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24 hours a day, 365 days a year*

*Unless Your Policy Requires **Written** Notice or Reporting

**COMMERCIAL EXCESS LIABILITY
(UMBRELLA)
INSURANCE POLICY**

A Custom Insurance Policy Prepared for:

THE GLEN OF THE PACIFIC GROVE
HOMEOWNERS ASSOCIATION, INC.
1057 FIRST ST

GILROY

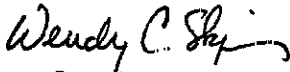
CA 95020

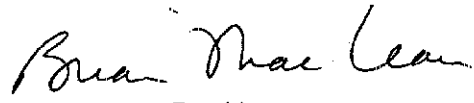
This policy consists of this policy cover, the Policy Declarations and the Policy Forms, and endorsements listed in that declaration form.

In return for payment of the premium, we agree with the Named Insured to provide the insurance afforded by this policy. That insurance will be provided by the company indicated as insuring company in the Declarations by the abbreviation of its name.

The companies listed below (each a stock company) have executed this policy, but it is valid only if counter-signed on the Declarations by our authorized representative.

The Travelers Indemnity Company (IND)
Travelers Property Casualty Company of America (TIL)
The Travelers Indemnity Company of Connecticut (TCT)


Secretary


President



One Tower Square, Hartford, Connecticut 06183

**POLICY DECLARATIONS
COMMERCIAL EXCESS LIABILITY
(UMBRELLA) INSURANCE POLICY**

POLICY NO.: ISF-CUP-831Y0482-TIL-09
ISSUE DATE: 05-08-09

INSURING COMPANY:
TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA

1. NAMED INSURED AND MAILING ADDRESS:
THE GLEN OF THE PACIFIC GROVE
HOMEOWNERS ASSOCIATION, INC.
1057 FIRST ST

**THIS POLICY DOES NOT
COVER LIABILITY
ARISING OUT OF
ASBESTOS MATERIAL
SEE ENDORSEMENT
UM 01 96 07 96**

GILROY CA 95020

2. THE NAMED INSURED IS A:

CORPORATION SOLE PROPRIETOR PARTNERSHIP OR JOINT VENTURE OTHER
HOA

3. POLICY PERIOD: From 05-05-09 to 05-05-10 12:01 A.M. Standard Time at your mailing address.

4. PREMIUM: * \$ Flat Charge Adjustable (See premium schedule)
* DIRECT BILL

5. LIMITS OF INSURANCE:

COVERAGES		LIMITS OF LIABILITY
AGGREGATE LIMITS OF LIABILITY	5,000,000	Products/Completed Operations Aggregate
	5,000,000	General Aggregate
COVERAGE A - Bodily Injury and Property Damage Liability	5,000,000	any one occurrence subject to the Products/Completed Operations and the General Aggregate Limits
COVERAGE B - Personal and Advertising Injury Liability	5,000,000	any one person or organization subject to the General Aggregate Limit of Liability
RETAINED LIMIT	0	any one occurrence or offense

6. SCHEDULE OF UNDERLYING INSURANCE:

POLICY	LIMITS (000 omitted)	COVERAGE	COMPANY
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SEE ENDORSEMENT CG D0 23 04 96

7. On the effective date shown in Item 3, the Commercial Excess Liability (Umbrella) Insurance Policy numbered above includes this Declarations Page and the Policy Jacket (Form UM 00 76 which contains the Nuclear Energy Liability Exclusion) and any endorsements listed hereafter:

SEE END. IL T8 01 01 01

NAME AND ADDRESS OF AGENT OR BROKER:

COUNTERSIGNED BY:

KBK INSURANCE AGENCY HE774
1006 FREEDOM BLVD
WATSONVILLE CA 95076

Authorized Representative

DATE: _____

CG T0 14 04 96
OFFICE: WALNUT CREEK

POLICY NUMBER: ISF-CUP-831Y0482-TIL-09

EFFECTIVE DATE: 05-05-09

ISSUE DATE: 05-08-09

LISTING OF FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS

THIS LISTING SHOWS THE NUMBER OF FORMS, SCHEDULES AND ENDORSEMENTS
BY LINE OF BUSINESS.

CG T0 14 04 96 COML EXCESS LIABILITY (UMBRELLA) DEC
IL T8 01 01 01 FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS

UMBRELLA / EXCESS

CG D0 23 04 96 UNDERLYING POLICIES AND LIMITS END
UM 00 01 11 03 COML EXCESS LIAB (UMBRELLA) INSURANCE
UM 03 59 11 03 EXCLUSION-REAL ESTATE DEVELOPMENT
UM 03 45 02 00 AUTO LIABILITY - FOLLOWING FORM
UM 03 81 01 08 CAP ON LOSSES-CERT ACTS OF TERRORISM
UM 03 92 11 03 EMPLOYERS LIABILITY-FOLLOWING FORM
UM 03 98 11 03 AMEND OF COV-ADV INJURY AND PROPERTY DMG
UM 00 94 08 86 AMENDMENT OF COVERAGE-NAMED INSURED
UM 03 07 04 97 EXDIRECTORS AND OFFICERS LIABILITY
UM 03 55 08 00 EXCESS, PERSONAL, ADV, WEB SITE INJ LIAB
UM 00 30 01 86 EXCLUSION-REAL AND/OR PERSONAL PROP
UM 00 76 01 86 NUCLEAR ENERGY LIAB EXCL ENDT(BROAD FORM
UM 01 66 08 91 EXCL-LEAD INCL PRODUCTS-COMPLETED OPS HA
UM 01 91 01 02 WAR EXCLUSION
UM 01 96 07 96 EXCLUSION-ASBESTOS
UM 03 64 01 02 FUNGI OR BACTERIA EXCLUSION
UM 04 15 01 04 EXCLUSION-UNSOLICITED COMMUNICATIONS
UM 01 09 11 03 CALIFORNIA MANDATORY ENDORSEMENT

INTERLINE ENDORSEMENTS

IL T3 68 01 08 FEDERAL TERRORISM RISK INSURANCE ACT

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POLICY NUMBER: ISF-CUP-831Y0482-TIL-09

ISSUE DATE: 05-08-09

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SCHEDULE OF UNDERLYING INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

Item 6 of the Declarations to include:

POLICY	LIMITS (000 OMITTED)	COVERAGE	COMPANY
680-840D0623-09	1,000 EACH OCCURRENCE 2,000 PROD/COMP OPS AGG 2,000 GENERAL AGGREGATE	GENERAL LIABILITY	TIL

(If you have any employee exposure in the State of New York, the Employers Liability Limits are applicable only to bodily injury to your "non-subject employees" as defined under Rule VIII - Limits of Liability, A.2., of the WC/EL Manual of the State of New York)

COMMERCIAL EXCESS LIABILITY (UMBRELLA) 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 insurance the words "you" and "your" refer to the Named Insured shown in the Declarations. 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 that appear in quotation marks have special meaning. Refer to **SECTION V – DEFINITIONS**.

SECTION I – COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY.

1. INSURING AGREEMENT.

- a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "applicable underlying limit" which the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies.

This insurance applies to "bodily injury" or "property damage" only if:

- (i) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place anywhere in the world;
- (ii) The "bodily injury" or "property damage" occurs during the policy period;
- (iii) Prior to the policy period, no insured listed under Paragraph 1. 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.

This insurance applies to "personal injury" or "advertising injury" caused by an "offense" committed during the policy period, anywhere in the world.

- b. 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".
- c. "Property damage" that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the "occurrence" that caused it.
- d. The amount we will pay for damages is limited as described in **SECTION III – LIMITS OF INSURANCE**.

The following provisions apply only with respect to Parts 1.a.(i), (ii) and (iii) above:

- 1. "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. 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.
- 2. "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. of **SECTION II – WHO IS AN INSURED** or any employee authorized by you to give or receive notice of an "occurrence" or claim:
 - (a) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

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- (b) Receives a written or verbal demand or claim for damages because of "bodily injury" or "property damage"; or
- (c) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

2. DEFENSE OF CLAIMS OR SUITS.

- a. We will have no duty to defend 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.
- b. We will have the right and duty to defend any "suit" for 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
- c. We may investigate and settle any claim or "suit" in **b.** above at our discretion.
- d. Our right and duty in **b.** above end when we have used up the "applicable limit of insurance" in the payment of judgments or settlements.
- e. We will pay, with respect to any claim or "suit" we defend in **b.** above:
 - (1) All expenses we incur.
 - (2) The cost of 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.
 - (3) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
 - (4) All costs taxed against the insured in the "suit".
 - (5) 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".

- (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.

These payments will not reduce the limits of insurance.

In any jurisdiction outside the United States of America (including its territories and possessions), Puerto Rico or Canada where we may be prevented by law or some other factor beyond our control from carrying out the agreements under **1. INSURING AGREEMENT** or **2. DEFENSE OF CLAIMS OR SUITS** above:

- a. You must arrange to investigate, defend or settle any claim or "suit".
- b. You will not make any settlement without our consent.
- c. We will pay expenses incurred with our consent.

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

b. "Advertising Injury" "Offenses"

(1) Breach of Contract

"Advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in the course of advertising your goods, products or services.

(2) Quality Or Performance Of Goods – Failure To Conform To Statements

"Advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in the course of advertising your goods, products or services.

(3) Wrong Description Of Prices

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in the course of advertising your products, goods or services.

c. Employment-Related Practices

"Bodily injury" or "personal 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 coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
2. The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal 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 whether the insured may be held liable as an employer or in any other capacity; and, to any obligation to share damages with or repay someone else who must pay damages because of the injury.

d. Contractual Liability

"Bodily injury", "property damage", "personal injury" or "advertising injury" for which the insured assumed liability under a contract or agreement. This exclusion does not apply to "bodily injury", "property damage", "personal injury" or "advertising injury" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, applies or would apply but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

e. Workers Compensation And Similar Laws

Any obligation of the insured under a workers compensation, disability benefits or unem-

ployment compensation law or any similar law.

f. Pollution

"Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants", or any loss, cost, expense or damages resulting therefrom, but this exclusion does not apply to "bodily injury", "property damage", "personal injury" or "advertising injury" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, applies or would apply but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

g. Watercraft Or Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, operation, use, including loading or unloading, or entrustment to others of any watercraft or any aircraft.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) Liability assumed under any contract or agreement for the ownership, maintenance or use of a watercraft;
- (3) A watercraft over 50 feet in length which is chartered with crew by or on behalf of any insured;
- (4) A watercraft less than 50 feet long which you own; or
- (5) A watercraft less than 50 feet long which you do not own and is not being used to carry persons or property for a charge.

