

# **PROFESSIONAL LIABILITY POLICY FORM**

2020 / 2021

## **SURPLUS LINES NOTICE**

1. THE INSURANCE POLICY THAT YOU (HAVE PURCHASED) (ARE APPLYING TO PURCHASE) IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED “NON-ADMITTED” OR “SURPLUS LINE” INSURERS.
2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT WHICH APPLIES TO CALIFORNIA LICENSED INSURERS.
3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTY FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.
4. THE INSURER SHOULD BE LICENSED EITHER AS A FOREIGN INSURER IN ANOTHER STATE IN THE UNITED STATES OR AS A NON-UNITED STATES (ALIEN) INSURER. YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR “SURPLUS LINE” BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE AT THE FOLLOWING TOLL-FREE NUMBER 800-927-4357. ASK WHETHER OR NOT THE INSURER IS LICENSED AS A FOREIGN OR NON-UNITED STATES (ALIEN) INSURER AND FOR ADDITIONAL INFORMATION ABOUT THE INSURER. YOU MAY ALSO CONTACT THE NAIC’S INTERNET WEB SITE AT [WWW.NAIC.ORG](http://WWW.NAIC.ORG).

5. FOREIGN INSURERS SHOULD BE LICENSED BY A STATE IN THE UNITED STATES AND YOU MAY CONTACT THAT STATE'S DEPARTMENT OF INSURANCE TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.
6. FOR NON-UNITED STATES (ALIEN) INSURERS, THE INSURER SHOULD BE LICENSED BY A COUNTRY OUTSIDE OF THE UNITED STATES AND SHOULD BE ON THE NAIC'S INTERNATIONAL INSURERS DEPARTMENT (IID) LISTING OF APPROVED NONADMITTED NON-UNITED STATES INSURERS. ASK YOUR AGENT, BROKER, OR "SURPLUS LINE" BROKER TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.
7. CALIFORNIA MAINTAINS A LIST OF APPROVED SURPLUS LINE INSURERS. ASK YOUR AGENT OR BROKER IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT THE INTERNET WEB SITE OF THE CALIFORNIA DEPARTMENT OF INSURANCE:  
[www.insurance.ca.gov](http://www.insurance.ca.gov).
8. IF YOU, AS THE APPLICANT, REQUIRED THAT THE INSURANCE POLICY YOU HAVE PURCHASED BE BOUND IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM WILL BE PRORATED AND ANY BROKER'S FEE CHARGED FOR THIS INSURANCE WILL BE RETURNED TO YOU.



**TOKIO MARINE  
SPECIALTY**

One Bala Plaza, Suite 100  
Bala Cynwyd, PA 19004  
610.617.7900 | Fax 610.617.7940

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## **Tokio Marine Specialty Insurance Company**

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# **Commercial Lines Policy**

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THIS POLICY CONSISTS OF:

- DECLARATIONS
  - COMMON POLICY CONDITIONS
  - ONE OR MORE COVERAGE PARTS. A COVERAGE PART CONSISTS OF:
    - ONE OR MORE COVERAGE FORMS
    - APPLICABLE FORMS AND ENDORSEMENTS
-

IN WITNESS WHEREOF, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless signed by our authorized representative.

A handwritten signature in black ink, appearing to read "JW Glomb, Jr.", with a stylized, cursive script.

John W. Glomb, Jr.  
President & Chief Underwriting Officer

A handwritten signature in black ink, appearing to read "Ed Sar", with a stylized, cursive script.

Secretary

## ADVISORY NOTICE TO POLICYHOLDERS

This is a summary of changes in your policy. No coverage is provided by this summary nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided. If there is any conflict between the policy and this summary, **THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

The major areas within the policy that broaden or reduce coverage, and other changes, are highlighted below. This notice does not reference every editorial change made in your policy.

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### **PI-SAM-018 (05/19) – ABSOLUTE ABUSE OR MOLESTATION EXCLUSION PROFESSIONAL LIABILITY**

### **PI-SAM-018 VT (05/19) – ABSOLUTE ABUSE OR MOLESTATION EXCLUSION PROFESSIONAL LIABILITY VERMONT**

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This exclusion is solely applicable to Professional Liability. It does not affect any affirmative grant of Abusive Conduct Liability coverage that may be provided elsewhere in this policy.

If PI-SAM-018 (05/19) Absolute Abuse or Molestation Exclusion Professional Liability is attached to your renewal policy, this exclusion replaces any other Abuse or Molestation exclusion either within a Coverage Form or in any endorsement. It clarifies our intention that claims arising out of alleged, actual or threatened abuse are not covered under professional liability coverage.

## HAVE A COMPLAINT OR NEED HELP?

If you have a problem with a claim or your premium, call Tokio Marine Specialty Insurance Company first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through Tokio Marine Specialty Insurance Company. If you don't, you may lose your right to appeal.

### **Tokio Marine Specialty Insurance Company**

To get information or file a complaint with Tokio Marine Specialty Insurance Company:

**Call: Customer Service at 1-877-438-7459**

Email: [service@phly.com](mailto:service@phly.com)

Mail: One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004

### **The Texas Department of Insurance**

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439

File a complaint: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Email: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Mail: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

### **To compare policies and prices**

Visit **HelpInsure.com** to compare prices and coverages on home and auto insurance policies. The website is a service of the Texas Department of Insurance and the Office of Public Insurance Counsel.

## ¿TIENE UNA QUEJA O NECESITA AYUDA?

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a Tokio Marine Specialty Insurance Company. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de Tokio Marine Specialty Insurance Company. Si no lo hace, podría perder su derecho para apelar.

### **Tokio Marine Specialty Insurance Company**

Para obtener información o para presentar una queja ante Tokio Marine Specialty Insurance Company:

**Llame a: Customer Service al 1-877-438-7459**

Correo electrónico: [service@phly.com](mailto:service@phly.com)

Dirección postal: One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004

### **El Departamento de Seguros de Texas**

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439

Presente una queja en: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Correo electrónico: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Dirección postal: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

**Para comparar pólizas y precios**

Visite **HelpInsure.com** para comparar precios y coberturas en pólizas de seguro para el hogar y automóvil. El sitio web es un servicio del Departamento de Seguros de Texas y de la Oficina del Asesor Público de Seguros (Office of Public Insurance Counsel, por su nombre en inglés).



## CALIFORNIA PREMIUM REFUND DISCLOSURE NOTICE

In accordance with CAL. INS. CODE § 481.(c), we are notifying you that in the event that the first Named Insured cancels the insurance policy, we shall retain 10% of the unearned premium. The premium refunded to you will therefore be calculated as 90% of the pro rata unearned premium. But if cancellation takes place during the first year of a multiyear prepaid policy, we will return 90% of the pro rata unearned premium for the first year and the full annual premium for the subsequent years.

