

Effective date of this Endorsement: <Effective Date>
This Endorsement is attached to and forms a part of Policy Number: <Policy Number>
<Insurer> referred to in this endorsement as either the “Insurer” or the “Underwriters”

PRIVATE ENTERPRISE PRIVATE ORGANIZATION
DIRECTORS, OFFICERS AND ENTITY LIABILITY ENHANCEMENT

This endorsement modifies insurance provided under the following:

<ProductName>

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

1. Clause **I. INSURING CLAUSES**, paragraph E., second paragraph, of the Private Organization Directors Officers and Entity Liability Clause is deleted in its entirety and replaced with the following:

The coverage afforded by this Insuring Clause shall be specifically excess of any indemnification and insurance available to such **Insured Persons** from the **Outside Entity**, unless such **Outside Entity** is not permitted or required by law to provide indemnification to such **Insured Persons**, or is unable to indemnify such **Insured Persons** as a result of **Financial Impairment**.

2. Clause **III. EXCLUSIONS** K.2. and K.5. of the of the Private Organization Directors Officers and Entity Liability Clause are deleted in their entirety and replaced with the following

2. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged malfunction of any product or failure of any product to perform in any manner as a result of any defect, deficiency, inadequacy or dangerous condition in such product or in its design or manufacture; provided, however, this exclusion shall not apply to any **Claim** brought by or on behalf of, or in the name or right of, any shareholder of the **Insured Organization**;

5. based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving actual or alleged breach of duty, neglect, error, misstatement, misleading statement, act or omission in connection with the rendering of, or actual or alleged failure to render, professional services by or on behalf of the **Insured Organization** for the benefit of any other entity or person; provided, however, this exclusion shall not apply to any **Claim** brought by or on behalf of, or in the name or right of, any shareholder of the **Insured Organization**; or

3. Clause **III. EXCLUSIONS** E.4. and E.5. of the Private Organization Directors Officers and Entity Liability Clause is deleted in its entirety and replaced with the following:

4. is brought by a receiver, liquidator, trustee, creditor committee or similar official of the **Insured Organization**;

5. is brought by any former **Insured Person** who has not served in such capacity or as a consultant to the **Insured Organization** for at least three (3) years prior to the date such **Claim** is first made and who brings and maintains such **Claim** without any active assistance or participation of, or solicitation by, the **Insured Organization** or any other **Insured Persons** or consultants to the **Insured Organization** who are serving or have served in such capacity within such three (3) year period; or

4. Clause **III. EXCLUSIONS**, paragraph E. of the Private Organization Directors Officers and Entity Liability Clause is amended by the addition of:

6. is brought and maintained by any **Employee**, if such **Claim** is brought and maintained without the assistance, participation or solicitation of any director or **Executive Officer**;
 7. is brought a creditors committee;
 8. is brought by an **Insured Person** for a **Wrongful Act** as a “whistleblower.” For the purposes of this provision, any conduct by an **Insured Person** as a “whistleblower” shall not be considered assistance, solicitation, participation or intervention.
5. Clause **II. DEFINITIONS H. “Insured Persons”** of the Private Organization Directors, Officers and Entity Liability Clause is amended to include **Employees**.
 6. Clause **II. DEFINITIONS** of the Private Organization Directors, Officers and Entity Liability Clause is amended by the addition of:

“**Employee**” means any person whose labor or service is currently or has formerly been engaged by and directed by the **Insured Organization**, including part time, seasonal, leased and temporary employees as well as any individual employed in a supervisory or managerial position. Employee does not include independent contractors, employees who are leased to another employer, applicants for employment, or volunteers.
 7. Clause **III. EXCLUSIONS I.**, last paragraph, of the Private Organization Directors Officers and Entity Liability Clause is deleted in its entirety and replaced with the following:

As determined by a judgment, settlement or a final adjudication in the underlying action; provided, however, this exclusion shall not apply to **Defense Costs** incurred up until such determination is made.
 8. Solely with respect to the Private Organization Directors Officers and Entity Liability Clause, Clause **XII. ASSISTANCE, COOPERATION AND SUBROGATION** of the Policy Terms and Conditions is amended to include the following:

The Underwriters can subrogate back against an individual **Insured** only if there has been a final adjudication that the individual **Insured** committed any act or omission that would be excluded by Clause III. Exclusions I. of the Private Organization Directors, Officers and Entity Liability Clause.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative