

NEW YORK FREE TRADE ZONE

NOTICE: THESE POLICY FORMS AND THE APPLICABLE RATES ARE EXEMPT FROM THE FILING REQUIREMENTS OF THE NEW YORK [STATE] INSURANCE LAW AND REGULATIONS. HOWEVER, THE FORMS AND RATES MUST MEET THE MINIMUM STANDARDS OF THE NEW YORK INSURANCE LAW AND REGULATIONS.



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

06/02/2022

Finger Lakes Performing Provider
System
1 S. Washington St., Suite 200
Rochester, NY 14614-1134

Re: PHUB816817

Dear Valued Customer:

Thank you very much for choosing Philadelphia Insurance Companies (PHLY) for your insurance needs. Our A++ (Superior) AM Best financial strength rating is one reason why over 700,000 policyholders have put their trust in us. We invite you to experience The PHLY Difference, which includes:

- Exceptional Customer Service
- Complimentary & Tailored Risk Management
- Best in Class Claims Experience
- Industry Leading Coverage
- Team PHLY Working for You!

We realize you have a choice in insurance companies, and we truly appreciate your business. Welcome to TeamPHLY, and please visit us at PHLY.com to learn more about The PHLY Difference!

Sincerely,

John W. Glomb, Jr.
President & CEO
Philadelphia Insurance Companies

JWG/sm

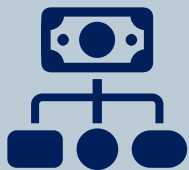
PHLY Customer Service

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DIRECT CUSTOMER BILLING BENEFITS

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- Never forget a payment with PHLY Recurring Payments
- Flexible Payment Plans
- Automated Payment Application for faster processing



PAYMENT OPTIONS

- Online – PHLY.com/MyPHLY
- Phone – 877.438.7459, option 1
- Mail – P.O. Box 70251, Philadelphia, PA 19176-0251



ON DEMAND CUSTOMER SERVICE ACCESS

- Live Chat - PHLY.com
- Phone - 877.438.7459
- Email - service@phly.com
- Hours: Monday - Friday 8:30 a.m. - 8:00 p.m. ET



A Member of the Tokio Marine Group

The PHLY *Difference*

800.873.4552
PHLY.com

The PHLY Difference



PHLY Customer Service

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- Dedicated billing representative



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- PHLYTrac GPS Program
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- PHLYSense Temperature/Water Monitoring Program



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TEAMPHLY - working for you!

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- Account Stewardship
- Giving back to local communities



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- Industry specific coverage enhancements
- Admitted & Non-admitted



Hear what our agents are saying about their experience with *The PHLY Difference*.

Learn more: [ThePHLYDifference.com](https://www.thephllydifference.com)

800.873.4552 | [PHLY.com](https://www.phly.com)

Philadelphia Insurance Companies is the marketing name for the insurance company subsidiaries of the Philadelphia Consolidated Holding Corp., a Member of the Tokio Marine Group. Coverage(s) described may not be available in all states and are subject to underwriting and certain coverage(s) may be provided by a surplus lines insurer. Surplus lines insurers do not generally participate in state guaranty funds and insureds are therefore not protected by such funds. | © 2021 Philadelphia Consolidating Holding Corp., All Rights Reserved.





Risk Management Services

PHLY RMS RESOURCES

Welcome to Philadelphia Insurance Companies (PHLY)! As a PHLY customer, your organization now has access to tools and services that can assist in your risk management efforts. Our Risk Management Services (RMS) Consultants can provide in-person assistance, from leading employee safety meetings to providing valuable guidance regarding safety best practices.

PHLY also provides various risk management tools and resources at little or no additional cost to your organization.

To access these resources, please take a moment to [register on our website](#). If you already have an account on PHLY.com, please [log in](#) to access Risk Management Services resources.

Risk Management Resources

We encourage you to explore the following risk management resources:

PHLYTRAC

PHLYTrac: PHLY's telematics tool providing an online dashboard that tracks location, speeding, hard breaking, and other fleet statistics - PROVIDED AT NO COST TO ELIGIBLE PHLY CUSTOMERS!

[PHLYTRAC](#)

PHLYSENSE

The **PHLYSense** System is a property monitoring tool that uses a sensor to provide immediate alerts to hazardous property conditions, such as low temperature or the presence of moisture. Provided at no cost to our customers with property coverage.

[PHLYSENSE](#)

ABUSE PREVENTION SYSTEMS

Abuse Prevention Resources: Online training and policy support to help improve the safety of child-serving operations (at no cost to our customers with Abuse coverage)

[Abuse Prevention System](#)

IntelliCorp

IntelliCorp: Provides a discounted background check package as well as discounted pricing for add-on services, such as Motor Vehicle Reports (MVRs).

[IntelliCorp](#)

SMARTER NOW! RMS WEB-BASED TRAINING

SmarterNow: PHLY's no-cost Learning Management System that provides online training, assignment, and reporting capabilities. Trainings include defensive driver, discrimination in the workplace, security awareness, and many more

[SMARTER NOW!](#)

WILSON ELSER

Wilson Elser Hotline: Provides two hours of legal consultation per occurrence. Provided at no cost for our Management and Professional and EPLI policyholders.

[Wilson Elser](#)

CONTACT

For questions about your organization's risk management needs and information on PHLY's Risk Management Services please contact PHLY RMS:
Phone: 1.800.873.4552 #4 (Mon-Fri 8:30 a.m. - 5:00 p.m. ET)

E-mail: phlyrms@phly.com

800.873.4552 | [PHLY.com](#)

The PHLY *Difference*

Philadelphia Insurance Companies is the marketing name for the insurance company subsidiaries of the Philadelphia Consolidated Holding Corp., a Member of the Tokio Marine Group. Coverage(s) described may not be available in all states and are subject to underwriting and certain coverage(s) may be provided by a surplus lines insurer. Surplus lines insurers do not generally participate in state guaranty funds and insureds are therefore not protected by such funds. | © 2021 Philadelphia Consolidating Holding Corp., All Rights Reserved.





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

Philadelphia Indemnity Insurance Company

Commercial Lines Policy

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 "John W. Glomb, Jr.", written in a cursive style.

John W. Glomb, Jr.
President & CEO

A handwritten signature in black ink, appearing to read "Ed Sany", written in a cursive style.

Secretary

**NOTICE
LATE FEE
NON-SUFFICIENT FUNDS FEE
REINSTATEMENT FEE**

Late Fee

Please be advised that if your payment is late (payment is not received within five days of the payment due date indicated on the invoice), you will be charged a late fee of \$25* (where permitted).

Non-Sufficient Funds Fee

Please be advised that if your payment is returned for non-sufficient funds, you will be charged a fee of \$25** (where permitted).

Reinstatement Fee

Please be advised that if your policy is cancelled due to non-payment of the premium and we agree to reinstate your policy, you will be charged a reinstatement fee of \$50*** (where permitted).

These fees are in addition to any premium owed on the policy and each fee can apply more than once during the policy term.

*\$10 in Florida, Maryland, South Carolina

**\$15 in Florida and \$20 in New York

***\$25 in Delaware, Georgia, New Hampshire and New Mexico; and \$15 in Kansas and Nebraska

ADVISORY NOTICE TO POLICYHOLDERS
COMMERCIAL PROPERTY COVERAGE
COMMERCIAL GENERAL LIABILITY COVERAGE
PROFESSIONAL LIABILITY COVERAGE
COMMERCIAL UMBRELLA LIABILITY COVERAGE

NOTICE OF REDUCTION IN COVERAGE

This is a summary of changes in your policy. No coverage is provided by this summary nor can it be construed to replace any provision 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.

The material in this notice makes reference to endorsement numbers; however, not all forms are included in a particular policy. You should review your Declarations to see what form(s) apply to your policy.

Your policy is being renewed with one or more of the following endorsements:

EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA ENDORSEMENT – CP 01 40 07 06

ALASKA – EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA – CP 01 81 01 08

MASSACHUSETTS – EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA – CP 01 76 09 06

NEW YORK – EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA – CP 01 78 08 08

This endorsement makes an explicit statement regarding a risk that is not covered under your Commercial Property or Ultimate Cover insurance. It points out that there is no coverage under such insurance for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease. The exclusion in this endorsement applies to all coverages provided by your Commercial Property or Ultimate Cover insurance, including (if any) property damage and business income coverage.

COMMUNICABLE DISEASE EXCLUSION ENDORSEMENT – CG 21 32 05 09

COMMUNICABLE DISEASE EXCLUSION – ILLINOIS – PI-GL-037 IL (04/20)

COMMUNICABLE DISEASE EXCLUSION – WASHINGTON – PI-GL-037 WA (04/20)

This endorsement excludes coverage for liability arising out of the actual or alleged transmission of a communicable disease which includes but is not limited to, COVID-19.

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – PROFESSIONAL LIABILITY – PI-PROF-002 (06/20)

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – PROFESSIONAL LIABILITY – GEORGIA – PI-PROF-002 GA (11/20)

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – PROFESSIONAL LIABILITY – ILLINOIS – PI-PROF-002 IL (06/20)

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – PROFESSIONAL LIABILITY – MONTANA – PI-PROF-002 MT (06/20)

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – PROFESSIONAL LIABILITY – PENNSYLVANIA – PI-PROF-002 PA (06/20)

This endorsement excludes coverage for professional liability arising out of the actual or alleged transmission of a communicable disease which includes, but is not limited to, COVID-19.

If you have also purchased a Commercial Umbrella Liability Policy, the following may also apply:

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – PI-CXL-132 (06/20)

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – ALASKA – PI-CXL-132 AK (06/20)

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – ILLINOIS – PI-CXL-132 IL (06/20)

ABSOLUTE COMMUNICABLE DISEASE EXCLUSION – WASHINGTON – PI-CXL-132 WA (01/21)

This endorsement adds an exclusion to the Umbrella for claims related to the actual or alleged transmission of a communicable disease which includes, but is not limited to, COVID-19.

GENERAL LIABILITY FOLLOW FORM ENDORSEMENT – PI-CXL-041 (05/16)

GENERAL LIABILITY FOLLOW FORM ENDORSEMENT – PI-CXL-041 AK (05/16)

GENERAL LIABILITY FOLLOW FORM ENDORSEMENT – PI-CXL-041 NY (05/16)

GENERAL LIABILITY FOLLOW FORM ENDORSEMENT – PI-CXL-041 VA (05/16)

This endorsement indicates that any General Liability insurance provided in the Umbrella will follow the same provisions, exclusions and limitations as those that are contained in your underlying General Liability policy. Coverage under your Umbrella policy will not be any broader than what is provided in your underlying General Liability policy.