If you have an Equipment Breakdown policy or your policy contains an Equipment Breakdown Coverage Part, then the following premium refund calculation applies instead of that provided in the preceding paragraph. For the Equipment Breakdown policy premium or for the premium attributable to the Equipment Breakdown Coverage Part, we shall retain 25% of the unearned premium. The premium refunded to you will therefore be calculated as 75% of the pro rata unearned premium. But if cancellation takes place during the first year of a multiyear prepaid policy, we will return 75% of the pro rata unearned premium for the first year and the full annual premium for the subsequent years.

However, the penalties set forth in the preceding paragraphs will not apply under the following circumstances, even if the first Named Insured cancels the policy:

1. The Insured(s) no longer has a financial or insurable interest in the property or business operation that is the subject of insurance;
2. Cancellation takes place after the first year for a prepaid policy written for a term of more than one year; or
3. The policy is rewritten in the same insuring company or company group.

## ATTORNEY FEES COVERAGE NOTICE A

### THIS POLICY LIMITS COVERAGE FOR ATTORNEY FEES

#### UNDER ALASKA RULE OF CIVIL PROCEDURE 82

In any suit in Alaska in which we have a right or duty to defend an insured in addition to the limits of liability, our obligation under the applicable coverage to pay attorneys fees taxable as costs against the insured is limited as follows:

Alaska Rule of Civil Procedure 82 provides that if you are held liable, some or all of the attorney fees of the person making a claim against you must be paid by you. The amount that must be paid by you is determined by Alaska Rule of Civil Procedure 82. We provide coverage for attorney fees for which you are liable under Alaska Rule of Civil Procedure 82 subject to the following limitation:

We will not pay that portion of any attorney's fees that is in excess of fees calculated by applying the schedule for contested cases in Alaska Rule of Civil Procedure 82(b)(1) to the limit of liability of the applicable coverage.

This limitation means the potential costs that may be awarded against you as attorney fees may not be covered in full. You will have to pay any attorney fees not covered directly.

For example, the attorney fees provided by the schedule for contested cases in Alaska Rule of Civil Procedure 82(b)(1) are:

20% of the first \$25,000 of a judgment;

10% of the amounts over \$25,000 of a judgment.

Therefore, if a court awards a judgment against you in the amount of \$125,000, in addition to that amount you would be liable under Alaska Rule of Civil Procedure 82(b)(1) for attorney fees of \$15,000, calculated as follows:

20% of \$25,000 = \$5,000

10% of \$100,000 = \$10,000

Total Award = \$125,000

Total Attorney Fees = \$15,000

If the limit of liability of the applicable coverage is \$100,000, we would pay \$100,000 of the \$125,000 award, and \$12,500 for Alaska Rule of Civil Procedure 82(b)(1) attorney fees, calculated as follows:

20% of \$25,000 = \$5,000

10% of \$75,000 = \$7,500

Total Limit of Liability = \$100,000

Total Attorney Fees Covered = \$12,500

You would be liable to pay, directly and without our assistance, the remaining \$25,000 in liability plus the remaining \$2,500 for attorney fees under Alaska Rule of Civil Procedure 82 not covered by this policy.

ALL COMMERCIAL LINES

## PRIVACY NOTICE FOR COMMERCIAL LINES

This notice is provided on behalf of Tokio Marine Specialty Insurance Company

### **PURPOSE OF THIS NOTICE**

When you apply for or become an insured under, the insurance policies we issue, we gather certain non-public information or “**NPI**” about your business and its employees. We are committed to safeguarding the NPI you entrust to us. The purpose of this notice is, therefore, to let you know how we collect, use, share and protect the NPI you provide to us in those contexts.

That means this notice applies only to your business interactions with us involving your application for a quote or as a policy holder. NPI we may collect from you in connection with other interactions, such as when you or your employees visit one of our general interest, publicly accessible websites, is governed by the separate notices and policies we publish on those relevant sites or otherwise provide to you.

When we refer in this notice to your “NPI”, we mean non-public information as that term is generally defined and applied under the New York Department of Financial Services’ Cybersecurity Regulation, the Gramm-Leach-Bliley Act and the National Association of Insurance Commissioners’ Data Security Model Law which includes non-public information about your business, such as financial information, account numbers, loss history, personal non-public information of your employees including social security number, address or medical information and any proprietary information we obtain about your business or your customers.

Due to a variety of factors, including certain explicit exemptions they contain, this notice and the NPI we collect from you in connection with the above-described business interactions ***is not*** governed by the EU General Data Protection Regulation, its related EU and Swiss Privacy Shield or the California Consumer Privacy Act.

### **COLLECTING YOUR NPI**

In the course of, or as part of a business interaction, we collect your NPI both directly from you, or from the agents, brokers or other intermediaries acting on your or our behalf, as well as from a variety of additional sources including:

- the applications or other forms you provide to us (these forms may contain your name, address, social security number, marital status, date of birth, gender, length of employment, prior insurance information, home ownership, residency history, vehicle type, vehicle use, or driving history)
- your transactions with us, our other affiliates of the Tokio Marine Group as well as third parties (this information would include, for example, premium payment and claims history)
- consumer or independent reporting agencies (for example your motor vehicle report, property inspection report, accident report or claim report)

### **USING YOUR NPI**

We use your NPI in a variety of ways such as creating and issuing a quote, underwriting or otherwise processing and servicing your insurance policy, handling claims you may have and offering you additional products and services that we think may be of interest to you as well as for related research and analytics purposes.

### **SHARING YOUR NPI**

We do not disclose or share any NPI about our customers or former customers outside of the Tokio Marine Group, except as permitted by law. We do not sell or disclose or share your NPI for third party marketing purposes. We do, however, share your NPI with third parties that we use to service your account or process your insurance policy or your claim, or administer related transactions. These third parties may include:

- your agent, broker or producer
- independent claims adjusters, investigators, data processors or attorneys
- persons or organizations that conduct scientific research, including actuarial or underwriting studies
- an insurance support organization or another insurer, to prevent or prosecute fraud or to properly underwrite the risk
- another insurer, if you are involved in an accident with their insured
- State insurance departments or other governmental or law enforcement authorities, if required by law, to protect our legal interests or in cases of suspected fraud or illegal activities
- a court of law

We also are required to disclose your NPI if we receive a subpoena, search warrant or other court order.

### **RETAINING YOUR NPI**

The NPI we collect is kept in your policy and/or claim files for as long as needed in connection with your business interactions with you and, if longer, as required by law.

