



# Commercial Umbrella Liability Policy

## Declarations

Insurance is provided by the company below.

AMERICAN GUARANTEE & LIABILITY INSURANCE COMPANY

AMERICAN ZURICH INSURANCE COMPANY

ZURICH AMERICAN INSURANCE COMPANY OF ILLINOIS

### Program Manager

Preferred Property Program, Inc.  
 960 Holmdel Road  
 Holmdel, NJ 07733

Policy Number: Sample-0-00  
 Renewal Of Number: New

### Preferred Property Member

1. Named Insured: Sample Insured  
 2. Mailing Address: 123 Main St  
 Anywhere, US

3. Policy Period: FROM: 07/01/2009 TO:  
 At 12:01 A.M. Standard Time at the address of the Named Insured.

4. Limits of Insurance: A. \$ Occurrence  
 B. \$ Other Aggregate  
 C. \$ Products/Completed Operations Aggregate

5. Retained Limit: \$0 (\$10,000 in NY only) Occurrence

6. Policy Premium: Advance Premium See Attached Invoice  
 Minimum Earned 25%

7. Schedule of Underlying Insurance: See attached Schedule of Underlying Insurance

8. Endorsements Attached: See attached Schedule of Forms and Endorsements

*V. J. Hagen*

Signed by: \_\_\_\_\_  
 Authorized Representative

8/3/2009  
 Date: \_\_\_\_\_

## Schedule Of Forms And Endorsements

**Policy Number**

Sample-0-00

**Program Manager**

Preferred Property Program, Inc.  
960 Holmdel Rd.  
Holmdel, NJ 07733

Schedule Of Forms And Endorsements

Commercial Umbrella Liability Policy Declarations	U-UMB-D-101-B-CW (7/03)
Schedule of Forms and Endorsements	U-UMB-104 -A CW (7/99)
Schedule of Underlying Insurance	U-UMB-105-A-CW (7/99)
Lead Name Insureds And Locations	PPP-ANI-1 (06/09)
Pollution Endorsement	U-UMB-200-A CW (7/99)
Care, Custody Or Control Exclusion	U-UMB-129-B CW (7/03)
Directors and Officers Follow Form	U-UMB-159-A CW (7/99)
Earth Movement Or Subsidence Exclusion	U-UMB-162-A CW (7/99)
Lead Exclusion	U-UMB-193-A CW (7/99)
Aggregate Amendatory Endorsement	U-UMB-642-A-CW (04/08)
Master Policy Term Endorsement	U-UMB-200-A-CW (7/99)
Fungus or Bacteria Exclusion - All States Except NY	U-UMB-385-B-CW (07/2003)
Fungi or Bacteria Loss Retained Amount Provisions - Coverage B - New York Only	U-UMB-200-A-CW (03/07)
Non-Cumulation of Limits Endorsement	U-UMB-209-B CW (7/03)
Errors and Omissions Exclusion	U-UMB-172-B CW (7/03)
Basic Construction Exclusion	U-UMB-200-A CW (07/99)
Certified Act of Terrorism Retained Amount Provisions - Coverage B	U-UMB-406-B-CW (7/03)
Notification Of Important Changes Relating To Terrorism Risk Insurance Act	U-GU-766-A (12/07)
Disclosure Of Important Information Relating To Terrorism Risk Insurance Act	U-GU-630-C (12/07)
Cap On Losses From Certified Acts Of Terrorism	U-GU-767-A CW (01/08)
Exclusion - Violation of Statues That Govern E-Mails, Fax, Phone calls Or Other - Methods Of Sending Materials Or Information	U-UMB-525-A CW (04/05)
Medical Payments – Exclusion	U-UMB-200-A CW (7/99)
Employee Benefits Liability Follow Form	U-UMB-167-B CW(7/03)
Claims Made Endorsement	U-UMB-131-B CW (7/2003)
Casualty Business Crisis Management Expense Insurance	U-UMB-130-B CW (7/2003)
Amendatory Endorsement	U-UMB-200-A CW (07/99)
Amended Defense and Supplementary Payments	U-UMB-421-A-CW (07/2003)
Designated Premises Exclusion	U-UMB-149-A CW (7/99)
Disclosure Statement	U-WHL-E-402-A-CW (09/06)
Commercial Umbrella Liability Jacket	U-UMB-100-B CW (7/03)
Commercial Umbrella Liability Policy	U-UMB-103-B CW (7/03)
In Witness Clause	U-UMB-108-B CW (7/03)
All Other Pertinent State Endorsements	

# Schedule of Underlying Insurance



Policy No. Sample-0-00	Effective Date of Cert. 07/01/2009	Exp. Date of Cert.	Producer No.
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**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere,US

**Program Manager:**

Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

Company, Policy No. And Term	Coverage	Applicable Limits
A. Company: Policy No.: Term:	Commercial General Liability	\$ Each Occurrence \$ Products –Completed \$ Operations Aggregate \$ General Aggregate \$ X Per Location \$ Personal Injury
B. Company: Policy No.: Term:	Commercial Auto Liability	\$ Hired Non-Owned Auto Included
C. Company: Policy No.: Term:	Employers Liability	Bodily Injury by Accident \$ Each Accident Bodily Injury by Disease \$ Policy Limit Bodily Injury by Disease \$ Each Employee
D. Company: Policy No.: Term:	Directors & Officers	\$ \$ Per Occurrence Aggregate

*V. J. Hagen*

Signed by: \_\_\_\_\_  
Authorized Representative

8/3/2009

Date: \_\_\_\_\_



**ZURICH**

# Lead Named Insured And Locations

**Policy Number:**

Sample-0-00

**Program Manager:**

Preferred Property Program, Inc.  
960 Holmdel Rd  
Holmdel, NJ 07733

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

**LEAD NAMED INSURED:**

Sample Insured

<i>Item</i>	<i>First Named Insd</i>	<i>Location Address</i>	<i>Cert#-Loc#-Renew#</i>
1	Sample	Sample	Sample

**DUPLICATE**

# Pollution Endorsement

**Policy Number**  
Sample-0-00

**Named Insured and Mailing Address:**  
Sample Insured  
123 Main St  
Anywhere, US

**Producer:**  
Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

- A. SECTION IV., EXCLUSIONS B, and C.6., POLLUTION** are deleted.
- B. Under Coverage A and B the policy does not apply to any liability, damage, loss, cost or expense:**
1. Arising directly or indirectly out of an actual, alleged or threatened existence, discharge, dispersal, seepage, migration, release or escape of **pollutants**; or
  2. 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**.
  3. Paragraph **B.1.** of this endorsement does not apply to **bodily injury** or **property damage**:
    - a. Included within the **products-completed operations hazard**;
    - b. Arising out of any discharge, dispersal, seepage, migration, release or escape of **pollutants** caused by a "hostile fire"; collision or upset of an **auto**, or **mobile equipment**; windstorm; lightning; vandalism or malicious mischief; hail; civil commotion or riot; automatic sprinkler leakage; or explosion.
  4. Paragraph **B.1.** of this endorsement does not apply to **bodily injury** which is directly caused by:
    - a. The application of pesticides, herbicides or fertilizers provided that:
      - (1) All such applications meet all standards of all statutes, ordinances, regulations and license requirements of all federal, state and local governments which apply to those operations; and
      - (2) The actual, alleged or threatened existence, discharge, dispersal, seepage, migration, release or escape of pesticides, herbicides or fertilizers does not take place from an "underground storage tank";





## Care, Custody or Control Exclusion

**Policy Number:**

Sample-0-00

**Program Manager:**

Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

Under **Coverage A** this policy does not apply to property damage to: **Real & Personal Property** of others in the care, custody or control of the **insured**.



## **Earth Movement or Subsidence Exclusion**

**Policy Number:**  
Sample-0-00

**Program Manager:**  
Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

Under **Coverage A** and **Coverage B** this policy does not apply to any liability, damage, loss, cost or expense which directly or indirectly involves, arises out of, is caused by, results from, is contributed to by, or is aggravated by the subsidence, settling, sinking, slipping, falling away, caving in, shifting, eroding, consolidating, compacting, flowing, rising, tilting or any other similar movement of land, earth or mud, regardless of whether such movement is a naturally occurring phenomena or is man-made.

## Lead Exclusion

**Policy Number:**  
Sample-0-00

**Program Manager:**  
Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

Under **Coverage A** and **Coverage B** this policy does not apply to:

1. Any liability, damage, loss, cost or expense arising out of, resulting from, caused by or contributed to by toxic or pathological properties of lead, lead compounds or lead contained materials;
2. Any cost or expense to abate, mitigate, remove or dispose of lead, lead compounds or materials containing lead;
3. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with paragraphs 1. or 2. above; or
4. Any obligation to share damages with or repay anyone else who must pay damages in connection with paragraphs 1., 2., or 3. above.



