

**ASPEN SPECIALTY INSURANCE COMPANY**  
**600 ATLANTIC AVENUE, 20<sup>TH</sup> & 21<sup>ST</sup> FLOORS**  
**BOSTON, MA 02210**



**REAL ESTATE BROKERS AND AGENTS ERRORS AND OMISSIONS LIABILITY POLICY**

**THIS IS A CLAIMS MADE AND REPORTED POLICY. PLEASE READ CAREFULLY.**

**DECLARATIONS**

POLICY NUMBER: **LBW521009** RENEWAL OF:

NAMED INSURED: **NEVADA COUNTY REALTY, INC.**  
**NEVADA COUNTY REALTY / PLACER COUNTY REALTY / GOLDEN FOOTHILLS REALTY**

MAILING ADDRESS: **970 EAST MAIN STREET. #102**  
**GRASS VALLEY CA. 95945**

POLICY PERIOD: (AT 12:01 AM STANDARD TIME AT THE ADDRESS OF THE NAMED INSURED STATED ABOVE)  
FROM: **7/1/2009** TO: **7/1/2010**

LIMITS OF LIABILITY: EACH CLAIM **\$1,000,000**  
AGGREGATE **\$1,000,000**  
DISCRIMINATION **\$100,000**

DEDUCTIBLE: EACH CLAIM **\$2,500.00**

RETROACTIVE DATE: **2/17/1997**

PREMIUM: **\$78.00** PER REAL ESTATE TRANSACTION/SIDE  
**\$2.34** SURPLUS LINES TAX  
**\$0.18** STAMPING FEE  
**\$80.52** TOTAL

THIS POLICY IS MADE AND ACCEPTED SUCH TO THE PRINTED CONDITIONS IN THIS POLICY TOGETHER WITH THE APPLICATION AND PROVISIONS, STIPULATIONS AND AGREEMENTS CONTAINED IN THE FOLLOWING FORM(S) OR ENDORSEMENT(S):

**ASPRE022 0509 ENVIRONMENTAL HAZARDS - RESIDENTIAL ONLY - EACH CLAIM SUBLIMIT / ASPRE034 0509 PER TRANSACTION PREMIUM REPORTING / ASPRE040 0509 TERRORISM AND WAR EXCLUSION / ASPRE035 0509 PRIVACY FORM / ASPRE008 0509 CALIFORNIA SURPLUS LINE DISCLOSURE NOTICE D-2**

PROGRAM MANAGER:  
**ALEXANDER ANTHONY INSURANCE AGENCY LLC**  
**537 WEST 600 SOUTH, SUITE 300**  
**SALT LAKE CITY, UT 84107**

DATE PRINTED **7/31/2009**

Authorized Representative

(801)521-4412

Policy is issued to the Named Insured as a participating member of The Real Estate Purchasing Group Inc which is a purchasing group established pursuant to the Liability Risk Retention Act of 1986, as amended.

ASPRE001 DEC 0509

MONTHLY



**REAL ESTATE BROKERS AND AGENTS  
ERRORS AND OMISSIONS LIABILITY POLICY**

**THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.**

POLICY # LBW521009

EFFECTIVE DATE: 7/1/2009

EXPIRATION DATE: 7/1/2010

**PER TRANSACTION PREMIUM REPORTING**

It is agreed the **Insured** shall report and pay for all real estate transactions (closings) in which an **Insured** participates as a listing broker, selling broker, or both listing and selling broker during the **Policy Period**. A transaction report must be submitted for each month listing all transactions which closed between the first and last day of month.

The transaction report and online payment can only be completed on the [report.easyeo.com](http://report.easyeo.com) website. No other report or payment options are available to the **Insured**.

The minimum due for this policy shall be twelve (12) transactions per **Policy Period**. The minimum amount due per month shall be one (1) transaction payment. We must receive each month's transaction report, premium and fees by the 7<sup>th</sup> day of the following month.

**IMPORTANT NOTICE:** All transactions (closings) must be reported. The Company has the right to verify reporting and payment for all transactions prior to establishing coverage for any claim reported. If the **Insured** failed to report any transaction when due this policy will be void for all purposes for any claim.



## REAL ESTATE BROKERS AND AGENTS ERRORS AND OMISSIONS LIABILITY POLICY

**THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.**

POLICY # LBW521009

EFFECTIVE DATE: 7/1/2009

EXPIRATION DATE: 7/1/2010

### TERRORISM AND WAR EXCLUSION

It is agreed the policy is amended as follows:

- 1- Section III. EXCLUSIONS is amended to include the following exclusion:

The Company will not defend or pay **damages** and/or **claim expenses** under this policy for any **claim** alleging, arising out of, based upon or attributable to:

- 1- Any act of war, including undeclared or civil war; or
- 2- Any warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- 3- Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these; or
- 4- **Terrorism**, including any action taken in hindering or defending against an actual or expected incident of **terrorism**.

regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage.

In the event of any incident of **terrorism** that is not subject to the **Terrorism** Exclusion, coverage does not apply to any loss or damage that is otherwise excluded.

