

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – DESIGNATED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

<p>Name Of Additional Insured Person(s) Or Organization(s): Mt Diablo Unified School District</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

POLICY NUMBER: PHUB666581



**PHILADELPHIA
INSURANCE COMPANIES**

A Member of the Tokio Marine Group

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

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY DECLARATIONS

Philadelphia Indemnity Insurance Company	108252 Berkeley Insurance & Financial Service 555 Pierce St, # 2 Albany, CA 94706 (510) 984-0160
NAMED INSURED: Ascend Rehab Services, Inc.	
MAILING ADDRESS: 29516 Kohoutek Way Union City, CA 94587-1221	
POLICY PERIOD: FROM <u>03/04/2019</u> TO <u>03/04/2020</u> AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE	

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

LIMITS OF INSURANCE	
EACH OCCURRENCE LIMIT (LIABILITY COVERAGE)	\$ <u>1,000,000</u>
PERSONAL & ADVERTISING INJURY LIMIT	\$ <u>1,000,000</u> Any one person or organization
PRODUCTS COMPLETED OPERATIONS AGGREGATE LIMIT	\$ <u>1,000,000</u>
GENERAL AGGREGATE LIMIT (LIABILITY COVERAGE) (except with respect to Auto Liability and Products Completed Operations)	\$ <u>1,000,000</u>

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

POLICY NUMBER: PHUB666581

SCHEDULE OF UNDERLYING INSURANCE		
Employers' Liability		
Company:	_____	
Policy Number:	_____	
Policy Period:	_____	
Minimum Applicable Limits		
Bodily injury by accident	\$ _____	Each Accident
Bodily injury by disease	\$ _____	Each Employee
Bodily injury by disease	\$ _____	Policy Limit
Commercial General Liability <input checked="" type="checkbox"/> Occurrence <input type="checkbox"/> Claims-Made		
Company:	Philadelphia Indemnity Insurance Company	
Policy Number:	PHPK1949189	
Policy Period:	03/04/2019 03/04/2020	
Retroactive Date:	Not Applicable	
Minimum Applicable Limits:		
General Aggregate	\$ _____	3,000,000
Products-Completed Operations Aggregate	\$ _____	3,000,000
Personal And Advertising Injury	\$ _____	1,000,000
Each Occurrence	\$ _____	1,000,000
Commercial Auto Liability		
Company:	Philadelphia Indemnity Insurance Company	
Policy Number:	PHPK1949189	
Policy Period:	03/04/2019 03/04/2020	
Minimum Applicable Limits		
Garage Aggregate Limit For Other Than Autos (if applicable)	\$ _____	Not Applicable
Each Accident	\$ _____	1,000,000
Professional Liability <input checked="" type="checkbox"/> Occurrence <input type="checkbox"/> Claims-Made		
Company:	Philadelphia Indemnity Insurance Company	
Policy Number:	PHPK1949189	
Policy Period:	03/04/2019 03/04/2020	
Retroactive Date:	Not Applicable	
Minimum Applicable Limits		
Each Professional Incident	\$ _____	1,000,000
Aggregate	\$ _____	3,000,000

POLICY NUMBER: PHUB666581

Employee Benefits Liability	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____
Abuse or Molestation	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____
Directors & Officers Liability	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____
Liquor Liability	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____

POLICY NUMBER: PHUB666581

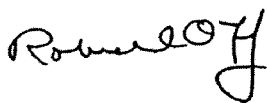
Watercraft Liability	<input type="checkbox"/> Occurrence	<input type="checkbox"/> Claims-Made
Company: _____		
Policy Number: _____		
Policy Period: _____		
Retroactive Date: _____		
Minimum Applicable Limits		
_____	\$	_____
_____	\$	_____
Other Coverages Not Included in Above	<input type="checkbox"/>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

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

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

Countersigned:	By:
(Date)	(Authorized Representative)

