



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

Except for section and paragraph headings, all words in bold have a special meaning as set forth in the section entitled **DEFINITIONS**. Titles are provided for informational purposes only and do not have special meaning. The word “Insured” means the persons or entities set forth in the section entitled Who is an Insured. The words “we”, “us” and “our” refer to the Insurance Company set forth in the Declarations.

In consideration of the payment of premium and in reliance upon all statements made and information furnished to the Insurer in the application, and subject to all of the terms, conditions, and limitations of this policy and any endorsements thereto, the **First Named Insured** and we agree as follows:

INSURING AGREEMENT

We will pay that part of **loss**, up to the Limits of Insurance and in excess of the applicable **underlying insurance**, that the Insured becomes legally obligated to pay provided that:

- a. such **loss** is also covered under the **underlying insurance** or would have been covered but for the exhaustion of the applicable **underlying limits**;
- b. such **underlying limits** have been fully exhausted by payment, in legal currency by the **underlying insurers**, of all applicable **underlying limits**;
- c. as respects any **underlying insurance** that applies on a claims-made basis, if any Retroactive Date is shown in the Declarations or by endorsement, such Retroactive Date replaces any Retroactive Date shown in any **underlying insurance**; and
- d. settlement of any claim or **suit** for an amount in excess of any **underlying insurance** shall not be binding on us unless we consent in writing.

Except as otherwise set forth in this Policy, this excess insurance follows the terms, conditions, restrictions, exclusions, definitions and endorsements of the **followed policy**. Further, any exclusions or restrictions included within any layer of **underlying insurance** applies to this excess insurance. Under no circumstances will the coverage provided by this insurance be broader than any **underlying insurance**.

DEFENSE AND SETTLEMENT

1. We have the right and the duty to defend the Insured against covered **suits** when the applicable Limits of Insurance of all applicable **underlying insurance** have been fully exhausted by payment of **loss** or **claim expenses** (if such **claim expenses** reduce the Limits of Insurance of the **underlying insurance**) to which this insurance applies. The **underlying limits** can only be exhausted by payments of **loss** or **claims expenses** paid by the respective **underlying insurer**. No other payments or other contributions can serve to exhaust such **underlying limits**. We have such duty even if the **suit** is groundless, false or fraudulent.
2. We have the right, but not the duty, to investigate any claim or **suit** we defend. We will pay, with respect to any claim we investigate, or any **suit** we defend, reasonable **claim expenses** to the extent such **claim expenses** are not covered by the **underlying insurance**.
3. Except as set forth in paragraph 1, we have no duty to defend any **suit**. Where we have no duty to defend, we will have the right to participate in the defense of any **suit** or in the investigation of any claim seeking **loss** to which this insurance may apply. When we exercise our right to participate in the defense, we will pay our own expenses, but we will not contribute to the expenses of the Insured or any other insurers, including any **underlying insurer**.



4. If a **suit** is covered by this insurance and is brought outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, and we exercise our right to defend such **suit**, but are prevented by law, or otherwise, from defending the Insured, the Insured will initiate a defense of the **suit**. We will reimburse the Insured for reasonable and necessary **claim expenses** incurred for the defense of a **suit** seeking **loss** to which this insurance applies, that we would have paid had we been able to exercise our right and duty to defend.
5. 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 only defend that indemnitee in the same manner and subject to the same conditions as the applicable **underlying insurance**.
6. We will not have any duty to investigate, negotiate, settle or defend any claim or **suit** after the applicable Limits of Insurance of this policy have been exhausted by the payment of covered **loss** or **claim expenses** (if such **claim expenses** reduce the Limits of Insurance pursuant to the terms of this policy), and we will have the right to withdraw from any further defense of any other claims or **suits**.

EXCLUSIONS

This policy does not apply to any liability, claim, **suit, loss** or any other cost or expense:

ASBESTOS

arising, directly or indirectly, out of:

- a. the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of asbestos, asbestos dust, asbestos fibers, or any other form of asbestos, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any injury or damage;
- b. 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 asbestos, asbestos dust, asbestos fibers, or any other form of asbestos;
- c. any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with a. or b. above; or
- d. any obligation to share **loss** with or repay someone else who must pay **loss** because of asbestos or products or materials containing asbestos, asbestos dust, asbestos fibers, or any other form of asbestos.