Multiple incidents of **terrorism** which occur within a seventy-two hour period and appear to be carried out in connection or to have a related purpose or common leadership shall be considered one incident.

- 2- Section IV. DEFINITIONS, is amended to include the following definition:

**Terrorism** means activities against persons, organizations or property of any nature:

- 1- That involve the following or preparation for the following:
  - a. Use of threat of force or violence; or
  - b. Commission or threat of a dangerous act; or
  - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
- 2- When one or both of the following applies:
  - a. The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
  - b. It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.



**REAL ESTATE BROKERS AND AGENTS  
ERRORS AND OMISSIONS LIABILITY POLICY**

**THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.**

POLICY # LBW521009

EFFECTIVE DATE: 7/1/2009

EXPIRATION DATE: 7/1/2010

**ENVIRONMENTAL HAZARDS – RESIDENTIAL PROPERTY**

It is agreed the policy is amended as follows:

1- Section III. EXCLUSIONS, Paragraph 5. is deleted and replaced with the following:

5. Any **claim** based upon or arising out of any loss, cost or expense arising out of any:

- 1- failure to detect, test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of or advise of the existence of **pollutants**, lead, silica, waste or **asbestos**; or
- 2- **claim** by or on behalf of a governmental authority for amounts because of **pollutants**, lead, silica, waste or **asbestos**; or
- 3- request, demand or order that an 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**, lead, silica, waste or **asbestos**.

In addition, the Company will not defend or pay **damages** and/or **claim expenses** under this policy for any **claim** based upon or arising out of any loss, cost or expense which would not have happened in whole or in part had there been no **pollutants**, lead, silica, waste or **asbestos** at any time.

In addition, the Company will not defend or pay **damages** and/or **claim expenses** under this policy for any **claim** based on or arising out of the failure to detect, report or advise the existence of **pollutants**, lead, silica, waste or **asbestos** which is a result of an intentional act by a third party.

However, notwithstanding the foregoing, in respect of **residential property** sales, the Company shall pay **damages** and/or **claim expenses** resulting from a **claim** arising out of the failure of a test conducted, prior to the transfer of title of the property, and at the Insured's written request, by a properly licensed and certified contractor to detect the existence of **pollutants** in excess of the maximum allowable levels set forth in the applicable state law or regulation. Coverage shall be limited to the failure to detect those **pollutants** for which a test is specifically conducted to detect the existence of such **pollutants**. The Company's obligation to pay such **damages** and **claim expenses** resulting from any **claim** arising out of the failure to detect, report or advise the existence of **pollutants** shall not exceed the amount stated in the declarations for "EACH CLAIM".



## REAL ESTATE BROKERS AND AGENTS ERRORS AND OMISSIONS LIABILITY POLICY

THIS IS A CLAIMS MADE AND REPORTED POLICY AND ONLY APPLIES TO THOSE CLAIMS FIRST MADE AGAINST THE INSURED WHILE THIS POLICY IS IN FORCE. NO COVERAGE EXISTS FOR CLAIMS FIRST MADE AGAINST YOU BEFORE THE BEGINNING OR AFTER THE END OF THE POLICY PERIOD UNLESS, AND TO THE EXTENT, AN EXTENSION OF COVERAGE APPLIES.

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM SPECIFIED IN THE DECLARATIONS AND IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND SUBJECT TO ALL OF THE TERMS AND CONDITIONS OF THIS POLICY, **ASPEN SPECIALTY INSURANCE COMPANY**, HEREINAFTER REFERRED TO AS "THE COMPANY", HEREBY AGREES TO PROVIDE ERRORS AND OMISSIONS LIABILITY INSURANCE AS FOLLOWS:

### I. COVERAGE AGREEMENTS

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- A. The Company will pay for **damages** up to the applicable limit of liability, which the **Insured** becomes legally obligated to pay, which result from a **claim** first made to the **Insured** and reported in writing to the Company during the **policy period**. The **damages** must arise out of a negligent act, error, omission or **personal injury** in the performance of **professional services** on behalf of the **Named Insured**. This insurance does not cover a **claim** if before the **policy period** any **Insured** had knowledge of a **claim** or could have reasonably expected a **claim** would occur.
- B. This insurance does not cover any **claim** arising out of a negligent act, error, omission or **personal injury**, which occurred, in whole or in part, before the **retroactive date**.
- C. The Company has the right and duty to defend any **claim** against the **Insured** seeking **damages** to which this insurance applies even if the allegations of the **claim** are groundless, false or fraudulent. The Company has the right to investigate and settle any **claim**. The Company has the right to select legal counsel to defend the **Insured(s)**.
- D. The Company has the right to settle any **claim** within any deductible that applies; or the available limit of liability.
- E. The **Named Insured** may settle any **claim** to which this insurance applies provided the **Named Insured** does so on behalf of all **Insureds**, and without incurring **damages** and **claim expenses** in excess of the applicable deductible. The Company shall be relieved of any duty to defend and/or pay **damages** or **claim expenses** for that **claim** or **related claims**.
- F. The Company's payment of the limit of liability ends their duty to defend **claims**, pay **damages** or **claim expenses**.
- G. The Company has no duty to defend any **claim** not covered by this policy.

