

**AGENTS OF SURANCEBAY, MEMBERS OF THE FINANCIAL  
SALES PROFESSIONALS PURCHASING GROUP  
INSURANCE AGENTS  
PROFESSIONAL LIABILITY MASTER POLICY**

THIS IS A CLAIMS-MADE POLICY AND APPLIES TO CLAIMS FIRST MADE AND REPORTED AGAINST THE INSURED DURING THE CERTIFICATE PERIOD, OR, IF APPLICABLE, THE EXTENDED REPORTING PERIOD PURSUANT TO THE TERMS HEREIN.

CLAIM EXPENSES ARE INCLUDED WITHIN THE RETENTION AND SHALL REDUCE ANY APPLICABLE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS.

PLEASE READ THE ENTIRE POLICY CAREFULLY.

**EVEREST INDEMNITY INSURANCE COMPANY**

(hereinafter "Insurer")  
477 Martinsville Road  
P.O. Box 830 Liberty Corner, NJ 07938-0830

**DECLARATIONS**

**POLICY NUMBER:** FL5SB00000-191

**REPLACEMENT OF:** FL5SB00000-181

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE INSURER AGREES TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

**ITEM 1. POLICY PERIOD:** From: September 1, 2019 To: September 1, 2020  
12:01 a.m. Eastern Standard Time

**ITEM 2. NOTICE TO INSURER:**

A. Address for Notice of **Claim** or Potential **Claim**  
Attn:  
Lancer Claims Services  
681 S. Parker Street, #300  
Orange, CA 92868  
800-821-0540

B. Address for All Other Notices:  
Attn: Everest Indemnity Insurance Company  
461 Fifth Avenue, 3<sup>rd</sup> Floor  
New York, NY 10017-6234  
Attn: Everest Specialty Underwriters

**ITEM 3. LIMIT OF LIABILITY**

A. Each **Claim** Limit of Liability: \$1,000,000 All **Loss** under all **Certificates of Insurance**, combined, for each **Claim**.

B. Aggregate Limit of Liability: \$20,000,000 All **Loss** under all **Certificates of Insurance**, combined, for all **Claims**.

**ITEM 4. ENDORSEMENTS APPLICABLE TO THIS POLICY ON THE DATE THIS POLICY IS ISSUED:**

<u>Endorsement</u>	<u>Form Number</u>
Agents of SuranceBay, members of the Financial Sales Professionals	ESU 02 50 08 15
Purchasing Group Insurance Agents Professional Liability Master Policy	EFI 02 83 03 15
California Surplus Line Disclosure Notice D-2	ESU 02 52 02 15
Social Media Coverage Endorsement	ESU 02 53 02 15
Network Risk and Privacy Claim Endorsement	ESU 02 92 09 15
California Service of Suit Condition	ESU (SB) CWM002A-1 0817
Certificate of Insurance Endorsement	ESU (SB) CWM003A-1 0817
Employee Benefit Plans Endorsement	ESU (SB) CWM004A-1 0817
Coverage Territory Endorsement	ESU (SB) CWM005A-1 0817
Disciplinary Proceeding Coverage	ESU (SB) CWM006A-1 0817
Anti-Stacking Endorsement	

**THESE DECLARATIONS, TOGETHER WITH THE ATTACHED MASTER POLICY, ANY CERTIFICATES OF INSURANCE ISSUED BY THE INSURER WITH RESPECT TO THE MASTER POLICY AND ANY ENDORSEMENT(S) AND THE APPLICATION, CONSTITUTE THE ABOVE NUMBERED POLICY.**

COUNTERSIGNED \_\_\_\_\_ July 08, 2019 \_\_\_\_\_  
DATE

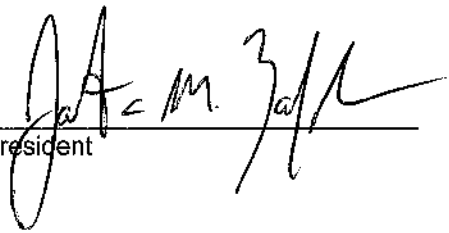
BY  \_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

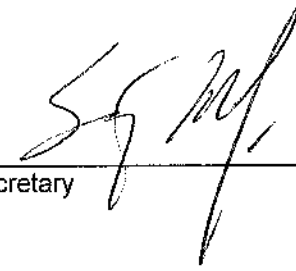
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This policy is signed by officers of the Company shown on the Declarations page of this policy.

For: Everest Indemnity Insurance Company

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Secretary

# AGENTS OF SURANCEBAY, MEMBERS OF THE FINANCIAL SALES PROFESSIONALS PURCHASING GROUP INSURANCE AGENTS PROFESSIONAL LIABILITY MASTER POLICY

THIS IS A CLAIMS-MADE POLICY AND APPLIES TO CLAIMS FIRST MADE AND REPORTED AGAINST THE INSURED DURING THE CERTIFICATE PERIOD, OR, IF APPLICABLE, THE EXTENDED REPORTING PERIOD PURSUANT TO THE TERMS HEREIN. THE LIMITS OF LIABILITY AND ANY RETENTION SHALL BE REDUCED BY AMOUNTS INCURRED AS CLAIM EXPENSES.

PLEASE READ THE ENTIRE POLICY CAREFULLY.

Throughout the policy the words “we”, “us” and “our” refer to the Company providing this insurance. Bold words or phrases are defined and have special meaning. In consideration of the payment of the premium and in the reliance upon all information provided to and statements made to us, including those statements in the **Application**, which is made part hereof and deemed attached hereto, and subject to all terms, conditions and limitations of the Policy, including those in the Declarations, which is made part hereof, we and the **Named Insured** agree:

## SECTION I – INSURING AGREEMENT

### A. Professional Liability

We will pay on behalf of the **Insured** the **Loss** in excess of the applicable retention that the **Insured** becomes legally obligated to pay as a result of a **Claim** first made against the **Insured** during the current **Certificate Period** or the Extended Reporting Period, if exercised, and reported to us pursuant to Section VI - Conditions (A. Notice) below for a **Wrongful Act** committed on or after the **Retroactive Date** and before the end of the **Certificate Period** in rendering or failing to render **Professional Services**.

### B. Defense and Claims Expenses

1. If a **Claim** is made against the **Insured** within the United States of America, its territories or possessions or Canada, we shall have the right and duty to defend any **Claim** covered under this policy, even if such **Claim** is groundless, false or fraudulent. Our duty to defend any **Claim** shall cease upon exhaustion of the applicable Limit of Liability.
2. If a **Claim** is made against the **Insured** outside the United States of America, its territories or possessions or Canada, we shall indemnify the **Insured** pursuant to the terms, conditions, provisions and exclusions of the Policy, but shall not have the duty to defend the **Insured**. We shall instead reimburse **Claim Expenses** incurred by the **Insured** in defending such **Claims**. In connection with such **Claims**, the **Insured** shall obtain our written consent to the selection of counsel.

We will defend **Claims** within the retention amount and these **Claim Expenses** will apply toward the retention and reduce the Limits of Liability.