AUTO NO-FAULT AND SIMILAR LAWS

arising, directly or indirectly, out of:

- a. any obligation under any **auto** no-fault, uninsured or underinsured motorists or similar laws or statutes;
- b. payable under any obligation or resulting from any first party or **auto** physical damage coverage; or
- c. payable under any obligation or resulting from personal injury protection or **auto** medical coverage.

CYBER LIABILITY

arising, directly or indirectly, out of:

- a. the loss of, theft of, misappropriation of, misuse of, use of, corruption of, destruction of, alteration of, viral infestation of, penetration of, or damage to:
 - (1) any **electronic data** or any other similar data, information, application, or software:



(a) within any server, computer hardware, computer system, computer network, computer application, point of sale system, point of sale hardware, cloud configuration; or

(b) on the Internet;

(2) any:

(a) electronic chatroom or electronic bulletin board;

(b) Internet website, Internet application, social media application, or social network;

(c) computer applications software, computer operations software, point of sale software, or any other similar, application or software;

within any server, computer hardware, computer system, computer network, point of sale system, cloud configuration, or on the Internet.

b. any access to or disclosure of **electronic data** containing any person's or organization's confidential or personal information including, but not limited to, debit card information, credit card information, financial information, health information, biometric information, customer lists, patents, trade secrets, processing methods, or any other form of nonpublic information.

This exclusion does not apply to the extent that **underlying insurance** for physical bodily injury or tangible property damage resulting from the cyber liability exposures described above is applicable, or would have been applicable but for the exhaustion of the limits of insurance. However, this exclusion continues to apply to that injury or damage that is:

- i. mental injury, mental anguish, emotional injury, emotional distress, or any other form of mental injury;
- ii. loss of use of tangible property that is not physically injured; or
- iii. physical injury to property that is not tangible property;

resulting from the cyber liability exposures described in paragraphs a. and b. above.

Coverage provided under the exception to this exclusion will follow the provisions, exclusions, and limitations of the applicable **underlying insurance** unless otherwise directed by more specific provisions, terms or conditions of this insurance. Such applicable **underlying insurance** must be scheduled as underlying under this policy for these exceptions to this exclusion to apply.

DISCRIMINATION

Arising, directly or indirectly, out of discrimination of any kind.

Discrimination includes, but is not limited to, discrimination based on race, color, religion, creed, age, sex, gender, gender identification, disability, national origin, sexual orientation, sexual preference, marital status, pregnancy, profiling, an actual or alleged terrorist threat and any form of discrimination prohibited by any federal, state or local law.

EMPLOYMENT-RELATED PRACTICES

a. arising out of:

(1) refusal to hire or employ any person;

(2) termination or constructive termination of any person's employment, or the dismissal or discharge of any employee;



- (3) failure to advance or promote any employee; or
 - (4) employment-related practices, policies, or acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at any past, present or future employee or any applicant for employment; or
- b. arising out of injury to the spouse, child, parent, brother, sister or any other relation to that person at whom any of the employment-related practices described in Paragraphs a. (1), (2), (3), or (4) above are directed.

This exclusion applies whether the Insured may be liable as an employer or in any other capacity, and to any obligation to share **loss** or repay someone else who must pay **loss** because of any such liability.

E.R.I.S.A.

arising, directly or indirectly, out of any obligation incurred or imposed upon the Insured or us under the Employee Retirement Income Security Act of 1974 (E.R.I.S.A.), Public Law 93-406, or amendments thereto or any similar provisions of state statutory law or common law.

FUNGI OR BACTERIA

arising, directly or indirectly, out of:

- a. any actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any **fungi** or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any injury or damage; or
- b. 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, **fungi** or bacteria.

This exclusion does not apply to any injury or damage as a result of **fungi** or bacteria that are, are on, or are contained in, a good or product intended for consumption.

LEAD

arising, directly or indirectly, out of:

- a. the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of lead or products or materials containing lead regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any injury or damage;
- b. 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 lead;
- c. any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with paragraphs a. or b. above; or
- d. any obligation to share **loss** with or repay someone else who must pay **loss** because of lead or products or materials containing lead.