### II. LIMITS OF LIABILITY

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- A. LIMITS OF LIABILITY - The declarations page lists the Company's Limits of Liability. Regardless of the number of **claims**, the number of persons or entities included within the definition of **Insured**, or the number of claimants who make a **claim** against the **Insured**:



- 1- The amount stated as **EACH CLAIM** in the declarations shall be the maximum limit of liability of the Company for all **damages** resulting from each **claim** or **related claims** made against the Insured, which amount shall be part of and not in addition to the **AGGREGATE** amount stated in the declarations. **Claim expenses** are in addition to the above limit of liability.
- 2- The amount stated as **AGGREGATE** in the declarations shall be the maximum aggregate limit of liability of the Company for all **damages** resulting from **claims** under this policy. **Claim expenses** are in addition to the above limit of liability.
- 3- The **DISCRIMINATION** limit of liability amount stated in the declarations is the maximum limit of liability of the Company for all **damages** and/or **claim expenses** resulting from **discrimination claims** or **related claims** made against the **Insured**, which amount shall be part of and not in addition to the **AGGREGATE** amount stated in the declarations.

**B. DEDUCTIBLE** - The declarations page lists the deductible for each **claim**. The deductible shall be reduced by 50%, but not to exceed a maximum reduction of \$10,000 for each claim, provided all of the following conditions are satisfied:

- 1- A **seller disclosure form**, signed by the seller, is provided to the buyer and acknowledged by the buyer prior to closing.
- 2- A home warranty was purchased prior to or at closing.
- 3- A professional third party home inspection report was obtained prior to the closing from a licensed contractor or home inspector with **ASHI** or **CREIA** credentials.

The deductible applies only to the payment of **damages**. The Company shall pay only that part of **damages** which are in excess of the deductible for each **claim**, subject to the limit of liability under this policy. The **Insured** agrees to pay the Company the deductible amount as soon as notified of any settlement or judgment. If the **Insured** fails to pay the deductible on any specific **claim** this policy will be void for all purposes for that **claim**.

If a **claim** arises out of the **Insured** acting on behalf of both the seller and the buyer then the deductible will apply to both **damages** and **claim expenses**.

**C. REIMBURSEMENT** - While the Company has no duty to do so, if the Company pays **damages** and/or **claim expenses**:

- 1- Within the amount of the applicable deductible; or
- 2- In excess of the applicable limit of liability; or
- 3- Under a reservation of rights to which the Company seeks reimbursement and it is determined that the Company is entitled to reimbursement; the **Insured's** shall jointly and severally be liable to the Company for any and all such amounts and upon demand shall pay such amounts to the Company. Should collection become necessary, it is agreed the **Insured**, shall be responsible for all costs of collection including attorney fees and interest to the full amount allowed by law.

**D. SUPPLEMENTARY PAYMENTS** - In addition to the limits of liability the Company will pay only the following: (Assuming the **claim** is covered and all other terms and conditions are in compliance).



- 1- Premiums on appeal bonds. Premiums on bonds to release attachments. Premiums are limited to bonds no larger than the Company's remaining limit of liability. Applying for or obtaining the bond is not the Company's obligation.
  - 2- Upon written request by an **Insured** during the pendency of the matter involving a trial or arbitration, \$250 for loss of earnings to each individual **Insured** for each day or pro-rata for part of a day of such **Insured's** attendance at the Company's request at a trial or arbitration proceeding involving a civil suit against such **Insured** for covered **damages**, but the amount payable for any one or series of trial or arbitration proceedings arising out of the same act, error, omission or **personal injury** shall in no event exceed \$5,000. In no event shall the total amount payable hereunder exceed \$10,000 per policy period.
  - 3- Up to \$5,000 to the **Insured**, with the Company's prior written consent, for attorney fees resulting from the investigation or defense of a proceeding before a real estate licensing board, incurred as a result of a notice of proceeding both first received by the **Insured** and reported to the Company during the **policy period**, arising out of an act, error, omission or **personal injury** in the rendering of **Professional Services** by the **Insured** after the retroactive date. The Company has the right to select legal counsel to defend the **Insured(s)**. In no event shall the amount payable hereunder exceed \$5,000 per proceeding and \$10,000 per policy period regardless of the number of **Insured(s)** or the number of such proceedings.
- E. The inclusion of one or more **Insured(s)** shall not operate to increase the limit of liability.