# Aggregate Amendatory Endorsement

**Policy Number**

**Sample-0-00**

**Effective Date**

**07/01/2009**

**Program Manager**

**Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733**

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

It is agreed that **Section II. Limits of Insurance**, Paragraphs **B.2** and **B.3** are deleted in their entirety and replaced with the following:

- 2. Subject to Paragraph B.1 above, the limits stated in Item 4.C of the Declarations for the Products-Completed Operations Aggregate is the most we will pay for all damages under both **Coverage A** and **Coverage B** combined for each **Lead Named Insured** as result of **bodily injury** or **property damage** included within the **products-completed operations hazard**.
- 3. Subject to Paragraph B.1 above, the limits stated in Item **4.B** of the Declarations for the Other Aggregate is the most we will pay for all damages under both **Coverage A**, and **Coverage B** combined for each **Lead Named Insured** except for:
  - a) damages covered under the **products-completed operations hazard** and,
  - b) damages covered in the **underlying insurance** to which no underlying aggregate limit applies.

In addition, with respect to **Coverage A** only, if a policy listed on the Schedule of Underlying Insurance contains aggregate limits, other than aggregate limit applying to the **products-completed operations hazard**, the Other Aggregate stated in Item **4.B** of the Declarations will apply in the same manner as such other aggregate limits of each policy listed in the Schedule of Underlying Insurance.

For the purposes of this endorsement, **Lead Named Insured** shall mean the first named insured for each participant listing covered under the **Preferred Property Program II, A Risk Purchasing Group**.

**ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.**

Signed by: \_\_\_\_\_  
Authorized Representative

**8/3/2009**

\_\_\_\_\_  
Date

U-LMB-642-A-CW (04/08)



# Policy Term Endorsement

**Policy Number:**

Sample-0-00

**Effective:**

07/01/2009

**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere,US

**Producer:**

Preferred Property Program, Inc.  
960 Holmdel Rd.  
Holmdel, NJ 07733

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

The master policy term will be 05/01/2009 to 05/01/2011 (24 months). Those Participants who are a Lead Named Insured will be provided **twelve months** coverage from their respective effective date, unless otherwise approved, not to exceed beyond the **05/01/2011** expiration date of the master policy.

All additions and deletions made by an existing Participant will be subject to the expiration date designated for the Lead Named Insured.

For the purpose of this endorsement, **Lead Named Insured** shall be defined as the **First Named Insured** for each Participant covered under Preferred Property Program, **A Risk Purchasing Group**.

*V. J. Hagen*

Signed by: \_\_\_\_\_

Authorized Representative

8/3/2009

Date



# Fungi or Bacteria Loss Retained Amount Provisions – Coverage B – New York Only



Policy Number: Sample-0-00

**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere,US

**Producer:**

Preferred Property Program, Inc.  
960 Holmdel Rd  
Holmdel, NJ 07733

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

FUNGI OR BACTERIA LOSS RETAINED AMOUNT SCHEDULE

Each Occurrence Retained Amount:	\$1,000,000
Products-Completed Operations Aggregate Retained Amount:	\$1,000,000
Other Aggregate Retained Amount:	\$1,000,000

The following additional provisions apply under **Coverage B** of this policy as respects any liability, damage, **loss**, cost or expense arising, directly or indirectly, out of **fungi or bacteria loss**, regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage:

- A.** The Retained Amounts shown above in the FUNGI OR BACTERIA LOSS RETAINED AMOUNT SCHEDULE apply in place of the **Coverage B Retained Limit** specified in Item **5.** of the Declarations, or any amount payable by **other insurance** whichever is greater, and are the only **retained amount** provisions applying to any **loss**, claim or **suit** from a **fungi or bacteria loss**. These provisions do not apply to any other **loss**, claim or **suit** not involving a **fungi or bacteria loss** that would still be subject to the applicable **Coverage B Retained Limit** specified in Item **5.** of the Declarations. The specific **retained amounts** applying to **fungi or bacteria loss** are as follows:
1. The Each Occurrence Retained Amount shown in the Schedule above is the total **retained amount** of damages for which the **insured** is responsible applicable to each **occurrence**.
  2. The Products-Completed Operations Aggregate Retained Amount shown in the Schedule above is the total **retained amount** of damages for which the **insured** is responsible, applicable to all **occurrences** included within the **products-completed operations hazard**.
  3. The Other Aggregate Retained Amount shown in the Schedule above is the total **retained amount** of damages arising from any one location for which the **insured** is responsible, applicable to all **occurrences** except for **occurrences** included within the **products-completed operations hazard**.
- B.** The following changes apply to **SECTION III., DEFENSE AND SUPPLEMENTARY PAYMENTS** as respects **Coverage B**, only as respects the coverage provided by this endorsement.
1. We have the right and duty to assume control of the investigation, settlement or defense of any claim or **suit** against the **insured** for damages covered by this policy under **Coverage B**, when the applicable **retained amount** has been exhausted by payment of claims or **suit**.

2. In those circumstances where paragraph **B.1.** of this endorsement applies, in addition to the applicable Limits of Insurance, we will pay our expenses and the following to the extent that they are not included in **underlying insurance** or **other insurance**:
  - a. Up to \$2,000 for the cost of bail bonds. We do not have to furnish these bonds;
  - b. The cost of bonds to release attachments, but only for bond amounts within the amount of insurance. We do not have to furnish these bonds;
  - c. 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 because of time off work;
  - d. Costs taxed against the **insured** in the suit;
  - e. Pre-judgment interest awarded against the **insured** on that part of the judgment we pay. However, if we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest on that period of time after the offer; and
  - f. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court that part of the judgment that is within the applicable Limits of Insurance.
3. In those circumstances where paragraph **B.1.** of this endorsement does not apply, we do not have the duty to assume control of the investigation and settlement of any claim, or defense of any **suit** against the **insured**. We do, however, have the right to participate in the investigation and settlement of any claim, or defense of any **suit** that we feel may create liability on our part under the terms of this policy. If we exercise this right, we will do so at our expense.
4. We will not investigate or settle any claim, or defend any **suit** after we have exhausted the applicable Limit of Insurance specified in Item **4.** of the Declarations.

**C.** The following provision is added to **SECTION VI, CONDITIONS, A., 10.**, Notice of Occurrence, Claim or Suit:

You must notify us immediately in writing of any claim or **suit** which seeks damages in an amount which is fifty (50) percent or more of the amount of the Each Occurrence Retained Amount stated in the FUNGI OR BACTERIA LOSS RETAINED AMOUNT SCHEDULE of this endorsement.

**D.** As used in this endorsement, **Fungi or bacteria loss** means any liability, damage, **loss**, cost or expense:

1. Caused directly or indirectly by the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any:
  - a. **Fungi**; or **bacteria**; or
  - b. Substance, vapor or gas produced by or arising out of any **fungi** or **bacteria**; or
2. Arising out of 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 affects of, **fungi** or **bacteria**, by an **insured** or by any other person or entity.

As used in this paragraph:

1. **Bacteria** means any type or form of bacteria and any materials or substances that are produced or released by bacteria.
2. **Fungi** means any type or form of fungus, including mold or mildew and any mycotoxins, **spores**, scents or by-products produced or released by **fungi**;
3. **Spores** means reproductive bodies produced by or arising out of **fungi**.

For purposes of the coverage provided under this endorsement, **fungi or bacteria loss** does not include any **fungi or bacteria** that are on, or are contained in, an edible good or edible product intended for human or animal consumption.

**E.** As used in this endorsement, **Retained amount** means the amount of damages for which the **insured** is responsible as shown in the FUNGI OR BACTERIA LOSS RETAINED AMOUNT SCHEDULE of this endorsement.

All other provisions of this policy remain unchanged.

*V. J. Hagen*

Authorized Representative

8/3/2009

Date

# Non-Cumulation of Limits Endorsement



**Policy Number:**

Sample-0-00

**Program Manager:**

Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

In consideration of the premium charged, it is agreed that regardless of the number of **insureds** under this policy and policy number **AUC 2972968-07, AUC 2972964-07, AUC 9023754-05** the total limit of liability to us, for all liability arising out of any one occurrence, will not exceed the Occurrence Limit as stated in Item **4. A.** of the Declarations.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)



## Errors and Omissions Exclusion

**Policy Number:**  
Sample-0-00

**Program Manager:**  
Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

Under Coverage A and Coverage B this policy does not apply to:

1. Any breach of duty, negligent act, error or omission of any **insured** or of any person for whose acts any **insured** is legally liable in the conduct of your business designated below:
2. Any liability, damage, **loss**, cost or expense arising out of any of the items in 1. above.

**Designated Business**

**Real Estate Agents**

**Property Managers**

Signed by: \_\_\_\_\_  
Authorized Representative

8/3/2009

\_\_\_\_\_  
Date



# Basic Construction Exclusion

**Policy Number:**

Sample-0-00

**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere, US

**Producer:**

Preferred Property Program, Inc.  
960 Holmdel Rd.  
Holmdel, NJ 07733

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

Under **Coverage A** and **Coverage B** this policy does not apply to any liability, damage, **loss**, cost or expense arising out of construction or demolition operations which are performed by or on behalf of the **Named Insured** in the course of any job which involves the new construction or demolition of any load bearing wall, floor, ceiling or roof of a building or structure

However, this exclusion does not apply to the repair, alteration, maintenance or refurbishing of a load bearing wall, floor, ceiling or roof of a building or structure.

**ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED**

*V. J. Hosen*

Signed by: \_\_\_\_\_  
Authorized Representative

8/3/2009  
Date



# Certified Act of Terrorism Retained Amount Provisions – Coverage B

**Policy Number:**  
Sample-0-00

**Program Manager:**  
Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

### CERTIFIED ACT OF TERRORISM RETAINED AMOUNT SCHEDULE

Each Occurrence Retained Amount:	<u>\$1,000,000</u>
Products-Completed Operations Aggregate Retained Amount:	<u>\$1,000,000</u>
Other Aggregate Retained Amount:	<u>\$1,000,000</u>

The following additional provisions apply under **Coverage B** of this policy as respects any liability, damage, **loss**, cost or expense arising, directly or indirectly, out of a **certified act of terrorism**, including any action taken in hindering or defending against an actual or expected **certified act of terrorism**, regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage:

- A. The Retained Amounts shown above in the **Certified Act of Terrorism Retained Amount Schedule** apply in place of the **Coverage B retained limit** specified in Item 5. of the Declarations or any amount payable by **other insurance**, whichever is greater, and are the only **retained amount** provisions applying to any **loss**, claim or **suit** from a **certified act of terrorism**. These provisions do not apply to any other loss, claim or suit not involving a **certified act of terrorism** that would still be subject to the applicable **Coverage B retained limit amount**. The specific **retained amounts** applying to **certified acts of terrorism** are as follows:
1. The Each Occurrence Retained Amount shown in the Schedule above is the total **retained amount** of damages for which the **insured** is responsible applicable to each **occurrence**.
  2. The Products-Completed Operations **Aggregate Retained Amount** shown in the Schedule above is the total **retained amount** of damages for which the **insured** is responsible, applicable to all **occurrences** included within the **products-completed operations hazard**.
  3. The Other Aggregate Retained Amount shown in the Schedule above is the total **retained amount** of damages for which the **insured** is responsible, applicable to all **occurrences** except for **occurrences** included within the **products-completed operations hazard**.

B. The following changes apply to **SECTION III. DEFENSE AND SUPPLEMENTARY PAYMENTS** as respects **Coverage B**, only as respects the coverage provided by this endorsement:

1. We have the right and duty to assume control of the investigation and, settlement of any claim or defense of any **suit** against the **insured** for damages covered by this policy under **Coverage B**, when the applicable **retained amount** has been exhausted by payment of claims.
2. In those circumstances where paragraph **B.1.** of this endorsement applies, in addition to the applicable Limits of Insurance, we will pay our expenses and the following to the extent that they are not included in **underlying insurance or other insurance**:
  - a. Up to \$2,000 for the cost of bail bonds. We do not have to furnish these bonds;
  - b. The cost of bonds to release attachments, but only for bond amounts within the amount of insurance. We do not have to furnish these bonds;
  - c. 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 because of time off work;
  - d. Cost taxed against the **insured** in the suit;
  - e. Pre-judgment interest awarded against the **insured** on the part of the judgment we pay. However, if we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest on that period of time after the offer; and
  - f. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court that part of the judgment that is within the applicable Limits of Insurance.
3. In those circumstances where paragraph **B.1** of this endorsement does not apply, we do not have the duty to assume control of the investigation and settlement of any claim, or defense of any **suit** against the **insured**. We do, however, have the right to participate in the investigation and settlement of any claim, or defense of any **suit** that we feel may create liability on our part under the terms of this policy. If we exercise this right, we will do so at our expense.
4. We will not investigate and settle any claim, or defend any **suit** after we have exhausted the applicable Limit of Insurance as stated in Item 4. of the Declaration.

C. The following provision is added to **SECTION VI., CONDITIONS, A., 10., Notice of Occurrence Claim or Suit**:

You must notify us immediately in writing of any claims or **suit** which seeks damages in an amount which fifty (50) percent or more of the amount of the Each Occurrence Retained Amount stated in the **Certified Act of Terrorism Retained Amount Schedule** of this endorsement.

- D. As used in this endorsement, **certified act of terrorism** means an act that is certified by the Secretary of Treasury of the United States, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the Federal Terrorism Risk Insurance Act of 2002. Section 102 of the Terrorism Risk Insurance Act of 2002 sets forth the criteria and process that the Secretary of the Treasury shall use to determine whether to certify an act of terrorism.
- E. As used in this endorsement, **retained amount** means the amount of damages for which the **insured** is responsible as shown in the **Certified Act of Terrorism Retained Amount Schedule** of this endorsement.

**All other terms, conditions or limitations of the policy remain unchanged.**

Signed By: V. J. Hosen  
Authorized Representative

8/3/2009  
Date

# NOTIFICATION OF IMPORTANT CHANGES RELATING TO TERRORISM RISK INSURANCE ACT

## To Our Valued Customers:

The Terrorism Risk Insurance Act ("TRIA") had been scheduled to expire on December 31, 2007. Prior to the termination of the program, Congress enacted an extension of TRIA until December 31, 2014. There are several important changes to TRIA included with the extension of which you should be aware:

### A. Change in Definition of "Act of Terrorism"

Prior to the enactment of the extension legislation, TRIA applied only to acts of terrorism committed by an individual or individuals "acting on behalf of any foreign person or foreign interest." This restriction has been removed such that the Secretary of Treasury may also certify acts of terrorism commonly described as "domestic terrorism." Because your policy may contain a limitation or exclusion relating to "certified acts of terrorism" and/or "other acts of terrorism" or "non-certified acts of terrorism" this change in the law may impact coverage under your policy. You should review your insurance policy and note the revised certification criteria under TRIA (as fully described in paragraph D. below).

### B. Clarification of Operation of \$100 Billion Cap on All Insurer and Federal Obligations

If aggregate insured losses attributable to terrorist acts certified under TRIA exceed \$100 billion in a Program Year (January 1 through December 31) and an insurer has met its deductible under the program, that insurer 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 Treasury.

### C. Change in the Recoupment of the Federal Share of Insured Losses

Should there be a terrorist act certified under TRIA, Treasury must recoup 133% of the amount of its payments under the program (limited to \$27.5 billion minus the amount insurers retain in that calendar year as a result of the insurer deductible and co-share) through policyholder surcharges:

1. For an act of terrorism occurring prior to 2011, the collection must be completed by September 30, 2012;
2. For an act of terrorism occurring during 2011, the collection must be 35% completed by September 30, 2012 with the balance collected by September 30, 2017; and
3. For a later event, the collection must be completed by September 30, 2017.

### D. Revised Definition of Act of Terrorism under TRIA

TRIA defines "act of terrorism" as any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States:

1. to be an act of terrorism;
2. to be a violent act or an act that is dangerous to human life, property or infrastructure;
3. to have resulted in damage within the United States, or outside of the United States in the case of an air carrier (as defined in section 40102 of Title 49, United States Code) or a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), or the premises of a United States mission; and
4. 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.

No act may be certified as an act of terrorism if the act is committed as part of the course of a war declared by Congress (except for workers' compensation) or if losses resulting from the act, in the aggregate for insurance subject to TRIA, do not exceed \$5,000,000.

**THIS DISCLOSURE IS ATTACHED TO AND MADE PART OF YOUR POLICY.**

**DISCLOSURE OF IMPORTANT INFORMATION  
RELATING TO TERRORISM RISK INSURANCE ACT**

**SCHEDULE\***

Premium attributable to risk of loss from certified acts of terrorism for lines of insurance subject to TRIA:

Terrorism Premium Prints Here

\*Any information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Disclosure of Premium**

In accordance with the federal Terrorism Risk Insurance Act ("TRIA"), as amended, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to the risk of loss from terrorist acts certified under that Act for lines subject to TRIA. That portion of premium attributable is shown in the Schedule above. The premium shown in the Schedule above is subject to adjustment upon premium audit, if applicable.

**B. Disclosure of Federal Participation in Payment of Terrorism Losses**

The United States Government may pay a share of insured losses resulting from an act of terrorism. The federal share equals 85% of that portion of the amount of such insured losses that exceeds the insurer retention. The insurer retention equals 20% of the insurer's prior calendar year direct earned premium associated with lines of insurance subject to TRIA. TRIA is scheduled to expire on December 31, 2014.

**C. Disclosure of \$100 Billion Cap on All Insurer and Federal Obligations**

If aggregate insured losses attributable to terrorist acts certified under TRIA exceed \$100 billion in a Program Year (January 1 through December 31) and an insurer has met its deductible under the program, that insurer 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 Treasury.

**D. Availability**

As required by TRIA, we have made available to you for lines subject to TRIA coverage for losses resulting from acts of terrorism certified under TRIA with terms, amounts and limitations that do not differ materially from those for losses arising from events other than acts of terrorism.