NUCLEAR

a. arising out of:

- (1) any injury or damage with respect to which an Insured under this policy is also an Insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or the Nuclear Insurance Association of Canada, or would be an Insured under such policy but for its termination upon exhaustion of its Limits of Insurance; or



(2) the **hazardous properties of nuclear material** with respect to which:

- (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or
- (b) the Insured is, or had this policy not been issued, would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

b. resulting from the **hazardous properties of nuclear material**, if:

(1) the **nuclear material**:

- (a) is at any **nuclear facility** owned by, or operated by or on behalf of, any Insured, or;
- (b) has been discharged or dispersed there from;

(2) the **nuclear material** is contained in **spent fuel** or **waste** at any time processed, handled, used, processed, stored, transported, or disposed of by or on behalf of an Insured; or

(3) the injury, sickness, disease, death, destruction or loss arising 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 Subparagraph (3). applies only to injury to or destruction of or loss of property at such **nuclear facility**.

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS) EXCLUSION

arising, directly or indirectly, out of, resulting from, caused by, contributed to or in any way related to the existence of any "per- and polyfluoroalkyl substances". "Per- and polyfluoroalkyl substances" includes any perfluoroalkyl or polyfluoroalkyl substance with at least one fully fluorinated carbon atom, commonly referred to as PFAS, including but are not limited to:

Perfluorooctanic acid (PFOA);
Perfluorooctane sulfonic acid (PFOS);
Perfluorohexane sulfonic acid (PFHxS);
Perfluorodecanoic acid (PFDA);
Perfluorohexanoic acid (PFHxA);
Perfluorononanoic acid (PFNA);
Perfluorooctane sulfonamide (PFOSA);
Perfluoroheptanoic acid (PFHpA);
Perfluorobutyric acid (PFBA);
Perfluorobutane sulfonic acid (PFBS);
Perfluoropentanoic acid (PFPeA);
Perfluorodecane sulfonate (PFDS);
Perfluoroundecanoic acid (PFUnA);
Perfluorododecanoic acid (PFDoA);
Perfluorotridecanoic acid (PFTrDA);
Perfluorotetradecanoic acid (PFTeDA);
6:2 Fluorotelomer sulfonate (6:2 FTS);

or any other substance or chemical identified as a polyfluoroalkyl or perfluoroalkyl in any list of such substances or chemicals published by the United States Environmental Protection Agency including on its "PFAS Master List of PFAS Substances (Version 2)" as such list may be updated or amended.



POLLUTION

- a. arising, directly or indirectly, out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**:
 - (1) at or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any Insured;
 - (2) at or from any premises, site or location which is or was at any time used by or for any Insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (3) which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (a) any insured; or
 - (b) any person or organization for whom any Insured may be legally responsible.
 - (4) at or from any premises, site or location on which any Insured or any contractors or subcontractors are 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.
 - (5) at or from any premises, site or location on which any insured or any contractors or subcontractors are 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**.
- b. arising, directly or indirectly, out of any:
 - (1) 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
 - (2) claim or suit by or on behalf of a governmental authority or others for **loss** 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**.

Subparagraph a. (1) of this exclusion does not apply to the extent that **underlying insurance** exists for, or would have existed but for the exhaustion of the **underlying limits** for:

- (1) injury if sustained within a building owned, rented or occupied by the insured and caused by smoke, fumes, vapors or soot caused by equipment used to heat the building; or
- (2) injury or damage arising out of heat, smoke or fumes from a **hostile fire**.

SILICA

arising, directly or indirectly, out of:

- a. the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of silica, silica dust, silica fibers, or any products or materials containing silica regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any injury or damage;
- b. 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, silica fibers, or any products or materials containing silica;



- c. any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with paragraphs a. or b. above; or
- d. any obligation to share **loss** with or repay someone else who must pay **loss** because of silica, silica fibers, or any products or materials containing silica.

TERRORISM

arising, directly or indirectly, out of **terrorism**, including any action taken in hindering or defending against an actual or expected incident of **terrorism**; regardless of any other cause or event that contributes concurrently or in any sequence to any injury or damage.

UNMANNED AIRCRAFT

arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an **unmanned aircraft**. Use includes operation and loading or unloading. This exclusion applies even if the claims or **suits** against any Insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured, if the occurrence, accident, or event which caused the injury or damage involved the ownership, maintenance, use or entrustment to others of any aircraft that is an **unmanned aircraft**.

