

## LIFE SCIENCES LIABILITY POLICY PROFESSIONAL LIABILITY COVERAGE PART

**COVERAGE - Professional Services Coverage**

The Insurer will pay all amounts in excess of the deductible up to the limit of liability that the **Insured** becomes legally liable to pay as **damages** as a result of a covered **professional liability claim** by reason of a **wrongful act** by the **Insured** or by someone for whom the **Insured** is liable, provided that coverage applies to **claims** only if:

- A. such **claim** is both first made against the **Insured** during the **policy period**, or during the **extended reporting period**, if any, and reported to the Insurer in accordance with the **COMMON CONDITIONS**, the section entitled **DUTIES IF THERE IS A CLAIM**;
- B. prior to the effective date of the **coverage relationship**, no **executive officer** knew or had a basis to believe that any **wrongful act** might reasonably be expected to be the basis of any such **claim**;
- C. prior to the effective date of this policy:
  - 1. no **Insured** gave notice to a prior insurer of any **potential claim** or **related claim**; and
  - 2. neither an **Insured** nor the Insurer made a written declaration of a **related claim**; and
- D. such **wrongful act** first occurred on or after the retroactive date, if any, specified in the Declarations.

In addition, the Insurer will pay all **defense costs** in excess of the deductible and up to the limit of liability in connection with a covered **claim**. **Defense costs** are included within and erode both the limits of liability and the deductible.

**SUPPLEMENTARY BENEFITS - Mitigation Expenses**

The Insurer will reimburse the **Insured Entity** for **mitigation expenses** up to the **mitigation expenses** sublimits of liability and subject to any applicable coinsurance percentage provided that prior to incurring any **mitigation expenses**:

- A. the **Insured Entity** reports the **circumstance** for which the **Insured Entity** intends to incur such **mitigation expenses** in accordance with the section entitled **COMMON CONDITIONS**, the paragraphs entitled **DUTIES AND RIGHTS IN THE EVENT OF A CIRCUMSTANCE OR A POTENTIAL CLASS 1 PRODUCT RECALL** and **DUTIES IF THERE IS A CLAIM**;
- B. the **Insured Entity** provides the Insurer with details of the action being contemplated by the **Insured Entity** to minimize any potential **damages** arising out of such **circumstance** and the amount of **mitigation expenses** that are contemplated in connection with such action;
- C. the Insurer provides written approval of any **mitigation expenses** prior to such **mitigation expenses** being incurred. No **mitigation expenses** will be approved by the Insurer that are requested less than five business days prior to the planned incurrence of such **mitigation expenses**; and
- D. the **Insured Entity** cooperates with the Insurer in addressing the **circumstance** for which the **Insured Entity** is incurring **mitigation expenses**.

Payment of **mitigation expenses** by the Insurer is not an acknowledgment by the Insurer that a **claim** resulting from the **circumstance** reported pursuant to paragraph A. above, is a covered **claim**.

**LIMITS OF LIABILITY/DEDUCTIBLE**

Subject to **Policy Aggregate Limits of Liability and Deductible** section of the **COMMON CONDITIONS** and the Policy Each Claim and Aggregate Limits of Liability and Deductibles, if any, as set forth on the Declarations:

**A. Limit of Liability—Each Professional liability claim**

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Subject to paragraph B. below, the limit of liability of the Insurer for **damages** and **defense costs** for each **professional liability claim** shall not exceed the amount stated in the Declarations for the **Professional Liability Coverage Each Claim Limit**.

**B. Limit of Liability– Professional Liability Claim in the Aggregate**

The limit of liability of the Insurer for **damages** and **defense costs** for all **professional liability claims** shall not exceed the amount stated in the Declarations as the **Professional Liability Coverage aggregate**.

**C. Supplementary Payment – Mitigation Expenses**

The application of the limits of liability for **mitigation expense** is set forth in the **COMMON CONDITIONS** and the applicable **mitigation expenses** limits of liability and deductibles are set forth in the declarations.

**D. Deductible**

**Each Professional liability claim and in the Aggregate**

- a. The each **professional liability claim** deductible shown in the Declarations, if any, applies to **damages** and **defense costs** for each **professional liability claim**.
- b. The aggregate **professional liability claim** deductible shown in the Declarations, if any, applies to **damages** and **defense costs** for all **professional liability claims** in the aggregate.

**EXCLUSIONS**

This **coverage part** does not apply to any **claim** against any **Insured**:

**A. Asbestos**

based on or arising out of:

1. the actual, alleged or threatened exposure at any time to **asbestos**, or
2. any actual or alleged loss, cost or expense that may be awarded or incurred:
  - a. by reason of a **claim** for any such injury or damage; or
  - b. in complying with a governmental direction or request to test for, monitor, clean up, remove, contain or dispose of **asbestos**.