### C. Consent to Settle

1. The **Insured** shall not offer to settle or settle any **Claim**, incur any **Claim Expenses**, admit liability or stipulate to a judgment with respect to any **Claim** without our written consent, which shall not be unreasonably withheld. We shall not be liable for any offer to settle, settlement, **Claim Expenses**, admission or stipulated judgment to which we have not given our prior consent. We shall have the right and shall be given the opportunity to make any investigation we deem necessary and to effectively associate with the **Insureds** in the investigation, defense and settlement, including but not limited to the negotiation of a settlement of any **Claim** that is or reasonably could be covered in whole or in part by this policy.
2. We may, with the consent of the **Named Insured**, make any settlement of any **Claim** covered under this policy which we deem expedient. If the **Named Insured** refuses to consent to any settlement acceptable to the claimant and us, our liability for all **Loss** on account of such **Claim** shall not exceed the sum of:
  - (a) the amount for which we could have settled such **Claim** had the **Named Insured** consented; and
  - (b) **Claim Expenses** accrued up to the date of such refusal.

The **Insureds** agree to provide us with all information, assistance and cooperation which we reasonably request and agree that in the event of a **Claim**, the **Insureds** will do nothing that shall prejudice our position or our potential or actual rights of recovery.

## SECTION II – EXTENSIONS

### A. Estates, Legal Representatives, Spouses and Domestic Partners

The estates, heirs, legal representatives, spouses and **Domestic Partners** of any natural person **Insured** shall be considered an **Insured** under this policy but only for a **Claim** otherwise covered under this policy and arising solely out of their status as such or, in the case of a spouse or **Domestic Partner**, where such **Claim** seeks recovery from marital community property, jointly held property or property transferred from such **Insured** to the spouse or **Domestic Partner**. No coverage is provided for any act or omission of an estate, heir, legal representative, spouse or **Domestic Partner**. All terms and conditions of this policy, including without limitation the retention, applicable to **Loss** incurred by such **Insured** shall also apply to **Loss** incurred by such estates, heirs, legal representatives, spouses and **Domestic Partners**.

### B. Extended Reporting Period

If this Policy is cancelled or non-renewed by either the **Named Insured** or us, the **Named Insured** shall have the option to purchase an Optional Extended Reporting Period, referenced below, beginning on his or her date of cancellation or non-renewal, during which time coverage for such **Named Insured**, shall continue in accordance with the terms and conditions of this Policy, but only with respects to **Wrongful Acts** (i) committed after the **Retroactive Date**; (ii) committed before his/her date of cancellation or non-renewal; and (iii) are otherwise covered under the terms and conditions of this Policy.

Optional Extended Reporting Period                      Rate%

1 year	100%
2 years	160%
3 years	200%

The offer of renewal terms and conditions or premiums different from those in effect prior to non-renewal shall not constitute refusal to renew. The entire additional premium for the Extended Reporting Period shall be deemed fully earned at the inception of the Extended Reporting Period. The extension of coverage during the Extended Reporting Period shall not increase or reinstate the applicable Limit of Liability.

### SECTION III – DEFINITIONS

Wherever appearing in bold print in this Policy:

**A. Administration of Employee Benefit Plans** means consultation with participants in an employee benefit plan in order to explain the provisions of such plan and handling day-to-day ministerial functions required by such plan, including without limitation enrollment, record keeping and filing reports with government agencies. **Administration of Employee Benefit Plans** also includes third party claims administration.

**B. Agent or General Agent**, whether used separately or together, means

a natural person licensed life, accident and health insurance agent:

- (a) who has met the criteria contained in the **Application** for coverage;
- (b) has paid the applicable premium; and
- (c) whose enrollment is on file with the us.

**C. Application** means with respect to coverage afforded pursuant to a **Certificate of Insurance**, all materials and information, including all signed applications and any materials attached thereto or incorporated therein, submitted by or on behalf of the **Insureds** to us in connection with our underwriting coverage for such **Insureds** under such **Certificate of Insurance** or under any professional liability policy or **Certificate of Insurance** issued by us of which such **Certificate of Insurance** is a renewal or replacement or succeeds in time.

The **Application** is deemed attached to and incorporated into this policy.

**D. Broker/Dealer** means any securities broker or dealer as those terms are defined in the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, as amended.

**E. Certificate of Insurance** means the document issued by us to the **Named Insured** during the **Policy Period** pursuant to this policy, which evidences the coverage terms, limits, premium and endorsements applicable to the **Insureds** under this policy.

**F. Certificate Period** means with respect to the **Insured** the period of time between the inception date shown on the **Certificate of Insurance** and the effective date of termination, expiration or cancellation of the **Certificate of Insurance** issued to the **Named Insured**.

**G. Claim** means:

- 1. a written demand against the **Insured** for monetary damages, including a written demand that the **Insured** toll or waive a statute of limitations; or

2. a civil adjudicatory or arbitration proceeding against the **Insured** for monetary damages commenced by the service of a complaint or similar pleading;

brought by or on behalf of or for the benefit of any **Client** for a **Wrongful Act** in rendering or failing to render **Professional Services**, including any appeal therefrom.

- H. Claim Expenses** means that part of a **Loss** consisting of reasonable and necessary fees (including attorneys' fees and experts' fees) and expenses (other than wages, salaries, fees or benefits of the directors, officers or employees of the **Insured** or fees and expenses of independent adjusters) incurred by us or the **Insureds** (i) in the investigation, defense or appeal of a **Claim**, including the premium for appeal, attachment or similar bonds (without any obligation by us to appeal or to apply for or furnish such bonds), or (ii) at our request to assist us in investigating a **Claim**.
- I. Class Action Claim** means a **Claim** brought by or on behalf of a putative or certified class of claimants pursuant to Federal Rule of Civil Procedure 23 or a similar state or foreign rule of civil procedure.
- J. Client** means a natural person for whom, or entity for which, **Professional Services** are rendered by an **Insured**. Client does not include any Insurance Company, Insurance Agent or **Broker/Dealer**.
- K. Domestic Partner** means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Named Insured**.
- L. Insured** means, with respect to coverage afforded by a **Certificate of Insurance**:
1. the **Named Insured** listed in such **Certificate of Insurance**;
  2. any corporation, partnership, or other business entity owned or controlled by such **Named Insured**, solely with respect to the liability of such entity as it arises out of the rendering of or failing to render **Professional Services** by such **Named Insured**;
  3. any natural person who is a former or current secretarial, clerical or administrative employee of the **Named Insured** but solely for services performed within his or her capacity as such and on behalf of such **Named Insured**, provided such natural person did not receive any commission income pursuant to an **Agent**, broker or **Registered Representative** contract with any insurance company or **Broker/Dealer** as a result of providing **Professional Services** offered by the **Named Insured** or such entity.
- M. Interrelated Wrongful Acts** means Wrongful Acts which arise from the same, related, continuous or common nexus of circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes..
- N. Loss** means the total amount the **Insureds** become legally obligated to pay on account of covered **Claims** made against them, including, but not limited to, damages, judgments, settlements, **Claim Expenses**, or any award of pre-judgment and post-judgment interest with respect to covered damages.