### **HOW WE PROTECT YOUR NPI**

We have adopted and implemented a security and privacy program that includes technical, organizational, administrative, and other measures designed to protect, as required by applicable law and in accordance with industry standards, against reasonably anticipated or actual threats to the security of your NPI. Our security program was created by reference to widely recognized standards such as those published by the International Standards Organization and National Institute of Standards and Technology. It includes, among many other things, procedures for assessing the need for, and as appropriate, either employing encryption and multi-factor authentication or using equivalent compensating controls. As part of our security program, we have specific incident response and management procedures that are activated whenever we become aware that your NPI was likely to have been compromised.

### **CHANGES TO THIS NOTICE**

We may amend this notice from time to time and will inform you of these changes as required by law.

### **QUESTIONS AND CONTACT INFORMATION**

If you have any questions about this notice or how we collect, use, share and protect your NPI, please contact the Chief Privacy Officer of TMNA Services, LLC, who acts as the privacy and data security administrator for most of the Tokio Marine Group in North America. The Chief Privacy Officer's contact information is:

Attn: Privacy Office  
TMNA Services, LLC  
3 Bala Plaza East, Suite 400  
Bala Cynwyd, Pennsylvania 19004  
610-227-1300



**PHILADELPHIA**  
INSURANCE COMPANIES

A Member of the Tokio Marine Group

One Bala Plaza, Suite 100  
Bala Cynwyd, Pennsylvania 19004  
610.617.7900 Fax 610.617.7940  
PHLY.com

**Tokio Marine Specialty Insurance Company**

**COMMON POLICY DECLARATIONS**

**Policy Number:** PPK2148852

**Named Insured and Mailing Address:**

PADI Worldwide Corporation  
30151 Tomas  
Rancho Santa Margarita, CA 92688-2125

**Producer:** 115837

Hub International Insurance Services Inc  
6 Centerpointe Dr Ste 350  
La Palma, CA 90623

**Policy Period From:** 06/30/2020 **To:** 06/30/2021

(714)739-3177

at 12:01 A.M. Standard Time at your mailing  
address shown above.

**Business Description:** Diving

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS  
POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS  
INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

**PREMIUM**

Commercial Property Coverage Part  
Commercial General Liability Coverage Part  
Commercial Crime Coverage Part  
Commercial Inland Marine Coverage Part  
Commercial Auto Coverage Part  
Businessowners  
Workers Compensation

Professional Liability

\$ TBD

**Total**

**\$ TBD**

Federal Terrorism Risk Insurance Act Coverage

**FORM (S) AND ENDORSEMENT (S) MADE A PART OF THIS POLICY AT THE TIME OF ISSUE**  
**Refer To Forms Schedule**

\*Omits applicable Forms and Endorsements if shown in specific Coverage Part/Coverage Form Declarations

CPD- PIC (11/14)

Secretary

John W. Glomb, Jr.  
President & Chief Underwriting Officer

# Tokio Marine Specialty Insurance Company

## Form Schedule – Policy

**Policy Number:** PPK2148852

Forms and Endorsements applying to this Coverage Part and made a part of this policy at time of issue:

Form	Edition	Description
WHY MyPHLY	0000	WHY MyPHLY?
CSNotice-1	0120	Making Things Easier
PIC-CA-SLNOTICE1	1112	Surplus Lines Notice
TMSIC-JACKET 1	0213	Commercial Lines Policy Jacket
PI-SAMEX-NOTICE 1	0519	Advisory Notice To Policyholders
PI-TMNotice TX	0120	Have a Complaint or Need Help?
IL N 177	0912	California Premium Refund Disclosure Notice
PI-FEES-NOTICE 1	0619	Notice Late Fee Reinstatement Fee
PI-NOTICE-AK-ATTYFEE 1	0716	Attorney Fees Coverage Notice A
PIC-TMNOTICE 2	0220	Privacy Notice For Commercial Lines
CPD-PIC	1114	Common Policy Declarations
Location Schedule	0100	Location Schedule
PI-MANU-1	0906	NAMED INSURED AMENDMENT
PI-SAM-018	0519	Absolute Abuse or Molestation Exclusion
TMSIC-SOS-CA	1112	Service Of Suit

# Tokio Marine Specialty Insurance Company

## Form Schedule – Professional Liability

**Policy Number:** PPK2148852

Forms and Endorsements applying to this Coverage Part and made a part of this policy at time of issue:

Form	Edition	Description
PI-ARB-1	0403	Binding Arbitration
PI-MANU-1	0100	Miscellaneous Professional Liability Declarations
PI-MANU-1	0100	MISCELLANEOUS PROFESSIONAL COVERAGE FORM - CLAIMS MADE
PI-MANU-1	0100	ADDITIONAL INSURED - BLANKET FORM
PI-MANU-1	0100	PROFESSIONAL LIABILITY SCHEDULE OF RATES / ADVANCE PREMIUM
PI-MANU-1	0100	MINIMUM EARNED PREMIUM
PI-MANU-1	0100	ADDITIONAL INSURED ENDORSEMENT
PI-MANU-1	0100	WAIVER OF SUBROGATION (BLANKET)
PI-MANU-1	0100	NON-STACKING OF LIMITS ENDORSEMENT
PI-MANU-2	0100	TERRORISM EXCLUSION
PI-MANU-2	0100	PRIOR AND PENDING LITIGATION EXCLUSION

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

**ABSOLUTE ABUSE OR MOLESTATION EXCLUSION  
PROFESSIONAL LIABILITY**

The following exclusion applies to all professional liability coverages afforded in any coverage form or endorsement issued by us. When the applicable professional liability coverage:

- A.** Contains an abuse or molestation exclusion, it is deleted in its entirety and replaced with the following; or
- B.** Does not contain an abuse or molestation exclusion, the following is added:

This insurance does not apply to any loss, cost, expense, fine, penalty, act, error and omission, or damage alleging, arising out of or from, attributable to, or giving rise to any injury sustained by any person caused by the alleged, actual or threatened abuse or molestation by anyone.

We shall not have any duty to defend any "suit" against any insured on account of any such injury.

This exclusion applies to all injury sustained by any person, including emotional distress, arising out of molestation or abuse whether alleged, actual or threatened including but not limited to molestation or abuse arising out of your negligence or other wrongdoing with respect to:

- 1.
  - a.** Hiring, placement, employment, training;
  - b.** Investigation;
  - c.** Supervision;
  - d.** Reporting any molestation or abuse to the proper authorities, or failure to so report; or
  - e.** Retentionof a person for whom any insured is or ever was legally responsible or for whom any insured may have assumed the liability; and whose conduct would be excluded above; or
- 2.
  - a.** Failure to provide professional services to; or
  - b.** Neglect of the therapeutic needs of,any person because of the conduct which would be excluded above.

This endorsement is an absolute exclusion for abuse or molestation.

All other terms and conditions remain unchanged.