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, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance,

use or entrustment to others of any watercraft or any aircraft that is owned or operated by or rented or loaned to any insured.

h. "Personal Injury" Or "Advertising Injury" "Offenses"

(1) Knowing Violation Of Rights Of Another

"Personal injury" or "advertising injury" 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 injury" or "advertising injury".

(2) Material Published With Knowledge Of Falsity

"Personal injury" or "advertising injury" arising out of oral, written or electronic 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

"Personal injury" or "advertising injury" arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period. All "personal injury" or "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

"Personal injury" or "advertising injury" arising out of a criminal act committed by or at the direction of the insured.

(5) Contractual Liability

"Personal injury" or "advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to "personal injury" or "advertising injury" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, applies or would apply but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of

"underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

(6) Insureds In Media And Internet Type Businesses

"Personal injury" or "advertising injury" committed by an insured whose business is:

- (1)** Advertising, broadcasting, publishing or telecasting;
- (2)** Designing or determining content of websites for others; or
- (3)** An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a., b. and c. of the "personal injury" definition in **SECTION V – DEFINITIONS**.

For the purposes 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.

(7) Electronic Chatrooms Or Bulletin Boards

"Personal injury" or "advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

(8) Unauthorized Use Of Another's Name Or Product

"Personal injury" or "advertising injury" 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.

i. Damage To Property

"Property damage" to:

- (1)** Property 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 the 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.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days.

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 (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".

j. Damage To Your Product

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

k. 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.

l. 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.

m. 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.

n. Uninsured Motorists, Underinsured Motorists, "Auto" No-Fault, Medical Expenses Benefits and Income Loss Benefits

Any liability imposed on the insured, or the insured's insurer, under any of the following laws:

- (1) Uninsured Motorists;
- (2) Underinsured Motorists;
- (3) "Auto" No-Fault Laws or other first party personal injury laws; or
- (4) Medical Expense Benefits and Income Loss Benefits Laws of any applicable state or jurisdiction.

o. Liquor Legal 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

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- (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.

This exclusion does not apply to "bodily injury" or "property damage" to which any policy of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance, or any renewal or replacement thereof, applies or would apply but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance.

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.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. As respects 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 owner or lessee.
- b. Except as respects the "auto hazard":
- (1) Your executive officers, employees, directors or stockholders while acting within the scope of their duties; and
 - (2) Any person or organization while acting as real estate manager for you
- c. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will be deemed to be a Named Insured. However, coverage does not apply to:
- (1) "Bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - (2) "Personal injury" or "advertising injury" arising out of an "offense" committed before you acquired or formed the organization.
- d. Any person or organization having proper temporary custody of your property if you die, but only:
- (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- e. 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
- f. Any other person or organization insured under any policy of the "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance for whom you have agreed in a written contract executed prior to loss to provide insurance. This insurance is subject to all

the limitations upon coverage under such policy of "underlying insurance", and, the limits of insurance afforded to such person or organization will be:

- (i) The difference between the "underlying insurance" limits and the minimum limits of insurance which you agreed to provide; or
- (ii) The limits of insurance of this policy whichever is less.

If the minimum limits of insurance you agreed to provide such person or organization in a written contract are wholly within the "underlying insurance", this policy shall not apply.

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

No person is an insured as respects "bodily injury" to a fellow employee unless insurance for such liability is afforded by the "underlying insurance"

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
 - c. Persons or organizations making claims or bringing "suits".
2. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of injury and damage included in the "products-completed operations hazard".
3. The General Aggregate Limit is the most we will pay for damages under Coverage A and Coverage B, except:
 - a. Damages because of injury and damage included in the "products-completed operations hazard"; and
 - b. Damages because of injury and damage included in the "auto hazard".
4. Subject to 3. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and all "advertising injury" sustained by any one person or organization.

Non cumulation of Personal and Advertising Injury Limit – If "personal injury" and/or "advertising injury" is sustained by any one person or organization during the policy period and during the policy period of one or more prior and/or future policies that include a **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE** policy for the insured issued by us or any affiliated insurance company, the amount we will pay is limited. This policy's Personal and Advertising Injury Limit will be reduced by the amount of each payment made by us and any affiliated insurance company under the other policies because of such "personal injury" and/or "advertising injury".

5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of damages under Coverage A because of all "bodily injury" and "property damage" arising out of any one "occurrence".

Non cumulation of Each Occurrence Limit – If one "occurrence" causes "bodily injury" and/or "property damage" during the policy period and during the policy period of one or more prior and/or future policies that include a **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE** policy for the insured issued by us or any affiliated insurance company, the amount we will pay is limited. This policy's Each Occurrence Limit will be reduced by the amount of each payment made by us and any affiliated insurance company under the other policies because of such "occurrence".

To determine the limit of our liability, 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 this insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months. The policy period begins with the effective date shown in the Declarations. If the policy period is extended after issuance for an additional period of less than 12 months, the additional period will be deemed part of the last preceding period.

SECTION IV – CONDITIONS.

1. **APPEALS.**
 - a. If the insured or the insured's "underlying insurer" elects not to appeal a judgment which exceeds the "applicable underlying limit", we may do so.
 - b. If we do, we will pay all costs of the appeal. We will also pay all costs on appeals related

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to the defense of the insured as provided in **SECTION 1, 2. DEFENSE OF CLAIMS OR SUITS**. These sums are in addition to the "applicable limit of insurance". In no event shall our liability for "ultimate net loss" exceed the "applicable limit of insurance".

2. BANKRUPTCY.

- a. Bankruptcy or insolvency of the insured or the insured's estate will not relieve us of our obligations under this insurance.
- b. Bankruptcy or insolvency of the "underlying insurer" will not relieve us of our obligations under this insurance.

However, this insurance will not replace the "underlying insurance" in 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. You may cancel this insurance by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this insurance by mailing or delivering to you written notice of cancellation at least:
 - (1) 10 days before the effective date of cancellation if we cancel for nonpayment 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 your 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 insurance 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 a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

4. CHANGES.

This contract 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 promptly of an "occurrence" or an "offense" which may result in a claim under this insurance. Notice should include:
 - (1) How, when and where the "occurrence" or "offense" took place; and
 - (2) The names and addresses of any injured persons and witnesses.
- b. If a claim is made 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".
- c. The insured must:
 - (1) Cooperate with the "underlying insurers";
 - (2) Comply with the terms of the "underlying insurance"; and
 - (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", "personal injury" or "advertising injury" with respect to which insurance is provided under this or any policy of "underlying insurance".
- d. 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. INSPECTIONS 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 are safe or healthful; or 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. We will not be liable for damages that are not payable under the terms of this insurance; or 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 UNDERLYING INSURANCE.

The insurance afforded by each policy in the schedule of "underlying insurance" in the Declarations will be maintained for the full term of this insurance. This provision does not apply to the reduction of the aggregate limit or limits due to payment of judgments or settlements for "bodily injury", "personal injury", "property damage" or "advertising injury". As these policies expire, you will renew them at limits at least equal to the expiring limits of insurance.

If you fail to comply with the above, this insurance is not invalidated. However, in the event of a loss, we will pay only to the extent that we would have paid had you so complied.

You must give us a written notice of any change in the "underlying insurance" as respects:

- a. Coverage;

- b. Limits of insurance;
- c. Termination of any coverage; or
- d. Exhaustion of aggregate limits.

10. OTHER INSURANCE.

This insurance is excess over any other valid and collectible insurance whether such other insurance is stated to be primary, contributing, excess, contingent or otherwise. This provision does not apply to a policy bought specifically to apply in excess of this insurance.

11. OUR RIGHT TO RECOVER FROM OTHERS.

If we make a payment under this insurance, the insured will assist us and the "underlying insurer" in recovering what we paid by using the insured's rights of recovery. Reimbursement will be made in the following order:

- a. First, to any interest (including the insured) who has paid any amount in excess of the limits of this insurance;
- b. Next to us; and
- c. Then to any interest (including the insured and the "underlying insurer") as are entitled to claim the remainder, if any.

A different order may apply if agreed upon by all interests. Expenses incurred in the process of recovery will be divided among all interests according to the ratio of their respective recoveries.

12. PREMIUM.

- a. You are responsible 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 – 2.c.** and **f.**

13. PREMIUM AUDIT.

- a. You must keep records of the information we need for premium computation, and send us copies at such times as we may request.

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- b. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured.
- c. The due date for audit and retrospective premiums is the date as shown as the due date on the bill.
- d. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to you subject to the minimum premiums.

14. REPRESENTATION.

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; and
- c. We have issued this insurance in reliance upon your representations.

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 your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

17. WHEN LOSS IS PAYABLE.

If we are liable under this insurance, we will pay for "ultimate net loss" after:

- a. (1) The insured's liability is established by court decision; or
- (2) There is a written agreement between the claimant, the insured, any "underlying insurer" and us; and

- b. The amount of the "applicable underlying limit" is paid by or on behalf of the insured.

We will pay all claims within thirty days provided all terms of this insurance are met.

The insured will reimburse us for any payment we make for damages which are within the "retained limit".

18. TITLES OF PARAGRAPHS.

The titles of paragraphs of this policy and any endorsements attached to this policy are inserted solely for convenience of reference and are not to be deemed in any way to limit or affect the provisions to which they relate.

19. CURRENCY

Loss payments and expense reimbursements will be in the same currency as the currency of the Limits of Insurance stated in the Declarations. At our sole option, we may agree to pay loss or reimburse expense under this policy in another currency. Any necessary currency conversion shall be calculated based on the rate of exchange published in the next Wall Street Journal subsequent to the date of judgment, settlement or agreement.