**E. Definition of Act of Terrorism under TRIA**

TRIA defines "act of terrorism" as any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States:

1. to be an act of terrorism;
2. to be a violent act or an act that is dangerous to human life, property or infrastructure;
3. to have resulted in damage within the United States, or outside of the United States in the case of an air carrier (as defined in section 40102 of Title 49, United States Code) or a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), or the premises of a United States mission; and
4. 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.

No act may be certified as an act of terrorism if the act is committed as part of the course of a war declared by Congress (except for workers' compensation) or if losses resulting from the act, in the aggregate for insurance subject to TRIA, do not exceed \$5,000,000.



# CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

**Named Insured:** Sample Insured

**Policy Number:** Sample-0-00

**Effective:** 07/01/2009

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

This endorsement modifies your insurance:

## Commercial Umbrella Liability Policy

### A. Cap on Losses From Certified Terrorism Losses

“Certified act of terrorism” means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act (“TRIA”). The Terrorism Risk Insurance Act provides that the Secretary of Treasury shall certify an act of terrorism:

1. to be an act of terrorism;
2. to be a violent act or an act that is dangerous to human life, property or infrastructure;
3. to have resulted in damage within the United States, or outside of the United States in the case of an air carrier (as defined in section 40102 of Title 49, United States Code) or a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), or the premises of a United States mission; and
4. 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.

No act may be certified as an act of terrorism if the act is committed as part of the course of a war declared by Congress (except for workers’ compensation) or if losses resulting from the act, in the aggregate for insurance subject to TRIA, do not exceed \$5,000,000.

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

### B. Application of Other Exclusions

The terms and limitations of a terrorism exclusion or any other exclusion, or the inapplicability or omission of a terrorism exclusion or any other exclusion, do not serve to create coverage which would otherwise be excluded, limited or restricted under this policy.

**Exclusion – Violation of Statutes that Govern Emails, Fax,  
Phone Calls or Other Methods of Sending Material or Information**

**Policy Number:**

Sample-0-00

**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere,US

**Program Manager:**

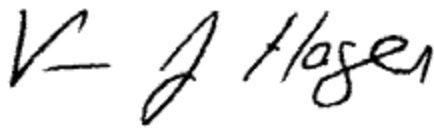
Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

The following additional exclusion is added to **SECTION IV. EXCLUSIONS**, subsection A:

Under **Coverage A** and **Coverage B**, this policy does not apply to any liability, damage, loss, cost or expense resulting from or arising directly or indirectly out of any action or omission that violates or is alleged to violate:

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



Signed by: \_\_\_\_\_  
Authorized Representative

8/3/2009

\_\_\_\_\_  
Date

# Medical Payments- Exclusion

Policy Number:

Sample-0-00

Program Manager:

Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

Under **Coverage A** and **Coverage B**, this policy does not apply to any liability, damage, **loss**, cost or expense for medical expenses for bodily injury.

Signed by: \_\_\_\_\_

Authorized Representative



8/3/2009

Date

# Employee Benefits Liability Follow Form



**Policy Number:**

Sample-0-00

**Program Manager:**

Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

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

Under **Coverage B** only, this policy does not apply to any liability, damage, **loss**, cost or expense imposed on any **insured** as a Fiduciary Administrator, or other party in interest arising out of any **Employee Benefits Program**, record handling in connection with any **Employee Benefits Program**, or effecting or terminating any employee's participation in any plan included in any **"Employee Benefits Program"**.

As used in this endorsement:

**Employee Benefits Program** means any group life insurance, group accident or health insurance, profit sharing Plans, pension plans, stock subscription plans, unemployment insurance, social security benefits, workers' compensation and disability benefits and any other similar plans.



ZURICH

# Claims Made Coverage Endorsement

**Policy Number:**

Sample-0-00

**Effective Date:**

07/01/2009

**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere,US

**Producer:**

Preferred Property Program, Inc.  
960 Holmdel Rd.  
Holmdel, NJ 07733

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

It is hereby understood and agreed, that with respect to **any underlying policy** written on a claims made basis the following shall apply. These changes shall not, however, apply to coverage written on an **occurrence** basis.

**SECTION I. COVERAGE** paragraph **A. Coverage A. - Excess Follow Form Liability Insurance** is amended to include the following:

- 3. If **underlying insurance** applies on a claims made basis, this policy applies to damages only if the injury or damage:
  - a. Did not occur before the Retroactive Date shown below or after the end of the policy period; and
  - b. A claim for damages is first made against any **insured** in accordance with paragraph **4.** below and is reported to us during the policy period or within 60 days thereafter, or within any Extended Reporting Period we provide under **SECTION VII.** of the policy.
- 4. A claim by a person or organization for damages will be deemed to have been made at the earlier of the following times:
  - a. When notice of such claim is received by any **insured** or by us, whichever comes first, or
  - b. When we make settlement in accordance with the provisions of **SECTION III. DEFENSE AND SUPPLEMENTARY PAYMENTS** of this policy.

**SECTION IV. EXCLUSIONS**, paragraph **A.** is amended to include the following:

**PREVIOUSLY REPORTED CLAIMS**

- 7. Arising out of any claim ( or any notification being treated as a claim ) in respect to which any **insured**, before the inception date set out in **Item 3.** of the Declarations, has given any notice to the insurers of any **other insurance**.

**CLAIMS OCCURRING OUTSIDE THE COVERAGE PERIOD**

- 8. Arising out of any obligation or liability incurred by or imposed upon any **insured** if the damages occur before the Retroactive Date of this policy or occur after the end of the policy period.

**SECTION VI. CONDITIONS** is amended to include the following:

**Notice of Potential Claim**

Notice of an **occurrence** is not notice of a claim. However, if we are properly notified ( as specified in **Condition 10.** in this policy ) of any **occurrence**, and a claim is made in writing to us within 36 months from the date we are notified of that **occurrence**, this policy will respond as if notice of a claim has been made during the policy period.

**SECTION VII. EXTENDED REPORTED PERIOD OPTION** is added as follows:

- 1. If you cancel or do not renew this policy, or if we either cancel or non-renew it for any reason other than non-payment of premium, you may elect to have an endorsement issued providing for an Extended Reporting Period of **365 days** following the end of the policy period.
- 2. We will issue an Extended Reporting Period Endorsement only if:
  - a. You request it in writing within 60 days after the end of the policy period;
  - b. You have paid all premiums due for this policy at the time you request the Extended Reported Period Endorsement; and
  - c. You pay an additional premium for the Endorsement as proposed by us. The additional premium will not exceed **200%**.

An Extended Reporting Period will take effect only if you have paid the additional premium for the Endorsement. Once the Endorsement is effective, we cannot cancel the Endorsement, and shall not redeem any part of the premium paid for the Endorsement for any reason.

- 3. The Extended Reporting Period Endorsement will provide that a claim first made during the Extended Reporting Period will be deemed to have been made on the last day of the policy period. The Extended Reporting Period Endorsement will not extend the policy period or reinstate or increase the Limits of Insurance. The Endorsement only applies to claims for damages that occur before the end of the policy period ( but not before the Retroactive Date shown below ).
- 4. The Extended Reporting Period Endorsement will provide that the insurance afforded for claims received during such period is excess over any **other insurance** under policies providing coverage after the Extended Reporting Period starts.

**RETROACTIVE DATE: Per underlying retro date (if any)**

Signed by: \_\_\_\_\_

Authorized Representative

*V. J. Hogen*

8/3/2009

Date



# Casualty Business Crisis Management Expense Insurance

**Policy Number**

Sample-0-00

**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere, US

**Producer:**  
Preferred Property Program, Inc.  
960 Holmdel Road  
Holmdel, NJ 07733

**SCHEDULE**

**\$50,000 Casualty Business Crisis Management Expense Aggregate Limit**

**Approved Casualty Business Crisis Management Advisors:**

APCO Associates  
Bozell Sawyer Miller Group  
Padilla Speer Beardsley  
Morgan-Walke Associates  
Golin/Harris Communication

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

**A.** The following **Insuring Agreement** is added to the policy:

**Coverage C - Casualty Business Crisis Management Expense Insurance**

Under **Coverage C**, we will pay you for **casualty business crisis management expense** arising from a **casualty business crisis** commencing during our policy period, up to the amount of the Casualty Business Crisis Management Expense Limit shown in the Schedule of this endorsement. No **underlying insurance** nor **retained limit** applies to **Coverage C**. Subject to the other terms and conditions of this endorsement, we shall pay **casualty business crisis expense** from the first dollar of such expense.



# Amendatory Endorsement

**Policy Number:**

Sample-0-00

**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere, US

**Effective Date:**

07/01/2009

**Producer:**

Preferred Property Program, Inc.  
960 Holmdel Rd.  
Holmdel, NJ 07733

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

**A. SECTION III. DEFENSE AND SUPPLEMENTARY PAYMENTS** the following changes apply:

1. Paragraph **A.** is deleted and replaced by the following:

**A.** We have the right and duty to assume control of the investigation and settlement of any claim, or defense of any **suit** against the **insured** for damages covered by this policy:

1. Under **Coverage A**, when the applicable limit of **underlying insurance** and **other insurance** has been exhausted by payment of claims for which coverage is afforded under this policy; or
2. Under **Coverage B**, when damages are sought for **bodily injury, property damage, or personal and advertising injury** to which no **underlying insurance** or **other insurance** applies.