**B. Conversion of Funds**

based on or arising out of any actual or alleged conversion, commingling, defalcation, misappropriation or improper use of funds or other property; or, the gaining of any personal profit or advantage to which an **Insured** is not legally entitled.

**C. Discrimination, Humiliation, Harassment**

based on or arising out of any actual or alleged discrimination, humiliation or harassment, that includes but shall not be limited to **professional liability claims** based on or arising out of an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual preference.

**D. Dishonest, Fraudulent, Criminal, Malicious Act or Intentionally Wrongful Acts**

based on or arising out of any actual or alleged dishonest, fraudulent, criminal, malicious or intentionally wrongful act by any **Insured**. The Insurer shall provide the **Insured** with a defense of such **claim** unless or until the dishonest, fraudulent, criminal, malicious or intentionally wrongful act has been determined by any trial verdict, court ruling, regulatory ruling or legal admission, whether appealed or not. Such defense will not waive any of its rights under this policy. Criminal proceedings are not covered under this policy regardless of the allegations made against an **Insured**.

For purposes of determining the applicability of this exclusion:

1. the facts pertaining to and knowledge possessed by any natural person **Insured** shall not be imputed to any other natural person **Insured**; and
2. only facts pertaining to and knowledge possessed by any **Insured** as set forth under paragraph **A.** of the definition of **Insured** in the **GLOSSARY OF DEFINED TERMS** shall be imputed to the **Insured Entity**.

**E. Infringement of Intellectual Property Rights**

based on or arising out of any actual or alleged infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

**F. Insured's Capacity**

based on or arising out of an **Insured's** capacity as:

1. a former, existing or prospective officer, director, shareholder, partner or manager of a business enterprise or charitable organization (if the above are not named in the Declarations);
2. a former, existing or prospective officer, director, shareholder, partner manager, or trustee of a fund or trust that is a pension, welfare, profit-sharing, mutual or investment fund or trust; or
3. a fiduciary under the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto or any other similar state or local law.

**G. Medical Services**

for **medical services**. However this exclusion does not apply to physicians, dentists, nurses, emergency medical technicians or paramedics employed by the **Insured Entity** to the extent that they are rendering first aid or emergency care.

**H. Misuse of Confidential Information**

based on or arising out of any actual or alleged use or misuse of confidential or proprietary information.

**I. Nuclear**

based on or arising out of:

1. any actual or alleged **bodily injury, property damage** or any other injury including all forms of radioactive contamination of with respect to which an **Insured** under this policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, the Mutual Atomic Energy Liability Underwriters or the Nuclear Insurance Association of Canada, or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
2. resulting from the **hazardous properties of nuclear material** and with respect to which:
  - a. any person or organization is required to maintain financial protection pursuant to the United States Atomic Energy Act of 1954 or the Canadian Nuclear Liability Act, the Nuclear Safety and Control Act or its Atomic Energy Act, or any amendment of the foregoing; or
  - b. any **Insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America or the Government of Canada, or any agency thereof, under any agreement entered into by the United States of America or the government of Canada, or any agency thereof, with any person or organization; or
  - c. any actual or alleged **bodily injury, property damage** or any other injury resulting from the **hazardous properties of nuclear material**, if:
    - i. the **nuclear material**:
      - (1) is at any **nuclear facility** owned by, or operated by or on behalf of, an **Insured**; or
      - (2) has been discharged or dispersed therefrom;

(3) is contained in **spent fuel** or **nuclear waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **Insured**; or

- ii. the **bodily injury, property damage** or other injury arises out of the furnishing by an **Insured** of services, materials, parts or equipment in connection with the, planning, construction, maintenance, operation, or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion paragraph c.ii. applies only to **property damage** to such **nuclear facility** and any property thereat.

#### **J. Performance Delay**

based on or arising out of any actual or alleged delay in delivery of or failure to complete **insured product** or **insured work**. This exclusion does not apply if there is any delay in delivery of or failure to complete **insured product** or **insured work** as a result of a **force majeure**; and

- 1. any delay in delivery of or failure to complete **insured product** or **insured work** is not caused by the **Insured Entity's** actions or failure to act; and
- 2. the **Insured Entity's** agreement to provide **insured product** or **insured work** was entered into prior to the onset of the **force majeure**.

#### **K. Pollutants**

based on or arising out of any:

- 1. request, demand or order 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**; or
- 2. **claim** by or on behalf of any governmental authority or others for **damages** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants**.

#### **L. War, Civil Insurrection**

based on or arising out of any actual or alleged war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion does not apply if there is any delay in delivery of or failure to complete **insured product** or **insured work** as a result of a **force majeure** that is war or civil insurrection; and

- 1. any delay in delivery of or failure to complete **insured product** or **insured work** is not caused by the **Insured Entity's** actions or failure to act; and
- 2. the **Insured Entity's** agreement to provide **insured product** or **insured work** was entered into prior to the onset of the **force majeure**.