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



President



Secretary

Philadelphia Indemnity Insurance Company

Form Schedule – Umbrella Liability

Policy Number: PHUB666581

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

Form	Edition	Description
PI-CXL-002	0413	Commercial Umbrella Liability Ins Policy Declarations
PI-CXL-001	0314	Commercial Umbrella Liability Insurance Policy
PI-CXL-003	0516	Professional Liability Follow Form Endorsement
PI-CXL-004	0912	Directors And Officers Liability Exclusion
PI-CXL-006	0912	Employers Liability (Stop Gap) Exclusion
PI-CXL-007	0117	Abuse Or Molestation Exclusion
PI-CXL-009	0516	Automobile Liability Follow Form Endorsement
PI-CXL-014	0912	Subsidence Exclusion
PI-CXL-015	0912	Athletic Participants And Officials Exclusion
PI-CXL-025	0912	Absolute Liquor Liability Exclusion
PI-CXL-032	0912	Fungi Or Bacteria Exclusion
PI-CXL-039	0115	Cap On Losses From Certified Acts Of Terrorism
PI-CXL-047	1014	Medical Professional Liability Exclusion
PI-CXL-054	0912	Non-Owned Watercraft Amendment
PI-CXL-068	0912	Employee Benefits Liability Exclusion
PI-CXL-075	0314	Lead Liability Exclusion
PI-CXL-088	0314	Access Or Disclosure Of Confidential Info W/Exception
PI-CXL-099	0116	Recording And Distribution Of Material Or Information
PI-CXL-CA 1	0912	California Changes - Cancellation And Nonrenewal
PI-CXL-CA 2	0912	California Changes
PI-UMTER-DN	0115	Disclosure Notice Of Terrorism Ins Cov Rejection Opt

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CALIFORNIA CANCELLATION AMENDMENT

The following provision is added to the Cancellation Policy Condition and supersedes any language to the contrary:

If this policy is cancelled, we will send the first Named Insured any premium refund due.

1. If we cancel, the refund will be pro rata.
2. If the first Named Insured cancels, the refund may be less than pro rata pursuant to a disclosure notice attached to this policy.

The cancellation will be effective even if we have not made or offered a refund.

Policy Number: PHUB666581Named Insured: Ascend Rehab Services, Inc.

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

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from acts of terrorism. *As defined in Section 102(1) of the Act:* The term “act of terrorism” means any act or acts that are certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% THROUGH 2015; 84% BEGINNING ON JANUARY 1, 2016; 83% BEGINNING ON JANUARY 1, 2017; 82% BEGINNING ON JANUARY 1, 2018; 81% BEGINNING ON JANUARY 1, 2019 and 80% BEGINNING ON JANUARY 1, 2020, OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

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

Your attached proposal (or policy) includes a charge for terrorism. We will issue (or have issued) your policy with terrorism coverage unless you decline by placing an “X” in the box below.

NOTE 1: If “included” is shown on your proposal (or policy) for terrorism you WILL NOT have the option to reject the coverage.

NOTE 2: You will want to check with entities that have an interest in your organization as they may require that you maintain terrorism coverage (e.g. mortgages).

EXCEPTION: If you have property coverage on your policy, the following Standard Fire Policy states do not permit an Insured to reject fire ensuing from terrorism: CA, CT, GA, HI, IA, IL, MA, ME, MO, NJ, NY, NC, OR, RI, VA, WA, WV, WI. Therefore, if you are domiciled in the above states and reject terrorism coverage, you will still be charged for fire ensuing from terrorism as separately designated on your proposal.

	I decline to purchase terrorism coverage. I understand that I will have no coverage for losses arising from "certified" acts of terrorism, EXCEPT as noted above.
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You, as the Insured, have 30 days after receipt of this notice to consider the selection/rejection of "terrorism" coverage. After this 30 day period, any request for selection or rejection of terrorism coverage WILL NOT be honored.

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

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

INSURED'S SIGNATURE _____
DATE _____

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

This policy has been issued in reliance upon the statement in the Declarations made a part hereof and in the application submitted for this insurance. Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations and any other person qualifying as a Named Insured under this policy. The words "we," "us" and "our" refer to the company providing this insurance.