## **SERVICE OF SUIT**

In the event of any lawful process in any action, suit or proceeding arising out of this contract of insurance, we, at your request, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or any state in the United States. It is further agreed that service of process in such suit may be made upon Counsel, Legal Department, Tokio Marine Specialty Insurance Company, One Bala Plaza, Suite 100, Bala Cynwyd, Pennsylvania 19004 or his or her representative, and that in any suit instituted against us upon this Policy, we will abide by the final decision of such court or any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, we hereby designate the Commissioner of Insurance for the State of California or other officer specified for that purpose in the statute, or his or her successors in office, as our true and lawful attorney upon whom may be served any lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by you or your behalf or any beneficiary hereunder arising out of this Policy of Insurance, and hereby designates the above named Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

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

**BINDING ARBITRATION**

Wherever, used in this endorsement: 1) "we", "us", "our", and "insurer" mean the insurance company which issued this policy; and 2) "you", "your", "named insured", "first named insured", and "insured" mean the Named Corporation, the Named Organization, Named Sponsor, Named Insured, or Insured stated in the declarations page; and 3) "other insured(s)" means all other persons or entities afforded coverage under this policy.

This endorsement modifies coverage provided under the Coverage Part to which it is attached.

If we and the insured do not agree whether coverage is provided under this Coverage Part for a claim made against the insured, then either party may make a written demand for arbitration.

When this demand is made, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will:

1. Pay the expenses it incurs; and
2. Bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the address shown in the Declarations is located. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

All other terms of the policy remain unchanged.

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

**Miscellaneous Professional Liability Declarations**

THIS IS CLAIMS-MADE COVERAGE. PLEASE READ IT CAREFULLY.

ITEM 1. First Named Insured: PADI WORLDWIDE CORPORATION  
Mailing Address: 30151 TOMAS  
RANCHO SANTA MARGARITA, CA 92688

ITEM 2. Policy Period: From: 6/30/2020 To: 6/30/2021 at 12:01 A.M.  
standard time at the mailing address of  
the Insured

ITEM 3. Limits of Insurance:

A) PADI Worldwide Corporation  
\$10,000,000 Each Occurrence  
\$10,000,000 Annual Aggregate

B) Each Certificate Holder:  
\$1,000,000 Each Occurrence  
\$2,000,000 Annual Aggregate

\*Higher limits of insurance apply if purchased  
and specifically scheduled on a Certificate of  
Insurance, issued to a "named insured", in  
evidence of coverage under this policy.

ITEM 4. Premium: Per PROFESSIONAL LIABILITY SCHEDULE OF RATES/ADVANCE  
PREMIUM endorsement

ITEM 5. Professional Services: Instruction, training, education and/or  
supervision services rendered by certified SCUBA diving  
instructors, assistant instructors, dive masters,  
emergency first response instructors, snorkel, swim or  
freedive instructors and dive control specialists  
(divecon). Coverage is also provided for instruction,  
training, education and/or supervision services rendered  
by certified cylinder inspection instructors and/or  
cylinder inspection service providers and SCUBA Fit  
instructors but only if scheduled on the certificate of  
insurance issued to the insured. No coverage is

All other terms and conditions of this Policy remain unchanged.

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

provided for any other professional services, operations or activities, including but not limited to spas or lessons for surfing, kayaking, paddle boarding, wakeboarding, water skiing, parasailing, boating or any other similar activity, unless otherwise directed by this policy or an endorsement to this policy.

ITEM 6. Retroactive Date: Refer to SECTION VI - BASIS OF CLAIM - CLAIMS MADE CLAUSE paragraph A.

ITEM 7. Extended Reporting Period: 90 Days Refer to SECTION VI - BASIS OF CLAIM - CLAIMS MADE CLAUSE paragraph B.

By acceptance of the policy the Insured agrees that the statements in the Declarations and the Application and any attachments hereto are the Insured's agreement and representation and that this policy embodies all agreements between the Insured and the Company or any of its representatives relating to this insurance.

All other terms and conditions of this Policy remain unchanged.

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

**MISCELLANEOUS PROFESSIONAL COVERAGE FORM - CLAIMS MADE**

THIS IS CLAIMS-MADE COVERAGE. PLEASE READ IT CAREFULLY.

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

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

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

**SECTION I - COVERAGE**

**1. Insuring Agreement**

A. We will pay those sums that the insured becomes legally obligated to pay as damages because of any "occurrence" that is a result of any negligent act, error or omission in the rendering or failure to render "professional services" of the type described in ITEM 5 of the Declarations, whether committed by the Insured or by any person for those negligent acts, errors or omissions the insured is legally responsible. No other obligations or liability to pay sums or perform acts or services is covered unless explicitly provided for under SECTION 1 (3) Supplementary Payments. The "occurrence" must take place within the "coverage territory" during the "coverage period". We will have the right and duty to defend any "suit" seeking those damages, but we will have no duty to defend the insured against any "suit" seeking "damages" for a negligent act, error or omission to which this insurance does not apply. However,

(1) The amount we will pay for damages is limited as described in limits of Insurance (Section III);

(2) We may investigate and settle any claim or "suit" at our discretion and we shall have the exclusive rights to contest

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

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

or settle any claim or suit; and

- (3) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

B. This insurance applies to "damages" only if:

- (1) The occurrence resulting from any negligent act, error or omission did not occur before the Retroactive Date, if any in the declarations or after the end of the policy period; and
- (2) A claim for damages because of the rendering or failure to render "professional services" is first made against any Insured, in accordance with paragraph c below, during the policy period or any Extended Reporting Period we provide under SECTION VI (B) .

C. A claim by a person or organization seeking "damages" will be deemed to have been made at the earlier of the following times:

- (1) When notice of such claim or "occurrence" is received and recorded by any insured or by us, whichever comes first; or
- (2) When we make settlement in accordance with paragraph A above.

All claims made during the "coverage period" and arising out of an "occurrence" that results from a single act, error or omission or that results from a series of related acts, errors or omissions, shall be considered first made during the policy period or extended reported period in which the earliest claim arising out of an "occurrence" that results from such acts, errors or omissions or related acts, errors or omissions was first made, and all such claims shall be subject to the limit of liability stated in ITEM 3 of the declarations of the policy which applies to such earliest claims.

2. Exclusions:

All other terms and conditions of this Policy remain unchanged.

