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\*Unless Your Policy Requires **Written** Notice or Reporting

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## **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE POLICY**

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### **A Custom Insurance Policy Prepared for:**

GSDM HOLDINGS, CORP. ; GSDM  
HOLDINGS, INC.; GARDEN STATE DENTAL MA  
66 ROUTE 17, NORTH  
PARAMUS NJ 07652


This policy consists of this policy cover, the Policy Declarations and the Policy Forms, and endorsements listed in that declaration form.

In return for payment of the premium, we agree with the Named Insured to provide the insurance afforded by this policy. That insurance will be provided by the company indicated as insuring company in the Declarations by the abbreviation of its name.

One of the companies listed below (each a stock company) has executed this policy, but it is valid only if counter-signed on the Declarations by our authorized representative.

The Travelers Indemnity Company (IND)  
Travelers Property Casualty Company of America (TIL)  
The Travelers Indemnity Company of Connecticut (TCT)

  
Secretary

  
President



One Tower Square, Hartford, Connecticut 06183

**POLICY DECLARATIONS  
COMMERCIAL EXCESS LIABILITY  
(UMBRELLA) INSURANCE POLICY**

**POLICY NO.:** CUP-3C800947-13-42-  
**ISSUE DATE:** 10/31/2013

**INSURING COMPANY:**  
THE TRAVELERS INDEMNITY COMPANY

**1. NAMED INSURED AND MAILING ADDRESS:**

GSDM HOLDINGS, CORP. ; GSDM  
AND AS PER CG D0 74  
66 ROUTE 17, NORTH  
PARAMUS NJ 07652

THIS POLICY DOES NOT  
COVER LIABILITY  
ARISING OUT OF  
ASBESTOS MATERIAL  
SEE ENDORSEMENT  
UM 01 96 07 96

**2. THE NAMED INSURED IS A:**

☒ CORPORATION ☐ SOLE PROPRIETOR ☐ PARTNERSHIP OR JOINT VENTURE ☐ OTHER

**3. POLICY PERIOD:** From 10/31/2013 to 10/31/2014 12:01 A.M. Standard Time at your mailing address.

**4. PREMIUM:** \* \$ 3,545 ☒ Flat Charge ☐ Adjustable (See premium schedule)  
\* DIRECT BILL # INCLUDES NJGF SURCHARGE

**5. LIMITS OF INSURANCE:**

COVERAGES		LIMITS OF LIABILITY
AGGREGATE LIMITS OF LIABILITY	5,000,000	Products/Completed Operations Aggregate
	5,000,000	General Aggregate
COVERAGE A - Bodily Injury and Property Damage Liability	5,000,000	any one occurrence subject to the Products/Completed Operations and the General Aggregate Limits
COVERAGE B - Personal and Advertising Injury Liability	5,000,000	any one person or organization subject to the General Aggregate Limit of Liability
RETAINED LIMIT	5,000	any one occurrence or offense

**6. SCHEDULE OF UNDERLYING INSURANCE:**

POLICY	LIMITS (000 omitted)	COVERAGE	COMPANY
SEE ENDORSEMENT CG D0 23 04 96			

7. On the effective date shown in Item 3, the Commercial Excess Liability (Umbrella) Insurance Policy numbered above includes this Declarations Page and the Policy Jacket (Form UM 00 76 which contains the Nuclear Energy Liability Exclusion) and any endorsements listed hereafter:

SEE END. IL T8 01 01 01

**NAME AND ADDRESS OF AGENT OR BROKER:**

LOCKTON COMPANIES LLC  
444 W 47TH ST STE 900

54274

KANSAS CITY

MO 64112-1906

**COUNTERSIGNED BY:**

\_\_\_\_\_  
Authorized Representative

DATE: \_\_\_\_\_

CG T0 14 04 96

OFFICE: KANSAS CITY MO

POLICY NUMBER: CUP-3C800947-13-42-

COMMERCIAL GENERAL LIABILITY

ISSUE DATE: 10/31/2013

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

## **NAMED INSURED**

This endorsement modifies insurance provided under the following:

**COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

Item 1 of the Declarations is amended as follows:

**The Named Insured is amended to read**

**GSDM HOLDINGS, CORP. ; GSDM  
HOLDINGS, INC.; GARDEN STATE DENTAL MANAGEMENT LLC F/K/A GSDM ASSOCIATES LLC**

POLICY NUMBER: CUP-3C800947-13-42-

EFFECTIVE DATE: 10/31/2013

ISSUE DATE: 10/31/2013

LISTING OF FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS

THIS LISTING SHOWS THE NUMBER OF FORMS, SCHEDULES AND ENDORSEMENTS  
BY LINE OF BUSINESS

CG T0 14 04 96	POLICY DECLARATIONS COMMERCIAL EXCESS LIABILITY
	UMBRELLA
CG D0 74 04 93	NAMED INSURED
IL T8 01 01 01	FORMS ENDORSEMENTS AND SCHEDULE NUMBERS

UMBRELLA / EXCESS

CG D0 23 04 96	SCHEDULE OF UNDERLYING INSURANCE
UM 00 01 11 03	COMMERCIAL EXCESS LIABILITY UMBRELLA INSURANCE
UM 03 45 02 00	AUTO LIABILITY - FOLLOWING FORM
UM 03 81 01 08	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
UM 03 92 11 03	EMPLOYERS LIABILITY - FOLLOWING FORM
UM 04 75 07 08	AMENDMENT OF DEFENSE OF CLAIMS OR SUITS
UM 04 77 07 08	AMENDMENT OF DUTIES IN THE EVENT OF OCCURRENCE OR OFFENSE CLAIM
UM 04 88 07 08	WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS
UM 05 11 02 09	AMENDMENT OF COVERAGE B - PERSONAL INJURY AND ADVERTISING INJURY LIABILITY
UM 06 03 11 10	CRISIS MANAGEMENT SERVICES EXPENSES
UM 06 23 11 11	AMENDMENT OF SPOUSE - PARTY TO A CIVIL UNION
UM 00 94 08 86	AMENDMENT OF COVERAGE - NAMED INSURED
UM 03 37 01 99	REASONABLE FORCE - BODILY INJURY OR PROPERTY DAMAGE
UM 00 76 01 86	NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENTBROAD FORM
UM 01 91 01 02	WAR EXCLUSION
UM 01 96 07 96	EXCLUSION - ASBESTOS
UM 02 13 11 03	EXCLUSION - LIQUOR LEGAL LIABILITY - EXCEPTION FOR SCHEDULED ACTIVITIES
UM 04 15 10 11	EXCLUSION - UNSOLICITED COMMUNICATIONS
UM 04 22 04 09	PROFESSIONAL SERVICES EXCLUSION - SERVICES FURNISHED BY HEALTH CARE PROVIDERS
UM 04 84 07 08	AMENDMENT OF WATERCRAFT OR AIRCRAFT EXCLUSION
UM 06 09 10 11	EXCLUSION - VIOLATION OF CONSUMER FINANCIAL PROTECTION LAWS
UM 01 34 11 03	NJ MANDATORY ENDORSEMENT
UM 03 98 11 11	AMENDMENT OF COVERAGE - PROPERTY DAMAGE

INTERLINE ENDORSEMENTS

IL T3 68 05 10	FEDERAL TERRORISM RISK INSURANCE ACT DISCLOSURE
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POLICY NUMBER: CVP-3C800947-13-42-

ISSUE DATE: 10/31/2013

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

## **SCHEDULE OF UNDERLYING INSURANCE**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

Item 6 of the Declarations to include:

<b>POLICY</b>	<b>LIMITS (000 OMITTED)</b>	<b>COVERAGE</b>	<b>COMPANY</b>
UB-3C783762-13	1,000	EACH ACCIDENT	EMPLOYER'S LIABILITY COF
	1,000	AGGREGATE EMPLOYEE DISEASE	
	1,000	EACH EMPLOYEE DISEASE	
680-003C77596A-13	1,000	EACH EMPLOYEE	EMPLOYEE BENEFITS TIA
	2,000	AGGREGATE	LIABILITY
BA-3C801575-13	1,000	EACH OCCURRENCE	AUTO LIABILITY ACJ
680-003C77596A-13	1,000	EACH OCCURRENCE	GENERAL LIABILITY TIA
	2,000	PROD/COMP OPS AGG	
	2,000	GENERAL AGGREGATE	

"(If you have any employee exposure in the State of New York, the Employers Liability Limits are applicable only to bodily injury to your "non-subject employees" as defined under Rule VIII - Limits of Liability, A.2., of the WC/EL Manual of the State of New York)"

# COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this insurance the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under **SECTION II – WHO IS AN INSURED**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION V – DEFINITIONS**.