PI-VIRUSNOTICE 1 (06/21)

Philadelphia Indemnity Insurance Company

Form Schedule – Policy

Policy Number: PHUB816817

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

Form	Edition	Description
NYFTZ Notice	0116	New York Free Trade Zone Class 1 And 2 Policy Notice
BJP-190-1	1298	Commercial Lines Policy Jacket
PI-FEES-NOTICE 1	1119	Notice Late/Non-Sufficient Funds/Reinstatement Fee
PI-HS-026 NY	1118	Limitation - Foster Parents New York

POLICY NUMBER: PHUB816817



One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY DECLARATIONS

Philadelphia Indemnity Insurance Company	3872 USI Insurance Services LLC 777 Canal View Blvd Ste 100 Rochester, NY 14623 (855) 874-0123
NAMED INSURED: Finger Lakes Performing Provider System	
MAILING ADDRESS: 1 S. Washington St., Suite 200 Rochester, NY 14614-1134	
POLICY PERIOD: FROM <u>06/01/2022</u> TO <u>06/01/2023</u> AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE	

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.

LIMITS OF INSURANCE	
EACH OCCURRENCE LIMIT (LIABILITY COVERAGE)	\$ <u>5,000,000</u>
PERSONAL & ADVERTISING INJURY LIMIT	\$ <u>5,000,000</u> Any one person or organization
PRODUCTS COMPLETED OPERATIONS AGGREGATE LIMIT	\$ <u>5,000,000</u>
GENERAL AGGREGATE LIMIT (LIABILITY COVERAGE) (except with respect to Auto Liability and Products Completed Operations)	\$ <u>5,000,000</u>

RETAINED LIMIT	
RETAINED LIMIT:	\$ <u>10,000</u>

POLICY NUMBER: PHUB816817

PREMIUM	
PREMIUM SUBTOTAL	\$ 5,412.00
STATE TAXES	<u>Not Applicable</u>
PREMIUM TOTAL (including State Taxes)	\$ 5,412.00
AUDIT PERIOD:	<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> ANNUALLY <input type="checkbox"/> SEMI-ANNUALLY <input type="checkbox"/> QUARTERLY <input type="checkbox"/> MONTHLY

DESCRIPTION OF BUSINESS	
FORM OF BUSINESS:	NON PROFIT ORGANIZATION
<hr/>	
BUSINESS DESCRIPTION:	<u>Non-Profit Umbrella</u>

ENDORSEMENTS ATTACHED TO THIS POLICY
<hr/> SEE ATTACHED SCHEDULE <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

POLICY NUMBER: PHUB816817

Professional Liability	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____
Employee Benefits Liability	<input type="checkbox"/> Occurrence	<input checked="" type="checkbox"/> Claims-Made
Company: <u>Philadelphia Indemnity Insurance Company</u>		
Policy Number: <u>PHPK2420366</u>		
Policy Period: <u>06/01/2022</u> <u>06/01/2023</u>		
Retroactive Date: <u>07/01/2015</u>		
Minimum Applicable Limits		
<u>Each Claim</u>	\$	<u>1,000,000</u>
<u>Aggregate</u>	\$	<u>2,000,000</u>
Abusive Conduct Liability	<input checked="" type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: <u>Philadelphia Indemnity Insurance Company</u>		
Policy Number: <u>PHPK2420366</u>		
Policy Period: <u>06/01/2022</u> <u>06/01/2023</u>		
Retroactive Date: <u>Not Applicable</u>		
Minimum Applicable Limits		
<u>Each Abusive Conduct</u>	\$	<u>1,000,000</u>
<u>Aggregate</u>	\$	<u>2,000,000</u>
Directors & Officers Liability	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____

POLICY NUMBER: PHUB816817

Liquor Liability	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____
Watercraft Liability	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____
Other Coverages Not Included in Above	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made

Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____

POLICY NUMBER: PHUB816817

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.

Countersigned:	By:
(Date)	(Authorized Representative)

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 countersigned by our authorized representative.



John W. Glomb, Jr.
President & CEO



Secretary

Philadelphia Indemnity Insurance Company

Form Schedule – Umbrella Liability

Policy Number: PHUB816817

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

Form	Edition	Description
PI-CXL-002 NY	0519	Commercial Umbrella Liability Ins Policy Declarations
PI-CXL-001	0314	Commercial Umbrella Liability Insurance Policy
PI-CXL-004	0119	Directors And Officers Liability Exclusion
PI-CXL-006	0912	Employers Liability (Stop Gap) Exclusion
PI-CXL-014	0912	Subsidence Exclusion
PI-CXL-026 NY	0615	Specified Underlying Claims Made Cov Endt - New York
PI-CXL-029	0516	Employee Benefits Liability Follow Form Endorsement
PI-CXL-039	0115	Cap On Losses From Certified Acts Of Terrorism
PI-CXL-041 NY	0516	General Liability Follow Form Endorsement
PI-CXL-047	1014	Medical Professional Liability Exclusion
PI-CXL-054	0912	Non-Owned Watercraft Amendment
PI-CXL-069	0119	Punitive Or Exemplary Damages Exclusion
PI-CXL-088	0314	Access Or Disclosure Of Confidential Info W/Exception
PI-CXL-092	0119	Automobile Liability (Sublimit)
PI-CXL-099	0116	Recording And Distribution Of Material Or Information
PI-CXL-100	0119	Absolute Cyber Liability And Electronic Exclusion
PI-CXL-105	0519	Abusive Conduct Liability Coverage Form Sublimit
PI-CXL-111	0719	Limit Of Ins Excl Clause Minimum Limit Requirement
PI-CXL-113	0118	Per Location / Per Project Agg Limit Of Ins Exclusion
PI-CXL-117	0119	Silica Or Silica-Related Dust Exclusion
PI-CXL-NY 1	0913	New York Changes - Cancellation And Nonrenewal
PI-CXL-NY 2	0913	NY Changes - Transfer Of Duties When A Limit Of Ins
PI-CXL-NY 3	0614	New York Changes
PI-CXL-NY-CM Addendum	0614	New York Application And Declaration Page Addendum
PI-UMTER-DN	1220	Disclosure Notice Of Terrorism Ins Cov Rejection Opt

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMITATION – FOSTER PARENTS
NEW YORK**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART
HUMAN SERVICES ORGANIZATION PROFESSIONAL LIABILITY COVERAGE FORM
HUMAN SERVICES ORGANIZATION PROFESSIONAL LIABILITY CLAIMS-MADE COVERAGE
FORM
SEXUAL OR PHYSICAL ABUSE OR MOLESTATION VICARIOUS LIABILITY COVERAGE FORM
OCCURRENCE
COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY**

The following supersedes any other provisions to the contrary in this policy:

- A.** The **WHO IS AN INSURED** section of the above Coverage Parts, Coverage Forms or policies is amended to include the following:

Any individual who is not your “employee” and is acting as a foster parent (including any entity formed by such individual), shall not be considered an insured for any activities performed in connection with providing temporary housing or supplemental care to a foster child.

- B.** With respect to the above Coverage Parts, Coverage Forms or policies, the following exclusion is added:

This insurance does not apply to claims against any individual who is acting as a foster parent (including any entity formed by such individual), or providing temporary housing or supplemental care to a foster child.

This exclusion does not apply to your “employees” while acting within the scope of their employment by you.

- C.** For the purposes of this endorsement, a foster child does not include clients who are age 18 or older, and diagnosed as developmentally disabled.

All other terms and conditions of this policy remain unchanged.

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

This policy has been issued in reliance upon the statement in the Declarations made a part hereof and in the application submitted for this 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 policy the words "you" and "your" refer to the Named Insured shown in the Declarations and any other person qualifying as a Named Insured under this policy. 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 in this policy that appear in quotation marks have special meaning. Refer to **SECTION V – DEFINITIONS**.

SECTION I – COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

We will pay on behalf of the insured the "ultimate net loss" in excess of the "applicable underlying limit," whether or not collectible, which the insured becomes legally obligated to pay as damages because of "bodily injury," "property damage" or "personal and advertising injury" to which this insurance applies.

Bodily Injury and Property Damage

- a. This insurance applies to "bodily injury" or "property damage" only if:
 - (1) The "bodily injury" or "property damage" arising out of an "occurrence" takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under Paragraph 1.a. 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.
- b. "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.a. 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.
- c. "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.a. of **SECTION II – WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "occurrence"

or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

Personal and Advertising Injury

This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Defense of Claims or Suits and Supplementary Payments

a. We will have the right and duty to defend the insured against any "suit" seeking 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.

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."

- b. We may investigate and settle any claim or "suit" in a. above at our discretion.
- c. Our right and duty in a. above ends when we have used up the "applicable limit of insurance" in the payment of judgments or settlements.
- d. We will pay, with respect to any claims or "suits" we defend in a. above:
 - (1) All expense we incur.
 - (2) Up to \$2000 for cost of bail bonds (including bonds for related traffic violations) required because of an "occurrence" we cover. We do not have to furnish these bonds.
 - (3) The premium for 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.
 - (4) 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.
 - (5) All court costs taxed against the insured in the "suit." However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
 - (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.

(7) 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."

These payments will not reduce the limits of insurance.

e. We will have no duty to defend the insured against 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, but we will not contribute to the expenses of the insured or the "underlying insurer."

f. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit," we will defend that indemnitee if all of the following conditions are met:

(1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

(2) This insurance applies to such liability assumed by the insured;

(3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

(4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

(5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

(6) The indemnitee:

(a) Agrees in writing to:

(i) Cooperate with us in the investigation, settlement or defense of the "suit";

(ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(iii) Notify any other insurer whose coverage is available to the indemnitee; and

(iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(b) Provides us with written authorization to:

(i) Obtain records and other information related to the "suit"; and

(ii) Conduct and control the defense of the indemnitee in such "suit."

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **3. Exclusions, f.(2)** below, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the "applicable limit of insurance" in the payment of judgments or settlements or the conditions set forth above or the terms of the agreement described in Paragraph **f.(6)** above.