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

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

SECTION I – COVERAGES

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

1. Insuring Agreement

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

Bodily Injury and Property Damage

- a. This insurance applies to "bodily injury" or "property damage" only if:
 - (1) The "bodily injury" or "property damage" arising out of an "occurrence" takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under Paragraph 1.a. of **SECTION II – WHO IS AN INSURED** and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- b. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1.a. of **SECTION II – WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1.a. of **SECTION II – WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "occurrence"

or claim:

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

Personal and Advertising Injury

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

2. Defense of Claims or Suits and Supplementary Payments

- a. We will have the right and duty to defend the insured against any "suit" seeking damages which are payable under **COVERAGES A** or **B** including damages wholly or partly within the "retained limit," but which are not payable by a policy of "underlying insurance," or any other available insurance because:

- (1) Such damages are not covered; or
- (2) The "underlying insurance" has been exhausted by the payment of claims.

Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."

- b. We may investigate and settle any claim or "suit" in a. above at our discretion.
- c. Our right and duty in a. above ends when we have used up the "applicable limit of insurance" in the payment of judgments or settlements.
- d. We will pay, with respect to any claims or "suits" we defend in a. above:
 - (1) All expense we incur.
 - (2) Up to \$2000 for cost of bail bonds (including bonds for related traffic violations) required because of an "occurrence" we cover. We do not have to furnish these bonds.
 - (3) The premium for appeal bonds and bonds to release attachments, but only for bond amounts within the "applicable limit of insurance." We do not have to furnish these bonds.
 - (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to \$250 a day because of time off from work.
 - (5) All court costs taxed against the insured in the "suit." However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
 - (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If

we make an offer to pay the "applicable limit of insurance," we will not pay any prejudgment interest based on that period of time after the offer.

(7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have:

(a) Paid, or offered to pay; or

(b) Deposited in court;

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

These payments will not reduce the limits of insurance.

- e. We will have no duty to defend the insured against any claim or "suit" that any other insurer has a duty to defend. If we elect to join in the defense of such claims or "suits," we will pay all expenses we incur, but we will not contribute to the expenses of the insured or the "underlying insurer."
- f. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit," we will defend that indemnitee if all of the following conditions are met:
 - (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - (2) This insurance applies to such liability assumed by the insured;
 - (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - (6) The indemnitee:
 - (a) Agrees in writing to:
 - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
 - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (b) Provides us with written authorization to:
 - (i) Obtain records and other information related to the "suit"; and

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

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

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

3. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

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

b. Workers Compensation and Similar Laws

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

c. Employment Related Practices

"Bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

- (a) Refusal to employ that person;
- (b) Termination of that person's employment; or
- (c) Employment related practices, policies, acts or omissions such as discrimination, criticism, self-defamation, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or malicious prosecution directed at that person

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

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

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

d. War

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

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Rebellion, revolution, insurrection, usurped power or action taken by governmental authority in hindering or defending against any of these.

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

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

f. Contractual Liability

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

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

g. Aircraft or Watercraft

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

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured.

This exclusion does not apply to:

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

h. Auto Coverages

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

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

i. Other Personal and Advertising Injury Exclusions

"Personal and advertising injury":

(1) Knowing Violation of Rights of Another

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

(2) Material Published with Knowledge of Falsity

Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

(3) Material Published Prior to Policy Period

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

(4) Criminal Acts

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

(5) Contractual Liability

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

(6) Breach of Contract

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

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

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

(8) Wrong Description of Prices

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

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

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

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

(10) Insureds in Media and Internet Type Businesses

Committed by an insured whose business is:

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

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

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

(11) Electronic Chatrooms or Bulletin Boards

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

which the insured exercises control.

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

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

j. Damage to Property

"Property damage" to property:

- (1) You own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of an insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

Paragraphs (1), (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

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

k. Damage to Your Product

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

l. Damage to Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard." This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage to Impaired Property or Property Not Physically Injured

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

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

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

n. Recall of Products, Work or Impaired Property

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

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

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

o. Pollution

- (1) "Bodily injury," "property damage" or "personal and advertising injury" arising out of the actual alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

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

processed as waste by or for:

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

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants."

