

BCS Insurance Company, hereinafter called the Company, agrees to provide insurance coverage as provided in this Policy, in consideration for the payment of the premium and in reliance upon the statements in the Application and in the Declarations and subject to all of the terms of this Policy as follows:

## **SECTION I**

### **COVERAGE**

The Company shall pay on behalf of an Insured Loss and Defense Expenses resulting from any Claim first made against an Insured and reported to the Company during the Policy Period, or Extended Reporting Period, if applicable, in excess of the applicable deductible and within the limit of liability specified in the Declarations

Provided, however, that in the event that any Wrongful Act alleged in the Claim actually or allegedly occurred prior to the Inception Date of the Individual Agent's coverage under this Policy, no coverage will be afforded for any Claim arising out of such Wrongful Act, or any other Wrongful Act that shares as a common nexus any fact, circumstance, situation, event or transaction, unless:

- a. the Individual Agent was covered by professional liability or errors and omissions insurance at the time of the alleged Wrongful Act and remained continuously covered by professional liability or error and omissions insurance from the date of the alleged Wrongful Act until the beginning of the Policy Period for the Individual Agent under this Policy; and
- b. the Individual Agent provides to the Company a copy of the continuously in force prior professional liability or errors or omissions insurance or other proof of such insurance acceptable to the Company; and
- c. as of the Inception Date of coverage under this Policy for the Individual Agent, no Insured had knowledge of any Claim, or any fact, circumstance, situation, event or transaction leading to or that may reasonably be expected to lead to a Claim, arising out of the prior Wrongful Act.

## **SECTION II**

### **DEFENSE AND SETTLEMENTS**

The Company, in the Insured's name and behalf, shall have the right and duty to investigate, defend, conduct settlement negotiations and enter into settlements for any Claim for which coverage is provided under the terms of this Policy, even if such Claim is groundless, false, fraudulent, or for an amount less than the Insured's deductible.

The Insured shall cooperate with the Company, and, upon the Company's request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving

evidence, obtaining the attendance of witnesses and in conducting litigation.

The Insured shall not admit liability for, nor make any voluntary settlement, nor incur any costs or expenses in connection with any Claim, except with the written consent of the Company.

### **SECTION III**

#### **LIMIT OF LIABILITY AND DEDUCTIBLE**

The limit of liability of the Company for Loss and Defense Costs on account of a single Claim first made against an Insured and reported to the Company during the Policy Period, or during the Policy Period together with the Extended Reporting Period, if applicable, shall not exceed the “per Claim” amount specified in Item 5 of the Declarations, subject to an aggregate limit “each agent each Policy Period” in the amount specified in Item 5 of the Declarations. In no event shall the Company pay Loss and Defense Costs greater than the specified aggregate limit “each agent each Policy Period” on behalf of any Insured for Claims first made and reported to the Company during a single Policy Period.

The inclusion of more than one Insured or the making of Claims by more than one person or organization shall not operate to increase the Company’s Limit of Liability as stated herein. Two or more Claims against an Insured arising out of a single Wrongful Act, or multiple Wrongful Acts that share as a common nexus any fact, circumstance, situation, event or transaction, shall be treated as a single Claim. All such Claims, whenever made, shall be considered first made and reported to the Company during the Policy Period or Extended Reporting Period in which the earliest Claim arising out of such acts, errors, or omissions was first made and reported. All such Claims shall be subject to the same limit of liability.

The limit of liability as stated in Item 5 of the Declarations shall apply in excess of the deductible as stated in Item 4 of the Declarations. The deductible shall apply to payment of Loss on each Claim instituted against the Insured.

Should the Company, for any reason, pay the entire amount of Loss without regard to the deductible, the Insured will reimburse the Company within 30 days of the Company’s request.

### **SECTION IV**

#### **DEFINITIONS**

Whenever used in this Policy:

- a) “Claim” shall mean any written notice received by an Insured that any person or entity intends to hold such Insured responsible for a Wrongful Act involving Professional Services.