**Loss** does not include any of the following:

1. any amount for which the **Insured** is not financially liable or is absolved from payment by reason of any covenant, agreement or court order;

2. taxes, fines or penalties imposed by law;
3. any amount incurred by the **Insured** to comply with injunctive or other equitable relief or any agreement to provide such relief;
4. punitive damages, exemplary damages or the multiple portion of multiplied damages; or
5. matters uninsurable under the law pursuant to which this policy is construed.

**O. Named Insured** means the **Agent** or **General Agent**, or **Registered Representative** named in this policy's respective **Certificate of Insurance**.

**P. Personal Injury** means injury or damage sustained by any person or organization caused by or arising out of:

- (1) False arrest, detention or imprisonment;
- (2) Malicious prosecution;
- (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor; or
- (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, products or services; or
- (5) Oral or written publication, in any manner, of material that violates a person's right of privacy.

**Q. Policy Period** means the period of time shown in Item 1 of the Master Policy Declarations.

**R. Pollutants** means any solid, liquid, gaseous or thermal irritant, contaminant or toxic or hazardous substance, or any substance, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste, which may, does or is alleged to affect adversely the environment, persons, property or animals. Without limiting the foregoing, **Pollutants** includes asbestos and asbestos-containing materials; silica; fungus (including mold, mildew, any mycotoxins, spores, scents or byproducts of fungi, other than fungi intended by the **Insured** for human consumption); electromagnetic fields; and nuclear or radiological materials.

**S. Professional Services** means the following Coverage if selected and purchased by the **Named Insured** and such Coverage is reflected in ITEM 7 of the **Certificate of Insurance** and is on file with us as being selected and purchased:

with respect to an **Agent or General Agent** or **Registered Representative**, to the extent they are provided in the course and scope of such **Agent or General Agent's** or **Registered Representative's** business as an **Agent or General Agent** or **Registered Representative** and such **Agent or General Agent** or **Registered Representative** has the appropriate license in both the **Client's** resident state or jurisdiction and the state or jurisdiction in which the business is conducted:

**Coverage A** - the sale, attempted sale or servicing of life insurance, accident and health insurance, managed health care organization contracts or disability income insurance (where such products do not require a securities license); or



**Coverage B** - the sale, attempted sale or servicing of life insurance, accident and health insurance, managed health care organization contracts, disability income insurance, indexed or fixed annuities, (where such products do not require a securities license); or

**Coverage C** - the sale, attempted sale or servicing of (i) life insurance, accident and health insurance, managed health care organization contracts, disability income insurance, indexed or fixed annuities, and (ii) variable annuities, variable insurance or mutual funds approved by the **Named Insured's Broker/Dealer** that are registered with the Securities Exchange Commission and sold through a Broker/dealer registered with the Financial Industry Regulatory Authority;

When solely in connections with or incidental to such Coverage A, B or C, which ever purchased by the **Named Insured**;

1. services as a Notary Public,
2. financial planning advice.

When solely in connections with or incidental to such Coverage A or B, which ever purchased by the **Named Insured**;

1. the supervision, management and training of an **Agent of General Agent**.

**T. Registered Representative** means:

a natural person who is registered with the Financial Industry Regulatory Authority as a registered representative or registered principal;

- (a) who has met the criteria contained in the **Application** for coverage;
- (b) has paid the applicable premium; and
- (c) whose enrollment is on file with the us.

**U. Retroactive Date** means the date, as shown in the **Named Insured's** respective **Certificate of Insurance**, in which the **Named Insured** first became insured without interruption under any claims made professional liability policy continuously renewed and maintained in effect prior to the inception of this policy, (subject to written proof of such coverage at the time the **Insured** gives written notice to us of a **Claim** under this Master Policy.)

**V. Wrongful Act** means any negligent act, error or omission of, or **Personal Injury** caused by, the **Insureds** in their capacity as such in the rendering or failure to render **Professional Services**.

#### **SECTION IV - LIMIT OF LIABILITY, RETENTION AND ALLOCATION**

**A.** All **Claims** which in whole or in part are based upon, attributable to or arise out of the same **Wrongful Act** or **Interrelated Wrongful Acts**, whether or not such **Claims** involve the same or different **Insureds**, the same or different causes of action or the same or different claimants or are maintained in the same or different venues or forums, shall be considered a single **Claim**. Such single **Claim** shall be deemed to be first made on the date the first of such **Claims** was first made or deemed to be first made, regardless of whether such date is before or during the **Certificate Period**, and shall be subject to a single Retention, as shown in the applicable **Certificate of Insurance** for that **Certificate Period**.

**B.** Our maximum liability under a **Certificate of Insurance** to this policy for all **Loss** incurred by all **Insureds** covered pursuant to such **Certificate of Insurance** resulting from each **Claim** and all **Claims**, combined, is the respective Each **Claim** and All **Claims** Limit of Liability shown in such **Certificate of Insurance**. If the applicable Limit of Liability under such **Certificate of Insurance** is

exhausted by our payment of **Loss**, we will have no further obligations or liability of any kind under such **Certificate of Insurance**.

- C. Our maximum liability under all **Certificates of Insurance**, combined, for all **Loss** incurred by all **Insureds** resulting from a single **Claim** is the Each **Claim** Limit of Liability shown in the Master Policy Declarations. Such Limit of Liability is part of, and not in addition to, the respective Limit of Liability under each **Certificate of Insurance** and the Aggregate Limit of Liability shown in the Master Policy Declarations.
- D. Our maximum aggregate liability under all **Certificates of Insurance** issued during the **Policy Period**, combined, for all **Loss** incurred by all **Insureds** resulting from all **Claims**, combined, is the Aggregate Limit of Liability shown in the Master Policy Declarations. If such Aggregate Limit of Liability is exhausted by our payment of **Loss**, we will have no further obligations or liability of any kind under this policy or any **Certificate of Insurance**.
- E. **Claim Expenses** are part of and not in addition to the applicable Limit of Liability, and the payment by us of **Claim Expenses** reduces such Limit of Liability.
- F. Subject to the applicable Limit of Liability, we shall pay all covered **Loss** excess of all applicable Retentions, if any, set forth in the **Insured's Certificate of Insurance**. If more than one Retention is applicable to any single **Claim**, the maximum aggregate Retention for such **Claim** shall be the largest of such Retentions. If we, in the exercise of our discretion and without any obligation to do so, pays any amount within the amount of the applicable Retention including **Claim Expenses**, the **Insured** shall be liable to us for any and all such amounts and, upon demand, shall pay such amounts to us.
- G. If a **Claim** made against the **Insureds** includes both covered and uncovered matters or if a **Claim** is made against **Insureds** who are extended coverage under this Policy and others who are not extended coverage therefor under this Policy, the **Insureds** agree that there must be an allocation between insured and uninsured **Loss** (other than that part of **Loss** attributable to **Claim Expenses**). The **Insureds** and we shall exert our best efforts to agree upon a fair and proper allocation between such insured and uninsured **Loss** based upon the relative legal exposures of the parties to such matters.
- H. Until the date a **Claim** is made, we may pay, our sole discretion, up to \$10,000 (ten thousand dollars), for all reasonable and necessary fees and expenses we incur as a result of investigating a potential **Claim** that the **Insured** reports to us in accordance with Section VI – Conditions (A. Notice). Should a potential **Claim** be investigated pursuant to this paragraph, and that potential **Claim** later becomes a covered **Claim** under this Policy, then the Limits of Liability and the Retention applicable to such **Claim** shall apply to such **Claim**. While not **Loss**, this amount is part of and not in addition to the Aggregate Limit of Liability set forth in each **Insured's Certificate of Insurance**.
- I. In the event the **Insured** receives a subpoena for documents or sworn testimony, during the applicable **Certificate Period**, arising out of **Professional Services** rendered by the **Insured**, the **Insured** may provide us with a copy of the subpoena and we, at our sole discretion, may retain an attorney to provide advice regarding the production of documents, to prepare the **Insured** for sworn testimony, and to represent the **Insured** at the **Insured's** depositions, provided that:
  - 1. the subpoena arises out of a lawsuit to which the **Insured** is not a party; and
  - 2. the **Insured** has not been engaged to provide advice or sworn testimony in connection with the lawsuit, nor has the **Insured** provided such advice or sworn testimony in the past.