SECTION V – DEFINITIONS.

1. "Advertising injury" means injury arising out of one or more of the following "offenses":
 - a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services provided that claim is made or "suit" is brought by a person or organization that claims to have been slandered or libeled, or whose goods, products or services have allegedly been disparaged;
 - b. Oral or written publication of material that appropriates a person's likeness, unreasonably places a person in a false light or gives unreasonable publicity to a person's private life; or
 - c. Infringement of copyright, title or slogan, provided that claim is made or "suit" is brought by a person or organization claiming ownership of such copyright, title or slogan.

Such "offenses" must be committed in the course of advertising your goods or products.

2. "Applicable limit of insurance" means the maximum amount we will pay as damages in accor-

dance 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:

- (i) The "underlying insurer" claims the insured failed to comply with any condition of the policy; or
 - (ii) The "underlying insurer" becomes bankrupt or insolvent.
4. "Auto" means a land motor vehicle, trailer or semi-trailer.
5. "Auto hazard" means all "bodily injury" and "property damage" for which liability insurance is afforded under the terms, other than limits of insurance, of the auto policy of "underlying insurance".
6. "Bodily injury" means bodily injury, shock, fright, mental injury, disability, mental anguish, humiliation, sickness or disease sustained by a person, including death resulting from any of these at any time.
7. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work"; or your fulfilling the terms of the contract or agreement.

8. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
9. "Offense" means any of the offenses listed in the definition of "personal injury" or "advertising injury".
10. "Personal injury" means injury, other than "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is performed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;
 - d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that claim is made or "suit" is brought by a person or organization that claims to have been slandered or libeled, or whose goods, products or services have allegedly been disparaged; or
 - e. Oral, written or electronic publication of material that appropriates a person's likeness, unreasonably places a person in a false light or gives unreasonable publicity to a person's private life.

Such "offenses" must arise out of the conduct of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you.

11. "Pollutants" means one or more solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.
12. a. "Products-completed operations hazard" 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

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(2) Work that has not yet been completed or abandoned.

b. "Your work" will be deemed completed at the earliest of the following times:

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

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

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

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

c. "Products-completed operations hazard" 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.

13. "Property damage" means:

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

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

"Property damage" does not include "electronic media and records".

As used in this definition, "electronic media and records" means:

(1) Electronic data processing, recording or storage media such as films, tapes, discs, drums or cells;

(2) Data stored on such media; or

(3) Programming records for electronic data processing or electronically controlled equipment.

14. "Retained limit" is the sum 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 injury" or "advertising injury" sustained by any one person or organization and caused by an "offense".

15. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding alleging such damages 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.

16. "Ultimate net loss" means the sum actually paid or payable due to a claim for which the insured is liable either by a settlement to which we agreed or a final judgment. Such sum will include proper adjustments for recoveries and salvage.

17. "Underlying insurance" means the policies listed in the Schedule of Underlying Insurance and includes:

a. Any renewal or replacement of such policies; and

b. Any other insurance available to the insured.

18. "Underlying insurer" means any insurer which provides a policy listed in the Schedule of Underlying Insurance or any other insurance available to the insured.

19. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

- (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

20. "Your work":

- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
- b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, 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.

EXCLUSION – REAL ESTATE DEVELOPMENT ACTIVITIES – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS (UMBRELLA) LIABILITY INSURANCE

PROVISIONS

A. This insurance does not apply to "bodily injury" or "property damage" that is included in the "products-completed operations hazard" and that arises out of any "real estate development activities" by or on behalf of any insured.

B. The following definition is added to **SECTION V – DEFINITIONS:**

"Real estate development activities" means the design, site preparation, construction, marketing or sales of residential, commercial or industrial buildings.

C. The Provisions of this endorsement do not apply to the repair, maintenance, renovation, alteration or addition to an existing building owned by the Named Insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO LIABILITY – FOLLOWING FORM

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

This insurance applies to "bodily injury" or "property damage" arising out of the:

1. ownership;
2. operation;
3. maintenance;
4. use;
5. loading;
6. unloading, or
7. entrustment to others

of any "auto" that is owned, operated, maintained, used, operated or hired by, or rented or loaned to any insured within the "auto hazard", but, only if such "bodily injury" or "property damage" would be covered by "underlying insurance" shown in Item 6. SCHEDULE OF UNDERLYING INSURANCE of the Declarations, or the renewal or replacement of such "underlying insurance" but for the exhaustion of the applicable limits of insurance of the "underlying insurance".

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 EXCESS LIABILITY (UMBRELLA) INSURANCE

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

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursu-

ant to the federal Terrorism Risk Insurance 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYERS LIABILITY – FOLLOWING FORM

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

PROVISIONS:

A. The following exclusion is added to Paragraph 3. **EXCLUSIONS** of **SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY:**

3. Exclusions

This insurance does not apply to:

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"Bodily injury" to:

- (1) An employee of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that employee as a consequence of Paragraph (1) above.

This exclusion applies:

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

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

B. The **PROVISION A.** exclusion above does not apply if you have a policy of "underlying insurance" listed in the **SCHEDULE OF UNDERLYING INSURANCE** of the **DECLARATIONS** of this insurance, or any renewal or replacement thereof, which provides coverage for such damages or would provide coverage for such damages but for the exhaustion of its limits of liability. Coverage provided will follow the same provisions, terms, definitions, exclusions, limitations and conditions of the policy(ies) of "underlying insurance" listed in the **SCHEDULE OF UNDERLYING INSURANCE** of the **DECLARATIONS** of this insurance.

C. Only as respects the provisions of this endorsement, **SECTION V – DEFINITIONS** is amended as follows:

- 1. Parts **3.a.(1)**, **3.a.(2)** and **3.b.** of the definition of "Applicable underlying limit" are deleted; and
- 2. Part **17.b.** of the definition of "Underlying insurance" is deleted.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF COVERAGE – ADVERTISING INJURY AND PROPERTY DAMAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

PROVISIONS:

- A. Part b.(1) of Paragraph 3. **EXCLUSIONS** of **SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY** is deleted and replaced by the following:

(This insurance does not apply to:)

- b. "Advertising Injury" "Offenses"

- (1) "Advertising injury" arising out of a breach of contract.

- B. The definition of "property damage" in **SECTION V – DEFINITIONS** is deleted and replaced by the following:

13. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be

deemed to occur at the time of the physical injury that caused it; or

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

"Property damage" does not include loss of or damage to "electronic media and records".

As used in this definition, "electronic media and records" means:

- (1) Electronic data processing, recording or storage media such as films, tapes, discs, drums or cells;
- (2) Data stored on such media; or
- (3) Programming records for electronic data processing or electronically controlled equipment.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF COVERAGE — NAMED INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

The second paragraph of this insurance is replaced by:

Throughout this insurance the words "you" and "your" refer to the Named Insured shown in the Declarations and any subsidiary thereof. The words "we", "us" and "our" refer to the Company providing this insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCESS DIRECTORS AND OFFICERS LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

Only as respects the insurance provided by this endorsement, none of the terms, definitions or exclusions of the policy to which this endorsement is attached apply, except for **SECTION IV – CONDITIONS**

SECTION I – INSURING AGREEMENT

1. We will pay on behalf of the insured those sums, in excess of the amount payable under the terms of any Directors and Officers Liability Insurance included in the "underlying insurance", that the insured becomes legally obligated to pay as damages provided that the Directors and Officers Liability Insurance applies or would apply except for the exhaustion of its "underlying directors and officers liability limit".
2. The amount we will pay is limited as described in **SECTION II – LIMITS OF INSURANCE** in this endorsement.
3. This insurance is subject to the same terms, definitions, exclusions and conditions as any Directors and Officers Liability Insurance included in the "underlying insurance", except for the provisions of this endorsement.

SECTION II – LIMITS OF INSURANCE

1. As respects the insurance provided by this endorsement, the Limit of Insurance shown in the Declarations of the policy to which this endorsement is attached and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds; or
 - b. Claims made or "suits" brought.
2. The General Aggregate Limit shown in the Declarations of the policy to which this endorsement is attached is the most we will pay for all sums payable under this endorsement.

The sum of all payments made under this endorsement and all payments made under the policy to which it is attached shall not exceed the General Aggregate Limit shown on the Declarations of the policy to which this endorsement is attached.

3. Subject to 2. above, the Any One Occurrence Limit shown in the Declarations of the policy to which this endorsement is attached is the most we will pay for all sums payable arising out of any one "wrongful act" of one or more insureds. All claims arising from the same act or acts or interrelated acts of one or more insureds are considered as arising out of one "wrongful act".

SECTION III – MAINTENANCE OF UNDERLYING DIRECTORS AND OFFICERS LIABILITY INSURANCE

The insurance afforded by the Directors and Officers Liability insurance included in the "underlying insurance" in the Declarations of the policy to which this endorsement is attached will be maintained for the full term of this endorsement. This provision does not apply to the reduction of the "underlying directors and officers liability limit" due to payment of claims arising out of "wrongful acts". As coverage for Directors and Officers Liability insurance included in the "underlying insurance" expires, you will renew it at limits at least equal to the expiring limits of insurance.

If you fail to comply with the above, this insurance is not invalidated. However, in the event of a loss, we will pay only to the extent that we would have paid had you so complied.

SECTION IV – DEFINITIONS

1. "Wrongful Act" has the same meaning as defined in any Directors and Officers Liability insurance included in the "underlying insurance" of policies listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached.
2. "Underlying insurance" means the policies listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached, and includes:
 - a. Any renewal or replacement of such policies; and
 - b. Any other insurance available to the insured.
3. "Underlying insurer" means any insurer which provides a policy listed in the Schedule of Underlying Insurance on the policy to which this endorsement

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is attached, or any other insurance available to the insured.

4. "Underlying directors and officers liability limit" means the amount of insurance stated in the "underlying insurance" in the Declarations of the policy to which this endorsement is attached, or any other available insurance less the amount by which any aggregate limit so stated has been reduced solely due to payment of claims

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCESS PERSONAL, ADVERTISING AND WEB SITE INJURY LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

Only as respects the insurance provided by this endorsement, none of the insuring agreements, terms, definitions or exclusions of the policy to which this endorsement is attached apply, except for **SECTION IV – CONDITIONS**.