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" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. Workers Compensation and Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

c. Employment Related Practices

"Bodily injury" or "personal and advertising 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 discrimination, criticism, self-defamation, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or malicious prosecution directed at that person

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising 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:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before, during or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and

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

d. War

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

- (1) War, including undeclared or civil war;
- (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) Rebellion, revolution, insurrection, usurped power or action taken by governmental authority in hindering or defending against any of these.

e. E.R.I.S.A.

Any obligation of the insured under the Employees' Retirement Income Security Act (E.R.I.S.A.) and any amendments thereto or any similar federal, state, or local statute.

f. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract," provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract," reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage," provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

g. Aircraft or Watercraft

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

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.

This exclusion does not apply to:

- (1) Watercraft while ashore on premises you own or rent;
- (2) Watercraft you do not own that is:
 - (a) Less than 50 feet long; and
 - (b) Not being used to carry persons or property for a charge.
- (3) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft.
- (4) The extent that valid "underlying insurance" for the aircraft or watercraft liability risks described above exists or would have existed but for the exhaustion of underlying limits for "bodily injury" or "property damage." Coverage provided will follow the provisions, exclusions and limitations of the "underlying insurance" unless otherwise directed by this insurance; or
- (5) Aircraft that is:
 - (a) Chartered by, loaned to, or hired by you with paid crew; and
 - (b) Not owned by any insured.

h. Auto Coverages

- (1) "Bodily injury" or "property damage" arising out of the ownership, maintenance or use of any "auto" which is not an "auto" covered by "underlying insurance"; or
- (2) Any loss, cost or expense payable under or resulting from any first party physical damage coverage; no-fault law; personal injury protection or auto medical payment coverage; or uninsured or underinsured motorist law.

In addition, any other auto liability exclusions contained in the applicable "underlying insurance" shown in the Schedule of Underlying shall apply.

i. Other Personal and Advertising Injury Exclusions

"Personal and advertising injury":

(1) Knowing Violation of Rights of Another

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 and advertising injury."

(2) Material Published with Knowledge of Falsity

Arising out of oral or written 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

Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period. All "personal and 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

Arising out of a criminal act committed by or at the direction of the insured.

(5) Contractual Liability

For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of a contract or agreement.

(6) Breach of Contract

Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement."

(7) Quality or Performance of Goods – Failure to Conform to Statements

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

(8) Wrong Description of Prices

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

(9) Infringement of Copyright, Patent, Trademark or Trade Secret

Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement."

However, this exclusion does not apply to infringement in your "advertisement" of copyright, trade dress or slogan.

(10) Insureds in Media and Internet Type Businesses

Committed by an insured whose business is:

- (a)** Advertising, broadcasting, publishing or telecasting;
- (b)** Designing or determining content of websites for others; or
- (c)** An internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **16. a., b. and c.** under **SECTION V – DEFINITIONS.**

For the purpose 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.

(11) Electronic Chatrooms or Bulletin Boards

Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over

which the insured exercises control.

(12) Unauthorized Use of Another's Name or Product

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.

j. Damage to Property

"Property damage" to property:

- (1) 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 an 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.

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 (1), (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."

k. Damage to Your Product

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

l. 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.

m. 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.

n. 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.

o. Pollution

- (1) "Bodily injury," "property damage" or "personal and advertising injury" arising out of the actual alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) 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. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fume, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii) "Bodily injury" or "property damage" for which you may be held liable if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b) 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;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or

processed as waste by or for:

- (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible; or
- (d) 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 if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as a part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire."
- (e) At or from any premises, site or location on which any insured or any contractor or subcontractor working directly or indirectly on any insured's behalf are performing operations 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."
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants."

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

As used in this exclusion, "hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

p. Discrimination

Any liability arising from discrimination:

- (1) Suffered or allegedly suffered by any person based upon, but not limited to, color, creed, gender, race, national origin, age, handicap, illness, religion or sexual preference; or
- (2) Due to unfair trade practices.

q. Asbestos

"Bodily injury," "property damage" or "personal and advertising injury" arising out of the "asbestos hazard."

We shall have no obligation under this policy:

- (1) To investigate, settle or defend any claim or "suit" against any insured alleging actual or threatened injury or damage of any nature or kind to persons or property which arises out of or would not have occurred but for the "asbestos hazard"; or
- (2) To pay, contribute to, or indemnify another for any damages, judgments, settlements, loss, costs or expenses that may be awarded or incurred by reason of any such claim or "suit" or any injury or damage, or in complying with any action authorized by law and relating to such injury or damage.

As used in this exclusion:

"Asbestos hazard" means:

- (a) An actual exposure or threat of exposure to the harmful properties of "asbestos"; or
- (b) The presence of "asbestos" in any place, whether or not within a building or structure.

"Asbestos" means the mineral in any form, including but not limited to fibers or dust.

r. Nuclear Energy Liability

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 Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under such policy but for its termination upon exhaustion of its limit of liability;
- (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, with any person or organization; or
- (3) Resulting from the "hazardous properties" of "nuclear material", if:
 - (a) The "nuclear material"

- (i) Is at any "nuclear facility" owned by, or operated by or on behalf of an insured; or
- (ii) Has been discharged or dispersed therefrom;
- (b) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an insured; or
- (c) 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 (c) applies only to "property damage" to such "nuclear facility" and any property threat.

As used in this exclusion:

"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 "nuclear facility."

"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for (i) separating the isotopes of uranium or plutonium; (ii) processing or utilizing "spent fuel"; or (iii) handling, processing or packaging "waste";
- (c) Any equipment or device used for 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.

s. Liquor 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.

t. Trade or Economic Sanctions

To the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, including, but not limited to, the payment of claims.

u. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

This exclusion does not apply if valid “underlying insurance” for the electronic data risks described above exists or would have existed but for the exhaustion of underlying limits for “bodily injury” and “property damage.” Coverage provided will follow the provisions, exclusions and limitations of the “underlying insurance,” unless otherwise directed by this insurance.

v. Distribution of Material in Violation of Statutes

“Bodily injury” or “property damage” arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of materials or information.

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. Your "executive officers" and directors are insured, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Any subsidiary you wholly own, either directly or indirectly, at the inception of our policy.
3. Each of the following is also an insured:
 - a. With respect to 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 lessee.
 - b. With respect to aircraft:

Anyone using an aircraft chartered with crew by you or on your behalf and anyone legally responsible for its use except:

 - (1) The owner or crew of the aircraft or any person operating such aircraft;
 - (2) Any manufacturer of the aircraft or any of its parts;
 - (3) Any sales, service or repair company;
 - (4) Any airport or hangar operator; or any "employee" of (2), (3) or (4).
 - c. Except with respect to aircraft and the "auto hazard":

- (1)** Your “volunteer workers” only while performing duties related to the conduct of your business, or your “employees,” other than either your “executive officers” (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these “employees” or “volunteer workers” are insureds for:
- (a)** “Bodily injury” or “personal and advertising injury”:
- (i)** To you, to your partners or members (if you are a partnership or joint venture), to a co-“employee” while in the course of his or her employment or performing duties related to the conduct of your business, or to your other “volunteer workers” while performing duties related to the conduct of your business unless insurance for such liability is afforded by the “underlying insurance”;
 - (ii)** To the spouse, child, parent, brother or sister of that co-“employee” or “volunteer worker” as a consequence of Paragraph **(a)(i)** above;
 - (iii)** For which there is any obligation to share damage with or repay someone else who must pay damages because of the injury described in Paragraphs **(a)(i)** or **(ii)** above; or
 - (iv)** Arising out of his or her providing or failing to provide professional health care services.
- (b)** “Property damage” to property:
- (i)** Owned, occupied or used by;
 - (ii)** Rented to, in the care custody or control of, or over which physical control is being exercised for any purpose by

you, any of your “employees,” “volunteer workers,” any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- (2)** Any person (other than your “employee” or “volunteer worker”), or any organization while acting as your real estate manager.
- (3)** Any person or organization having proper temporary custody of your property if you die, but only:
- (a)** With respect to liability arising out of the maintenance or use of that property; and
 - (b)** Until your legal representative has been appointed.
- (4)** 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.
- d.** Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured. However:
- (1)** Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

- (2) Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- (3) Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
- e. Any person or organization for whom you agreed in writing to provide this insurance for operations you perform or facilities you own or use. This insurance is subject to your "applicable underlying limits" for such operations or facilities.
- f. Any other person or organization insured under any policy of the "underlying insurance." This grant is subject to all the limitations upon coverage under such policy other than the limits of the "underlying insurers" liability.

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

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 number of vehicles involved; or
 - (c) Persons or organizations making claims or bringing "suits."
2. The Products-Completed Operations Aggregate Limit is the most we will pay for the sum of all "ultimate net loss" because of "bodily injury" and "property damage" included in the "products-completed operations hazard."
3. The General Aggregate Limit is the most we will pay for the sum of all "ultimate net loss" under Coverage A and Coverage B except:
 - (a) Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard"; and
 - (b) Damages because of "bodily injury" and "property damage" included in the "auto hazard."
4. Subject to 3. above, the most we will pay under Coverage B for the sum of all "ultimate net loss" because of all "personal and advertising injury" sustained by any one person or organization shall be an amount equal to the Each Occurrence Limit.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of all "ultimate net loss" under Coverage A because of all "bodily injury" and "property damage" arising out of any one "occurrence."
6. If there is "underlying insurance" with a policy period that is non-concurrent with the policy period of this Commercial Umbrella Liability policy, the "applicable underlying limit" will only be reduced or exhausted by payments for:

- a. "Bodily injury" or "property damage" which occurs during the policy period of this policy.
- b. "Personal and advertising injury" for offenses that are committed during the policy period of this policy.

However, if any "underlying insurance" is written on a claims-made basis, the "applicable underlying limit" will only be reduced or exhausted by claims for that insurance that are made during the policy period, or any Extended Reporting Period, of this policy.

To determine the Limit of Insurance, 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 insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – CONDITIONS

1. Appeals

If the insured or the "underlying insurer" elects not to appeal a judgment in excess of the "applicable underlying limit," we may elect to make such appeal, at our cost and expense.

If we so elect, we shall be liable in addition to the "applicable limit of insurance" for the:

- (a) Taxable costs;
- (b) Disbursements; and
- (c) Additional interest incidental to such appeal;

but in no event will we be liable for damages in excess of the applicable aggregate Limit of Insurance.