If such criteria are met, we will pay such attorney's legal fees excluding any disbursements up to the amount of \$15,000 (fifteen thousand dollars) for each **Named Insured**. While not **Loss**, such fees incurred under this provision are part of and not in addition to the Aggregate Limit of Liability set forth in each **Insured's Certificate of Insurance**. Any notice the **Insured** gives us of such subpoena shall be deemed notification of a potential **Claim** in accordance with Section VI – Conditions (A. Notice) of this Policy.

## **SECTION V - EXCLUSIONS**

We shall not be liable to pay any **Loss** resulting from any **Claim** against an **Insured**:

### **A. Claims by Specified Persons or Entities**

by or on behalf of, or for the benefit of:

1. any parent, spouse, **Domestic Partner**, or child of the **Insured**;
2. an entity in which one or more **Insureds**, at the time of the **Wrongful Act** giving rise to a **Claim**:
  - (a) had a total of ten percent (10%) or more equity interest, or
  - (b) operated, controlled, or managed;
3. an individual or entity which has, or did have at the time of the **Wrongful Act**, a total of ten percent (10%) or more equity interest in an entity **Insured** or operates, controls or manages an entity **Insured**;
4. any past or present **Insured**, whether it be an individual, class or derivative action, except and to the extent that such **Claim** is by an **Insured** in his or her capacity as a **Client**; or
5. any governmental or quasi-governmental official or agency, including but not limited to any state or federal securities or insurance commission or agency, in any capacity; however, this exclusion shall not apply subject to our maximum Limit of Liability of \$15,000 for all **Loss** for all such **Claims** made against an **Insured**, which amount shall be part of and not in addition to the amount set forth in the Declarations. Notwithstanding anything in the Policy to the contrary, the applicable retention amount for all such **Claims** shall not apply.
6. Any self-regulatory organization including, but not limited to, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Securities Investor Protection Corporation, in any capacity; however, this exclusion shall not apply subject to our maximum Limit of Liability of \$15,000 for all **Loss** for all such **Claims** made against an **Insured**, which amount shall be part of and not in addition to the amount set forth in the Declarations. Notwithstanding anything in the Policy to the contrary, the applicable retention amount for all such **Claims** shall not apply,

### **B. Prior Notice**

based upon, attributable to, or arising out of any facts, circumstances or **Wrongful Acts** which have been the subject of a written notice under any prior professional liability insurance policy maintained by any **Insured**;

### **C. Bodily Injury/Property Damage**

for bodily injury, sickness, disease or death of any person, or damage to or destruction of any tangible property, including the loss of its use;

### **D. Discrimination**

for discrimination on any basis whatsoever;

#### **E. Intentional Acts/Commingling/Illegal Profit**

based upon, attributable to, or arising out of:

1. any fraudulent, dishonest, criminal or malicious conduct or any willful violation of any statute or regulation committed by or at the direction of any **Insured**;
2. any **Insured** commingling or improperly using **Client** funds; or
3. any **Insured** gaining any profit, remuneration or pecuniary advantage to which the **Insured** was not legally entitled;

However, we will defend a **Claim** alleging any of the foregoing conduct until there is a judgment, final adjudication, adverse admission or finding of fact against any **Insured** as to such conduct, at which time the **Insured** shall reimburse us for the costs of defending the **Claim**;

#### **F. Insured v Insured**

brought or maintained by or on behalf of one **Insured** against another **Insured** under the applicable **Certificate of Insurance** including, without limitation, any receiver, trustee in bankruptcy or any other successor-in-interest to the **Insured**;

#### **G. Nuclear/Pollution**

based upon, attributable to, or arising out of:

1. any nuclear reaction, radiation or contamination; or
2. the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants** at any time; or
3. any request, demand, order or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **Pollutants**;

including, without limitation, any **Claim** arising from the actual or alleged failure to effect or maintain insurance or bond coverage with respect to such matters, or any coverage disputes with respect thereto;

#### **H. Employee Benefit Plans**

for an actual or alleged violation of the Employee Retirement Income Security Act of 1974 and its amendments or any rules, regulations or orders promulgated thereunder, or any similar provisions of any federal, state, local or statutory law or common law in connection with any profit sharing, pension, health and welfare or other employee benefit plan or trust sponsored by or for the benefit of any **Insureds**;

#### **I. Insolvency**

based upon, attributable to, or arising out of the insolvency, receivership, conservatorship, bankruptcy, liquidation or financial inability to pay of any insurance company, benefit plan, managed health care organization, reinsurer, risk retention group or captive (or any self-insurance plan or

trust by whatsoever name) in which the **Insured** placed business or obtained any insurance or bond;

#### **J. Premium/Claim/Tax Monies**

based upon, attributable to, or arising out of the actual or alleged failure to collect, pay, or return any premium, claim, return premium, commission, tax, or fees of any kind, or any commingling of funds or accounts;

#### **K. Known Wrongful Act**

which any **Insured** had knowledge of prior to the beginning of the **Certificate Period** and had reason to believe that such **Wrongful Act** could reasonably be expected to give rise to a **Claim**.