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

This insurance does not apply to:

- A. "Bodily injury", "property damage", "advertising injury" or "personal injury" except arising out of a negligent act, error or omission in the rendering or failure to render "professional services" by an insured.
- B. Any dishonest, fraudulent, criminal or malicious act or omission of any insured.
- C. The conduct of any business enterprise (including the ownership, maintenance or use of any property in connection therewith) owned by the insured or in which any insured is a partner, or which is directly or indirectly controlled, operated or managed by any insured either individually or in a fiduciary capacity; but this exclusion does not apply to the practice of "professional services" as described in the description of professional hazards section of the Professional Liability Coverage Part Declarations.
- D. Actions for libel, slander, invasion of privacy, assault or battery or conversion;
- E. The assumption of liability in a contract or agreement;
- F. Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or similar law;
- G. Bodily Injury, Personal Injury and or Advertising Injury:
  - (1) An employee of the insured arising out of and in the course of employment by the insured; or
  - (2) The spouse, child, parent, brother or sister of that employee as a consequence of (1) above.

This exclusion applies;

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

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- (2) To any obligation to share damages with or repay someone else who must pay damage because of the injury.
- H. Any claims arising from the performance of a criminal act or caused by a person while under the influence of intoxicants or narcotics.
- I. Liability arising out of the insured's services and/or capacity as:
  - (1) an officer, director, partner, trustee, or employee of a business enterprise not named in the declarations;
  - (2) an officer, director, partner, trustee, or employee of a charitable organization or pension, welfare, profit sharing, mutual or investment fund or trust;
  - (3) a fiduciary under the Employment Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto or any other employee benefit plan.
- J. To "bodily injury" or "property damage" arising out of the ownership, maintenance, operation, use, loading or unloading of any automobile, aircraft or watercraft.
  - (1) this exclusion shall not apply to the ingress and/or egress from any watercraft while any diver is under the insured certificate holder's supervision and/or instruction.
- K. To "property damage" to:
  - (1) Property owned or occupied by or rented to the insured;
  - (2) Property used by the insured; or
  - (3) Property in the care, custody or control of the insured or as to which the insured is for any purpose exercising physical control. This exclusion does not apply to swimming pools rented by, used by, or occupied by the named insured.

All other terms and conditions of this Policy remain unchanged.



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- L. To liability arising from the acts other than those that have been approved and sanctioned for aquatic organizational instruction, orientation, or supervision.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

- M. To "bodily injury" or "property damage" resulting from the use, supplying, rental or sale of any equipment, including but not limited to regulators, gauges, compressed air, buoyancy compensation devices, air cylinders, dive tables, or decompression computers. However, this exclusion not shall apply to:

- i. However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

- ii. Other individual certificate holders if and only if:

- (1) The scheduled Equipment Liability premium has been paid by the specified individual certificate holder;
- (2) The certificate of Insurance provides for Equipment Liability Coverage; and
- (3) The equipment is used under the insured's supervision and not rented. Leased or sold to others for a fee.

- N. Any civil, criminal or administrative fines or penalties levied against an insured or anyone working on behalf of the insured.

- O. Any claim or indemnification for punitive, multiple, or exemplary damages.

- P. Any claims arising out of knowingly non-complying with Federal, State and/or local statutes.

- Q. Any claim based upon or arising out of discrimination by the insured on the basis of age, color, race, sex, creed, national

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origin, marital status, sexual orientation, handicap status or disability. However, this exclusion does not apply if instruction is denied for valid safety reasons. Valid safety reasons include, but are not limited to, concern over medical history of student, disability of student or determination that student lacks physical aptitude to dive.

- R. Any claim arising out of the insured's inability to complete jobs as a result of its bankruptcy or insolvency.
- S. "Personal Injury" to any employee of the insured arising out of and in the course of employment by the insured.

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.

- T. "Bodily Injury" and "Personal Injury" arising out of any:

- (1) Refusal to employ;
- (2) Termination of employment;
- (3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment related practices, policies, acts or omissions;  
or
- (4) Consequential "bodily injury" as a result of (1) through (3) above.

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

- U. Any arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of pollutants.

All other terms and conditions of this Policy remain unchanged.

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- (1) At or from any premises, site or location which is or was at any time owned or occupied by or rented or loaned to any insured;
- (2) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (3) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or
- (4) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations:
  - a. if the pollutants are brought on or to the premises, site or location in connection with such operations by such insured's, contractors or subcontractors; or
  - b. if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and wastes. Waste includes materials to be recycled, reconditioned or reclaimed.

V. Asbestos Exclusion

- (1) "Damages" arising out of resulting from, caused or contributed by asbestos or exposure to asbestos; or
- (2) The costs of abatement, mitigation, removal or disposal of asbestos.

All other terms and conditions of this Policy remain unchanged.

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This exclusion also 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.

W. "Damages" arising out of an act, error or omission:

- (1) Disclosed in your application of insurance or any accompanying documents provided to us; or
- (2) You had knowledge of or information on, prior to the first inception date of continuous claims-made coverage with us, and which may result in a claim.

X. Any claim arising out of any "occurrence" in which the insured knowingly permitted the uncertified student involved in the claim to leave the immediate area during in-water instruction without supervision and the attendance of an instructor or a certified assistant.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

Y. Any claim arising out of any "occurrence" in which the insured left or permitted the uncertified student involved in the claim to be unattended during in-water instruction and/or testing.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

Z. Any claim arising out of any "occurrence" involving a recreational training or supervisory dive conducted by an insured that is planned for depths greater than 40 meters/130 feet; planned with mandatory stage decompression (safety stops are acceptable); or planned using gas mixes other than compressed air, or enriched air unless all

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students are previously certified divers or are participating in an open water diver course with an enriched air training option.

This exclusion (Z) does not apply to any insured who has secured the Tec Endorsement available under this policy and so indicated on the Certificate of Insurance.

AA) Any claim arising out of any "occurrence" involving a technical training or supervisory dive conducted by an insured that is planned for depths greater than 100 meters/330 feet; or planned using gas mixes other than compressed air, enriched air, oxygen, helium or trimix.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

BB) Any claim arising out of any "occurrence" in which the insured failed to obtain a medical history form completed by the student involved in the claim, prior to in-water instruction, and in the case of a minor, the failure to have obtained the minor's parent's or guardian's signature on the medical history form. Furthermore, this insurance does not apply if the medical history form indicated any condition contrary to safe participation in diving activities, and the insured failed to require the student to obtain medical approval (based on a medical examination) by a licensed physician, who is not the student, prior to in-water instruction.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

CC) Any claim arising out of any "occurrence" during a training dive in which the insured had not first obtained from the student involved in the claim a signed release of liability/assumption of risk form developed or approved by the certification organization through which the training was offered; and in the case of a minor, the failure to have the minor's parent's or guardian's signature on the form.

All other terms and conditions of this Policy remain unchanged.