“Claim” does not include (1) criminal proceedings or investigations, (2) administrative proceedings or investigations against an Insured by or before any federal, state or local governmental regulatory or licensing agency or any national, regional or local self regulatory association or commission.

b) “Client” shall mean an individual or business who is a member of the general public and uses the Professional Services of the Insured. Client shall not include an Individual Agent, an employee of an Individual Agent or any current or former owners, partners, shareholders or directors of an Individual Agent or Insured.

c) “Defense Expenses” shall mean:

1. all reasonable and necessary fees charged by the attorney(s) designated by the Company, or designated by an Insured with the Company’s written consent, in the defense of any Claim against an Insured.
2. all premiums on bonds to release attachments and appeal bonds, limited to that portion of such bond that does not exceed the limit of liability of this Policy, but without any obligation to apply for or furnish such bonds;
3. all costs taxed against the Insured in any suit and all expenses incurred by the Company;
4. all interest accruing after the entry of judgment, but only for that portion of the judgment which does not exceed the applicable limit of liability, until the Company has tendered or paid such part of such judgment as does not exceed the Company’s limit of liability thereon;
5. all reasonable expenses incurred by the Insured at the Company’s request in assisting the Company in the investigation and defense of any Claim or suit, provided however that Defense Expenses shall not include salaries, wages, overhead or benefits expenses of an Insured or any employee of an Insured.

d) “Extended Reporting Period” means (1) the 60 day period of time following the end of the Policy Period or earlier termination of the Policy during which an Insured may provide the Company with notice of Claims per Section IX of this Policy or (2) such additional time for reporting Claims for Wrongful Acts occurring prior to the end of the Policy Period as provided in a separate Individual Agent Extended Reporting Period Endorsement to this Policy.

e) “Inception Date” shall mean the date an agent becomes an Individual Agent.

f) “Individual Agent” shall mean a licensed agent of the Plan who has applied for and been accepted for coverage under this Policy with the Company or its designee.

g) “Insured” shall mean:

1. an Individual Agent;

2. any secretarial, clerical, administrative or customer service employee of the Individual Agent, while acting within the scope of their duties on behalf of and under the supervision of the Individual Agent in connection with the Individual Agent's performance of Professional Services. Such employee may be deemed an Insured under this subsection only if the employee is not involved in soliciting or negotiating insurance and devotes the employee's full time to clerical and administrative services, including the incidental taking of information from customers and receipt of premiums in the office of the Individual Agent. Provided further that any such employee who is acting as an agent, sub-agent, broker or sub-broker or who receives any commissions or whose compensation varies by the volume of premiums taken and received shall not be deemed to be an Insured under this subsection.
  3. the estate, heirs, executors, administrators, assignees or legal representatives of an Individual Agent in the event of the Individual Agent's death, incapacity or bankruptcy, but only to the extent that the Individual Agent had coverage under this Policy;
  4. the agency under which the Individual Agent is doing business or is employed, but only for such agency's vicarious liability resulting solely from Wrongful Acts of the Individual Agent otherwise covered under this Policy, and not due to any actual or alleged independent Wrongful Acts of the agency. Notwithstanding the foregoing, owners, partners, shareholders or directors of the agency are not Insureds under this Policy unless such coverage arises independently, as an Individual Agent, under this Policy.
- h) "Loss" shall mean such amounts that the Insured is legally obligated to pay, including settlements or judgments, resulting from Claims up to the Policy limits. Loss shall not include:
1. civil or criminal fines or penalties,
  2. punitive or exemplary damages,
  3. the portion of any multiplied damage award which exceeds the amount multiplied,
  4. return or withdrawal of commission, fees or other consideration paid to an Insured,
  5. costs and expenses resulting from compliance with any injunctive or non-monetary relief or agreement to provide such relief;
  6. matters deemed uninsurable under applicable law.
- i) "Policy Period" shall mean the time between the effective date of this Policy and the expiration date, or earlier termination date, if any, as specified in Item 3 of the Declarations and shall begin and end at 12:01 a.m. Standard Time at the address of the Plan.
- j) "Professional Services" shall mean specialized services rendered to others as a licensed Life, Accident and Health Insurance Agent, a licensed Life, Accident and Health Insurance General Agent, a licensed Life, Accident and Health Insurance Broker, or as a registered representative in the sale and servicing of mutual funds through a NASD registered broker/dealer organization.

Professional Services shall not include: (1) the surrender, conversion or alteration

of a Life, Accident or Health Insurance product in order to invest in anything other than a Life, Health or Accident Insurance product or a mutual fund sold or serviced through a NASD registered broker/dealer organization, or (2) any advice or recommendation to in any way convert, redeem or alter a Life, Accident or Health Insurance product in order to invest in anything other than a Life, Health or Accident Insurance product or a mutual fund sold or serviced through a NASD registered broker/dealer organization.

- k) "Wrongful Act" shall mean any actual or alleged negligent act, error or omission in the rendering of or failure to render Professional Services by an Insured to or for a Client, solely in his or her capacity as a licensed Life, Accident and Health Insurance Agent, a licensed Life, Accident and Health Insurance General Agent, a licensed Life, Accident and Health Insurance Broker, or as a registered representative in the sale and servicing of mutual funds through a NASD registered broker/dealer organization.