#### **L. Promises/Guarantees**

based upon, attributable to or arising out of any warranty or guarantee of future performance or returns on any insurance or investment product;

#### **M. Contractual Liability**

based upon, attributable to or arising out of the **Insured's** liability under a contract or agreement, including without limitation liability of others assumed by the **Insured** under a contract or agreement; however, this exclusion does not apply to liability that the **Insured** would have in the absence of the contract or agreement;

#### **N. Anti-Trust**

based upon, attributable to, or arising out of any actual or alleged price fixing, price discrimination, predatory pricing, restraint of trade, antitrust, monopolization, unfair trade practices, or anti-competitive conduct;

#### **O. Confidential or Non-Public Information**

based upon, attributable to, or arising out of the actual or alleged;

1. use, misuse or disclosure of confidential information, including but not limited to such use, misuse or disclosure for the purpose of replacing coverage for a **Client**;
2. use, misuse or disclosure of non-public information in a manner prohibited by the laws of the United States, including, but not limited to, the Insider Trading and Securities Fraud Enforcement Act of 1988, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, any similar laws of any other jurisdiction, or any rules or regulations promulgated under any of the foregoing, all as amended; or
3. violation of any federal, state or foreign securities law, or the purchase, sale, or offer to purchase or sell, any securities;

#### **P. Class Action Claim**

that is a **Class Action Claim**;

#### **Q. Prior or Pending Demand/Proceeding/Investigation**

based upon, attributable to, or arising out of any written demand, proceeding or investigation pending, or order or judgment entered, against any **Insured** on or prior to the Pending or Prior Date set forth in the applicable **Certificate of Insurance**, or the same or substantially similar facts, circumstances, situations or **Wrongful Acts** underlying or alleged therein;

#### **R. Specified Services**

based upon, attributable to, or arising out of any actual or alleged:

1. performance of or failure to perform services by the **Insured** as an actuary, accountant, attorney, real estate agent, or third party administrator; or
2. tax advice provided by the **Insured**;

#### **S. Administration of Employee Benefit Plans**

based upon, attributable to, or arising out of the **Administration of Employee Benefit Plans**;

#### **T. Sale or Servicing of Certain Products**

based upon, attributable to, or arising out of the actual or alleged sale, attempted sale or servicing of any:

1. coverage, alleged coverage or plan placed with any form of Multiple Employer Welfare Arrangement as defined by the Employee Retirement Income Security Act of 1974, as amended, or any employee benefits plan involving self-funding in whole or in part, by any employer, union, or employment related entity;
2. structured settlements, life settlements, or similar transactions in which the present value of a conditional contract is exchanged or sold;
3. employee benefit plans, individual retirement plans and KEOGH retirement plans, however, this exclusion shall not apply to the sale of health insurance plans;
4. Stranger Originated Life Insurance (STOLI) or Speculator Initiated Life Insurance (SPIN-LIFE) or any similar transactions;
5. limited partnerships, real estate investment trust, tenant in common (1031 exchanges) exchange traded funds, inverse exchange traded funds, unit investment trust, auction rate securities;
6. any life insurance policy in which the premium was paid for, in whole or in part, by or through any premium finance mechanism or any premium finance company;

#### **U. Unlicensed Entity**

based upon, attributable to, or arising out of the placement of a **Client's** coverage or funds directly or indirectly with any organization, entity or vehicle of any kind, nature or structure which is not licensed to do business in the state or jurisdiction with authority to regulate such business, unless such organization, entity or vehicle is an eligible surplus lines insurer in such state or jurisdiction;

#### **V. Underwriting Activities**

based upon, attributable to, or arising out of the **Insureds'** management or performance of some or all of any insurance company's underwriting function or underwriting operations, including such services in the **Insureds'** capacity as a managing general agent, underwriting manager or other similar capacity;

#### **W. Trade Embargoes And Sanctions**

Based upon, attributable to, or arising out of a **Loss** that is uninsurable under the laws or regulations of the United States concerning trade or economic sanctions;

#### **X. Wrongful Employment Practices**

based upon, attributable to, or arising out of employment practices including but not limited to discrimination or termination of employment;

#### **Y. 412/419 Plan Exclusion**

Based upon, attributable to, or arising out of:

1. the sale, attempted sale or servicing of any plans created under sections 412 or 419 of the internal revenue code; or
2. the actual or alleged sale or servicing of any insurance sold as part of or to be used in conjunction with or to fund any plan created under sections 412 or 419 of the internal revenue code;

#### **Z. Fiduciary Services**

Based upon, attributable to, or arising out of investment advice provided by a Fiduciary Adviser if such investment advice is not provided pursuant to and in accordance with all of the requirements of the Pension Protection Act of 2006 as it may be amended;

#### **AA. Investment in Specified Securities or Funds**

Based upon, attributable to, or arising out of the use of or investment in any security that is not registered with the Securities and Exchange Commission;

#### **BB. Owned Fund or Investment Products**

Based upon, attributable to, or arising out of any proprietary fund or investment products in which an **Agent or General Agent or Registered Representative** has any ownership interest;

#### **CC. Investment Banking Activities**

Based upon, attributable to, or arising out of the placement of a **Client's** coverage or funds directly or indirectly with any organization, entity or vehicle of any kind, nature or structure which is not licensed to do business in the state or jurisdiction with authority to regulate such business. However, this exclusion shall not apply to any **Claim** arising from or contributed to by the placement of a **Client's** coverage or funds directly or indirectly with such organization, entity or vehicle which is an eligible surplus lines insurer in the state of jurisdiction with authority to regulate such business.

### **SECTION VI –CONDITIONS**

## A. Notice

1. If a **Claim** is made against any **Insured**, the **Insured** shall, as soon as practicable, notify us during the current **Certificate Period** and forward to us every demand, notice, summons, or other process received. The Limits of Liability for **Certificate Period** in effect on the date the **Claim** is reported to us shall apply. In addition, in the event of cancellation or non-renewal of the **Certificate of Insurance**, the **Insured**, may report **Claims** made against the **Insured** during the **Certificate Period** or within 30 days immediately following the cancellation or non-renewal of such **Certificate of Insurance**.

In no event, however, shall we be responsible to pay any **Loss** in connection with any default judgment entered against an **Insured** prior to notice to us, or as a result of untimely notice to us, nor shall we be responsible to pay any **Loss** in connection with any **Claim** in which we have been prejudiced because of the **Insured's** failure to supply notice to us.

2. If, during the **Certificate Period** the **Insured** first becomes aware of specific **Wrongful Acts** which may reasonably give rise to a future **Claim**, the **Insured** shall during such period give written notice to us of:
  - (a) the names of the potential claimants and a description of the specific **Wrongful Act** which forms the basis of their potential **Claim**;
  - (b) the identity of the specific **Insureds** allegedly responsible for such specific **Wrongful Act**;
  - (c) the consequences which have resulted or may result from such specific **Wrongful Act**;
  - (d) the nature of the potential monetary damages or non-monetary relief which may be sought in consequence of such specific **Wrongful Act**; and
  - (e) the circumstances by which the **Insureds** first became aware of such specific **Wrongful Act**, then any **Claim** otherwise covered under this Policy which is subsequently made against the **Insureds** and which arises out of such **Wrongful Act** shall be deemed to have been first made at the time such written notice was received by us. No coverage is provided for a **Claim** resulting from such **Wrongful Act** until such time as such **Claim** is reported to us in accordance with paragraph 1. above.
3. Except as provided in paragraph 2. above, a **Claim** shall be deemed to be made:
  - (a) in the case of a civil proceeding or arbitration, on the earliest of the date of service upon or other receipt by any **Insured** of a complaint or similar document against the **Insured** in such proceeding or arbitration; or
  - (b) in the case of a written demand for monetary damages, on the **Insured's** receipt of notice of such demand.
4. The **Insureds** shall give written notice to us at the address specified on the **Certificate of Insurance**, which shall be effective upon receipt.
5. The **Insureds** shall furnish us with copies of reports, investigations, pleadings, and all related papers and such other information, assistance and cooperation as we may reasonably request. The **Insureds** agree to cooperate with us, and provide all assistance and information reasonably requested by us. When requested by us, the **Insureds** shall submit to examination by a representative of us, under oath if required, and shall attend hearings, depositions, and trials and shall assist in the conduct of **Claims** including but not limited to effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, giving written statements



to our representatives and meeting with such representatives for the purpose of investigation or defense, all of the above without charge to us.