If a judgment is rendered in excess of the limits of "underlying insurance" and we offer to pay our full share of such judgment, but you or your "underlying insurers" elect to appeal it, you, your "underlying insurers" or both will bear:

- (1) The cost and duty of obtaining any appeal bond;
- (2) The taxable costs, disbursements and additional interest incidental to such appeal; and
- (3) Any increase in damages over the amount the matter could have been settled for after the verdict was entered and before the appeal was filed.

2. Bankruptcy

a. Bankruptcy of Insured

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

b. Bankruptcy of Underlying Insurer

Bankruptcy of the “underlying insurer” will not relieve us of our obligations under this insurance.

However, this insurance will not replace the “underlying insurance” in the 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. The first Named Insured may cancel this insurance by mailing or delivering to us in advance, written notice of cancellation.
- b. We may cancel this insurance by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - (1) 10 days before the effective date of cancellation if we cancel for non-payment 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 the first Named Insured's 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 policy 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 refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

4. Changes

This policy 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 as soon as practicable of any "occurrence" or any offense which may result in a claim under this insurance when the occurrence or offense is known to:
 - (1) You, if you are an individual;
 - (2) Your partner, if you are a partnership;
 - (3) Your member, if you are a joint venture;
 - (4) Your member or manager, if you are a limited liability company; or

- (5) Your officer or insurance manager, if you are an organization other than a partnership, joint venture or limited liability company.
- b. Notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the "occurrence."
- c. If a claim 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."
- d. The insured must:
 - (1) Cooperate with the "underlying insurers";
 - (2) Comply with the terms of the "underlying insurance";
 - (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", or "personal and advertising injury" with respect to which insurance is provided under this or any policy of "underlying insurance."
 - (4) 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. Inspection 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:

- (1) Are safe or healthful; or
- (2) 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 obtained after an actual trial. We will not be liable for damages that:

- (1) Are not payable under the terms of this insurance; or
- (2) 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 / Changes to Underlying Insurance

The "underlying insurance" listed in the Schedule of Underlying Insurance in the Declarations shall remain in full effect throughout the policy period except for reduction of the aggregate limit due to payment of claims, settlements or judgments.

Failure to maintain "underlying insurance" will not invalidate this insurance. However, this insurance will apply as if the "underlying insurance" were in full effect.

If there is an increase in the scope of coverage of any "underlying insurance" during the term of this policy, our liability will be no more than it would have been if there had been no such increase.

You must notify us as soon as practicable when any "underlying insurance" is no longer in effect or if the limits or scope of coverage of any "underlying insurance" is changed.

10. Other Insurance

- a. This insurance is excess over, and shall not contribute with any of the other insurance whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this policy.

When this insurance is excess, we will have no duty under this policy to defend the insured against any "suit" if any other insurer has a 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.

- b. When this insurance is excess over other insurance, we will pay only our share of the "ultimate net loss" 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 deductible and self-insured amounts under all that other insurance.

11. Transfer of Rights of Recovery Against Others to Us

- a. If any insured has rights to recover from any other person or organization all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair those rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.
- b. Any such recovery shall be applied as follows:
 - (1) First, any person or organization (including the insured) that has paid an amount in excess of the applicable limits of insurance of this policy will be reimbursed for the actual excess amount paid under this policy;
 - (2) Then, we will be reimbursed up to the amount we have paid; and
 - (3) Last, any insured or issuer of scheduled "underlying insurance" is entitled to claim the remainder, up to the amount that insured or issuer of scheduled "underlying insurance" has paid.
- c. Expenses incurred in the exercise of such rights of recovery shall be apportioned among such persons or organizations, including the insured, in the same ratio as their respective recoveries are finally shared.

12. Premium

- a. The first Named Insured has primary responsibility 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 – WHO IS AN INSURED**, Items **3. d., e., and f.**

13. Premium Audit

- a. You must keep record 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
- c. Audit premiums are due and payable on notice to you.

14. Representations or Fraud

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;
- c. We have issued this insurance in reliance upon your representations; and
- d. This policy is void in any case of fraud by you as it relates to this policy or any claim under this policy.

15. Separation of Insureds

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:

- a. Your legal representative but only while acting within the scope of duties as your legal representative.
- b. Anyone having your rights and duties but only with respect to that property, until your legal representative is appointed.

17. When Loss is Payable

Coverage under this policy will not apply until the insured, or the insured's "underlying insurer" has paid or is obligated to pay the full amount of the "applicable underlying limit."

When the amount of damages is determined by an agreed settlement or on a final judgment against an insured obtained after an actual trial, we will promptly pay on behalf of the insured the amount of damages covered under the terms of this policy. The first Named Insured will promptly reimburse us for any amount within the "retained limit."

18. Transfer of Defense

When the underlying limits of insurance have been used up in the payment of judgments or settlements, the duty to defend will be transferred to us. We will cooperate in the transfer of control to us of outstanding claims or "suits" seeking damages to which this insurance applies which would have been covered by the "underlying insurance" had the applicable limit not been used up.

SECTION V – DEFINITIONS

- 1. "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 purpose of this definition:

- a. Notices that are published include material placed on the internet or on similar electronic means of communication.
 - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Applicable limit of insurance" means the maximum amount we will pay as damages in accordance 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:

- (a) The "underlying insurer" claims the insured failed to comply with any condition of the policy; or
- (b) The "underlying insurer" becomes bankrupt or insolvent.

4. "Auto" means:
- a. A land motor vehicle, trailer or semi-trailer designed for travel on public road, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment."

5. "Auto hazard" means all "bodily injury" and "property damage" for which liability insurance is afforded under the terms of the auto policy of "underlying insurance," other than the limits of insurance of the auto policy of "underlying insurance."
6. "Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time.
7. "Coverage territory" means:
- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
 - c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in **a.** above;
- (2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in **a.** above or in a settlement we agree to.

- 8. "Employee" includes a "leased worker." "Employee" does not include a "temporary worker."
- 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 10. "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 agreement;
 if such property can be restored to use by:
 - (1) The repair, replacement, adjustment or removal of "your product" or "your work"; or
 - (2) Your fulfilling the terms of the contract or agreement.
- 11. "Insured contract" means:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees," of any "auto." However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees."
 - g. That part of any other contract or agreement pertaining to your business (including an

indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraphs **f.** and **g.** do not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
 - (2) That pertains to the loan, lease or rental of an "auto" to you or any of your "employees," if the "auto" is loaned, leased or rented with a driver; or
 - (3) That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
12. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker."
13. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" 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 aircraft, watercraft or "auto."

14. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - b. Vehicles maintained for use solely on or next to premises you own or rent;
 - c. Vehicles that travel on crawler treads;
 - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
 - e. Vehicles not described in **a.**, **b.**, **c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
- (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos."

- 15. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- 16. "Personal and advertising injury" means injury, including consequential "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, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in your "advertisement; or
 - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement."
- 17. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled,

reconditioned or reclaimed.

18. "Products-completed operations hazard":

a. 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. However, "your work" will be deemed completed at the earliest of the following times:
 - (a)** When all of the work called for in your contract has been completed.
 - (b)** 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.
 - (c)** 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.

b. 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.

19. "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 shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

20. "Retained limit" is the amount 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 and advertising injury" sustained by any one person or organization.

The "retained limit" does not apply to "occurrences" or offenses which would have been covered by "underlying insurance" but for the exhaustion of applicable limits.

21. "Suit" means a civil proceeding in which damages because of "bodily injury," "property damage," or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
 - (a) An arbitration proceeding in which such damages are claimed and 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 or the "underlying insurer's" consent.
22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
23. "Ultimate net loss" means the total sum, after reduction for recoveries or salvages collectible, that the insured becomes legally obligated to pay as damages by reason of settlement or judgments or any arbitration or other alternate dispute method entered into with our consent or the "underlying insurer's" consent.
24. "Underlying insurance" means any policies of insurance listed in the Declarations under the Schedule of Underlying Insurance and includes:
 - a. Any renewal or replacement of such policies; and
 - b. Any other insurance available to the insured.
25. "Underlying insurer" means any insurer which provides any policy of insurance listed in the Schedule of Underlying Insurance or any other insurance available to the insured.
26. "Volunteer worker" means a person who is not your "employee," and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
27. "Your product" means:
 - a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
 - b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes:

- (a) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (b) The providing of or failure to provide warnings or instructions.

"Your product" does not include vending machines or other property rented to or located for the use of others but not sold.

28. "Your work" means:

- a.** Work or operations performed by you or on your behalf; and
- b.** Materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, or 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.

DIRECTORS AND OFFICERS LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

A. SECTION I – COVERAGES, 3. Exclusions is amended to include the following additional exclusion:

This insurance does not apply to any liability, damage, loss, cost or expense arising from any “wrongful act” of any director or officer of the insured in the discharge or performance of their duties as such.

B. SECTION V – DEFINITIONS is amended to include the following additional definition:

“Wrongful act” means any actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty by the directors or officers in the discharge of their duties, individually or collectively, or any matter claimed against them solely by reason of their being directors or officers of the company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYERS' LIABILITY (STOP GAP) EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION I – COVERAGES, 3. Exclusions is amended to include the following additional exclusion:

This insurance does not apply to any liability for “bodily injury,” disability or shock, including death at any time resulting from any of these, and, if arising out of the foregoing mental anguish or mental injury sustained by:

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:

- a. Whether the insured may be liable as an employer or in any other capacity; and
- b. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SUBSIDENCE EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION I – COVERAGES, 3. Exclusions is amended to include the following additional exclusion:

This insurance does not apply to any liability, damage, loss, cost or expense, whether direct or indirect, arising out of, caused by, resulting from, contributed to or aggravated by the subsidence of land, including any: settling, expansion, sinking, slipping, falling away, tilting, caving in, shifting, eroding, mud flow, rising, or any other movement of land or earth if any of the foregoing emanate from the operations of the insured or any other person for whose acts the insured is legally liable.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**SPECIFIED UNDERLYING CLAIMS MADE COVERAGE
ENDORSEMENT – NEW YORK**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

COVERAGE AS PROVIDED BY THIS ENDORSEMENT IS CLAIMS MADE AND REPORTED TO US DURING THE POLICY PERIOD, ANY SUBSEQUENT RENEWAL, OR ANY EXTENDED REPORTING PERIOD, IF APPLICABLE, AS PER THE TERMS OF THE UNDERLYING INSURANCE POLICY. PLEASE READ THE ENTIRE POLICY CAREFULLY.