As used in this exclusion, loading or unloading means the handling of property:

- 1. after it is moved from the place where it is accepted for movement into or onto an **unmanned aircraft**;
- 2. while it is in or on an **unmanned aircraft**; or
- 3. while it is being moved from an **unmanned aircraft** to the place where it is finally delivered;

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

UNSOLICITED COMMUNICATIONS

arising, directly or indirectly, from unsolicited communications, regardless of the mode or medium of transmission or reception. This exclusion applies to communications which are actually or allegedly made in the violation of the:

- a. Telephone Consumer Protection Act (TCPA) including any amendment thereto;
- b. the CAN-SPAM Act of 2003, including any amendment thereto; or
- c. any other statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, which prohibits or limits the sending, transmitting, communicating or distribution of material or information.

WAR

arising, directly or indirectly, out of:

- a. war, including undeclared or civil war;
- b. 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
- c. insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.



WORKERS' COMPENSATION AND SIMILAR LAWS

arising, directly or indirectly, out of any obligation(s) under any workers' compensation, disability benefits or unemployment compensation laws or any similar laws.

WHO IS AN INSURED

Each of the following is an insured under this policy:

1. any **Named Insured**.
2. any other person or organization qualifying as an insured in the **followed policy**, but not beyond the extent of any limitation imposed under any **Underlying Insurance**.

LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay, regardless of the number of:
 - a. Insureds;
 - b. claims made or **suits** brought; or
 - c. persons or organizations making claims or bringing **suits**.
2. If there is a limit stated in the Declarations for the General Aggregate Limit (Other than Products-Completed Operations), that amount is the most that we will pay for all **loss** under this insurance, except for **loss** arising out of the products-completed operations hazard. The General Aggregate Limit also does not apply to any coverage under this policy for automobile liability.
3. If there is a limit stated in the Declarations for the Products-Completed Operations Aggregate Limit, that amount is the most that we will pay under this insurance for injury or damage included in the products-completed operations hazard.
4. If there is a limit stated in the Declarations for the Combined Aggregate Limit, that amount is the most we will pay under this insurance for all coverages, except that this Combined Aggregate Limit does not apply to any coverage under this policy for automobile liability.
5. If there is a limit stated in the Declarations for the Total Aggregate Limit, that amount is the most we will pay under this insurance for all coverages.
6. Subject to Paragraphs 2., 3., 4. and 5. above, the Each Occurrence Limit stated in the Declarations is the most we will pay for **loss** arising out of one **event**.
7. If the applicable Limits of Insurance of the **underlying limits** are reduced or exhausted by payments of **loss**, unless otherwise specified by this policy, the Limits of Insurance of this policy will;
 - a. in the event of reduction, apply in excess of such reduced limits; and
 - b. in the event of exhaustion, continue in force as underlying insurance.



8. If **claim expenses** do not reduce the Limits of Insurance of the **underlying insurance**, then **claim expenses** will not reduce the Limits of Insurance of this policy. If **claim expenses** do reduce the Limits of Insurance of the **underlying insurance**, then **claim expenses** will also reduce the Limits of Insurance of this policy.
9. The Aggregate Limits of Insurance of this policy, as shown in our Declarations, apply once to the entire policy period regardless of the length of such policy period. If the policy period is extended at any time, the additional period will be deemed to be part of the original policy period for the purposes of determining the Limits of Insurance.

CONDITIONS

APPEALS

If an **underlying insurer** or the involved Insured elects not to appeal a judgment in excess of the **underlying limits**, we may do so at our own expense. We will be liable for taxable costs, pre- and post-judgment interest and disbursements.

BANKRUPTCY

- a. Bankruptcy of Insured:

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

- b. Bankruptcy of **Underlying Insurer**:

Bankruptcy or insolvency of any **underlying insurer** will not relieve us of our obligations under this policy. However, this insurance will not replace the **underlying insurance** in the event of bankruptcy or insolvency of any **underlying insurer**. This insurance will apply as if the otherwise applicable Limits of Insurance of such **underlying insurance** were available and in full effect. It shall be the **Named Insured's** sole responsibility to provide other insurance or self-insurance (including the corresponding defense obligations) to replace such **underlying insurance**.