## SECTION I – COVERAGES

**COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.**

### 1. INSURING AGREEMENT.

- a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "applicable underlying limit" which the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies.

This insurance applies to "bodily injury" or "property damage" only if:

- (i) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place anywhere in the world;
- (ii) The "bodily injury" or "property damage" occurs during the policy period;
- (iii) Prior to the policy period, no insured listed under Paragraph 1. of **SECTION II – WHO IS AN INSURED** and no employee authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized employee knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

This insurance applies to "personal injury" or "advertising injury" caused by an "offense" committed during the policy period, anywhere in the world.

- b. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
- c. "Property damage" that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the "occurrence" that caused it.
- d. The amount we will pay for damages is limited as described in **SECTION III – LIMITS OF INSURANCE**.

The following provisions apply only with respect to Parts **1.a.(i)**, **(ii)** and **(iii)** above:

1. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of **Section II – Who Is An Insured** or any employee authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
2. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of **SECTION II – WHO IS AN INSURED** or any employee authorized by you to give or receive notice of an "occurrence" or claim:
  - (a) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

- (b) Receives a written or verbal demand or claim for damages because of "bodily injury" or "property damage"; or
- (c) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

## 2. DEFENSE OF CLAIMS OR SUITS.

- a. We will have no duty to defend any claim or "suit" that any other insurer has a duty to defend. If we elect to join in the defense of such claims or "suits", we will pay all expenses we incur.
- b. We will have the right and duty to defend any "suit" for damages which are payable under Coverages **A** or **B** (including damages wholly or partly within the "retained limit") but which are not payable by a policy of "underlying insurance", or any other available insurance, because:
  - (1) Such damages are not covered; or
  - (2) The "underlying insurance" has been exhausted by the payment of claims.
- c. We may investigate and settle any claim or "suit" in **b.** above at our discretion.
- d. Our right and duty in **b.** above end when we have used up the "applicable limit of insurance" in the payment of judgments or settlements.
- e. We will pay, with respect to any claim or "suit" we defend in **b.** above:
  - (1) All expenses we incur.
  - (2) The cost of appeal bonds and bonds to release attachments, but only for bond amounts within the "applicable limit of insurance". We do not have to furnish these bonds.
  - (3) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
  - (4) All costs taxed against the insured in the "suit".
  - (5) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have:
    - (a) paid, or offered to pay; or

- (b) deposited in court:

the part of the judgment that is within the "applicable limit of insurance".

- (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the "applicable limit of insurance", we will not pay any prejudgment interest based on that period of time after the offer.

These payments will not reduce the limits of insurance.

In any jurisdiction outside the United States of America (including its territories and possessions), Puerto Rico or Canada where we may be prevented by law or some other factor beyond our control from carrying out the agreements under **1. INSURING AGREEMENT** or **2. DEFENSE OF CLAIMS OR SUITS** above:

- a. You must arrange to investigate, defend or settle any claim or "suit".
- b. You will not make any settlement without our consent.
- c. We will pay expenses incurred with our consent.

## 3. EXCLUSIONS.

This insurance does not apply to:

### a. Expected or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

### b. "Advertising Injury" "Offenses"

#### (1) Breach of Contract

"Advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in the course of advertising your goods, products or services.

#### (2) Quality Or Performance Of Goods – Failure To Conform To Statements

"Advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in the course of advertising your goods, products or services.



**(3) Wrong Description Of Prices**

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in the course of advertising your products, goods or services.

**c. Employment-Related Practices**

"Bodily injury" or "personal injury" to:

1. A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
2. The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal injury" to that person at whom any of the employment-related practices described in paragraphs (a), (b) or (c) above is directed.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity; and, to any obligation to share damages with or repay someone else who must pay damages because of the injury.

**d. Contractual Liability**

"Bodily injury", "property damage", "personal injury" or "advertising injury" for which the insured assumed liability under a contract or agreement. This exclusion does not apply to "bodily injury", "property damage", "personal injury" or "advertising injury" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, applies or would apply but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

**e. Workers Compensation And Similar Laws**

Any obligation of the insured under a workers compensation, disability benefits or unem-

ployment compensation law or any similar law.

**f. Pollution**

"Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants", or any loss, cost, expense or damages resulting therefrom, but this exclusion does not apply to "bodily injury", "property damage", "personal injury" or "advertising injury" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, applies or would apply but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

**g. Watercraft Or Aircraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, operation, use, including loading or unloading, or entrustment to others of any watercraft or any aircraft.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) Liability assumed under any contract or agreement for the ownership, maintenance or use of a watercraft;
- (3) A watercraft over 50 feet in length which is chartered with crew by or on behalf of any insured;
- (4) A watercraft less than 50 feet long which you own; or
- (5) A watercraft less than 50 feet long which you do not own and is not being used to carry persons or property for a charge.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance,

use or entrustment to others of any watercraft or any aircraft that is owned or operated by or rented or loaned to any insured.

**h. "Personal Injury" Or "Advertising Injury" "Offenses"**

**(1) Knowing Violation Of Rights Of Another**

"Personal injury" or "advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal injury" or "advertising injury".

**(2) Material Published With Knowledge Of Falsity**

"Personal injury" or "advertising injury" arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity.

**(3) Material Published Prior To Policy Period**

"Personal injury" or "advertising injury" arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period. All "personal injury" or "advertising injury" arising out of publication of the same or similar material subsequent to the beginning of the policy period is also excluded.

**(4) Criminal Acts**

"Personal injury" or "advertising injury" arising out of a criminal act committed by or at the direction of the insured.

**(5) Contractual Liability**

"Personal injury" or "advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to "personal injury" or "advertising injury" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, applies or would apply but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of

"underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

**(6) Insureds In Media And Internet Type Businesses**

"Personal injury" or "advertising injury" committed by an insured whose business is:

- (1)** Advertising, broadcasting, publishing or telecasting;
- (2)** Designing or determining content of websites for others; or
- (3)** An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** of the "personal injury" definition in **SECTION V – DEFINITIONS**.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

**(7) Electronic Chatrooms Or Bulletin Boards**

"Personal injury" or "advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

**(8) Unauthorized Use Of Another's Name Or Product**

"Personal injury" or "advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

**i. Damage To Property**

"Property damage" to:

- (1)** Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**j. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**k. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**l. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**m. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**n. Uninsured Motorists, Underinsured Motorists, "Auto" No-Fault, Medical Expenses Benefits and Income Loss Benefits**

Any liability imposed on the insured, or the insured's insurer, under any of the following laws:

- (1) Uninsured Motorists;
- (2) Underinsured Motorists;
- (3) "Auto" No-Fault Laws or other first party personal injury laws; or
- (4) Medical Expense Benefits and Income Loss Benefits Laws of any applicable state or jurisdiction.