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

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

p. Discrimination

Any liability arising from discrimination:

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

q. Asbestos

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

We shall have no obligation under this policy:

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

As used in this exclusion:

"Asbestos hazard" means:

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

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

r. Nuclear Energy Liability

Under any Liability Coverage, to "bodily injury" or "property damage":

- (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under such policy but for its termination upon exhaustion of its limit of liability;
- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the insured is, or had this policy not been issued, would be entitled to indemnity from the United States of America, or any agency thereof, with any person or organization; or
- (3) Resulting from the "hazardous properties" of "nuclear material", if:
 - (a) The "nuclear material"

- (i) Is at any "nuclear facility" owned by, or operated by or on behalf of an insured; or
- (ii) Has been discharged or dispersed therefrom;
- (b) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an insured; or
- (c) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility," but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (c) applies only to "property damage" to such "nuclear facility" and any property threat.

As used in this exclusion:

"Hazardous properties" include radioactive, toxic or explosive properties.

"Nuclear material" means "source material," "special nuclear material," or "by-product material."

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

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

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

"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for (i) separating the isotopes of uranium or plutonium; (ii) processing or utilizing "spent fuel"; or (iii) handling, processing or packaging "waste";
- (c) Any equipment or device used for processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

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

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a

self-supporting chain reaction or to contain a critical mass of fissionable material.

“Property damage” includes all forms of radioactive contamination of property.

s. Liquor Liability

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

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

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

t. Trade or Economic Sanctions

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

u. Electronic Data

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

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

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

v. Distribution of Material in Violation of Statutes

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

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

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insured, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Any subsidiary you wholly own, either directly or indirectly, at the inception of our policy.
3. Each of the following is also an insured:
 - a. With respect to the "auto hazard":
 - (1) Anyone using an "auto" you own, hire or borrow including any person or organization legally responsible for such use provided it is with your permission; and
 - (2) Any of your "executive officers," directors, partners, "employees" or stockholders, operating an "auto" you do not own, hire or borrow while it is being used in your business.None of the following is an insured under (1) or (2) above:
 - (a) Any person employed by or engaged in the duties of an auto sales agency, repair shop, service station, storage garage or public parking place that you do not operate.
 - (b) The owner or lessee of any "auto" hired by or for you or loaned to you and any agent or employee of such lessee.
 - b. With respect to aircraft:

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

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

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

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

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

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

SECTION III – LIMITS OF INSURANCE

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

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

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

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

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

SECTION IV – CONDITIONS

1. Appeals

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

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

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

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

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

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

2. Bankruptcy

a. Bankruptcy of Insured

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

b. Bankruptcy of Underlying Insurer

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

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

3. Cancellation

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

4. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. No change can be made in the terms of this insurance except with our consent. The terms of this insurance can be amended or waived only by endorsement issued by us and made a part of this insurance.

5. Duties in the Event of Occurrence or Offense, Claim or Suit

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

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

6. Examination of your Books and Records

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

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

7. Inspection and Surveys

We have the right but are not obligated to:

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

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

- (1) Are safe or healthful; or
- (2) Comply with laws, regulations, codes or standards.

8. Legal Action Against Us

No person or organization has a right under this insurance:

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

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial. We will not be liable for damages that:

- (1) Are not payable under the terms of this insurance; or
- (2) Are in excess of the "applicable limit of insurance."

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

9. Maintenance of / Changes to Underlying Insurance

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

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

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

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

10. Other Insurance

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

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

- b. When this insurance is excess over other insurance, we will pay only our share of the "ultimate net loss" that exceeds the sum of:
 - (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

11. Transfer of Rights of Recovery Against Others to Us

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

12. Premium

- a. The first Named Insured has primary responsibility for the payment of all premiums and will be the payee for any return premiums.
- b. If the premium is a flat charge, it is not subject to adjustment except as provided in d. below.
- c. If the premium is other than a flat charge, it is an advance premium only. The earned premium will be computed at the end of each year in which this insurance is in force at the rate shown in the Declarations, subject to the Minimum Annual Premium.
- d. Additional premium may become payable when coverage is provided for additional insureds; and Named Insureds under the provisions of **SECTION II – WHO IS AN INSURED**, Items 3, d., e., and f.