This insurance shall follow the insuring agreement, exclusions, definitions, conditions and any limitations of the "underlying insurance" shown in the Schedule of Underlying Insurance as Employee Benefits Liability provided always that:

1. This insurance applies only if a claim is first made in writing during the policy period, subsequent policy period or any Extended Reporting Period we provide under Paragraph 4. below.
2. This insurance does not apply to any liability which occurs prior to 07/01/2015, hereinafter referred to as the retroactive date.
3. This insurance does not apply to any prior litigation, demand, circumstance or situation which has been the subject of any written notice given under any other similar insurance or is pending as of inception of this policy.
4. No coverage exists for claims first made against the insured after the end of the policy period unless an Extended Reporting Period Endorsement is added to this policy and any applicable additional premium is paid when due and provided that:
 - a. A claim first made during the Extended Reporting Period shall be deemed to have been made on the last day of the policy period provided that the claim is for covered liability that occurred before the end of the policy period but not before the retroactive date;
 - b. We will issue an endorsement providing an extended reporting period subject to the following conditions:
 - (1) A 60-day, (90-day if a public entity), automatic extended reporting period is provided without additional charge, but only for the coverage terminated. Within 30 days after coverage is terminated, we must advise you in writing of this right.
 - (2) Within 30 days after coverage is terminated, we must also advise you in writing of the availability of the premium for, and the importance of purchasing additional extended reporting period coverage of three years. (If termination is due to non-payment of premium or fraud on your part, we are not required to provide a premium quotation unless requested by you.) For the purpose of determining when the three-year period begins, the 60-day automatic reporting period is included. You have the greater of 60 days from the effective date of termination of coverage, or 30 days from the date of mailing or delivery of our advice, to submit written acceptance of the three-year extended reporting period coverage.

(3) If you choose not to purchase extended reporting period coverage on the claims-made “underlying insurance,” coverage under this policy will be provided only on the basis as if such extended reporting period coverage were in effect.

- c. The Extended Reporting Period Endorsement shall not reinstate or increase our limit of insurance, change the scope of coverage, or extend the policy period;
- d. The Extended Reporting Period Endorsement will amend the **Other Insurance** policy condition to the extent that such coverage provided will be excess over any valid and collectible insurance available to the insured, whether primary, excess, contingent or on any other basis, whose policy begins or continues after the endorsement takes effect; and
- e. The extended reporting period will not take effect unless the additional premium determined by us is paid when due. The premium for the extended reporting period will be fully earned when the extended reporting period endorsement takes effect. If that premium is paid when due, the endorsement may not be canceled.

To the extent such provisions differ or conflict, the provisions of this policy will apply. However, the coverage provided under this policy will not be broader than that provided by the applicable “underlying insurance.”

Any per location or per project aggregate limit of insurance that is extended in the applicable “underlying insurance” shown in the Schedule of Underlying Insurance will not apply to the coverage provided by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE BENEFITS LIABILITY FOLLOW FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

This policy is intended to include Employee Benefits Liability coverage.

The Employee Benefits Liability insurance provided will follow the same provisions, exclusions and limitations that are contained in the “applicable underlying insurance” shown in the Schedule of Underlying Insurance unless otherwise directed by this policy, or an endorsement to this policy.

To the extent such provisions differ or conflict, the provisions of this policy will apply. However, the coverage provided under this policy will not be broader than that provided by the applicable “underlying insurance.”

Any per location or per project aggregate limit of insurance that is extended in the applicable “underlying insurance” shown in the Schedule of Underlying Insurance will not apply to the coverage provided by this endorsement.

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 UMBRELLA LIABILITY INSURANCE POLICY

- A.** If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year 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 accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such 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.
- B.** The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this Coverage Part.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY FOLLOW FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

This policy is intended to include Commercial General Liability Coverage.

The Commercial General Liability insurance provided will follow the same provisions, exclusions and limitations that are contained in the applicable "underlying insurance" shown in the Schedule of Underlying Insurance unless otherwise directed by this policy, or an endorsement to this policy.

To the extent that such provisions differ or conflict, the provisions of this policy will apply. However, the coverage provided under this policy will not be broader than that provided by the applicable "underlying insurance."

Any per location or per project aggregate limit of insurance that is extended in the applicable "underlying insurance" shown in the Schedule of Underlying Insurance will not apply to the coverage provided by this endorsement.

Notwithstanding anything to the contrary in this policy, the insurance coverage afforded by this policy as respects operations in New York State shall conform to the requirements of the applicable New York State Insurance Laws and the applicable New York State Insurance Department Regulations. However, the limit of insurance provided by this policy shall be excess of the limit of insurance of any "underlying insurance" or self-insurance as stated in the Schedule of Underlying Insurance or any endorsements attached thereto.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MEDICAL PROFESSIONAL LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION I – COVERAGES, 3. Exclusions is amended to include the following additional exclusion:

This insurance does not apply to any liability, damage, loss, cost or expense arising out of any “professional incident” by any “medical professional.”

For the purpose of this endorsement, the following definitions are added:

1. “Medical professional” means a licensed physician, dentist, optometrist, nurse anesthetist or nurse midwife.
2. “Professional incident” means any actual or alleged negligent:
 - a. Act;
 - b. Error; or
 - c. Omission

in the rendering of professional services to others, including any counseling services, in your capacity as either a human services organization or a religious organization. Professional services include the furnishing of food, beverages, medications or appliances in connection therewith.

Any or all “professional incidents” arising from interrelated or series of acts, errors or omissions shall be deemed to be one “professional incident” taking place at the time of the earliest “professional incident.”

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NON-OWNED WATERCRAFT AMENDMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION I – COVERAGES, 3. Exclusions, g. Aircraft or Watercraft, (2) is deleted in its entirety and replaced with the following:

- (2) Watercraft you do not own that is:
 - (a) Less than 58 feet long; and
 - (b) Not being used to carry persons or property for a charge.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PUNITIVE OR EXEMPLARY DAMAGES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION I – COVERAGES, 3. Exclusions is amended to include the following additional exclusion:

This insurance does not apply to punitive or exemplary damages awarded against the insured.

However, this exclusion applies only where permitted by law.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY EXCLUSION – WITH LIMITED BODILY INJURY EXCEPTION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION I – COVERAGES, 3. Exclusions is amended as follows:

A. Exclusion **u. Electronic Data** is deleted in its entirety and replaced by the following:

This insurance does not apply to:

u. Access or Disclosure of Confidential or Personal Information and Data-related Liability

Damages arising out of:

- (1)** Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to damages because of "bodily injury."

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

B. Exclusion **i. Other Personal and Advertising Injury Exclusions** is amended to include the following additional exclusion:

This insurance does not apply to "personal and advertising injury":

Access or Disclosure of Confidential or Personal Information

Arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMOBILE LIABILITY (SUBLIMIT)

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SCHEDULE

AUTOMOBILE LIABILITY SUB-LIMIT:

Each Occurrence Limit: \$ 5,000,000

Notwithstanding any provision to the contrary, this policy will provide auto liability coverage subject to the **AUTOMOBILE LIABILITY SUB-LIMIT** shown in the endorsement **SCHEDULE** above. This sub-limit is part of, and not in addition to, the Limits of Insurance stated in the Declarations.

The auto liability insurance provided will follow the same provisions, exclusions and limitations that are contained in the applicable "underlying insurance" shown in the Schedule of Underlying Insurance unless otherwise directed by this policy, or an endorsement to this policy.

To the extent such provisions differ or conflict, the provisions of this policy will apply. However, the coverage provided under this policy will not be broader than that provided by the applicable "underlying insurance."

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**RECORDING AND DISTRIBUTION OF MATERIAL OR INFORMATION
IN VIOLATION OF LAW – PERSONAL AND ADVERTISING INJURY
EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION I – COVERAGES, 3. Exclusions is amended to include the following additional exclusion:

Recording and Distribution of Material or Information in Violation of Law – Personal and Advertising Injury

This insurance does not apply to “personal and advertising injury” arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**ABSOLUTE CYBER LIABILITY AND ELECTRONIC EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

1. **SECTION I – COVERAGES, 3. Exclusions**, Exclusion u. **Electronic Data** is deleted in its entirety and replaced with the following:

u. Electronic Data

This insurance does not apply to any loss, cost, expense, fine, penalty, error and omission, or damage alleging, arising out of or from, attributable to, or giving rise to:

- (1) Any access to, collection or disclosure of, or failure to erase any person's or organization's confidential or personal information, including but not limited to patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information, biometrics, or any other type of nonpublic information; or
- (2) Business interruption or suspension of operations as caused by any access, "unauthorized access," lack of access, delay in access, damage, manipulation, loss, or impairment to "electronic data" or "electronic media"; or
- (3) "Cyber extortion"; or
- (4) A "privacy breach"; or
- (5) A "security breach"; or
- (6) Any fraudulent communication through "electronic media" that impersonates any person or organization, including but not limited to phishing or other social engineering techniques or otherwise; or
- (7) Any computer code, software, or programming; or
- (8) Any "security breach" that results in any electronic thing or device or "electronic media" malfunctioning, improperly functioning, non-functioning, failing to perform as the intended user desired, or being electronically manipulated to perform in a way that causes harm to the insured or others; or
- (9) The loss, loss of use, misuse, delay, manipulation, corruption, damage, alteration, destruction, distortion, erasure, or theft of, or inability to access or manipulate "electronic data" or "electronic media" as a result of "cyber extortion"; or "privacy breach"; or "security breach"; or
- (10) Any failure of utilities based upon, arising out of, or attributable to any mechanical or electrical failure, interruption, or outage, however caused, including but not limited to any electrical power interruption or surge, brownout, blackout, short circuit, over voltage, or power fluctuation or outage to gas, water, telephone, cable, satellite, telecommunications, the internet, or any component thereof, including but not limited to hardware, software, or any other infrastructure as a result of "cyber extortion"; or "privacy breach"; or "security breach."

This exclusion applies even if damages are claimed for notification costs, errors or omissions, credit monitoring expenses, forensic expenses, public relations expenses, or any other loss, cost, or expense incurred by the insured or others arising out of that which is described in Paragraphs **(1)** through **(10)** above.