**o. Liquor Legal Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

This exclusion does not apply to "bodily injury" or "property damage" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, applies or would apply but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

## SECTION II – WHO IS AN INSURED.

### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

- a. As respects the "auto hazard":
  - (1) Anyone using an "auto" you own, hire or borrow including any person or organization legally responsible for such use provided it is with your permission; and
  - (2) Any of your executive officers, directors, partners, employees or stockholders, operating an "auto" you do not own, hire or

borrow while it is being used in your business.

None of the following is an insured under (1) or (2) above:

- (a) Any person employed by or engaged in the duties of an auto sales agency, repair shop, service station, storage garage or public parking place that you do not operate;
  - (b) The owner or lessee of any "auto" hired by or for you or loaned to you, and any agent or employee of such owner or lessee.
- b. Except as respects the "auto hazard":
    - (1) Your executive officers, employees, directors or stockholders while acting within the scope of their duties; and
    - (2) Any person or organization while acting as real estate manager for you.
  - c. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will be deemed to be a Named Insured. However, coverage does not apply to:
    - (1) "Bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
    - (2) "Personal injury" or "advertising injury" arising out of an "offense" committed before you acquired or formed the organization.
  - d. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.
  - e. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.
  - f. Any other person or organization insured under any policy of the "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance for whom you have agreed in a written contract executed prior to loss to provide insurance. This insurance is subject to all

the limitations upon coverage under such policy of "underlying insurance", and, the limits of insurance afforded to such person or organization will be:

- (i) The difference between the "underlying insurance" limits and the minimum limits of insurance which you agreed to provide; or
- (ii) The limits of insurance of this policy whichever is less.

If the minimum limits of insurance you agreed to provide such person or organization in a written contract are wholly within the "underlying insurance", this policy shall not apply.

No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

No person is an insured as respects "bodily injury" to a fellow employee unless insurance for such liability is afforded by the "underlying insurance".

### SECTION III – LIMITS OF INSURANCE.

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of injury and damage included in the "products-completed operations hazard".
3. The General Aggregate Limit is the most we will pay for damages under Coverage A and Coverage B, except:
  - a. Damages because of injury and damage included in the "products-completed operations hazard"; and
  - b. Damages because of injury and damage included in the "auto hazard".
4. Subject to 3. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and all "advertising injury" sustained by any one person or organization.

Non cumulation of Personal and Advertising Injury Limit – If "personal injury" and/or "advertising injury" is sustained by any one person or organization during the policy period and during the policy period of one or more prior and/or future policies that include a **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE** policy for the insured issued by us or any affiliated insurance company, the amount we will pay is limited. This policy's Personal and Advertising Injury Limit will be reduced by the amount of each payment made by us and any affiliated insurance company under the other policies because of such "personal injury" and/or "advertising injury".

5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of damages under Coverage A because of all "bodily injury" and "property damage" arising out of any one "occurrence".

Non cumulation of Each Occurrence Limit – If one "occurrence" causes "bodily injury" and/or "property damage" during the policy period and during the policy period of one or more prior and/or future policies that include a **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE** policy for the insured issued by us or any affiliated insurance company, the amount we will pay is limited. This policy's Each Occurrence Limit will be reduced by the amount of each payment made by us and any affiliated insurance company under the other policies because of such "occurrence".

To determine the limit of our liability, all "bodily injury" and "property damage" arising out of continuous or repeated exposure to the same general conditions shall be considered one "occurrence".

The limits of this insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months. The policy period begins with the effective date shown in the Declarations. If the policy period is extended after issuance for an additional period of less than 12 months, the additional period will be deemed part of the last preceding period.

### SECTION IV – CONDITIONS.

1. **APPEALS.**
  - a. If the insured or the insured's "underlying insurer" elects not to appeal a judgment which exceeds the "applicable underlying limit", we may do so.
  - b. If we do, we will pay all costs of the appeal. We will also pay all costs on appeals related

to the defense of the insured as provided in **SECTION 1, 2. DEFENSE OF CLAIMS OR SUITS**. These sums are in addition to the "applicable limit of insurance". In no event shall our liability for "ultimate net loss" exceed the "applicable limit of insurance".

## 2. BANKRUPTCY.

- a. Bankruptcy or insolvency of the insured or the insured's estate will not relieve us of our obligations under this insurance.
- b. Bankruptcy or insolvency of the "underlying insurer" will not relieve us of our obligations under this insurance.

However, this insurance will not replace the "underlying insurance" in event of bankruptcy or insolvency of the "underlying insurer". This insurance will apply as if the "underlying insurance" were in full effect.

## 3. CANCELLATION.

- a. You may cancel this insurance by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this insurance by mailing or delivering to you written notice of cancellation at least:
  - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail or deliver our notice to your last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If this insurance is cancelled, we will send you any premium refund due. If we cancel, the refund will be pro rata. If you cancel, the refund will be pro rata less 10% of the pro rata unearned premium. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

## 4. CHANGES.

This contract contains all the agreements between you and us concerning the insurance afforded. No change can be made in the terms of

this insurance except with our consent. The terms of this insurance can be amended or waived only by endorsement issued by us and made a part of this insurance.

## 5. DUTIES IN THE EVENT OF OCCURRENCE OR OFFENSE, CLAIM OR SUIT.

- a. You must see to it that we are notified promptly of an "occurrence" or an "offense" which may result in a claim under this insurance. Notice should include:
  - (1) How, when and where the "occurrence" or "offense" took place; and
  - (2) The names and addresses of any injured persons and witnesses.
- b. If a claim is made or "suit" is brought against any insured which may result in a claim against this insurance, you must see to it that we receive prompt written notice of the claim or "suit".
- c. The insured must:
  - (1) Cooperate with the "underlying insurers";
  - (2) Comply with the terms of the "underlying insurance"; and
  - (3) Pursue all rights of contribution or indemnity against any person or organization who may be liable to the insured because of "bodily injury", "property damage", "personal injury" or "advertising injury" with respect to which insurance is provided under this or any policy of "underlying insurance".
- d. When we believe that a claim may exceed the "underlying insurance", we may join with the insured and the "underlying insurer" in the investigation, settlement and defense of all claims and "suits" in connection with such "occurrence" or "offense". In such event, the insured must cooperate with us.

## 6. EXAMINATION OF YOUR BOOKS AND RECORDS.

We may examine and audit your books and records as they relate to this insurance:

- a. At any time during the policy period;
- b. Up to three years afterward; or
- c. Within one year after final settlement of all claims under this insurance.

## 7. INSPECTIONS AND SURVEYS.

We have the right but are not obligated to:

- a. Make inspections and surveys at any time;
- b. Give you reports on the conditions we find; and
- c. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. We do not warrant that conditions are safe or healthful; or comply with laws, regulations, codes or standards.

#### **8. LEGAL ACTION AGAINST US.**

No person or organization has a right under this insurance:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this insurance unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured. We will not be liable for damages that are not payable under the terms of this insurance; or are in excess of the "applicable limit of insurance".

An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### **9. MAINTENANCE OF UNDERLYING INSURANCE.**

The insurance afforded by each policy in the schedule of "underlying insurance" in the Declarations will be maintained for the full term of this insurance. This provision does not apply to the reduction of the aggregate limit or limits due to payment of judgments or settlements for "bodily injury", "personal injury", "property damage" or "advertising injury". As these policies expire, you will renew them at limits at least equal to the expiring limits of insurance.

If you fail to comply with the above, this insurance is not invalidated. However, in the event of a loss, we will pay only to the extent that we would have paid had you so complied.

You must give us a written notice of any change in the "underlying insurance" as respects:

- a. Coverage;

- b. Limits of insurance;
- c. Termination of any coverage; or
- d. Exhaustion of aggregate limits.

#### **10. OTHER INSURANCE.**

This insurance is excess over any other valid and collectible insurance whether such other insurance is stated to be primary, contributing, excess, contingent or otherwise. This provision does not apply to a policy bought specifically to apply in excess of this insurance.