SECTION I – INSURING AGREEMENT

1. We will pay on behalf of the insured those sums, in excess of the amount payable under the terms of any Personal, Advertising and Web Site Injury Liability Insurance included in the "underlying insurance", that the insured becomes legally obligated to pay as damages because of:

- a. "Personal injury" and "advertising injury"; and,
- b. "Web site injury" caused by an offense committed in the course of the visual or audio presentation of material on "your web site" or in the numerical expression of computer code used to enable "your web site";

provided that the Personal, Advertising and Web Site Injury Liability Insurance applies or would apply except for the exhaustion of its "underlying personal, advertising or web site injury liability limit".

2. The amount we will pay is limited as described in **SECTION III – LIMITS OF INSURANCE** in this endorsement.
3. This insurance is subject to the same insuring agreements, terms, definitions, exclusions and conditions as any Personal, Advertising and Web Site Injury Liability Insurance included in the "underlying insurance", except for the provisions of this endorsement.

SECTION II – WHO IS AN INSURED

Any person or organization qualifying as an insured subject to the terms and provisions of any Personal, Advertising and Web Site Injury Liability Insurance included in the "underlying insurance" is an insured under the insurance provided by this endorsement.

SECTION III – LIMITS OF INSURANCE

1. As respects the insurance provided by this endorsement, the Limit of Insurance shown in the Declarations of the policy to which this endorsement is attached and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit shown in the Declarations of the policy to which this endorsement is attached is the most we will pay for all sums payable under this endorsement.

The sum of all payments made under this endorsement and all payments made under the policy to which it is attached shall not exceed the General Aggregate Limit shown on the Declarations of the policy to which this endorsement is attached.

3. Subject to 2. above, the Personal, Advertising and Web Site Injury Limit is the most we will pay under COVERAGE B for the sum of all damages because of all "personal injury", all "advertising injury" and all "web site injury" sustained by any one person or organization.

SECTION IV – MAINTENANCE OF UNDERLYING PERSONAL, ADVERTISING AND WEB SITE IN- JURY LIABILITY INSURANCE

The insurance afforded by the Personal, Advertising and Web Site Injury Liability insurance included in the "underlying insurance" in the Declarations of the policy to which this endorsement is attached will be maintained for the full term of this endorsement. This provision does not apply to the reduction of the "underlying personal, advertising and web site injury liability limit" due to payment of claims or "suits" arising out of damages. As coverage for Personal, Advertising and Web Site Injury Liability insurance included in the "underlying insurance" expires, you

UMBRELLA

will renew it at limits at least equal to the expiring limits of insurance.

If you fail to comply with the above, this insurance is not invalidated. However, in the event of a loss, we will pay only to the extent that we would have paid had you so complied.

SECTION V – CONDITIONS

Any references to "advertising injury" or "personal injury" throughout **SECTION IV – CONDITIONS** of the policy to which this endorsement is attached, will have the same meaning as defined below in **SECTION VI – DEFINITIONS** of this endorsement.

SECTION VI – DEFINITIONS

1. "Advertising injury" has the same meaning as defined in any Personal, Advertising and Web Site Injury Liability insurance included in the "underlying insurance" of policies listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached.
2. "Personal injury" has the same meaning as defined in any Personal, Advertising and Web Site Injury Liability insurance included in the "underlying insurance" of policies listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached.
3. "Suit" has the same meaning as defined in any Personal, Advertising and Web Site Injury Liability insurance included in the "underlying insurance" of policies listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached.
4. "Underlying insurance" means the policy(ies) listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached, and includes any renewal or replacement of such policy(ies).
5. "Underlying insurer" means any insurer which provides a policy(ies) listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached.
6. "Underlying personal, advertising and web site injury liability limit" means the amount of insurance stated in the "underlying insurance" in the Declarations of the policy to which this endorsement is attached, less the amount by which any aggregate limit so stated has been reduced solely due to payment of claims.
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.
7. "Your web site" has the same meaning as defined in any Personal, Advertising and Web Site Injury Liability insurance included in the "underlying insurance" of policies listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached.
8. "Web site injury" has the same meaning as defined in any Personal, Advertising and Web Site Injury Liability insurance included in the "underlying insurance" of policies listed in the Schedule of Underlying Insurance on the policy to which this endorsement is attached.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION—REAL AND/OR PERSONAL PROPERTY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

This endorsement modifies the insurance provided for the following property:

(Check the appropriate block(s))

Real property

Personal property

As respects the type(s) of property checked above, this insurance does not apply to "property damage" to:

1. property you own, rent, or occupy;
2. property loaned to you; or
3. property in your care, custody, or control.

Parts 2. and 3. above do not apply to liability assumed under a sidetrack agreement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (BROAD FORM)

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

1. The insurance does not apply:
 - a. 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 Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (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, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
 - b. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
 - c. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of "nuclear material", if:
 - (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an "insured"; or
 - (3) 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 (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
2. As used in this endorsement:

"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 the definition of "nuclear facility."

"Nuclear facility" means:

 - a. Any "nuclear reactor";
 - b. Any equipment or device designed or used for (1) separating the isotopes of uranium or pluto-

UMBRELLA

- nium, (2) processing or utilizing "spent fuel," or (3) handling, processing or packaging "waste";
- c. Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION—LEAD
(INCLUDING PRODUCTS-COMPLETED OPERATIONS
HAZARD)**

This endorsement clarifies the scope of insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

This insurance does not apply to:

1. "Bodily injury" or "property damage" arising out of the actual, alleged or threatened absorption, ad-sorption, ingestion or inhalation by any person of lead:

- (a) at or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured;
- (b) at or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing, or treatment of lead;
- (c) which arises from the transportation, handling, storage, treatment, disposal, or processing of lead as waste by or for any insured or any person 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 sub-contractors working directly or indirectly on any insured's behalf are performing operations:
 - (i) if the lead is brought on or to the premises, site or location in connection with such operations by such insured, contractor, or subcontractor; or

- (ii) 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 lead.

- (e) if the "bodily injury" or "property damage" is included within the "products-completed operations hazard."

Subparagraphs (a) and (d) (i) do not apply to "bodily injury" or "property damage" arising out of heat, smoke, or fumes from a hostile fire. As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

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

- (a) request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of lead; 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 lead.

Lead means lead in any form, whether in combination with, an ingredient of, or as a contaminant of any other substance or material.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAR EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

The following exclusion is added to Paragraph 3., **EXCLUSIONS** of **SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY:**

3. Exclusions

This insurance does not apply to:

War

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

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

regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION — ASBESTOS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

This insurance does not apply to "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the injury or damage is caused or contributed to by the hazardous properties of asbestos. This includes:

- a. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above; and
- b. Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

- A. The following exclusion is added to Paragraph 3., **EXCLUSIONS** of **SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; and COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY:**

3. Exclusions

This insurance does not apply to:

Fungi or Bacteria

- a. "Bodily injury", "property damage", "personal injury" or "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; or

- b. 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 consumption.

- B. The following definition is added to the **DEFINITIONS** Section:

"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.

EXCLUSION – UNSOLICITED COMMUNICATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

This insurance does not apply to any injury or damage arising out of unsolicited communications by or on behalf of any insured. Unsolicited communications means any form of communication, including but not limited to facsimile, electronic mail, posted mail or telephone, in which the recipient has not specifically requested the communication. Unsolicited communications also include but are not limited to communications which are made or allegedly made in violation of the Telephone Consumer Protection Act and any amendments, and/or local or state statutes that bar, prohibit or penalize such communications.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA MANDATORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

- 1. SECTION IV - CONDITIONS, Part 3.b.** is amended by adding the following:

INSURANCE IN EFFECT FOR 60 DAYS OR LESS

If this insurance 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 insurance 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:

- a. 10 days before the effective date of cancellation if we cancel for:
 - (1) Nonpayment of premium; or
 - (2) Discovery of fraud or material misrepresentation by:
 - (a) Any insured or his or her representative in obtaining this insurance; or
 - (b) You or your representative in pursuing a claim under this policy.
- b. 30 days before the effective date of cancellation if we cancel for any other reason.

INSURANCE IN EFFECT FOR MORE THAN 60 DAYS

- (1) If this insurance has been in effect for more than 60 days or is a renewal, we may cancel this insurance only upon the occurrence, after the effective date of the insurance, of one or more of the following:
 - (a) Nonpayment of premium, including payment due on prior insurance we issued and due during the current insurance 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 insurance.

- (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 insurance 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 insurance 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 insurance.
- (2) We will mail or deliver advance notice of cancellation, stating the reason for cancellation, to you, and to the producer of record, at least:

UMBRELLA

- a. 10 days before the effective date of cancellation if we cancel for a reason listed in paragraph (1) (a) or (b).
- b. 30 days before the effective date of cancellation if we cancel for any other reason listed in paragraph (1).

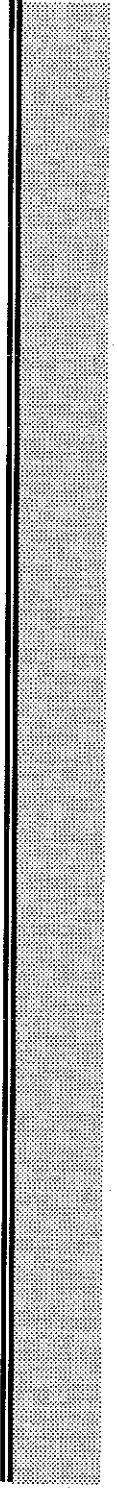
2. The following is added to **SECTION IV - CONDITIONS** and supersedes any other provisions to the contrary:

WHEN WE DO NOT RENEW

- a. Subject to the provisions of paragraphs b. and c. below, if we elect not to renew this insurance, we will mail or deliver written notice stating the reason for nonrenewal to you and to the producer of record, at least 60 days, but not more than 120 days, before the expiration or anniversary date.
- b. We will mail or deliver our notice to you, and the producer of record, at the mailing address shown in the Declarations.
- c. We are not required to send notice of non-renewal in the following situations:
 - (1) If the transfer or renewal of insurance, without any changes in terms, conditions, or rates, is between us and a member of our insurance group.