2. Paragraph **B.4.** is deleted and replaced by the following:

4. 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**.

**B. SECTION IV. EXCLUSIONS, Exclusion A.2. EMPLOYMENT PRACTICES** is deleted and is replaced by the following:

**EMPLOYMENT PRACTICES**

2. This policy does not apply to any liability, damage, **loss**, cost or expense arising out of any **bodily injury** or **personal and advertising injury** to:

**a.** A person arising out of any:

- (1) Failure to employ or promote that person;
- (2) Termination of that person's employment including actual or alleged constructive dismissal;
- (3) Employment-related practices, policies, acts or omissions, including but not limited to injury arising from coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, molestation, humiliation, retaliation, hostile work environment, discrimination. or malicious prosecution directed at that person; or

- b. 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 (1), (2), or (3) above is directed.

This exclusion applies

- (i) Whether the injury-causing event described in Paragraph 2.a above occurs before employment, during employment or after employment of that person;
- (ii) Whether the **insured** may be liable as an employer or in any other capacity; or
- (iii) To any obligation to share damages with or repay someone who must pay damages because of the injury.

However, this endorsement does not apply to any **bodily injury** or **personal and advertising injury** arising from Employment Practices Liability Insurance if provided by the Directors & Officers Liability policy shown in the Schedule of Underlying Insurance.

**C. SECTION V. DEFINITIONS, C. 2. Auto** is deleted and replaced by the following:

**2. Auto** means:

- a. A land motor vehicle, trailer or semitrailer 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 in the state where it is licensed or principally garaged.

**D. SECTION V. DEFINITIONS, C. 5. Insured**, Paragraph a. is deleted and replaced by the following:

- a. You, if you are an organization shown in the Declarations, other than a partnership, joint venture or limited liability company. Your executive officers and directors are **insureds**, but only with respect to their duties as your executive officers or directors. Your stockholders are also **insureds**, but only with respect to their liability as stockholders.

**E. SECTION V. DEFINITIONS, C. 7. Mobile Equipment** is amended to include the following paragraph:

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**.

**ALL OTHER TERMS, AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.**



Signed by:

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

8/3/2009

\_\_\_\_\_  
Date

# Amended Defense and Supplementary Payments



**Policy Number:**

Sample-0-00

**Named Insured and Mailing Address:**

Sample Insured  
123 Main St  
Anywhere,US

**Effective Date:**

07/01/2009

**Producer:**

Preferred Property Program, Inc.  
960 Holmdel Rd.  
Holmdel, NJ 07733

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

**I. SECTION I. COVERAGE**, paragraph **A. Coverage A. – Excess Follow Form Liability Insurance** is deleted in entirety and replaced with the following:

**A. Coverage A – Excess Follow Form Liability Insurance**

Under **Coverage A**, we will pay on behalf of the **insured**, those damages covered by this insurance in excess of the total applicable limits of **underlying insurance**. The terms and conditions of **underlying insurance** are with respect to **Coverage A** made a part of this policy, except with respect to:

1. Any contrary provision contained in this policy; or
2. Any provision in this policy for which a similar provision is not contained in **underlying insurance**.

With respect to the exceptions stated above, the provisions of this policy will apply.

Notwithstanding anything to the contrary contained above, if **underlying insurance** does not cover damages, for reasons other than exhaustion of applicable limits of insurance by payment of **loss**, then we will not cover such damages.

**II. SECTION III. DEFENSE AND SUPPLEMENTARY PAYMENTS**, paragraphs **A.** and **B.**, are deleted in their entirety and replaced with the following:

**A.** We have the right and duty to assume control of the investigation and settlement of any claim, or defense of any **suit** against the **insured** for damages covered by this policy:

1. Under **Coverage A**, when the applicable limit of **underlying insurance** has been exhausted by payment of **loss** for which coverage is afforded under this policy; or
2. Under **Coverage B**, when damages are sought for **bodily injury, property damage, personal and advertising injury** to which no **underlying insurance** or **other insurance** applies.

**B.** In those circumstances where paragraph **A.** above applies, we will pay our expenses and the following to the extent that they are not included in **underlying insurance**:

1. Up to \$2,000. for the cost of bail bonds. We do not have to furnish these bonds;

2. The cost of bonds to release attachments, but only for bond amounts within the amount of insurance available. We do not have to furnish these bonds;
3. 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 because of time off from work;
4. Costs taxed against the **insured** in the **suit**;
5. Pre-judgment interest awarded against the **insured** on that part of the judgment we pay. However, if we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer; and
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court that part of the judgment that is within the applicable Limits of Insurance.

**III. SECTION V. DEFINITIONS.** Item **A. 3. Loss** is deleted in its entirety and replaced with the following:

1. **Loss** means those sums actually paid in the settlement or satisfaction of a claim which the **insured** is legally obligated to pay as damages because of injury or offense, after making proper deductions for all recoveries and salvage and, under **Coverage A**, expenses incurred to defend any **suit** or to investigate any claim, in the same manner such expenses are included in the Limits of Insurance provided by **Underlying Insurance**.

DRAFT

*V. J. Hagen*

Signed by: \_\_\_\_\_  
Authorized Representative

8/3/2009 \_\_\_\_\_  
Date

# Disclosure Statement



## ZURICH WHOLESALER COMPENSATION DISCLOSURE

Dear Policyholder:

On behalf of Zurich, we are glad you have chosen us to help your company manage its risks. We look forward to meeting your insurance needs.

Your agent or broker has chosen to use a Wholesaler to access Zurich for your insurance coverage. Wholesalers are businesses that specialize in specific types of insurance coverage or serve customer groups with particular insurance needs. The Wholesaler, like your agent or broker, is an independent businessperson or team of people not employed by Zurich or any other insurance company.

The Wholesaler delivers your Zurich policy to your agent or broker. We pay the Wholesaler a commission. The Wholesaler retains some of that commission in payment for its services and may pay some of the commission to your agent or broker. The information you will find on our Web site describes our commission arrangements with the Wholesaler, if applicable. Zurich is not a party to the commission arrangement between the Wholesaler and your agent or broker. Therefore, Zurich does not always know the commission your broker or agent receives as compensation for your policy.

Zurich may also pay contingent compensation to the Wholesaler. Contingent compensation is generally paid in addition to the base commission. Contingent compensation is not calculated until the end of the year. The information you will find on our Web site describes our contingent compensation arrangements with the Wholesaler, if applicable.

For an explanation of the nature and range of compensation Zurich may pay to the Wholesaler in connection with your business, please go to <http://www.zurichna.com>. Click on the information link located on the Agent/Broker Compensation Disclosure section. Where appropriate, insert the Access Code provided below, and you will be able to view this information. Alternatively, you may call (877) 347-6465 to obtain this type of information.

Thank you.

Access Code: 0112912719



# Commercial Umbrella Liability Policy

**Zurich North America**

Insurance is provided by the company designated on the Declarations of this policy.

# Commercial Umbrella Liability Policy



There are provisions in this policy that restrict coverage. Read the entire policy carefully to determine your 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 or organization 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 in the Definitions of this policy.

Words and phrases that are printed in bold-face type are defined in the policy. These definitions are found in the Definitions section or in the specific policy provision where they appear.

In consideration of the payment of the premium and in reliance upon the statements in the Declarations and in accordance with the provisions of this policy we agree with you to provide coverage as follows:

## Insuring Agreements

### SECTION I. COVERAGE

#### A. Coverage A - Excess Follow Form Liability Insurance

Under **Coverage A**, we will pay on behalf of the **insured**, those damages covered by this insurance in excess of the total applicable limits of **underlying insurance**. With respect to **Coverage A**, the terms and conditions of **underlying insurance** are made a part of this policy, except with respect to:

1. Any contrary provision contained in this policy; or
2. Any provision in this policy for which a similar provision is not contained in **underlying insurance**.

With respect to the exceptions stated above, the provisions of this policy will apply.

Notwithstanding anything to the contrary contained above, if **underlying insurance** does not apply to damages, for reasons other than exhaustion of applicable limits of insurance by payment of claims, then **Coverage A** does not apply to such damages.

#### B. Coverage B - Umbrella Liability Insurance

Under **Coverage B**, we will pay on behalf of the **insured**, sums as damages the **insured** becomes legally obligated to pay by reason of liability imposed by law or assumed under an **insured contract** because of **bodily injury, property damage, or personal and advertising injury** covered by this insurance but only if the injury, damage or offense arises out of your business, takes place during the policy period of this policy and is caused by an **occurrence** happening anywhere. We will pay such damages in excess of the **Retained Limit** specified in Item **5.** of the Declarations or the amount payable by **other insurance**, whichever is greater.

**Coverage B** will not apply to any **loss, claim or suit** for which insurance is afforded under **underlying insurance** or would have been afforded except for the exhaustion of the limits of insurance of **underlying insurance**.