2. As used in this exclusion, the following definitions apply:

- a.** “Computer hardware” means the physical components of any “computer system” including CPU’s, memory storage devices, storage media, and input/output devices and other peripheral devices and components including but not limited to cable, connectors, fiber optics, networking equipment, “electronic data” storage devices, input and output devices, backup facilities, wire, power supply units, keyboards, display monitors and audio speakers.
- b.** “Computer system” means an electronic, wireless, web or similar systems (including all “computer hardware,” computer programs and “electronic data”) used to process data or information in an analog, digital, electronic or wireless format, including but not limited to, associated input and output devices, data storage devices, networking equipment, wired or wireless peripherals, electronic backup facilities, and media libraries, that is owned or leased, operated and controlled by the insured or operated by an independent contractor authorized to provide Business Process Outsourcing services or outsourced Information Technology services for the insured.
- c.** “Corporate information breach” means the public disclosure of an organization’s non-public information.
- d.** “Cyber extortion” means any threat or connected series of threats communicated to the insured for the purpose of demanding money, securities, or property, including but not limited to threats to release, divulge, disseminate, corrupt, damage or destroy “electronic data” or “electronic media”; introduce malware or “malicious code” into the insured’s “computer system”; electronically communicate with the insured’s customers in order to fraudulently obtain personal information, money, securities or property; or restrict or hinder access to the insured’s “computer system,” “electronic data” or “electronic media,” including but not limited to ransomware.
- e.** “Denial of service” means unauthorized or unexpected interference or malicious attack by any person(s) or entity(ies) that restricts or prevents access to a “computer system” by persons or entities authorized to gain access to the “computer system” or “electronic data.”
- f.** “Electronic data” means information, facts, blockchain, crypto currencies, or computer programs stored as or on, created or used on, or transmitted to or from computer software, including but not limited to systems and applications software, hard or floppy disks, CD-ROMs, DVDs, external drives, USB sticks, tapes, drives, cells, microchip, data processing devices, or any other media which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of “electronic data,” means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve, or send data.
- g.** “Electronic media” means broadcast or storage media that take advantage of electronic technology. They include television, radio, Internet, fax, Bluetooth, GPS, audio beacons, “electronic data,” and any other medium that requires electricity or digital encoding of information.
- h.** “Malicious code” means unauthorized and corrupting or harmful computer code, including but not limited to computer viruses, spyware, Trojan horses, worms, logic bombs, and mutations of any of the preceding.

- i. "Privacy breach" means a common law or statutory breach of confidence or violation of any common law or statutory rights to privacy, including but not limited to breach of a privacy policy, breach of a person's right of publicity, misappropriation of likeness, false light, intrusion upon a person's seclusion, or public disclosure of a person's or animal's private information. "Privacy breach" will also include a "corporate information breach."
- j. "Security breach" means:
 - (1) "Unauthorized access" of the insured's "computer system" or "unauthorized use" of "computer systems" including "unauthorized access" or "unauthorized use" resulting from the theft of a password from the insured's "computer system";
 - (2) A "denial of service" attack against your "computer systems"; or
 - (3) Infection of the insured's "computer system" by "malicious code" or transmission of "malicious code" from the insured's "computer systems,"whether any of the foregoing is a specifically targeted attack or a generally distributed attack.
- k. "Unauthorized access" means the gaining of access to a "computer system" by an unauthorized person or persons.
- l. "Unauthorized use" means the use of a "computer system" by an unauthorized person or persons or an authorized person in an unauthorized manner.

This endorsement is an absolute exclusion for cyber liability, "electronic data," "electronic media" and "security breaches." The Commercial Umbrella Liability Insurance Policy will not provide any "ultimate net loss" and/or coverage of any kind over and above any actual and/or prospective coverage, whether or not collectible, under any Cyber Security Liability Coverage and/or Endorsement.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ABUSIVE CONDUCT LIABILITY COVERAGE FORM
SUBLIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SCHEDULE

ABUSIVE CONDUCT LIABILITY COVERAGE SUBLIMITS:	
Each "Abusive Conduct" Limit:	\$ <u>1,000,000</u>
Aggregate Limit:	\$ <u>1,000,000</u>

This policy is intended to include the Abusive Conduct Liability Coverage form. The limits set forth above are the most we will pay for damages that fall within the coverage of the Abusive Conduct Liability Coverage form, regardless of whether the damages also fall within the coverage of any other coverage form under this policy. These limits are included within, and not excess of, or in addition to the Limits of Insurance stated in the Declarations.

The coverage provided will follow the same provisions, exclusions, limitations and definitions that are contained in the applicable "underlying insurance" shown in the Schedule of Underlying Insurance unless otherwise directed by this policy, or an endorsement to this policy.

To the extent such provisions differ or conflict, the provisions of this policy will apply. However, the coverage provided under this policy will not be broader than that provided by the applicable "underlying insurance."

Any per location or per project aggregate limit of insurance that is extended in the applicable "underlying insurance" shown in the Schedule of Underlying Insurance will not apply to the coverage provided by this endorsement.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMIT OF INSURANCE EXCLUSION CLAUSE
MINIMUM LIMIT REQUIREMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION IV – CONDITIONS is amended to include the following condition which supersedes any other provisions to the contrary:

This policy does not follow and shall not become excess of any coverage which incorporates a limit of insurance or sub-limit of insurance that is less than \$1,000,000 and is attached to any “underlying insurance” shown in the Schedule of Underlying Insurance.

This condition does not apply to Employers’ Liability (Stop Gap) insurance when shown in the Schedule of Underlying Insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PER LOCATION / PER PROJECT AGGREGATE LIMIT OF INSURANCE
EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION III – LIMITS OF INSURANCE is amended to include the following additional provision, which supersedes any other language to the contrary:

Any per location or per project aggregate limit of insurance that is extended by a policy of “underlying insurance” will not apply to any coverage provided by this policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SILICA OR SILICA-RELATED DUST EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

A. SECTION I – COVERAGES, 3. Exclusions, is amended to include the following additional exclusion:

This insurance does not apply to:

Silica or Silica-Related Dust

Any liability, damage, loss, cost or expense arising, in whole or in part, out of:

1. The actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, “silica” or “silica-related dust.”
2. The abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, “silica” or “silica-related dust,” by any insured or by any other person or entity.

B. For the purpose of this endorsement, **SECTION V – DEFINITIONS** is amended to include the following additional definitions:

1. “Silica” means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust, or silica compounds.
2. “Silica-related dust” means a mixture or combination of “silica” and other dust or particles.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK CHANGES – CANCELLATION
AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

- I. If you are an individual and you own an "auto" covered by "underlying insurance" that is predominantly used for nonbusiness purposes, the **Cancellation** Policy Condition is replaced by the following:

Ending This Policy

A. Cancellation

1. You may cancel the entire policy by returning it to us or by giving us advance notice of the date cancellation is to take effect.
2. When this policy is in effect less than 60 days and is not a renewal or continuation policy, we may cancel the entire policy for any reason provided we mail you notice within this period. If we cancel for nonpayment of premium, we will:
 - a. Mail you at least 15 days' notice; and
 - b. Inform you of the amount due.

Payment of premium will be considered on time if made within 15 days after we mail you notice of cancellation. If we cancel for any other reason, we will mail you at least 20 days' notice.

3. When this policy is in effect 60 days or more or is a renewal or continuation policy, we may cancel it or any insurance deemed severable only for one or more of the following reasons:
 - a. Nonpayment of premium, provided, however, that a notice of cancellation on this ground shall inform you of the amount due. If we cancel for this reason, we will mail you at least 15 days' notice. Payment of premium will be considered on time if made within 15 days after we mail you notice of cancellation.
 - b. Your driver's license or that of a driver who lives with you or customarily uses the "auto" covered by "underlying insurance" has been suspended or revoked during the policy period, other than a suspension issued pursuant to Subdivision (1) of Section 510(b) of the Vehicle and Traffic Law, or one or more administrative suspensions arising out of the same incident which has or have been terminated prior to the effective date of cancellation. If we cancel for this reason, we will mail you at least 20 days' notice.
 - c. We replace this policy with another one providing similar coverages and the same limits for an "auto" of the private passenger type covered by "underlying insurance." The replacement policy will take effect when this policy is cancelled, and will end a year after this policy begins or on this policy's expiration date, whichever is earlier.

- d. This policy has been written for a period of more than one year or without a fixed expiration date. We may cancel for this reason, subject to New York Laws, only at an anniversary of its original effective date. If we cancel for this reason, we will mail you at least 45 but not more than 60 days' notice.
- e. This policy was obtained through fraud or material misrepresentation. If we cancel for this reason, we will mail you at least 20 days' notice.
- f. Any insured made a fraudulent claim. If we cancel for this reason, we will mail you at least 20 days' notice.

If one of the reasons listed in this Paragraph 3. exists, we may cancel the entire policy.

- 4. Instead of cancellation, we may condition continuation of this policy on a reduction of Liability Coverage or elimination of any other coverage. If we do this, we will mail you notice at least 20 days before the date of the change.
- 5. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- 6. If this policy is cancelled, we will send you any premium refund due. The refund will be pro rata.

However, when the premium is advanced under a premium finance agreement, we will be entitled to retain a minimum earned premium of 10% of the total policy premium or \$60, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.

B. Nonrenewal

- 1. If this policy is written for a period of less than one year and we decide, subject to New York Laws, not to renew or continue it, or to condition renewal or continuation on a reduction of Liability Coverage or elimination of any other coverage, we will mail or deliver to you written notice at least 45 but not more than 60 days before the end of the policy period.
- 2. We will have the right not to renew or continue a particular coverage, subject to New York Laws, only at the end of each 12-month period following the effective date of the first of the successive policy periods in which the coverage was provided.
- 3. We do not have to mail notice of non-renewal if you, your agent or broker or another insurance company informs us in writing that you have replaced this policy or that you no longer want it.

C. Mailing Of Notices

We will mail or deliver our notice of cancellation, reduction of limits, elimination of coverage or nonrenewal to the address shown on the policy. However, we may deliver any notice instead of mailing it. If notice is mailed, a United States Postal Service certificate of mailing will be sufficient proof of notice.

- II. For all policies other than those specified in Section I. above, the **Cancellation** Policy Condition is completely replaced by the following:
 - A. Paragraphs a., b., c. and e. of the **Cancellation** Common Policy Condition are replaced by the following:

- a. The first Named Insured shown in the Declarations may cancel this entire policy by mailing or delivering to us advance written notice of cancellation.

b. Cancellation Of Policies In Effect

(1) 60 Days Or Less

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

- (a) 30 days before the effective date of cancellation if we cancel for any reason not included in Paragraph (b) below.