## **B. Authorization Clause**

By acceptance of this policy and solely with respect to all **Insureds** covered pursuant to a single **Certificate of Insurance**, the **Named Insured** shown in Item 1. of the **Certificate of Insurance** agrees to act on behalf of the **Insureds** thereunder with respect to giving and receiving notices of **Claim** or cancellation, paying premiums and receiving any return premiums that may become due under this policy, agreeing to endorsements, and giving or receiving any other notices provided for in this policy, and the **Insureds** agree that the **Named Insured** shall act on their behalf with respect to all such matters.

## **C. Subrogation**

With respect to any payments made under this policy on behalf of any **Insured**, we shall be subrogated to the extent of those payments to the **Insured's** rights of recovery. The **Insured** shall do nothing to prejudice such rights. The **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable us to enforce such rights. Any recoveries, less the cost of obtaining them, will be distributed as follows:

1. to the **Insured** and the insurer of any other policy specifically excess of this policy, until they are reimbursed for any **Loss** that they sustain that exceeds the sum of this policy's applicable Limit of Liability and applicable Retention, if any;
2. then to us, until we are reimbursed for all **Loss** paid under this policy; and
3. then to the **Insured**, until it is reimbursed for its payment of any applicable Retention.

## **D. Other Insurance**

If any **Loss** covered hereunder is covered under any other valid and collectible policy issued to any **Insured**, this policy shall apply only in excess of the total of any deductibles, retentions and limits of liability under such other policy, whether such other policy is stated to be primary, contributory, excess, contingent or otherwise, unless such other policy is written specifically excess of this policy by reference in such other policy to this policy's policy number.

## **E. Alteration, Assignment and Headings**

No change in, modification of, or assignment of interest under this policy shall be effective unless made by a written endorsement to this policy.

The titles and headings to the various sections, subsections and endorsements of this policy are included solely for ease of reference and do not in any way limit, expand or otherwise affect the coverage under this policy.

## **F. Action Against Insurer**

No action shall lie against us unless, as a condition precedent, there shall have been full compliance with all of the terms and conditions of this policy.

No person or organization shall have the right under this policy to join us as a party to any action against the **Insured** to determine the liability of the **Insured**, nor shall we be impleaded by the **Insureds** or their legal representatives in any such action.

## G. Application/Representations

1. The **Insureds** covered under a single **Certificate of Insurance** represent that all information and statements contained in the **Application** for such **Certificate of Insurance** are the **Insureds'** representations and are true, accurate and complete. All such information and statements are the basis of coverage under such **Certificate of Insurance** and shall be considered as incorporated into and made a part of this policy. Such **Certificate of Insurance** is issued in reliance upon the truth, accuracy and completeness of such information and statements.
2. In the event the **Application** for a **Certificate of Insurance** contains any misrepresentation or omission (i) made with the intent to deceive, or (ii) which materially affects either the acceptance of the risk or the hazard assumed by the Insurer under this policy, then such **Certificate of Insurance** and all coverage afforded thereunder shall be void *ab initio* as to all **Insureds** thereunder.

## H. Territory

Except as provided in Section I – Insuring Agreement (B.2.), this Policy applies to **Wrongful Acts** which happen anywhere in the world, but only with respect to **Claims** made or suits brought against the **Insured** in the United States of America, its territories or possessions, or Canada.

## I. Cancellation and Non-Renewal

1. The **Named Insured** may cancel its respective **Certificate of Insurance** by mailing or delivering to us advance written notice of cancellation.
2. We may cancel a **Certificate of Insurance** only for nonpayment of premium. In such event, we shall mail or deliver to the respective **Named Insured** written notice of cancellation at least ten (10) days before the effective date of such cancellation.
3. Any notice of cancellation will state the effective date of cancellation. The **Certificate Period** will end on that date with respect to all **Insureds** under that **Certificate of Insurance**.
4. If a **Certificate of Insurance** is cancelled by us, premium refund shall be due to the **Named Insured**, computed on pro rata basis. Cancellation will be effective even if we have not made or offered a premium refund. If the **Named Insured** cancels, premium refund shall be computed based on the customary short rate table.
5. If we decide not to renew a **Certificate of Insurance**, we will mail or deliver to the respective **Named Insured** written notice of non-renewal at least sixty (60) days prior to the end of the **Certificate Period**.

## J. Bankruptcy

Bankruptcy or insolvency of the **Insured** or the **Insured's** estate shall not relieve us of any of our obligations under this policy.

## K. Arbitration

The **Insured** shall not demand or agree to arbitration of any **Claim** made against the **Insured** without our written consent, except when arbitration is between an **Insured** and a **Client**. In the event any **Claim** is submitted to arbitration, we shall notify the **Insured** of the date of the arbitration hearing as soon as possible. We shall be entitled to exercise all of the **Insured's** rights in the choice of arbitrators and in the conduct of any arbitration proceeding involving a **Claim** covered by this Policy.

## CALIFORNIA SURPLUS LINE DISCLOSURE NOTICE D-2

Named Insured: Per Certificate of Insurance

Endorsement No.: 1

Master Policy No.:FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

### NOTICE:

1. **THE INSURANCE POLICY THAT YOU HAVE PURCHASED IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINE" INSURERS.**
2. **THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT THAT APPLY TO CALIFORNIA LICENSED INSURERS.**
3. **THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.**
4. **THE INSURER SHOULD BE LICENSED EITHER AS A FOREIGN INSURER IN ANOTHER STATE IN THE UNITED STATES OR AS A NON-UNITED STATES (ALIEN) INSURER. YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINE" BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE AT THE FOLLOWING TOLL-FREE NUMBER 1-800-927-4357. ASK WHETHER OR NOT THE INSURER IS LICENSED AS A FOREIGN OR NON-UNITED STATES (ALIEN) INSURER AND FOR ADDITIONAL INFORMATION ABOUT THE INSURER. YOU MAY ALSO CONTACT THE NAIC'S INTERNET WEB SITE AT [WWW.NAIC.ORG](http://WWW.NAIC.ORG).**
5. **FOREIGN INSURERS SHOULD BE LICENSED BY A STATE IN THE UNITED STATES AND YOU MAY CONTACT THAT STATE'S DEPARTMENT OF INSURANCE TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.**
6. **FOR NON-UNITED STATES (ALIEN) INSURERS, THE INSURER SHOULD BE LICENSED BY A COUNTRY OUTSIDE OF THE UNITED STATES AND SHOULD BE ON THE NAIC'S INTERNATIONAL INSURERS DEPARTMENT (IID) LISTING OF APPROVED NONADMITTED NON-UNITED STATES INSURERS. ASK YOUR AGENT, BROKER, OR "SURPLUS LINE" BROKER TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.**
7. **CALIFORNIA MAINTAINS A LIST OF APPROVED SURPLUS LINE INSURERS. ASK YOUR AGENT OR BROKER IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT THE INTERNET WEB SITE OF THE CALIFORNIA DEPARTMENT OF INSURANCE: [WWW.INSURANCE.CA.GOV](http://WWW.INSURANCE.CA.GOV).**
8. **IF YOU, AS THE APPLICANT, REQUIRED THAT THE INSURANCE POLICY YOU HAVE PURCHASED BE BOUND IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM WILL BE**