The amount we will pay for damages under **Coverage A** or **Coverage B** is limited as described in **SECTION II. LIMITS OF INSURANCE**.

We have no obligation under **Coverage A** and/or **Coverage B** with respect to any settlement made without our consent.

The insurance afforded under **Coverage A** and **Coverage B** applies to **bodily injury** or **property damage** only if prior to the policy period, no **designated insured** knew that the **bodily injury** or **property damage** had occurred, in whole or in part. If such a **designated insured** 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.

**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 **designated insured** includes any continuation, change or resumption of that **bodily injury** or **property damage** after the policy period; and

**Bodily injury** or **property damage** will be deemed to have been known to have occurred at the earliest time when any **designated insured**:

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.

## **SECTION II. LIMITS OF INSURANCE**

**A.** With respect to **Coverage A** and **Coverage B**, the Limits of Insurance shown in the Declarations and the rules below describe the most we will pay, regardless of the number of :

1. **Insureds**;
2. Claims made or **suits** brought;
3. Coverages provided under this policy; or
4. Persons or organizations making claims or bringing **suits**.

**B.** The Limits of Insurance of this policy will apply as follows:

1. The limit for each **occurrence** stated in Item **4.A.** of the Declarations is the most we will pay for all damages arising out of any one **occurrence**, even if such damages are covered, in whole or in part, under both **Coverage A** and **Coverage B**.

Any amount paid for damages arising out of an **occurrence** will reduce the amount of the applicable aggregate limit of insurance available for payment of damages arising out of all other **occurrences**.

If the applicable aggregate limit of insurance has been reduced by payment of damages to an amount that is less than the limit for each **occurrence** stated in Item **4.A.** of the Declarations, the remaining aggregate limit of insurance is the most that will be available for payment of damages arising out of all other **occurrences** that are subject to that aggregate limit.

2. Subject to Paragraph **B.1.** above, the limit stated in Item **4.C.** of the Declarations for the Products-Completed Operations Aggregate is the most we will pay for all damages under both **Coverage A** and **Coverage B** combined as a result of **bodily injury** or **property damage** included within the **products-completed operations hazard**.
3. Subject to Paragraph **B.1.** above, the limit stated in Item **4.B.** of the Declarations for the Other Aggregate is the most we will pay for all damages under both **Coverage A**, and **Coverage B** combined except for: a) damages covered under the **products-completed operations hazard** and, b) damages covered in **underlying insurance** to which no underlying aggregate limit applies.

In addition, with respect to **Coverage A** only, if a policy listed on the Schedule of Underlying Insurance contains aggregate limits, other than an aggregate limit applying to the **products-completed operations hazard**, the Other Aggregate stated in Item **4.B.** of the Declarations will apply in the same manner as such other aggregate limits of each policy listed in the Schedule of Underlying Insurance.

**C.** **Coverage A** applies only in excess of the greater of the actual limits of insurance of **underlying insurance** or the limits of insurance shown on the Schedule of Underlying Insurance forming a part of this policy.

**D.** The Limits of Insurance of this policy 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 preceding period for purposes of determining the Limits of Insurance.

E. With respect to **Coverage A** only and subject to paragraphs **B.1., B.2.,B.3.** and **C.** above:

1. If the limits of **underlying insurance** have been reduced solely by payment of **loss** for which coverage is afforded under this policy, this policy will drop down to become immediately excess of the reduced underlying limit; or
2. If the limits of **underlying insurance** have been exhausted solely by payment of **loss** for which coverage is afforded under this policy, this policy will continue in force as **underlying insurance**.

### SECTION III. DEFENSE AND SUPPLEMENTARY PAYMENTS

- A. We have the right and duty to assume control of the investigation and settlement of any claim, or defense of any **suit** against the **insured** for damages covered by this policy:
1. Under **Coverage A**, when the applicable limit of **underlying insurance** has been exhausted by payment of claims for which coverage is afforded under this policy; or
  2. Under **Coverage B**, when damages are sought for **bodily injury, property damage, personal and advertising injury** to which no **underlying insurance** or **other insurance** applies.
- B. In those circumstances where paragraph **A.** above applies, in addition to the applicable Limits of Insurance, we will pay our expenses and the following to the extent that they are not included in **underlying insurance**:
1. Up to \$2,000 for the cost of bail bonds. We do not have to furnish these bonds;
  2. The cost of bonds to release attachments, but only for bond amounts within the amount of insurance available. We do not have to furnish these bonds;
  3. 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 because of time off from work;
  4. Costs taxed against the **insured** in the **suit**;
  5. Pre-judgment interest awarded against the **insured** on that part of the judgment we pay. However, if we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer; and
  6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court that part of the judgment that is within the applicable Limits of Insurance.
- C. In those circumstances where paragraph **A.** above does not apply, we do not have the duty to assume control of the investigation and settlement of any claim, or defense of any **suit** against the **insured**. We do, however, have the right to participate in the investigation and settlement of any claim, or defense of any **suit** that we feel may create liability on our part under the terms of this policy. If we exercise this right, we will do so at our expense.

We will not investigate and settle any claim, or defend any **suit** after we have exhausted the applicable Limit of Insurance as stated in Item **4.** of the Declarations.

If we are prevented by law from carrying out the provisions of **Section III.** Paragraph **A.** above, we will pay any expense incurred with our consent.

### SECTION IV. EXCLUSIONS

A. Under **Coverage A** and **Coverage B**, this policy does not apply to any liability, damage, **loss**, cost or expense:

#### ASBESTOS

1. Arising out of or relating in any way to:
  - a. Asbestos; or
  - b. Any claim, **suit** or proceeding arising out of or relating in any way to any demand, requirement, order, direction, determination, or request that you or any other entity pay, repay or reimburse sums expended or to be expended to test for, investigate, monitor, clean up, remove, study, contain, treat, encapsulate, control or take any other action regarding asbestos; or
  - c. Any claim, **suit** or proceeding arising out of or relating in any way to any demand, requirement, order, direction, determination or request that you or any other entity test for, investigate, monitor, clean up, remove, study, contain, treat, encapsulate, control or take any other action regarding asbestos; or

- d. Any sums that you become legally obligated to pay as damages because of the actual, alleged or threatened discharge, dispersal, release, leakage, leaching, friability, flaking, escape or presence of asbestos.

#### EMPLOYMENT PRACTICES

- 2. Based on, attributable to, related to or in any manner arising out of any actual or alleged:
  - a. Failure to employ;
  - b. Termination of employment including actual or alleged constructive dismissal;
  - c. Breach of employment contract;
  - d. Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination, employment related misrepresentation, employment related emotional distress, retaliation or other employment related practices, policies, acts or omissions; or
  - e. Any consequential liability, damage, **loss**, cost or expense as a result of **a.**, **b.**, **c.** or **d.** above.

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

#### LAWS, MISCELLANEOUS

- 3. Under any of the following:
  - a. Any uninsured/underinsured motorist or auto no-fault or first party personal injury law;
  - b. Any workers' compensation, unemployment compensation, or disability benefits law or any similar law; or
  - c. The Employees' Retirement Income Security Act (E.R.I.S.A.) of 1974 as now or hereafter amended.

#### LOSS OF, OR LOSS OF USE OF INTANGIBLE PROPERTY

- 4. Arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate or process intangible property. For purposes of this insurance, **electronic data** is intangible property.

#### NUCLEAR

- 5.
  - a. With respect to which any **insured** under this policy is also an **insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an **insured** under any such policy but for its termination upon exhaustion of its Limits of Insurance; or
  - b. Resulting from the **hazardous properties of nuclear material** and with respect to which:
    - (1) A person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
    - (2) Any **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; or
  - c. Any injury or **nuclear property damage** resulting from the **hazardous properties of nuclear material**, if:
    - (1) The **nuclear material**:
      - (a) Is at any **nuclear facility** owned by, or operated by or on behalf of, any **insured**; or
      - (b) Has been discharged or dispersed therefrom;
    - (2) 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 any **insured**; or
    - (3) The injury or **nuclear property damage** arises out of the furnishing by any **insured** of services, materials, parts or equipment in connection with the planning, Wholesale, 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 **nuclear property damage** to such **nuclear facility** and any property thereat.

As used in this exclusion:

- a. **Hazardous properties** include radioactive, toxic or explosive properties.
- b. **Nuclear Facility** means:
  - (1) Any **nuclear reactor**;
  - (2) Any equipment or device designed or used for:
    - (a) Separating the isotopes of uranium or plutonium,
    - (b) Processing or utilizing **spent fuel**, or
    - (c) Handling, processing or packaging **waste**;
  - (3) Any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of any **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
  - (4) 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.
- c. **Nuclear material** means **source material**, **special nuclear material** or **by-product material**.
- d. **Nuclear property damage** includes all forms of radioactive contamination of property.
- e. **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.
- f. **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.
- g. **Spent fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.
- h. **Waste** means any waste material:
  - (1) 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
  - (2) Resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**.