### III. EXCLUSIONS

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The Company will not defend or pay **damages** and/or **claim expenses** under this policy for:

- A. Any **claim** based upon or arising out of any fraudulent, dishonest, criminal, intentional, willful or malicious act, omission or **personal injury**, or deliberate misrepresentation committed by, Intended by, expected by, at the direction of, or with the knowledge of any **Insured**.
- B. Any **claim** based upon or arising out of any actual or alleged violations of state or federal anti-trust, price fixing, restraint of trade or deceptive trade practice laws, rules or regulations.
- C. Any **claim** based upon or arising out of any wrongful termination of employment, breach of an employment contract, employment **discrimination** or harassment.
- D. Any **claim** based upon or arising out of any direct, consequential or vicarious **bodily injury** to any person, resulting from any cause. This includes, but is not limited to any **claim** for loss, expense, damage or loss of value resulting from a death on, in or near a property.
- E. Any **claim** based upon or arising out of the destruction of or physical injury to or loss of tangible property, including all resulting loss of use thereof, however, this exclusion does not apply to claims for property damage or loss of use based upon or arising out of the professional activities of the **Insured** as a real estate broker or real estate agent in the distribution, maintenance, operation or use of a lock box on **residential property** not owned by or occupied by or managed by or leased to an **Insured**.
- F. Any **claim** based upon or arising out of **personal injury** based on publications or utterances in the course of or related to advertising, broadcasting or telecasting activities conducted by or on behalf of the **Named Insured**.



**G. Any claim based upon or arising out of the purchase of property by, or the sale, leasing, appraisal, or property management of property owned by:**

- 1- Any **Insured**;
- 2- Any entity in which any **Insured** has or had a financial interest or a contemplated financial interest;
- 3- Any entity which has or had a financial interest or a contemplated financial interest in an **Insured**; or
- 4- Any entity which is or was under the same financial control as the **Named Insured**;

However, this exclusion will not apply to any claim based on or arising out of:

- a. The sale of **residential property** by an **Insured**, provided the **Insured** is the owner of such **residential property** and each of the following conditions are met in connection with such sale:
  - (i.) A property disclosure, an ownership interest disclosure and an agency representation disclosure was completed and signed by the **Insured** and acknowledged in writing by the buyer prior to closing; and
  - (ii.) An accredited home inspection report was issued by a third party home inspector prior to closing; and
  - (iii.) The **Insured** is not the buyer's agent; and
  - (iv.) A current state or local board approved standard sales contract was utilized and signed by buyer prior to closing.

For each claim involving coverage provided in G.4.a. above the deductible stated in the declarations applies to the payment of **damages** and/or **claim expenses**. The Company shall pay only that part of **damages** and/or **claim expenses** in excess of the deductible, subject to the limit of liability.

- b. The sale of an **Insured's residential property** by another **Insured** who is not the owner of such **residential property**, provided that the **residential property** owner was not the selling, listing or closing agent; or
- c. The sale of real property owned by an **Insured**, provided each of the following conditions are met:
  - (i.) the property was acquired by the **Insured** under a written **guaranteed sale listing contract**; and
  - (ii.) from the date of acquisition to the date of resale the title to the property was held by the **Insured** for less than 365 days and the property was continually offered for sale by the **Insured**.
- d. The sale or leasing of real property, other than **residential property**, in which the combined ownership interest of all **Insured(s)** was less than 20% at the time of sale or lease.
- e. The management of real property in which the combined legal or beneficial interest of all **Insured(s)** is less than 50% at the time property management services were performed.



- H. Any **claim** based upon or arising out of the purchase of property by, or the sale, leasing, appraisal, or property management of property developed or constructed by:
- 1- Any **Insured**;
  - 2- Any entity in which any **Insured** has or had a financial interest or a contemplated financial interest;
  - 3- Any entity which has or had a financial interest or a contemplated financial interest in an **Insured**; or
  - 4- Any entity which is or was under the same financial control as the **Named Insured**;
- I. Any **claim** based upon or arising out of any obligations for which an **Insured** or any carrier acting as his insurer may be liable under any workers' compensation, unemployment compensation, disability or pension benefits law, or any similar laws; including but not limited to, the Employee Retirement Income Security Act of 1974 (ERISA) or any of its amendments.
- J. Any **claim** based upon or arising out of any actual or alleged violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or any state "blue sky" securities law, or any similar state or federal statutes, including any rules or regulations promulgated thereto.
- K. Any **claim** based upon or arising out of the failure by an **Insured** to acquire, maintain or amend adequate levels or types of insurance or bonds.
- L. Any **claim** based upon, arising out of or in connection with services provided by an **Insured** as a contractor, construction advisor, property developer, mortgage banker, mortgage broker, business broker or escrow agent.
- M. Any **claim** based upon or arising out of the operation, management or ownership of any business not named in the declarations.
- N. Any **claim** based upon or arising out of the formation, operation, administration or syndication of a corporation, real estate investment trust, limited or general partnerships, joint venture or similar investments.
- O. Any **claim** brought by or on behalf of an investor, shareholder or partner in any corporation, limited or general partnership, real estate investment trust or venture in which it is alleged the **Insured** has or had a participating interest, directly or indirectly, in the profits or losses thereof.
- P. Any **claim** based upon or arising out of any liability assumed by an **Insured** under any contract or agreement, except that this exclusion shall not apply to liability the **Insured** would have in the absence of such contract or agreement.
- Q. Any **claim** based upon or arising out of any of the following:
- 1- The theft, stealing, embezzlement, misappropriation, conversion, commingling or defalcation of funds, monies, negotiable instruments, securities, property of any kind, or assets of any kind.
  - 2- The gain of any personal profit, commission or advantage to which the **Insured** is not legally entitled.