- (2) If the insurance has been extended for 90 days or less, provided that notice has been given in accordance with paragraph a.
- (3) If you have obtained replacement coverage, or if you have agreed, in writing, within 60 days of the termination of the insurance, to obtain that coverage.
- (4) If the insurance 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.
- (5) If you request a change in the terms or conditions or risks covered by the insurance within 60 days of the end of the insurance period.
- (6) If we have made a written offer to you, in accordance with the timeframes shown in paragraph a., to renew the insurance under changed terms or conditions or at an increased premium rate, when the increase exceeds 25%.

**INTERLINE
ENDORSEMENTS**





**INTERLINE
ENDORSEMENTS**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FEDERAL TERRORISM RISK INSURANCE ACT DISCLOSURE

This endorsement applies to the insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY – NEW YORK DEPARTMENT OF
TRANSPORTATION
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
LIMITED ABOVE GROUND POLLUTION LIABILITY COVERAGE PART
ENVIRONMENTAL HAZARD POLICY
EMPLOYEE BENEFITS LIABILITY COVERAGE PART
ELECTRONIC MANUFACTURERS AND COMPUTER SERVICES ERRORS AND OMISSIONS
LIABILITY COVERAGE FORM
SELF-INSURED EXCESS COMMERCIAL GENERAL LIABILITY COVERAGE FORM
SELF-INSURED EXCESS LIQUOR LIABILITY COVERAGE FORM
SELF-INSURED EXCESS EMPLOYEE BENEFITS LIABILITY COVERAGE FORM
SELF-INSURED EXCESS PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM
COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE
EXCESS (FOLLOWING FORM) LIABILITY INSURANCE

PROVISIONS

On December 26, 2007, the President of the United States signed into law amendments to the Terrorism Risk Insurance Act of 2002 (the "Act"), which, among other things, extend the Act and expand its scope. The Act establishes a program under which the Federal Government may partially reimburse "Insured Losses" (as defined in the Act) caused by "acts of terrorism". An "act of terrorism" is defined in Section 102(l) of the Act to mean any act that is certified by the Secretary of the Treasury – in concurrence with the Secretary of State and the Attorney General of the United States – 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

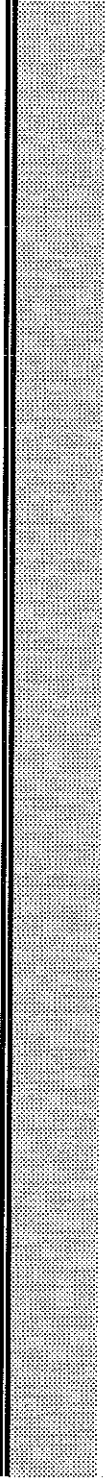
conduct of the United States Government by coercion.

The Federal Government's share of compensation for Insured Losses is 85% of the amount of Insured Losses in excess of each Insurer's statutorily established deductible, subject to the "Program Trigger", (as defined in the Act). In no event, however, will the federal government or any Insurer be required to pay any portion of the amount of aggregate Insured Losses occurring in any one year that exceeds \$100,000,000,000, provided that such Insurer has met its deductible. If aggregate Insured Losses exceed \$100,000,000,000 in any one year, your coverage may therefore be reduced.

The charge for Insured Losses for each Coverage Part is included in the Coverage Part premium. The charge that has been included for each Coverage Part is indicated below, and does not include any charge for the portion of losses covered by the Federal Government under the Act.

- **1% of each applicable Commercial Liability Coverage premium.**

POLICYHOLDER NOTICES





POLICYHOLDER NOTICES

IMPORTANT NOTICE – INDEPENDENT AGENT AND BROKER COMPENSATION

NO COVERAGE IS PROVIDED BY THIS NOTICE. THIS NOTICE DOES NOT AMEND ANY PROVISION OF YOUR POLICY. YOU SHOULD REVIEW YOUR ENTIRE POLICY CAREFULLY FOR COMPLETE INFORMATION ON THE COVERAGES PROVIDED AND TO DETERMINE YOUR RIGHTS AND DUTIES UNDER YOUR POLICY. PLEASE CONTACT YOUR AGENT OR BROKER IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE OR ITS CONTENTS. IF THERE IS ANY CONFLICT BETWEEN YOUR POLICY AND THIS NOTICE, THE PROVISIONS OF YOUR POLICY PREVAIL.

For information about how Travelers compensates independent agents and brokers, please visit www.travelers.com, call our toll-free telephone number 1-866-904-8348, or request a written copy from Marketing at One Tower Square, 2GSA, Hartford, CT 06183.

IMPORTANT NOTICE TO POLICYHOLDERS

FUNGI OR BACTERIA EXCLUSION

UM 03 64

UM 03 72

UM 03 74

UM 03 75

NO COVERAGE IS PROVIDED BY THIS SUMMARY NOR CAN IT BE CONSTRUED TO REPLACE ANY PROVISIONS IN YOUR POLICY. YOU SHOULD READ YOUR POLICY TO DETERMINE YOUR RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED. If there is any conflict between the policy and this summary, THE PROVISIONS OF THE POLICY SHALL PREVAIL.

PLEASE READ THIS NOTICE CAREFULLY.

We are attaching a fungi or bacteria exclusion to selected Commercial Excess Liability (Umbrella) Insurance policies. This notice is intended to make you aware that this exclusion is being added to your policy.

If you have any questions about your insurance program, please contact your agent or local Company representative.



580 WALNUT STREET, CINCINNATI, OHIO 45202

**Declarations for
Non-Profit Organization
Executive Protection and
Employment Practices Liability
Insurance Policy**

Insurance is afforded by the company indicated below: (Each a capital stock corporation)

- X • Great American Insurance Company • Agricultural Insurance Company
• American National Fire Insurance Company • Other _____

Policy Number: EPP2596270-03 Policy Form Number: D 9100

Item 1 Name of Organization: **Glen of Pacific Grove Homeowners Association, Inc.,**

Mailing Address: **1 Glen Lake Drive**

City, State, Zip Code: **Pacific Grove, CA 93950**

Item 2 Policy Period: From **5/5/2009** To **5/5/2010**

(Month, Day, Year) (Month, Day, Year)

(Both dates at 12:01 a.m. Standard Time at the address of the Organization as stated in Item 1)

Item 3 Limit of Liability:

\$5,000,000

Aggregate Limit of Liability for Each Policy Year

Item 4 Retention:

\$1,000

Each Claim

Item 5 Premium:

Item 6 Endorsements Attached:

Non-Profit Organization Executive Protection and Employment Practices Liability Insurance Policy D 9100 (12/99)

Property Managers Endorsement D 9718 (01/97)

Elite Coverage Amendments D 9718 (01/97)

Punitive Damage Endorsement D 9713-2 (01/97)

Terrorism Coverage Endorsement D 9876 (12/02)

Terrorism Coverage Premium Disclosure D 9800-1 (02/03)

Amendment to Section IV D 9714 (01/97)

General Limitation of Coverage Endorsement D 9500 1-2 (01/97)

Subsidence of Land Endorsement D09714 (01/97)

Item 7 Notices: All notices required to be given to the Insurer under this Policy shall be addressed to:

Great American Insurance Companies

Executive Liability Division

P.O. Box 66943

Chicago, Illinois 60666

Item 8 Initial Coverage Date: **5/5/2006**

These Declarations along with the completed and signed Proposal Form and Non-Profit Organization Executive Protection and Employment Practices Liability Insurance Policy, shall constitute the contract between the Insureds and the Insurer.

NOT REQUIRED

(Authorized Representative)

D 9102 (3/97)

NOT REQUIRED

(Countersignature Date)



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

AMENDMENT TO SECTION VIII

It is understood and agreed that Section VIII of the Policy is hereby amended as follows:

L. Addition of **Property Manager** as an **Insured** is hereby added to the Policy.

(1) **Section III. B.** is deleted and replaced with the following:

B. "Insured" shall mean the **Organization** and any **Subsidiary** and all **Insured Persons**. **Insured** shall also mean any **Property Manager**, but only if such **Property Manager** is acting pursuant to the written authority granted by the **Organization** or on behalf of and at the direction of the **Organization** or any **Subsidiary**.

(2) **Section III. C.** is deleted and replaced with the following:

C. "Insured Persons" shall mean all persons who were, now are, or shall be directors, trustees, officers, employees, volunteers or staff members of the **Organization** or its **Subsidiaries**, including any executive board members and committee members whether salaried or not. It shall also mean all persons who were, now are, or shall be directors, trustees, officers, employees, volunteers or staff members of any **Property Manager**, but only if such persons are acting within the scope of their employment with the **Property Manager** and on behalf of the **Organization** or any **Subsidiary**.

(3) **Section III. Definitions** is amended by the addition of the following:

M. "Property Manager" shall mean any entity providing real estate property management services to the **Organization** or any **Subsidiary** pursuant to a written contract.

With respect to the coverage provided to any **Property Manager** and its directors, trustees, officers, employees, volunteers or staff members by this endorsement and notwithstanding Section IV.D of the Policy:

Section IV. is amended by the addition of the following:

K. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any **Employment Practices Wrongful Act** alleged by or on behalf of an employee of the **Property Manager**.