13. Premium Audit

- a. You must keep record of the information we need for premium computation and send us copies at such times as we may request;
- b. At the close of each audit period we will compute the earned premium for that period; and
- c. Audit premiums are due and payable on notice to you.

14. Representations or Fraud

By accepting this insurance, you agree:

- a. The statements in the Declarations and any subsequent notice relating to "underlying

insurance" are accurate and complete;

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

15. Separation of Insureds

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

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

16. Transfer of your Rights and Duties Under this Insurance

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

If you die, your rights and duties will be transferred to:

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

17. When Loss is Payable

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

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

18. Transfer of Defense

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

SECTION V – DEFINITIONS

- 1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purpose of this definition:

- a. Notices that are published include material placed on the internet or on similar electronic means of communication.
 - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Applicable limit of insurance" means the maximum amount we will pay as damages in accordance with **SECTION III – LIMITS OF INSURANCE**.
3. "Applicable underlying limit" means:
- a. If the policies of "underlying insurance" apply to the "occurrence" or offense, the greater of:
 - (1) The amount of insurance stated in the policies of "underlying insurance" in the Declarations or any other available insurance less the amount by which any aggregate limit so stated has been reduced solely due to payment of claims; or
 - (2) The "retained limit" shown in the Declarations; or
 - b. If the policies of "underlying insurance" do not apply to the "occurrence" or offense, the amount stated in the Declarations as the "retained limit."

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

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

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

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

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

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

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

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

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

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
 - (2) That pertains to the loan, lease or rental of an "auto" to you or any of your "employees," if the "auto" is loaned, leased or rented with a driver; or
 - (3) That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
12. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker."
13. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto."
14. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - b. Vehicles maintained for use solely on or next to premises you own or rent;
 - c. Vehicles that travel on crawler treads;
 - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
 - e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

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

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

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

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

- 15. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- 16. "Personal and advertising injury" means injury, including consequential "bodily injury," arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in your "advertisement; or
 - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement."
- 17. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled,

reconditioned or reclaimed.

18. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

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

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

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

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

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

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

b. Does not include "bodily injury" or "property damage" arising out of:

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

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

19. "Property damage" means:

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

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

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

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

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

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

(b) "Personal and advertising injury" sustained by any one person or organization.

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

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

"Your product" includes:

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

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

28. "Your work" means:

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

"Your work" includes:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PROFESSIONAL LIABILITY FOLLOW FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

This policy is intended to include professional liability coverage.

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

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DIRECTORS AND OFFICERS LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

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

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

The definition of “wrongful act” is the same as the definition contained in the applicable “underlying insurance.”

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYERS' LIABILITY (STOP GAP) EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

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

1. An "employee" of the insured arising out of and in the course of employment by the insured; or
2. The spouse, child, parent, brother or sister of that "employee" as a consequence of 1. above.

This exclusion applies:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ABUSE OR MOLESTATION EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

This insurance does not apply to any injury, liability, damage, loss, cost or expense sustained or incurred by any person arising out of or resulting from the alleged, actual or threatened abuse or molestation by anyone.

We shall not have any duty to defend any "suit" against any insured seeking damages on account of any such injury, liability, damage, loss, cost or expense.

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

1. Hiring, placement, employment, training;
2. Investigation;
3. Supervision;
4. Reporting any molestation or abuse to the proper authorities, or failure to so report; or
5. Retention;

of a person for whom any insured is or ever was legally responsible or for whom any insured may have assumed the liability; and whose conduct would be excluded above.

This exclusion applies to any applicable coverage provided in the "underlying insurance."

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMOBILE LIABILITY FOLLOW FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

This policy is intended to include coverage for liability arising out of the ownership, operation, maintenance, use, "loading or unloading" or entrustment to others of an "auto."