#### **11. OUR RIGHT TO RECOVER FROM OTHERS.**

If we make a payment under this insurance, the insured will assist us and the "underlying insurer" in recovering what we paid by using the insured's rights of recovery. Reimbursement will be made in the following order:

- a. First, to any interest (including the insured) who has paid any amount in excess of the limits of this insurance;
- b. Next to us; and
- c. Then to any interest (including the insured and the "underlying insurer") as are entitled to claim the remainder, if any.

A different order may apply if agreed upon by all interests. Expenses incurred in the process of recovery will be divided among all interests according to the ratio of their respective recoveries.

#### **12. PREMIUM.**

- a. You are responsible for the payment of all premiums and will be the payee for any return premiums.
- b. If the premium is a flat charge, it is not subject to adjustment except as provided in d. below.
- c. If the premium is other than a flat charge, it is an advance premium only. The earned premium will be computed at the end of each year in which this insurance is in force at the rate shown in the Declarations, subject to the Minimum Annual Premium.
- d. Additional premium may become payable when coverage is provided for additional insureds and named insureds under the provisions of **SECTION II – 2.c. and f.**

#### **13. PREMIUM AUDIT.**

- a. You must keep records of the information we need for premium computation, and send us copies at such times as we may request.

- b. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured.
- c. The due date for audit and retrospective premiums is the date as shown as the due date on the bill.
- d. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to you subject to the minimum premiums.

#### 14. REPRESENTATION.

By accepting this insurance, you agree:

- a. The statements in the Declarations and any subsequent notice relating to "underlying insurance" are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this insurance in reliance upon your representations.

#### 15. SEPARATION OF INSURED.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned to you in this insurance, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

#### 16. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS INSURANCE.

Your rights and duties under this insurance may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

#### 17. WHEN LOSS IS PAYABLE.

If we are liable under this insurance, we will pay for "ultimate net loss" after:

- a. (1) The insured's liability is established by court decision; or
- (2) There is a written agreement between the claimant, the insured, any "underlying insurer" and us; and

- b. The amount of the "applicable underlying limit" is paid by or on behalf of the insured.

We will pay all claims within thirty days provided all terms of this insurance are met.

The insured will reimburse us for any payment we make for damages which are within the "retained limit".

#### 18. TITLES OF PARAGRAPHS.

The titles of paragraphs of this policy and any endorsements attached to this policy are inserted solely for convenience of reference and are not to be deemed in any way to limit or affect the provisions to which they relate.

#### 19. CURRENCY

Loss payments and expense reimbursements will be in the same currency as the currency of the Limits of Insurance stated in the Declarations. At our sole option, we may agree to pay loss or reimburse expense under this policy in another currency. Any necessary currency conversion shall be calculated based on the rate of exchange published in the next Wall Street Journal subsequent to the date of judgment, settlement or agreement.

#### SECTION V – DEFINITIONS.

1. "Advertising injury" means injury arising out of one or more of the following "offenses":
  - a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services provided that claim is made or "suit" is brought by a person or organization that claims to have been slandered or libeled, or whose goods, products or services have allegedly been disparaged;
  - b. Oral or written publication of material that appropriates a person's likeness, unreasonably places a person in a false light or gives unreasonable publicity to a person's private life; or
  - c. Infringement of copyright, title or slogan, provided that claim is made or "suit" is brought by a person or organization claiming ownership of such copyright, title or slogan.

Such "offenses" must be committed in the course of advertising your goods or products.

2. "Applicable limit of insurance" means the maximum amount we will pay as damages in accordance with the applicable limit of insurance.

Such "offenses" must be committed in the course of advertising your goods or products.

2. "Applicable limit of insurance" means the maximum amount we will pay as damages in accordance with the applicable limit of insurance.



dance with **SECTION III – LIMITS OF INSURANCE.**

**3. "Applicable underlying limit" means:**

**a.** If the policies of "underlying insurance" apply to the "occurrence" or "offense", the greater of:

**(1)** The amount of insurance stated in the policies of "underlying insurance" in the Declarations or any other available insurance less the amount by which any aggregate limit so stated has been reduced solely due to payment of claims; or

**(2)** The "retained limit" shown in the Declarations; or

**b.** If the policies of "underlying insurance" do not apply to the "occurrence" or "offense", the amount stated in the Declarations as the "retained limit".

The limits of insurance in any policy of "underlying insurance" will apply even if:

**(i)** The "underlying insurer" claims the insured failed to comply with any condition of the policy; or

**(ii)** The "underlying insurer" becomes bankrupt or insolvent.

**4.** "Auto" means a land motor vehicle, trailer or semi-trailer.

**5.** "Auto hazard" means all "bodily injury" and "property damage" for which liability insurance is afforded under the terms, other than limits of insurance, of the auto policy of "underlying insurance".

**6.** "Bodily injury" means bodily injury, shock, fright, mental injury, disability, mental anguish, humiliation, sickness or disease sustained by a person, including death resulting from any of these at any time.

**7.** "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

**a.** It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

**b.** You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work"; or your fulfilling the terms of the contract or agreement.

**8.** "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

**9.** "Offense" means any of the offenses listed in the definition of "personal injury" or "advertising injury".

**10.** "Personal injury" means injury, other than "bodily injury", arising out of one or more of the following offenses:

**a.** False arrest, detention or imprisonment;

**b.** Malicious prosecution;

**c.** The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is performed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;

**d.** Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that claim is made or "suit" is brought by a person or organization that claims to have been slandered or libeled, or whose goods, products or services have allegedly been disparaged; or

**e.** Oral, written or electronic publication of material that appropriates a person's likeness, unreasonably places a person in a false light or gives unreasonable publicity to a person's private life.

Such "offenses" must arise out of the conduct of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you.

**11.** "Pollutants" means one or more solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

**12. a.** "Products-completed operations hazard" includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

**(1)** Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned.

b. "Your work" will be deemed completed at the earliest of the following times:

(1) When all of the work called for in your contract has been completed.

(2) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

c. "Products-completed operations hazard" does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the loading or unloading of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

13. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

"Property damage" does not include "electronic media and records".

As used in this definition, "electronic media and records" means:

(1) Electronic data processing, recording or storage media such as films, tapes, discs, drums or cells;

(2) Data stored on such media; or

(3) Programming records for electronic data processing or electronically controlled equipment.

14. "Retained limit" is the sum stated in the Declarations as such. If the policies of "underlying insurance" do not apply to the "occurrence" or "offense", the insured shall retain this amount as self insurance with respect to:

a. "Bodily injury" or "property damage" caused by each "occurrence"; or

b. "Personal injury" or "advertising injury" sustained by any one person or organization and caused by an "offense".

15. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding alleging such damages to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

16. "Ultimate net loss" means the sum actually paid or payable due to a claim for which the insured is liable either by a settlement to which we agreed or a final judgment. Such sum will include proper adjustments for recoveries and salvage.

17. "Underlying insurance" means the policies listed in the Schedule of Underlying Insurance and includes:

a. Any renewal or replacement of such policies; and

b. Any other insurance available to the insured.

18. "Underlying insurer" means any insurer which provides a policy listed in the Schedule of Underlying Insurance or any other insurance available to the insured.

19. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

- (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- b. Includes:
  - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
  - (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

**20. "Your work":**

- a. Means:
  - (1) Work or operations performed by you or on your behalf; and
  - (2) Materials, parts or equipment furnished in connection with such work or operations.
- b. Includes:
  - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
  - (2) The providing of or failure to provide warnings or instructions.