CANCELLATION

- a. The **First Named Insured** shown in the Declarations may cancel this policy by mailing or delivering to us advance notice of cancellation. Such advance notice of cancellation should be mailed or delivered to the address indicated in the Declarations under the item entitled Notices to Insurer.
- b. We may cancel this policy 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) 60 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 and will be effective for all Insureds. All coverage will end on the effective date of cancellation.
- e. If this policy is cancelled, we will send the **First Named Insured** any premium refund due. If we cancel, the premium refund will be pro rata. If the **First Named Insured** cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a premium refund.
- f. If notice of cancellation is mailed, proof of mailing shall be considered sufficient proof of notice.

**CHANGES**

This policy (including the Declarations, Schedules and any endorsements attached hereto) contains all the agreements between the **Named Insured** and us concerning the insurance afforded. The **First Named Insured** shown in the Declarations is authorized to make changes in the terms of this policy, with our prior written consent. This policy's terms and conditions can be amended or waived only by endorsement issued by us and made a part of this policy.

DUTIES IN THE EVENT OF AN EVENT, CLAIM OR SUIT

- a. The **Named Insured** must see to it that we are notified in writing as soon as practicable of any **event** which is reasonably likely to result in a claim or **suit** under this policy.

To the extent possible, notice should include:

- (1) how, when and where such **event** took place;
- (2) the names and addresses of any injured persons and witnesses; and
- (3) the nature and location of any injury or damage.

- b. If a claim is made or **suit** is brought which is reasonably likely to be covered under this policy, the **Named Insured** must:

- (1) immediately record the specifics of the claim or **suit** and the date received; and
- (2) notify us as soon as practicable.

The **Named Insured** and any other involved Insured must:

- (a) immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or **suit**;
- (b) authorize us to obtain records and other information;
- (c) cooperate with us in the investigation or settlement of the claim or defense against the **suit**; and
- (d) assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the Insured because of injury or damage to which this insurance may also apply.

- c. Without limiting the foregoing requirements, the **Named Insured** shall give us written notice of any **event**, claim or **suit**, when a payment is made or a reserve is set that brings the total of all payments made or reserves set to 50% or more of the Limits of Insurance of the **underlying insurance**.
- d. No Insured will, except at that Insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our prior written consent.
- e. The **Named Insured's** failure to provide us with the required notice of an **event** will not invalidate coverage under this insurance if such **event** was inadvertently reported to another insurer. However, the **Named Insured** is required to report any such **event** as soon as reasonably possible once the **Named Insured** becomes aware of such inadvertent reporting.
- f. If any **underlying insurance** is a policy issued by us or any affiliate of ours, then notice of any claim or **suit** under such **underlying insurance** in accordance with the provisions thereof will be deemed to be notice to us in compliance and with paragraphs a and b above.



EXAMINATION OF THE NAMED INSURED'S BOOKS AND RECORDS

We may examine and audit the **Named Insured's** books and records as they relate to this policy at any time during the policy period and for up to three years afterward.

INSPECTION AND SURVEYS

We have the right, but are not obligated, to:

- a. make inspections and surveys at any time;
- b. give the **Named Insured** reports on the conditions we find; and
- c. recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public.

We do not warrant that conditions are safe or healthful or comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization that makes insurance inspections, surveys, reports or recommendations on behalf of the **underlying insurers**.

LEGAL ACTION AGAINST US

No person or organization has a right under this policy:

- a. to join us as a party or otherwise bring us into a **suit** seeking **loss** from an Insured; or
- b. to sue us on this policy 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 **loss** that is not payable under the terms of this policy or that is 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.

Any disputes between the **Named Insured** and us as to whether there is coverage under this insurance must be filed in the courts of the United States of America (including its territories and possessions), Canada or Puerto Rico.

LOSS PAYMENT

All payments or reimbursements we make for **loss** because of judgments or settlements covered by this insurance will be made in U.S. currency at the prevailing exchange rate at the time the Insured becomes legally obligated to pay such sums. All payments or reimbursements we make for **claim expenses** will be made in U.S. currency at the prevailing exchange rate at the time the **claim expenses** were incurred.

MAINTENANCE OF FOREIGN GOVERNMENT REQUIRED INSURANCE

The **Named Insured** must fully maintain any coverage required by any foreign government law, regulation or other governmental authority during the policy period, except for reduction of the aggregate limits due to payment of **loss** or **claim expenses** (if such **claim expenses** reduce the Limits of Insurance pursuant to the terms of this policy).