- (b) 15 days before the effective date of cancellation if we cancel for any of the following reasons:

- (i) Nonpayment of premium, provided, however, that a notice of cancellation on this ground shall inform you of the amount due;

- (ii) Conviction of a crime arising out of acts increasing the hazard insured against;

- (iii) Discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim;

- (iv) After issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and that occurred subsequent to inception of the current policy period;

- (v) Cancellation is required pursuant to a determination by the Superintendent that continuation of our present premium volume would jeopardize our solvency or be hazardous to the interest of our policyholders, our creditors or the public;

- (vi) A determination by the Superintendent that the continuation of the policy would violate, or would place us in violation of, any provision of the Insurance Code;

- (vii) Suspension or revocation during the required policy period of the driver's license of any person who continues to operate an "auto" covered by "underlying insurance" other than a suspension issued pursuant to Subdivision (1) of Section 510(b) of the Vehicle and Traffic Law or one or more administrative suspensions arising from the same incident which has or have been terminated prior to the effective date of cancellation; or

- (viii) Cancellation of one or more of the underlying policies providing primary or intermediate coverage where:

- a) Such cancellation is based upon Paragraphs (i) through (vii) of this subsection; and

- b) Such policies are not replaced without lapse.

(2) For More Than 60 Days

If this policy has been in effect for more than 60 days, or if this policy is a renewal or continuation of a policy we issued, we may cancel only for any of the reasons listed in Paragraph **(1)(b)** above, provided:

- (i) We mail the first Named Insured written notice at least 15 days before the effective date of cancellation; and
 - (ii) If we cancel for nonpayment of premium, our notice of cancellation informs the first Named Insured of the amount due.
- c. We will mail or deliver our notice, including the reason for cancellation, to the first Named Insured at the address shown in the policy and to the authorized agent or broker.
 - e. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. However, when the premium is advanced under a premium finance agreement, the cancellation refund will be pro rata. Under such financed policies, we will be entitled to retain a minimum earned premium of 10% of the total policy premium or \$60, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.

B. The following is added to the **Cancellation** Policy Condition:

- g. Regardless of the number of days this policy has been in effect, if:
 - (1) This policy covers "autos" subject to the provisions of Section 370(a) and (b) of the New York Vehicle and Traffic Law; and
 - (2) The Commissioner of the Department of Motor Vehicles deems this policy to be insufficient for any reason;

we may cancel this policy by giving you notice of such insufficiency 45 days before the effective date of cancellation to permit you to replace this policy.

- h. The effective date of cancellation stated in the notice shall become the end of the policy period.
- i. Notice will include the reason for cancellation. We will mail or deliver our notice to the first Named Insured at the address shown in the policy and to the authorized agent or broker. However, we may deliver any notice instead of mailing it. Proof of mailing will be sufficient proof of notice.

C. The following Policy Conditions are added:

1. Nonrenewal

If we decide not to renew this policy, we will send notice as provided in Paragraph **C.3.** below.

2. Conditional Renewal

If we conditionally renew this policy subject to:

- a. A change of limits;
- b. A change in type of coverage;

- c. A reduction of coverage;
- d. An increased deductible;
- e. An addition of exclusion; or
- f. Increased premiums in excess of 10%, exclusive of any premium increase due to and commensurate with insured value added or increased exposure units; or as a result of experience rating, loss rating, retrospective rating or audit;

We will send notice as provided in Paragraph **C.3.** below.

We may conditionally renew this policy subject to the requirements stipulated by the **Maintenance of / Changes to Underlying Insurance** policy condition. In the event of failure to comply with the aforementioned condition as of the expiration date of the policy, or 60 days after mailing or delivering the notice of conditional renewal, the conditional renewal shall be deemed to be an effective notice of nonrenewal.

3. Notices Of Nonrenewal And Conditional Renewal

- a. If we decide not to renew this policy or to conditionally renew this policy as provided in Paragraphs **C.1.** and **C.2.** above, we will mail or deliver written notice to the first Named Insured shown in the Declarations at least 30 but not more than 120 days before:
 - (1) The expiration date; or
 - (2) The anniversary date if this is a continuous policy.
- b. Notice will be mailed or delivered to the first Named Insured at the address shown in the policy and to the authorized agent or broker. If notice is mailed, proof of mailing will be sufficient proof of notice.
- c. Notice will include the specific reason(s) for nonrenewal or conditional renewal, including the amount of any premium increase for conditional renewal and description of any other changes.
- d. If we violate any of the provisions of Paragraph **C.3.a., b.** or **c.** above by sending the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice:
 - (1) And if notice is provided prior to the expiration date of this policy, coverage will remain in effect at the same terms and conditions of this policy at the lower of the current rates or the prior period's rates until 60 days after such notice is mailed or delivered, unless the first Named Insured, during this 60-day period, has replaced the coverage or elects to cancel;
 - (2) And if the notice is provided on or after the expiration date of this policy, coverage will remain in effect at the same terms and conditions of this policy for another policy period, at the lower of the current rates or the prior period's rates, unless the first Named Insured, during this additional policy period, has replaced the coverage or elects to cancel.
- e. If you elect to renew on the basis of a late conditional renewal notice, the terms, conditions and rates set forth in such notice shall apply:

- (1) Upon expiration of the 60-day period, unless Subparagraph (2) below applies; or
 - (2) Notwithstanding the provisions in Paragraphs **d.(1)** and **d.(2)**, as of the renewal date of the policy if the conditional renewal notice was sent at least 30 days prior to the expiration or anniversary date of the policy.
- f. We will not send you notice of nonrenewal or conditional renewal if you, your authorized agent or broker or another insurer of yours mails or delivers notice that the policy has been replaced or is no longer desired.
- D. The aggregate limits of this policy as shown in the Declarations will be increased in proportion to any policy extension provided in accordance with Paragraph **C.3.d.** above.
- E. The last sentence of **SECTION III – LIMITS OF INSURANCE** does not apply when the policy period is extended because we sent the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK CHANGES – TRANSFER OF
DUTIES WHEN A LIMIT OF INSURANCE IS USED UP**

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

The following additional policy condition is included:

TRANSFER OF DUTIES WHEN A LIMIT OF INSURANCE IS USED UP

- a. If we conclude that, based on "occurrences," offenses, claims or "suits" which have been reported to us and to which this insurance may apply, the:

- (1) General Aggregate Limit;
- (2) Personal and Advertising Injury Limit; or
- (3) Each Occurrence Limit;

is likely to be used up in the payment of judgments or settlements, we will notify the first Named Insured, in writing, to that effect.

- b. When a limit of insurance described in Paragraph a. above has actually been used up in the payment of judgments or settlements:

- (1) We will notify the first Named Insured, in writing, as soon as practicable, that:

- (a) Such a limit has actually been used up; and
- (b) Our duty to defend "suits" seeking damages subject to that limit has also ended.

- (2) If we have a duty to defend we will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all claims and "suits" seeking damages which are subject to that limit and which are reported to us before that limit is used up. That insured must cooperate in the transfer of control of said claims and "suits."

We agree to take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

We will take no action whatsoever with respect to any claim or "suit" seeking damages that would have been subject to that limit, had it not been used up, if the claim or "suit" is reported to us after that limit of insurance has been used up.

- (3) The first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.

- c. The first Named Insured will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with Paragraph **b.(2)** above.

The duty of the first Named Insured to reimburse us will begin on:

- (1) The date on which the applicable limit of insurance is used up, if we sent notice in accordance with Paragraph **a.** above; or
 - (2) The date on which we sent notice in accordance with Paragraph **b.(1)** above, if we did not send notice in accordance with Paragraph **a.** above.
- d. The exhaustion of any limit of insurance by the payments of judgments or settlements, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

- A.** The following is added to Paragraph **2. Defense of Claims or Suits and Supplementary Insuring Agreement** of **SECTION I – COVERAGES**. Any provision to the contrary is superseded.

When we have a duty to defend, we will defend the insured against any "suit" seeking those damages even if the allegations of the "suit" are groundless, false or fraudulent.

Additionally, should the total amount for which the claim or "suit" is adjusted exceed the "retained limit," then we shall have the right and duty to assume from the insured the defense and control of such claim or "suit." This duty applies even if the allegations are groundless, false or fraudulent.

- B.** Only with respect to liability arising out of the ownership, maintenance or use of an "auto" covered by "underlying insurance," the following are added to **SECTION I – COVERAGES, 2. Defense of Claims or Suits and Supplementary Payments** Paragraph **d.**:

(8) We will pay all expenses incurred by an insured for first aid to others at the time of an "occurrence."

(9) The cost of appeal bonds.

- C.** The following is added to Exclusion **3.c. Employment Related Practices**:

This exclusion does not apply to "bodily injury" arising out of discrimination based on disparate impact or vicarious liability.

- D.** The last sentence in Exclusion **3. h. Auto Coverages**, is deleted in its entirety.

- E. SECTION II – WHO IS AN INSURED**, Paragraph **d.** is deleted in its entirety and replaced by the following:

d. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar valid and collectible insurance available to that organization. However:

(1) Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

(2) Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

(3) Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

- F. SECTION III – LIMITS OF INSURANCE**, Paragraph **6.** is replaced by the following:

6. If there is "underlying insurance" with a policy period that is nonconcurrent with the policy period

of this Commercial Umbrella Liability policy, the "applicable underlying limit" will only be reduced or exhausted by the amount of judgments and settlements for:

- a. "Bodily injury" or "property damage" which occurs during the policy period of this policy.
- b. "Personal and advertising injury" for offenses that are committed during the policy period of this policy.

G. SECTION IV – CONDITIONS is revised as follows:

1. The following is added to Paragraph **5. Duties in the Event of Occurrence, Offense, Claim or Suit**:

- e. Notice given by or on behalf of the insured, or written notice by or on behalf of the injured person or any other claimant, to any agent of ours in New York State, with particulars sufficient to identify the insured, shall be considered to be notice to us.

2. Paragraph **8. Legal Action Against Us** is replaced by the following:

Legal Action Against Us

- a. Except as provided in Paragraph **b.**, no person or organization has a right under this insurance:

(1) To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

(2) 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; but we will not be liable for damages that are not payable under the terms of this insurance or that 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.