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However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

- DD) Any claim arising out of any "occurrence" during a technical training dive in the insured had not first obtained from the student involved in the claim a signed release of liability/assumption of risk form developed or approved by the certification organization through which the technical training was offered, specifically stating that the student acknowledges that the training involves technical dive training.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

- EE) Any claim arising out of any "occurrence" involving scuba instruction provided by the insured to a student under the age of ten (10), except for courses taught in confined water (e.g. swimming pools), which may be offered to anyone age eight (8) and older.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

- FF) Any claim arising out of any "occurrence" involving instruction in which the insured instructor and/or Dive Center/Resort Operator has not maintained records for the purpose of recording the progress of the student involved in the claim.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

- GG) Any claim arising out of any "occurrence" involving instruction in which the insured instructor and/or Dive Center/Resort Operator has not maintained records for the purpose of evaluating the understanding of the instructional material by the student involved in the claim.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

All other terms and conditions of this Policy remain unchanged.

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HH) Any claim arising out of any "occurrence" involving instruction in which the insured instructor and/or Dive Center/Resort Operator has not retained all records relating to the individual student involved in a claim, for a minimum of five (5) years.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

II) Any claim arising out of any "occurrence" involving the insured's conduct of an introductory experience program (any program designed to introduce uncertified divers to recreational scuba diving via a supervised, controlled open water dive experience) that was not in accordance with Recreational Scuba Training Council (RSTC) standards. This exclusion does not apply to underwater scooters designed to be used without a mask, fins or snorkel or to confined water-only experiences being conducted by properly certified divemasters, assistant instructors and instructors.

However, this exclusion does not apply to certificate holders solely while providing emergency first aid training.

JJ) Any claim arising out of any "occurrence" involving any excluded designated operations or services shown on the a Certificate of Insurance issued to a certificate holder.

KK) Any claim arising out of any "occurrence" resulting from the following unless otherwise directed by this policy or an endorsement to this policy.

1. Premise, service, concession, and/or facility maintenance operations and/or activities provided for or on behalf of others, including but not limited to lifeguard services, inflatable water amusement device maintenance and operations.;
2. Travel Agencies;
3. Spa operations;
4. Lessons for Surfing, Kayaking, Paddle Boarding, Wakeboarding, Water Skiing, Parasailing, Boating or any other similar activity.

All other terms and conditions of this Policy remain unchanged.

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5. Shark Cage operations and activities;

LL) Any claim arising out of any "occurrence" arising out of the actual or alleged transmission of a communicable disease.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- a. Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a communicable disease;
- b. Testing for a communicable disease;
- c. Failure to prevent the spread of the disease; or
- d. Failure to report the disease to authorities.

MM) Any claim arising out of any SCUBA Fit Training Program related "occurrence":

- i. That is outside of the scope of the SCUBA Fit Training Program, or;
- ii. That involves instruction from an instructor or trainer that is not certified to provide instruction or training for the SCUBA Fit Training Program.

NN) Any claim arising out of any "occurrence" involving "Cylinder Instruction" or "Cylinder Inspection Services" unless the Certificate of Insurance issued to the insured indicates that "Cylinder Training Only Coverage" is provided

OO) This insurance does not apply to any loss, cost, damage, expense, injury, claim or suit, caused by, arising out of, or resulting directly or indirectly, in whole or in part from war, including but not limited to:

- a. War, including undeclared or civil war; or
- b. Warlike action by a military force, including action in hindering or
- c. Defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- d. Insurrection, rebellion, revolution, usurped power, or action

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taken by government authority in hindering or defending against any of these.

3. Supplementary Payments

We will pay with respect to any claim or "suit" we defend:

1. All expenses we incur.
2. The cost of 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 \$100 a day because of time off from work.
4. All costs taxed against the insured in the "suit".
5. Pre-judgment interest awarded against the insured on that part of the judgment we pay. If we make and offer to pay the applicable limit of insurance, we will not pay any pre-judgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

THESE PAYMENTS WILL NOT REDUCE THE LIMITS OF INSURANCE

SECTION II - WHO IS AN INSURED

Each of the following is an insured under this insurance to the extent set forth below:

- A. The named insured shall be the organization stated in the declarations of the policy; and

All other terms and conditions of this Policy remain unchanged.

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

- B. Anyone to whom a certificate of insurance has been issued under this policy; including any dive master in training while assisting an instructor.
- C. The following are not insured unless said person or entity is a certificate holder or an additional named insured under the policy.
  - (1) The employer of an insured.
  - (2) The employee of an insured.
  - (3) Any corporation, partnership or joint venture of which the insured is an officer, partner, joint venture or employee.

SECTION III - LIMITS OF INSURANCE

- 1. The Limits of Insurance shown in the Professional Liability Coverage Part Declarations, unless a certificate of insurance has been issued to the named insured against whom the claim is made, in which case the limits of insurance shown on the Certificate of Insurance apply, and the rules below fix the most we will pay regardless of the number of:
  - A. Insured's;
  - B. Claims made or "suit" brought; or
  - C. Persons or organizations making claims or bringing "suit"
- 2. The Professional Liability Each Occurrence Limit is the most we will pay for the sum of all damages to which this insurance applies. However:
  - A. The Professional Liability Each Occurrence Limit applies separately to each certificate holder who purchases individual instructor coverage and to each organization on the Named Insured Schedule.

All other terms and conditions of this Policy remain unchanged.

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- B. Insureds who are covered under a Group Professional Certificate of Insurance shall all share one per occurrence limit with all other Insureds listed on the same certificate.
- 3. The Professional Liability Aggregate Limit is the most we will pay for the sum of all damages to which this insurance applies.  
However:
  - A. The Professional Liability Aggregate Limit applies separately to each certificate holder who purchases individual instructor coverage and to each organization on the Named Insured Schedule.
  - B. Insureds who are covered under a Group Professional Certificate of Insurance shall all share one annual aggregate limit with all other Insureds listed on the same certificate.

SECTION IV - PROFESSIONAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or the insured's estate will not relieve us of our obligations under this Coverage part.

2. Duties in the Event of a Negligent Act, Error or Omission or Claim or "Suit"

A. You must notify us promptly of a negligent act, error or omission Which may result in a claim. Notice should include:

- (1) How, when and where the negligent act, error or omission took place; and
- (2) The names and addresses of any injured persons or witnesses.

B. If a claim or "suit" is brought against any insured, you must see to it that receive prompt written notice of the claim or "suit".

C. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses

All other terms and conditions of this Policy remain unchanged.

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- or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
  - (3) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury to which this insurance may also apply.

D. No insured's will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, settle any claim, admit any liability without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- A. To join us a party or otherwise bring us into a "suit" asking for damages from an insured; or
- B. To sue us on this Coverage Part 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 obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of Insurance. An agreed settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

A. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then we shall share with all that other insurance by the method described in C. below.

All other terms and conditions of this Policy remain unchanged.