- 3- The inability or failure to collect, disperse or safeguard funds held for others.
  - 4- The failure to collect or pay, including but not limited to, commissions, finder's fees, insurance premiums, deposits, escrow or tax money.
- R.** Any **claim** based upon or arising out of any loss, cost or expense; under any circumstances, due to contamination, nuclear reaction, radiation, including but not limited to radon, regardless of cause.
- S.** Any **claim** based upon or arising out of any loss, cost or expense arising out of any:
- 1- failure to detect, report, test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, assess the effects of or advise of the existence of **pollutants, lead, silica, waste or asbestos**; or
  - 2- **claim** by or on behalf of a governmental authority for amounts because of **pollutants, lead, silica, waste or asbestos**; or
  - 3- request, demand or order that an **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, lead, silica, waste or asbestos**.

In addition, the Company will not defend or pay **damages and/or claim expenses** under this policy for any **claim** based upon or arising out of any loss, cost or expense which would not have happened in whole or in part had there been no **pollutants, lead, silica, waste or asbestos** at any time.

In addition, the Company will not defend or pay **damages and/or claim expenses** under this policy for any **claim** based on or arising out of the failure to detect, report or advise the existence of **pollutants, lead, silica, waste or asbestos** which is a result of an intentional act by a third party.

- T.** Any **claim** based upon or arising out of any **Insured** against any other **Insured** unless such **claim** arises solely out of **professional services** rendered in a broker-client capacity.
- U.** Any **claim** based upon or arising out of any notarized certification or acknowledgement of a signature without attestation and the physical appearance of the person who is or professes to be the person signing said instrument before the **Insured**.
- V.** Any **claim** based upon or arising out of any representations, warranties, promises, or guarantees as to the performance or valuation of property.
- W.** Any **claim** based upon or arising out of disputes with another real estate agent or broker including but not limited to disputes concerning commissions, fees or client lists.
- X.** Any **claim** based upon or arising out of the actual or alleged misappropriation of ideas, information or materials, including patent, trademark, and copyright infringement; improper gaining or misuse of confidential or proprietary information, trade secrets; interference with actual prospective business relationships, contracts or contractual relationships; or unfair competition.
- Y.** Any **claim** based upon, arising out of, attributable to, or in any way connected to, directly or indirectly, **fungus**.



## IV. DEFINITIONS

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**Asbestos** shall include but is not limited to: asbestos or other mineral wools; asbestos or mineral wool products, fibers, or dust; asbestos or other mineral wools contained in products or minerals.

**Bodily Injury** means physical or mental harm, mental anguish, emotional distress, humiliation, sickness, or disease sustained by a person, including death resulting from any of these at any time. This also includes, but is not limited to, all effects of sexual acts, including rape, sexual molestation, non-consensual sex, or sexual assault.

**Claim** means a demand received by an **Insured** for money, and alleges a negligent act, error, omission or **personal injury** in the rendering of or failure to render the **Insured's professional services** and that written notice of such demand has been given to the Company during the **policy period**.

**Claim Expense** shall mean and consist of:

- 1- All fees, costs and expenses incurred by or at the direction of the Company in the investigation, adjustment, defense or appeal of any **claim** or proceeding to which this insurance applies; provided, however, fees, costs and expenses shall not include the cost of investigation and adjustment of **claims** by salaried employees of the Company or independent adjusters incurred by or at the direction of the Company in the defense of any **claim** to which this insurance applies.
- 2- All reasonable expenses, other than loss of earnings, incurred by the **Insured** at the Company's request.

All **claim expenses** must be incurred by the Company, or with the Company's prior written consent.

**Damages** means monetary judgments, monetary settlements or monetary awards, which an **Insured** is legally obligated to pay for any **claim** to which this insurance applies. However, **damages** shall not include:

- 1- Punitive or exemplary damages, fines or penalties, sanctions, or that portion of any award or judgment caused by the trebling or multiplication of actual damages under federal or state law.
- 2- Sums which are deemed uninsurable under the law of the state of jurisdiction in which the **claim** is brought.

**Discrimination** means any act of unfair treatment, steering, or unfair denial of service that is based on a persons' age, race, sex, sexual preference, famillal status, nationality, religion, physical ability or health.

**Fungus** means any:

- 1- Airborne particles, microorganisms (living or dead), microbes, fragments, mycotoxins, toxins, allergens, or particulate waste products generated by living organisms;
- 2- Fungi, including mold or mildew, any mycotoxins, toxins allergens, spores, scents, vapors, gases of by-products produced or released by fungi; or
- 3- Solid, semi-solid or liquid irritants or contaminants, including biologic or etiologic agents or materials, or any infectious bioaerosols, solids or gases.



**Guaranteed Sale Listing Contract** means a written agreement between an **Insured** and the seller of a property, in which the **Insured** agrees to purchase the property if it is not sold under the listing agreement in the time frame specified by the agreement.