- b. With respect to "bodily injury" and "personal and advertising injury" claims, if we deny coverage or do not admit liability because an insured or the injured person, someone acting for the injured person or other claimant fails to give us written notice as soon as practicable, then the injured person, someone acting for the injured person or other claimant may bring an action against us, provided the sole question is whether the denial of coverage or nonadmission of liability is based on the failure to provide timely notice.

However, the injured person, someone acting for the injured person or other claimant may not bring an action if within 60 days after we deny coverage or do not admit liability, we or an insured:

(1) Brings an action to declare the rights of the parties under the policy; and

(2) Names the injured person, someone acting for the injured person or other claimant as a party to the action.

3. Paragraph **9. Maintenance Of/Changes To Underlying Insurance** is replaced by the following:

Maintenance Of/Changes To Underlying Insurance

The "underlying insurance" listed in the Schedule of "underlying insurance" in the Declarations shall remain in full effect throughout the policy period except for the exhaustion of the aggregate limit.

Failure to maintain "underlying insurance" will not invalidate this insurance. However, this insurance will apply as if the "underlying insurance" were in full effect.

If there is an increase in the scope of coverage of any "underlying insurance" during the term of this policy, our liability will be no more than it would have been if there had been no such increase.

You must notify us as soon as practicable when any "underlying insurance" is no longer in effect or if the limits or scope of coverage of any "underlying insurance" is changed.

4. Paragraph 13.b. of the Premium Audit Condition is replaced by the following:

- 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. The due date for audit and retrospective premiums is the date shown as the due date on the bill. An audit to determine the final premium due or to be refunded will be completed within 180 days after the expiration date of the policy. But the audit may be waived if the total annual premium attributable to the auditable exposure base is not reasonably expected to exceed \$1,500. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.

5. Paragraph 14.d. of the Representations Or Fraud Condition is replaced by the following:

- d.** We do not provide coverage for any insured who has made fraudulent statements or engaged in fraudulent conduct in connection with any loss or damage for which coverage is sought under this policy.

However, with respect to liability arising out of the ownership, maintenance, or use of "autos" covered by "underlying insurance," we will provide coverage to such insured for damages sustained by any person who has not made fraudulent statements or engaged in fraudulent conduct if such damages are otherwise covered under the policy.

6. Except as provided in Paragraph 3. above, the Examination Of Your Books And Records Policy Condition continues to apply.

7. Paragraph 17. When Loss is Payable is replaced by the following:

When Loss is Payable

Coverage under this policy shall not apply unless and until the insured or insured's "underlying insurer" has become obligated to pay the "applicable underlying limit." Such obligation by the insured to pay part of the "ultimate net loss" shall have been previously determined by a written agreement between the insured, claimant, and us.

The first Named Insured will promptly reimburse us for any amount with the "retained limit."

8. The following provisions are added and supersede any provisions to the contrary:

- a.** Failure to give notice to us as required under this policy shall not invalidate any claim made by the insured, injured person or any other claimant, unless the failure to provide such timely notice has prejudiced us. However, no claim made by the insured, injured person or other claimant will be invalidated if it shall be shown not to have been reasonably possible to give such timely notice and that notice was given as soon as was reasonably possible thereafter.

- b. The insured's consent is required to settle claims within the insured's "retained limit," unless such consent is unreasonably withheld.

H. SECTION V – DEFINITIONS is revised as follows:

The "insured contract" definition is deleted in its entirety and replaced by the following:

"Insured contract" means:

- a. A lease of premises;
- b. A sidetrack agreement;
- c. An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;
- d. Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- e. An indemnification of a municipality as required by ordinance, except in connection with work for a municipality;
- f. That part of any contract or agreement entered into, as part of your business, by you or any of your "employees." pertaining to the rental or lease of any "auto"; or
- g. That part of any other contract or agreement pertaining to your business under which you assume the tort liability of another to pay damages because of "bodily injury" or "property damage" to a third person or organization, if the contract or agreement is made prior to the "bodily injury" or "property damage." Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An "insured contract" does not include that part of any contract or agreement:

- a. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees," if the "auto" is loaned, leased or rented with a driver;
- b. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of an "auto" covered by "underlying insurance" over a route or territory that person or organization is authorized to serve by public authority; or
- c. Under which the insured assumes liability for injury or damage caused by the dumping, discharge or escape of:
 - (1) Irritants, pollutants or contaminants that are, or that are contained in, any property that is:
 - (a) Being moved from the place where such property or pollutants are accepted by the insured for movement into or onto the "auto" covered by "underlying insurance";
 - (b) Being transported or towed by the "auto" covered by "underlying insurance";
 - (c) Being moved from the "auto" covered by "underlying insurance" to the place where such property or "pollutants" are finally delivered, disposed of or abandoned by the insured;

- (d) Otherwise in the course of transit; or
 - (e) Being stored, disposed of, treated or processed in or upon the "auto" covered by "underlying insurance" other than fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for, or result from, the normal electrical, hydraulic or mechanical functioning of the "auto" covered by "underlying insurance" or its parts.
- (2) Irritants, pollutants or contaminants not described in (1) above, unless:
- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of the "auto" covered by "underlying insurance"; and
 - (b) The discharge, dispersal, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

Paragraph 13., "Loading or unloading," does not apply.

I. The following provision is added:

It is hereby understood and agreed that, notwithstanding anything in this policy to the contrary, with respect to such insurance as is afforded by this policy, the terms of this policy, as respects coverage for operations in the State of New York, must conform to the coverage requirements of the applicable insurance laws of the State of New York or the applicable regulations of the New York Department of Financial Services; provided, however, that the company's limits of insurance, as stated in this policy, are excess of the limits of any "underlying insurance" or self-insurance, as stated in the Declarations, or in any attached endorsement.

NEW YORK APPLICATION AND DECLARATION PAGE ADDENDUM

SCHEDULE

Claims Made Coverage(s)
EBL

THIS IS A CLAIMS MADE POLICY with respect to the coverage(s) shown above only.

- A.** This policy provides no coverage for claims arising out of incidents, occurrences, acts or omissions which took place prior to the retroactive date stated in the policy. The retroactive date cannot be changed by us during the term of a claims-made relationship and any extended reporting period.

- B.** This policy covers only claims actually made against the insured while the policy remains in effect and all coverages under this policy cease upon the termination of the policy, except for the automatic extended reporting period coverage, unless you purchase additional extended reporting period coverage.

- C. 1.** We will issue an endorsement providing an extended reporting period subject to the following conditions:
 - a.** A 60-day, (90 day if a public entity), automatic extended reporting period is provided without additional charge, but only for the coverage terminated. Within 30 days after coverage is terminated, we must advise you in writing of this right.

 - b.** Within 30 days after coverage is terminated, we must also advise you in writing of the availability of the premium for, and the importance of purchasing additional extended reporting period coverage of three years. (If termination is due to non-payment of premium or fraud on your part, we are not required to provide a premium quotation unless requested by you.) For the purpose of determining when the three-year period begins, the 60-day automatic reporting period is included. You have the greater of 60 days from the effective date of termination of coverage, or 30 days from the date of mailing or delivery of our advice, to submit written acceptance of the three-year extended reporting period coverage.

 - c.** If you choose not to purchase extended reporting period coverage on the claims-made "underlying insurance," coverage under this policy will be provided only on the basis as if such extended reporting period coverage were in effect.

- 2. a.** When a claims-made relationship has continued for at least three years, and the policy contains an annual aggregate liability limit, the aggregate liability limit, if any, of the extended reporting period coverage will be equal to one hundred per cent (100%) of the policy's annual aggregate limit.

- a. Extend the policy period;
- b. Change the scope of coverage; or
- c. Reinstate or increase the limit of insurance except to the extent provided for in the extended reporting period endorsement we issue.

It applies only to claims that occur before the end of the policy period.

- 7. A claim first made during the extended reporting period will be deemed to have been made on the last day of the policy period or the cancellation date, whichever comes first.
- D. Unless additional extended reporting period coverage is for an unlimited time period, potential coverage gaps may arise upon expiration of such extended reporting period.
- E. Rates for claims made policies are normally lower in early years of a claims made relationship, as compared to occurrence policies, and increase with each renewal until the claims made relationship reaches maturity.
- F. When this coverage is subject to audit, retrospective rating or experience rating, the premium stated in the Declarations for the extended reporting period may be the estimated premium. If there is a change in the premium for this coverage as a result of any change, in the nature or extent of the risk during the policy period, we will, at the time of such change, specify a revised premium for the extended reporting period coverage.
- G. If you are changing from an occurrence policy to claims made coverage, New York State Department of Financial Services regulations require us to maintain in the policy file a signed acknowledgment of this addendum by the first named insured.

Signature

Title

Date



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

**PHILADELPHIA INSURANCE COMPANIES
 DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE REJECTION OPTION**

Terrorism Premium (Certified Acts) \$ _____ 0 _____

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from acts of terrorism. *As defined in Section 102(1) of the Act:* The term “act of terrorism” means any act or acts that are certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, 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.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT’S FEDERAL SHARE OF TERRORISM LOSSES IS 80% OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS’ LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.

We will issue (or have issued) your policy with terrorism coverage unless you decline by placing an “X” in the box below.

NOTE: You will want to check with entities that have an interest in your organization as they may require that you maintain terrorism coverage (e.g. mortgagees).

	I decline to purchase terrorism coverage. I understand that I will have no coverage for losses arising from ‘certified’ acts of terrorism, EXCEPT as noted above.
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You, as the Insured, have 30 days after receipt of this notice to consider the

selection/rejection of “terrorism” coverage. After this 30 day period, any request for selection or rejection of terrorism coverage WILL NOT be honored.

REQUIRED IN GA – LIMITATION ON PAYMENT OF TERRORISM LOSSES (applies to policies which cover terrorism losses insured under the federal program, including those which only cover fire losses):

The provisions of the Terrorism Risk Insurance Act, as amended, can limit our maximum liability for payment of losses from certified acts of terrorism. That determination will be based on a formula set forth in the law involving the national total of federally insured terrorism losses in an annual period and individual insurer participation in payment of such losses. If one or more certified acts of terrorism in an annual period causes the maximum liability for payment of losses from certified acts of terrorism to be reached, and we have satisfied our required level of payments under the law, then we will not pay for the portion of such losses above that maximum. However, that is subject to possible change at that time, as Congress may, under the Act, determine that payments above the cap will be made.

NAMED INSURED: Finger Lakes Performing Provider

INSURED'S SIGNATURE: _____

DATE: _____