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B. Excess Insurance

This Insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis:

- (1) That is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to "bodily injury" or "property damage" on other than a "claims made" basis if:
  - A. No Retroactive Date is shown in the Declarations of this insurance; or
  - B. The other insurance has a policy period which continues after the Retroactive Date shown in the Declarations of this insurance:
- (2) That is Fire, Extended Coverage, Builders Risk, Installation Risk or similar coverage for "your work"; or
- (3) That is Fire insurance for premises rented to you; or
- (4) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Section I Exclusion J.
- (5) Notwithstanding the foregoing, such insurance as is provided by this policy shall be excess of any other valid and collectible insurance available to any person or entity that is an insured under this policy, as described in Section II - WHO IS INSURED.

When this insurance is excess we will have no duty under this coverage part to defend the insured against any "suit" if any other insurer has the duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay

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only our share of the amount or the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductibles and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in the Excess Insurance provision and was not bought specifically to apply excess of the Limits of Insurance shown in the Declarations of the Coverage Part.

C. Method of Sharing

If all the other insurance permits contribution by equal share, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of Insurance of all insurers.

5. Premium Audit

- A. We will compute all premiums for this Coverage Part in accordance with our rules and Rates.
- B. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. It is expressly agreed that the premium shown is a minimum premium and fully earned upon the issuance of this coverage. This premium is not subject to return premium adjustment unless the policy is canceled by the Company or

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it is considered null and void as a result of any breach of a policy warranty.

- C. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such time as we may request.

6. Representations

By accepting this policy you agree:

- A. The statements in the Declarations are accurate and complete;
- B. Those statements are based upon representation you made to us; and
- C. We have issued this policy in reliance upon your representations.

7. Separation of Insured's

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned to the first Named Insured, 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.

8. Transfer of Rights of Recovery Against Others to Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. Service of Suit

In the event of any lawful process in any action, suit or proceeding

All other terms and conditions of this Policy remain unchanged.

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arising out of this contract of insurance, we, at your request, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or any state in the United States. It is further agreed that service of process in such suit may be made upon Counsel, Legal Department, Tokio Marine Specialty Insurance Company, One Bala Plaza, Suite 100, Bala Cynwyd, Pennsylvania 19004 or his or her representative, and that in any suit instituted against us upon this Policy, we will abide by the final decision of such court or any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, we hereby designate the Commissioner of Insurance for the State of California or other officer specified for that purpose in the statute, or his or her successors in office, as our true and lawful attorney upon whom may be served any lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by you or your behalf or any beneficiary hereunder arising out of this Policy of Insurance, and hereby designates the above named Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

## SECTION V - DEFINITIONS

## 1. "Advertising Injury" means

- 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;
  - B. Oral or written publication of material that violates a person's right of privacy;
  - C. Misappropriation of advertising ideas or style of doing business;
- or

All other terms and conditions of this Policy remain unchanged.



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- D. Infringement of copyright, title or slogan.
2. "Bodily Injury" means bodily injury, sickness or disease sustained by a person, including death or mental anguish resulting from any of these at any time.
3. "Coverage Period" means the time from the inception of the first policy of this type written for you to the expiration for the last such policy written for you including any Retroactive Dates and/or Extended Reporting Periods in such policy.
4. "Coverage Territory" means:
- a. The United States of America, including its territories and possessions, Puerto Rico and Canada;
  - b. Anywhere else in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America, provided that:
    - (1) We shall have the right, but not the duty to investigate, defend, or settle any claims or suits for any negligent act, error or omission in the rendering or failure to render "professional services"
    - (2) If we do not exercise such right, you shall, under our supervision, make such investigation and defense as is reasonably necessary. Subject to our prior written authorization, you may also effect settlement. We shall, subject to all other provisions of this policy, reimburse you for the reasonable and necessary costs of such actions, and pay damages determined in a "suit" on the merits or in any settlement to which we agree.

Payment of loss under this policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's office of Foreign Assets Control ("OFAC").

All other terms and conditions of this Policy remain unchanged.

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5. "Damages" means any compensatory amount which an insured is legally obligated to pay for any claim to which this insurance applies, but does not include injunctive or equitable relief or the return of fees or charges for services rendered.
6. "Named Insured" means in addition to Section II (Who is an Insured).  
Named Insured means a person in whose name the Certificate of Insurance is issued. The Named Insured shall not mean any Additional Insured listed on the certificate.
7. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions related to a covered "Professional Service".

In the event of continuing or progressively deteriorating damage over any length of time, such damage shall be deemed to be one "occurrence", and shall be deemed to occur only when such damage first commences.

8. "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;
  - D. 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; or
  - E. Oral or written publication of material that violates a person's right to privacy.

9. "Professional Services" mean:

All other terms and conditions of this Policy remain unchanged.

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

Instruction, training, education and/or supervision services rendered by certified SCUBA diving instructors, assistant instructors, dive masters, emergency first response instructors, snorkel, swim or freedive instructors and dive control specialists (divecon). Coverage is also provided for instruction, training, education and/or supervision services rendered by certified cylinder inspection instructors and/or cylinder inspection service providers and SCUBA Fit instructors but only if scheduled on the certificate of insurance issued to the insured. No coverage is provided for any other professional services, operations or activities, including but not limited to spas or lessons for surfing, kayaking, paddle boarding, wakeboarding, water skiing, parasailing, boating or any other similar activity, unless otherwise directed by this policy or an endorsement to this policy.

10. "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 "occurrence" that caused it.

11. "Pollutants" means any solid, gaseous, liquid or thermal irritant or contaminant, including smoke, vapor or soot, fumes, acids, alkalis or chemicals and waste.

12. "Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes an arbitration proceeding alleging such damages to which you must submit or submit with our consent.

13. "Cylinder Instruction" means training given by a certified instructor in the performance of "Cylinder Inspection Services".

All other terms and conditions of this Policy remain unchanged.

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

14. "Cylinder Inspection Services" means any of the following activities:

- (a) visual or hydrostatic testing of high pressure cylinders;
- (b) oxygen cylinder cleaning;
- (c) eddy current testing;
- (d) cylinder valve repair;
- (e) HAZMAT handling of SCUBA or SCBA Cylinders; or
- (f) Operation of a cylinder fill station;

SECTION VI - BASIS OF CLAIM - CLAIMS MADE CLAUSE

A. This policy applies to claims first made against the Insured and/or Certificate Holder insured during the policy period, but in no event will coverage apply with respect to occurrences taking place prior to 6/30/1992 or the effective date of the first certificate issued to the certificate holder insured hereunder whichever is later. Notwithstanding the foregoing, it is a condition precedent that the retroactive coverage described above applies only if coverage has been continuous; in the event of non-continuity, coverage shall only apply with respect to occurrences taking place on or after the date from which coverage has been continuous.

It is further agreed that this policy does not apply to "Bodily Injury", "Personal Injury", or "Property Damage" arising out of an "occurrence"

- i) disclosed in your application of insurance or any accompanying documents provided to us, or
- ii) you had knowledge of, or information on, prior to the first inception date of coverage with us, and which may result in a claim.