**Insured** means:

- 1- **The Named Insured.**
- 2- Any of the following, while acting on behalf of the **Named Insured** with respect to **professional services** provided by the **Named Insured**:
  - a. Employees of the **Named Insured**.
  - b. Independent contractors of the **Named Insured**.
  - c. Any person who was or is an officer, member, director, or stockholder of the **Named Insured**.
  - d. Any personal assistant of any real estate agent insured under this policy.
- 3- **Named Insured** heirs, executors, administrators and assigns; but only in the event of death, incapacity or bankruptcy of the **Named Insured**.
- 4- Any real estate franchise corporation of which the **Named Insured** is a franchisee, but only when named in a lawsuit due to an act, error, omission or **personal injury** committed by the **Named Insured** in the performance of **professional services** and not due wholly or in part to any independent negligence, act, error, omission, **personal injury**, or bad faith by or on behalf of any real estate franchise corporation.

**Named Insured** means the person or organization named on the declarations of this policy.

**Non-Residential Property** means all real property not defined as **Residential Property**. However, **Non-Residential Property** shall not include personal property.

**Personal Injury** means injury sustained by any person or organization caused by or arising out of the following offenses actually or allegedly committed by an **Insured**.

- 1- False arrest, detention or imprisonment or malicious prosecution;
- 2- The wrongful entry or eviction of the right of private occupancy;
- 3- The publication or utterance of a libel or slander or other defamatory or disparaging material, or a publication or utterance in violation of an individual's right of privacy.

**Personal injury** does not include **bodily injury**.

**Policy Period** means the policy period on the declarations page of the policy.

**Pollutants** means any solid, liquid, gaseous, radioactive or thermal irritant, contaminant or toxin, including but not limited to, smoke, vapor, soot, fumes, acids, alkalis, chemicals, metals and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed. The definition of **pollutants** does not include mold, fungus, lead, silica, or asbestos.



**Professional Services** means those services performed in the conduct of the real estate sales business of the **Named Insured** and rendered in the **Insured's** capacity as:

1- One of the following real estate professionals:

- a- Real Estate broker;
- b- Real Estate agent;
- c- Real estate consultant or real estate counselor;
- d- Real estate appraiser;
- e- Real estate auctioneer;
- f- Real estate leasing agent; or,
- g- Real estate property manager.

However, this policy shall be excess over any coverage provided under a general liability policy or a comprehensive general liability policy with respect to **professional services** as a real estate property manager.

- 2- Member of a formal real estate accreditation, standards review or similar real estate board or committee.
- 3- Notary public, while acting on behalf of the **Named Insured**.
- 4- **Professional services** do not include home inspection or work inspecting buildings or real estate for **pollutants**.

**Related Claims** means collectively all **claims** arising out of the same or related negligent acts, errors or omissions which are logically or causally connected by reason of any common fact, circumstance, situation, transaction, event or decision. **Related claims** shall be deemed to have first been made at the earliest of the following times:

- 1- At the time the earliest of the **related claims** was first made; or
- 2- At the earliest time at which notice was given under any policy of insurance or any act, error, omission, fact, circumstance, situation, transaction, event, or decision underlying any of the **related claims**.

**Residential Property** means:

- 1- A dwelling building consisting of between one (1) and four (4) units in which people have resided; or
- 2- A dwelling building consisting of between one (1) and four (4) units which is newly constructed for the purpose of being sold as a residence.

**Retroactive date** means the date shown on the declarations page as **retroactive date**.

**Seller disclosure form** means the most current version of the standard State real estate trade association transfer disclosure statement or a bank required transfer disclosure statement.



## V. CONDITIONS

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### A. TERRITORY

The United States of America, its territories or possessions.

### B. DUTIES OF THE FIRST NAMED INSURED ON THE DECLARATIONS

When there are more than one **Named Insured** on the declarations of this policy, the first **Named Insured**, on behalf of all others, will be:

- 1- Authorized to make changes in the terms of this policy with the Company's consent;
- 2- The payee of any premiums we refund;
- 3- Responsible for:
  - a. The payment of all premiums due;
  - b. Keeping records of the information the Company needs for premium computation and claim investigation, and sending the Company copies at such times as the Company may request; and
  - c. Notifying the Company that the **Named Insured** wants to cancel this policy.

### C. THE INSURED'S DUTY IF THERE IS A CLAIM

- 1- As a condition precedent to the right of insurance coverage afforded herein, the Insured shall:
  - a. **Insured** must give written notice to the Company of a potential **claim** or **claim** immediately after the **claim** is received by **Insured**. Such written notice shall name the **Named Insured** and shall include the time, place and details of the claim with as much specificity as practicable. Notice shall be delivered to:

Aspen Specialty Insurance Company  
C/O Specialty Claims Management LLC  
26471 Rancho Parkway South, Suite B  
Lake Forest, CA 92630

- b. The **Insured** shall immediately forward to the Company, c/o Specialty Claims Management LLC at the above address, every demand, notice, summons or other document or process received by the **Insured** or the **Insured's** representatives in the event a **claim** is brought against the **Insured**.
  - c. Cooperate with the Company by:
    - (i.) Meeting with representatives of the Company, submitting to their examination and interrogation, under oath if requested, and giving written statements to such representatives;
    - (ii.) Attending hearings, depositions and trials; and



(iii.) Assisting in effecting settlement, securing and giving evidence, and obtaining the attendance of witnesses in the conduct of suits.