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SUBSIDENCE EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ATHLETIC PARTICIPANTS AND OFFICIALS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

This insurance does not apply to any liability, damage, loss, cost or expense for injury sustained by:

- Any person while practicing for, or participating in, or officiating at, any athletic contest or exhibition;
or
- Any person specified below:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ABSOLUTE LIQUOR LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

SECTION I – COVERAGES, 3. Exclusions, s. Liquor Liability is deleted in its entirety and replaced with the following:

This insurance does not apply to any liability, damage, loss, cost or expense for which any insured may be held liable by reason of:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

This insurance does not apply to:

Fungi or Bacteria

1. "Bodily injury," "property damage," or "personal and advertising injury" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
2. Any loss, cost or expenses 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 effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
 2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
- B. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this Coverage Part.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MEDICAL PROFESSIONAL LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

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

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

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

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NON-OWNED WATERCRAFT AMENDMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE BENEFITS LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

This insurance does not apply to any liability, damage, loss, cost or expense arising out of an act, error or omission committed in the “administration” of your “employee benefit program.”

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

1. “Administration” means:
 - a. Providing information to “employees,” including their dependents and beneficiaries, with respect to eligibility for or scope of “employee benefit programs”;
 - b. Handling records in connection with the “employee benefit program”; or
 - c. Effecting, continuing or terminating any “employee’s” participation in any benefit included in the “employee benefit program.”
2. “Cafeteria plan” means plans authorized by applicable law to allow “employees” to elect to pay for certain benefits with pre-tax dollars.
3. “Employee benefit program” means a program providing some or all of the following benefits to “employees,” whether provided through a “cafeteria plan” or otherwise:
 - a. Group life insurance, group accident or health insurance, dental, vision and hearing plans, and flexible spending accounts;
 - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans;
 - c. Unemployment insurance, social security benefits, workers’ compensation and disability benefits;
 - d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family and civil leave; tuition assistance plans; transportation and health club subsidies; and
 - e. Any other similar benefits.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEAD LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

This insurance does not apply to any liability, damage, loss, cost or expense arising out of:

- a. Exposure to or existence of lead, paint containing lead, or any other material or substance containing lead;
- b. Manufacture, distribution, sale, resale, rebranding, installation, repair, removal, encapsulation, abatement, replacement or handling of lead, paint containing lead, or any other material or substance containing lead;

Whether or not the lead is or was at any time airborne as a particulate, contained in a product ingested, inhaled, transmitted in any fashion, or found in any form whatsoever.

- c. Any request, demand or order that any insured or others test for, monitor, clean up, remove, abate, contain, treat or neutralize lead, paint containing lead, or any other substance or material containing lead, or in any way respond to, or assess the effects of lead; or
- d. Any claim or "suit" related to, testing for, monitoring, cleaning up, removing, abating, containing, treating or neutralizing lead, paint containing lead, or any other substance or material containing lead or in any way responding to or assessing the effects of lead.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

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

This insurance does not apply to:

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

Damages arising out of:

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

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

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

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

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

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

Access or Disclosure of Confidential or Personal Information

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

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

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

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

A. Paragraph 3. Cancellation of SECTION IV – CONDITIONS is replaced by the following:

3. Cancellation

a. All Policies in Effect for 60 Days or Less

If this policy has been in effect for 60 days or less, and is not a renewal of a policy we have previously issued, we may cancel this policy by mailing or delivering to the first Named Insured, at the mailing address shown in the policy, and to the producer of record, advance written notice of cancellation, stating the reason for cancellation, at least:

(1) 10 days before the effective date of cancellation if we cancel for:

(a) Nonpayment of premium; or

(b) Discovery of fraud by:

(i) Any insured or his or her representative in obtaining this insurance; or

(ii) You or your representative in pursuing a claim under this policy.

(2) 30 days before the effective date of cancellation if we cancel for any other reason.

b. All Policies in Effect for More than 60 Days

(1) If this policy has been in effect for more than 60 days, or is a renewal of a policy we issued, we may cancel this policy only upon the occurrence, after the effective date of the policy, of one or more of the following:

(a) Nonpayment of premium, including payment due on a prior policy we issued and due during the current policy term covering the same risks.