Insured: Glen of Pacific Grove Homeowners Association, Inc.,

Policy Period: 5/5/2009 To 5/5/2010

Policy Number: EPP2596270-03

Countersigned by: Not Required
Authorized Representative

Endorsement Effective Date: 5/5/2009

Form D 9718 (01/97)

Endorsement Number:



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

AMENDMENT TO SECTION VIII

It is understood and agreed that Section VIII of the Policy is hereby amended as follows:

Section VIII. Elite Coverage Amendments

It is understood and agreed that the following changes are made to the Policy:

1. Section III C. of the Policy is amended with the addition of the following:

C. "Insured Persons" shall also mean the lawful spouses, estates, heirs, legal representatives or assigns, in the event of their death, incapacity or bankruptcy, of all **Insured Persons** but only for **Claims** arising out of any actual or alleged **Wrongful Act(s)** of any **Insured Persons**

2. Section III D. of the Policy is deleted and replaced with the following wording:

D. "Subsidiary" shall mean: (1) any entity which qualifies as a not-for-profit organization under the Internal Revenue Code, other than a political committee organized pursuant to Section 432 of the Federal Election Campaign Act of 1971 (and amendments thereto), and for which the **Organization** controls the right to elect or appoint more than fifty percent (50%) of the Board of Directors or other governing body of such entity; (2) any similar not-for-profit organization which was subsequently created or acquired by the **Organization** after the inception date of this Policy, if the entity's total assets do not exceed twenty-five percent (25%) of the total consolidated assets of the **Organization** as of the inception date of this Policy; or (3) any other entity added as a **Subsidiary** by written endorsement to this Policy. Coverage shall apply to a **Subsidiary** only for **Wrongful Acts** committed during the time such entity so qualified as a **Subsidiary**.

3. Section III E. of the Policy is amended with the addition of the following:

E. "Wrongful Act" shall also mean any matter claimed against any **Insured Persons** solely by reason of their status with the **Organization**.

Insured: **Glen of Pacific Grove Homeowners Association, Inc.,**

Policy Period: 5/5/2009 To 5/5/2010

Policy Number: EPP2596270-03

Countersigned by: Not Required
Authorized Representative

Endorsement Effective Date: 5/5/2009

Form D9718.012 (01/97)

Endorsement Number:



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

AMENDMENT TO SECTION VIII

4 Section III.G. of the Policy is amended with the addition of the following:

G. "Loss" shall also mean any 10% "excess benefit" tax assessed by the Internal Revenue Service against any **Insured Person** pursuant to 26 USC Section 4958 (a)(2) for participation by management in an excess benefit transaction.

"Loss" shall not include any 25% "excess benefit" tax assessed by the Internal Revenue Service against any **Insured Person** as a "disqualified person" or any 200% "excess benefit" tax for failure to correct the award of the "excess benefit" pursuant to 26 USC Sections 4958 (a)(1) and (b), respectively.

For purposes of this endorsement, "disqualified person", "excess benefit" and "excess benefit transaction" shall be defined as those terms are defined in Section 4958 of the Internal Revenue Code

5. Section IV.A. is hereby deleted and replaced with the following:

A. brought about or contributed to by: (1) any **Insured** gaining any profit, advantage or remuneration to which the **Insured** was not legally entitled; or (2) the fraudulent, dishonest or criminal acts of any **Insured**; provided, however, this exclusion shall only apply if it is finally adjudicated that such conduct in fact occurred; and the **Wrongful Act** of an **Insured Person** shall not be imputed to any other **Insured Person** for the purpose of determining the applicability of this exclusion;

6. Section IV.B. is hereby deleted and replaced with the following:

B. to the extent it is insured under any other valid and collectible policy or policies, whether such insurance is stated to be primary, contributory, excess, contingent or otherwise, and regardless of whether or not any **Loss** in connection with such **Claim** is recoverable under such other policy or policies; provided, however, this exclusion shall not apply to the amount of **Loss** which is in excess of the amount of any deductible or retention amounts and the limit of liability of such other policy or policies where such **Claim** is otherwise covered by the terms and conditions of this Policy;

7. Section IV.E. is hereby deleted and replaced with the following:

E. for any actual or alleged violation of the Employment Retirement Income Security Act of 1974 (or any regulations promulgated thereunder) or similar provision of any statutory or common law;



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

AMENDMENT TO SECTION VIII

8. Section VI.B. is deleted and replaced with the following:

B. The **Insurer** has the right to investigate and settle any **Claim**, as it deems expedient. In the event the **Insurer** recommends a settlement and the **Insured** refuses to consent thereto, the **Insurer's** liability for such **Claim** is limited to the amount in excess of the Retention which the **Insurer** would have contributed to the settlement had the **Insured** consented to settlement, the **Costs of Defense** covered by the Policy and incurred prior to the date of such refusal to settle, and 70 percent (70%) of any additional covered **Loss**, including **Costs of Defense**, incurred subsequent to such refusal and subject to the Limit of Liability.

In the event the **Insured** refuses to consent to a settlement as contemplated above then Section V.C. of the Policy is hereby deleted and replaced with the following:

C. **Costs of Defense** incurred by the **Insurer** shall be in addition to the Limit of Liability, and such **Costs of Defense** shall be subject to the Retention amount. If **Costs of Defense** are incurred by the **Insured** with the **Insurer's** consent, such **Costs of Defense** shall be considered **Loss** and thus shall be subject to the Limit of Liability and Retentions

9. It is understood and agreed that Section VII.A. is deleted and replaced with the following:

A. The **Insureds** shall, as a condition precedent of their rights under this Policy, give the Insurer notice in writing of any **Claim** made, as soon as practicable from the date the Chairman, President, Executive Director, Chief Financial Officer, General Counsel or equivalent has knowledge of the **Claim**, and in no event later than ninety (90) days after the end of the **Policy Period**.

10. It is understood and agreed that Section VIII.A.(2) is deleted and replaced with the following:

(2) This Policy may only be cancelled by the **Insurer** if the **Organization** does not pay the premium when due

11. It is understood and agreed that Section VIII. is amended by the addition of the following:

VIII. M. Territory

The insurance provided by this Policy applies to **Wrongful Acts** anywhere in the world, provided that a **Claim** is brought against the **Insured** within the United States of America, its territories or possessions or Canada.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

AMENDMENT TO SECTION III

It is understood and agreed that Section III of the Policy is hereby amended as follows:

Section III G. is deleted in its entirety and replaced with the following:

G. Loss shall mean settlements and judgments, including punitive or exemplary damages or the multiple portion of any multiplied damage award, and subject to the provisions of Section V and VI, **Costs of Defense** incurred by the **Insured**, provided always, however, **Loss** shall not include taxes, criminal or civil fines or penalties imposed by law, or any matter which may be deemed uninsurable under the law pursuant to which this Policy shall be construed. It is understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for punitive or exemplary damages or the multiple portion of any multiplied damage award.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated

Insured: **Glen of Pacific Grove Homeowners Association, Inc.,**

Policy Period: **5/5/2009 To 5/5/2010**

Policy Number: **EPP2596270-03**

Countersigned by: **Not Required**
Authorized Representative

Endorsement Effective Date: **5/5/2009**

Form D 9713-2 (01/97)

Endorsement Number:



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

COVERAGE FOR ACTS OF TERRORISM

It is understood and agreed that Section VIII. General Conditions of the Policy is hereby amended by the addition of the following:

Section VIII. General Conditions

K. Act of Terrorism Coverage

Subject to all other terms and conditions of this Policy, coverage is available for Loss caused by an Act of Terrorism as defined below

"Act of Terrorism" means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States –

- (i) to be an act of terrorism;
- (ii) to be a violent act or an act that is dangerous to –
 - (I) human life;
 - (II) property; or
 - (III) infrastructure;
- (iii) to have resulted in damage within the United States, or outside of the United States in the case of –
 - (I) an air carrier or vessel described in Section (5)(B) of the Terrorism Risk Insurance Act of 2002; or
 - (II) the premises of a United States mission; and
- (iv) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, 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.

With respect to any one or more Acts of Terrorism under the Terrorism Risk Insurance Act of 2002, we will not pay any amounts for which we are not responsible under the terms of that Act (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

Insured: Glen of Pacific Grove Homeowners Association, Inc.,

Policy Period: 5/5/2009 To 5/5/2010

Policy Number: EPP2596270-03

Countersigned by: Not Required
Authorized Representative

Endorsement Effective Date: 5/5/2009

Form D 9876 (12/02)

Endorsement Number:



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

AMENDMENT TO DECLARATIONS PAGE

It is understood and agreed that the Declarations is hereby amended by the addition of the following:

Item 9. **Acts of Terrorism** Premium: \$ 0.00

It is further understood and agreed form IA0001 Policyholder Disclosure Offer of Terrorism Coverage is attached to and is to be considered as incorporated in and constituting a part of this Policy.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated

Insured: Glen of Pacific Grove Homeowners Association, Inc.,

Policy Period: 5/5/2009 To 5/5/2010

Policy Number: EPP2596270-03

Countersigned by: Not Required
Authorized Representative

Endorsement Effective Date: 5/5/2009

Form D 9800-1 (02/03)

Endorsement Number:



INSURANCE GROUP

P O Box 2575 Cincinnati, OH 45201

**Declarations for
Non-Profit Organization
Executive Protection and
Employment Practices Liability
Insurance Policy**

AMENDMENT TO SECTION IV

It is understood and agreed that Section IV of the Policy is hereby amended as follows:

Section IV. I. is deleted and replaced with the following:

I. for any actual or alleged liability of any **Insured** under any contract or agreement, express or implied, written or oral; provided however this exclusion shall not apply to:

(1) **Costs of Defense**, or

(2) employment related obligations which would have attached absent such contract or agreement;

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

Insured: **Glen of Pacific Grove Homeowners Association, Inc.,**

Policy Period: 5/5/2009 To 5/5/2010

Policy Number: EPP2596270-03

Countersigned by: _____
Authorized Representative

Endorsement Effective Date: 5/5/2009

Form D 9714.12(01/97)

Endorsement Number:



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

GENERAL LIMITATIONS OF COVERAGE

It is understood and agreed that this Policy does not apply to any **Claim** made against any **Insured** based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving:

any **Wrongful Act** or any fact, matter, circumstance, situation, transaction, casualty, event or decision, known by any **Insured Person** prior to the Initial Coverage Date listed in Item 8 of the Declarations Page which would indicate the probability of such **Claim** being made.