- 2- The **Insured** shall further cooperate with the Company and do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which the **Insured** may have.
- 3- The **Insured** shall not demand or agree to arbitration or mediation of any **claim** made against the **Insured** without the written consent of the Company. The **Insured** shall not admit any liability, pay any **damages** or assume any duty on any **claim** without the prior written consent of the Company. The **Insured** will not incur any **claim expenses** including, but not limited to, attorney's fees or any other expense on any **claim** without the prior written consent of the Company. If the **Insured** fails to obtain the written consent of the Company this policy shall be void for all purposes, as to that **claim**.

**D. NOTICE OF CIRCUMSTANCES**

If, during the **policy period**, the Company is given written notice, by an **Insured**, of any act, error, omission or **personal injury** which could reasonably be expected to give rise to a **claim** against the **Insured** under this policy, any **claim** which subsequently arises out of such act, error, omission or **personal injury** shall be considered to be a **claim** first made during the **policy period** in which the written notice was received, provided that the **Insured** gives notice of the circumstance immediately consistent with the notice provisions of this policy, by specifying, to the greatest extent possible, the name(s) of the potential claimants, the property and interests involved, and the date and nature of the act, error, omission or **personal injury**.

**E. PREMIUM**

All premium charges under this policy will be computed according to the Company's rules, rates, and rating plans, premiums and minimum premiums applicable to this insurance.

**F. INSPECTION**

The Company may audit the **Insured's** records for claim investigation or to determine the proper premium. The Company will give reasonable notice to the **Insured** of such an audit. The audit will take place during the **Insured's** regular business hours. The audit may take place during the **policy period** and up to three (3) years afterwards. If an audit results in additional premium owed the Company, the Company has earned the premium.

**G. SUBROGATION**

If the Company makes a payment under this policy, the Company shall receive all of the **Insured's** rights of recovery against any persons or organizations. The **Insured** shall help the Company in whatever way is necessary to secure these rights. After the loss occurs, the **Insured** will do nothing, which would make it difficult for the Company to recover money the Company paid to other parties who might be responsible for the loss.

**H. CHANGES**

Notice to any agent or representative, or knowledge possessed by an agent, representative or any other person shall not effect a waiver or change in any part of this policy or prevent the Company from asserting any rights under the provisions of this policy; nor shall the terms of this



policy be waived, changed or modified except by written endorsements issued to form a part of this policy.

**I. ACTION AGAINST THE COMPANY**

The **Insured** may not bring a lawsuit against the Company until the **Insured** has complied with the terms and conditions of this policy. Nor shall an action lie against the Company until judgment or trial determines the **Insured's** responsibility to pay. This policy does not give any right to any person or organization to join the Company as a co-defendant in any action against the **Insured**.

Bankruptcy or insolvency of the **Insured** or the **Insured's** estate does not relieve the Company of any of its duties.

**J. CANCELLATION**

The first **Named Insured** may cancel this policy at any time. To cancel this policy the first **Named Insured** must return the policy to the Company or its authorized representatives; or by mailing written notice to the Company. The effective date of cancellation will not precede the date on which the Company receives the policy or written notice.

The Company may cancel this policy by giving written notice to the first **Named Insured**. The Company will provide at least ten (10) days notice when cancelled for non-payment of premium, and at least thirty (30) days notice when cancelled for any other reason.

Notice of cancellation, whether initiated by the first **Named Insured** or the Company, will state the effective date of cancellation. The policy will end at 12:01 a.m. on that date. If notice is mailed, whether by ordinary mail, electronic mail or by certified mail, proof of mailing will be sufficient proof of notice.

If the policy is cancelled by the first **Named Insured**, return premiums, if applicable, will be calculated using standard short rate tables and procedures. If the policy is cancelled by the Company, return premiums, if applicable, will be calculated pro-rata. The cancellation will be effective even if the Company has not made or offered a refund.

**K. NON-RENEWAL**

1- The Company may elect to non-renew this policy by giving written notice to the first **Named Insured** on the declarations, at the **Insured's** known address, at least 60 days before the expiration date. Any change in the premium, deductible, limit of liability, coverage, conditions or terms of this policy shall not be deemed a refusal to renew this policy.

2- If the Company does not comply with the terms as set forth in 1. above, the policy will terminate:

a. Upon the expiration date if:

- i. The **Named Insured** fails to perform any obligation in connection with the payment of premium for the policy on the renewal of the policy or any installment payment whether payable directly to the Company or an authorized representative or indirectly to an agent, broker or under any premium finance plan or extension of credit.
- ii. The **Named Insured** notifies the Company or the Company's authorized representative of their intent not to renew this policy.



III. The **Named Insured** fails to submit a fully completed, signed application and any other underwriting information required by the Company.