Failure to maintain such coverage required by law, regulation or other governmental authority will not invalidate this insurance. However, this insurance will apply as if the required coverage by law, regulation or other governmental authority was in full effect.



MAINTENANCE OF UNDERLYING INSURANCE

The **underlying insurance** listed in the Schedule of Underlying Insurance shall remain in effect throughout the policy period except for the reduction of the aggregate limits due to payment of **loss** or **claim expenses** (if such **claim expenses** reduce the Limits of Insurance of such **underlying insurance**).

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

The **Named Insured** must notify us as soon as practicable when any **underlying insurance** is no longer in effect.

OTHER INSURANCE

This insurance is excess over, and shall not contribute with, any 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.

PREMIUM AUDIT COMPLIANCE

The **First Named Insured** must keep books and records of the information we need to determine premium computation. Such books and records must be made available to us, or copies or summaries must be sent to us at our request. Failure to provide us access to such books and records will be deemed to be a breach of policy conditions, which may subject this policy, as well as other policies issued to the **First Named Insured** by us, to cancellation. We have the right, but not the obligation, to conduct an examination and audit of books and records required to determine premium computation. Examinations and audits may be conducted physically, remotely, or by any other means we may choose.

We will make no less than two attempts to contact the **First Named Insured** directly to conduct examinations/audits and at least one attempt to contact our broker of record for assistance should our direct contact efforts fail. These efforts will occur over a span of no less than three calendar weeks. Any refusal or failure by the **First Named Insured** to maintain or provide access to these books and records will result in the audit being deemed to be unproductive and will result in:

- a. our development and calculation of an audit premium based on the information available to us without the **First Named Insured's** cooperation and assistance; or
- b. the assessment and billing of an Audit Non-Compliance Charge (of up to 250% of the original policy premium).

The **First Named Insured** may dispute our audit premium charge or the assessment of an Audit Non-Compliance Charge, but only if the **First Named Insured** provides notice and explanation of its dispute in writing to us. The written notice must provide verifiable documentation that supports the **First Named Insured's** dispute and allows for an accurate premium computation. The **First Named Insured's** refusal or failure to provide written notice of its dispute, along with verifiable documentation supporting its dispute and allowing for premium computation, will indicate to us the **First Named Insured's** agreement with the audit results.

PREMIUM COLLECTION ACTIONS

Should it become necessary for us to institute premium collection actions against the **First Named Insured**, including direct collection or litigation required to collect any premium owed to us, then the **First Named Insured** shall be responsible for 100% of all expenses, fees and costs incurred by us in that regard plus any applicable interest.

PREMIUM COMPUTATION

If this policy is subject to audit adjustment, as indicated on the Declarations, the rate, rating basis and estimated exposure for the policy period will be stated in the Declarations. We will compute the premium for this policy by applying the rate to each unit of exposure of the rating basis. The estimated exposure is used to determine the minimum premium and the deposit premium set forth on the Declarations. The actual exposure will be used to determine the earned premium.



At the close of each audit period, we will compute the earned premium. If the earned premium is greater than the deposit premium stated on the Declarations, the **First Named Insured** must, upon notice from us, immediately send us the difference. Subject to the earned premium, if the minimum premium is less than the deposit premium, we will return the excess premium to the **First Named Insured**. However, if the earned premium is less than the minimum premium stated on the Declarations, we will not return any premium.

In the event of mid-term cancellation, we will retain the applicable pro rata or short rate earned premium and will return the difference between the earned premium and the deposit premium.

However, in no event shall we retain less than the minimum earned premium as calculated by the minimum earned premium percentage set forth in the Declarations.

REPRESENTATIONS OR FRAUD

By accepting this policy, the **Named Insured** agrees;

- a. the statements in the Application are accurate and complete;
- b. those statements are based upon representations the **Named Insured** made to us;
- c. we have issued this policy in reliance upon the **Named Insured's** representations; and
- d. this policy is void in any case of intentional fraud by the **Named Insured** as it relates to this policy or any claim or **suit** under this policy.

SUBLIMITED UNDERLYING INSURANCE

Unless a sublimit is specifically included within the Schedule of Underlying Insurance for this Policy, this Policy shall not apply in excess of any coverage that imposes a sublimit of insurance specified in the **underlying insurance**. Any **loss** related to any sublimited coverage excluded by this policy, but provided by any **underlying insurance**, shall not be recognized by this policy as eroding or exhausting the limits of the **underlying insurance**.