It is further understood and agreed that this exclusion shall only apply to the **Organization**, its **Subsidiaries** and those **Insured Persons** having such knowledge.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

Insured: Glen of Pacific Grove Homeowners Association, Inc.,

Policy Period: 5/5/2009 To 5/5/2010

Policy Number: EPP2596270-03

Countersigned by: Not Required
Authorized Representative

Endorsement Effective Date: 5/5/2009

Form D 9500-1 (01/97)

Endorsement Number:



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

GENERAL LIMITATIONS OF COVERAGE

It is understood and agreed that this Policy does not apply to any **Claim** made against any **Insured** based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving:

- 1) actual, alleged or threatened:
 - (a) inhalation of, ingestion of, contact with, or exposure to any **Fungi** or bacteria; or
 - (b) existence of or presence of any **Fungi** or bacteria on or within a building or structure including its contents, regardless of whether any other cause, event, material, or product contributed concurrently or in any sequence to any injury or damage; or
- (2) any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, 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.

For the purposes of this endorsement the term **Fungi** means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents, or byproducts produced or released by fungi.

- (3) any actual or alleged liability of an **Insured**, in whole or in part, including but not limited to cross claims, cross claims or third party claims for contribution or indemnity, related to or for **Construction Defect(s)**.

For the purposes of this endorsement the term **Construction Defect(s)** means any actual or alleged defective, faulty or delayed construction or any other matter constituting a construction defect under applicable law regardless of whether it results from:

- (a) defective or incorrect architectural plans or other designs,
 - (b) defective or improper soil testing,
 - (c) defective, inadequate or insufficient protection from subsoil or earth movement or subsidence,
 - (d) construction, manufacture or assembly of any tangible property,
 - (e) the failure to provide or pay for any construction-related goods or services, or
 - (f) the supervision or management of any construction-related activities.
- (4) any actual or alleged liability of an **Insured**, in whole or in part, in the capacity as a builder or developer, or in the capacity of a sponsor of the **Organization**, or of an **Insured** affiliated with such a builder, developer or sponsor, and which is related to actual or alleged misconduct on the part of such builder, developer or sponsor, including but not limited to actual or alleged conflict of interest, self-dealing, or disputes concerning conversion, construction or development.
 - (5) actual or alleged noise.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

Insured: **Glen of Pacific Grove Homeowners Association, Inc.,**

Policy Period: **5/5/2009 To 5/5/2010**

Policy Number: **EPP2596270-03**

Countersigned by: **Not Required**

Endorsement Effective Date: **5/5/2009**

Authorized Representative

Form D 9500-2 (01/97)

Endorsement Number:



**Non-Profit Organization
Executive Protection and
Employment Practices
Liability Insurance Policy**

AMENDMENT TO SECTION IV

It is understood and agreed that Section IV of the Policy is hereby amended as follows:

The following exclusion is added to the Policy:

- L. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any "**Subsidence of Land**", which includes, but is not limited to:
- (1) settling, bulging, cracking, shrinking, expansion or damage of any type to or involving foundations, walls, roofs, slabs or ceilings or other property;
 - (2) any failure to maintain, install or otherwise monitor any slope areas;
 - (3) conduct of any **Insured** in response to any requests or demands for indemnification, repair, replacement, insurance or coverage for any damage allegedly caused by "**Subsidence of Land**";
 - (4) any assessments, dues or other obligations proposed or levied as a result of "**Subsidence of Land**";
or
 - (5) failure on the part of any **Insured** to effect and maintain adequate insurance for "**Subsidence of Land**".

For purposes of this endorsement, the term "**Subsidence of Land**" means any earth movement of any kind, including, but not limited to landslide, mudflow, earth sinking, earth rising or slope movement, regardless of the cause.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

Insured: **Glen of Pacific Grove Homeowners Association, Inc.,**

Policy Period: 5/5/2009 to 5/5/2010

Policy Number: EPP2596270-03

Countersigned by: Not Required

Authorized Representative

Endorsement Effective Date: 5/5/2009

Form D 9714 (01/97)

Endorsement Number:

**Non-Profit Organization Executive
Protection and Employment Practices
Liability Insurance Policy**



580 WALNUT STREET, CINCINNATI, OHIO 45202

SPECIMEN

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the company shown in the Declarations (a stock insurance company, hereinafter called the **Insurer**), including the statements made in the Proposal Form and subject to all terms, conditions and limitations of this Policy, the **Insured** and **Insurer** agree:

Section I. Insuring Agreement

If during the **Policy Period** or the **Discovery Period** any **Claim** is first made against an **Insured** for a **Wrongful Act**, including an **Employment Practices Wrongful Act**, the **Insurer** shall pay on their behalf **Loss** resulting from such **Claim**. The **Insurer** has the right and duty to defend any **Claim** to which this insurance applies, even if the allegations of the **Claim** are groundless, false or fraudulent.

Section II. Discovery Period

- A. If this Policy is not renewed or is cancelled, either by the **Organization** or the **Insurer**, for any reason other than non-payment of premium, the **Organization** shall be entitled to acquire an additional reporting period for **Claims** first made against an **Insured** as set forth below, but only with respect to **Wrongful Acts** committed prior to the end of the **Policy Period**. This additional reporting period shall be referred to as the **Discovery Period**.
- B. If this Policy is not renewed or is cancelled by the **Insurer** for any reason other than non-payment of premium, the **Discovery Period** shall be the period of ninety (90) days from the end of the **Policy Period**, and there shall be no charge for this **Automatic Discovery Period** of ninety (90) days. If prior to the end of the **Automatic Discovery Period** the **Organization** pays the **Insurer** an additional amount equal to forty percent (40%) of the annual premium of this Policy, the term of the **Discovery Period** shall be extended for an additional twelve (12) months from the end of the **Automatic Discovery Period**. The **Insured** shall have no right to purchase this extension of the **Discovery Period** at any later date.
- C. If this Policy is not renewed or cancelled by the **Organization**, the **Organization** may purchase a **Discovery Period** of twelve (12) months from the end of the **Policy Period**, provided that the **Organization** pays the **Insurer** an additional amount equal to forty percent (40%) of the annual premium of this Policy within thirty (30) days of the end of the **Policy Period**. The **Organization** shall have no right to purchase this **Discovery Period** at any later date.
- D. A renewal quotation by the **Insurer** incorporating different terms, conditions, Retention, Limit of Liability or premium with respect to the coverage afforded by this Policy shall not be deemed to constitute a refusal to renew by the **Insurer** for the purpose of determining the right to the **Discovery Period**.
- E. The fact that this Policy may be extended by virtue of the **Discovery Period** shall not in any way increase the Limit of Liability stated in Item 3 of the Declarations. For purposes of the Limit of Liability, the **Discovery Period** is considered to be part of and not in addition to the last **Policy Year**.

Section III. Definitions

- A. "**Organization**" shall mean the entity named in Item 1 of the Declarations.
- B. "**Insured**" shall mean the **Organization** and any **Subsidiary** and all **Insured Persons**.
- C. "**Insured Persons**" shall mean all persons who were, now are, or shall be directors, trustees, officers, employees, volunteers or staff members of the **Organization** or its **Subsidiaries**, including any executive board members and committee members whether salaried or not.
- D. "**Subsidiary**" shall mean any entity which qualifies as a not-for-profit organization under the Internal Revenue Code, other than a political committee organized pursuant to Section 432 of the Federal Election Campaign Act of 1971 (and amendments thereto), and for which the **Organization** has or controls the right to elect or appoint more than fifty percent (50%) of the Board of Directors or other governing body of such entity, or any other entity added as a **Subsidiary** by written endorsement to this Policy. Coverage shall apply to a **Subsidiary** only for **Wrongful Acts** committed during the time such entity so qualified as a **Subsidiary**.
- E. "**Wrongful Act**" shall mean any actual or alleged error, misstatement, misleading statement, act or omission, neglect or breach of duty, or **Employment Practices Wrongful Act** by the **Organization**, and/or a **Subsidiary**, and/or any **Insured Persons** acting in their capacity with the **Organization** or a **Subsidiary**.
- F. "**Employment Practices Wrongful Act**" shall mean: (1) wrongful dismissal, discharge or termination of employment, whether actual or constructive; (2) employment related misrepresentation; (3) violation of employment laws; (4) sexual or workplace harassment of any kind; (5) discrimination; (6) wrongful failure to employ or promote; (7) wrongful discipline; (8) wrongful deprivation of career opportunity including a wrongful failure to hire or promote; (9) failure to grant tenure; (10) negligent evaluation; (11) retaliation; and/or (12) failure to provide adequate workplace or employment policies or procedures.
- G. "**Loss**" shall mean settlements and judgments, and subject to the provisions of Section V and Section VI, **Costs of Defense** incurred by the **Insured**, provided always, however, **Loss** shall not include taxes, criminal or civil fines or penalties imposed by law, punitive or exemplary damages, or the amount of any multiple damage award which is in excess of the damage award which was so multiplied, or any matter which may be deemed uninsurable under the law pursuant to which this Policy shall be construed.
- H. "**Costs of Defense**" shall mean any reasonable and necessary legal fees and expenses incurred in defense of any **Claim** and appeals therefrom, and cost of attachment or similar bonds (but without any obligation on the part of the **Insurer** to apply for or furnish such bonds); provided, however, **Costs of Defense** shall not include: (1) salaries, wages, overhead or benefit expenses associated with any **Insured**; and (2) any amounts incurred in defense of any **Claim** which any other insurer has a duty to defend, regardless of whether or not such other insurer undertakes such duty.
- I. "**Policy Year**" shall mean the period of one year following the effective date and hour of this Policy or the period of one year following any anniversary date thereof falling within the **Policy Period**; or if the time between the effective date or any anniversary date and the termination of this Policy is less than one year, such lesser period. Any **Discovery Period** shall be considered part of and not in addition to the last **Policy Year**.
- J. "**Policy Period**" shall mean the period from the inception of this Policy to the Policy expiration date stated in Item 2 of the Declarations or its earlier termination, if any.
- K. "**Claim**" shall mean: (1) any proceeding initiated against an **Insured**, including any appeals therefrom, before (a) any governmental body which is legally authorized to render an enforceable judgment or order for money damages or other relief against such **Insured**, or (b) the Equal Employment Opportunity Commission, or any similar governmental body whose purpose is to address employment practices; or (2) any written demand seeking money damages for a **Wrongful Act**.