(b) Discovery of fraud or material misrepresentation by:

(i) Any insured or his or her representative in obtaining this insurance; or

(ii) You or your representative in pursuing a claim under this policy.

(c) A judgment by a court or an administrative tribunal that you have violated a California or Federal law, having as one of its necessary elements an act which materially increases any of the risks insured against.

(d) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by you or your representative, which materially increase any of the risks insured against.

- (e) Failure by you or your representative to implement reasonable loss control requirements, agreed to by you as a condition of policy issuance, or which were conditions precedent to our use of a particular rate or rating plan, if that failure materially increases any of the risks insured against.
 - (f) A determination by the Commissioner of Insurance that the:
 - (i) Loss of, or changes in, our reinsurance covering all or part of the risk would threaten our financial integrity or solvency; or
 - (ii) Continuation of the policy coverage would:
 - i. Place us in violation of California law or the laws of the state where we are domiciled; or
 - ii. Threaten our solvency.
 - (g) A change by you or your representative in the activities or property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the added, increased or changed risk is included in the policy.
- (2) We will mail or deliver advance written notice of cancellation, stating the reason for cancellation, to the first Named Insured, at the mailing address shown in the policy, and to the producer of record, at least:
- (a) 10 days before the effective date of cancellation if we cancel for nonpayment of premium or discovery of fraud; or
 - (b) 30 days before the effective date of cancellation if we cancel for any other reason listed in Paragraph **b.(1)a**.

B. The following is added to SECTION IV – CONDITIONS:

NONRENEWAL

1. Subject to the provisions of Paragraphs **B.2.** below, if we elect not to renew this policy, we will mail or deliver written notice, stating the reason for nonrenewal, to the first Named Insured shown in the Declarations, and to the producer of record, at least 60 days, but not more than 120 days, before the expiration or anniversary date.

We will mail or deliver our notice to the first Named Insured, and to the producer of record, at the mailing address shown in the policy.

2. We are not required to send notice of nonrenewal in the following situations:
- a. If the transfer or renewal of a policy, without any changes in terms, conditions or rates, is between us and a member of our insurance group.
 - b. If the policy has been extended for 90 days or less, provided that notice has been given in accordance with Paragraph **B.1**.
 - c. If you have obtained replacement coverage, or if the first Named Insured has agreed, in writing, within 60 days of the termination of the policy, to obtain that coverage.

- d. If the policy is for a period of no more than 60 days and you are notified at the time of issuance that it will not be renewed.
- e. If the first Named Insured requests a change in the terms or conditions or risks covered by the policy within 60 days of the end of the policy period.
- f. If we have made a written offer to the first Named Insured, in accordance with the timeframes shown in Paragraph **B.1.**, to renew the policy under changed terms or conditions or at an increased premium rate, when the increase exceeds 25%.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY INSURANCE POLICY

The term "spouse" is replaced by the following:

Spouse or registered domestic partner under California law.



**PHILADELPHIA
INSURANCE COMPANIES**

A Member of the Tokio Marine Group

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

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

Terrorism Premium (Certified Acts) \$ <u> 0 </u>
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You are hereby notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from acts of terrorism. *As defined in Section 102(1) of the Act:* The term “act of terrorism” means any act or acts that are certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% THROUGH 2015; 84% BEGINNING ON JANUARY 1, 2016; 83% BEGINNING ON JANUARY 1, 2017; 82% BEGINNING ON JANUARY 1, 2018; 81% BEGINNING ON JANUARY 1, 2019 and 80% BEGINNING ON JANUARY 1, 2020, OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

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

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

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

<input type="checkbox"/>	I decline to purchase terrorism coverage. I understand that I will have no coverage for losses arising from 'certified' acts of terrorism, EXCEPT as noted above.
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You, as the Insured, have 30 days after receipt of this notice to consider the selection/rejection of "terrorism" coverage. After this 30 day period, any request for selection or rejection of terrorism coverage WILL NOT be honored.

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

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

NAMED INSURED: Ascend Rehab Services, Inc.

INSURED'S SIGNATURE: _____

DATE: _____