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

If the Insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The Insured must do nothing after loss to impair them. At our request, the Insured will bring **suit** or transfer those rights to us to help us enforce them. We will waive these rights to recover only if and to the extent such rights are waived by the insurers of any **underlying insurance**.

UNDISCLOSED BROADENING OF OR MATERIAL CHANGE TO UNDERLYING INSURANCE

Unless previously disclosed, understood and accepted by us, this policy will not recognize any broadening of or material change in structure to any **underlying insurance** that occurs after the date that this excess coverage was requested to be bound by us. Failure to notify us of such changes will not invalidate this policy, but any **loss** or **claim expenses** related to any undisclosed broadening of any **underlying insurance** or any material change in terms, conditions or structure to the **underlying insurance** shall not be recognized by this policy and we will not be responsible or liable for any **loss** or **claim expenses** associated with such changes. It shall be the Insured's sole responsibility to fund or self-insure any gaps in coverage created by such previously undisclosed changes to any **underlying insurance**.

As stated in our Insuring Agreement, this policy will follow any and all exclusions or restrictions to coverage included within any layer of **underlying insurance** regardless of when such exclusions or restrictions were put into effect, and regardless of whether such exclusions or restrictions to coverage were disclosed to us.



UNDISCLOSED UNDERLYING LIMITS AGGREGATION - AUTOMOBILE LIABILITY

Unless previously disclosed, understood and accepted by us, this policy will not recognize any aggregation of any **underlying limits** of any scheduled underlying automobile liability coverage included within the **underlying insurance**. In the event that such undisclosed aggregation occurs, this insurance will apply as if such **underlying insurance** applies on an unaggregated, each occurrence basis. It shall be the insured's sole responsibility to fund or self-insure any gap of underlying automobile liability coverage created by such an undisclosed limits aggregation.

UNIMPAIRED AGGREGATES OF UNDERLYING INSURANCE

If an aggregate limit of any **underlying insurance** has been reduced below the aggregate amount shown in the Schedule of Underlying Insurance for that **underlying insurance** as a result of an **event** occurring prior to the inception date of this policy or as a result of **events** not covered by this insurance, we will apply all insurance provided by this policy as if the aggregate of the **underlying insurance** had not been reduced below the limit amount shown in the Schedule of Underlying Insurance.

This condition does not apply to any **event** subject to claims-made coverage and occurring after the retroactive date of this policy (if any).

UNINTENTIONAL FAILURE TO DISCLOSE

The **Named Insured's** failure to disclose all hazards existing as of the inception date of this policy will not prejudice the **Named Insured** with respect to the coverage afforded by this policy, provided that any such failure or omission is unintentional.

DEFINITIONS

Whether expressed in the singular or plural, whenever appearing in bold in this policy, the following terms shall have the meanings set forth below.

Auto means:

- a. a land motor vehicle, trailer or semi-trailer designed for travel on public roads, 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 where it is licensed or principally garaged.

But **auto** does not include mobile equipment.

Claim expenses means:

- a. expenses we incur in the investigation, adjustment, defense, mediation and settlement of a claim or **suit**;
- b. the cost of bonds to release attachments, but only for bond amounts within the applicable Limits of Insurance. We do not have to furnish these bonds;
- c. all reasonable expenses incurred by the Insured at our request to assist in the investigation or defense of the claim or **suit**, including actual loss of earnings up to \$500 a day because of time off from work;
- d. 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;



- e. prejudgment interest awarded against the Insured on that part of a 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; or
- f. all interest on that part of any judgment covered by this policy that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of a judgment that is within the applicable limit of insurance.

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.

Event means any occurrence, offense, accident, wrongful act, act, error or omission or other event to which the **underlying insurance** applies. Each of the words used in this definition shall have the same meaning as the equivalent of such words as set forth in the **followed policy**.

First Named Insured means the person or entity first listed as a **Named Insured** in the Declarations.

Followed policy means the policy or policies of insurance listed in the Schedule of Underlying Insurance and identified as **followed policy**, including any self-insured retentions or deductibles that are a part of such policies.

Fungi means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents, or byproducts produced or released by fungi.

Hazardous properties means radioactive, toxic or explosive properties.