L. "Related Wrongful Acts" shall mean Wrongful Acts which are logically or causally connected by reason of any common fact circumstance, situation, transaction, casualty, event or decision.

Section IV. Exclusions

This Policy does not apply to any Claim made against any Insured:

- A. brought about or contributed to in fact by: (1) any Insured gaining any profit, advantage or remuneration to which the Insured was not legally entitled; or (2) the fraudulent, dishonest or criminal acts of any Insured; however, the Wrongful Act of an Insured Person shall not be imputed to any other Insured Person for the purpose of determining the applicability of this exclusion;
- B. to the extent it is insured under any other valid policy or policies whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, and regardless of whether or not any Loss in connection with such Claim is recoverable under such other policy or policies; provided, however, this exclusion shall not apply to the amount of Loss which is excess of the amount of any deductible or retention amounts and the limit of liability of such other policy or policies where such Claim is otherwise covered by the terms and conditions of this Policy;
- C. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving:
 - (1) any Wrongful Act or any fact, circumstance or situation which is the subject of any notice given by any Insured during the policy period or any extension thereof of any prior policy providing coverage similar to that provided herein, or which has been the subject of any Claim made prior to the effective date of this Policy; or
 - (2) any prior and/or pending civil, criminal, administrative or investigative proceeding initiated against any Insured as of the date stated in Item 8 of the Declarations;
- D. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or any way involving: (1) bodily injury, sickness, disease or death of any person, assault, or battery; or (2) damage to or destruction of any tangible property, including the loss of use thereof; or (3) mental anguish, emotional distress, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, libel or slander; provided, however, that part (3) of this exclusion shall not apply to any Claim brought by or on behalf of any past, present or prospective Insured Person for an Employment Practices Wrongful Act;
- E. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged violation of the Employee Retirement Income Security Act of 1974 (or any regulations promulgated thereunder) or similar provision of any statutory or common law;
- F. for any wrongful act of an Insured Person in their capacity as a director, officer or employee of an entity other than the Organization or a Subsidiary, even if directed or requested to serve such other entity, except where this Policy has been specifically endorsed to provide such extension of coverage;
- G. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving actual or alleged seepage, pollution, radiation, emission or contamination of any kind;
- H. by, or for the benefit of, or at the behest of the Organization or a Subsidiary or any entity which controls, is controlled by, or is under common control with the Organization or a Subsidiary, or any person or entity which succeeds to the interest of the Organization or a Subsidiary;
- I. for any actual or alleged liability of any Insured under any contract or agreement, express or implied, written or oral, except for employment related obligations which would have attached absent such contract or agreement;

J. for any obligation of the Organization or a Subsidiary to modify any building or property in order to affect compliance with municipal, state or federal law

Section V. Limit of Liability

- A. The Insurer shall be liable to pay one hundred percent (100%) of Loss in excess of the Retention stated in Item 4 of the Declarations. The Insurer's maximum Limit of Liability for the aggregate amount of Loss resulting from all Claims deemed to have been made in a Policy Year shall be the amount shown in Item 3 of the Declarations.
- B. More than one Claim involving the same Wrongful Act or Related Wrongful Acts of one or more Insureds shall be considered a single Claim, and only one Retention shall be applicable to such single Claim. All such Claims, constituting a single Claim shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such Claim was first made; or (2) the earliest date on which any such Wrongful Act or Related Wrongful Act was reported under this Policy or any other policy providing similar coverage.
- C. Costs of Defense incurred by the Insurer shall be in addition to the Limit of Liability, and such Costs of Defense shall not be subject to the Retention amount. If Costs of Defense are incurred by the Insured with the Insurer's consent, such Costs of Defense shall be considered Loss and thus shall be subject to the Limit of Liability and Retention.
- D. With respect to all Claims deemed to have been made in a Policy Year, should the Limit of Liability be exhausted by payment of Loss resulting from one or more of such Claims, the Insurer's duty to defend shall cease and any and all obligations of the Insurer hereunder shall be deemed to be completely fulfilled and extinguished and the Insurer shall have no further obligations hereunder of any kind or nature

Section VI. Costs of Defense and Settlements

- A. No Insured shall admit liability, offer to settle, or incur Costs of Defense in connection with any Claim without the Insurer's prior written consent. Such consent shall not be unreasonably withheld. The Insured shall provide the Insurer with full cooperation and all information which would reasonably be required in order to allow the Insurer to reach a decision as to such consent. Any Costs of Defense incurred and/or settlements agreed to prior to the Insurer's consent thereto shall not be covered hereunder.
- B. The Insurer has the right to investigate and settle any Claim, as it deems expedient. In the event the Insurer recommends a settlement and the Insured refuses to consent thereto, the Insurer shall be released from any obligation to further defend such Claim. Subject to the Limit of Liability, the Insurer's liability for such Claim is limited to the amount in excess of the Retention which the Insurer would have contributed to the settlement had the Insured consented to settlement, plus Costs of Defense covered by the Policy incurred prior to the date of such refusal to settle.

Section VII. Notice of Claim

- A. The Insureds shall, as a condition precedent of their rights under this Policy, give the Insurer notice in writing of any Claim made, as soon as practicable.
- B. If during the Policy Period or Discovery Period the Insured first becomes aware of a specific Wrongful Act, and if the Insured gives written notice to the Insurer as soon as practicable of (1) the specific Wrongful Act; (2) the injury or damage which has or may result therefrom; and (3) the circumstances by which the Insured first became aware thereof; then any Claim arising out of such Wrongful Act which is subsequently made against the Insured and not otherwise excluded by the terms of the Policy shall be deemed to have been made at the time the Insurer received such written notice from the Insured

- C. In addition to furnishing the notice as provided in Section VII A or B the **Insured** shall, as soon as practicable, furnish the **Insurer** with copies of reports, investigations, pleadings and other papers in connection therewith.
- D. Notice to the **Insurer** as provided in Section VII A or B shall be given to:

**GREAT AMERICAN INSURANCE COMPANIES
EXECUTIVE LIABILITY DIVISION, CLAIMS DEPARTMENT
P.O. BOX 66943
CHICAGO, IL 60666**

Section VIII. General Conditions

A. Cancellation or Non-Renewal

- (1) This Policy may be cancelled by the **Organization** at any time by written notice to the **Insurer**. Upon cancellation, the **Insurer** shall retain the customary short rate portion of the premium.
- (2) This Policy may be cancelled by or on behalf of the **Insurer** by delivering to the **Organization** at the address stated in Item 1 of the **Declarations**, written notice stating when, not less than ninety (90) days thereafter, the cancellation shall be effective. The delivery of such notice shall be sufficient proof of notice and this Policy shall terminate at the date and hour specified in such notice. Upon cancellation, the **Insurer** shall retain the pro-rata portion of the premium. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation but such payment shall be made as soon as practicable.
- (3) If the **Insurer** elects not to renew this Policy, the **Insurer** shall provide the **Organization** with not less than ninety (90) days advance notice thereof

B. Proposal Form

It is agreed that the particulars and statements contained in Proposal Forms submitted to the **Insurer** (and any material submitted therewith) are the representations of the **Insured**, and it is understood that such representations are material and that this Policy is issued in reliance upon such representations, which are to be considered as incorporated in and constituting part of this Policy. However, this Policy shall not be voided or rescinded and coverage shall not be excluded as a result of any untrue statement in the Proposal Form, except as to the **Organization**, its **Subsidiaries** and those **Insured Persons** making such statement or having knowledge of its untruth.

C. Action Against the Insurer

- (1) No action shall be taken against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy, and until the **Insured's** obligation to pay shall have been finally determined by an adjudication against the **Insured** or by written agreement of the **Insured**, claimant and the **Insurer**
- (2) No person or organization shall have any right under this Policy to join the **Insurer** as a party to any **Claim** against any **Insured** nor shall the **Insurer** be impleaded by any **Insured** or their legal representative in any such **Claim**.

D. Conversion to Run-Off Coverage

If prior to the end of the **Policy Period**, another organization acquires substantially all of the assets of the **Organization**, or the **Organization** merges into another organization, or the **Organization** ceases to qualify as a not-for-profit organization under the Internal Revenue Code (such events hereinafter referred to as **Transaction**), then:

- (1) the **Organization** must give written notice of such **Transaction** to the **Insurer** within thirty (30) days after the effective date of such **Transaction**, and provide the **Insurer** with such information as the **Insurer** may deem necessary; and
- (2) this Policy, including the **Discovery Period** if elected, shall apply, but only with respect to any **Wrongful Act** committed prior to the effective date of such **Transaction**

E. Subrogation

In the event of any payment under this Policy, the **Insurer** shall be subrogated to all of the rights to recovery of the **Insured** and the **Insured** shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents as may be necessary to enable the **Insurer** to effectively bring suit in the name of any **Insured**.

F. Assignment

Assignment of interest under this Policy shall not bind the **Insurer** until its consent is endorsed hereon.

G. Conformity to Law

Any terms of this Policy which are in conflict with the terms of any applicable laws are hereby amended to conform to such laws

H. Entire Agreement

By acceptance of this Policy, the **Insured** and the **Insurer** agree that this Policy (including the Proposal Forms submitted to the **Insurer** and any materials submitted therewith) and any written endorsements attached hereto constitute the entire agreement between the parties.

I. Organization Represents Insured

By acceptance of this Policy, the **Organization** shall be designated to act on behalf of the **Insureds** for all purposes including, but not limited to, giving and receiving of all notices and correspondence, the cancellation or non-renewal of this Policy, the payment of premiums, and the receipt of any return premiums that may be due under this Policy

J. Representative of the Insurer

Great American Insurance Companies, Executive Liability Division, Post Office Box 66943, Chicago, Illinois 60666 shall act on behalf of the **Insurer** for all purposes including, but not limited to, the giving and receiving of all notices and correspondence

In witness whereof the **Insurer** has caused this Policy to be signed by its President and Secretary and countersigned, if required, on the **Declarations** page by a duly authorized agent of the **Insurer**.

GREAT AMERICAN INSURANCE COMPANIES

Kenneth Holley Starnell
Secretary

Carl H. Lindner III
President

SPECIMEN