#### WAR AND MILITARY ACTION

- 6. Arising directly or indirectly out of:
  - a. War, including undeclared or civil war; or
  - 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 theseregardless of any other cause or event that contributes concurrently or in any sequence to injury or damage.

- B. Under **Coverage A** this policy does not apply to any liability, damage, **loss**, cost or expense:

#### POLLUTION

- 1. Arising directly or indirectly 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**.

- 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.
  - 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:
    - (1) If the **pollutants** are brought on or to the premises, site or location in connection with such operations by such **insured**, contractor or subcontractor; or
    - (2) 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**.
  - e. That are, or that are contained in any property that is:
    - (1) Being transported or towed by, handled, or handled for movement into, onto or from, any auto for which coverage is provided by **underlying insurance**;
    - (2) Otherwise in the course of transit by or on behalf of any **insured**; or
    - (3) Being stored, disposed of, treated or processed in or upon any auto.
2. 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** brought 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**.
3. a. Subparagraphs **1.a.** and **1.d. (1)** do not apply to bodily injury or property damage arising out of heat, smoke or fumes from a **hostile fire**.
- b. Subparagraph **1.a.** does not apply to:
- (1) Bodily injury if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;
  - (2) 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
  - (3) Bodily injury or property damage arising out of the escape of fuels, lubricants or other operating fluids from any auto.
- c. Subparagraph **1.d. (1)** does not apply to bodily injury or property damage:
- (1) 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
  - (2) Arising out of the escape of fuels, lubricants or other operating fluids from mobile equipment.

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

C. Under **Coverage B** this policy does not apply to:

**AIRCRAFT, AUTOS OR WATERCRAFT**

- 1. Any liability, damage, **loss**, cost or expense arising out of the ownership, maintenance, operation, use, loading or unloading or entrustment to others of any
  - a. Aircraft owned by you or rented, loaned or chartered by or on behalf of you without crew;
  - b. **Auto**; or

- c. Watercraft owned by you except watercraft while ashore on premises you own or rent.

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**.

#### **EMPLOYEE INJURY**

- 2. a. Any injury to an employee of the **insured** arising out of and in the course of employment by the **insured**; or
- b. Any injury to the spouse, child, parent, brother, or sister of that employee as a consequence of exclusion **2.a.** above.

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

#### **IMPAIRED PROPERTY**

- 3. **Property damage to impaired property** or property that has not been physically injured arising out of:
  - a. A defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or
  - b. 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.

#### **INTENTIONAL INJURY**

- 4. **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.

#### **PERSONAL and ADVERTISING INJURY**

- 5. **Personal and advertising injury**:
  - a. 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**;
  - b. Arising out of oral or written publication of material, if done by or at the direction of the **insured** with knowledge of its falsity;
  - c. Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
  - d. Arising out of a criminal act committed by or at the direction of any **insured**;
  - e. 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 the contract or agreement.
  - f. Arising out of a breach of contract, except an implied contract to use another's advertising idea in your **advertisement**;
  - g. Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your **advertisement**;
  - h. Arising out of the wrong description of the price of goods, products or services stated in your **advertisement**;
  - i. Arising out of the infringement of copyright, patent, trademark, trade secret, trade dress, slogan or other intellectual property rights.  
  
However, this exclusion does not apply to infringement of copyright, trade dress or slogan in your **advertisement**;
  - j. Committed by an **insured** whose business is:
    - (1) Advertising, broadcasting, publishing, electronic publishing or telecasting;
    - (2) Designing or determining content of web-sites for others; or
    - (3) An Internet search, access or content provider.

However, this exclusion **5.j.**, does not apply to sub-paragraphs **C., 10., a., b., c. and h.** of **personal and advertising injury** under **SECTION V. DEFINITIONS.**

For purposes of this exclusion **5.j.**, 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;

- k.** Arising out of an electronic chatroom or bulletin board the **insured** hosts, owns or over which the **insured** exercises control; or
- l.** 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.

#### **POLLUTION**

- 6. a.** Any liability, damage, **loss**, cost or expense arising directly or indirectly out of the actual, alleged or threatened existence, discharge, seepage, migration, dispersal, release or escape of **pollutants**.
- b.** Any **loss**, cost or expense arising out of any:
  - (1)** Request, demand or order 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 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**.

#### **PRODUCT RECALL**

- 7.** 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:
  - a. Your product;**
  - b. Your work;** or
  - c. 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.

#### **PROPERTY DAMAGE**

- 8. Property damage to:**
  - a.** Property you own, rent or occupy, including any costs or expenses incurred by you, or any person or 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;
  - b.** Premises you sell, give away or abandon if the **property damage** arises out of any part of those premises;
  - c.** Property loaned to you;
  - d.** Personal property in your care, custody or control;
  - e.** 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;
  - f.** That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it;
  - g. Your product** arising out of it or any part of it; or
  - h. Your work** arising out of it or any part of it and included in the **products-completed operations hazard**.

#### **SECTION V. DEFINITIONS**

In this policy words and phrases appearing in bold face type have the definitions shown below.

- A.** The following definitions are applicable to both **Coverage A** and **Coverage B**.

1. **Designated insured** means:
    - a. The person(s) and organization(s) specifically described under **SECTION V.**, sub-paragraphs **C.5.a.** through **C.5.e.** for any **Named Insured**; or
    - b. Any employee authorized by you to give or receive notice of an **occurrence**, claim or **suit**.
  2. **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.
  3. **Loss** means those sums actually paid in the settlement or satisfaction of a claim which the **insured** is legally obligated to pay as damages because of injury or offense, after making proper deductions for all recoveries and salvage.
  4. **Other insurance** means a policy of insurance providing coverage that this policy also provides. **Other insurance** includes any type of self-insurance or other mechanisms by which an **insured** arranges for funding of legal liabilities. **Other insurance** does not include **underlying insurance** or a policy of insurance specifically purchased to be excess of this policy providing coverage that this policy also provides.
  5. **Pollutants** mean any man-made or naturally occurring solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to: smoke; vapor; soot; fumes; acids; alkalis; chemicals; and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
  6. **Suit** means a civil proceeding in which injuries or damages 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 pursuant to law or contract 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.
  7. **Underlying insurance** means the policy or policies of insurance listed in the Schedule of Underlying Insurance forming a part of this policy.
- B.** The following definition is applicable to **Coverage A** only:
1. **Insured** means:
    - a. You; and
    - b. Any person or organization included as an **insured** in **underlying insurance**.
- C.** The following definition is applicable to **Coverage B** only:
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 purpose of this definition:
    - a. Notices that are published include material placed on the Internet or on similar electronic means of communication:  
and
    - b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purpose of attracting customers or supporters is considered an advertisement.
  2. **Auto** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment; but an **auto** does not include **mobile equipment**.
  3. **Bodily injury** means physical injury, sickness, or disease, including death of a person. **Bodily injury** to such person also means mental anguish, mental injury, humiliation, or shock if directly resulting from physical injury, sickness, or disease.
  4. **Impaired property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because:
    - a. It incorporates **your product** or **your work** that is known or thought to be defective, deficient, inadequate or dangerous; or
    - b. You have failed to fulfill the terms of a contract or agreement;If such property can be restored to use by:
    - a. The repair, replacement, adjustment or removal of **your product** or **your work**; or

b. Your fulfilling the terms of the contract or agreement.

5. **Insured** means:

- a. You, if you are an organization shown in the Declarations, other than a partnership, joint venture or limited liability company. Your executive officers and directors are **insureds**, but only with respect to their duties as your executive officers or directors. Your employees are **insureds**, but only for acts within the scope of their employment by you. Your stockholders are also **insureds**, but only with respect to their liability as stockholders;
- b. You, if you are a partnership or joint venture shown in the Declarations. Your members, your partners, and their spouses are also **insureds**, but only with respect to the conduct of your business;
- c. You and your spouse, if you are an individual shown in the Declarations, but only with respect to the conduct of a business of which you are the sole owner;
- d. You, if you are a limited liability company shown in the Declarations. 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;
- e. You, if you are a trust shown in the Declarations. Your trustees are also **insureds**, but only with respect to their duties as trustees ;
- f. If you are an organization shown in the Declarations, other than a partnership, joint venture or limited liability company, your employees are **insureds**, but only for acts within the scope of their employment by you;
- g. Any person or organization while acting as your real estate manager; or
- h. Your legal representative if you die, but only with respect to duties as such.

No person or organization is an **insured** with respect to the conduct of any current, past or newly formed partnership, limited liability company or joint venture that is not designated within the Declarations of this policy as **Named Insured**.

6. **Insured contract** means any written or oral agreement entered into by the **insured** in the usual course of the business operations of the **insured** in which the **insured** assumes the tort liability of another to pay damages because of **bodily injury, property damage or personal and advertising injury** to a third person or organization where the contract or agreement is made prior to the injury or offense. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement

7. **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 Wholesale 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 Wholesale or resurfacing; or

(c) Street cleaning;

- (2) Cherry pickers and similar devices mounted on an **auto** 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.