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

## **AUTO LIABILITY – FOLLOWING FORM**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

This insurance applies to "bodily injury" or "property damage" arising out of the:

- 1.** ownership;
- 2.** operation;
- 3.** maintenance;
- 4.** use;
- 5.** loading;
- 6.** unloading, or
- 7.** entrustment to others

of any "auto" that is owned, operated, maintained, used, operated or hired by, or rented or loaned to any insured within the "auto hazard", but, only if such "bodily injury" or "property damage" would be covered by "underlying insurance" shown in Item **6. SCHEDULE OF UNDERLYING INSURANCE** of the Declarations, or the renewal or replacement of such "underlying insurance" but for the exhaustion of the applicable limits of insurance of the "underlying insurance".

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

## **CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursu-

ant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

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

## **EMPLOYERS LIABILITY – FOLLOWING FORM**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS:**

A. The following exclusion is added to Paragraph 3. **EXCLUSIONS** of **SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY:**

#### **3. Exclusions**

This insurance does not apply to:

#### **Employers Liability**

"Bodily injury" to:

(1) An employee of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or

(2) The spouse, child, parent, brother or sister of that employee as a consequence of Paragraph (1) above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The PROVISION A. exclusion above does not apply if you have a policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, which provides coverage for such damages or would provide coverage for such damages but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

C. Only as respects the provisions of this endorsement, **SECTION V – DEFINITIONS** is amended as follows:

- 1. Parts **3.a.(1)**, **3.a.(2)** and **3.b.** of the definition of "Applicable underlying limit" are deleted; and
- 2. Part **17.b.** of the definition of "Underlying insurance" is deleted.

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

**AMENDMENT OF DEFENSE OF CLAIMS OR SUITS –  
REASONABLE EXPENSES INCURRED BY THE INSURED  
AT OUR REQUEST**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

The following replaces Paragraph e.(3) of Paragraph 2., **DEFENSE OF CLAIMS OR SUITS.**, of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

- (3) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

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

## **AMENDMENT OF DUTIES IN THE EVENT OF OCCURRENCE OR OFFENSE, CLAIM OR SUIT AND REPRESENTATION CONDITIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS**

#### **1. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE**

The following is added to Paragraph 5., **DUTIES IN THE EVENT OF OCCURRENCE OR OFFENSE, CLAIM OR SUIT.**, of **SECTION IV – CONDITIONS.**:

**e.** The following provisions apply to Paragraph **a.** above, but only for the purposes of the insurance provided under this policy to you or any insured listed in Paragraph 1. or 2. **a., b., d. or e.** of **SECTION II – WHO IS AN INSURED.**:

**(1)** Notice to us of such "occurrence" or "offense" must be given as soon as practicable only after the "occurrence" or "offense" is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your trustees who is an individual (if you are a trust), any of your executive officers or directors (if you are an organization other than a partnership, joint venture, limited liability company or trust) or any employee authorized by you to give notice of an "occurrence" or "offense".

**(2)** If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or "offense" must be given as soon as practicable only after the "occurrence" or "offense" is known by:

**(a)** Any individual who is:

**(i)** A partner or member of any partnership or joint venture;

**(ii)** A manager of any limited liability company;

**(iii)** A trustee of any trust; or

**(iv)** An executive officer or director of any other organization;

that is your partner, joint venture member, manager or trustee; or

**(b)** Any employee authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or "offense".

**(3)** Notice to us of such "occurrence" or "offense" will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or "offense" as soon as practicable after any of the persons described in Paragraphs **e. (1)** or **(2)** above discovers that the "occurrence" or "offense" may result in sums to which the insurance provided under this policy may apply.

However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph **e.** does not affect that requirement.



**2. UNINTENTIONAL OMISSION**

The following is added to Paragraph **14., REPRESENTATION.,** of **SECTION IV – CONDITIONS.:**

The unintentional omission of, or unintentional error in, any information provided by you which

we relied upon in issuing this insurance will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

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

## **WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

The following is added to Paragraph 11., **OUR RIGHT TO RECOVER FROM OTHERS.**, of **SECTION IV – CONDITIONS.**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" caused by an "occurrence" that takes place; or
- b. "Personal injury" or "advertising injury" caused by an "offense" that is committed;  
subsequent to the execution of the contract or agreement.

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

## **AMENDMENT OF COVERAGE B – PERSONAL INJURY AND ADVERTISING INJURY LIABILITY**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS**

1. The following replaces Exclusion **b.(1), Breach Of Contract**, in Paragraph 3. of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **(1) Breach Of Contract**

"Advertising injury" arising out of a breach of contract.

2. The following replaces Exclusion **b.(2), Quality Or Performance of Goods – Failure To Conform To Statements**, in Paragraph 3. of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **(2) Quality Or Performance Of Goods – Failure To Conform To Statements**

"Advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

3. The following replaces Exclusion **b.(3), Wrong Description Of Prices**, in Paragraph 3. of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **(3) Wrong Description Of Prices**

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

4. The following replaces Exclusion **h.(2), Material Published With Knowledge Of Falsity**, in Paragraph 3. of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **(2) Material Published With Knowledge Of Falsity**

"Personal injury" or "advertising injury" arising out of oral or written publication, including publication by electronic means, of material, if done by or at the direction of the insured with knowledge of its falsity.

5. The following replaces Exclusion **h.(3), Material Published Prior To Policy Period**, in Paragraph 3. of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **(3) Material Published Or Used Prior To Policy Period**

(a) "Personal injury" or "advertising injury" arising out of oral or written publication, including publication by electronic means, of material whose first publication took place before the beginning of the policy period; or

(b) "Advertising injury" arising out of infringement of copyright, "title" or "slogan" in your "advertisement" whose first infringement in your "advertisement" was committed before the beginning of the policy period.

6. The following replaces Exclusion **h.(6), Insureds In Media And Internet Type Businesses**, in Paragraph 3. of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **(6) Insureds In Media And Internet Type Businesses**

"Personal injury" or "advertising injury" arising out of an offense committed by an insured whose business is:

(a) Advertising, "broadcasting" or publishing;

- (b) Designing or determining content of web-sites for others; or
- (c) An Internet search, access, content or service provider.

This exclusion does not apply to Paragraphs **a.(1), (2) and (3)** of the definition of "personal injury".

For the purposes of this exclusion:

- (a) Creating and producing correspondence written in the conduct of your business, bulletins, financial or annual reports, or newsletters about your goods, products or services will not be considered the business of publishing; and
  - (b) The placing of frames, borders or links, or advertising, for you or others anywhere on the Internet will not, by itself, be considered the business of advertising, "broadcasting" or publishing.
7. The following is added to Paragraph **h.**, "**Personal Injury**" Or "**Advertising Injury**", "**Offenses**", in Paragraph 3., **EXCLUSIONS.**, of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.**:

**Intellectual Property**

"Personal injury" or "advertising injury" arising out of any actual or alleged infringement or violation of any of the following rights or laws, or any other "personal injury" or "advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation:

- (1) Copyright;
- (2) Patent;
- (3) Trade dress;
- (4) Trade name;
- (5) Trademark;
- (6) Trade secret; or
- (7) Other intellectual property rights or laws.

This exclusion does not apply to:

- (1) "Advertising injury" arising out of any actual or alleged infringement or violation of another's copyright, "title" or "slogan" in your "advertisement"; or
- (2) Any other "personal injury" or "advertising injury" alleged in any claim or "suit" that also alleges any such infringement or vio-

lation of another's copyright, "title" or "slogan" in your "advertisement".

8. The following replaces the definition of "advertising injury" in **SECTION V – DEFINITIONS.**:

"Advertising injury":

- a. Means injury, other than "personal injury", caused by one or more of the following offenses:

- (1) Oral or written publication, including publication by electronic means, of material in your "advertisement" that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged;
- (2) Oral or written publication, including publication by electronic means, of material in your "advertisement" that:
  - (a) Appropriates a person's name, voice, photograph or likeness;
  - (b) Unreasonably places a person in a false light; or
  - (c) Discloses information about a person's private life; or
- (3) Infringement of copyright, "title" or "slogan" in your "advertisement", provided that the claim is made or the "suit" is brought by a person or organization that claims ownership of such copyright, "title" or "slogan".