**PRORATED AND ANY BROKER'S FEE CHARGED FOR THIS INSURANCE WILL BE RETURNED TO YOU.**

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SF 199222.2 73670 00741 D-2 (Effective July 21, 2011)

## SOCIAL MEDIA COVERAGE ENDORSEMENT

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

Named Insured: Per Certificate of Insurance

Endorsement No.: 2

Master Policy No.:FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

It is understood and agreed that the Policy is amended as follows:

1. The Definitions Section is amended to include the following definition:

**Social Media** means a form of internet marketing which seeks to achieve the marketing and communications goals of an **Insured's** business as an **Agent** or **General Agent** or **Registered Representative** through the participation in various internet social media networks.

2. Definition S. Professional Services under Section III – Definitions is amended to include the following at the end thereof:

When solely in connections with or incidental to such Coverage A, B or C, which ever purchased by the **Named Insured**;  
The use of **Social Media**.

3. With respect to the coverage provided by this endorsement, Section IV – Exclusions is amended to include the following:

We shall not be liable to pay any **Loss** resulting from any **Claim** against an **Insured** based upon, attributable to or arising out of any regulatory proceeding brought by any governmental or quasi-governmental official or agency, including but not limited to any state or federal securities or insurance commission or agency or any self-regulatory agency, in any capacity based upon or arising out of the **Agent** or **General Agent** or **Registered Representative's** use of **Social Media**. This exclusion shall not apply to any **Claim** by an official of such agency or organization if such official is bringing the **Claim** in his or her capacity as a direct **Client** of an **Insured** and not as an official of such agency or organization.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

# NETWORK RISK AND PRIVACY CLAIM ENDORSEMENT

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

Named Insured: Per Certificate of Insurance

Endorsement No.: 3

Master Policy No.:FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

It is understood and agreed that the Policy is amended as follows:

1. The definition of **Claim** under **SECTION III – DEFINITIONS** is amended to include the following:

**Claim** also includes **Privacy Claims** and **Client Network Damage Claims**.

2. Solely with respect to the coverage provided by this endorsement, the **SECTION III - DEFINITIONS** is amended to include the following definitions:

**Client Network Damage Claim** means a written demand for monetary damages against an **Insured** for a **Wrongful Act** and alleging that a **Security Breach** or **Electronic Infection** caused **Network Damage** to a client's **Network** in the rendering of **Professional Services**.

**Computer Virus** means unauthorized computer code that is designed and intended to transmit, infect and propagate itself over one or more **Networks**, and cause:

- a. a computer code or programs to perform in an unintended manner;
- b. the deletion or corruption of electronic data or software; or
- c. the disruption or suspension of a **Network**.

**Confidential Commercial Information** means information that has been provided to the **Insured** by another, or created by the **Insured** for another where such information is subject to the terms of a confidentiality agreement or equivalent obligating the **Insured** to protect such information on behalf of another.

**Denial of Service Attack** means an attack executed over one or more **Networks** or the Internet that is specifically designed and intended to disrupt the operation of a **Network** and render a **Network** inaccessible to authorized users.

**Electronic Infection** means the transmission of a **Computer Virus** to a **Network**, including without limitation, such transmission to or from the **Policyholder's Network**.

**Electronic Information Damage** means the destruction, deletion or alteration of any information residing on the **Network** of any third party.

**Network** means a party's local or wide area **Network** owned or operated by or on behalf of or for the benefit of that party; provided, however, **Network** shall not include the Internet, telephone company networks, or other public infrastructure network.

**Network Damage** means:

- a. the unscheduled and unplanned inability of an authorized user to gain access to a **Network**;

- b. Electronic Information Damage; or
- c. the suspension or interruption of any **Network**;

**Non-public Personal Information** means personal information not available to the general public from which an individual may be identified, including without limitation, an individual's name, address, telephone number, social security number, account relationships, account numbers, account balances, and account histories.

**Privacy Claim** means a written demand for monetary damages against an **Insured** for a **Wrongful Act** and alleging **Privacy Injury and Identity Theft** that occurred in the rendering of **Professional Services**.

**Privacy Injury and Identity Theft** means:

- a. any unauthorized disclosure of, inability to access, or inaccuracy with respect to, **Non-public Personal Information** in violation of:
  - (1) the **Policyholder's** privacy policy; or
  - (2) any federal, state, foreign or other law, statute or regulation governing the confidentiality, integrity or accessibility of **Non-public Personal Information**, including but not limited, to the Health Insurance Portability and Accountability Act of 1996, Gramm-Leach-Bliley Act, Children's Online Privacy Protection Act, or the EU Data Protection Act.
- b. the **Insured's** failure to prevent **Unauthorized Access to Confidential Commercial Information**;

**Privacy Policy** means the **Policyholder's** policies in written or electronic form that:

- a. govern the collection, dissemination, confidentiality, integrity, accuracy or availability of **Non-public Personal Information**; and
- b. the **Insured** provides to its **Clients**, customers, employees or others who provide the **Insured** with **Nonpublic Personal Information**.

**Security Breach** means the failure of the **Policyholder's Network** hardware, software, firmware, the function or purpose of which is to:

- a. identify and authenticate parties prior to accessing the **Policyholder's Network**;
  - b. control access to the **Policyholder's Network** and monitor and audit such access;
  - c. protect against **Computer Viruses**;
  - d. defend against **Denial of Service Attacks** upon the **Insured** or unauthorized use of the **Insured's Network** to perpetrate a **Denial of Service Attack**; or,
  - e. ensure confidentiality, integrity and authenticity of information on the **Insured's Network**.
- Privacy Breach Notice Law** means any statute or regulation that requires an entity who is the custodian of **Nonpublic Personal Information** to provide notice to individuals of any actual or potential privacy breach with respect to such **Non-public Personal Information**. **Privacy Breach Notice Laws** include Sections 1798.29 and 1798.82- 1798.84 of the California Civil Code (formerly S.B. 1386) and other similar laws in any jurisdiction.