## **SECTION VI**

### **EXCLUSIONS**

The Company shall not pay Loss or Defense Expenses resulting from any Claim based upon, arising out of, directly or indirectly resulting from or in consequence of:

- a) any dishonest, fraudulent, criminal or malicious act, or assault or battery committed by or contributed to by the Insured or Insureds;
- b) bodily injury to, or sickness, disease or death of any person arising out of the Wrongful Act(s) of an Insured;
- c) injury to or destruction of any property, including the Loss of use thereof;
- d) any liability assumed by the Insured under contract, unless the Insured would have been legally liable in the absence of such contract;
- e) the financial inability to pay, insolvency, receivership, bankruptcy or liquidation of any insurance plan, any reinsurer, any IPA, HMO, PPO, DSP or any pool, syndicate, association or other combination formed for the purpose of providing health care, insurance or reinsurance;
- f) any claim arising out of the insolvency, receivership, bankruptcy, liquidation or financial inability to pay of any company, entity or other investment vehicle in which any customer has invested;
- g) any Wrongful Act based upon, arising out of, directly or indirectly resulting from or in consequence of the sale or recommendation of investments other than Life, Health or Accident Insurance or mutual funds other than through a NASD Registered broker/dealer organization;
- h) any claim based upon a loss or alleged loss sustained from fluctuations in the market value of any mutual fund;

- i) any loss arising out of the Individual Agent making promises or guarantees as to the rate of return and/or future value of any mutual fund;
- j) any actual or alleged price fixing, price discrimination, predatory pricing, restraint of trade, antitrust, monopolization, unfair trade, or unfair anti-competitive conduct, commissions, contingent commissions, taxes, a dispute over fees, reimbursement or the failure to collect, pay or return premium, commingling of, or use of, clients' funds.
- k) the Insured's representations, promises or guarantees as to:
  - 1. interest rates, or
  - 2. fluctuations in interest rates, or
  - 3. future premium payments, or
  - 4. market value(s), or
  - 5. the future value of an investment product, policy, security or annuity;
- l) services performed by the Individual Agent as an actuary, accountant, attorney, tax advisor, real estate agent or real estate broker or property and casualty agent or property and casualty broker;
- m) the actual or alleged wrongful termination, discipline, or employment discrimination against any employee or agent of the Insured, including but not limited to harassment in violation of any federal, state or local law, the failure to hire or employ an applicant, the failure to promote any employee of the Insured, any adverse or differential employment action on any basis prohibited by federal, state or local law or retaliation for any employee's exercise of any right pursuant to any law for the protection of employees;
- n) any liability arising out of any duties or activities assumed under contract by an Insured as a plan administrator or fiduciary under the Employee Retirement Income Security Act of 1974 (ERISA), the Pension Benefits Act or the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) including any amendments, regulations or enabling statutes pursuant thereto, or any other similar federal, state or provincial statute or regulation;
- o) any Claim made against the Insured based upon or arising out of any pension, profit sharing, health or welfare or other employee benefit plan or trust sponsored by the Insured as an employer;
- p) any Claim based solely on the Insured's status as a named fiduciary or under power of attorney;
- q) any proceedings against or fines or penalties levied against the Insured by a state or federal regulatory agency or self-regulatory body;
- r) any Claim made against the Insured arising out of the Insured's activities as the third party administrator of any plan whether Insured or self Insured and whether the Insured performs such activities for a fee or for no fee;
- s) any Claim arising out of or alleging the unauthorized use of trade secrets or confidential or proprietary information;
- t) any Claim brought against the Insured by a securities broker/dealer, a broker/dealer organization or any investment company;

- u) any Claim arising out of the development, placement or sale of structured settlements;
- v) any Claim arising out of or in connection with a fraudulent or nonexistent entity;
- w) any Claim arising out of the referral of individuals or entities to individuals or entities selling or servicing or purporting to sell or service property and casualty insurance or securities products;
- x) any Loss arising out of or based upon:
  - 1. the quality of care rendered by or lack of care rendered by or the alleged malpractice of a participating provider of services its employees, physician or other practitioner, of any IPA, HMO, PPO, or DSP or other health care provider; or
  - 2. the failure of an IPA, HMO, PPO or DSP or other health care provider to pay the salaries or fees of any practitioner.
- y) any Claims arising from, based upon or in connection with a viatical settlement.
- z) any actual or alleged violation of any statute or any rule or regulation of any federal, provincial or state securities regulatory agency, the Securities Act of 1933, the Securities Exchange Act, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisors Act of 1940, any similar state statute, any rule or regulation promulgated under any of the foregoing, or any amendment to any of the foregoing, or any provision of the common law imposing liability in connection with the offer, sale or purchase of securities.
- aa) any Wrongful Act or any fact, circumstance or situation which has been the subject of any notice given prior to the effective date of this Policy under any other insurance policy.
- bb) the actual or alleged signing or verification of any insurance application or other document on behalf of any Client.

