waive its rights to subrogation to the same extent as the **Insured's** waiver.

XVII. APPLICATION

- (A) The **Insured** represents that the declarations and statements contained in the **Application** are true, accurate and complete. This Policy is issued in reliance upon the **Application**.
- (B) If the **Application** contains misrepresentations or misrepresentations that materially affect the acceptance of the risk by the Insurer:
 - (1) no coverage shall be afforded under this Policy for any **Insured** who knew on the Inception Date of this Policy of the facts that were so misrepresented, provided that knowledge possessed by any **Insured Person** shall not be imputed to any other **Insured Person**; and
 - (2) knowledge possessed by any principal, partner, chief executive officer, chief operating officer, general counsel, chief financial officer, risk manager, human resources director or any position equivalent to the foregoing of the **Insured Entity**, or anyone signing the **Application**, shall be imputed to all **Insured Entities**. No other person's knowledge shall be imputed to an **Insured Entity**.

XVIII. ACTION AGAINST THE INSURER

Solely with respect to all **Liability Coverage Parts**:

- (A) No action shall be taken against the Insurer unless there shall have been full compliance with all the terms and conditions of this Policy.
- (B) No person or organization shall have any right under this Policy to join the Insurer as a party to any **Claim** against the **Insured** nor shall the Insurer be impleaded by the **Insured** in any such **Claim**.

XIX. ASSIGNMENT

Assignment of interest under this Policy shall not bind the Insurer without its consent as specified in a written endorsement issued by the Insurer to form a part of this Policy.

XX. BANKRUPTCY OR INSOLVENCY

Bankruptcy or insolvency of any **Insured** shall not relieve the Insurer of any of its obligations under this Policy.

XXI. AUTHORIZATION OF NAMED ENTITY

The **Named Entity** shall act on behalf of all **Insureds** with respect to all matters under this Policy, including, without limitation, giving and receiving of notices regarding **Claims**, cancellation, election of the Extended Reporting Period, payment of premiums, receipt of any return premiums, and acceptance of any endorsements to this Policy.

XXII. CHANGES

This Policy shall not be changed or modified except in a written endorsement issued by the Insurer to form a part of this Policy.

XXIII. ENTIRE AGREEMENT

This Policy, including the Declarations, Common Terms and Conditions, included Coverage Part(s), **Application** and any written endorsements attached hereto, constitute the entire agreement between the **Insured** and the Insurer relating to this insurance.

XXIV. NOTICE ADDRESSES

- (A) All notices to the **Insured** shall be sent to the **Named Entity** at the address specified in Item 1 of the Declarations.
- (B) All notices to the Insurer shall be sent to the address specified in Item 10 of the Declarations. Any such notice shall be effective upon receipt by the Insurer at such address.

XXV. HEADINGS

The headings of the various sections of this Policy are intended for reference only and shall not be part of the terms and conditions of coverage.

XXVI. REFERENCES TO LAWS

- (A) Wherever this Policy mentions any law, including, without limitation, any statute, Act or Code of the U.S., such mention shall be deemed to include all amendments of, and all rules or regulations promulgated under, such law.
- (B) Wherever this Policy mentions any law or laws, including, without limitation, any statute, Act or Code of the U.S., and such mention is followed by the phrase "or any similar law", such phrase shall be deemed to include all similar laws of all jurisdictions throughout the world, including, without limitation, statutes and any rules or regulations promulgated under such statutes.

XXVII. COVERAGE TERRITORY

Coverage under this Policy applies worldwide.

XXVIII. LIBERALIZATION

If the Insurer obtains state approval for a new Design Professional Liability Policy that provides broader coverage than is provided under this Policy at any time during the current **Policy Period**, the broadened coverage will immediately apply to this Policy, except that it will not apply to **Claims** that were first made against the **Insured** prior to the effective date of such revision.