**Unauthorized Access** means any accessing of information in the **Insured's** care, custody or control by unauthorized persons or by authorized persons accessing or using such information in an unauthorized manner. **Unauthorized Access** also includes:

- a. theft from the **Insured** of any information storage device used by the **Insured** to:
  - (1) store and retrieve information on the **Insured's Network**; or
  - (2) transport information between the **Insured** and authorized recipients;
- b. any unauthorized use by the **Insured** of information in the **Insured's Clients'** care, custody or control if accessed by the **Insured** in the course of rendering **Professional Services**.

3. **SECTION IV - EXCLUSIONS**, (O. Confidential or Non-Public information) is amended to include the following exception:

This exclusion above shall not apply to any **Privacy Claims**;

4. **SECTION III - LIMIT OF LIABILITY, RETENTION AND ALLOCATION** is amended to add the following sublimit of liability:

Subject to our each **Claim** and Aggregate Limit of Liability, as shown on each **Insured's Certificate of Insurance**, our Limit of Liability for **Loss** for all covered **Privacy Claims** shall not exceed \$50,000 per **Claim** and \$50,000 in the aggregate for each **Insured**.

This endorsement shall not be construed as to increase the Limits of Liability of this Policy.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.



## CALIFORNIA SERVICE OF SUIT CONDITION

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

Named Insured: Per Certificate of Insurance

Endorsement No.: 4

Master Policy No.: FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

This endorsement modifies insurance provided under this policy.

### SERVICE OF SUIT

It is agreed that in the event of our failure to pay any amount claimed to be due hereunder, we, at your request will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon Counsel, Legal Department, Everest Indemnity Insurance Company, dba Mt. McKinley Managers Insurance Services, L.L.C., Westgate Corporate Center, PO Box 830, Liberty Corner, NJ 07938-0830 or his or her representative, and that in any suit instituted against us upon this contract, we will abide by the final decision of such court or of any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, we hereby designate the Superintendent, Commissioner, or Director of Insurance, other officer specified for that purpose in the statute, or his or her successor or successors in office as our true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of you or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the above named Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

### CALIFORNIA INSURANCE CODE SECTION 1772 – SUITS INVOLVING SURPLUS LINES BROKER - REMEDIES

- a. A surplus lines insurer may be sued upon any cause of action arising in the state of California under any surplus lines insurance contract made by it, or any evidence of insurance issued or delivered by the surplus lines broker, pursuant to the procedure set forth in Sections 1610 to 1620, inclusive, of the California Insurance Code. Any policy or evidence of insurance issued by the surplus lines insurer or the surplus lines broker shall contain a provision stating the substance of Section 1772 of the California Insurance Code, and designating the person to whom the Commissioner shall mail process.

- b. Every surplus lines insurer assuming surplus lines insurance shall be deemed thereby to have subjected itself to Chapter 6 of the California Insurance Code in which Section 1772 is found.
- c. The remedies provided by Section 1772 of the California Insurance Code shall be in addition to any other methods provided by law for service of process.

## CERTIFICATE OF INSURANCE ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured: Per Certificate of Insurance

Endorsement No.: 5

Master Policy No.:FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

1. Subject to the terms, conditions and limitations set forth in this policy including this Endorsement, any natural person identified as a "**Named Insured**" in a **Certificate of Insurance** issued by our authorized representative with respect to this policy shall be a "**Named Insured**" under this policy.
2. The Type of Coverage, Limits of Liability, Retention, Certificate Period Inception Date, Certificate Period Expiration Date, and premium applicable to each **Insured** under this policy shall be as designated in the **Certificate of Insurance** issued to the respective "**Named Insured**" for such **Insured**.
3. Notwithstanding anything in this policy to the contrary, a person will qualify as a "**Named Insured**" pursuant to their **Certificate of Insurance** until the expiration date listed on the **Certificate of Insurance** regardless of whether the Master Policy is canceled or has terminated as long as the **Certificate of Insurance** was issued prior to the cancellation or expiration of the Master Policy.
4. There shall be no return of premium as a result of termination or cancellation of the Master Policy.
5. Regardless of the number of "**Named Insureds**," the number of **Claims** or the number of claimants, we will not, in any case, pay more than the Aggregate Limit of Liability listed in Item 3. of the Declarations with respect to all **Claims** presented under this policy.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

## **EMPLOYEE BENEFIT PLANS EXCLUSION AMENDED**

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

Named Insured: Per Certificate of Insurance

Endorsement No.: 6

Master Policy No.: FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

In consideration of the premium charged, it is hereby understood and agreed that Section V – Exclusions T. Sale or Servicing of Certain Products, paragraph 3. is hereby deleted in its entirety and replaced with the following;

3. employee benefit plans, individual retirement plans and KEOGH retirement plans, however, this exclusion shall not apply to the sale of health insurance plans.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

## **COVERAGE TERRITORY ENDORSEMENT**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured: Per Certificate of Insurance

Endorsement No.: 7

Master Policy No.: FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

Payment of loss under this policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

## DISCIPLINARY PROCEEDING COVERAGE EXTENSION

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

Named Insured: Per Certificate of Insurance

Endorsement No.: 8

Master Policy No.:FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

In consideration of the premium charged, it is hereby understood and agreed that solely for purposes of coverage provided by this endorsement:

I. The following is added to Section II:

### C. Disciplinary Proceeding Coverage Extension

The Insurer shall pay **Claims Expenses** incurred by an **Insured** in connection with a **Disciplinary Proceeding** first made against such **Insured** during the **Policy Period** subject to a sub-limit of liability in the amount of \$15,000 per **Certificate of Insurance** per **Policy Period**, which amount shall be part of and not in addition to the Limit of Liability set forth in Item 2. of the **Certificate of Insurance** under "Each **Claim**."

II. Section III DEFINITIONS is amended as follows:

1. The following shall be added to the end of the definition of **Claim** in Section III.G:

Solely for purposes of coverage provided in Section II.C, **Claim** shall include a **Disciplinary Proceeding**.

2. The following definition is added to Section III – Definitions:

**"Disciplinary Proceeding"** means any investigation of an **Insured** by a governmental or regulatory authority or self-regulatory body regarding the actual or alleged **Wrongful Act(s)** of such **Insured** in their rendering or failure to render **Professional Services**.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

## ANTI-STACKING ENDORSEMENT

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

Named Insured: Per Certificate of Insurance

Endorsement No.: 9

Master Policy No.:FL5SB00000-191

Effective date of Endorsement: 09/01/19

Issuing Company: Everest Indemnity Insurance Company

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

1. **REDUCTION PROVISION**

Payment by the Insurer or any affiliate of the Insurer under another policy(ies) ("Other Policy") for a **Claim** also covered under this policy, shall reduce the Limit of Liability available under this policy by the amount of such payment.

2. In the event, however that such Other Policy has a Reduction Provision similar to that referenced above:

- a. the Insurer shall not be liable under this policy for a greater proportion of Loss than the applicable limit of liability under this policy bears to the total limit of liability of this and all such Other Policy(ies) combined; and
- b. the maximum amount payable under all policies shall not exceed the limit of liability of the policy which has the highest available limit of liability.

3. Nothing in this endorsement shall be construed to increase the limit of liability of this policy which shall in all events be the maximum liability of the Insurer under this policy.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.