## **SECTION VII**

### **POLICY PERIOD**

This Policy shall be in force during the Policy Period as stated in Item 3 of the Declarations. Any renewal of this Policy by endorsement shall be deemed to be a new and separate Policy that shall be in force only for the Policy Period as stated in the renewal endorsement.

As respects any Individual Agent, the Policy Period shall begin on the Policy's effective date as specified in Item 3 of the Declarations or the Individual Agent's Inception Date,

whichever is later.

## **SECTION VIII**

### **EXTENDED REPORTING PERIOD**

- a) If this Policy is cancelled or not renewed by either the Plan or the Company or the Individual Agent, an Individual Agent who is insured under this policy as of the termination date of the Policy will be provided with a 60 day automatic Extended Reporting Period effective at the termination of the Policy Period. This automatic Extended Reporting Period shall not extend the Policy Period but shall extend the time in which an Insured may give written notice of Claims first made against the Insured during the Policy Period for Wrongful Acts occurring prior to the end of the Policy Period, subject to the terms and conditions of the Policy.
- b) Any Individual Agent whose status as a licensed agent of the Plan ceases and who, at the time of such change of status is covered under this Policy, will be provided with an automatic Extended Reporting Period for the reporting of claims commencing on the date of such change of status and continuing for the remainder of the Policy Period, but only with respect to Wrongful Acts occurring prior to the termination date of the Individual Agent's affiliation, subject to the terms and conditions of the Policy.
- c) The Extended Reporting Period will apply only to Claims first made and reported to the Company against those Insureds covered under the Policy as of the termination date of the Individual Agent under this Policy. Making a change in the premium for, or other terms of, this Policy shall not be deemed a refusal to renew it.
- d) The Automatic Extended Reporting Period shall not apply if the Individual Agent has failed to comply with the Policy's provisions or has obtained another in force policy of professional liability insurance.

## **SECTION IX**

### **NOTICE**

- a) If during the Policy Period (or Extended Reporting Period if applicable), any Claim is made against an Insured, the Insured shall, as a condition precedent to his or her rights under the Policy, give the Company written notice of such Claim as soon as practicable. The Insured shall forward promptly to the Company copies of such pleadings and reports as may be requested by the Company.
- b) In no event shall a Claim be subject to coverage under this Policy if notice of such Claim is given to the Company more than 60 days after the end of the Policy Period specified in Item 3 of the Declarations.
- c) If during the Policy Period or Extended Reporting Period if applicable, an Insured becomes aware of a specific Wrongful Act and gives the Company written notice as soon

as practicable of the specific Wrongful Act, and any consequences which have or may result from the Wrongful Act, then any Claim not otherwise excluded by the terms of this Policy subsequently made arising out of such Wrongful Act shall be deemed to have been made at the time such written notice was given.

## **SECTION X**

### **OTHER INSURANCE**

If the Insured has other insurance against the Loss covered by this Policy, this Policy shall be excess over any other valid and collectible insurance and shall then apply only in the amount by which the applicable limit of liability of this Policy exceeds the sum of the applicable limit of liability of all such other insurance. This provision will not apply if the Insured has similar coverage with the Company, or one of its affiliates. In this event only one limit of liability shall be available to the Insured, and such limit shall be the greater of the available limits irrespective of under which Policy such limit is provided.

## **SECTION XI**

### **TERRITORY**

This Policy applies to any act, error or omission which takes place anywhere in the world, provided that the Claim is made and suit is brought against the Insured in the United States of America, its territories or possessions and the District of Columbia, Puerto Rico or Canada.

## **SECTION XII**

### **SUBROGATION**

In case of payment of Loss by the Company hereunder, the Company shall be subrogated to the amount of such payment to the Insured's right of recovery against any other person or organization for such Loss, and the Insured shall execute all papers required, and shall cooperate with the Company to secure such rights.

Any recovery (after expenses) shall be used to reduce the Loss, and so much of such recovery shall be paid to the Company as will reduce the Loss ultimately borne by the Company to what it would have been had the recovery preceded any payment of such Loss by the Company.