B. Following the end of the policy period hereunder there shall be a further ninety (90) day period to report claims and/or "occurrences" made against the certificate holder insured for "occurrences" taking place during the period the certificate issued under this policy and such claims shall be treated as if made during the policy period; the extended reporting period shall also apply to terminated certificates, unless terminated due to non-payment of premium.

All other terms and conditions of this Policy remain unchanged.

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

SECTION VII - NOTICE OF CANCELLATION

This policy, or any certificate, may be cancelled by the Company by mailing to the named insured at the address shown in this policy, or certificate, -written notice stating when not less than forty-five (45) days thereafter such cancellation shall be effective. Except in the case of cancellation for non-payment of premium, for which written notice stating when not less than ten (10) days thereafter such cancellation shall be effective. The mailing of notice of aforesaid shall be sufficient proof of notice.

The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the named insured or by the Company shall be equivalent to mailing.

IN WITNESS WHEREOF, the Company has caused the policy to be executed and attested, but this policy shall not be valid unless countersigned in the Declarations by a duly authorized representative of the Company.

All other terms and conditions of this Policy remain unchanged.

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

**ADDITIONAL INSURED - BLANKET FORM**

This endorsement modifies insurance provided under the following:

PROFESSIONAL LIABILITY COVERARGE PART

It is understood and agreed that SECTION II - WHO IS AN INSURED, is amended to include the following:

D. Where required by written contract only, any person or organization shown as an additional insured on a certificate of insurance issued to an insured certificate holder or by endorsement to this policy is included as an additional insured. However, additional insured status is limited to liability arising out of the negligent acts, errors or omissions of the named insured resulting from covered "professional services" and solely with respect to the additional insured's involvement in activities conducted by the named insured.

1.) However, the insurance provided to the additional insured does not apply to "damages" arising out of a scuba diving training agency's rendering or failure to render:

A. Training or educational standards or educational materials to any insured.

B. Supervision of scuba instructors, dive masters, or assistant Instructors.

2.) It is further understood and agreed that this policy shall not provide coverage for "damages" that result from the independent negligent acts, errors or omissions of any additional insured.

3.) It is further understood and agreed:

A. The insurance afforded to any additional insured only applies to the extent permitted by law;

B. The insurance afforded to any additional insured will not be broader than required by the written contract;

C. The most we will pay on behalf of any additional insured is the

All other terms and conditions of this Policy remain unchanged.

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

amount of insurance:

1. Required by the contract or agreement; or
  2. Available under the applicable limits of insurance;  
whichever is less.
- 4.) Coverage afforded by this endorsement shall not increase the applicable limits of insurance.

All other terms and conditions of this Policy remain unchanged.

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

**MINIMUM EARNED PREMIUM**

This endorsement modifies insurance provided under the following:

**PROFESSIONAL LIABILITY COVERARGE PART**

It is understood and agreed that in the event of cancellation of this policy by or at the direction of the insured, the Company shall retain a Minimum Premium of \$TBD (25% of the anticipated annual premium of \$TBD).

It is further agreed that the provision regarding cancellation by the Insured is amended to read:

"If the Insured cancels this policy, earned premium will be computed in accordance with the customary short-rate table and procedure, or the Minimum Earned Premium stated herein, whichever is greater".

All other terms and conditions of this Policy remain unchanged.



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

**WAIVER OF SUBROGATION (BLANKET)**

This endorsement modifies insurance provided under the following:

PROFESSIONAL LIABILITY COVERARGE PART

It is agreed that we, in the event of a payment under this policy, waive our right of subrogation against any person or organization where the insured has waived liability of such person or organization as part of a written contractual agreement between the insured and such person or organization entered into prior to the "occurrence" or offense.

All other terms and conditions of this Policy remain unchanged.

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

**NON-STACKING OF LIMITS ENDORSEMENT**

This endorsement modifies insurance provided under the following:

PROFESSIONAL LIABILITY COVERARGE PART

In consideration of the premium charged, it is hereby understood and agreed that as respects any claim(s) for which coverage is provided (or would be provided but for the exhaustion of the Limit of Liability or the applicability of the retention amount) by Policy Number CBC5666922 issued by Tokio Marine & Nichido Fire Insurance Co., Ltd., the Limit of Liability provided by virtue of this policy shall be reduced by the Limit of Liability provided under said Policy Number CBC5666922 issued by Tokio Marine & Nichido Fire Insurance Co., Ltd..

All other terms and conditions of this Policy remain unchanged.

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

**TERRORISM EXCLUSION**

This endorsement modifies insurance provided under the following:

PROFESSIONAL LIABILITY COVERARGE PART

This insurance does not apply to loss, injury, damage, claim or "suit", arising directly or indirectly as a result of, in connection with, or relating to "terrorism" including but not limited to:

1. Any action taken in hindering or defending against an actual or expected incident of "terrorism" regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage; and
2. Any contemporaneous or ensuing loss caused by explosion, fire, heat, vandalism, looting, theft, civil commotion, rebellion or insurrection.

Multiple incidents of "terrorism" that occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership will be considered to be one incident.

As used in this exclusion, "terrorism" means the use or threatened use of force or violence against person or property, or commission of an act dangerous to human life or property, or commission of an act that interferes with or disrupts an electronic or communication system, undertaken by any person or group, whether or not acting on behalf of or in any connection with any organization, government, power, authority or military force, when the effect is to intimidate, coerce or harm:

- a. A government;
- b. The civilian population of a country, state or community; or
- c. To disrupt the economy of a country, state or community.

So long as the Terrorism Risk Insurance Act of 2002 (the "Act") is in effect, "terrorism" includes an act of terrorism as defined by Section 102. Definitions of the Act and any revisions or amendments thereto.

All other terms and conditions of this Policy remain unchanged.

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

**PRIOR AND PENDING LITIGATION EXCLUSION**

This endorsement modifies insurance provided under the following:

PROFESSIONAL LIABILITY COVERARGE PART

This insurance does not apply to and we shall have no obligation or duty to defend you for:

1. Any litigation, demand, legal action, claim, "suit" or other judicial or administrative proceeding which has commenced or is pending against you on or before the date set forth below, or the same or essentially the same facts as alleged in such prior litigation;
2. Any "professional incident," claim, fact, circumstance or situation which has been the subject of any prior written notice given under any other policy of insurance providing a similar type of coverage; or
3. Any "professional incident," fact, circumstance or situation as of the date set forth below of which you had knowledge and from which you could reasonably expect a claim for damages or a "suit" to arise.

Prior and Pending Litigation Date: 06/30/2017

All other terms and conditions of this Policy remain unchanged.