- b. On the effective date of any other insurance policy issued as replacement for any insurance afforded by this policy with respect to insurance to which both policies apply.
- c. If notice is mailed, either by ordinary mail, electronic mail or by certified mail, proof of mailing will be sufficient proof of notice

L. CONFORMITY TO STATUTES

If applicable law is in conflict with this policy, the policy is amended to conform to that law.

M. OTHER INSURANCE

This insurance is excess over any other valid and collectable insurance, whether primary, excess, contingent or self-insurance, which may apply to a claim covered by this policy. When this insurance is excess, the Company shall have no duty under this policy to defend any claim that any other insurer has a duty to defend.

N. TRANSFER

The first **Named Insured** shall notify the Company of any of the following changes prior to the effective date of the change:

- 1- Merger, consolidation or amalgamation involving any **Named Insured**;
- 2- Acquisition or sale including any **Named Insured**;
- 3- Any material change in any **Named Insured's** operations; and
- 4- The assumption or purchase by any **Named Insured** of an entire, or substantially entire, book of business from another entity.

There shall be no coverage under this policy for any newly created entity, newly acquired or sold entity, or for any book of business purchased until that entity or business has been specifically accepted for coverage by written endorsement issued to form a part of this policy.

O. CONCEALMENT, MISREPRESENTATION, FRAUD

This policy is void in the event of:

- 1- Any case of fraud by a **Named Insured** or any other **Insured** that relates to it; and
- 2- There is a concealment or misrepresentation of a material fact or a circumstance concerning this policy which, if known prior to the inception date of the policy, would have caused the Company not to issue the policy, or issue the policy at a different premium.

P. EXTENDED REPORTING PERIOD

If this policy is cancelled or non-renewed for any reason other than fraud, material misrepresentation, failure to cooperate with the Company, or nonpayment of premium or



deductible, the **Named Insured** may purchase an extended reporting period. The extended reporting period shall extend the period in which an **Insured** may report a claim first made against an **Insured**, after the date of expiration or cancellation of this policy, for any actual or alleged act, error or omission, or **personal injury** commissioned after the **retroactive date** and prior to the date of expiration or cancellation and otherwise covered under this policy.

To exercise this right, the **Named Insured** must send written notice of the intention to purchase and pay the additional premium to the Company prior to the date of expiration or cancellation of this policy.

The appropriate additional premium and corresponding extended reporting period shall be:

- 1- A one (1) year extended reporting period for 100% of the expiring premium.
- 2- A two (2) year extended reporting period for 150% of the expiring premium.
- 3- A three (3) year extended reporting period for 200% of the expiring premium.

The Company's limits of liability during the extended reporting period shall be the remaining limits of liability stated in the declarations under the cancelled or non-renewed policy. The premium for the extended reporting period will be deemed fully earned and cannot be cancelled or renewed.

**Q. AUTHORIZATION CLAUSE**

By accepting this policy, the **Named Insured(s) and Insured(s)** agree that the statements in the application are the **Named Insured's and Insured's** agreements and representations. Also, the **Named Insured(s) and Insured(s)** agree that these statements are true and correct as of the inception of this policy. The policy has been issued relying upon those statements and representations.

The **Named Insured(s) and Insured(s)** agree that the policy and application are the total agreement between the **Named Insured(s) and Insured(s)** and the Company or its authorized representatives.

In witness whereof, this Company has caused this policy to be signed by its President, but if required by state law, this policy shall not be valid unless countersigned by an authorized representative of the Company.

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President



### **APPLICABLE IN CALIFORNIA**

For your protection California law requires the following to appear on this form: Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison. 1871.2

False representations made on the signed claim form by the insured arising from the theft of an insured vehicle will subject the insured to a penalty of perjury. 1871.3

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material misrepresentation for the purpose of obtaining or denying workers compensation benefits or payments is guilty of a felony. 5401.7



## **PRIVACY NOTICE**

Privacy is important to us. We understand that consumers really care about their privacy and want it to be protected. We are committed to safeguarding nonpublic personal information we collect about our consumers.

We treat personal information carefully and take steps to assure that it remains private. We allow only authorized employees to have access to personal information. We maintain physical, electronic and procedural security protections to safeguard the information in our records.

In order to conveniently and effectively provide and service the insurance products we sell, we may collect and use personal information from consumers on their applications or other forms; from our transactions with consumers, such as payment and claims history; and from third parties, such as credit reports and claims history.

Except as required or permitted by law, we do not share personal information outside our company without obtaining the consumer's permission.

Keeping consumer information accurate and up to date is important to us. Consumers may see and request correction of personal information about them in our files, or contact us with questions about our privacy policy by writing to:

**Peter Savas**  
**Alexander Anthony Insurance Agency LLC**  
**537 West 600 South, Suite 300**  
**Salt Lake City, UT 84101**

**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. CALIFORNIA MAINTAINS A LIST OF ELIGIBLE SURPLUS LINE INSURERS APPROVED BY THE INSURANCE COMMISSIONER. 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).**
- 5. FOR ADDITIONAL INFORMATION ABOUT THE 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 TELEPHONE NUMBER: 1-800-927-4357.**
- 6. 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.**