- b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph **a.** above.

9. The following replaces the definition of "personal injury" in **SECTION V – DEFINITIONS.**:

"Personal injury":

- a. Means injury, other than "advertising injury", caused by one or more of the following offenses arising out of your business:
  - (1) False arrest, detention or imprisonment;
  - (2) Malicious prosecution;

- (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is committed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;
- (4) Oral or written publication, including publication by electronic means, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged; or
- (5) Oral or written publication, including publication by electronic means, of material that:
  - (a) Appropriates a person's name, voice, photograph or likeness;
  - (b) Unreasonably places a person in a false light; or
  - (c) Discloses information about a person's private life.
- b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.

**10. The following is added to SECTION V – DEFINITIONS.:**

"Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of

attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

"Broadcasting" means transmitting any audio or visual material for any purpose:

- a. By radio or television; or
- b. In, by or with any other electronic means of communication, such as the Internet, if that material is part of:
  - (1) Radio or television programming being transmitted;
  - (2) Other entertainment, educational, instructional, music or news programming being transmitted; or
  - (3) Advertising transmitted with any of such programming.

"Slogan":

- a. Means a phrase that others use for the purpose of attracting attention in their advertising.
- b. Does not include a phrase used as, or in, the name of:
  - (1) Any person or organization, other than you; or
  - (2) Any business, or any of the premises, goods, products, services or work, of any person or organization, other than you.

"Title" means a name of a literary or artistic work.

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

## **CRISIS MANAGEMENT SERVICES EXPENSES**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS**

1. The following is added to **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **Crisis Management Service Expenses**

We will reimburse you, or pay on your behalf, "crisis management service expenses" incurred for a "crisis management event" that:

- (1) First commences during the policy period; and
- (2) You report to us by telephone within 24 hours after it first commences.

The amount we will pay for "crisis management service expenses" is limited as described in **SECTION III – LIMITS OF INSURANCE**. A "crisis management event" will be deemed to first commence at the time when any of your "designated executive officers" first becomes aware of any "occurrence" or "offense" resulting in such "crisis management event".

The "retained limit" does not apply to "crisis management service expenses".

Any payment of "crisis management service expenses" that we make under this policy will not be determinative of our obligations under this policy with respect to any claim or "suit" or create any duty to defend or indemnify any insured for any claim or "suit".

2. The following exclusion is added to Paragraph 3., **EXCLUSIONS.**, of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **Crisis Management Service Expenses For Newly Acquired, Controlled Or Formed Organizations**

"Crisis management service expenses" incurred for a "crisis management event" that involves any organization you newly acquire, control or form and that arises out of an "occurrence" that took

place, or an "offense" that was committed, before you acquired, controlled or formed such organization, even though your "designated executive officer" first becomes aware of such "occurrence" or "offense" after you acquired, controlled or formed such organization.

3. The following is added to **SECTION III – LIMITS OF INSURANCE.:**

The Crisis Management Service Expenses Aggregate Limit is \$50,000. The Crisis Management Service Expenses Aggregate Limit is the most we will pay for "crisis management service expenses" arising out of all "crisis management events". Payment of any "crisis management service expenses" is in addition to, and will not reduce, any other Limits of Insurance under this policy.

4. The following is added to Paragraph 5., **DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT.**, in **SECTION IV – CONDITIONS.:**

In addition to reporting a "crisis management event" to us by telephone within 24 hours after the "crisis management event" first commences, you must also provide written notice of such "crisis management event" to us as soon as practicable. Reporting and notice should include:

- a. How, when and where the "crisis management event" took place;
- b. The names and addresses of any injured persons and witnesses;
- c. The nature and location of any "bodily injury", "property damage", "personal injury" or "advertising injury" caused by the "occurrence" or "offense" out of which the "crisis management event" arises; and
- d. How the "crisis management event" has resulted, or may result, in damages, in excess of the "applicable underlying limit", because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies and has resulted, or may result, in significant adverse regional or national media coverage.

If we determine that the crisis no longer exists and we have notified you of such determination,

you must submit to us all "crisis management services expenses" within 180 days after the date of such notice. Expenses submitted after such 180-day period are not reimbursable.

**5. The following is added to SECTION V – DEFINITIONS.:**

"Crisis management event" means an event arising out of an "occurrence" or an "offense" that any of your "designated executive officers" reasonably determines has resulted, or may result, in:

- a. Damages, in excess of the "applicable underlying limit", because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies; and
- b. Significant adverse regional or national media coverage about you.

"Crisis management service expenses" means the reasonable and necessary expenses you incur, after a "crisis management event" first commences and before such event ends, to:

- a. Retain a public relations or crisis management consultant or firm; or
- b. Plan or implement your public relations campaign;

to mitigate the negative publicity generated from a "crisis management event".

A "crisis management event" will be deemed to end when we determine that the crisis no longer exists, or when the Crisis Management Service Expenses Limit has been exhausted, whichever is earlier.

"Designated executive officer" means:

- a. Chief Executive Officer;
- b. Chief Operating Officer;
- c. Chief Financial Officer;
- d. President;
- e. General Counsel;
- f. Any person acting in the same capacity as any position listed in Paragraph a. through e. above;
- g. Any of your lawfully elected or appointed officials, executive officers, directors, trustees or commissioners, or your risk manager or any leader of your risk management or other department that is responsible for insurance matters, if you are a public entity or a college or school; or
- h. Any of your lawfully elected or appointed officials, executive officers or directors, or your risk manager or any leader of your risk management or other department that is responsible for insurance matters, if you are an "Indian Tribe".

"Indian tribe" means a tribe, band, pueblo, village or community of American Indians, or Alaska Natives, that has been recognized as an Indian tribe by the government of:

- a. The United States of America; or
- b. Any state in the United States of America.

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

**AMENDMENT OF SPOUSE – PARTY TO A CIVIL UNION  
INCLUDED WHEN INCLUDED IN SCHEDULED  
UNDERLYING INSURANCE**

This endorsement modifies insurance provided under the following:

**COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

Wherever it appears throughout this policy, the term spouse is replaced by the following:

Spouse or a party to a civil union if such party is included in the term spouse in any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLY-

ING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, that would apply to the "bodily injury", "property damage", "personal injury" or "advertising injury" but for the exhaustion of its limits of liability.



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

## **AMENDMENT OF COVERAGE — NAMED INSURED**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

The second paragraph of this insurance is replaced by:

Throughout this insurance the words "you" and "your" refer to the Named Insured shown in the Declarations and any subsidiary thereof. The words "we", "us" and "our" refer to the Company providing this insurance.

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

## **REASONABLE FORCE — BODILY INJURY OR PROPERTY DAMAGE**

This endorsement modifies coverage under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS**

Exclusion 3.a. of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY (SECTION I — COVERAGES)** is deleted and replaced by the following:

(This insurance does not apply to:)

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

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

## **NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (BROAD FORM)**

This endorsement modifies insurance provided under the following:

### COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

**1. The insurance does not apply:**

**a. Under any Liability Coverage, to “bodily injury” or “property damage”:**

**(1)** With respect to which an “insured” under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, 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 Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the “insured” is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

**b. Under any Medical Payments coverage, to expenses incurred with respect to “bodily injury” resulting from the “hazardous properties” of “nuclear material” and arising out of the operation of a “nuclear facility” by any person or organization.**

**c. Under any Liability Coverage, to “bodily injury” or “property damage” resulting from the “hazardous properties” of “nuclear material”, if:**

**(1)** The “nuclear material” (a) is at any “nuclear facility” owned by, or operated by or on behalf of, an “insured” or (b) has been discharged or dispersed therefrom;

**(2)** The “nuclear material” is contained in “spent fuel” or “waste” at any time pos-

essed, handled, used, processed, stored, transported or disposed of by or on behalf of an “insured”; or

**(3)** The “bodily injury” or “property damage” 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 (3) applies only to “property damage” to such “nuclear facility” and any property thereat.