**8. Named insured** means:

- a. The person(s) and organization(s) designated in Item **1.** of the Declarations of this policy;
- b. Any organization, other than a partnership, joint venture or limited liability company, over which you maintain majority interest and to which more specific insurance does not apply, other than one which you newly acquire or form; or
- c. Any newly acquired or formed organization, other than a partnership, joint venture or limited liability company, over which you maintain majority interest and to which more specific insurance does not apply; provided that this policy does not apply to any injury or damage that took place before you acquired or formed the organization.

**9. Occurrence** means:

- a. With respect to **bodily injury** or **property damage** liability, an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- b. With respect to **personal and advertising injury**, a covered offense. All damages that arise from the same act, publication or general conditions are considered to arise out of the same **occurrence**, regardless of the frequency or repetition thereof, the number or kind of media used or the number of claimants.

**10. 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 committed 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**;
- g. Infringement upon another's copyright, trade dress or slogan in your **advertisement**; or
- h. Discrimination (unless insurance thereof is prohibited by law), not arising out of or related to employment practices.

**Personal and advertising injury** also means mental anguish, mental injury, humiliation, or shock, if directly resulting from an offense listed in Items **10.a.** through **10.h.** above.

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

- a. Products that are still in your physical possession; or
- b. Work that has not yet been completed or abandoned. **Your work** will be deemed completed at the earliest of the following times:
  - (1) When all of the work called for in your contract has been completed;
  - (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or
  - (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

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

This hazard does not include **bodily injury** or **property damage** arising out of:

- a. The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle created by the loading or unloading of it by any **insured**; or
- b. The existence of tools, uninstalled equipment or abandoned or unused materials.

**12. 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.

**13. Retained limit** means the amount of damages applicable to each **occurrence** for which the **insured** is responsible that is shown in Item **5**. of the Declarations.

**14. 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 or failure to provide warnings or instructions.

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

**15. 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:

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

## **SECTION VI. CONDITIONS**

**A.** The following Conditions are Applicable to both **Coverage A** and **Coverage B**.

**1. Appeals**

In the event you or any underlying insurer elects not to appeal a judgment in excess of the amount of the **underlying insurance**, we may elect to appeal at our expense. If we do so elect, we will be liable for the costs and additional interest accruing during this appeal. In no event will this provision increase our liability beyond the applicable Limits of Insurance described in **SECTION II**. of this policy.

**2. Audit of Books and Records**

We may audit and examine your books and records as they relate to this policy at any time during the period of this policy and for up to three (3) years after the expiration or termination of this policy.

**3. Bankruptcy or Insolvency**

The bankruptcy, insolvency or inability to pay of any **insured** will not relieve us from our obligation to pay damages covered by this policy.

In the event of bankruptcy, insolvency or refusal or inability to pay, of any underlying insurer, the insurance afforded by this policy will not replace such **underlying insurance**, but will apply as if all the limits of any **underlying insurance** are fully available and collectible.

#### 4. Cancellation

- a. You may cancel this policy. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
- b. We may cancel this policy. If we cancel because of non-payment of premium, we will mail or deliver to you not less than ten (10) days advance written notice when the cancellation is to take effect. If we cancel for any other reason, we will mail or deliver to you not less than sixty (60) days advance written notice stating when the cancellation is to take effect. Mailing notice to you at your mailing address shown in Item 2. of the Declarations will be sufficient to prove notice.
- c. The policy period will end on the day and hour stated in the cancellation notice.
- d. If we cancel, final premium will be calculated pro rata based on the time this policy was in force.
- e. If you cancel, final premium will be more than pro rata; it will be based on the time this policy was in force and our short rate cancellation table and procedure.
- f. Premium adjustment may be made at the time of cancellation or as soon as practicable thereafter but the cancellation will be effective even if we have not made or offered any refund due you. Our check or our representative's check, mailed or delivered, will be sufficient tender of any refund due you.

#### 5. Changes

Notice to any agent or knowledge possessed by any agent or any other person will not effect a waiver or a change in any part of this policy. This policy can only be changed by a written endorsement that becomes a part of this policy and that is signed by one of our authorized representatives.

#### 6. First Named Insured

The person or organization first named in Item 1. of the Declarations is responsible for the payment of all premiums. The first **Named Insured** will act on behalf of all other **insureds** for the giving and receiving of notice of cancellation or any other notice required under this policy or by statute or regulation, for the receipt and acceptance of this policy and any endorsements forming a part of this policy, and for the receiving of any return premiums that become payable under this policy.

#### 7. Inspection

We have the right, but are not obligated to inspect the **insured's** premises and operations at any time. Our inspections are not safety inspections. They relate only to the insurability of the premises and operations and the premium to be charged. We may provide reports on the conditions we find. We may also recommend changes. While these reports may help reduce losses, 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 the premises or operations are safe or healthful, or that they comply with laws, regulations, codes or standards.

#### 8. Legal Action Against Us

There will be no right of action against us under this insurance unless:

- a. You have complied with all the terms of this policy; and
- b. The amount you owe has been determined by settlement with our consent or by actual trial and final judgment.

This insurance does not give anyone the right to add us as a party in an action against you to determine your liability.

#### 9. Maintenance of Underlying Insurance

During the period of this policy, you agree:

- a. To keep the policies listed in the Schedule of Underlying Insurance in full force and effect;
- b. That the Limits of Insurance of the policies listed in the Schedule of Underlying Insurance will be maintained except for any reduction or exhaustion of limits by payment of claims or **suits** for damages covered by **underlying insurance**;

- c. The policies listed in the Schedule of Underlying Insurance may not be canceled or not renewed by you without notifying us, and you agree to notify us in the event an insurance company cancels or declines to renew any policy listed in the Schedule of Underlying Insurance;
- d. Renewals or replacements of the policies listed in the Schedule of Underlying Insurance will not be materially changed without our agreement.

If you fail to comply with these requirements, we will only be liable to the same extent that we would have been had you fully complied with these requirements.

#### 10. Notice of Occurrence, Claim or Suit

- a. You must see to it that we are notified as soon as practicable of an **occurrence** which may result in damages covered by this policy. To the extent possible, notice will include:
  - (1) How, when and where the **occurrence** took place;
  - (2) The names and addresses of any injured persons and witnesses;
  - (3) The nature and location of any injury or damage arising out of the **occurrence**.
- b. If a claim or **suit** against any **Insured** is reasonably likely to involve this policy you must notify us in writing as soon as practicable.
- c. You and any other involved **insured** must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or **suit**;
  - (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation, settlement or defense of the claim or **suit**; and
  - (4) 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.
- d. The **insureds** will not, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

#### 11. Other Insurance

If **other insurance** applies to damages that are also covered by this policy, this policy will apply excess of the **other insurance**. Nothing herein will be construed to make this policy subject to the terms, conditions and limitations of such **other insurance**. However, this provision will not apply if the **other insurance** is written to be excess of this policy.

#### 12. Premium

The premium for this policy as stated in Item 6. of the Declarations is a flat premium. It is not subject to adjustment unless an endorsement is attached to this policy.

#### 13. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned to the first **named insured**, this insurance applies :

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

#### 14. Terms Conformed to Statute

The terms of this policy which are in conflict with the statutes of the state where this policy is issued are amended to conform to such statutes. If we are prevented by law or statute from paying on behalf of the **insured**, then we will, where permitted by law or statute, indemnify the **insured**.

#### 15. Transfer of Rights of Recovery Against Others to Us

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

- b. Any amount recovered will be apportioned in the inverse order of payment of loss to the extent of actual payment. The expenses of all such recovery proceedings will be apportioned in the ratio of respective recoveries.

#### **16. Transfer of Your Rights and Duties**

Your rights and duties under this insurance may not be transferred without our written consent. If you die, then your rights and duties will be transferred to your legal representative, but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having temporary custody of your property will have your rights and duties but only with respect to that property.

#### **17. When Damages are 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 Underlying Limits of Insurance or **Retained 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** paid by us.

## Important Notice - In Witness Clause



In return for the payment of premium, and subject to all the terms of the policy, we agree with you to provide insurance as stated in this policy. This policy shall not be valid unless countersigned by our duly authorized Representative.

In Witness Whereof, this Company has executed and attested these presents and, where required by law, has caused this policy to be countersigned by our duly authorized Representative.

A handwritten signature in black ink that reads "John J. Mc Carney".

**President**

A handwritten signature in black ink, appearing to be "D. J. ...".

**Corporate Secretary**

**American Guarantee and Liability Insurance Company  
Fidelity and Deposit Company of Maryland  
Zurich American Insurance Company  
Administrative Offices  
Zurich Towers  
1400 American Lane  
Schaumburg, Illinois 60196-1056**

**QUESTIONS ABOUT YOUR INSURANCE?** Your agent or broker is best equipped to provide information about your insurance. Should you require additional information or assistance in resolving a complaint, call or write to the following (please have your policy or claim number ready):

Zurich North America  
Customer Inquiry Center  
1400 American Lane  
Schaumburg, Illinois 60196-1056  
**1-800-382-2150** (Business Hours: 8am - 4pm [CT])