Hostile fire means a fire which becomes uncontrollable or breaks out from where it was intended to be.

Loss means damages the Insured becomes legally obligated to pay as judgments or settlements.

Named Insured means:

- a. the persons or entities listed as such in the Declarations;
- b. any persons or entities who qualify as **Named Insureds** under the **underlying insurance** as of the inception date of such **underlying insurance**;
- c. any persons or entities who, after the inception date of such insurance, are added as **Named Insureds** by endorsement to the **underlying insurance** provided we are notified of such addition and we are paid any additional premium charged by us for such additional **Named Insured**.

Nuclear facility means:

- a. any **nuclear reactor**;
- b. any equipment or device designed or used for:
 - (1) separating the isotopes of uranium or plutonium,
 - (2) processing or utilizing **spent fuel**, or
 - (3) 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; or



- d. any structure, basin, excavation, premises, 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 site and all premises used for such operations;

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.

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

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

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

Suit means a civil proceeding in which covered **loss** is alleged. **Suit** includes:

- a. an arbitration proceeding in which such **loss** is 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 **loss** is claimed and to which the insured submits with our consent or the **underlying insurer's** consent.

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

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

Underlying insurance means any policies of insurance listed in the Declarations under the Schedule of Underlying Insurance.

Underlying insurer means any insurer who provides any policy of insurance listed in the Schedule of Underlying Insurance or any automatic renewal or replacement of any such policy, provided that such renewal or replacement provides equivalent coverage to and affords limits of insurance equal to or greater than the policy being renewed or replacement.

Underlying limits means the limits of insurance of the **underlying insurance**.

Unmanned aircraft means an aircraft of any size or type that is not:



- a. designed;
- b. manufactured; or
- c. modified after manufacture;

to be controlled directly by a person from within or on the aircraft and includes, but is not limited to:

- (1) ground support or control equipment used in conjunction with any such aircraft;
- (2) any article, device or equipment used on or in such an aircraft, or for use in the control, maintenance or operation of such an aircraft; or
- (3) training aids, instructions and manuals relating to the operation, inspection, maintenance, servicing, repair or rebuilding of such an aircraft, any part or portion thereof or ground support or control equipment used with any such aircraft.

Waste means any waste material:

- a. containing by-product material;
- b. to be recycled, reconditioned or reclaimed;
- c. including any form of plastic waste, regardless of the origin of such plastic waste; and
- d. resulting from the operation by any person or organization of any **nuclear facility** included within the definition of **nuclear facility**.

EXTENDED REPORTING PERIOD OPTION

No Extended Reporting Period extends the policy period, reinstates or increases the Limits of Insurance or changes the scope of coverage provided. Extended Reporting Periods apply only to claims made during the applicable Extended Reporting Period arising out of events that occurred after the retroactive date and before the end of the policy period. Once in effect, the Supplemental Extended Reporting Period may not be cancelled except for non-payment of premium.

AUTOMATIC EXTENDED REPORTING PERIOD

If we cancel or non-renew this Policy, and if also provided in each layer of the underlying insurance, an automatic Extended Reporting Period is provided without an additional premium charge. This period starts upon cancellation or non-renewal of the policy period and lasts for sixty (60) days. The automatic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance that the **First Named Insured** may purchase, or that would be covered, but for the exhaustion of the amount of insurance applicable to such claims.

SUPPLEMENTAL EXTENDED REPORTING PERIOD

If we cancel this policy for reasons other than non-payment of premium, or if we non-renew this policy, and if and to the extent supplemental extended reporting periods have been selected in each layer of the underlying insurance, the **Named Insured** will have the right to purchase a Supplemental Extended Reporting Period. The Supplemental Extended Reporting Period, if purchased, will incept immediately following the effective date of cancellation or nonrenewal.



The Supplemental Extended Reporting Period and the applicable premium are determined by us in accordance with our rules and rates and in accordance with any applicable filings. The **First Named Insured** must provide us with a written request for the Supplemental Extended Reporting Period within thirty (30) days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless the **First Named Insured** pays the additional premium promptly when due. Once in effect, the Supplemental Extended Reporting Period cannot be canceled except for non-payment of premium. The additional premium for the Supplemental Extended Reporting Period will be due within sixty (60) days after the end of the policy period.

SIGNATURE PAGE FOLLOWS.