**2. As used in this endorsement:**

“Hazardous properties” include radioactive, toxic or explosive properties;

“Nuclear material” means “source material”, “Special nuclear material” or “by-product material”;

“Source material”, “special nuclear material”, and “by-product material” have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

“Spent fuel” means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a “nuclear reactor”;

“Waste” means any waste material (a) containing “by-product material” other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its “source material” content, and (b) resulting from the operation by any person or organization of any “nuclear facility” included under the first two paragraphs of the definition of “nuclear facility.”

“Nuclear facility” means:

**a.** Any “nuclear reactor”;

**b.** Any equipment or device designed or used for (1) separating the isotopes of uranium or pluto-

nium, (2) processing or utilizing "spent fuel," or (3) handling, processing or packaging "waste";

- c. Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

- d. Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property damage" includes all forms of radioactive contamination of property.

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

## **WAR EXCLUSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

The following exclusion is added to Paragraph 3., **EXCLUSIONS** of **SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY:**

#### **3. Exclusions**

This insurance does not apply to:

##### **War**

"Bodily injury", "property damage", "personal injury" or "advertising injury" arising, directly or indirectly, out of:

- (1)** War, including undeclared or civil war; or
- (2)** 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

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

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

## **EXCLUSION — ASBESTOS**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

This insurance does not apply to "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the injury or damage is caused or contributed to by the hazardous properties of asbestos. This includes:

- a.** Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above; and
- b.** Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage.

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

## **EXCLUSION – LIQUOR LEGAL LIABILITY – EXCEPTION FOR SCHEDULED ACTIVITIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **SCHEDULE**

#### **Description of Activity(ies)**

**ALL ACTIVITIES WHICH DO NOT GENERATE  
REVENUE TO ANY INSURED**

Exclusion **3.o. Liquor Legal Liability** of **SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY** is deleted and replaced by the following:

(This insurance does not apply to:)

#### **o. Liquor Legal Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- 1.** Causing or contributing to the intoxication of any person;
- 2.** The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- 3.** Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you:

- 1.** Manufacture, sell or distribute alcoholic beverages;
- 2.** Serve or furnish alcoholic beverages for a charge whether or not such activity:
  - (a)** Requires a license;
  - (b)** Is for the purpose of financial gain or livelihood, or
- 3.** Serve or furnish alcoholic beverages without a charge, if a license is required for such activity.

However, this exclusion does not apply to "bodily injury" or "property damage" arising out of the serving or furnishing of alcoholic beverages at the specific activity(ies) described above.

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

## **EXCLUSION – UNSOLICITED COMMUNICATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS**

1. The following exclusion is added to Paragraph 3., **EXCLUSIONS.**, of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

#### **Unsolicited Communication**

"Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of any ac-

tual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

2. The following is added to **SECTION V – DEFINITIONS:**

"Unsolicited communication" means any communication, in any form, that the recipient of such communication did not specifically request to receive.



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

## **PROFESSIONAL SERVICES EXCLUSION – SERVICES FURNISHED BY HEALTH CARE PROVIDERS**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS**

1. The following exclusion is added to Paragraph 3., **EXCLUSIONS** of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**; and **COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY**:

#### **Professional Health Care Services**

This insurance does not apply to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of providing or failing to provide "professional health care services".

2. The following is added to the **DEFINITIONS** Section:

"Professional health care services" includes:

- a. Any medical, surgical, dental, laboratory, x-ray or nursing services, treatment, advice or instruction, or the related furnishing of food or beverages;

- b. The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances;
- c. The handling or treatment of corpses, including autopsies, organ donations and other postmortem procedures;
- d. Any health or therapeutic service, treatment, advice or instruction;
- e. Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- f. Any psychiatric, psychological or emotional counseling service, treatment, advice or instruction; and
- g. The service by any person as a member of a formal accreditation, standards review, peer review or equivalent professional board or committee or member of any professional organization or committee.

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

## **AMENDMENT OF WATERCRAFT OR AIRCRAFT EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

The following replaces Exclusion **g.**, **Watercraft Or Aircraft**, in **Paragraph 3.** of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.:**

**g. Watercraft Or Aircraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any watercraft or aircraft owned or operated by or rented or loaned to any insured. Use includes operation and loading or unloading. Loading or unloading means the handling of property:

- (1) After it is moved from the place where it is accepted for movement into or onto a watercraft or an aircraft;
- (2) While it is in or on a watercraft or an aircraft; or
- (3) While it is being moved from a watercraft or an aircraft to the place where it is finally delivered;

but loading or unloading does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the watercraft or aircraft.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any watercraft or aircraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to "bodily injury" or "property damage" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, would apply but for the exhaustion of its limits of liability.

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

## **EXCLUSION – VIOLATION OF CONSUMER FINANCIAL PROTECTION LAWS**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS**

1. The following exclusion is added to Paragraph 3., **EXCLUSIONS.**, of **SECTION I – COVERAGES – COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.**:

#### **Violation Of Consumer Financial Protection Laws**

"Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of any actual or alleged violation of a "consumer financial protection law", or any other "bodily injury", "property damage", "personal injury" or "advertising injury" alleged in any claim or "suit" that also alleges any such violation.

2. The following is added to **SECTION V – DEFINITIONS**:

"Consumer financial identity information" means any of the following information for a person that is used or collected for the purpose of serving as a factor in establishing such person's eligibility for

personal credit, insurance or employment, or for the purpose of conducting a business transaction:

- a. Part or all of the account number, the expiration date or the balance of any credit, debit, bank or other financial account.
- b. Information bearing on a person's credit worthiness, credit standing or credit capacity.
- c. Social security number.
- d. Drivers license number.
- e. Birth date.

"Consumer financial protection law" means:

- a. The Fair Credit Reporting Act (FCRA) and any of its amendments, including the Fair and Accurate Credit Transactions Act (FACTA);
- b. California's Song-Beverly Credit Card Act and any of its amendments; or
- c. Any other law or regulation that restricts or prohibits the collection, dissemination, transmission, distribution or use of "consumer financial identity information".

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

## **NEW JERSEY MANDATORY ENDORSEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

### **PROVISIONS:**

- A.** Pursuant to New Jersey law, this policy cannot be cancelled or nonrenewed for any underwriting reason or guideline which is arbitrary, capricious or unfairly discriminatory or without adequate prior notice to the insured. The underwriting reasons or guidelines that an insurer can use to cancel or nonrenew this policy are maintained by the insurer in writing and will be furnished to the insured and/or the insured's lawful representative upon written request.

This provision shall not apply to any policy which has been in effect for less than 60 days at the time notice of cancellation is mailed or delivered, unless the policy is a renewal policy.

- B. SECTION IV – CONDITIONS, Part 3.b. of the CANCELLATION** Condition is deleted and replaced by the following:

- b. 1)** If this insurance has been in effect for less than 60 days, we may cancel this insurance at any time by mailing to you and any person entitled to notice under this insurance written notice of cancellation at least:

- (a)** 10 days before the effective date of cancellation if the insurance is cancelled for:

**(i)** Nonpayment of premium; or

**(ii)** Existence of a moral hazard, as defined in N.J.A.C. 11:1-20.2 (f) as follows:

**"(a)** The risk, danger or probability that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. Any change in the circumstances of an insured that will increase the probability of such a destruction may be considered a "moral hazard"; and

**(b)** The substantial risk, danger or probability that the character, circumstances or personal habits of the insured may increase the possibility of loss or liability for which an insurer will be held responsible. Any change in the character or circumstances of an individual, corporation, partnership or other insured that will increase the probability of such loss or liability may be considered a "moral hazard"."