## **SECTION XIII**

### **CHANGES**

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or keep the Company from asserting any right under the terms of this Policy, nor shall the terms of this Policy be waived or changed, except by endorsements issued to form a part of this Policy.

## **SECTION XIV**

### **ASSIGNMENT**

No assignment of Interest under this Policy shall be valid, unless the written consent of the Company is endorsed hereon.

## **SECTION XV**

### **ACTION AGAINST COMPANY**

No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the Claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. No person or organization shall have any right under this Policy to join the Company as a party to any action against the Insured to determine the Insured's liability, nor shall the Company be impleaded by the Insured or his legal representative. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

## **SECTION XVI**

### **CANCELLATION**

The coverage afforded to any Insured under this Policy may be cancelled by the Plan as designated in Item 7 of the Declarations or by the Company by such party mailing written notice to the other. Such written notice shall state when, not less than 60 days thereafter, such cancellation shall be effective. Such mailing of notice shall be sufficient proof of notice and the effective date of cancellation stated in the notice shall be the end of the Policy Period. Delivery of such notice either by the Plan or the Company shall be equivalent to such mailing. If the Plan cancels, earned premium shall be the short rate amount of the annual premium. If the Company cancels, earned premium shall be the pro rata amount of the annual premium. Premium adjustment may be made as soon as practical after cancellation becomes effective. The Company's check or the check of its representative mailed as aforesaid shall be sufficient tender of any refund of premium due to the Plan.

As respects any Individual Agent, the Policy may be canceled by the Company by mailing written notice of cancellation to the Individual Agent at the Individual Agent's last known address. Such written notice shall state when, not less than sixty (60) days thereafter, or ten (10) days in the case of nonpayment of premium, such cancellation shall be effective. The mailing of written notice shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall become the end of the Policy Period. Delivery of such written notice of cancellation to the Individual Agent shall

be equivalent to mailing.

This Policy may be canceled by an Individual Agent by mailing written notice stating when the cancellation shall be effective to the Company or its authorized representative.

If the Company cancels, the earned premium shall be the pro rated amount of the annual premium. If the Individual Agent cancels, the premium will be cancelled short rate where allowable by law. Premium adjustment may be made at the time cancellation is effected and, if not then made, shall be made as soon as practicable after cancellation becomes effective. The Company's check or the check of its representative mailed to the Individual Agent shall be sufficient tender of any refund or premium due to the Individual Agent, provided that if at the time of cancellation the Aggregate Limit of Liability has been exhausted, the entire premium shall be considered earned.

## **SECTION XVII**

### **REPRESENTATIONS**

The Plan is not in its own right a party to this Policy and is acting only as an agent for its agents in securing coverage of this Policy. The Original Policy shall be kept by the Plan at its home office. Except as otherwise provided by this Policy, all notices and communications concerning this Policy may be directed by the Company to the Plan as the agent of the Insureds covered herein.

By acceptance of this Policy, all Insureds represent and warrant that the information and statements contained in the Individual Agent's application(s) and any supplement or attachment thereto are true, accurate and complete. All such information and statements are material to the issuance of this Policy to an Individual Agent and the extension of coverage under this Policy to an Individual Agent is in reliance upon the truth of the information and statements in the individual agent's application. The application and any supplements or attachments thereto shall be considered as incorporated into and a part of this Policy, whether or not physically attached to the Policy or Certificate of Insurance.

**IN WITNESS WHEREOF**, the Company has caused the facsimile signatures of its President and Secretary to be affixed hereto, and has caused this Policy to be signed on the Declarations page by an authorized representative of the Company.

**BCS INSURANCE COMPANY  
2 Mid America Plaza, Suite 200  
Oakbrook Terrace, IL 60181**

**PREMIUM ENDORSEMENT**

**IT IS AGREED** that, notwithstanding any provision in the Policy to the contrary, each individual agent shall elect the limit of liability applicable to Claims made against them from those limits set out as follows at the premium indicated.

OPTION A) Limit of Liability: \$1,000,000.00 each Claim subject to an Annual Aggregate of \$1,000,000.00 each Agent each Policy period

Premium Per Agent \$435.00

OPTION B) Limit of Liability: \$1,000,000.00 each Claim subject to an Annual Aggregate of \$2,000,000.00 each Agent each Policy period

Premium Per Agent \$ 560.00

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

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.  
(The information below is required only when this endorsement is issued subsequent to the preparation of the Policy.)

**Endorsement Effective**

**Policy No.**

**Endorsement No.**

1

**Named Insured**