**(b)** 30 days before the effective date of cancellation for any other reason.

- (2)** If this insurance has been in effect for 60 days or more, or is a renewal of insurance we issued, this insurance may be cancelled by us only for one or more of the following reasons:

**(a)** Nonpayment of premium;

**(b)** Existence of a moral hazard, as defined in N.J.A.C 11:1-20.1 (f);

**(c)** Material misrepresentation or nondisclosure to us of a material fact at the time of acceptance of the risk;

**(d)** Increased hazard or material change in the risk assumed which we could not have reasonably contemplated at the time of assumption of the risk;

**(e)** Substantial breaches of contractual duties, conditions or warranties that materially affect the nature and/or insurability of the risk;

**(f)** Lack of cooperation from you on loss control matters materially affecting insurability of the risk;

**(g)** Fraudulent acts against us by you or your representative that materially affect the nature of the risk insured;

- (h) Loss of or reduction in available insurance capacity;
- (i) Material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance or any subsequent renewal;
- (j) Loss of or substantial changes in applicable reinsurance;
- (k) Failure by you to comply with any Federal, State or local fire, health, safety or building or construction regulation, law or ordinance with respect to an insured risk which substantially increases any hazard insured against within 60 days of written notification of a violation of any such law, regulation or ordinance;
- (l) Failure by you to provide reasonable and necessary underwriting information to us upon written request therefor and a reasonable opportunity to respond;
- (m) Agency termination, provided:
  - (i) We document that replacement coverage at comparable rates and terms has been provided to you, and we have informed you, in writing, of the right to continue coverage with us; or
  - (ii) We have informed you, in writing, of the right to continue coverage with us and that you have agreed, in writing, to the cancellation or nonrenewal based on the termination of your appointed agent.
- (3) If this insurance is cancelled by us based on reason **b.(1)(a)(ii)** or **(2)(b)** above, we shall mail a written notice of cancellation, stating the reason for cancellation, to you and any person entitled to notice under this insurance at least 10 days before the effective date of cancellation. For cancellation due to the nonpayment of premium, the notice shall state the effect of nonpayment by the due date. Cancellation for nonpayment of premium shall not be effective if payment of

the amount due is made prior to the effective date set forth in the notice. If this insurance is cancelled for any other reason listed above, we shall mail a written notice of cancellation, stating the reason for cancellation to you and any person entitled to notice under this insurance, not more than 120 days nor less than 30 days before the effective date of such cancellation.

- (4) The notice of cancellation shall be sent:
  - (i) By certified mail; or
  - (ii) By first class mail, if we have obtained from the post office a date stamped proof of mailing showing names and addresses.
- (5) We are not required to provide notice of cancellation if you have:
  - (i) Replaced coverage elsewhere; or
  - (ii) Specifically requested termination.
- C. The following Condition is added to **SECTION IV – CONDITIONS** and supersedes any other provision to the contrary:
 

**WHEN WE DO NOT RENEW**

  - (a) We may elect not to renew this insurance for any reason permitted to cancel it. If we elect not to renew this insurance, we shall mail a notice of nonrenewal, stating the reasons for nonrenewal, to you at least 30 days but not more than 120 days before the expiration date of this insurance. If this insurance does not have a fixed expiration date, it shall be deemed to expire annually on the anniversary of its inception.
  - (b) This notice will be sent to you at the last mailing address known to us by:
    - (i) Certified mail; or
    - (ii) First class mail, if we have obtained from the post office a date stamped proof of mailing showing your name and address.
  - (c) We need not mail or deliver this notice if you have:
    - (i) Replaced coverage elsewhere; or
    - (ii) Specifically requested termination.

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

## **AMENDMENT OF COVERAGE – PROPERTY DAMAGE**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

The following replaces the definition of "property damage" in **SECTION V – DEFINITIONS**:

**13. "Property damage" means:**

- a.** Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b.** Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

"Property damage" does not include loss of or damage to "electronic media and records".

As used in this definition, "electronic media and records" means:

- (1)** Electronic data processing, recording or storage media such as films, tapes, discs, drums or cells;
- (2)** Data stored on such media; or
- (3)** Programming records for electronic data processing or electronically controlled equipment.

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

## **FEDERAL TERRORISM RISK INSURANCE ACT DISCLOSURE**

This endorsement applies to the insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CYBERFIRST LIABILITY COVERAGE  
ELECTRONIC MANUFACTURERS AND COMPUTER SERVICES ERRORS AND OMISSIONS  
LIABILITY COVERAGE FORM  
EMPLOYEE BENEFITS LIABILITY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
ENVIRONMENTAL HAZARD POLICY  
EXCESS (FOLLOWING FORM) LIABILITY INSURANCE  
LAW ENFORCEMENT LIABILITY COVERAGE PART  
LIMITED ABOVE GROUND POLLUTION LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
MEDFIRST PRODUCTS/COMPLETED OPERATIONS, ERRORS AND OMISSIONS, AND  
INFORMATION SECURITY LIABILITY COVERAGE FORM  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PUBLIC ENTITY MANAGEMENT LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
SELF-INSURED EXCESS COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
SELF-INSURED EXCESS LIQUOR LIABILITY COVERAGE FORM  
SELF-INSURED EXCESS EMPLOYEE BENEFITS LIABILITY COVERAGE FORM  
SELF-INSURED EXCESS PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM  
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY – NEW YORK DEPARTMENT OF  
TRANSPORTATION  
TRIBAL BUSINESS MANAGEMENT LIABILITY COVERAGE

### **PROVISIONS**

On December 26, 2007, the President of the United States signed into law amendments to the Terrorism Risk Insurance Act of 2002 (the "Act"), which, among other things, extend the Act and expand its scope. The Act establishes a program under which the Federal Government may partially reimburse "Insured Losses" (as defined in the Act) caused by "acts of terrorism". An "act of terrorism" is defined in Section 102(l) of the Act to mean any act that is certified by the Secretary of the Treasury – in concurrence with the Secretary of State and the Attorney General of the United States – to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States Mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

The Federal Government's share of compensation for Insured Losses is 85% of the amount of Insured Losses in excess of each Insurer's statutorily established deductible, subject to the "Program Trigger", (as defined in the Act). In no event, however, will the federal government or any Insurer be required to pay any portion of the amount of aggregate Insured Losses occurring in any one year that exceeds \$100,000,000,000, provided that such Insurer has met its deductible. If aggregate Insured Losses exceed \$100,000,000,000 in any one year, your coverage may therefore be reduced.

The charge for Insured Losses for each Coverage Part is included in the Coverage Part premium. The charge that has been included for each Coverage Part is indicated below, and does not include any charge for the portion of losses covered by the Federal Government under the Act.

- **1% of each applicable Commercial Liability Coverage premium.**

## **POLICYHOLDER NOTICES**





## **POLICYHOLDER NOTICES**

## **IMPORTANT NOTICE – INDEPENDENT AGENT AND BROKER COMPENSATION**

**NO COVERAGE IS PROVIDED BY THIS NOTICE. THIS NOTICE DOES NOT AMEND ANY PROVISION OF YOUR POLICY. YOU SHOULD REVIEW YOUR ENTIRE POLICY CAREFULLY FOR COMPLETE INFORMATION ON THE COVERAGES PROVIDED AND TO DETERMINE YOUR RIGHTS AND DUTIES UNDER YOUR POLICY. PLEASE CONTACT YOUR AGENT OR BROKER IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE OR ITS CONTENTS. IF THERE IS ANY CONFLICT BETWEEN YOUR POLICY AND THIS NOTICE, THE PROVISIONS OF YOUR POLICY PREVAIL.**

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